

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 30/RP/2016

Coram:

**Shri Gireesh B. Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member**

Date of Order : 31.10.2016

In the matter of:

Review under Section 94 of Electricity Act, 2003 read with Regulations 103, 111 and 114 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 read with Order 47, Rule 1 of Code of Civil Procedure, 1908 of order dated 31.5.2016 in Petition No.17/TT/2014.

And in the matter of:

Power Grid Corporation of India Ltd.
'SAUDAMINI', Plot No-2,
Sector-29, Gurgaon-122 001 (Haryana).

.....**Petitioner**

Versus

1. North-Eastern Electric Power Corporation Ltd.
15, NBCC Tower, Bhikaji Cama Place,
New Delhi
2. National Hydro Power Corporation Ltd.
NHPC Office Complex,
Lodhi Road,
New Delhi
3. Assam Electricity Grid Corporation Limited
(Formerly Assam State Electricity Board),
"Bijulee Bhawan", Paltan Bazar, Guwahati-781 001



Order in Petition No. 30/RP/2016

4. Meghalaya Energy Corporation Ltd.
(Formerly Meghalaya State Electricity Board)
Short Round Road, "Lumjingshai", Shillong-793 001
5. Government of Arunachal Pradesh,
Itanagar, Arunachal Pradesh
6. Power and Electricity Department
Govt. of Mizoram, Aizawl, Mizoram
7. Manipur State Electricity Distribution Company Ltd.
(Formerly Electricity Department, Government of Manipur)
Keishampat, Imphal
8. Department of Power,
Government of Nagaland
Kohima, Nagaland
9. Tripura State Electricity Corporation Ltd.,
Vidhyut Bhawan, North Banamalipur,
Agartala, Tripura (W)-799001
10. Advisor (Power)
Government of India,
North Eastern Council Secretariat,
Shillong, Meghalaya

.....**Respondents**

For petitioner : Ms. Swapna Seshadir, Advocate, PGCIL
Shri Rakesh Prasad, PGCIL
Shri S.K. Venkatesan, PGCIL
Shri Mohd. Mohsin, PGCIL
Shri M.M. Mondal, PGCIL
Shri S.S. Raju, PGCIL

For respondents : None



Order

The instant review petition has been filed by Power Grid Corporation of India (PGCIL) seeking review of order dated 13.5.2016 in Petition No. 17/TT/2014, wherein fees and charges for Fibre Optic Communication System in lieu of existing the Unified Load Despatch and Communication (ULDC) Microwave links in North Eastern Region for 2014-19 tariff period was allowed. PGCIL has made following prayers:-

- a) Admit the present review petition;
- b) Allow the petition for review and grant declare the commissioning of Fibre Optic (Communication system) as 01/04/2013;
- c) Direct that the recovery of fees and charges for the period of twelve months i.e. w.e.f 01/04/2013;
- d) Simultaneously, while truing up the tariff/charges in Petition No. 17/TT/2015 change the date of June 2013 to June 2012 with appropriate adjustments;
- e) Pass such further order(s) as deemed fit and proper.”

Facts of the case

2. PGCIL filed Petition No.17/TT/2014 for determination of fees and charges for Central Sector Optic Fibre of 37.874 km and State Sector Optic Fibre of 79.298 km, which replaced the existing Unified Load Despatch and Communication (ULDC) Microwave links in Northern Eastern Region and the same was allowed vide order dated 31.5.2016. PGCIL has also filed Petition No.17/TT/2015 for truing up and determination of the fees and charges of 2009-14 period and 2014-19 period of optic fibre in Northern Eastern Region. Petition No.17/TT/2015 was heard on 4.10.2015 and order is reserved.



3. PGCIL earlier filed Petition No. 61/TT/2012 on 30.12.2011 seeking the fees and charges of the ULDC Microwave Links (Communication system portion and SLDC retained by PGCIL after formation of PSOCO) in North Eastern Region for the period 2009-14. PGCIL submitted in Petition No. 61/TT/2012 that the Digital Microwave System is being replaced by Optic Fibre as per direction of Department of Telecommunication and it was to be completed by June, 2012. Accordingly, the accelerated depreciation was to be allowed, as per the directions of the Commission in order dated 8.12.2011 in Petition No. 68/2010, to recover the entire cost of Microwave system by June, 2012. However, in affidavit dated 30.1.2013 in Petition No. 61/TT/2012, PGCIL submitted that the "Target for Completion of works is June 2013". Accordingly, on the basis of the submissions of PGCIL, tariff was allowed for ULDC Microwave Links on pro-rata basis upto 30.6.2013 vide order dated 22.2.2014 in Petition No.61/TT/2012.

4. PGCIL later filed Petition No.17/TT/2014 for determination of annual fees and charges for fibre optic communication system in lieu of existing ULDC Microwave Links in NER for 2009-14 period claiming fees and charges for the said assets w.e.f 1.4.2013. Taking into consideration the submissions made by PGCIL in Petition No.17/TT/2014 and Petition No. 61/TT/2012, annual fees and charges were allowed for optic fibre from 1.7.2013 vide order dated 31.5.2016, as allowing fees and charges from 1.4.2013 would lead to allowing double fees and charges for the period 1.4.2013 t 30.6.2013. The relevant portion of the order is as under:—



“31. However, it is noted that this communication system is in lieu of the erstwhile Microwave Links, which were allowed accelerated depreciation and accordingly fee and charges were determined pro-rata up to June, 2013 vide order 22.2.2014 in Petition No. 61/TT/2014. This was consequent to the submission vide affidavit dated 30.1.2013 of the petitioner in Petition No. 61/TT/2014 that the target date for completion of Fibre optic was June, 2013. Thus, fee and charges worked out vide para-30 need to be allowed pro-rata for the balance period of nine months only i.e. w.e.f 1.7.2013.”

5. PGCIL has submitted in the instant review petition that it was advertently mentioned in the affidavit dated 30.1.2013 in Petition No.61/TT/2012 that the tariff for ULDC Microwave Links was to be recovered upto June, 2013 instead of June, 2012. PGCIL has submitted that this inadvertent error should not be perpetuated and it needs to be corrected. PGCIL has submitted that microwave links were dismantled by June, 2012 and thus it should not get the fee and charges for the microwave links beyond June, 2012 and it should get fee and charges for the optic fibre from 1.4.2013.

6. We have considered the submissions of the PGCIL. Petition No. 61/TT/2012 was filed for approval of fee and charges of the ULDC/Microwave Links (POWERGRID portion i.e. communication system portion and SLDC retained by the petitioner after formation of PSOCO) in North Eastern Region for the period 2009-14. The Microwave Link portion was to be given accelerated recovery as decided in Petition No. 68/2010. PGCIL claimed fee and charges for Microwave Links till June, 2013 in Petition No. 61/TT/2012, thereby meaning that the fibre optic cables in lieu of microwave links would be operational only after June, 2013. This was again confirmed by PGCIL vide their affidavit dated 31.3.2013 wherein it was stated that the target date for completion of



works for replacement of Microwave Links with fibre optic was June, 2013. Accordingly, fees and charges for Microwave Links was allowed upto June, 2013 in Petition No.61/TT/2012. Later, PGCIL filed Petition No. 17/TT/2014 for approval of fee and charges of fibre optic communication system in place of ULDC Microwave Links and claimed fee and charges from 1.4.2013. As fees and charges for Microwave Links was already allowed upto June, 2013 in Petition No.61/TT/2012, fees and charges for fibre optic was allowed from 1.7.2013. Allowing fee and charges for fibre optic from 1.4.2013 would have amounted to allowing fee and charges for the period 1.4.2013 to 30.6.2013 twice.

7. PGCIL has submitted in the instant petition that by inadvertent mistake, it was stated in Petition No.61/TT/2012 that the ULDC Microwave Links were to be dismantled completely by June, 2013 and that the mistake is unintentional and it was a typographical error. We are not able to agree with PGCIL. If it was an inadvertent mistake, PGCIL should have brought the mistake to the notice of this Commission immediately after fees and charges for Microwave links were allowed upto June, 2013. PGCIL has not done so. PGCIL has noticed its error in the affidavit dated 31.3.2013 only after the fees and charges for fibre optic were allowed only from 1.7.2013 and not from 1.4.2013 as claimed by it and approached for review of the order. Therefore, we do not find any error in the face of record as the order was passed based on the submissions made on affidavit.



8. PGCIL is directed to be careful in making its submissions in future and also to bring any discrepancies in its submission to the notice of the Commission immediately and not after three years as in the instant case.

9. It is however noticed that the ULDC Microwave Links were dismantled in June, 2012 and the optic fibre were put into service with effect from 1.4.2013. Since the ULDC Microwave links were dismantled from June, 2012, we are of the view that PGCIL is not entitled for fees and charges for Microwave links beyond June, 2012. Accordingly, the fees and charges allowed for Microwave links upto June, 2013 in Petition No.61/TT/2012 shall be restricted to June, 2012 in truing up Petition No.17/TT/2015. Further, since the optic fibre were commissioned with effect from 1.4.2013 and were rendering service to the constituent beneficiaries, PGCIL is entitled for fees and charges for optic fibre with effect from 1.4.2013. Denying the fees and charges for the period 1.4.2013 to 30.6.2014 will result in denial of the legitimate fees and charges for the services rendered during the said period. We find that there are "sufficient reasons" to allow the review. Accordingly, we direct that PGCIL shall be entitled for fees and charges for fibre optic with effect from 1.4.2013. Accordingly, fees and charges for the fibre optic shall be revised in Petition No.17/TT/2014. The Staff of the Commission is directed to process the relevant petitions for revision of fees and charges.



10. The Review Petition No.30/RP/2016 is accordingly disposed.

sd/-
(Dr. M.K. Iyer)
Member

sd/-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson

