

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Review Petition No. 8/RP/2012

in

Petition No. 318/2010

Coram:

**Dr. Pramod Deo, Chairperson
Shri S.Jayaraman, Member
Shri V.S.Verma, Member
Shri M.Deena Dayalan, Member**

DATE OF HEARING: 28.6.2012

DATE OF ORDER: 23.8.2012

In the matter of

Review Petition in the matter of the provisional tariff order dated December 8, 2011 in Petition No. 318/2010 issued by the Commission for determination of transmission tariff of 400 kV D/C transmission line from SUGEN to a point near Gandhar for LILO of one circuit of existing Gandhar-Dehgam 400 kV D/C line for the period from 1.4.2012 to 31.3.2014, based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009.

And

In the matter of

Torrent Power Grid Limited (TPGL)Petitioner

vs

Torrent Power Limited (TPL) & 10 othersRespondents

Following were present:

- 1) Shri Jagrut Vyas, TPL
- 2) Shri Chetan Bundela, TPL

ORDER

Torrent Power Grid Limited (TPGEL) had filed Petition No. 318/2010 for determination of transmission tariff of the transmission system consisting of 400 kV D/C transmission line from SUGEN to a point near Gandhar for LILO of one circuit of

existing Gandhar-Dehgam 400 kV D/C line for the period from 1.4.2012 to 31.3.2014, in accordance with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009. Pending determination of the final tariff, the Commission in its order dated 8.12.2011 had approved the provisional tariff of the transmission system. As regards the sharing of the transmission tariff the Commission in para 9 of the said order has directed as under:

"The Provisional transmission charges allowed shall be recovered on monthly basis in accordance with Regulation 23 and shared by the beneficiaries in accordance with Regulation 33 of the 2009 regulations upto 30.6.2011. With effect from 1.7.2011, the billing collection and disbursement of the transmission charges shall be governed by the provisions of Central Electricity Regulatory commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 and the Removal of Difficulties order s issued there under. "

2. The petitioner has filed the present petition under Regulation 103 of the Central Electricity Regulatory Commission (Conduct of business regulations) Regulations, 1999 (Conduct of Business Regulations) for review of the order dated 8.11.2011 on the following grounds:

(a) The scheme of transmission network strengthening has been identified and approved by the Central Transmission Utility and Central Electricity Authority in 2006 as dedicated transmission system meant for the evacuation of power from SUGEN to its beneficiaries.

(b) The cost of this transmission line and transmission charges would be entirely borne by SUGEN beneficiaries and not by the other constituents of Western Region. It has been submitted by the petitioner in its earlier submission in

Petition No. 275/2009.

(c) GUVNL in its objection to the petition filed vide affidavit dated 15.4.2011 has prayed before the Commission that the transmission charges for the transmission system should be payable by the beneficiaries of SUGEN generation only and not by all the beneficiaries of the Western Region.

(d) NLDC which has been acting as Implementing Agency under the Central Electricity Regulatory Commission (Sharing of Transmission charges and losses) Regulations, 2010 (Sharing Regulations) has not sought any data of basic network for estimate of Yearly Transmission Charges for recovery of transmission charges and losses. The petitioner has construed that the approach of NLDC is in line with the conditions agreed for implementation of the transmission scheme.

(e) TPGL is a standalone SPV created to execute the dedicated inter-State transmission system and has achieved financial closure for the project with its lenders based on the premise that the costs would be recovered through the recovery of transmission charges from the beneficiaries of SUGEN to ensure debt servicing to the lenders and viability of the project. The applicability of the Sharing Regulations to the petitioner will result in collection of the transmission charges from the Implementing Agency instead of direct recovery from the identified beneficiaries of SUGEN. As the Implementing Agency recovers part of the transmission charges from the beneficiaries/constituents of the ISTS on the

pooled basis, such lower recovery of the cost incurred would result in inability of the petitioner to service its debt.

3. The petitioner has submitted that it should be exempted from the pooling of recovery of the transmission charges in order to protect its interest and the interest of its beneficiaries from adverse commercial implications.

4. The petitioner in its supplementary submission vide affidavit dated 10.5.2012 has submitted that the Commission in its order dated 2.6.2011 regarding removal of difficulties issued under Regulation 21 of the Sharing Regulations has issued the following clarification regarding the sharing of charges of the transmission system dedicated to a particular State:-

"(7) Though the definition of "Inter-State Transmission System" in Section 2(36) (iii) of the Electricity Act, 2003 includes "the transmission of electricity within the territory of a State on a system built, owned, operated maintained or controlled by Central Transmission Utility". The tariff of such lines owned by Powergrid for evacuation of power from a power station dedicated to any particular state is presently being borne only by the State concerned. These transmission lines are akin to the state lines except that it is owned, controlled and operated by Powergrid. Since, the transmission charges of these lines are not shared by any other State, we are of the view that the existing arrangement should continue under the Sharing Regulations also."

The petitioner has submitted that the above decision of the Commission is relevant in the context of the review petition filed by the petitioner. The petitioner has prayed that para 9 of the order dated 8.12.2012 may be amended to exempt the petitioner from pooling of transmission charges as per Sharing Regulations.

5. We heard the representative of the petitioner during the hearing on 28.6.2012. In response to our query as to how the review petition is maintainable, the representative

of the petitioner submitted that as per the transmission licence issued under order dated 16.5.2007 in Petition no. 97/2006, the transmission charges of the transmission system shall be recovered from the beneficiaries of SUGEN generation only. Since the impugned provisional tariff order does not provide for sharing of the transmission charges as per the terms of the transmission licence, there is an error on the face of the order which needs to be rectified in review.

6. Regulation 103 of Conduct of business regulations provides as under:-

"103. The Commission may at any time, on its own motion, or on an application of any of the persons or parties concerned, within 45 days of making such decision, directions or order, review such decision, directions or orders and pass such appropriate orders as the Commission deems fit.

Provided that power of review by the Commission on its own motion under this clause may be exercised only for correction of clerical or arithmetical mistakes arising from any accidental slip or omission."

7. Thus, the above regulation provides for review of the order for correction of clerical or arithmetical mistakes arising from accidental slip or omissions. It appears to us that there is no clerical or arithmetical mistake in the provisional tariff order. Since the petitioner is an inter-State transmission licensee, its tariff has been directed to be shared in accordance with Regulation 33 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2009 upto 30.6.2011 and as per the Sharing Regulations w.e.f. 1.7.2011. In our view, no case for review has been made out and accordingly, the review petition fails and is dismissed.

8. The petitioner has submitted that as per the provisions of the Bulk Power Transmission Agreement between the Torrent Power Ltd and M/s PGCIL, the

transmission system was constructed as a transmission system to be built by Torrent Power Grid Ltd to facilitate the long term access for transfer of power from SUGEN generation and the Commission while granting the transmission license to the petitioner has taken note of the submission of the petitioner that the construction and maintenance of the transmission system would not have any impact on tariff payable by the consumers in area outside the supply of Torrent Power AEC Ltd. The petitioner has further submitted that the Commission in the order dated 2.6.2011 has clarified that in respect of transmission system of CTU dedicated to a particular state, the transmission charges shall be borne by the State concerned. In our view, this issue needs detailed deliberation which will be considered at the time of issuing the order for final tariff in Petition No. 318/2010.

9. Review Petition No. 8/RP/2012 is disposed of in terms of the above.

sd/-
(M.DEENA DAYALAN)
MEMBER

sd/-
(V.S.VERMA)
MEMBER

sd/-
(S.JAYARAMAN)
MEMBER

sd/-
(Dr. PRAMOD DEO)
CHAIRPERSON