

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 81/TL/2014

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

**Date of Hearing : 16.09.2014
Date of Order : 03.12.2014**

In the matter of

Application under Section 14 (a) of the Electricity Act, 2003 for grant of Transmission Licence to IL&FS Tamil Nadu Power Company Limited.

**And
In the matter of**

IL&FS Tamil Nadu Power Company Limited
4th Floor, B Block, Navins Presidium, 103,
Nelson Manickam Road, Aminjilkari,
Chennai-600 029

..... **Petitioner**

Vs

1. Power Grid Corporation of India Ltd.
"Saudamini" Plot No. 2, Sector-29,
Gurgaon-122 001, Haryana
2. Tamil Nadu Electricity Board
6th Floor, Eastern Wing, 800 Anna Salai,
Chennai-600 002
3. Transmission Corporation of Andhra Pradesh Ltd.
Vidyut Bhawan, Bangalore-560 009
4. Karnataka State Power Transmission Corporation Ltd.
Cauvery Bhawan, Bangalore-560 009
5. Kerala State Electricity Board
Vidyuthi Bhawanam, Pottom, P.B.No.1028
Thiruvananthapuram-695 004
6. Electricity Department
Gingy Salai Puducherry-605 001



7. Southern Regional Power Committee
29 Race Course Road,
Bangalore-560 009

..Respondents

The following were present:

Shri H.L. Tayal , IL& FS Tamil Nadu Power Company Limited.
Shri S.C. Mishra, IL& FS Tamil Nadu Power Company Limited.
Shri V.L. Dua, IL& FS Tamil Nadu Power Company Limited.
Shri Hazig Beg, IL& FS Tamil Nadu Power Company Limited.
Shri Aryaman Saxena, PGCIL

ORDER

The petitioner, IL&FS Tamil Nadu Power Company Limited (ILFS), has filed this petition under Section 14 read with Section 15 (1) of the Electricity Act, 2003 (the Act) read with clause (c) of Regulation 6 of the Central Electricity Regulatory Commission (Terms and Conditions for grant of Transmission Licence) Regulations, 2009 (hereinafter referred to as “Transmission Licence Regulations”) for grant of transmission licence for the dedicated transmission line comprising the following elements:

Name (end –points location)	Voltage Class	Length (km)	Type (SC or D/C)
400 kV D/C Quad Moose dedicated transmission line from generating station at Cuddalore to Power Grid 765/400 kV Pooling station at Nagapattinam	400 kV	48	D/C Quad Moose

2. The petitioner, a company incorporated under the Companies Act, 1956, implementing a coal based generating station of 1200 MW (2X600 MW) (Power Project) in Cuddalore district of Tamil Nadu. As a part of the generation project, the petitioner is implementing 48 km dedicated transmission line i.e 400 kV Quad Moose D/C transmission line from Cuddalore thermal power project to Nagapattinam

Pooling Station of Power Grid Corporation of India Limited (PGCIL) and bay work at Nagapattinam Pooling Station for termination of the line.

3. The petitioner has submitted as under:

(a) In terms of Regulation 8(8) of the Central Electricity Regulatory Commission (Grant of Connectivity, Long-Term and Medium Term Open Access in inter-State Transmission and related matters) Regulations, 2009 (Connectivity Regulations), thermal generating station of 500 MW and above other than a captive generating plant shall not be required to construct a dedicated transmission line to the point of connection and such line shall be taken into account for coordinated transmission planning by Central Transmission Utility and Central Electricity Authority.

(b) Southern Region constituents in its 11th SRPC meeting held on 16.11.2010 had discussed and approved the Common Associated Transmission System located in Nagapattinam/Cuddalore area and the inter-State Transmission System for connectivity which include the Power Project of the petitioner amongst other projects in the region.

(c) In the said 11th SRPC meeting of Southern Region Constituents, PGCIL informed ILFS that the time line for construction of connectivity lines would be 9 months plus CERC time line as specified in the Tariff Regulations. In case the applicants desired to have connectivity before these time lines, the applicant may construct the connectivity lines by themselves.

(d) Since, the power project being a thermal generation station of more than 500 MW, in terms of Regulation 8 (8) of the Connectivity Regulations, the transmission system from IFLS's generating station to Nagapattinam pooling station of PGCIL has been taken into account for coordinated transmission planning by CTU and CEA and was to be constructed by CTU.

(e) However, the time period for construction of connectivity system indicated by CTU was not matching with the time schedule for the COD of Power Project which was scheduled to be commissioned in October, 2014. Therefore, pursuant to the decision of CTU and as decided in 11th meeting of Southern Region Constituents, the petitioner took up upon themselves the construction of 400 kV Quad Moose D/C transmission line from its Power Project to Nagapattinam Pooling Station of PGCIL and bay extension work at Nagapattinam as dedicated transmission line.

(f) On 10.12.2010, the petitioner was granted Long Term Open Access for 1150 MW for evacuation of power from its generating station. Subsequently, on 24.12.2010, the petitioner entered into the BPTA with PGCIL and furnished requisite Bank Guarantee accordingly. The petitioner has carried out route survey, placed the work orders and has already taken steps to develop and establish of the 400 kV D/C Quad Moose transmission line as a dedicated transmission line whose completion is to coincide with the commissioning of the generating station. The petitioner has been granted approval under Sections 68 and 164 of the Act by Ministry of Power for construction of the subject

transmission line and the transmission line is expected to be completed by July 2014.

(g) PGCIL had filed Petition No.116/2011 before this Commission requesting that the implementation of connectivity transmission system should be taken up by the generators due to paucity of time available with CTU. The Commission vide order dated 21.12.2011 in Petition No. 116/2011 held that since it was not possible for the CTU to implement the dedicated transmission lines included in the coordinated transmission planning due to paucity of time, it would require the generating company to implement the dedicated transmission lines as per the main provisions of Regulation 8 (8) of the Connectivity Regulations. In terms of Regulation 8 (8) of the Connectivity Regulations, the dedicated transmission line from the ILFS's Power Project to pooling station at Nagapattinam and bay works, as being constructed by ILFS as per the decision of CTU, is a part of the coordinated transmission planning by CTU and CEA and therefore, it is a part of inter-State Transmission System.

(h) In case of inter-State Transmission System, cost of such system is pooled while determining the transmission tariff as per relevant regulations. In the event the cost for implementation of the subject transmission line is not pooled, the entire cost will have to be borne by the petitioner which would increase the tariff of the electricity generated by the Power Project. In such event, the tariff of electricity generated by Power Project will be higher than the other generation players in the market thereby put the petitioner in a disadvantageous position, in the price sensitive electricity market.

4. In the above background, the petitioner has filed the application for grant of transmission licence for the transmission line being executed by it under Regulation 6(c) of the Transmission Licence Regulations with the following prayers:

“(a) Issue Transmission Licence to the Applicant for esablising, commissioning, operating and maintaining the 400 kV D/C Quad Moose transmission line from Applicant Power Project to Nagapattinam Pooling Station of POWERGRID and Bay work at Nagapattinam Pooling Station of POWERGRID for which Transmission Licence is sought; and

(b) Pass such order/orders as may be deemed fit and proper in the facts and circumstances of the case.”

5. The petitioner has submitted that it has posted the application for grant of transmission licence on its website in terms of Regulation 7 (5) of the Transmission Licence Regulations. The petitioner has also endorsed a copy of its application to PGCIL, the Central Transmission Utility, in terms of Regulation 7 (6) of the Transmission Licence Regulations. The petitioner has published public notices under sub-section (2) of Section 15 of the Act in the New Indian Express and Dinamani on 7.5.2014.

6. No objection or suggestion has been received from any person in response to the public notices under section 15(3) of the Act.

7. Reply to the petition has been filed by the CTU and Tamil Nadu Transmission Corporation Ltd. (TANGECO). CTU, vide its reply dated 23.7.2014 has not recommended grant of transmission licence to the petitioner. Relevant portion of CTU`s recommendations is extracted as under:

“c. As per the referred intimation for LTOA and the BPTA, the aforesaid transmission line viz. 400 kV Quad D/C transmission line from ITPCL

Generations project at Cuddalore to Nagapattinam Polling Station was identified as dedicated transmission line is under the scope of ITPCL.

d. As submitted by ITPCL, it has already carried out route survey and has received approvals under Section 68 & 164 of the Electricity Act, 2003 from Ministry of Power, Govt. of India. Further, the contracts for supply & erection work have been placed and the transmission line is expected to be commissioned by July 2014.

e. As per The Electricity (Removal of Difficulties) (Fifth) Order, 2005 "A generating company or a person setting up a captive generating plant shall not be required to obtain licence under the Act for establishing, operating or maintaining a dedicated transmission line"

f. From the above, it may be seen that the subject transmission line being dedicated in nature does not require transmission licence."

8. TANGEDCO in its reply dated 20.8.2014 has submitted that the dedicated transmission line between ILFS, Cuddalore and Nagapattinam pooling station is not a part of State Transmission System at present.

9. During the course of hearing, the representative of the petitioner submitted that Regulation 6 (c) of the Transmission Licence Regulations provides for grant of transmission licence to a generating company, which has established the dedicated transmission line and intends to use such dedicated transmission line as the main transmission line and part of the inter-State transmission system. Since the petitioner fulfills the conditions of Regulation 6 (c) of the Transmission Licence Regulations, the petitioner is eligible for grant of the transmission licence.

10. The representative of CTU submitted that CTU has not recommended grant of transmission licence on the ground that as per the intimation for grant of LTA and the BPTA signed between the petitioner and CTU, the transmission line was identified to be used only as a dedicated transmission line. He further submitted that as per the

Electricity (Removal of Difficulty) (Fifth) Order, 2005, a generating company or a person setting up a captive generation plant is not required to obtain licence under the Act for establishing, operating or maintaining a dedicated transmission line. The order dated 21.12.2011 in Petition No. 116/12011 relied upon by the petitioner nowhere provides that the dedicated line shall get the status of ISTS. The representative of CTU submitted that the dedicated transmission line is to connect the generating station of the petitioner with the pooling station of PGCIL, which will be used to evacuate power from the petitioner's generating station exclusively. In the present case, the dedicated line even if given the status of ISTS would only be used for evacuating power for the petitioner. Hence, the sharing of the transmission charges by the beneficiaries would not be justified.

11. We have considered the submissions of the petitioner, CTU and TANGEDCO. The main question for consideration is whether under the Transmission Licence Regulations, the petitioner is eligible for grant of transmission licence for its dedicated transmission line.

12. Under Section 2 (16) of the Act, defines 'Dedicated Transmission Lines' as under:

'(16) "Dedicated Transmission Lines" means any electric supply line for point to point transmission which are required for the purpose of connecting electric lines or electric plants of a captive generating plant referred to in Section 9 or generating station referred to in Section 10 to any transmission lines or sub-stations or generating stations or the load centre, as the case may be.'

13. As per the definition of dedicated transmission line, it is meant for point to point connection from the electric lines or electric plant of a generating station to any transmission lines or sub-stations or generating stations or load centre. It is not

disputed that the transmission line from the generating station of the petitioner till the Nagapattinam pooling station of PGCIL is a dedicated transmission line for evacuation of the power from the generating station of the petitioner exclusively. As per the BPTA signed by the petitioner with PGCIL, the dedicated transmission line falls within the scope of the project developer. The petitioner has also obtained necessary clearances from the Ministry of Power under Section 68 and Section 164 of the Act for construction of transmission line. The petitioner has not been able to establish that the subject transmission line will be used by other generator(s) or user(s) for transmission of power except the generating station of the petitioner. Therefore, the subject transmission line remains a dedicated transmission line for evacuation of power from the generating station of the petitioner till the pooling station of PGCIL.

14. The petitioner has relied upon the order dated 21.12.2011 in Petition No.116/2011 in support of its contention that since the dedicated transmission line is a part of the coordinated transmission planning, it should be treated as ISTS. It is noted that in the 11th SPRC meeting held on 16.11.2010, it was clarified by PGCIL that the dedicated transmission schemes in respect of the generation schemes would come under the scope of the respective developers. CTU as a nodal agency would execute the project on behalf of the developers and if the promoters would prefer to have connectivity before the specified time lines of PGCIL, then they may construct the connectivity lines by themselves. It is pertinent to mention that Regulation 8 (8) of the Connectivity Regulations provides that the applicant may be required by the Central Transmission Utility to construct a dedicated line to the point of connection to enable connectivity to the grid. Under the provisions to Regulation 8 (8) of the Connectivity Regulations, dedicated transmission line from the thermal generating

station of 500 MW and above till the point of connection would be taken into account for coordinated transmission planning by the CTU and CEA and executed by the CTU. The proviso carves out an exception to the main regulation and cannot control the provision of main regulations. It is the responsibility of the generating station in accordance with Section 10 of the Act to construct the dedicated transmission line from the bus bar of the generating station till the pooling station of PGCIL. Only in certain cases, CTU is required to build the transmission line. If the CTU for any reason is not able to build the transmission line, then it is the responsibility of the generator to build the same. The nature of transmission line whether it is built by the generator or by the CTU remains the same i.e. dedicated line for evacuation of power from the generating station to the pooling point. Whenever the dedicated transmission line is built by CTU, it would be considered as ISTS in terms of Section 2 (36) (iii) of the Act. The said provision reads as under:

(36) "inter-State transmission system" include-

(iii) the transmission of electricity within the territory of a State on a system built, owned, operated, maintained or controlled by a Central Transmission Utility.'

Where the dedicated transmission line is not owned, operated, maintained or controlled by CTU but by the project developer, it remains a dedicated transmission line.

15. The petitioner has applied for transmission licence under Regulation 6 of the Transmission Licence Regulations, which provides as under:

“6. Eligibility for Grant of licence:

No person shall be eligible for grant of licence unless it is-

- (a) selected through the process under the guidelines for competitive bidding, or
- (b) a State owned or controlled company identified as a project developer on or before 5.1.2011, or
- (c) a generating company which has established the dedicated transmission line, and intends to use such dedicated transmission line as the main transmission line and part of the inter-State transmission system.”

16. In accordance with clause (c) of Regulation 6 of the Transmission Licence Regulations, when a dedicated transmission line constructed by a generating company is intended to be used as the main transmission line and part of the Inter State transmission system, the generating company may be considered for grant of transmission licence for such dedicated transmission line. The provision in clause (c) has been made to ensure optimum utilization of the transmission assets and is thus intended to promote economy and efficiency in the transmission segment in the power sector. Two conditions need to be fulfilled for grant of the transmission licence in such cases i.e. (a) use of the transmission line as a main transmission line and (b) treatment of the line as inter-State transmission system. The transmission line of the petitioner will be used only for the purpose of evacuation of power from its generating station. The bus bar of the generating station is not connected to any other transmission line or to other generator. Therefore, the transmission line is not being used by other users so as to be treated as a main transmission line. As regards the treatment of the transmission line as ISTS, it is noted that it does not fulfill any of the condition of Section 2 (36) of the Act. Therefore, the transmission line cannot be treated as ISTS.

17. The petitioner has submitted that in case of inter-State transmission system, cost of each system is pooled while determining the transmission tariff as per relevant

Regulations. In the event, the cost for implementation of this transmission line is not pooled, the entire cost will have to be borne by the petitioner which would increase the tariff of the electricity generated by the project. In such event, the tariff of electricity generated by power project will be higher than the other generation players in the market and thereby put this the petitioner in a dis-advantageous position, in the price sensitive electricity market. It is noted from the petitioner`s submission that the primarily reason for seeking the licence for the dedicated transmission line is commercial consideration i.e the transmission charges of the dedicated transmission line shall be included in the PoC charges. It is clarified that only inter-State transmission systems which are capable of being used by the DICs are included in the PoC charges. In the present case, except for the petitioner, no other DIC is going to use the transmission line for evacuation of power. Even otherwise, as per the standard PPAs, it is the responsibility of the generating company to deliver the power at the connection point at its own arrangement and cost and the beneficiaries bear the transmission charges from the connection point till the point of drawal. That being the case, there is no rationale as to why transmission charges for the dedicated transmission line should be shared by other DICs.

18. In view of the above, the petitioner does not fulfill the requirement of Regulation 6 (c) of the Transmission Licence Regulations and accordingly, the prayers in the petition are rejected.

19. With the above, the petition is disposed of.

Sd/-
(A.S.Bakshi)
Member

sd/-
A.K.Singhal)
Member

sd/-
(M. Deena Dayalan)
Member

sd/-
(Gireesh B.Pradhan)
Chairperson

