

CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Record of Proceedings

Petition No. 133/MP/2012

Subject: Petition under Section 79(1)(f), of the Electricity Act, 2003 in relation to a dispute arising between Power Transmission Corporation of Uttarakhand Ltd. and National Thermal Power Corporation in relation to open access to the Uttarakhand Integrated Transmission Project (UITP) for evacuating and transmitting power from their Tapovan Vishnugad and Lata Tapovan hydro projects to the Powergrid sub-station at Kashipur for onward supply to other states.

And

Appropriate declaration under section 79(1)(c) of the Electricity Act, 2003 read with Regulations 2(1)(k), 20 & 21 of the CERC (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010 for declaring the UTIP being developed by the petitioner as deemed inter-state transmission system for the purpose of such Regulations.

Date of hearing: 21.6.2012

Coram: Dr. Pramod Deo, Chairperson
Shri S. Jayaraman, Member
Shri M. Deena Dayalan, Member
Shri V.S. Verma, Member
Shri A.S. Bakshi, Member (Ex-officio)

Petitioners: Power Transmission Corporation of Uttarakhand Ltd. (PTCUL)

Respondents: NTPC
Central Electricity Authority

Parties Present: Shri Sitesh Mukherjee, Advocate, PTCUL
Shri A. G Aggarwal, PTCUL
Shri Vikash Sharma, PTCUL
Shri Santosh Vashish, PTCUL
Shri Puneet Chitkara, PTCUL
Shri Sakya Singh Chaudhri, PTCUL
Ms. Mandakini Ghosh, PTCUL
Shri Anand Srivastava, PTCUL
Shri C.K Mondal, NTPC
Shri Ajay Dua, NTPC
Ms. Shilpa Aggarwal, NTPC

The learned counsel for the petitioner, Power Transmission Corporation of Uttarakhand Limited (PTCUL) made the following submissions:-

- (a) The Government of Uttarakhand (GoU) signed a Memorandum of Undertakings (MoUs) with various central sector generating companies and Independent Power Procedures (IPPs) for development of hydro generation projects in the State. Government of Uttarakhand entered into implementation agreement with NTPC for development of Tapovan Vishnugad Hydro Electric Project and Lata Tapovan Hydro Electric Project on build, own, operate and maintain basis.
- (b) The Uttarakhand Integrated Transmission Project (UITP) was conceived to develop an optimal evacuation system for evacuating power from the cluster of hydroelectric generating stations in the four river basins of the State to the common pooling points from which power will be evacuated by PGCIL.
- (c) It was decided in the TCC and NRPC meetings held on 9th and 10th, November, 2006 and CEA's letter dated 9.1.2007 that the arrangement for recovery of transmission charges of UITP should be made between the petitioner and the respective generating companies. Accordingly, the petitioner sent the draft Transmission Service Agreement (TSA) to the NTPC. On 3.12.2012 NTPC responded by stating that since the beneficiaries of the Hydro Generation Stations being developed by it have been identified, the petitioner should directly sign the TSA with the beneficiaries. The generators other than NTPC have signed or agreed to sign the TSA whereas NTPC has been insisting on the petitioner to approach the beneficiaries of the Hydro Generating Plants to sign the TSA with them. As a result, it has become difficult to achieve the final closure of the transmission project.
- (d) Non-signing of the TSA by NTPC has given rise to dispute between the petitioner and respondent No. 1 in relation to inter-State supply of electricity and is therefore amiable to the jurisdiction of the Commission under Section 79 (1) (f) of the Act.

2. Learned Counsel for the petitioner referred to the minutes of the meeting held on 10.4.2012 regarding evacuation of power from Alakananda basin of Uttarakhand and submitted that there was a consensus in the said meeting that development of composite system for the cluster of HEPs on a river basin by a single agency, namely, PTCUL shall optimize the investment in terms of economy of scale, operational efficiency, lesser redundancy, need of lesser corridor and lesser effort in obtaining forest clearance. There was also consensus that assets to be developed by PTCUL in Alaknanda basin by their intrinsic nature deserve to get up-front "Deemed ISTS" status. However, as per the Sharing Regulations of the Commission, NRPC has to conduct load flow studies before certifying ISTS which can take place six months before the commercial operation of the transmission lines and the results of the load flow studies are to be validated by NLDC. It was decided in the said meeting that the difficulty may be got removed by praying to the Central Commission to accord upfront 'Deemed ISTS' status to PTCUL by invoking the "Power to Remove Difficulty" under Sharing Regulations.

3. The learned counsel further submitted that the transmission system being developed by the petitioner is meant for evacuation of powers from various hydro

generating projects upto the common pooling points of PGCIL and, therefore, it is incidental to the inter-State transmission system in accordance with the Section 2 (36) (ii) of the Act.

4. Learned Counsel further submitted that Regulation 13 of the Sharing Regulations deals with commercial agreements between the Designating ISTS Customers and the CTU/Transmission Licensees. Regulation 13 (4) provides that final version of the model Transmission Service Agreement as approved by the Commission shall be used as the base Transmission Service Agreement by all ISTS licensees and under Regulation 13 (5), the notified Model Transmission Service Agreement shall be the default transmission agreement and shall mandatorily apply to the Designated ISTS Customers. Under Regulation 13 (7), signing of the TSA shall not be a pre-condition for construction of new network elements by CTU and transmission licensees, provided that such network is undertaken after the due approval of Commission. Learned Counsel submitted that in the light of the aforementioned provisions of the Sharing Regulations, the Commission may consider to declare the transmission line as "deemed ISTS" line and the petitioner as deemed Transmission Licensee.

5. In response to the query of the Commission as to whether there is any problem in getting the agreement signed by the beneficiaries of the generating stations of NTPC and whether any efforts have been made in this regard, learned counsel for the petitioner referred to the Implementation Agreement dated 21.11.2005 between NTPC Hydro Limited and Govt. of Uttarakhand and submitted that in terms of the said agreement, NTPC is under obligations to sign the TSA with the petitioner.

6. The representative of NTPC submitted that copy of the petition has not been served on NTPC. The Commission directed the petitioner to serve a copy of the petition on NTPC if not already done. The Commission further directed NTPC to submit the list of beneficiaries of the generating stations developed by them for which the petitioner is required to build the transmission lines.

7. The Commission directed the petitioner to implead the beneficiaries of the generating stations being developed by NTPC and the Central Transmission Utility and serve copy of the petition on them by 31.7.2012. The respondent may file their replies by 15.8.2012. Matter shall be listed for hearing on 30.8.2012.

By Order of the Commission

**sd/-
(T. Rout)
Joint Chief (Law)**