

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

1. **Shri Ashok Basu, Chairman**
2. **Shri K.N. Sinha, Member**
3. **Shri Bhanu Bhushan, Member**

Review Petition No. 58/2004

In the matter of

Review petition against the Commission's order dated 27.4.2004 in Petition No. 93/2003 regarding application for grant of transmission licence to Bina-Dehgam Transmission Co. Ltd. for 400 kV D/C Bina-Nagda-Dehgam Transmission Line in the states of Madhya Pradesh, Rajasthan and Gujarat.

And in the matter of

Power Grid Corporation of India Ltd.

.... **Petitioner**

The following were present:

1. Shri T.S.P.Rao, GM, PGCIL
2. Shri Ashwani Jain, AGM, PGCIL
3. Shri Akhil Kumar, DGM, PGCIL
4. Shri P. Pentayya, DGM, PGCIL
5. Shri R.P. Padhi, PGCIL
6. Shri N.R. Gupta, PGCIL

**ORDER
(DATE OF HEARING: 20.7.2004)**

An application under sub-section (1) of Section 15 of the Electricity Act, 2003 (the Act) for grant of transmission licence for implementation of 400 kV D/C Bina-Nagda-Dehgam transmission lines was made by the Consortium of Tenaga Nasional Berhad, Malaysia and Kalpataru Power Transmission Ltd., India (the Consortium). The application was registered as Petition No.93/2003. In the application the estimated completion cost of the transmission lines was stated to be Rs.675.87 crore. The present petitioner in its capacity as the Central

Transmission Utility (CTU) was involved with the process of consideration of request of the Consortium for grant of transmission licence, in view of the provisions of sub-sections (3) and (4) of Section 15 of the Act. In the proceedings before the Commission for grant of licence, it was stated on behalf of the present petitioner that the completion cost of the transmission line should be around Rs.617 crore and that the present petitioner could undertake the transmission lines through its own resources. During the course of further proceedings, the Consortium indicated the estimated completion cost of the transmission lines to be Rs.657 crore. However, in the affidavit filed on behalf of the CTU (the present petitioner is notified as the CTU), the estimated completion cost of the transmission lines was stated to be Rs.557 crore, which according to the CTU should be the benchmark price for execution of the transmission lines. The Consortium in the affidavit had indicated the levelised tariff of Rs.99 crore per year for 30 years. In contrast, the CTU indicated the estimated levelised tariff of about Rs.73 crore per year. On consideration of the material available on record, including the estimated completion cost and the levelised tariff indicated by the Consortium and the CTU, the Commission in its order of 27.4.2004 turned down the application made by the Consortium for grant of transmission licence, since the proposals of the Consortium in support of the prayer for grant of transmission licence were not considered to be in the interest of the consumer. While disposing of the application made by the Consortium, the Commission in para 27 of the order observed that the present petitioner, who was now required/prepared to construct the transmission lines, shall make every endeavour to execute the transmission lines within the benchmark price of Rs.557 crore and in any case, the total cost should not exceed Rs.617 crore.

2. The petitioner, in the present application for review seeks omission of para 27 of the order dated 27.4.2004. It is stated that the basis for determination of tariff of the transmission lines to be constructed by the present petitioner, as contained in the terms and conditions notified by the Commission has to be the actual expenditure incurred on completion of the project. It is urged that since the terms and conditions for determination of tariff do not provide for limiting the cost of construction, the directions of the Commission as contained in para 27 of the order dated 27.4.2004 are contrary to the terms and conditions. Accordingly, the petitioner seeks review and consequently omission of para 27.

3. The review petition was listed for admission. We have heard Shri T.S.P. Rao and Shri Ashwani Jain for the petitioner.

4. The application for grant of transmission licence made by the Consortium was rejected on the representation made by the present petitioner regarding the estimated completion cost and the levelised tariff. The estimated completion cost of the transmission lines was stated to be around Rs.557 crore though in the initial stage the present petitioner indicated the estimated completion cost of Rs.617 crore. The petitioner also gave the indication of the levelised tariff of Rs.73 crore per year for 30 years. The present petitioner found the details of the estimated completion cost and levelised tariff given by the Consortium to be unreasonable. It is in the interest of justice and fair play that the present petitioner who is now constructing the transmission lines, is not permitted to back out from the representations made before the Commission and is estopped from stating anything to the contrary at this stage or at any later stage.

5. It is true that while determining tariff under the terms and conditions notified by the Commission, the completion cost of the transmission system, is to be considered. However, in such cases also, the Commission has the power and jurisdiction to consider the reasonableness of the cost and it is categorically stated in these terms and conditions that the capital cost claimed shall be subject to prudence check by the Commission. In the past, the Commission has applied the prudence check before allowing for tariff based on the completed cost. Therefore, even under the terms and conditions notified by the Commission, the utilities are not given the blanket authority to incur any cost on completion of the project and the Commission is not precluded from limiting the project cost for determination of tariff.

6. The upshot of the above discussion is that the present petitioner's prayer for omission of para 27 of the order dated 27.4.2004 deserves rejection at the threshold.

7. Accordingly, the review petition is dismissed at admission stage itself.

Sd/-
(BHANU BHUSHAN)
MEMBER

Sd/-
(K.N. SINHA)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRMAN

New Delhi dated the 26th July 2004