

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.261/MP/2017**

Subject : Petition seeking set-aside the bill dated 6.11.2017 of the CTU (PGCIL) towards LTA Charges for the Kudgi Transmission System

Date of Hearing : **12.4.2018**

Coram : Shri P. K. Pujari, Chairperson  
Shri A.K. Singhal, Member  
Shri A.S. Bakshi, Member  
Dr. M.K. Iyer, Member

Petitioner : NTPC Limited

Respondents : Power Grid Corporation of India Limited and Others

Parties present : Ms. Swapna Sheshadri, Advocate, NTPC  
Shri Vinay Garg, NTPC  
Shri Manoj Kumar Sharma, NTPC  
Shri Atmaram N.S. Nadkarni, ASG, PGCIL  
Shri Deep Rao, Advocate, PGCIL  
Shri Salvador Santosh Rebello, Advocate, PGCIL  
Shri Amogh Prabhu Dessai, Advocate, PGCIL  
Shri Sindhu T.P., Advocate, KSEB  
Shri P.V. Dinesh, Advocate KSEB  
Ms. Pratiksha Mishra, Advocate BESCO  
Shri Aryaman Saxena, PGCIL  
Ms. Jyoti Prasad, PGCIL  
Shri Dilip Rozekar, PGCIL  
Shri V. Srinivas, PGCIL  
Shri R.P. Padhi, PGCIL  
Shri Swapnil Verma, PGCIL  
Ms. Sreeja R.S., KSEB  
Ms. Latha S.V., KSEB  
Shri Ashok, POSOCO  
Shri G.Chakraborty, NLDC, POSOCO

**Record of Proceedings**

Learned counsel for the petitioner argued at length and mainly submitted as under:

- (a) The present petition has been filed to set aside the bill dated 6.11.2017 raised by PGCIL towards the LTA. The petitioner has made the payment in accordance with the Commission's order dated 27.6.2016 and 17.10.2017 in Petition No. 236/MP/2015 and Review Petition No. 44/RP/2016 respectively. Since, the orders



dated 27.6.2016 and 17.10.2017 have not been challenged, the methodology of recovery of transmission charges for all the elements of Kudgi Transmission System stands decided;

- (b) The action on the part of PGCIL, SRPC and NLDC in seeking to recover such amounts which are neither due in terms of the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 (Sharing Regulations) nor the 2014 Tariff Regulations issued by the Commission, is incorrect;
- (c) The transmission charges for the Kudgi Transmission System for all the three elements (namely, Kudgi – New Narendra line, New Narendra – Madhugiri line and Madhugiri – Bidadi line) are already being recovered in the manner decided by the Commission;
- (d) Referring to the minutes of the 29<sup>th</sup> SRPC meeting held at Vishakhapatnam, learned counsel submitted that NLDC in its letter dated 8.1.2016 had highlighted the prioritization of transmission system under implementation to relieve congestion. The ISTS system was already approved and its commissioning was expected to relieve congestion in respect of southern region. It consisted of two elements of the Transmission System namely, Kudgi-Madhugiri D/C line and Madhugiri-Bidadi line;
- (e) The Petitioner has entered into PPA dated 3.11.2010 with KSEB under which the sale of power is at the bus-bar of the generating station and it was for the beneficiaries to make all arrangements to deal with ISTS licensees/ PGCIL and arrange for transmission of power;
- (f) In cases where the beneficiaries of the Central Generating Stations are identified, even the responsibility to sign the LTA Agreement is of the beneficiaries and not the generating station. In support of its contention, learned counsel referred to the Commission's order dated 9.3.2016 in Petition No. 69/MP/2015 and order dated 31.1.2013 in Petition No. 133/MP/2012;
- (g) The Petitioner vide letter dated 22.12.2014 requested PGCIL to make necessary revisions in the LTA granted vide dated 23.12.2011. In response, PGCIL vide letter dated 23.1.2015 revised the LTA based on the re-allocation to Andhra Pradesh and Telengana and requested the Petitioner for signing the LTA agreement along with the other beneficiaries;
- (h) The Petitioner vide letter dated 18.2.2015 informed PGCIL that signing of the LTA Agreement or any charges need to be directly between the PGCIL and the beneficiaries of the system and the Petitioner has nothing to do in this regard. PGCIL accepted the contention of the Petitioner and signed the LTA Agreements with the beneficiaries directly;
- (i) Meanwhile, Kudgi Transmission Limited filed Petition No. 236/MP/2015 seeking deemed commercial operation of the Element-I of the Transmission System as 4.8.2015. The Commission vide order dated 27.6.2016 directed NTPC to pay the



transmission charges in terms of the Regulation 8 (5) of the Sharing Regulations. Accordingly, the Petitioner paid the transmission charges;

- (j) Learned counsel referred the letters of KSEB dated 7.8.2017 to SRPC, of PGCIL dated 23.10.2017 to KSEB, of KSEB dated 25.9.2017 to SRPC, of SRPC dated 27.9.2017 to NLDC and of NLDC dated 6.10.2017 to SRPC and submitted that as per the above letters, the beneficiaries of the LTA are required to pay the transmission charges. However, SRPC vide its letter dated 15.9.2017 had sought clarification regarding additional quantum included for the LTA application. SRPC/ POSOCO/ PGCIL had acted in a collusive manner and to the prejudice of the Petitioner by wrongly applying the first proviso of Regulation 8 (5) of the Sharing Regulations, when the Commission had already applied the third proviso in the present case;
- (k) As per Regulation 8 (5) of the Sharing Regulations, the obligation to pay the transmission charges is on the concerned DIC, which in this case are the beneficiaries. Further, the proviso to the said regulation uses the term 'corresponding to its Long Term Access granted by PGCIL becomes effective'. However, in the present case, LTA has not been granted to the Petitioner but to the beneficiaries of the system.

2. Learned ASG appearing on behalf of the PGCIL referred to clauses 32.11, 32.19 and 32.23 of the Statement of Reasons to the Sharing Regulations dated 26.10.2015 and submitted as under:

- (a) The generator is responsible to pay the transmission charges for the dedicated transmission line constructed by the ISTS licence for the generator till commencement of its LTA.
- (b) As per Regulation 8 (5) of the Sharing Regulations, where the approved withdrawal or approved injection in case of a DIC is not materialized either partly or fully for any reason whatsoever, the concerned DIC shall be obliged to pay the transmission charges allocated under these regulations provided that in case the commissioning of a generating station or unit thereof is delayed, the generator shall be liable to pay withdrawal charges corresponding to its LTA from the date the LTA granted by CTU becomes effective.
- (c) The provisions of the PPA cannot override the Statutory Regulations which have been framed by the Central Commission. Accordingly, the Petitioner is liable to pay the transmission charges to PGCIL in terms of Regulation 8 (5) of the Sharing Regulations.

3. Learned counsel for KSEB adopted the submissions of learned ASG and submitted that the correspondences or letters between the beneficiaries cannot override the Statutory Regulations framed by the Central Commission. Learned counsel further submitted that in terms of Regulation 8 (6) of the Sharing Regulations, it is the responsibility of the generator to pay the transmission charges and after the commencement of 3<sup>rd</sup> Amendment to the Sharing Regulations withdrawal charges should be read as transmission charges.



4. Learned counsels for TANGEDCO and BESCO requested for time to file their replies.
5. After hearing the learned counsels for the parties, the Commission directed the respondents to file their replies by 27.4.2018, with an advance copy to the Petitioner, who may file its rejoinder, if any, by 18.5.2018. The Commission directed that due date of filing the replies and rejoinder should be strictly complied with. No extension shall be granted on that account.
6. Matter may be listed for hearing, if required after considering the submissions filed by the parties.

**By order of the Commission**

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

