

CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Petition No.203/TT/2016

Coram

Shri P.K. Pujari, Chairperson

Dr. M. K. Iyer, Member

Shri I. S. Jha, Member

Date of Order: 07.11.2019

In the matter of

Revision of Commission's order dated 5.10.2017 in Petition No. 203/TT/2016 in the light of APTEL's Judgment dated 28.9.2018 in Appeal No. 6 of 2018.

And in the matter of

Power Grid Corporation of India Limited,
"Saudamini", Plot No. 2,
Sector 29, Gurgaon-122001
Haryana

...Petitioner

Versus

1. Rajasthan Rajya Vidyut Prasaran Nigam Limited
Vidyut Bhawan, Vidyut Marg,
Jaipur – 302005
2. Ajmer Vidyut Vitran Nigam Limited
400 kV GSS Building (Ground Floor),
Ajmer Road, Heerapura, Jaipur
3. Jaipur Vidyut Vitran Nigam Limited
400 kV GSS Building (Ground Floor),
Ajmer Road, Heerapura, Jaipur.
4. Jodhpur Vidyut Vitran Nigam Limited
400 kV GSS Building (Ground Floor),
Ajmer Road, Heerapura, Jaipur
5. Himachal Pradesh State Electricity Board
Vidyut Bhawan
Kumar House Complex Building II
Shimla-171004



6. Punjab State Electricity Board
The Mall, Patiala-147001
7. Haryana Power Purchase Centre
Shakti Bhawan, Sector-6
Panchkula (Haryana) 134 109
8. Power Development Department
Government of Jammu & Kashmir
Mini Secretariat, Jammu
9. Uttar Pradesh Power Corporation Limited
(Formerly Uttar Pradesh State Electricity Board)
Shakti Bhawan, 14, Ashok Marg
Lucknow - 226 001
10. Delhi Transco Ltd.
Shakti Sadan, Kotla Road,
New Delhi-110002
11. BSES Yamuna Power Ltd.
BSES Bhawan, Nehru Place,
New Delhi.
12. BSES Rajdhani Power Ltd.
BSES Bhawan, Nehru Place,
New Delhi
13. Tata Power Delhi Distribution Ltd.,
33 kV Substation, Hudson Lane,
Kingsway Camp
New Delhi-110 009.
14. Chandigarh Administration
Sector -9, Chandigarh.
15. Uttarakhand Power Corporation Ltd.
Urja Bhawan, Kanwali Road,
Dehradun.
16. North Central Railway,
Allahabad.
17. New Delhi Municipal Council
Palika Kendra, Sansad Marg,
New Delhi-110002



18. Meja Urja Nigam Private Limited
NTPC Bhavan Scope Complex,
7, Institutional area, Lodhi road
New Delhi -110003
19. Uttar Pradesh Power Transmission Corporation Ltd.
Shakti Bhavan, 14, Ashok Marg,
Lucknow – 226001
20. UPRVUNL
Shakti Bhavan, 14, Ashok Marg,
Lucknow – 226001

....Respondents

For Petitioner: Shri Pallav Mongia, Advocate, PGCIL
Shri Mridul Chakravarty, Advocate, PGCIL
Shri S. K. Niranjana, PGCIL
Shri S.S. Raju, PGCIL
Shri Vivek Kumar Singh, PGCIL
Shri S. K. Venkatesan, PGCIL
Shri Amit Yadav, PGCIL
Shri Zafrul Hasan, PGCIL
Shri Ved Prakash Rastogi, PGCIL

For Respondent : Shri R. B. Sharma, Advocate, BRPL
Shri Mohit Mudgal, Advocate, BRPL
Ms. Swapna Seshadri, Advocate, MUNPL
Shri Manoj Kumar Sharma, MUNPL

ORDER

The instant Petition No.203/TT/2016 was heard on 28.2.2019 as per the directions of the Appellate Tribunal for Electricity (hereinafter referred to as "the Tribunal") in judgment dated 28.9.2018 in Appeal No. 6 of 2018, for reconsideration of the Commission's decision regarding the sharing of transmission charges in order dated 5.10.2017 in Petition No.203/TT/2016.

Background

2. Power Grid Corporation of India Ltd. ("PGCIL") filed the Petition No. 203/TT/2016 for approval of transmission tariff for 400 kV D/C Meja-Allahabad ISTS



Transmission Line alongwith associated bays at Allahabad under “Transmission System Associated With Meja TPS” in Northern Region (hereinafter referred to as “asset”) for 2014-19 tariff period under Central Electricity Regulation Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as “the 2014 Tariff Regulations”).

3. As per Investment Approval dated 8.3.2013, the instant asset was scheduled to be put into commercial operation within 28 months from the date of Investment Approval. Accordingly, the scheduled date of commercial operation was 7.7.2015. The petitioner submitted that the instant transmission line was ready on 3.4.2016 and on 5.4.2016 CEA accorded the approval of energisation of charging of the line and anti-theft charging was done from Allahabad end on 5.5.2016. The petitioner further submitted that the associated bay of Meja TPS at Meja was ready and successful trial operation was completed on 9.11.2016 for Circuit I. Further associated bay of Meja TPS at Meja was ready and successful trial operation was completed on 9.2.2017 for Circuit II. Thereafter, Circuit I and II of the instant line was put into commercial operation on 10.11.2016 and 10.2.2017 respectively. Taking into consideration the submissions of the petitioner, the Commission in order dated 5.10.2017 condoned the time over-run from scheduled COD of 7.7.2015 to 5.4.2016 and capitalised the IDC and IEDC for the said period. The Commission also capitalised the IDC and IEDC from 5.4.2016 to 4.5.2016. The Commission held that the time taken from 5.5.2016 to the COD of the instant transmission assets is attributable to Meja Urja Nigam Power Limited (MUNPL) and accordingly held IDC and IEDC from 5.5.2016 to COD of the instant assets shall be borne by MUNPL. The Commission further held that the transmission charges of the instant transmission



line from COD till start of LTA of Meja Generating Station shall be borne by MUNPL and thereafter will be included in the PoC mechanism and governed by the provisions of Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2010. The relevant extracts of the Commission's Order dated 5.10.2017 in Petition No. 203/TT/2016 are as under:-

“27..... Therefore, the time taken from 5.5.2016 to date of COD of Assets-1(a) and Asset-1(b) is attributable to Meja Urja Nigam Private Limited and hence the IDC and IEDC for this period shall be borne by MUNPL. The IDC and IEDC for the period 5.4.2016 to 4.5.2016 shall be capitalized.”

“59..... The transmission charges of the instant transmission line from the date of COD of the transmission line till date of start of LTA of Meja Generating Station shall be borne by MUNPL as directed in para 27 and thereafter the transmission charges shall be shared as per Regulation 43 of the 2014 Tariff Regulations.”

4. Aggrieved with the above order, MUNPL filed Appeal No. 6 of 2018 before the Tribunal. The Tribunal vide judgement dated 28.9.2018 partially allowed the Appeal of MUNPL and remanded the matter back to the Commission for fresh consideration with the following observations:-

“In the instant case, it is manifest on the face of the analysis and views in paragraph 59 that there is no discussion, no reasoning and no finding, as such, coming forth towards the case made out by the Appellant and the second Respondent except extracting the affidavit dated 31.01.2017 filed by the Appellant and the affidavit dated 30.03.2017 filed by the second Respondent but there is no consideration at all. Therefore, we are of the considered view that, in the analysis and views in paragraph 59 of the Impugned Order, there is no discussion, no reasoning and no finding, as such, coming forth and in short, it is not a speaking order. Therefore, on this ground alone, the impugned Order dated 5.10.2017 in Petition No. 203/TT/2016 passed by the first Respondent/Central Regulatory Commission is liable to be vitiated.

33. After thorough microscopic evaluation of the entire material on record at threadbare, it is manifest that the reasoning assigned in paragraph 59 of the Impugned Order cannot be sustainable in law and hence is liable to be set aside and the matter requires to be considered afresh by the first Respondent/Central Regulatory Commission on the basis of the case made out by the Appellant and the second Respondent.

34. For the foregoing reasons, as stated supra, the instant Appeal filed by the Appellant is allowed in part. The impugned Order dated 05.10.2017 in Petition No.



203/TT/2016 passed by the first Respondent/Central Regulatory Commission, so far it relates to sharing of transmission charges, is hereby set aside.

The matter stands remitted back for reconsideration afresh by the first Respondent/Central Regulatory Commission to pass an appropriate order in accordance with law after affording reasonable opportunity of hearing to the Appellant and the second Respondent/PGCIL as expeditiously as possible, at any rate, within a period of six months from the date of appearance of the parties.

The Appellant and the second Respondent herein are directed to appear personally or through their respective counsel before the Central Regulatory Commission on October 31st, 2018, without further notice, to collect necessary date of hearing. All the contentions of both the parties are left open.”

5. Accordingly, the instant petition is reopened as per the Tribunal’s direction in judgement dated 28.9.2018 for consideration of the issue of sharing of transmission charges afresh and the matter was heard on 28.2.2019.

Submissions by Petitioner and Respondent

6. During the hearing on 28.2.2019, the learned counsel for MUNPL contended that the Meja-Allahabad 400 kV D/C transmission line was conceived and developed not only for evacuation of power from Meja TPS of MUNPL but also for integrating the transmission system being developed by UPPTCL, permitting the flow of power from other co-located generating stations. She contended that the instant transmission line is also being used by UPPCL. In the 29th meeting of Standing Committee on Transmission System Planning of Northern Region and Long Term Access meeting held on 29.12.2010, it was informed that CEA and UPPCL evolved a composite transmission scheme for evacuation of power from Karchana, Bara and Meja TPS. However, later NTPC requested to evolve associated transmission system for transfer of power from Meja TPS to the Northern Region beneficiaries except Uttar Pradesh. She also contended that in the 19th (Special) meeting of Northern Regional Power Committee dated 4.1.2011, it was decided that for



evacuation of power from generation projects like Meja, Bara, Karchana, etc., UPPTCL was developing an integrated transmission network and as such the instant assets are also to be used by UPPTCL. Hence, it was argued that UPPTCL should also share the transmission charges of these assets.

7. Learned counsel for the petitioner contended that Meja-Allahabad 400 kV D/C transmission line was discussed and agreed in the 29th SCM of NR held on 29.12.2010 for evacuation of power from Meja. He contended that for transfer of 900 MW power from Meja alongwith other generation projects like Bara, Karchana etc. in Uttar Pradesh, UPPTCL proposed a composite transmission scheme. However, in 29th SCM of NR dated 29.12.2010, NTPC requested to evolve associated transmission system for transfer of power from Meja TPS to the Northern Region. He further contended that for transfer of 400 MW power from Meja TPS to the other Northern Region beneficiaries, Meja-Allahabad Transmission System was developed which integrates the intra-State transmission system. He contended that Meja-Allahabad 400 kV D/C was planned only for Meja and the line could not be put into commercial operation due to delay in execution of Meja TPS. The arrangement for early utilization of Meja-Allahabad ISTS Transmission Line was proposed by UPPTCL for evacuation of power from the 2nd unit of Bara TPS through the switchyard at Meja TPS. He further contended that CEA in its meeting on 2.8.2016 considered the request of UPPTCL for early utilization of Meja-Allahabad 400 kV D/C line and approved the same and also asked the UPPTCL to confirm to the petitioner regarding payment of transmission charges. However, no confirmation was given by UPPTCL regarding early utilization of Meja-Allahabad 400 kV D/C line as well as the payment of transmission charges to the petitioner and as such the instant



transmission line should be treated as dedicated transmission line and MUNPL should bear the transmission charges.

Analysis and Decision

8. MUNPL, in its affidavit dated 31.1.2017 in the main petition, had made a reference to the 29th Standing Committee Meeting dated 29.12.2010 and 19th NRPC Meeting dated 4.1.2011 and submitted that Meja-Allahabad 400 kV D/C transmission line is not only for evacuation of power from MUNPL but is also for evacuation of power from other generation projects like Bara, Karchana etc. in Uttar Pradesh by UPPTCL. MUNPL has further submitted that the Meja-Allahabad ISTS Transmission Line was agreed to be integrated with the system being developed by the State with ISTS for evacuation of power from Bara, Meja and Karchana power plants and for transfer of power from Meja to other NR constituents. MUNPL has submitted that it was already envisaged that some power from other generating stations such as Bara and Karchana would also flow through the Meja-Allahabad ISTS Transmission Line and the same is recorded in the minutes of 29th Standing Committee Meeting dated 29.12.2010 and 19th NRPC meeting dated 4.1.2011. MUNPL has placed on record the minutes of 29th meeting of Standing Committee dated 29.12.2010, 19th Special Meeting of Northern Regional Power Committee dated 4.1.2011 and minutes of the meeting held on 2.8.2016 in the Office of CE (SP & PA)-I of CEA regarding evacuation of 2nd 660 MW unit of Bara 3 x 660 MW TPS, Allahabad (UP). The petitioner, vide its affidavit dated 30.3.2017, referring to the said SCM dated 29.12.2010 has submitted that from the minutes of the said meeting NTPC had requested to evolve associated transmission system for transfer of power from Meja TPS to the Northern Region beneficiaries other than Uttar Pradesh.



9. We have perused the minutes of the 29th Standing Committee on Transmission System Planning of Northern Region held on 29.12.2010 and the 19th (Special) meeting of NRPC held on 4.1.2011 referred to by MUNPL. The relevant portion of the minutes of the 29th Standing Committee Meeting dated 29.12.2010 is extracted hereunder:-

“29th Standing Committee Meeting dated 29.12.2010

11. Transmission System associated with Meja TPS

Director (SP & PA), CEA stated that NTPC was developing a 1320 MW power plant as a JV project with UPRVUNL at Meja in UP. NTPC informed that from Meja about 900 MW was for UP and about 400 MW was for other NR constituents. The generation was expected to be commissioned by the end of 2014.

He further informed that CEA & UPPCL evolved a composite transmission scheme for evacuation of power from Karchana, Bara & Meja TPS. Subsequently, NTPC requested to evolve associated transmission system for transfer of power from Meja TPS to the Northern Region beneficiaries other than Uttar Pradesh. The system was discussed in the 28th Standing Committee and following was proposed:-

- Meja-Allahabad (PG) 400 kV D/C quad line (to be constructed by PGCIL).
- Allahabad (PG)-Rewa Road (Allahabad) 400 kV D/C quad line to be constructed by UPPCL in place of earlier approved 400 kV Meja-Rewa Road (Allahabad) quad line.

He also informed that the matter was taken up with UPPTCL and they had informed that Meja-Rewa Road line was included in package of works to be taken up through PPP route in UPPTCL and no change could be done at this stage as the scope of works had already been approved.

Powergrid stated that in view of the above and also to integrate the system being developed by the State with ISTS, following transmission system was proposed for transfer of power from Meja to other NR constituents:-

Meja –Allahabad (Powergrid) -400 kV D/C .

Chief Engineer (SP & PA), CEA stated that it might be ensured by UPPTCL that the approved composite evacuation scheme of the above generation projects was implemented matching with the commissioning schedule of the generation projects.

Members agreed for the above proposal.”

10. The relevant portion of the 19th NRPC Meeting dated 4.1.2011 is as under:-



“19th Special Meeting of Northern Region Power Committee dated 4.1.2011

3.0 Transmission system associated with Meja TPS

Executive Director, Powergrid, explained that NTPC had been developing a 1320 MW power plant as a JV project with UPRVNL at Meja in UP. From Meja TPS, UP had share of about 900 MW and balance of about 400 MW power for other constituents. For evacuation of power from the generation projects like Meja, Bara, Karchana etc., UPPTCL were developing an integrated transmission network. In order to integrate the system being developed by the State with ISTS and for transfer of power from Meja to other constituents following transmission system was agreed during the 29th Standing Committee Meeting:-

- Meja-Allahabad (Powergrid)-400 kV D/C.

Beyond Allahabad, available capacity in proposed Allahabad-Kanpur line would be utilized for transfer of power to the constituents.

Representative of UPPTCL enquired about the requirement of 400 kV D/C line from Rewa Road to Allahabad (PG) planned as a part of integrated network of UP. Chief Engineer, CEA stated that in view of the Meja-Allahabad 400 kV D/C line, Rewa Road-Allahabad (PG) 400 kV D/C line shall not be required."

11. We have also perused the minutes of the 28th SCM of NR held on 23.2.2010.

Following is recorded in the 28th SCM,

“13. MEJA 1320 MW PROJECT – A JV OF NTPC AND UPRVNL

It was informed that NTPC is developing 1320 MW (2x 660MW) power plant in Meja in Uttar Pradesh as a JV project with Uttar Pradesh Rajya Vidyut Utpadan Nigam Ltd. The expected commissioning schedule of the power plant is 2014-15 and 231 MW power is allocated for NR constituents other than U.P. The unallocated power is 99 MW.

It was further informed that for evacuation & transfer of power from Meja, Karchana & Bara generation projects, Uttar Pradesh Power Corporation Ltd. (UPPCL) had proposed a composite transmission scheme which was agreed during the 26th meeting of the Standing Committee on Power System Planning of Northern Region held on 13th October 2008. The details of the agreed scheme are given as under:

- (i) Step-up of Bara generation to 765kV
- (ii) Step-up of Karchana and Meja generation to 400kV
- (iii) Bara switchyards to have 765kV and 400kV levels with 2x1500MVA (7x500 MVA, 1 phase units) 765/400 ICTs.
- (iv) Establishment of 400kV substation at Reewa Road (Allahabad) with 400/220kV 2x315 MVA ICTs
- (v) LILO of 400kV Ogra-Panki line at Reewa Road (Allahabad)
- (vi) Meja – Bara 400kV quad D/C line
- (vii) Meja – Reewa Road (Allahabad) 400kV quad D/C line
- (viii) Karchana – Bara 400kV quad D/C line
- (ix) Karchana – Reewa Road (Allahabad) 400kV quad D/C line
- (x) Bara-Mainpuri 765kV 2xS/C lines
- (xi) Mainpuri –



Agra (PGCIL) 765kV S/C (xii) LILO of Agra - Meerut 765 kV S/C line of PGCIL at G. NOIDA (xiii) Hapur – G.Noida 765kV S/C line (xiv) New 765/400kV substation at Maipuri with 2x1000MVA (7x333 MVA, 1 phase units) ICTs (xv) Mainpuri 765kV UPPCL – Mainpuri 400kV PGCIL 400kV quad D/C line (xvi) New 765/400/220kV substation at G.Noida with 2x1500MVA (7x500MVA, 1 phase units) 765/400kV and 2x500MVA 400/220kV ICTs. (xvii) Reewa Road Allahabad – Banda 400kV quad D/C line (xviii) Banda – Orai 400kV quad D/C line (xix) Orai – Mainpuri 765kV UPPCL 400kV quad D/C line (xx) Establishment of 400kV substation at Banda with 400/220kV 2x315 MVA ICTs (xxi) Establishment of 400kV substation at Orai with 400/220kV 2x315 MVA ICTs

In order to transfer the allocated power of 231MW to Northern Region beneficiaries other than U.P.and 99 MW unallocated power from the Meja Project, POWERGRID proposed following transmission system:

Meja-Allahabad (PG) 400kV D/C (Quad)-To be implemented by PGCIL under regional system.

Allahabad (PG)-Rewa Road (UPPCL) 400kV D/C (Quad) to be constructed by UPPCL in place of earlier approved 400 kV Meja-Rewa Road quad line.

12. During the above said meeting, Member (PS), CEA, stated that even without the Meja-Rewa Road (UPPCL) D/C quad line, adequate transmission system would be available for evacuation of power from Meja, Karchana and Bara generating stations to UP and therefore UP should delete the Meja-Rewa Road (UPPCL) transmission line. In response, the representative of UP sought some time and stated that their decision will be intimated. The relevant portion of the minutes of the said meeting is as follows.

“Member (PS) stated that even in the absence of 400 kV Meja-Rewa Road(UPPCL) D/C quad line, adequate transmission system would be available (in the 33 approved composite scheme of Meja, Karchana and Bara generation projects), for U.P. to draw their share of power from Meja Project and therefore U.P. may agree to delete this line from the scope of composite scheme being executed by them and give their consent to POWERGRID to use this RoW to construct proposed 400 kV Meja-Allahabad (PG) D/c quad line. Further 400 kV Allahabad (PG)-Rewa Road D/C quad line is also proposed to be constructed by UPPCL for their drawl from Allahabad(PG). As such the proposal may be agreed by U.P. Member (PS) sought the comments of UPPCL on the issue. The representative of UPPCL did not confirm the same and desired some time to finalise the issue. It was decided that UPPCL shall intimate their decision within one month from the meeting date. Member (PS) mentioned that the issue will be taken up by CEA with UPPCL.”



13. In the 29th SCM, the representative of the UPPTCL had clearly stated that Meja-Rewa Road line was already included in the Package of works and it cannot be changed. The proposal to construct the Allahabad (PGCIL)-Rewa Road (UPPTCL) was dropped and Meja-Allahabad ISTS Transmission Line was agreed only for transfer of power from Meja to NR beneficiaries. Further, in the 19th (Special) meeting of the NRPC, on a query by the representative of the UPPTCL regarding the requirement of Allahabad (PGCIL)-Rewa Road (UPPTCL), the Chief Engineer, CEA, stated that in view of the Meja-Allahabad ISTS Transmission Line, the Allahabad (PGCIL)-Rewa Road (UPPTCL) is not required. Further, these decisions were arrived in January, 2011 much before the grant of Investment Approval for the instant transmission line on 8.3.2013 by the Board of Directors of the petitioner. Thus, even before the Investment Approval was accorded for the Meja-Allahabad ISTS Transmission Line, it was clear that the instant transmission line would be used for evacuation of power from Meja TPS for the beneficiaries of the NR other than Uttar Pradesh. Thus, it is clear from the above discussion that the Meja-Allahabad ISTS Transmission Line was not envisaged to be used by UPPTCL. Therefore, we are not able to agree with the MUNPL's contention that the instant line was envisaged for UPPTCL also.

14. MUNPL in its affidavit dated 31.1.2017, in the main petition, has further contended that in the meeting dated 2.8.2016 in the Office of CE (SP & PA)-I of CEA regarding evacuation of 2nd 660 MW unit of Bara 3 x 660 MW TPS, Allahabad (UP), it was agreed that power from the 2nd unit of Bara TPS of UP would be evacuated with the termination of Meja-Allahabad ISTS Transmission Line at Meja and termination of the Bara-Rewa Quad Line at Meja TPS. Accordingly, MUNPL



completed the bays at its Meja switchyard to enable UP to evacuate power from its 2nd unit of Bara TPS. Therefore, UPPTCL should also bear the transmission charges and the tariff determined has to form part of the PoC and shared by all the DICs from the COD of the Meja-Allahabad ISTS Transmission Line. MUNPL has further contended that instant transmission line is for system strengthening and should be included in the PoC mechanism.

15. In response, the petitioner in its rejoinder in the main petition has submitted that an interim arrangement was proposed by UPPTCL for evacuation of power from its 2nd unit of Bara TPS through Meja-Allahabad ISTS transmission line. After discussion, the said proposal was agreed as it was technically feasible, however, it was subject to UPPTCL agreeing to pay the transmission charges for the ISTS line. The petitioner has further submitted that UPPTCL did not give the consent for bearing the transmission charges and the instant ISTS line was not used by UPPTCL for evacuating power from its 2nd unit of Bara TPS. The relevant portion of the minutes of the meeting dated 2.8.2016 is extracted hereunder.

“Meeting in the office of CE (SP & PA)-I CEA regarding evacuation of 2nd 660 MW unit of Bara 3 x 660 MW TPS, Allahabad (UP) dated 2.8.2016

"Chief Engineer (PSP&PA-I), CEA welcomed all the participants to the meeting and stated that the meeting has been convened to discuss the UPPTCL's proposal for early utilization of Meja-Allahabad PG 400 kV D/C ISTS line, in view of commissioning of 2nd unit of Bara (3x660 MW) generation project expected by 15th August, 2016.

Chief Engineer, UPPTCL stated that a composite scheme for evacuation of power from Bara, Meja and Karchna Power Plants was approved in 26th and 29th meeting of SCPSPNR, which inter-alia includes Bara-Mainpuri 765 kv 2x S/C lines and the same would be available by Sep/Dec., 2016. First unit of Bara TPS (660 MW) is presently evacuated through Bara-Rewa Road 400 kV D/C (Quad) Intra-state line (routed through Meja TPS). The second unit of Bara (660 MW) generation has also been synchronised and its COD is expected by 15th August, 2016. With commissioning of Bara 2nd unit and non-availability of Bara-Mainpuri 765 kv 2x S/C lines, there would be overloading of the Rewa-Road-Panki 400 kV S/C line and Rewa Road 400/220 ICTs along with 200 kV network. At present Meja-Allahabad 400 kV D/C ISTS lines is complete and charged from Allahabad (PG) 400 kV side which could be utilized for



evacuation of the power from Bara (2x660 MW). The load flow studies have been carried out considering the following network elements and no constraints were observed:-

- (i) Bara-Meja 400 kVD/C (Quad) Intra-state line.
- (ii) Meja TPS-Rewa Road 400 kV D/C (Quad) Intra-State line.
- (iii) Meja TPS-Allahabad PG 400 kVD/C ISTS line.
- (iv) Rewa Road 400/220 kV 2x315 MVA S/S.
- (v) LILO ofObra-Panki at Rewa Road 400 kVS/S.

NTPC representative informed that the 1st unit of Meja generation project is expected by April, 2017. The generation switchyard inspection has already been done by CEA. All the balance works including the observation made by CEA during the inspection of the switchyard would be completed latest by the end of Aug. 2016. UPPTCL requested NTPC to complete the balance work by 15th August.

AGM, CTU stated that the Meja-Allahabad 400 kV D/C ISTS line is complete and charged from Allahabad PG 400 kV side. The line is not commissioned due to delay in Meja generation projects. The proposal made by UPPTCL is technically in order. However, if the line is utilized by UPPTCL, then UPPTCL have to pay the fixed charges of this line till the commissioning of 1st unit of Meja generation.

After deliberation, the following was agreed:

- (i) The proposal is technically in order and power of Bara (2x660 MW) generation can be evacuated with termination of Meja-Allahabad 400 kV D/C ISTS line at Meja and termination of Bara-Rewa Road 400 kV D/C quad line at Meja (agreed scheme is Bara-Meja-Rewa road 400 kV D/C quad line which is presently bypassed at Meja), without any constraint UPPTCL have to pay the fixed charges of this line till the commissioning of the 1st unit of Meja generation. UPPTCL to give consent to Powergrid regarding payment of the charges.
- (ii) NTPC to complete the Meja generation switchyard work along with the bays by end of August, 2016 to facilitate the evacuation of power from Bara generation. NTPC to make all efforts to advance the completion of work by one week, if the conditions permit.
- (iii) UPPTCL to coordinate with the officials of Meja switchyard to ensure proper communication system."

16. We have considered the submissions of MUNPL and the petitioner and have also perused the minutes of the said meeting and the correspondence made between MUNPL and UPPTCL. It is observed that as UPPTCL was facing constraints in evacuation of power from its 2nd unit of Bara TPS and therefore proposed evacuation of power through Meja-Allahabad ISTS line through the Meja TPS switchyard. Accordingly, it was decided in the meeting that MUNPL would



complete the switchyard work along with bays at Meja TPS by end of August, 2016 and UPPTCL was to give the consent to pay the transmission charges to PGCIL. No document has been placed on record by the parties to show that UPPTCL gave the required consent to bear the transmission charges. MUNPL has not clearly stated whether the bays at its switchyard were ready in August, 2016. In this regard we have gone through the correspondence made through e-mail by MUNPL and UPPTCL. It is observed that in response to a specific query by Shri Suman Guchh, CE, UPPTCL, regarding the readiness of bays at Meja end, Ms. Ankita Sethi, Asst. Manager, UPPTCL, makes a reference to the trailing mail. This interaction is quoted below.

“On Mon, Nov 21, 2016 at 11:46 AM, Sumanguchh<setppss@gmail.com>wrote:

Does it confirm that 4 no 400 kV line bays are ready from NTPC side.at MEJA except PLCC work?

Regards

On Mon, Nov 21, 2016 at 10.39 AM, AnkitaSethi<ankita1809@gmail.com>wrote:
Dear Sir

Please find trailing mail for your kind information please.

Regards
Ankita Sethi
Assistant Manager
NTPC Ltd.-(MUNPL Meja)
Allahabad
Mob+91 9198500369

-----Forwarded message-----

From: manoj shah kumar<manojkumarshah8778@gmail.com>

Date: Wed, Nov 16, 2016 at 11:15 AM

Subject: Readiness of PLCC for Bara-1&2 and Rewa Road-1&2

To: Arvind Singh <arvinds@isoluxcorsan.com>, Abhai Kumar Saxena<abkumars@isoluxcorsan.com>

CC: Kamlesh Kumar Shukla<kakumar@isoluxcorsan.com>, KaranbirSoin<kssoin@gmail.com>, Ajay Agarwal <ajaysatyug@gmail.com>, R K Pandey<rkpandey03@ntpc.co.in>, Sharan Kumar Shetty<skshetty@isoluxcorsan.com>, Ratan Gupta <ragupta@isoluxcorsan.com>,"Natesan N(nnatesan@ntpc.co.in)" <nnatesan@ntpc.co.in>, Veer Mani Singh



<vmsingh@isoluxinfrastructure.com>, Ravinder Singh
<ravinders@isoluxinfrastructure.com>, AnkitaSethi ankita1809@gmail.com

Dear Sir,

This is in continuation of our earlier communication regarding readiness of Bara-1&2 and Rewa Road-1&2 transmission lines.

This is to bring your kind information that work related to erection and commissioning of PLCC is still not started at Meja site as on date and at Meja end above mentioned lines are ready.

You are requested to kindly start the work related to erection and commissioning of PLCC on urgent basis so that charging process of above mention line may be started.

This is for your kind information and necessary action at our end.

Thanks and Regards

Manoj Kumar Shah
Sr. Manager
Electrical Erection Department
NTPC-Meja (MUNPL)
Allahabad
Mob: 09450963020"

17. As per the above correspondence between MUNPL and UPPTCL, the PLCC equipment was not ready and therefore the bays at Meja TPS of MUNPL were not complete for evacuation of power from 2nd unit of Bara TPS in August, 2016. Moreover, neither UPPTCL gave its consent for payment of transmission charges for the Meja-Allahabad ISTS line as discussed in the meeting on 2.8.2016 nor used the said line as required from August 2016. It is also observed that the Meja-Allahabad ISTS line was put into commercial operation on 10.11.2016 on the request of MUNPL to meet its start-up requirement. It is also observed from NRLDC Annual report for year 2017-18 that Meja-Bara and Bara-Rewa Road Circuit-I was



connected at Meja Switchyard in January 2018 and Circuit-II was connected in March 2018 as quoted below.

Serial Number	Transmission Element Name	Date of Charging	Time of Charging(Hrs)
76.	400kV Meja-Bara-II & bay no 406 (Meja), 411(Bara){LILLO of DC 400kV Bara-Rewa Rd at Meja}	10.01.2018	12:51
103.	400kV Meja-Bara-I & bay no 407 (Meja), 408(Bara){LILLO of DC 400kV Bara-Rewa Rd at Meja}	17.03.2018	18:34
104.	400kV Meja-Rewa Rd-I & bay no 409 (Meja), 407(Bara){LILLO of DC 400kV Bara-Rewa Rd at Meja}	20.03.2018	16:50

Therefore, we do not agree with the contention of MUNPL that the transmission charges of the Meja-Allahabad ISTS line shall be shared by UPPTCL.

18. The Tribunal in para 12.4 of its judgement dated 16.7.2018 had observed as under.

“..... We have considered the contentions of the learned counsel appearing for the Appellant and the Respondents and find that the Central Commission has considered only a limited provision of the Indemnification Agreement namely the gap in commissioning of transmission system and generating units (10 months) but has not analysed the same in their impugned order, as being generally done by the Central Commission in similar cases. It is accordingly necessary to take full cognisance of the indemnification agreement and its applicability in the present case in the interest of justice and equity.”

19. Referring to Agreement dated 17.4.2013 executed between MUNPL and the petitioner, MUNPL has submitted that in the event of delay in commissioning of generating units vis-à-vis Associated Transmission System (ATS) or vice-versa, the delayed party shall pay the other party, the IDC including FERV and Government Guarantee fee, if any, for the generation project or the ATS, calculated as the lower



of the two, upto a period of six months from the zero date in terms of Articles 2 and 4 of the said Agreement.

20. The petitioner has submitted that as per the Indemnification Agreement dated 17.4.2013, the zero date was considered as 1.1.2016. However, MUNPL failed to commission its generating units as a result of which petitioner did anti-theft charging of 400 kV D/C Meja-Allahabad transmission line after resolving ROW issues on 5.5.2016. The petitioner has submitted that delay beyond 5.5.2016 is attributable to MUNPL.

21. We have examined the submissions of the parties on Indemnification Agreement dated 17.4.2013. The Indemnification Agreement dated 17.4.2013 provide for claim of IDC including FERV and Govt. Guarantee fee, if any, i.e. any indirect loss due to delay in commissioning of generating unit/ATS shall be payable by defaulting party to other party for a period of six months from the zero date. The Indemnification Agreement also provides for revising the zero date on mutual agreement of MUNPL and the petitioner. We do not find any force in the contention of MUNPL that claim of the petitioner regarding delay against MUNPL is squarely covered by Indemnification Agreement and that the claim, if any, which is not provided for in the said Indemnification Agreement cannot be allowed by the Commission qua MUNPL.

22. In our view, the intent and purpose of Indemnification Agreement in the case at hand was to avoid delay and mismatch between generation and transmission projects and to compensate for default by way of IDC for a period of six months subject to the terms as agreed in the said Indemnification Agreement. However,



zero date in terms of the said Indemnification Agreement was fixed as 1.1.2016 and there is nothing on record to show that it was extended by the parties. No objection to the zero date being fixed as 1.1.2016 was raised by MUNPL based on which the petitioner applied for CEA clearance certificate on 31.3.2016 and communicated letter to CEA on 3.4.2016 for inspection of the transmission line with a copy of the same to NTPC and on 5.4.2016 CEA granted approval for energisation of the line and anti-theft charging was done from Allahabad end on 5.5.2016. Since the zero date in the Indemnification Agreement was not extended by the parties and the Circuit I and II were actually declared under commercial operation on 10.11.2013 and 10.2.2017 respectively, which is beyond six months, the IDC and IEDC for the period between the date of approval of energisation of charging of the line and the date of commercial operation shall be borne by MUNPL as decided in our order dated 5.10.2017.

23. The second proviso to Regulation 8(8) of the Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations 2009 provides as follows.

“Provided that where the dedicated transmission lines have already been constructed/are under construction by CTU under coordinated transmission planning, the following shall apply:

(a) The transmission charges for such dedicated transmission lines shall be payable by the concerned generating company to the transmission licensee (including deemed transmission licensee) from the date of COD of the dedicated line till operationalisation of LTA of the generating station of the generating company:

(b) After operationalisation of the LTA, the dedicated transmission line shall be included in the POC pool and payment of transmission charges for the said dedicated transmission line shall be governed as per the CERC (Sharing of inter-state transmission charges and losses) Regulations, 2010 as amended from time to time.”



24. The Commission in a similar case of Kudgi generating station in order dated 6.11.2018 in Petition No. 261/MP/2017 has directed as follows.

“In the light of the above, as per Regulation 8(6) of the Sharing Regulations, the petitioner is liable to pay the transmission charges till COD of its delayed units. Hence, we direct that the annual transmission charges of the associated transmission system (i.e Kudgi-Narendra, Narendra-Madhugiri and Madhugiri Bidadi and associated bays) as determined or adopted by the Commission shall be considered in PoC mechanism corresponding only to the unit declared under commercial operation i.e Unit-I (as per records available in this petition) and the balance transmission charges shall be recovered from NTPC till the remaining units are declared under commercial operation. On COD of Unit-II & Unit-III, proportionate transmission charges corresponding to Unit-II & Unit-III, shall be considered in PoC from their respective CODs.”

25. Accordingly, the transmission charges from the COD of Circuit I and II of the transmission line, i.e. 10.11.2016 and 10.2.2017 respectively, till the date of start of LTA of Meja TPS shall be borne by MUNPL under Regulation 8(8) of Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009. Thereafter, the transmission charges shall be shared as per the provisions of Central Electricity Regulatory Commission (Sharing of inter-State Regulations Transmission Charges and Losses) Regulations, 2010 as detailed herein. In line with order dated 6.11.2018 in Petition No. 261/MP/2017, post COD of first unit of MUNPL, 50% transmission charges of the instant transmission system shall be borne by MUNPL till COD of its second unit and balance shall be included under PoC pool. Post COD of 2nd unit of MUNPL, the transmission charges for the instant transmission system shall be included in POC pool.



26. Accordingly, Petition No.203/TT/2016 is disposed of.

sd/-

(I.S. Jha)
Member

sd/-

(Dr. M.K. Iyer)
Member

sd/-

(P.K. Pujari)
Chairperson

