

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 107/TT/2012

Coram:

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

Date of Order : 15.11.2017

In the matter of

Revision of order dated 19.5.2014 in Petition No. 107/TT/2012 in the light of APTEL's Judgment dated 15.3.2017 in Appeal No. 127 of 2015.

And in the matter of:

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

.....**Petitioner**

Vs

1. Madhya Pradesh Power Trading Co Ltd
Shakti Bhawan, Rampur,
Jabalpur – 482008
2. Maharashtra State Electricity Distribution Co. Ltd.
Prakashgad, 4th Floor
Andheri (E), Mumbai-400052.
3. Gujarat Urja Vikas Nigam Ltd
Sardar Patel Vidyut Bhawan,
Race Course Road, Vadodra – 390007
4. Electricity Department, Government of Goa
Vidyut Bhawan,
Near Mandvi Hotel, Panaji – 403001
5. Electricity Department,
Administration of Daman and Diu



Daman–396210

6. Electricity Department,
Administration of Dadra Nagar Haveli
UT Silvassa – 396230
7. Chhattisgarh State Electricity Board
PO Sunder Nagar, Dangania,
Raipur – 492013
8. Madhya Pradesh Audyogic Kendra Vikas Nigam (Indore) Ltd
3/54, Press Complex, Agra-Bombay Road
Indore – 452008
9. Bharat Aluminum Company Ltd
Core 6, Scope Office Complex,
Lodhi Road, New Delhi – 110003
10. Vandana Vidyut Ltd.
Vandana Bhawan,
MG Road, Raipur

.....Respondents

For petitioner : Ms. Swapna Seshadri, Advocate, PGCIL
Ms. Saloni Sacheti, Advocate, PGCIL
Shri S. S. Raju, PGCIL
Shri S. K. Venkatesan, PGCIL
Shri R. Prasad, PGCIL
Sh. Jasbir Singh, PGCIL

For respondent : Shri Nimesh Kr. Jha, Advocate, BALCO

ORDER

Power Grid Corporation of India Ltd (PGCIL) claimed transmission tariff in Petition No.107/TT2012 for Asset I: Korba-BALCO (Loc 179/2) 400 kV D/C Transmission Line-First ckt; Asset II: BALCO (179/2)-Vandana (176/0) 400 kV D/C Transmission Line-First ckt; Asset III: Korba-Vandana (176/0) 400 kV D/C Transmission Line-Second ckt; Asset IV: BALCO (179/2)-Birsinghpur 400 kV D/C Transmission Line-First Ckt; and Asset V: Vandana (176/0)-Birsinghpur 400 kV D/C.



Transmission tariff was allowed for these assets vide order dated 19.5.2014 for the 2009-14 period as per the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009.

2. The said assets were scheduled to be put into commercial operation on 1.8.2010. However, assets I to V were put into commercial operation on 1.10.2011, 1.12.2011, 1.12.2011, 1.3.2012 and 1.4.2012 respectively. Thus, there was time over-run of 14 to 20 months in COD of the assets. The total time over-run in case of Assets I, II and III was condoned vide order dated 19.5.2014. Out of the total time over-run of 19 months 2 days and 20 months 2 days respectively in case of Assets IV and V, time over-run of 3 months and 4 months was not condoned. The relevant portion of order dated 19.5.2014 in Petition No.107/TT/2012 with the following observations:-

“15..... As regards Asset IV and Asset V it may be noted that it involved construction of transmission line in the State of Madhya Pradesh, the land for which was available to the petitioner way back since November 2009 and in the State of Chhattisgarh for which forest clearance was given in June 2011, as per the petitioner's own admission. Hence, it was not necessary for the petitioner to wait for completion of construction of works in the State of Chhattisgarh. The work should have been undertaken independently. The works in respect of Asset I, Asset II and Asset III of the transmission line were completed by November 2011 and as such Asset IV and Asset V could be commissioned by 1.12.2011. Therefore, time over-run from December 2011 in case of Asset IV and Asset V has not been allowed.”

3. Aggrieved by the Commission's above mentioned order, PGCIL approached the Appellate Tribunal through Appeal No.127 of 2015. The Appellate Tribunal vide Judgment dated 15.3.2017 remanded the matter to the Commission for reconsidering the time over-run in case of Assets IV and V. The relevant portion of the said judgement is extracted hereunder:-

"We are of the considered opinion that the Appellant must be given a chance to tender document in support of its claim for condonation of delay in respect of Assets IV and V. We are, therefore, remanding the matter to the Central Commission to



enable the Appellant to place complete facts and supporting documents for condonation of delay for Assets IV and V and pass appropriate order after its prudent check. To this extent, the Impugned Order is hereby set aside. The Appeal is disposed of in the above terms."

4. On receipt of the above judgment, PGCIL was directed to submit all relevant documents pertaining to time over-run with respect to Assets IV and V. PGCIL has submitted, vide affidavit dated 19.4.2017, that the time over-run upto 1.12.2011 was condoned. However, the time over-run due to delay in issue of tree felling order and the subsequent implementation of works was not condoned. PGCIL submitted that the time over-run in case of Assets IV and V was due to delay in obtaining the permission for felling of trees which was issued progressively from 19.11.2011 to 30.12.2011 in Pendra, Marwahi, Jatga and Pasan ranges of Forest Divisions in Chhattisgarh. The felling of trees was progressively taken up and was completed by mid February, 2012 and it affected the construction work of transmission line.

5. PGCIL has submitted the following documents in support of forest clearance and felling of trees:-

(i) Letter dated 10.10.2011 from the Office of Principal & Chief Conservator of Forest, Chhattisgarh, diverting 157.484 Ha of Forest land permitting the concerned forest division (DFO) to withdraw money to go ahead with tree cutting....

(ii) No Objection Certificate dated 11.11.2011 issued by the Office of Collector District Magistrate, Korba for felling of 1614 trees....

(iii) Challan issued for passing hammer issued by DFO Jagta on 22.12.2011....

(iv) Letter dated 18.1.2012 of the Office of Forest Divisional Officer, Katghora, District Korba to the petitioner to deposit tree cutting charges of ₹33,91,620/-"

6. PGCIL has submitted the details about the stages involved in the process of tree felling and claimed that the process involved continuous correspondence between the



DFO and the field officials of Forest Department. PGCIL has submitted that tree felling is done in a controlled manner, namely felling and logging in patches which also take time. The steps involved in the process of tree felling as submitted by PGCIL are as under:-

- a. Issuance of hammer (identification mark issued by DFO) to range officials;
- b. Marking of trees being done by fixing/imposing a mark provided in hammer at the trunk (at chest height) and base of tree;
- c. Field official make requests for passing the hammer to DFO;
- d. Passing hammer is issued by the DFO;
- e. Felling of trees begins in patches;
- f. The patch felling involves that a few trees are felled and logging cutting of tree in pieces and segregation of timber and fuel wood is done. The logs are measured and recorded and marked by imposing phasing hammer;
- g. Thereafter, tree felling is continued in other patches;
- h. The logs felled are transported to the depot.”

7. PGCIL has submitted that in case of Assets IV and V, NOC for felling of 1614 trees in multiple villages of revenue forest area was involved. After receiving the NOC from the Collector and District Magistrate on 11.11.2011, the passing hammer orders were issued only in the last week of December, 2011. The actual tree felling started in the month of January, 2012 and was completed around mid February, 2012. Thereafter, PGCIL completed the foundation, erection and stringing work comprising of 40 locations of towers and 16.5 km of stringing and put Asset IV and V into commercial operation on 1.3.2012 and 1.4.2012 respectively. PGCIL has further submitted that the Commission in a similar case in order dated 29.12.2016 in Petition No.118/TT/2014 condoned the time over-run due to delay in obtaining forest clearance and the time



consumed for tree felling.

8. MPPMCL in its reply, vide affidavit dated 28.7.2017, has submitted that on perusal of the documents shows that the petitioner has not pursued the matter with the authorities concerned and it caused the time over-run. PGCIL in its rejoinder dated 10.8.2017 has submitted that MPPMCL has already filed their objection during APTEL proceeding which has been considered and matter has been recommended to the Commission for consideration. MPPCL is again raising the same issue, justification for which has already been filed by the petitioner.

9. During hearing on 11.5.2017, learned counsel for BALCO, Respondent No.9 sought four weeks time for filing its reply in the matter. However, no reply is received from BALCO.

10. PGCIL, vide affidavit dated 6.7.2017, has submitted the chronology of events leading to delay beyond 1.12.2011 alongwith all copy of the supporting documents. The chronology of events from June, 2011 to actual COD of 400 kV Korba-Birsinghpur transmission line, as submitted by PGCIL, is as follows:-

S. No	Date	Details
1	14.6.2011	MoEF approval for diversion of 157.48 ha forest land for construction of 400 kV Korba- Birsinghpur Transmission Line.
2	8.7.2011	CCF(LM), Raipur advised DFO Katghora to raise demand towards tree felling charges and getting approval of CCF(Production), Raipur for tree felling
3	16.8.2011	DFO, Katghora raised demand note towards depositing of tree felling charges for both Marwahi and Katghora Forest Division
4	19.8.2011	Letter from PGCIL, Bilaspur to DFO Katghora, Korba and DFO Marwahi regarding deposit of DD towards felling of Trees and its transportation charges for construction of 400 kV Korba-Birshingpur transmission line.
5	29.8.2011	DFO Katghora forwarded tree feeling scheme for approval of CCF(production), Raipur to CF, Bilaspur



6	2.9.2011	DFO Katghora raised demand note towards depositing of differential amount towards compensation and medicinal plantation scheme
7	8.9.2011	CF, Bilaspur forwarded tree felling CF (Production), Raipur for approval.
8	12.9.2011	Additional charges towards tree felling deposited to concerned DFO, Katghora by PGCIL w.r.t letter dated 2.9.11 at SI 6 above
9	14.9.2011	Letter from PGCIL to Collector, Korba regarding tree cutting permission in Revenue forest area for construction of Korba-Birsinghpur transmission line (7235 trees)
10	20.9.2011	Letter to CCF (Production) regarding permission for felling of 7510 tress to CF, Bilaspur
11	10.10.2011	Letter form Chief Conservator of Forest, Chhattisgarh to Forest Divisional officer, Katghora regarding diverting of forest land permitting the concerned forest division to withdraw money to go ahead with tree cutting.
12	11.11.2011	No objection certificate issued form the Collector and District Magistrate, Korba for felling of 1614 nos. in different areas
13	22.12.2011	Copy of Challan No. 676 issued from Forest Department Katghora, Korba for passing hammer.
14	18.1.2012	Letter from office of Forest Divisional officer, Katghora, Korba to PGCIL to deposit additional tree cutting charges.
15	January, 2012 to February, 2012	The actual tree felling started in the middle January, 2012 and a huge number of tress were felled progressively in multiple villages and was completed in the middle of February in case of Asset IV and around end February in case of Asset V
16	February, 2012 to March/ April, 2012	The petitioner completed the foundation, erection and stringing work comprising of 40 locations of towers and 16.5 km. of stringing and Asset IV was charged on 29.2.2012 and accordingly COD was declared from 0000 Hrs of 1.3.2012. However, the work of foundation, erection and stinging pertaining to Asset V completed by mid of March, 2012 and accordingly COD was declared from 0000 Hrs of 1.4.2012 as per Regulation 3(12)(c) of the 2009 Tariff Regulations.

11. We have considered the submissions of PGCIL and MPPMCL. The assets covered in WRSS-II, including the instant assets, were scheduled to be put into commercial operation on 1.8.2010 as per the Investment Approval dated 24.7.2006. However, Assets-IV and V were commissioned on 1.3.2012 and 1.4.2012. Therefore, there was time over-run of 19 months and 20 months in COD of the Assets-IV and V respectively. Taking into consideration the submissions of PGCIL, the time over-run upto November, 2011 was condoned in case of Assets-IV and V. The time over-run



from December, 2011 to actual COD of the Asset-IV and V, which was 3 months and 4 months respectively, was not condoned. As time over-run upto November, 2011 has already been condoned in case of Assets-IV and V, the time over-run from 1.12.2011 upto COD is examined here.

12. PGCIL has submitted the documents justifying the time over-run beyond 1.12.2011. It is observed that the "No Objection Certificate" was issued by the office of Collector/District Magistrate Korba for felling of 1614 trees on 11.11.2011 and challan for passing hammer was issued by DFO, Jagta on 22.12.2011. Subsequently, on 18.1.2012, the office of Forest Divisional Officer, Katghora, District Korba wrote to the PGCIL to deposit tree cutting charges. The felling work of trees was started in the middle of January, 2012 and was completed by mid February, 2012 in case of Asset-IV and end February, 2012 in case of Asset-V. PGCIL was able to carry out the work related to laying of the transmission lines only by the end of February, 2012. PGCIL could complete the foundation, erection and stringing work in case of Assets-IV and V and declare their commercial operation only on 1.3.2012 and 1.4.2012 respectively.

13. The time over-run in case of Assets-IV and V from 1.12.2011 to the respective CODs was due to issues regarding felling of trees. The forest clearance and felling of trees are mandatory requirements without which PGCIL cannot take up the foundation, erection and stringing work of the transmission line. The time taken for issue of order for felling of trees and the actual time consumed for felling of trees cannot be attributed to PGCIL. Accordingly, the time over-run of 3 months and 4 months in case of Assets-IV and V respectively due to felling of trees is condoned.



Therefore, the total time over-run of 19 months and 20 months in COD of the Assets-IV and V respectively is condoned. The consequential relief, pursuant to this order shall be given effect to at the time of revision of tariff based on truing up exercise.

14. BALCO has filed Petition No.94/MP/2017 regarding sharing of transmission charges of the assets covered in the instant petition and the same is being considered by the Commission. The transmission charges revised in the instant order shall be subject to the outcome of Petition No.94/MPP/2017 with regard to sharing of transmission charges.

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

sd/-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson

