

**CENTRAL ELECTRICITY REGULATORY COMMISSION**  
**NEW DELHI**

**Petition No. 267/2010**

Subject : Determination of transmission tariff for Barh-Balia 400 kV D/C (Quad) line under transmission system associated with Barh Generation Project (3X660 MW) in Eastern Region from date of commercial operation (1.7.2010) to 31.3.2014.

Date of hearing : 14.2.2013

Coram : Shri Pramod Deo, Chairperson  
Shri S. Jayaraman, Member  
Shri Deena Dayalan, Member

Petitioner : Power Grid Corporation of India Limited

Respondents : Uttar Pradesh Power Corporation Ltd. & 16 others

Parties present : Shri M.G. Ramachandran, Advocate, PGCIL  
Shri S.S. Raju, PGCIL,  
Mrs. Swapna Sehsadri, PGCIL  
Shri Prashant Sharma, PGCIL  
Shri Pradeep Mishra, Advocate, PSPCL  
Shri Padmjit Singh, PSPCL  
Shri R.B. Sharma, Advocate, BRPL

**Record of Proceedings**

The learned counsel for the petitioner submitted that an appeal has been filed in the Supreme Court against the judgement of the Appellate Tribunal for Electricity dated 2.7.2010 in Appeal No. 123/2011. The appeal has been admitted and notice has been issued on the Application for interim relief. The learned counsel further submitted that another appeal has been filed in the Supreme Court against the order dated 8.11.2012 in Review Petition No. 9/2012 and the appeal has been admitted. The learned counsel requested that the matter may be adjourned till the application for interim relief is heard and disposed of by the Supreme Court.

2. The learned counsel for PSPCL submitted that the petitioner requested to defer the matter even during the previous hearing. The learned counsel further submitted that in the absence of stay, the judgment of the Tribunal has to be implemented. The learned counsel submitted that as per Regulation 79(2) of the Conduct of Business Regulations, 1999, no utility can charge the tariff for inter-State Transmission System without the approval of the Commission. Since the tariff determined by the Commission as has been set aside by the Tribunal, the petitioner cannot charge any tariff until the tariff is re-determined as per the judgement of the Tribunal.

3. The Commission observed that Tribunal has remanded the matter back to the Commission for rehearing and that order has not been stayed by the Hon'ble Supreme Court and as such, the matter has to be heard by the Commission. In response the learned counsel for petitioner submitted that notice for the petitioner's interim application for stay has been issued and requested the Commission to defer hearing in the matter. He also submitted that the Tribunal came to the conclusion that the date of commercial operation cannot be declared without a switchyard. He submitted that a technical determination has to be done in the instant matter in the presence of beneficiaries and petitioner. He requested to constitute an expert committee to verify and confirm whether a trial run could be conducted without a switchyard or not. He offered to take CEA to the actual site to inspect and find out whether trial run could be completed without a switchyard or not.

4. The learned counsel of BRPL submitted that the order of the Commission has been set aside by the Tribunal and the petitioner is not entitled to charge transmission charges, but the petitioner is still levying the transmission charges under the PoC regime. The Learned Counsel submitted that the transmission charges of the subject transmission line should be taken out from the PoC charges.

5. The learned counsel for PSPCL submitted that the petitioner is entitled to charge transmission charges only if a stay is granted by the Supreme Court and in the instant case no stay has been granted, the petitioner cannot charge transmission charges for the transmission line. He submitted that the Commission is required to rehear the matter in accordance with the directions of the Tribunal and there is no requirement to refer the matter to the CEA regarding DOCO. He further submitted that PSPCL has received an arrears bill for `8.1 crore for 10 months after the Tribunal's order. As per the Sharing of inter-State Transmission Charges and Losses Regulations, the transmission charges of the subject asset has been included in the PoC charges and it should be clearly identified and deducted from the PoC charges.

6. The Commission observed that since the order of the Commission has been set aside by the Tribunal, the petitioner should not charge transmission

charges for the subject asset from the beneficiaries. The petitioner was directed to confirm before 28.2.2013, whether the petitioner is charging the transmission charges for the subject asset as claimed by PSPCL.

7. The Commission directed to list the matter for hearing on 7.3.2013.

By the order of the Commission,

Sd/-  
(T. Rout)  
Joint Chief (Law)