

CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

I.A. No 25/IA/2016

in

Petition No. 233/TT/2015 and 213/TT/2015

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri A.K. Singhal, Member

Shri A.S. Bakshi, Member

Dr. M.K. Iyer, Member

Date of Hearing : 30.06.2016

Date of Order : 15.07.2016

In the matter of

Permission to petitioner for refunding excess revenue in respect of transmission tariff with effect from commercial operation dates of respective assets under the applicable provisions of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009-14 and 2014-19 under Petition No. 213/TT/2015 and 233/TT/2015

And In the matter of

Truing up of transmission tariff with effect from commercial operation dates of Asset-I and Asset- under the applicable provisions of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009

Asset-1: 400 kV D/C Pallatana-Silchar Twin Moose Conductor Transmission Line- 247 km (Anticipated COD: 1.9.2012)

Asset-2: 400 kV D/C Silchar-Byrnihat Twin Moose Conductor Transmission Line- 210 km (Anticipated COD: 1.1.2013)

And in the matter of:

North East Transmission Company Limited,
House No. 051358, Road No. 3,
P.O- Dhaleswar, Agartala,
West Tripura-799007

.....**Petitioner**



Vs

1. Tripura State Electricity Corporation Limited,
Bidyut Bhawan, North Banamaliupr,
Agartala-799001
 2. Assam Electricity Grid Corporation Limited,
Bijulee Bhawan, Paltan Bazar, Guwahati-781001
 3. Meghalaya State Electricity Board.
Lumjingshai, Short Round Road, Shilong-1
 4. Department of Power, Government of Nagaland,
Kohima-797001
 5. Power & Electricity Department, Government of Mizoram,
Aizwal-796001
 6. Electricity Department, Government of Manipur,
Keishampat, Imphal-795001
 7. Department of Power, Government of Arunachal Pradesh,
Itanagar-791111
 8. ONGC Tripura Power company Limited,
ONGC Tripura Assets, Baarghat complex,
Agartala, Tripura-799014.
 9. North Eastern Regional Power Committee,
Nongrim Hills, Shillong- 793003
 10. Commercial Department
Power Grid Corporation of India limited
Saudamini plot no.-2
Sector-29,Gurgaon-122001
-**Respondents**

For petitioner : Shri M.G. Ramachandran, Advocate, NETCL
Ms Ranjeetha Ramachandran, Advocate, NETCL
Shri Rajeev Mohan, NETCL

For respondent : None



ORDER

Interlocutory Application No. 25/IA/2016 has been filed by North East Transmission Company Ltd (NETCL) seeking permission to refund the excess transmission tariff recovered by NETCL from the beneficiaries of 400 kV D/C Twin Moose Conductor Transmission Line from Pallatana (in Tripura) to Bongaigaon (in Assam).

Brief facts of the case

2. NETCL filed Petition No. 224/TT/2012 seeking transmission tariff for 2009-14 tariff period for the following assets:- (a) Asset-I: 400 kV D/C Palatana-Silchar Twin Moose Conductor Transmission Line-247 km; (b) Asset-II: 400 kV D/C Silchar-Byrnihat Twin Moose Conductor Transmission Line-210 km; (c) Asset-III: 400 kV D/C Byrnihat-Bongaigaon Twin Moose Conductor Transmission Line-204 km associated with 726.6 MW (2*363.3 MW) Gas Based Combined Cycle Power Project (GBCCPP) at Tripura of OPTCL. The petitioner had also prayed for grant of provisional tariff for the three assets under 2009 Tariff Regulations. Provisional tariff for the said transmission assets was allowed vide order dated 26.9.2012.
3. NETCL later split the three assets into five assets and the details of the assets are as follows:-

Srl.No.	Name of the asset	COD
1.	Asset-I: 400 kV D/C Palatana-Silchar	1.9.2012
2.	Asset-II: 400 kV D/C Silchar-Byrnihat	1.3.2013
3.	Asset-III: 400 kV D/C Byrnihat-Bongaigaon	22.2.2015
4.	Asset-IV: 400 kV D/C Silchar-Azara	27.7.2014
5.	Asset-V: 400 kV D/C Azara-Bongaigaon	16.1.2015



4. As there is substantial change in the capital cost of the assets due to splitting of assets, Petition No.224/TT/2012 was disposed with a direction to NETCL to file revised petition as per the actual date of commercial operation and the relevant tariff regulations. However, the provisional tariff allowed vide order dated 26.9.2012 in Petition No.224/TT/2012 was allowed to continue in order to protect the commercial interest of NETCL. The relevant portion of the order is extracted hereunder:-

"18. The Commission has already granted provisional tariff for Asset I. The provisional tariff was also granted for two circuits of 400 kV Silchar-Byrnihat Twin Moose Conductor line. However, on account of non-commissioning of the second circuit of Silchar-Byrnihat line, the second circuit was removed from PoC charges. The petitioner has prayed for grant of modified provisional tariff after taking into account the split assets of Byrnihat-Azara and Azara-Bongaigaon. We find that the two assets namely, 400 kV D/C Palatana-Silchar transmission line and 400 kV S/C Silchar-Byrnihat transmission line have been commissioned during the tariff period 2009-14. Out of the remaining three assets, 400 kV S/C Silchar-Azara transmission line has been commissioned during 2014-19 tariff period and the other two assets are yet to be commissioned. Therefore, the assets are covered under two tariff periods. In respect of the assets commissioned during 2009-14 period, the petitioner has filed the claims on projection basis and has been granted provisional tariff. If the final tariff is granted now on the basis of projected information i.e. after the 2009-14 tariff period is over, the petitioner will be required to file true-up petition. This will prolong the process of determination of tariff of the assets. Similarly, in respect of the assets which have been commissioned or are likely to be commissioned during 2014-19 period, the petitioner should be required to file the petition in accordance with the 2014 Tariff Regulations. In our view, it would be appropriate, if the present petition is disposed of with directions to the petitioner to file separate petitions for the assets commissioned during 2009-14 and 2014-19 periods in accordance with the applicable tariff regulations.

19. In view of the above, we direct the petitioner to file fresh petitions in accordance with the applicable regulations in respect of the assets of the project within one month from the date of issue of this order. Till the tariff is determined in accordance with the petitions filed to be by the petitioner, the provisional tariff granted vide order dated 26.9.2012 shall continue to be applicable in order to protect the commercial interests of the petitioner. "

5. Accordingly, NETCL filed Petition No.233/TT/2015 on 11.9.2015 claiming tariff for Assets I and II as per the provisions of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (2009 Tariff Regulations) seeking tariff for 2009-14 tariff period. NETCL also filed Petition



No.213/TT/2015 on 31.7.2015 claiming tariff for all the five assets for the 2014-19 tariff period under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (2014 Tariff Regulations). After completion of hearing, the petitions are under consideration of the Commission for determination of tariff.

6. NETCL has filed the instant I.A. praying for permission to refund the excess tariff collected from the beneficiaries. NETCL has submitted that the provisional tariff allowed for the instant assets vide order dated 26.9.2012 is higher than the tariff entitled for NETCL and hence it may be granted permission to refund the excess tariff collected from the beneficiaries. NETCL has submitted that excess amount of ₹135,38,82,620/- has been recovered from the beneficiaries. NETCL has submitted that as per Regulation 8 of the 2014 Tariff Regulations, it has to refund the excess revenue collected from the beneficiaries alongwith simple interest. In order to avoid accruing of further interest, it approached PGCIL for refunding the principal amount. NETCL was told by PGCIL that PGCIL cannot accept the refund from NETCL and credit the same to the beneficiaries in the absence of order by the Commission. NETCL has prayed that PGCIL may be directed to accept the refund and deposit the same in the designated pool account of DICs as per its request and make appropriate adjustment in the beneficiaries account pending the final order in Petition No.233/TT/2015 and 213/TT/2015.



7. We have considered the submissions of the petitioner and documents available on record. Assets-I and II were commissioned during the 2009-14 tariff period and Assets-III to V were commissioned during the 2014-19 tariff period. Provisional tariff was allowed for instant assets vide order dated 26.9.2012 in Petition No.224/TT/2012 subject to adjustment as provided under Regulation 5 of the 2009 Tariff Regulations. The second proviso of Clause (3) of Regulation 5 of the 2009 Tariff Regulations provides for adjustment of difference between the provisional tariff allowed and the final tariff during the 2009-14 tariff period. Similarly, provisos (iii) and (iv) of Clause (7) of Regulation 7 of the 2014 Tariff Regulations provides such adjustment during the 2014-19 tariff period. In the instant case, final tariff for the assets is yet to be determined. Taking into consideration the submission of the petitioner that the tariff provisionally allowed for the instant assets of NETCL vide order dated 26.9.2012 would be higher than the final tariff to be allowed and consequent liability of NETCL to refund the excess tariff with applicable interest, we allow NETCL to refund to CTU the excess tariff alongwith the interest as calculated as per the applicable regulations, subject to adjustment after the final tariff orders to be issued in Petition Nos. 233/TT/2015 and 213/TT/2015. CTU is directed to adjust the refunded amount in accordance with the Central Electricity Regulatory Commission Regulations (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010.



8. IA No. 25/2016 in Petition No.233/TT/2015 and 213/TT/2015 is disposed of in terms of the above.

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

sd/-
(A.S. Baksh)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson

