

CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Petition No. 1/TT/2011

Subject : Approval of transmission tariff for (i) LILO of 220 kV Tanakpur-Bareilly Transmission Line (Ckt.-II) at Sitarganj alongwith associated bays; and (ii) 220/132 kV ICT-I at Sitarganj alongwith associated bays under System Strengthening Scheme in Uttaranchal in Northern Region for tariff block 2004-09- Remand from Appellate Tribunal for Electricity

Date of Hearing : 20.3.2014

Coram : Shri Gireesh B. Pradhan, Chairperson
Shri M. Deena Dayalan, Member
Shri A.K. Singhal, Member

Petitioner : PGCIL

Respondents: : Rajasthan Rajya Vidyut Prasaran Nigam Ltd. and 16 others

Parties present : Shri M.G. Ramachandra, Advocate, PGCIL
Ms. Anushree Bardhan, Advocate, PGCIL
Shri S.S. Raju, PGCIL,
Ms. Sangeeta Edwards, PGCIL
Ms. Seema Gupta, PGCIL
Shri U.K. Tyagi, PGCIL
Shri M.M. Mondal, PGCIL
Shri R.B.Sharma, Advocate, BRPL
Shri Padamjit Singh, PSPCL
Shri T.P.S. Bawa, PSPCL

Record of Proceedings

The learned counsel for the petitioner submitted as under:-

- a) The investment approval was accorded on 13.7.2004 for completion of the project within 24 months from the date of first Letter of Award. Letter of Award



was given on 30.3.2005, for the manufacture and supply of ICT and its installation. Thus the scheduled date of commissioning of the project is 1.4.2007.

- b) During the period from March 2007 onwards, the work in the switchyard area could not be carried out on account of court's stay orders till 21.4.2008. Immediately after vacation of the stay order, M/S Transformers and Rectifiers was asked to send the ICT to the site and the ICT was received at the site on 19.6.2008. Non-availability of CRGO steel and the consequent delay in the supply of ICT till June 2007 is covered by the decision of Hon'ble Appellate Tribunal for Electricity (hereinafter "the Tribunal") in other cases. The installation of ICT after its receipt in June 2008 was also affected by incessant rains during May to September, 2008. In view of the above, the actual work period available to complete was between June 2008 and 20.12.2008, i.e. about 6 months time and another 2 months' time for CEA to undertake the inspection for approval for charging. The erection of ICT involves activities like oil filtration, oil filling and erection of assemblies which are avoided in rainy season. Thus, the delay in the commissioning of ICT was due to reasons beyond the control of PGCIL;
- c) The Commission in its order dated 4.10.2011, in the instant petition, condoned the delay of four months from the date of permission by the Hon'ble High Court of Uttarakhand. The delay of six months beyond August 2008, i.e. from September 2008 to February 2009 was not condoned and accordingly, IDC and IEDC for this period of six months was disallowed. Aggrieved by the order PGCIL filed an appeal before the Tribunal. In its decision dated 24.9.2013 in Appeal No. 43 of 2012, the Tribunal directed the Commission to examine the reasons for the delay in the commissioning of the ICT afresh, considering all the relevant particulars furnished by parties and decide the matter by passing reasoned order uninfluenced by its earlier findings and the observations made by the Tribunal.

2. The representative of PSPCL, Respondent No. 6 in main petition, submitted that reply would be filed within one week. He submitted that there is price variation in case of Auto Transformer Package at Sitarganj sub-station and wanted to know from PGCIL whether it is contract with price variation. He further requested PGCIL to submit reasons for increase in cost of switchgear and other establishments as shown in Form 5 B and also details as to how the Control Room and Office Building cost has been apportioned to all the assets.

3. The representative of BRPL, Respondent No. 12 in the main petition, submitted as under:-

- a) Since the Tribunal has remanded the matter to the Commission for deciding the issue of time over-run, the issue has to be examined afresh. PGCIL in its



- affidavit dated 13.4.2011 has submitted that no work could be done from July to September, 2006 due to heavy rains in Sitarganj. It is submitted that heavy rains during this period are normal and PGCIL has not given any reasons as to why the ground level of switchyard was not raised;
- b) The supplier of ICT has accepted the delivery schedule of PGCIL, knowing fully the paucity of CRGO core laminations. PGCIL appears to be saving its own acts of omission and commission by pleading the case of the transformer supplier;
 - c) On the issue stay granted by the District Court at Khatima, it is evident from the petition that PGCIL has constructed the boundary wall covering a chunk of land without acquiring it. The consequent delay in dealing with this act of occupation of 0.244 hectare land in a court case thus squarely lies with the petitioner;
 - d) As regards the objections raised by Irrigation Department, Government of Uttar Pradesh, no effort was made by PGCIL at senior level. In instant case, the entire correspondence was done at the lowest level and there is also no document to show if any meeting was ever held on the issue;
 - e) PGCIL completed its work and the project was ready for inspection by Electricity Inspector on 17.2.2009. PGCIL letter dated 27.11.2009 for inspection was in the nature of advance information to complete the statutory requirements of depositing inspection fee etc. PGCIL has not claimed any time over-run on this account in its affidavits dated 13.4.2011 and 24.6.2011, and this delay of two months on this account is being claimed for the first time;
 - f) In view of facts stated herein, IDC and IEDC should not be allowed.

4. In reply to the query of the Commission as to when and at what stage PGCIL approached Hon'ble High Court of Uttarakhand for vacation of stay, and also whether the contract with M/S Transformers and Rectifiers was a fixed cost contract, the learned counsel for the petitioner submitted that it will place all these facts on an affidavit. In reply to another query of the Commission regarding liquidated damages, he submitted that the petitioner cannot recover the same because non-availability of CRGO steel was on account of force majeure. He further submitted that the petitioner is not at fault as the



land on which it started construction was demarcated land provided by the State government. The Commission directed the petitioner to submit the following, on affidavit, with copy to the respondents:-

- (i) Whether the contract for ICT was a fixed price contract or price variation was provided for;
- (ii) Documentary proof that the disputed land of 0.244 hectare was part of the demarcated land provided by the state government of Uttarkhand, and also when and at what stage the petitioner approached Hon'ble High Court of Uttarakhand for vacation of stay.

5. Subject to the above, the order in the petition was reserved.

By order of the Commission

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

