

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Coram:
Shri V.S.Verma, Member
Shri M. Deena Dayalan, Member**

DATE OF HEARING: 10.9.2013

Petition No. 19/MP/2013

Sub: Petition under Section 79 (1) (c) read with Section 19 of the Electricity Act, 2003 for revocation of licence and for vesting of the projects in the Central Transmission Utility

Petitioner : Power Grid Corporation of India Limited, Gurgaon
Respondents : North Karanpura Transmission Company Ltd. and Others

Petition No. 20/MP/2013

Sub: Petition under Section 79 (1) (c) read with Section 19 of the Electricity Act, 2003 for revocation of licence and for vesting of the projects in the Central Transmission Utility.

Petitioner : Power Grid Corporation of India Limited, Gurgaon
Respondents : Talcher-II Transmission Company Ltd. and others.
Parties presents : Shri M.G.Ramchandran, Advocate, PGCIL
Shri Mahender Singh, PGCIL
Shri J.J.Bhatt, Senior Advocate for the NKTCL and TTCL
Shri Apoorva Mishra, Advocate, NKTCL and TTCL
Shri R.P.Padhi, NKTCL and TTCL
Shri A.M.Pavgi, NKTCL and TTCL
Shri L.N.Mishra, NKTCL and TTCL
Shri Alok Shankar, Advocate, TPDDL
Shri Samir Malik, Advocate, MSEDCL
Shri Padamjit Singh, PSPCL
Shri Naveen Nagpa, RPTL
Shri S.Vallinayagam, Advocate, TANGEDCO
Shri Anand K. Ganesan, Advocate, GUVNL
Shri Alok Shankar, Advocate, TPDDL

Record of Proceedings

Learned counsel for the Power Grid Corporation of India Limited submitted as under:

(a) North Karanpura Transmission Company Limited (NKTCL) and Talcher-II Transmission Company Ltd (TTCL) are still not acting in a definitive manner in regard to the implementation of the project. The LOI of the transmission project was issued on 18.12.2009 and the transmission licence was granted on 18.12.2009. The permission under Section 164 of the Electricity Act, 2003 (the Act) was also obtained on 12.8.2011. The effective date of the project was May, 2010 i.e date of acquisition of the special purpose vehicle. Despite the above, there has been no physical progress in the construction of the transmission line.

(b) Central Electricity Authority in its letter dated 29.8.2013 has confirmed that no progress has been made for implementation of the projects.

(c) NKTCL and TTCL have acted in violation of the provisions of the Act, TSA and transmission licences. Article 13.1 of the TSAs provides for the event of default on the part of licensees which includes the abandonment of the project for the continuous period of 12 months and the failure of the company to commission any element of the project even after four months from the scheduled COD.

(d) In terms of Section 40 (1) of the Electricity Act, 2003 (the Act), NKTCL is bound to build the inter-State transmission system awarded to it on the terms and conditions contained in the tender documents and TSA and to provide access to the inter-State transmission system.

(e) Learned counsel for the petitioner requested the Commission to revoke the licence granted to North Karanpura Transmission Company Limited (NKTCL) and Talcher-II Transmission Company Limited (TTCL) as per provisions of Section 19 of the Act and entrust the task to the CTU for implementation of the projects.

(f) CTU in accordance with its responsibility under Section 38 of the Act has brought this fact to the notice of the Commission for issuing appropriate directions in the matter.

2. The representative of PSPCL appearing in the matter of NKTCL submitted as under :

(a) Due to non-execution of transmission project, 765 kV ring main system of central part of Northern grid would get adversely affected since all the power would be injected at Agra and there would be no injection of power at Meerut from Lucknow side;

(b) The security and reliability of 765 kV ring main would be seriously compromised due to non-commissioning of Lucknow-Bareilly-Meerut 765 kV line;

(c) While the Gaya-Balia-Lucknow of section 765 kV has been completed, the non-execution of 765 kV Lucknow-Bareilly-Meerut line implies that the utility and purpose of the 765 kV Gaya-Balia-Lucknow section gets seriously affected and LTTCs have to pay the tariff for the same which is not being utilized as envisaged due to the non-execution of 765 kV Lucknow-Bareilly-Meerut line;

(d) LTTCs should not be made to suffer technical and commercial losses by extended and indefinite delay in execution of the project;

(e) The initial bid placed by NKTCL was far too aggressive in the first place and the project was in fact unviable;

(g) The entire project is stuck in litigation due to commercial disputes and as a result, the security and reliability of the system has been compromised. It is imperative that the work first starts and then the commercial/financial matters are worked out subsequently;

(h) The matter may be referred to the Empowered Committee on Transmission and Coordination forum constituted under Section 166 of the Act to examine and decision on the execution of the project;

(g) Due to heavy real estate development activities taking place around the existing PGCIL substation in Gurgaon, it has become impossible to obtain RoW to interconnect the substation as required under the scope of the project and implement the Gurgaon (ITP)- Gurgaon (PG) element of the project. The problem has arisen due to non-implementation of the project by the petitioner.

3. In response to Commission`s query, learned counsel for the petitioner submitted that the Commission under Section 19 (3) of the Act can initiate the proceedings for revocation of licence and issue show cause notice accordingly. However, the Commission under Section 19 (4) instead of revoking a licence under sub-section (1), may permit it to remain in force subject to such further terms and conditions as it thinks fit to impose.

4. In response, learned senior counsel for NKTCL and TTCL submitted as under:

(a) A bare reading of the prayer of the petition makes it amply clear that CTU as well as NKTCL and TTCL are of the same view that it is impossible to implement the project on the existing terms of the TSA.

(b) The sole rationale of PGCIL for attempting to revoke the licence as per paragraph 31 of the petition is that NKTCL and TTCL have still not been acting in a definitive manner for implementation of the project. However, the project could not take off due to the inordinate delay in grant of permission under Section 164 of the Act. None of the ingredients specified in Section 19 (1)(a) to 19 (1) (d) of the Act justifying the grounds for revocation of licence have been made out by the opposite party to justify revocation of licence.

(c) Appeals challenging the decision of the Commissions not to treat the delay in grant of permission under Section 164 of the Act as "force majeure", as well as other challenges to the orders dated 9.5.2013 are already pending before the Hon'ble Appellate Tribunal. The appeals are part-heard and are listed for further hearing on 24.9.2013. If the respondents succeed in the aforementioned appeal, then the present petition will become infructuous.

5. The Commission directed PSPCL to file its reply and submissions made during the hearing on affidavit, with an advance copy to the petitioner and NKTCL and TTCL, by 20.9.2013. NKTCL and TTCL may file their rejoinders, if any, on or before 27.9.2013.

6. After hearing the learned counsel for the petitioner, respondents and representative of the PSPCL, the Commission reserved order in the petitions.

By order of the Commission

**Sd/-
(T. Rout)
Chief Legal**