

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 2/RP/2013

Sub: Petition for review of the order dated 31.1.2013 in Petition No. 43/MP/2013 regarding a dispute arising between the petitioner, being a generating company and the respondents, being a transmission licensee.

Date of Hearing : 18.7.2013

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

Petitioner : Himachal Sorang Power Limited

Respondent : Power Grid Corporation of India Limited

Parties present : Shri Amit Kapur, Advocate, HSPL,
Ms. Apoorva Mishra, Advocate, HSPL
Shri Sidhartha Das, HPSL
Shri Haziq Beg, HSPL
Shri U.K.Tyagi, PGCIL
Shri V.Thiagarajan, PGCIL

Record of Proceedings

At the outset, learned counsel for the review petitioner submitted that the respondent, PGCIL has not filed its reply. In response, the representative of the respondent submitted that reply to the petition has already been filed on 16.7.2013 and copy of the reply has been emailed to the representative of the Review Petitioner. The representative of the respondent handed over a copy of the reply to the learned counsel for the Review Petitioner. Learned counsel sought one week time to file its reply to the petition, which was allowed by the Commission .

2. The representative of the respondent submitted that the letter dated 14.2.2012 which has been referred to by the Review Petitioner is with respect to the date of commissioning in the Connection Agreement as against the commissioning of open access as per BPTA. He submitted that the Connection Agreement and BPTA are two separate documents addressing different issues i.e. Connection Agreement relates to the technical aspects of connectivity whereas BPTA relates to commercial aspects of availing Open Access and transmission services. The representative of the respondent referred to clause 2.1 of the Connection Agreement and submitted that the Review Petitioner had neither applied for connectivity nor has PGCIL granted any connectivity.

3. In response, learned counsel for the petitioner referred to the following documents:

(a) A letter dated 11.2.2011 written by the respondent to the Review Petitioner directing them to seek connectivity.

(b) Letter dated 24.11.2011 of Review Petitioner vide which it applied for connectivity and wherein the date of commissioning has been mentioned as September, 2012.

(c) Letter dated 14.02.2012 vide which PGCIL granted connectivity to the Review Petitioner clearly mentioning that the date of commissioning of the project would be September 2012.

4. Learned counsel for the Review Petitioner also referred to the clause 1.2 of the Connection Agreement to demonstrate the priority of the documents and pointed out that as per the said clause, the application for seeking connectivity and the grant of connectivity including their respective annexures would have precedence over the Connection Agreement itself. Learned counsel for the petitioner further submitted that LILO through which the Review Petitioner had to connect to Karcham Wangtoo-Abdullapur Transmission line of Jaypee Power Grid is not yet ready from the end of Jaypee and hence charging of transmission charges to the Review Petitioner is unjust and amounts to profiteering.

5. With regard to readiness of the LILO, the representative of the respondent submitted that PGCIL has no role in the construction of the LILO as it is the responsibility of the Review Petitioner to get the same constructed by any entity of its choice. He also submitted that PGCIL has never taken a stand that it can prepone the date of commencement of Open Access on its own and hence there is no question of considering the same.

6. Learned counsel for the Review Petitioner further referred to the recitals of the Connection Agreement which explains the role of PGCIL as the CTU with respect to the connectivity of Review Petitioner. Learned counsel submitted that the Review Petitioner has to construct the LILO on the line of Jaypee Power Grid which is an inter-State transmission licensee and hence some component of the work has to be done by the inter-State transmission licensee as the Review Petitioner can in no way get the same done unilaterally. Since the inter-State transmission licensee is under the control of the respondent and the statutory function of the CTU is to maintain and coordinate the transmission system, it is implicit that the respondent is equally responsible for the preparedness of the LILO. The said role is also clearly demonstrated and recorded in the recitals of the Connection Agreement which is a tripartite agreement between the Review Petitioner, PGCIL and Jaypee Power Grid.

7. After hearing the submissions of the parties, the Commission directed to respondent to file an affidavit by 31.7.2013 clearly demonstrating as to how PGCIL is not responsible for the LILO and also giving status of LILO.

8. The Commission directed the petitioner and respondent to file their written submissions by 2.8.2013 with copy to each other.

9. Subject to above, the Commission reserved order in the petition.

By order of the Commission

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