

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

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

DATE OF HEARING: 13.11.2014

Petition No. 120/MP/2014

Sub: Petition under Section 79 (1) (c) and (k) of the Electricity Act, 2003 read with Regulation 54 “Power to Relax” and Regulation 55 “Power to Remove Difficulty” of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 and Regulation 24 read with Regulation 111 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, seeking direction relating to construction of Mysore (Powergrid)- Kozhikode (Powergrid) 400 kV D/C line along with 400/220 kV Kozhikode sub-station and extension of Mysore sub-station under transmission system associated with Kaiga- 3&4 (2X235 MW) project.

Petitioner : Power Grid Corporation of India Limited

Respondents : Karnataka Power Transmission Corporation Limited
and others

Petition No. 114/MP/2014

Sub: Petition under Section 79 (1) (c) of the Electricity Act, 2003 read with Regulation 54 “Power to Relax” and Regulation 55 “Power to Remove Difficulty” of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 and Regulation 24 read with Regulation 111 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and Section 67 (4) of the Electricity Act, 2003 to adjudicate the difference or dispute arisen with regard to the compensation, as detailed in the petition and seeking direction from this Hon’ble Commission relating to construction of 400/220 kV Yelahanka sub-station and LILO of Neelamangla-Hoody 400 kV S/C (Quad) line at 400/220 kV Yelahanka sub-station under System Strengthening in Southern Region-XIII and construction of Madhugiri-Yelahanka 400 kV D/C(Quad) line under System Strengthening in Southern Region-XIII.

Petitioner : Power Grid Corporation of India Limited
Respondents : Bangalore Electricity Supply Company Limited and others

Petition No. 83/MP/2014

Sub: Petition under Section 79 (1) (c) of the Electricity Act, 2003 read with Regulation 54 “ Power to Relax” and Regulation 55 “ Power to Remove Difficulty” of the Central Electricity Regulatory Commission (Terms and Conditions of tariff) Regulations, 2014 and Regulation 24 read with Regulation 111 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and section 67 (4) of the Electricity Act, 2003 to adjudicate the difference or dispute arisen with regard to the compensation, as detailed in the petition seeking direction from the Commission relating to construction of Edamon- Muvattapuzha (Cochin) 400 kV D/C line section of Thirunelveli- Muvattapuzha (Cochin) 400 kV D/C (Quad) transmission line.

Petitioner : Power Grid Corporation of India Limited
Respondent : Kerala State Electricity Board
Parties present : Shri Sanjay Sen, Senior Advocate, PGCIL
Shri Hemant Singh, Advocate, PGCIL
Shri Upendra Pande, PGCIL
Shri R.P. Padhi, PGCIL
Shri Amit Bhargave, PGCIL
Ms. Seema Gupta, PGCIL
Shri K. Venkatesan, PGCIL
Ms. Manju Gupta, PGCIL
Shri Amit Bhargava, PGCIL
Shri Y.K Sehgal, PGCIL
Shri M.M. Mondal, PGCIL
Shri S. Vallinayagam, Advocate, TANGEDCO
Shri Anand K Ganesan, Advocate, KPTCL
Shri Jogy Scarao, Advocate, KSEB
Shri Reegan S, Advocate, KSEB

Record of Proceedings

Learned senior counsel for the petitioner submitted that issues involved in these petitions are similar. He further submitted that in Petition No. 83/MP/2014, the Government of Kerala has enhanced the compensation through several Government orders. Aggrieved by the said orders, the petitioner filed WP (C) No. 22382 of 2013 before the Hon’ble High Court of Kerala. The Hon’ble High Court of Kerala vide its order

dated 28.5.2014 upheld the orders issued by Government of Kerala and directed the petitioner to pay compensation upto ₹ 225 crore. As a result, the cost of the project has gone up significantly, which will have an impact on tariff. The compensation amounts proposed by the Government of Kerala are *ultra vires* the provisions of the Electricity Act, 2003 and Telegraph Act. The Commission has the inherent powers to adjudicate the matter in accommodating unreasonable compensation.

2. Learned senior counsel for the petitioner submitted that in the present case, due to reasons beyond its control, the petitioner is unable to complete or commission the project. However, substantial amounts have been invested in the project. The delay in project would result in disallowance of ROE for the delayed period.

3. Learned senior counsel relied upon Regulation 4 (3) (ii) of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 and submitted that the Commission has power to allow recovery of tariff even in circumstances when the asset is not commissioned. Therefore, even when there is no revenue recognition, the COD is deemed to have been achieved and in principle it is recognized that even through there is no utilization of the assets, COD can be approved by the Commission. Learned senior counsel submitted that regulation do not contemplate the petitioner's situation and therefore, the petitioner is invoking the power of the Commission under Section 79 of the Act.

4. Learned counsel for KPTCL submitted that the petitioner cannot claim tariff for an asset which has not been put into use. He further submitted that 2014 Tariff Regulations do not provide for a situation where the tariff is applicable to the users of the transmission system before COD of the transmission asset. Section 79 of the Act cannot be invoked contrary to the Regulations which have been framed keeping in view the regulatory and legislative powers of the Commission. Therefore, the regulatory jurisdiction cannot be exercised *de horse* the provision of the Act.

5. Learned counsel for TANGEDCO submitted that such eventuality can be met by the petitioner through the Power System Development fund which has been raised by petitioner. He further submitted that the loss incurred due to delay and obstruction in executing the project is State specific and line passing through the State of Tamil Nadu has already been constructed. Therefore, the State of Tamil Nadu should not be liable to bear extra cost due to delay in executing the project. He further submitted that the charges for the transmission line cannot be included in the PoC as all DICs cannot be made to bear the charges for a State specific problem.

6. After hearing the learned senior counsel for the petitioner and learned counsel for the respondents, the Commission reserved order in the petitions.

By order of the Commission

**SD/-
(T. Rout)
Chief (Law)**