

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

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

Date of Hearing: 24.9.2013
Date of Order: 27.9.2013

Petition No. 127/2012
With I.A.Nos. 20/2012
and 28/2013

In the matter of:

Application under Section 63 of the Electricity Act, 2003 for adoption of transmission charges with respect to the Transmission System being established by the Vemagiri Transmission System Ltd.

Power Grid Corporation of India LimitedPetitioner
Vs
1. Samalkot Power Limited
2. Spectrum Power Generation Limited ..Respondents

Petition No. 128/2012

In the matter of

Application under Section 14 of the Electricity Act, 2003 read with Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009 with respect to Transmission Licence to Vemagiri Transmission System Limited.

And

In the matter of:

Vemagiri Transmission System LimitedPetitioner
Vs
1. Samalkot Power Limited
2. Spectrum Power Generation Limited ..Respondents



**Petition No. 128/2012
With I.A.No.31/2013**

In the matter of

Miscellaneous application for termination of Bulk Power Transmission Agreement/Long Term Access Agreement dated 24.12.2010 and Termination of Tri-partite Transmission Service Agreement dated 15.12.2011

**And
In the matter of**

Spectrum Power Generation Ltd., Hyderabad
Vs
Power Grid Corporation of India Limited and others

Petitioner
.Respondents

Following were present:

Shri Sanjay Sen, Senior Advocate, Spectrum Power Generation Ltd.
Ms Shagun Miss Shally, Advocate
Ms. Shally Bhasin, Advocate, Smalkot Power Limited
Shri Satish Sharma, Spectrum Power Generation Ltd.
Shri Y.K.Sehgal, CTU
Shri Dilip Rozerkar, CTU
Shri V.Vamsi, VTSL

ORDER

Background of the Case

REC Transmission Project Company Limited as the Bid Process Coordinator carried out the competitive bidding process to select a bidder as a Transmission Service Provider to establish the "Transmission System Associated with IPPs of Vemagiri Area: Package A" on build, own, operate and maintain basis. The scope of the project was as under:



(a) Vemagiri Pooling Station-Khammam 765 kV D/C Line

(b) Khammam-Hyderabad 765 kV D/C Line-1

REC Transmission Project Company incorporated Vemagiri Transmission System Limited as its subsidiary to initiate the action on execution for the project and subsequently to act as Transmission Service Provider after being acquired by the successful bidder. On the basis of the competitive bidding, Power Grid Corporation of India Limited (PGCIL) was declared as the successful bidder. There were two identified Long Term Transmission Customers of the transmission project, namely, M/s Samalkot Power Limited (SPL) and M/s Spectrum Power Generation Limited (SPGL). A Transmission Service Agreement was entered into between the Long Term Transmission Customers and Vemagiri Transmission Company Limited. In compliance with the requirements in the Request for Proposal, PGCIL furnished Contract Performance Guarantee to Samalkot Power Limited (`22.31 crore) and Spectrum Power Limited (`13.69 crore) and thereafter acquired Vemagiri Transmission Company Limited. PGCIL filed Petition No. 127/2012 before this Commission for adoption of tariff of the transmission system. Vemagiri Power Transmission Company Limited as the fully owned subsidiary of PGCIL filed Petition No.128/TL/2012 for grant of transmission licence.

2. Spectrum Power Generation Limited filed Petition No.156/MP/2012 for termination of the Transmission Service Agreement as it was unable to set up the generating station on account of non-availability of gas till 2015-16 in view of the



advisory issued by Ministry of Power Government of India. Samalkot Power Limited did not envisage any problem to its project on account of non-availability of gas but declined to bear the entire transmission charges after exit of Spectrum Power Generation Limited. The Commission directed CTU in the ROP dated 12.7.2012 to file status of the generating station linked with the development of the transmission project and as to how the proposed transmission project was going to be fully utilized. CTU in its affidavit dated 16.8.2013 submitted that SPGL which is one of the two identified IPPs in the Vemagiri area and also the Long Term Transmission Customer has expressed non-viability of the generation project and unwillingness of the lenders and shareholders to fund the generation project. CTU had submitted that the unfolding scenario of non-execution of one of the projects due to non-availability of gas and the risks associated with the viability, funding and uncertainty in revenue realization with respect to associated transmission system are at variance with what were conceived during the bidding stage and warrants a clear mandate to proceed further with the implementation of the Vemagiri transmission project. The Commission after considering the submission of all parties directed the following in its order dated 9.5.2013:

"19. PGCIL had filed Petition No. 154/2011 for regulatory approval for development and execution of certain identified transmission systems which included the transmission system for evacuation of power from various generation projects planned to be promoted by different developers. The approval was granted vide order dated.13.12.2011. In the said order it was clarified that implementation of various transmission systems should be in accordance with the progress in the generating projects of IPPs. Therefore, in keeping the earlier order, implementation of the transmission system has to keep stride with the construction of the generating stations which were proposed to be set up by Samalkot and Spectrum.

20. Because of problem of availability of gas, Spectrum has discontinued implementation of the generating station and has sought cancellation of the TSA. The



other project developer, Samalkot, is also facing problem of availability of gas though it has commissioned some of the units of the generating station. Samalkot has, however, clearly stated that it will not bear the charges of complete transmission system after withdrawal of Spectrum. Generation of power is dependent on availability of gas for which there is no certainty at present. With uncertainty that looms over the operational phase of the generating stations because of unavailability of gas, the transmission assets if raised, are likely to remain unutilized. This is bound to give rise to problem of recovery of the transmission charges as Samalkot has refused to share the entire tariff. The petitioner has represented that with the time overrun it will not be possible to implement the transmission system within the capital cost commensurate with the quoted tariff and has accordingly sought increase in the transmission charges with the increased capital cost when implemented. The capital cost considered by the petitioner while quoting tariff is not known to any person except PGCIL itself. Therefore, it will be difficult to assess the impact of cost overrun on the transmission charges, even if time extension is permitted. In view of the uncertainties and other difficulties being envisaged, no useful purpose is likely to be served by adopting the transmission charges and granting licence to the petitioner for inter-State transmission of electricity. The petitioner itself does not seem to be very keen to implement the transmission system in the present phase of uncertainty unless it is assured of recovery of the transmission charges. There is, according to us, an imperative need to review the requirement of transmission network needed for evacuation of power of the generating stations being or to be established in Vemagiri area in the light of present day developments. There is also a need to examine the possibility of reconfiguring the required network in the Southern Region based on expected generation and the load and some elements of the transmission system may be combined with the other transmission systems being built / proposed to be built in the Region, if required. The Central Electricity Authority and the Central Transmission Utility are directed to undertake necessary review and re-examination of the entire matter afresh and file their decision/views in the matter by 31.5.2013."

3. CTU in its letter dated 30.5.2013 sought one month's time for review of the transmission system after taking into consideration the comprehensive requirement of the transmission system in the Southern Region and to discuss the proposal for reconfiguration of the transmission system, in consultation with the concerned beneficiaries. In consideration of the request of CTU, the matter was listed for hearing on 11.7.2013. During the hearing, representative of CTU submitted that review of the transmission system was being carried out in consultation with the Central Electricity



Authority and Southern Region constituents for which the meeting of the Standing Committee on Power System Planning of Southern Region was scheduled in the month of July, 2013 and sought time to file the reviewed transmission system by 8.8.2013. Subsequently, CTU in its letter dated 19.8.2013 sought time till 12.9.2013 for submission of the required information. The CTU submitted in its report vide its letter dated 12.9.2013. CEA in its letter dated 23.9.2013 has sought one weeks' time to submit the report.

4. Samalkot Power Ltd. has filed Interlocutory Applications No.20/2013 and 28/2013, seeking a direction to restrain PGCIL from invoking or encashing the bank guarantee and also to return the bank guarantee to Samalkot Power Generation Ltd. Similarly, Spectrum Power Generation Limited has filed IA No.31 of 2013, seeking a direction to restrain PGCIL not to act in furtherance of its letter dated 7.8.2013 and not to invoke the bank guarantee dated 13.6.2011.

5. We have heard the representatives of the Vemagiri Transmission System Ltd., the representative of CTU, Ld. Senior Counsel for Spectrum Power Ltd. and Ld. Counsel for Samalkot Power Ltd. Ld. Senior Counsel for Spectrum Power Generation Ltd. submitted that since bank guarantee was to expire on 31.7.2013 and pending the decision in the matter, Spectrum Power Generation Ltd. has extended the bank guarantee till 30.9.2013. Ld. Senior Counsel further submitted that bank guarantee was given for the purpose of construction of transmission line and since the petitioner does



not intend to construct the transmission line, which has been noted by the Commission in its order dated 9.5.2013, directions should be issued to CTU to return the bank guarantee. Ld. senior counsel for SPGL submitted that CTU should be directed to return the bank guarantee immediately, as no expenditure has been incurred on the project. Ld. Counsel submitted that since gas is not available and the advisory issued by the Government of India dated 19.3.2012 has not been revoked, the chances of setting up the generating station in near future are very remote. Ld. counsel for Samalkot Power Limited reiterated the submission made during the hearing on 11.7.2013 and submitted that the validity of bank guarantee should not be linked with the report of the CEA and CTU, as both are independent activities and as and when a new system emerges, the BPTA would be signed and bank guarantee would be furnished by the long term transmission customers of the particular transmission system. The representative of CTU submitted that the bank guarantee has been retained in accordance with the provisions of the relevant regulations and till a decision regarding the implementation of the project is taken by the Commission, the bank guarantee cannot be returned to LTTCs. He further submitted that PGCIL has furnished Contract Performance Guarantee to Spectrum Power Generation Ltd. and Samalkot Power Ltd. and necessary directions may be issued to them to return the Contract Performance Guarantee.



6. We have considered the submissions of the parties. Samalkot Power Ltd. has furnished bank guarantee for `110 crore and Spectrum Power Generating Ltd. has furnished bank guarantee of `67.50 crore to CTU till the execution of the subject transmission system. Samalkot Power Limited in its IAs No. 20/2013 and 28/2013 has submitted that since there is total uncertainty with regard to construction of the transmission line and implementation of the project, the purpose of giving the bank guarantee i.e security for SPLs commitment to construct the transmission system is over and therefore, the bank guarantee should be returned to Samalkot Power Limited. Spectrum Power Generation Ltd in its I.A. No. 31/2013 has submitted that the Spectrum Power Generation Ltd. after being aware of the non-availability of gas had requested CTU not to take any action towards execution of the transmission system based on the LTA and BPTA executed and to refrain the bank guarantee. Samalkot Power Limited has submitted that it has obtained LTOA for evacuation of power from its generating station and in terms of the TSA, the evacuation system was to be executed by CTU. Since CTU has failed to do its part of construction of transmission system even though generating station has been commissioned, the construction bank guarantee should not be insisted upon and may be returned by CTU.

7. In our order dated 9.5.2013, we had directed the CTU to undertake necessary review and re-examination of the Vemagiri Transmission System in consultation with CEA. CTU in its letter dated 12.9.2013 has submitted that joint studies were carried out



with CEA, CTU, APTRANSCO, KPTCL and TANTRANSCO on 29.6.2013 at Hyderabad and the matter was also discussed during the 36th Standing Committee Meeting on Power System Planning of Southern Region held on 4.9.2013. CTU has placed on record a copy of the "Report of Central Transmission Utility on Vemagiri Transmission System". The relevant portion of the report is extracted as under :

"4. Under this background, joint power system studies were conducted with CEA, CTU, APTRANSCO, KPTCL and TANTRANSCO on 29th June, 2013 at Hyderabad to evolve transmission system requirement for dispersal of power beyond Vemagiri to meet deficit in Southern Region, majority of which is in lower part of the Southern Region. The studies were included as an agenda item for the Standing Committee meeting, copy of which is given at Annexure- I, wherein it may be seen that comprehensive transmission system requirement for meeting the projected deficit situation was evolved. For the requirement of transmission system for dispersal of power beyond Vemagiri following three alternatives were considered

- a. Alternative-I
 - i. Vemagiri-Khammam-Hyderabad 765 kV D/c lines
 - ii. Hyderabad-Kurnool 765 kV D/c lines
 - iii. LILO of Kurnool- Thiruvalem of Cuddapah 765 kV S/s
- b. Alternative-II
 - i. Vemagiri-Chilakaluripeta-Cuddapah-Salem 765 kV D/c line
- c. Alternative-II
 - i. Vemagiri- Khammam-Hyderabad 765 kV D/c lines
 - ii. Vemagiri-Chilakaluripeta-Cuddapah-Salem 765 kV D/c line

Based on the detailed studies it has been seen that in view of the availability of power at Hyderabad through Wardha- Hyderabad 765 kV D/c line, the power available at Vemagiri does not have tendency to flow towards Hyderabad because of which loading on Vemagiri-Khammam-Hyderabad 765 kV D/c line is marginal. The majority of power flow towards southern part through Vemagiri-Chilakaluripeta-Cuddapah-Salem 765 kV D/c line.

Based on above, it concluded that Alternative-II was preferred.

5. The above studies was discussed in detail during the Standing Committee meeting wherein it was observed that for import through Angul- Srikakulam-Vemagiri 765 kV D/c, following transmission system shall be required for dispersal of power beyond Vemagiri:

- a. Vemagiri-Chilakaluripeta-Cuddapah-Salem 765 kV D/c line



- b. Chilakaluripeta-Podli 400 kV (quad) D/c line
- c. Cuddapah- Hindupur 400 kV (quad) D/c line
- d. Cuddapah-Hoody 400 kV (quad) D/c line
- e. New 765/400 kV substations at Chilakaluripeta and Cuddapah with 2x150 MVA transformers each
- f. New 400/220 kV substations at Podli 2X315 MVA transformers each.

6. In the Standing Committee meeting it was agreed that above mentioned transmission corridor shall be implemented as regional strengthening due to changed scenario in Southern Region. Further there was view that along with above transmission system, Vemagiri- Khammam- Hyderabad 765 kV D/c line may also be undertaken for improving reliability of transmission system.

In this regard, that CTU has opined that in view of the uncertainty of gas based generation projects in Vemagiri area and marginal loading this transmission corridor is not required. Further, for establishing necessity of Vemagiri-Khammam-Hyderabad 765 kV D/c line for improving reliability of the Southern Region grid, constituents were of the opinion that it requires further examination.

7. Accordingly, it was decided that Vemagiri & Hyderabad 765/400 kV substation may be reconfigured for implementation along with Srikakulam-Vemagiri 765 kV D/c line (awarded through TCB route) and Wandha-Hyderabad 765 kV D/c line respectively."

8. It emerges from the report of the CTU that Vemagiri Transmission System in its present form is not required in view of the uncertainty of gas based generation projects in Vemagiri area and marginal loading. Since, Spectrum Power Generation Ltd. and Samalkot Power Ltd., which are the only LTTCs of the transmission system have sought return of the bank guarantee. Since PGCIL has neither made any investment nor made any progress in the implementation of the transmission system and taking into consideration the report of the CTU as quoted above, it is our considered view that Vemagiri Transmission System cannot be executed in its present form. Accordingly, no purpose will be served to allow CTU to retain the bank guarantee. CTU is directed to refund the bank guarantee to the Samalkot Power Limited and Spectrum Power



Generation Ltd. We also direct Samalkot Power Ltd. and Spectrum Power Ltd. to refund the Contract Performance Guarantee given by the CTU.

9. The report of the CEA is awaited, who have sought one weeks' time to file the report. Accordingly, CEA is directed to submit the report by 4.10.2013. A decision on the re-configuration of the transmission project shall be taken after receipt of the report of the CEA.

10. IA No.31/2013 in Petition No.156/MP/2012 and IAs Nos. 20/2013, 28/2013 in Petition No.127/2012 are disposed of with the above directions.

**SD/
(M. Deena Dayalan)
Member**

**SD/
(V.S.Verma)
Member**

