

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 224/MP/2017

Coram:

Shri P. K. Pujari, Chairperson

Dr. M. K. Iyer, Member

Shri I. S. Jha, Member

Date of Order: 16th of April, 2019

In the matter of:

Petition under Section 79(1) (d) of the Electricity Act, 2003 read with Regulations 54 and 55 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 seeking relaxation in the O&M norms specified under Regulation 29 (4) of the Tariff Regulations, 2014.

AND

In the matter of

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

Also At:

Corporate office: 217, 2nd Floor, D-21,
DMRC Building, Corporate Park,
Dwarka, Sector-21
Delhi-110077

.....PETITIONER

Vs

1. Power Grid Corporation of India Limited
Executive Director, Commercial Dept.
"Saudamini" Plot No-2, Sector – 29,
Gurgaon- 122001
2. Tripura State Electricity Corporation Ltd.,
Bidyut Bhawan, North Banamaliupr
Agartala- 799001
3. Assam Electricity Grid Corporation Limited
Bijulee Bhawan, Paltan Bazar
Guwahati- 781001



4. Meghalaya State Electricity Board
Lumjingshai, Short Round Road
Shillong -1
5. Department of Power, Government of Nagaland,
Office at Kohima- 797001
6. Power & Electricity Department,
Government of Mizoram, Aizwal- 796001
7. Electricity Department, Government of Manipur,
Keishampat, Imphal- 795001
8. Department of Power,
Government of Arunachal Pradesh,
Itanagar-791111
9. ONGC Tripura Power Company Limited
ONGC Tripura Assets, Badarghat Complex,
Agartala, Tripura – 799014
10. North Eastern Regional Power Committee,
Nongrim Hills,
Shillong- 793003

.... RESPONDENTS

Parties Present:

Shri M.G. Ramachandran, Advocate, NETCL
Shri Shubham Arya, Advocate, NETCL
Shri Satyajeet Ganguli, NETCL
Ms. Tanya Sareen, Advocate, NETCL
Shri Naveen Kr. Mishra, NETCL
Shri Bimal Ram Nagar, NETCL

ORDER

The Petitioner, North East Transmission Company Ltd. (hereinafter to be referred as 'the Petitioner'), has filed the present Petition under Section 79(1) (d) of the Electricity Act, 2003 (hereinafter referred to as the 'Act') read with Regulations 54 and 55 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter to be referred as 'Tariff Regulations, 2014') seeking

relaxation in the O&M norms specified under Regulation 29 (4) of the Tariff Regulations, 2014. The Petitioner has made the following prayers:-

“(a) relax the O&M norms specified under Regulation 29 (4) of the CERC (Terms and Conditions of Tariff) Regulations, 2014 and allow additional O&M charges to the extent mentioned in the present petition;

(b) pass such other order(s), as this Hon’ble Commission may deem appropriate in the facts and circumstances of the present case.”

2. The Petitioner has mainly submitted as under:

(a) The Commission vide its order dated 16.6.2009 in Petition No. 16/2009 granted transmission licence to develop 400 kV D/C Palatana-Bongaigaon Transmission System. The petitioner has successfully completed Palatana – Bongaigaon 400 kV D/C Transmission System, which is operational since February 2015.

(b) The Petitioner’s transmission system has a route length of 662.8 kms. and is divided into five Assets, which were commissioned between September, 2012 and February, 2015 as under :

Asset	Details of the Asset	Date of COD
Asset-I	Palatana-Silchar D/C - 247.39 Km	1.9.2012
Asset -II	Silchar – Byrnihat (one circuit on D/C) 214.41 Km	1.3.2013
Asset -III	Byrnihat - Bongaigaon (one circuit on D/C) 201 Km	22.2.2015
Asset -IV	Silchar - Azara (one circuit on D/C) 256.41 Km	27.7.2014
Asset -V	Azara-Bongaigaon (one circuit on D/C) 159 Km	16.1.2015

- (c) The Commission vide its order dated 26.9.2012 in Petition No. 224/TT/2012 determined the provisional Annual Transmission Charges recoverable by the Petitioner for the Elements/Assets of the subject transmission system for the period 1.9.2012 to 31.3.2014 pertaining to tariff order 2009-14.
- (d) The Petitioner filed Petition No. 213/TT/2015 for determination of transmission tariff under the Tariff Regulations, 2014. The Petitioner also filed Petition No. 233/TT/2015 for determination of final transmission tariff after undertaking a truing up exercise for the period 1.9.2012 to 31.3.2014.
- (e) The Commission vide its order dated 29.7.2016, in Petition No. 233/TT/2015, determined the final transmission charges recoverable by the petitioner for the control period ending on 31.3.2014. Subsequently, the Commission vide its another order dated 16.8.2016 in Petition No. 213/TT/2015, the Commission determined the transmission charges for the control period 2014-19.
- (f) The Commission in its aforesaid order dated 16.08.2016 determined the Operation and Maintenance (O&M) charges of the transmission system for the control period 2014-19 as under :

Asset	Rupees in lakhs				
	<u>Control Period</u>				
	2014-15	2015-16	2016-17	2017-18	2018-19
Asset-1	174.90	180.84	186.78	192.96	199.40
Asset-2	75.79	78.36	80.94	83.62	86.40
Asset-3	7.11	73.46	75.88	78.39	81.00
Asset-4	61.86	93.72	96.79	100.00	103.33
Asset-5	11.55	58.11	60.02	62.01	64.07
Total	331.21	484.49	500.41	516.98	534.20

- (g) Since the Petitioner owns and operates only one transmission system and did not have trained manpower at that point of time to undertake O & M of such critical transmission system, the Petitioner outsourced the O&M activity to PGCIL, considering its vast/time-tested experience in O&M of transmission systems in all parts of country, with dedicated trained manpower.
- (h) Accordingly, the Petitioner entered into an agreement dated 16.1.2013 with PGCIL under which the Petitioner was required to pay O&M charges for the transmission system as per CERC norms under the Tariff Regulations, 2009. The petitioner has paid an amount of ₹ 74,100/- and ₹78,300/- per KM respectively for 2012-13 and 2013-14. Further, in addition to the said O & M charges, the petitioner was also required to pay a consultancy fee @ 10% of the O&M charges plus applicable service tax @ 12.36%.
- (i) The Petitioner, by means of its Transmission System is playing a very critical role in evacuating approx. 1/3rd of power requirement of North Eastern Region, and the assets need to be maintained/made available at all time. Hence, despite outsourcing O&M activity to PGCIL, the petitioner was also required to employ certain trained personnel and establish site offices at strategic locations for efficient management of transmission system. Clause 8.1 of the agreement dated 16.1.2013 with PGCIL, indicates following:

“8.1 A joint survey shall be undertaken by officials of NETCL & POWER GRID for identifying all the missing /damaged materials as per the final executed drawings/designs. The responsibility of rectification of identified defects shall rest with NETC.”

Accordingly, the petitioner was required to have adequate technical personnel for maintenance of Transmission Assets and co-ordination with government authorities and Regulatory bodies such as NERPC, NERLDC, and other agencies such as OTPC and PGCIL for maintenance /shutdown related issue and to resolve right of way issue as ultimately the petitioner is responsible for its system availability.

- (j) The Petitioner has also negotiated with PGCIL for more favorable terms for O & M contract which resulted in waiver of 10% consultancy charges in its new agreement dated 30.5.2016. However, due to enactment of Goods & Services tax (GST) w.e.f. 1.7.2017, the total cost payable to PGCIL has become at ₹92, 040/- per km w.e.f 1.7.2017.
- (k) The present transmission systems pass through the reserve forest & hilly terrain of North Eastern region of the Country and are severely affected by insurgency, which makes it one of the complex systems and presents unique challenges in transmission system execution, operation and day to day project management. All such factors result in increased overheads, comprising, *inter alia*, higher salaries to be paid to incentivize employees to retain and to keep them motivated. The Petitioner employs bare minimum manpower in order to control the overheads.
- (l) In order to further reduce the O&M charges, the Petitioner started scouting for alternate entities competent to undertake O&M of the transmission system. In line with such efforts, the petitioner has awarded an O&M Contract of 400kV

Byrnihat - Bongaigaon element (201 KMs of 662.80 KMs) to M/s Pioneer Constructions. However, following the award of above Contract on M/s Pioneer Construction, the Petitioner had to set up a site office at Goalpara (Assam) and engage additional manpower for effective supervision. Notwithstanding such additional site office and manpower, the Petitioner's decision to engage M/s. Pioneer Construction may result in reduction in O & M cost.

(m)A comparative O&M charges being borne by the Petitioner over and above the normative O&M charges for all the assets allowed is as under :

Year	O&M Charges (Powergrid) (1)	O&M Charges (Pioneer) (2)	O&M Charges (Others) (3)	Total O&M Charges (4)=(1+2+3)	O&M Charges allowed by CERC (5)	Variation (Short)/Excess (6) =(5-4)	%tage (Short)/Excess (7) =6/5
2014-15	460.00	0.00	442.11	902.11	331.21	-570.90	-172.37%
2015-16	465.25	0.00	909.09	1374.33	484.49	-889.84	-183.67%
2016-17	577.80	12.81	717.18	1307.78	500.41	-807.37	-161.34%
2017-18	422.00	105.03	797.82	1324.85	516.98	-807.87	-156.27%
2018-19	439.00	115.53	817.20	1371.72	534.20	-837.52	-156.78%

The Petitioner is incurring 166.08% (Average) excess O&M charges against allowable O&M charges by the Commission.

3. The Petition was admitted and Notices were issued to the Respondents. No reply has been file by the Respondents, despite Notice.

Analysis and Decision

4. The issue for consideration is whether the Petitioner is entitled for reimbursement of O&M expenses on actual basis in the peculiar facts of its case and if so, whether it is a fit case for invocation of the power of relaxation by the Commission under Regulation 54 of the 2014 Tariff Regulations.

5. The Petitioner's transmission assets are located in North-East in difficult terrain. Further, the transmission line is very critical for the North-East evacuating 1/3rd of the power requirement in the North-Eastern Region.

6. Considering the fact that the Petitioner is a single asset company and is located in the North-Eastern Region, the Commission is of the view that the case of the Petitioner needs to be considered differently from the transmission assets of transmission licensees having multiple number of assets. Accordingly, we grant liberty to the Petitioner to file a fresh petition containing the following details:

(a) O&M charges paid for maintenance of the assets.

(b) O&M expenditure incurred by the Petitioner on items other than the maintenance of the bays.

(c) Efforts made by the Petitioner to optimize the expenditure.

(d) Any additional expenditure incurred by the Petitioner on maintaining the safety and security of the transmission assets.

7. Since, we are disposing of the petition granting liberty to the Petitioner to approach the Commission with necessary details, there is no requirement to invoke power to relax at this stage.

8. Petition No. 224/MP/2017 is disposed of in terms of the above.

sd/-
(I. S. Jha)
Member

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

sd/-
(P. K. Pujari)
Chairperson