

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No.73/MP/2014
with I.A.No. 33/2014**

Subject: Petition under Sections 61, 63 and 79 of the Electricity Act, 2003 read with the statutory framework for tariff based competitive bidding for transmission service in the matter of 765 kV D/C transmission line from Dharamjaygarh-Jabalpur and 765 kV S/C transmission line from Jabalpur pool- Bina being implemented by Jabalpur Transmission Company Limited.

Date of hearing: 11.7.2014

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

Petitioner: Jabalpur Transmission Company Limited

Respondents: Adhunik Power and Natural Resources Limited and Others

Parties present: Shri Amit Kapur, Advocate for the petitioner
Shri Poonam Verma, Advocate for the petitioner
Shri Guaurav Dudeja, Advocate for the petitioner
Shri T.A.Reddey, JTCL
Mr. Harsh Shah, JTCL
Shri Abhishek Gupta, MB Power
Ms. Mazag Andrabi, Advocate, MB Power
Ms. Manju Gupta, CTU
Shri A.M.Pagvi, CTU

Record of Proceedings

Learned counsel for MB Power (Madhya Pradesh) Ltd, Respondent No. 5 in the petition, submitted that the Respondent No. 5 has filed an Interlocutory Application for impleadment of Power Grid Corporation of India Ltd. (“**PGCIL**”) as party to the petition. Learned counsel submitted that it is necessary to know the view of PGCIL which is the Central Transmission Utility regarding the interim arrangement for evacuation of power from the generating station in view of the delay in commissioning of the Jabalpur Pooling Station-Bina 765 S/C line (JB Line).

2. In response to the Commission`s query regarding the commissioning schedule of the generating station of MB Power (Madhya Pradesh) Ltd., learned counsel submitted that the generating station would be commissioned in October 2014 and since the identified evacuation is not ready, PGCIL as CTU should make alternative arrangement so that power is not bottled up. She also submitted that

parallel 765 kV Jabalpur Bina line has already been developed by Power Grid which could be used for evacuation of power from the generation station.

3. Learned counsel for the petitioner submitted that the petitioner has no objection for impleadment of Power Grid as a party to the petition. Since the project was expected to be commissioned within 6 months of the receipt of Forest Clearance, i.e., by March, 2015, the requirement of an interim evacuation arrangement would arise only for a short duration.

4. The Commission observed that since the petitioner was aware of the issue of forest clearance at the time of bidding, it should have been adequately factored the time and cost implication of the forest clearance in the bid.

5. Learned counsel for the petitioner submitted that consequent to the award of the project, the petitioner undertook the following steps for forest clearance in accordance with the applicable procedure:

(a) The petitioner initiated a survey of the transmission line in March 2011 to determine the line length falling in forest areas.

(b) The petitioner submitted application to the designated nodal officers seeking forest clearance as per Rule of the Forest Conservation Rules, 2003 in June 2012 and July 2013 for Madhya Pradesh and Chhattisgarh, respectively.

(c) Subsequent to obtaining NOC from the Gram Sabhas, the petitioner obtained certificates from the District Collectors under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in January 2013 and September for Madhya Pradesh and Chhattisgarh respectively. However, the petitioner's application for forest clearance is stuck at the stage of compensatory afforestation due to non-availability of suitable non-forest land for compensatory afforestation.

(d) Ministry of Environment and Forests vide its Notification dated 13.2.2012 amended the extant framework for grant of forest clearance. Prior to this, the petitioner had the option to deposit the amount for raising compensatory afforestation on degraded forest land twice the extent of the forest area being diverted in respect of which forest clearance was sought subject to the Chief Secretary of the State granting a certificate to the effect that there was no suitable non-forest land for compensatory afforestation.

(e) As a result of the above amendment, this option is now available only in States which have forest cover of over 50%. Since the forest cover in Madhya Pradesh and Chhattisgarh is less than 50%, the petitioner was constrained to renew the process of identifying non-forest land for compensatory afforestation resulting in a continuing delay in the process for obtaining forest clearance till date and an additional capital outlay on account of price increase in the input materials such as conductor, steel, cement, labour as well as the land required for compensatory afforestation.

(f) As a result of non-grant of forest clearance, the petitioner has been unable to undertake construction of any part of the project affected by forest area, which is over 35% of the total line length. Therefore, despite having completed all the work relating to the non-forest stretches of the line, the petitioner is not able to commission the project.

6. Learned counsel for the petitioner submitted that the process of grant of Section 164 authorisation was initiated by the petitioner on 2.11.2011. However, the approval was granted by Ministry of Power only on 20.1.2014. However, in the absence of requisite Section 164 authorisation, the petitioner:

- (a) could not erect towers and faced difficulties in commencing construction as land owners could not be convinced that the petitioner had legal authority to construct towers on their land;
- (b) faced problems in settling Right-of-Way issues and had to pay compensation in excess of the applicable norms;
- (c) could not choose the optimum route alignment as planned at the time of the bid, resulting in an increase in the number of angle towers and the forest area;
- (d) could not obtain debt funding as the lenders of the project did not agree to disburse funds as obtaining Section 164 authorisation is a pre-disbursement condition; and
- (e) could not award EPC contract to firm up prices, the delay in which resulted in increase in the cost of execution and raw materials such as steel, aluminium. etc

7. The Commission enquired from the petitioner about the length of the transmission lines affected by forest areas, the reasons for not completing the stringing in non-forest areas and the possibility of re-routing the line to avoid the forest areas. In response, the representative of the petitioner submitted as under:

(a) The line length of Dharamjaygarh-Jabalpur pool 765 kV D/C line (DJ) and Jabalpur pool-Bina 765 kV Quad S/C line (JB) is 284 km and 250 respectively.

(a) Over 35% of the entire line-length was affected by forest area.

(c) In DJ line, 99% foundations, 89% of tower erection and 55% stringing works have been completed and in JB line, 100% of foundations, 97% of tower erection and 88% of stringing works have been done.

(c) The stringing could not be completed entirely in the non-forest areas since the forest area fell intermittently along the route of the lines, preventing the stringing works.

(d) Re-routing the lines is not feasible as there are large patches of forest land which may result in enlargement of scope of the project.

8. In response to the Commission's further query as to how much time it would take for commissioning of the project after receipt of the forest clearance, learned counsel for the petitioner submitted as under:

(a) The petitioner is fully committed to complete of the project in the shortest time possible.

(b) Despite the delay in the grant of authorization under Section 164 of the Electricity Act, 2003, the petitioner has deployed additional resources to increase the pace of construction and has adopted use of helicopter stringing in this regard.

(c) The onset of monsoon is likely to impact the commissioning schedule. Assuming that the forest clearance will be granted in September 2014, the petitioner would be able to commission the Project within 6 month thereafter i.e JB line by November, 2014 and the DJ line by March, 2014.

9. The representative of CTU submitted that JB line would be commissioned by October 2014. As regards the concern of MB Power Ltd, she submitted that the issue has to be considered by the concerned Division of PGCIL before making submission in this regard.

10. After hearing the learned counsels for the petitioner, Respondent No. 5 and the representatives of the petitioner and CTU, the Commission directed to issue notice to PGCIL on the IA.

11. The Commission also directed CEA and POSOCO to assist the Commission in the matter, particularly with regard to the interim arrangement for evacuation of power from MB Power Ltd. on its COD in case the transmission line of the petitioner is not completed by that date.

12. The Commission directed the Respondent No. 5 to serve copy of the IA on PGCIL, CEA and POSOCO immediately. The Commission directed CTU to file its reply by 18.7.2014 with an advance copy to the Respondent No. 5, who may file its rejoinder, if any by 25.7.2014.

13. The Commission directed that the respondents as a last chance, to file their replies by 18.7.2014 with an advance copy to the petitioner who may file its rejoinder, if any, by 25.7.2014.

14. The Commission directed that due dates of filing the replies and rejoinders should be strictly complied with.

15. The petition and IA shall be listed for hearing on 7.8.2014.

By order of the Commission

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