

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. TT/288/2013

Coram:

**Shri Gireesh B. Pradhan, Chairperson
Shri M. Deena Dayalan, Member
Shri A. K. Singhal, Member**

**Date of Hearing: 03.12.2013
Date of Order: 16.12.2013**

In the matter of

- (i) Approval under Regulation 3 [12(c)] of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 and Regulation 24 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for commissioning date and
- (ii) Approval under Regulation 86 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 for determination of Transmission Tariff from DOCO to 31.3.2014 for tariff block 2009-14 for LILO of 400kV D/C Nathpa Jhakri-Nallagarh (Triple Snowbird) line at Rampur under transmission system associated with Rampur HEP in Northern Region.

And in the matter of

Power Grid Corporation of India Limited,
"Saudamani", Plot No.2,
Sector-29, Gurgaon -122 001.

.....**Petitioner**

Vs

1. Rajasthan Rajya Vidyut Prasaran Nigam Ltd.,
Vidyut Bhawan, Vidyut Marg,
Jaipur- 302 005.
2. Ajmer Vidyut Vitran Nigam Ltd.,
400 kV GSS Building (Ground Floor), Ajmer Road,
Heerapura, Jaipur.
3. Jaipur Vidyut Vitran Nigam Ltd.,
400 kV GSS Building (Ground Floor), Ajmer Road,
Heerapura, Jaipur.



4. Jodhpur Vidyut Vitran Nigam Ltd.,
400 kV GSS Building (Ground Floor), Ajmer Road,
Heerapura, Jaipur.
5. Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Kumar House Complex Building II,
Shimla-171 004.
6. Punjab State Power Corporation Ltd.,
Thermal Shed T-1A,
Patiala
7. Haryana Power Purchase Centre,
Shakti Bhawan, Sector-6,
Panchkula (Haryana)-134 109.
8. Power Development Department,
Govt. of Jammu and Kashmir,
Mini Secretariat,
Jammu
9. Uttar Pradesh Power Corporation Ltd.,
Shakti Bhawan, 14, Ashok Marg,
Lucknow-226 001
10. Delhi Transco Ltd.,
Shakti Sadan, Kotla Road,
New Delhi-110 002
11. BSES Yamuna Power Ltd.,
BSES Bhawan, Nehru Place,
New Delhi
12. BSES Rajdhani Power Ltd.,
BSES Bhawan, Nehru Place,
New Delhi
13. HOG (PMG)
TATA Power Delhi Distribution Ltd.,
33kV Substation Building,
Hudson Lane, Kingsway Camp,
North Delhi-110 009
14. Chandigarh Administration,
Sector-9, Chandigarh

15. Uttarakhand Power Corporation Ltd.,
Urja Bhawan, Kanwali Road,
Dehradun

16. North Central Railway,
Allahabad

17. New Delhi Municipal Council,
Palika Kendra, Sansad Marg,
New Delhi-110 002

18. Satluj Jal Vidyut Nigam Ltd.,
Himfed Building,
New Shimla-171 009

.....**Respondents**

Counsel/Representatives of the Petitioner

: Shri S.S Raju, PGCIL
Ms. Sangeeta Edwards, PGCIL
Shri Mohd. Mohsin, PGCIL
Shri M.M. Mondal, PGCIL
Shri B.K. Sahoo, PGCIL

Counsel/Representative of the Respondents

: Shri Padmajit Singh, PSPCL
Shri R.B.Sharma, Advocate for
BRPL

ORDER

In the instant petition the petitioner, Power Grid Corporation of India Limited (PGCIL) has sought approval for transmission tariff for LILO of 400kV D/C Nathpa Jhakri-Nallagarh (Triple Snowbird) line at Rampur under transmission system associated with Rampur HEP in Northern Region under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2009 (hereinafter referred to as the "2009 Tariff Regulations"). Further, the petitioner has requested to grant provisional tariff as per the 2009 Tariff Regulations, pending determination of final tariff.



2. Regulation 5 of the 2009 Tariff Regulations provides as under:-

"Application for determination of tariff. (1) The generating company or the transmission licensee, as the case may be, may make an application for determination of tariff in accordance with Central Electricity Regulatory Commission (Procedure for making of application for determination of tariff, publication of the application and other related matters) Regulations, 2004, as amended from time to time or any statutory re-enactment thereof, in respect of the units of the generating station or the transmission lines or sub-stations of the transmission system, completed or projected to be completed within six months from the date of application.

(2) The generating company or the transmission licensee, as the case may be, shall make an application as per **Appendix I** to these regulations, for determination of tariff based on capital expenditure incurred duly certified by the auditors or projected to be incurred up to the date of commercial operation and additional capital expenditure incurred duly certified by the auditors or projected to be incurred during the tariff period of the generating station or the transmission system:

Provided that in case of an existing project, the application shall be based on admitted capital cost including any additional capitalization already admitted up to 31.3.2009 and estimated additional capital expenditure for the respective years of the tariff period 2009-14:

Provided further that application shall contain details of underlying assumptions for projected capital cost and additional capital expenditure, where applicable.

X X X X

(4) Where application for determination of tariff of an existing or a new project has been filed before the Commission in accordance with clauses (1) and (2) of this regulation, the Commission may consider in its discretion to grant provisional tariff upto 95% of the annual fixed cost of the project claimed in the application subject to adjustment as per proviso to clause (3) of this regulation after the final tariff order has been issued:

Provided that recovery of capacity charge and energy charge or transmission charge, as the case may be, in respect of the existing or new project for which provisional tariff has been granted shall be made in accordance with the relevant provisions of these regulations."

3. As per Regulation 5(4) of the 2009 Tariff Regulations, the Commission may in its discretion grant provisional tariff if an application has been filed under Regulation 5(1) and (2) of the 2009 Tariff Regulations. Regulation 5(1) of the 2009 Tariff Regulations provides that the application for tariff should be made in accordance with the Central Electricity Regulatory Commission (Procedure for making of application for

determination of tariff, publication of the application and other related matters) Regulations, 2004 (hereinafter referred to as "2004 Regulations"). Regulation 5(2) of 2009 Tariff Regulations provides that the application shall be made as per Appendix to the 2009 Tariff Regulations.

4. The petitioner has made the application as per the Appendix to the 2009 Tariff Regulations. The petitioner has also complied with the requirements of 2004 Regulations, such as service of the copy of the application on the beneficiaries, publication of notice and web hosting of the application, etc.

5. The petition was heard on 3.12.2013 for consideration of the petitioner's prayer for allowing provisional tariff. During the hearing, the representative of the petitioner has submitted that the petitioner has complied with the requirements specified in Regulation 5 of the 2009 Tariff Regulations for granting provisional tariff and prayed that 95% of the Annual Transmission Charges claimed may be allowed as provisional tariff as provided in the said Regulation. He further submitted that the asset covered in the instant petition is anticipated to be commissioned on 1.12.2013, against the schedule commissioning of 1.12.2011 and there is a time over-run of 24 months. The time over-run was mainly on account of delay in forest clearance and non-readiness of generation project. He also submitted that the completion cost is within the FR cost.

6. The representative of PSPCL has submitted that the petitioner's statement regarding its inability to charge the 400 kV LILO portion because of non-readiness of

generation is not correct as the relevant equipment for LILO purpose i.e. GIS/SF6 switchgear is located within the Rampur Power Station and the petitioner being the CTU is obliged to coordinate with SJVNL in terms of section 38 of the Electricity Act, 2003 to ensure that the 400 kV LILO portion is completed before commissioning of the first unit of Rampur HEP. He submitted that it is not correct on the part of the petitioner to state that the delay in commissioning of the LILO is due to delay in commissioning of Rampur HEP of SJVNL, since GIS Switchgear can be commissioned before the commissioning of the first unit of Rampur HEP. He further submitted that the petitioner should have coordinated with the Forest Department as provided under section 38 of the Electricity Act, 2003 to avoid delay. He submitted that provisional tariff may be allowed only if the LILO portion is commissioned before the commissioning of the first unit of Rampur HEP. He submitted that provisional tariff of 90% of the tariff claimed may be allowed only if the LILO portion is commissioned before the commissioning of the first unit of Rampur HEP. He requested the Commission to direct the petitioner to submit the date of commissioning of the instant LILO and the commissioning schedule of the Rampur HEP.

7. The representative of BRPL has submitted that there is time over-run in the instant case and the petitioner, as the CTU, should have coordinated with the Forest Department and with the generator and avoided time over-run. The consumers should not be burdened with the cost of time over-run and requested to take this aspect into consideration while allowing the provisional tariff.

8. The representative of petitioner has clarified that the transmission system was delayed to match with the generation project and this issue was discussed in the 17th TCC meeting and 18th NRPC meeting. He submitted that the transmission lines are likely to be ready by 1.12.2013, but the petitioner will be unable to charge the same because of non-readiness of Rampur HEP. He also submitted that the instant case falls under the second proviso to Regulation 3(12)(c) of the 2009 Tariff Regulations, as it is prevented from putting the LILO into effective use because of reasons attributable to the generation and requested to approve the date of commercial operation of the instant LILO as 1.12.2013.

9. As per the submissions made by both the petitioner and the respondents, it appears that the Rampur HEP of SJVNL, with which the instant LILO is associated, has not been commissioned.

10. It is noticed that the Agreement dated 6.4.2013 between the petitioner and SJVNL contains the following clause:-

"1. SCHEDULE OF COMMISSIONING:-

- a) The schedule of commissioning of each generating projects and ATS alongwith zero date for the indemnification agreement would be mutually agreed in the Co-ordination meeting between PGCIL and SJVNL within 6 months of investment approval and will form an integral part of this agreement. The above schedule for generating projects and the ATS shall be regularly reviewed by Sr. officials of both the parties in the Co-ordination meeting between SJVN and PGCIL
- b) A Co-ordination Committee consisting of 2 officials of SJVN and 2 officials of Power Grid shall be constituted within two week of signing this agreement, which shall regularly monitor the process of the system on quarterly basis.

Indemnification

- a) In the event of delay in commissioning of generating projects vis a vis ATS the defaulting party shall pay the interest during construction(IDC) and FERV and Govt. Guarantee fee if any

for generating projects and ATS calculated as lower of the two, upto a period of six months from the zero date

- b) In case of actual commissioning of the ATS and 1st generating unit of Projects occur beyond the Mutually agreed zero date, the actual readiness date of commissioning of ATS and/ readiness of commissioning of 1st generation unit of projects whichever is earlier shall be considered as the Zero date for the purpose of this agreement
- c) However, the indemnification claim should be raised and the defaulting party shall pay only in case of revenue loss or part thereof suffered by the other party due to delay in commissioning the defaulting party
- d) Either party who was ready to commission and have notified the other party, shall obtain a certificate from statutory auditors at the end of Financial year certifying the amount of IDC from Zero date to actual date of commissioning or 6 months IDC whichever is less."

11. As per the above clause, the petitioner is required to regularly monitor the progress of work. Further, the petitioner is entitled for IDC for a period of six months. Therefore, the interest of the petitioner is protected through payment of IDC for six months.

12. We have considered the submissions of the petitioner and respondents. It is observed that an evacuation system for Rampur HEP was discussed and agreed in the 18th Meeting of the Standing Committee held on 6.6.2005 and as per the Minutes of 29th Standing Committee Meeting held on 29.12.2010, the petitioner has to commission the instant LILO matching with the Rampur HEP. The petitioner has not filed any material to show that the petitioner has been coordinating with the generator as provided in the Agreement entered into with the generator. The petitioner has also not provided the details of the steps taken to match the instant LILO with the commissioning of the Rampur HEP. Further, the generator, SJVNL, though a respondent, has not filed any reply or is represented during the hearing. We would like to hear the generator before we approve the anticipated date of commercial operation of the instant LILO as

1.12.2013 under Regulation 3(12) (c) of the 2009 Tariff Regulations as prayed by the petitioner. We would also like to grant provisional tariff for the instant LILO after arriving at a decision on the date of commercial operation. Accordingly, provisional tariff for the instant LILO is not granted for the time being.

13. The petition shall be listed on 28.1.2014 for consideration of the petitioner's prayer for approval of the anticipated date of commercial operation of the instant LILO as 1.12.2013 under Regulation 3(12)(c) of the 2009 Tariff Regulations and provisional tariff. SJVNL is directed to file its reply with a copy to the petitioner and all the respondents before the next date of hearing and also to make its appearance on the next date of hearing. The petitioner shall also make detailed submissions specifically on the date of commercial operation of the instant LILO on 28.1.2014.

Sd/-

(A. K. Singhal)
Member

Sd/-

(M. Deena Dayalan)
Member

Sd/-

(Gireesh B. Pradhan)
Chairperson