

CENTRAL ELECTRICITY REGULATORY COMMISSION

Record of Proceedings

PETITIONS No. 83/2010, 91/2010, 92/2010, 94/2010, 95/2010 and 100/2010

Petition No. 83/2010

Sub: Approval of NLDC Charges (POSOCO Portion) under CERC (Fees and Charges of Regional Load Despatch Centre and Other related matters) Regulations, 2009 for control period 1.4.2009 to 31.3.2014.

Petition No. 91/2010

Sub: Petition for approval of CERC (Fees and charges of Regional Load Despatch Centre and other related matters) Regulations, 2009 for NRLDC Charges (POSOCO Portion) for the control period 1.4.2009 to 31.3.2014.

Petition No. 92/2010

Sub: Petition for approval of WRLDC Charges (POSOCO Portion) under CERC (Fees and Charges of Regional Load Despatch Centre and other related matters) Regulations 2009 for control period 1.4.2009 to 31.3.2014.

Petition No. 94/2010

Sub: Petition for approval of CERC (Fees and charges of Regional Load Despatch Centre and other related matters) Regulations, 2009 for SRLDC Charges (POSOCO Portion) for the control period 1.4.2009 to 31.3.2014.

Petition No. 95/2010

Sub: Petition for approval of CERC (Fees and charges of Regional Load Despatch Centre and other related matters) Regulations, 2009 for ERLDC Charges (POSOCO Portion) for the control period 1.4.2009 to 31.3.2014.

Petition No. 100/2010

Sub: Petition for approval of CERC (Fees and charges of Regional Load Despatch Centre and other related matters) Regulations, 2009 for NERLDC Charges (POSOCO Portion) for the control period 1.4.2009 to 31.3.2014.

Date of hearing : 29.7.2010

Coram : Dr. Pramod Deo, Chairperson
Shri S.Jayaraman, Member
Shri V.S.Verma, Member
Shri M.Deena Dayalan, Member

Petitioner : Power Grid Corporation of India Ltd., Gurgaon.

Respondents : Uttar Pradesh Power Corporation Ltd., and 108
Others

Parties present :

Shri S.K.Soonee, CEO, POSOCO
Shri U.K.Tyagi, PGCIL
Shri N.S.Sodha, PGCIL
Shri Sunil Kumar, PGCIL
Shri M.M.Mondal, PGCIL
Shri Prashant Sharma, PGCIL
Shri R.K.Gupta, PGCIL
Shri Mahesh Kumar, PGCIL
Shri S.S.Raju, PGCIL
Shri V.V.Sharma, NLDC
Shri Debasis DE. NRLDC
Shri V.K.Agarwal, NRLDC
Shri D.P.Thakur, NRLDC
Shri V.Suresh, SRLDC
Shri P.R.Raghuram, SRLDC
Shri Devandra Kumar, ERLDC
Shri P.Pantayay, ERLDC
Shri M.G.Root, ERLDC
Shri S.R.Narasimhan, WRLDC
Shri T.S.Sinha, NERLDC
Shri M.L.Jadav, NPCIL
Shri P.K.Panchal, HPPC
Shri V.K.Padha, NTPC
Shri S.K.Meena, NHPC
Shri S.M.Siddiqui, THDC
Shri R.B.Sharma, Advocate, BSEB
Shri S.N.Singh, UPPCL

These petitions have been filed by Power System Operation Corporation Ltd. (POSOCO) under section 28(4) of the Electricity Act, 2003 read with regulation 4 of the Central Electricity Regulatory Commission (Fee and charges of Regional Load Despatch Centre and other related matters) regulations, 2009 (hereinafter referred to as "RLDC fee and charges regulations") in respect of National Load Despatch Centre and five Regional Load Despatch Centres for the period 1.4.2009 to 31.3.2014

2. Shri S.K. Sonee, CEO, POSOCO, representing NLDC and RLDCs submitted that during the past one year, there has been a paradigm shift in the functioning of the NLDC and RLDCs which have been assigned new and additional responsibilities relating to transmission charges sharing and losses, market operations, integration of renewables, development of ancillary services, implementation of the provisions of the grid code, congestion management, connectivity both medium term and long term, and funds administration. He submitted that POSOCO has got the functional autonomy and requires the financial autonomy in the form of capital expenditure and manpower to discharge its statutory responsibilities and the assignments entrusted to the organization.

3. He submitted that the POSOCO is going through the period of transition which involved assets enumeration, segregation and their

valuation which is taking time. However, POSOCO requires the tariff in the form of fees and charges for the entire control period so that it has sufficient funds in the development funds to organize its affairs. Moreover, all open access charges in terms of registration fees amounting to Rs.25 crore have already been transferred to development funds with effect from 1.4.2009. He further submitted that there is some confusion about the term 'users' i.e. whether it should be generating company or generating station. He submitted that since RLDCs are providing scheduling services to the generating stations and the load despatch is taking place station wise, the users should mean the generating stations only and not the generating company. He further submitted that for the first time, regulations have recognized HR expenses a separate head and not a part of the capital expenditure and requested that HR expenses as per the regulation may be allowed.

4. Regarding the date of operation of POSOCO, the Commission clarified that NLDC and RLDCs were in continuous operation and POSOCO came into existence from a particular date and therefore, irrespective of the date of transfer of assets, it would be entitled to fees and charges from the date when it came into existence.

5. The representative of NTPC submitted that the notices have been issued to all individual stations, but NTPC as a legal entity is representing all generating stations. He submitted that as per the definition of the term 'users' in the RLDC fees and charges regulations, NTPC has registered its generating stations region-wise with the concerned RLDC. He submitted that if the Commission decides that the term 'users' should refer to the generating station, the same may be suitably clarified in the order so that they are able to recover the same from the beneficiaries.

6. The representative of Nuclear Power Corporation of India Ltd. (NPCIL) submitted that the petitioners have served notices on the generating stations under its control for payment of registration charges. He submitted that the term 'users' in the Act and the regulations referred to the generating company and as such NPCIL should be registered only with the RLDC. He submitted that NPCIL would be required to go before the Atomic Energy Commission for revision of tariff in respect of power stations under its control and, therefore, the Commission should clarify on this issue.

7. Learned counsel for BSEB appearing in the Petition No. 95/2010 submitted that capital expenditure of Rs. 25.92 crores claimed by Eastern Regional Load Despatch Centre (ERLDC) included Rs.10.54 crore on

SCADA. He submitted that there should be no duplication of the items of work completed under ULDC scheme in the Eastern Region and the capital expenditure claimed in the petition. He further submitted that the beneficiaries need to be assured by the petitioners that the new generation and transmission capacity should be taken care of by the present capital expenditure. The learned counsel further submitted that ERLDC has claimed a tax rate of 33.99% whereas being a 100% subsidiary of PGCIL it must be availing tax holiday under section 80(i)(a) of the Income tax Act, 1961 and paying the tax at MAT rate. He submitted the matter should be examined from the point of tax holiday and MAT. The learned counsel also submitted that the Human Resources expenses need to be normalized by excluding abnormal HR expenses to arrive at the normalized figures for 2008-09 as per the RLDC fee and charges regulations.

8. In response, the representative from the ERLDC submitted that existing SCADA is being replaced in the last year of the tariff period and the first year of the next tariff period and accordingly part of the cost has been claimed. This is as per the norms which require replacement of the software and hardware after three and six years respectively. He further clarified that tax at MAT rate is not applicable to POSOCO and accordingly ROE has been calculated at corporate tax rate. As regards

the HR expenses of 38%, he submitted that ERLDC has taken into account the number of employees required for the next five years.

9. The Commission has directed the petitioners to file the following information/clarification on affidavit latest by 31.8.2010, with advance copy to the respondents:

- (a) Position of capital cost, cumulative Depreciation, Depreciation, debt-equity as on the actual date of transfer;
- (b) Documents in support of the claim of rate of tax for the purpose of grossing up of the return on equity;
- (c) Documents in support of claim of back to back arrangement made for repayment of principal and interest on apportioned loans by PGCIL;
- (d) Details in regard to values of assets not in use;
- (e) Details of tax benefit available under Section 80IA, if any;
- (f) Reconciliation of debt and equity in Form 4D with Form 5B in Petition NO. 83/2010; and
- (g) Reconciliation of total capita cost as per C.A. certificate with Form-3 in Petition No. 94/2010.

10. Subject to the above, orders in these petitions were reserved.

Sd/-
(T.Rout)
Joint Chief (Law)