

CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi

Petition No. 4/TT/2023

- Subject** : Petition for determination of transmission tariff from COD to 31.3.2024 for two transmission assets under "POWERGRID works associated with immediate evacuation for North Karanpura (3x660 MW) generation project of NTPC" in the Eastern Region.
- Date of Hearing** : 20.12.2023
- Coram** : Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri P.K. Singh, Member
- Petitioner** : Power Grid Corporation of India Limited
- Respondents** : Bihar State Power (Holding) Company Limited and 7 others
- Parties Present** : Ms. Swapna Seshadari, Advocate, PGCIL
Shri Utkarsh Singh, Advocate, PGCIL
Ms. Sneha, Advocate, PGCIL
Ms. Rohini Prasad, Advocate, BSPHCL
Shri Hemant Singh, Advocate, NKTL
Ms. Ankita Bafna, Advocate, NKTL
Ms. Alchi Thapliyal, Advocate, NKTL
Shri Ayush Raj, Advocate, NKTL
Shri Shaurya Kumar, Advocate, NKTL
Shri Shri Venkatesh, Advocate, NTPC
Shri Bharath Gangadharan, Advocate, NTPC
Shri Aashwyn Singh, Advocate, NTPC
Shri Amit Yadav, PGCIL
Shri Vivek Singh, PGCIL

Record of Proceedings

Learned counsel for the Petitioner made the following submissions:

- i) The Petitioner was ready with Asset-I i.e. 2 nos. 400 kV line bays at Gaya Sub-station (for termination of 400 kV D/C (Quad) North-Karanpura-Gaya line under TBCB) and Asset-II 2 nos. 400 kV line bays at Chandwa GIS (for termination of 400 kV D/C (Quad) North Karanpura-Chandwa line under TBCB). CEA granted energization certificates dated 20.7.2019 and 9.9.2021 in respect of Asset-I and Asset-II respectively, which are valid for a period of two years from the date of their issuance. Despite the best efforts, the Petitioner could not match its assets with the TBCB licensee. Therefore, the Petitioner has invoked



Regulation 5(2) of the 2019 Tariff Regulations for the declaration of COD of the above assets.

- ii) The issues involved in the present case, namely, what should be the treatment for an inter-connecting transmission licensee/associated transmission line when it is affected by *force majeure* events, treatment in the cases where the mismatch is there, and that treatment when there is no contract between the transmission licensees and generators are all covered by the Fatehgarh Badla judgment of APTEL. Therefore, COD of the transmission assets as proposed by the Petitioner, may be allowed so that the cost of the transmission assets may be recovered.
- iii) The Petitioner has filed rejoinders to replies of NKTL, BSPHCL and NTPC.
- iv) Information sought by the Commission vide RoP dated 30.10.2023 has been filed vide affidavit dated 16.11.2023.

2. Learned counsel for NKTL submitted as follows:

- i) TSA was signed on 14.3.2016, and the original SCOD for Asset-I was in September, 2017, and for Asset-2, it was in September, 2019.
- ii) The SCOD was revised in terms of the Commission's order dated 20.3.2019 in Petition No. 194/MP/2017 where the Commission has considered non-grant of NOC from MoC/CCL and CEA as *force majeure* events.
- iii) The downstream line for Asset-I is yet to be executed. However, the downstream line for Asset-II was executed on 19.10.2022.
- iv) In terms of Regulation 5(2) of the 2019 Tariff Regulations, a notice has to be issued to the beneficiaries of the transmission licensee for invoking the COD of the asset at least one month prior. However, the Petitioner did not issue any such notice to the beneficiaries.
- v) Regulation 3(33) of the 2019 Tariff Regulations states that a statutory implementation agreement has to be executed in which liabilities are captured. Without such an agreement, no liabilities can be imposed on the transmission licensee.
- vi) The 2020 Sharing Regulations state that a transmission licensee would bear the transmission charges in case it causes a delay. However, the Ministry of Power (MoP) in its order dated 15.1.2021 has stated that a transmission licensee should not be penalized in case of delay due to *force majeure* as there are sufficient disincentives for the transmission licensee in the form of delay in revenue realization, increased finance cost, etc.

3. Learned counsel for the NTPC, Respondent No. 8, has submitted that when NKTCL executed its line on 19.10.2022, it synchronized its generation without any delay.



4. Learned counsel for Respondent No. 1, BSPHCL, made detailed submissions from the reply filed on behalf of BSPHCL. She submitted that the beneficiaries of the line should not be made liable to pay transmission charges for the line until it is operational. To claim COD of an asset under Regulation 5(2) of the 2019 Tariff Regulations, the Petitioner must give prior notice of at least one month to the beneficiaries. However, no such notice has been given by the Petitioner to the beneficiaries.
5. After the hearing, the Commission directed the parties to file their Written Submissions by 9.1.2024, with a copy to the other parties. The Commission further directed the parties to adhere to the above timeline and observed that no extension of time will be granted.
6. Subject to the above, the Commission reserved the order in the matter.

By order of the Commission

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(V. Sreenivas)
Joint Chief (Law)

