

CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Petition No. RP/15/2014

Subject : Review of Commission's order dated 22.2.2014 in Petition No. 184/TT/2011

Date of Hearing : 1.9.2014

Coram : Shri Gireesh B. Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member

Petitioner : NTPC Ltd.

Respondents : Power Grid Corporation of India Ltd. and 8 others

Parties present : Shri M.G. Ramachandran, Advocate, NTPC
Shri Atish Basu Roy, NTPC
Ms. Suparna Srivastava, Advocate, PGCIL
Shri Swapnil Verma, PGCIL
Shri P. Saraswat, PGCIL
Shri S.S. Raju, PGCIL
Shri Mohd. Mohsin, PGCIL
Shri Rakesh Prasad, PGCIL

Record of Proceedings

Learned counsel for review petitioner NTPC submitted as under:-

- (a) The Commission's order dated 22.2.2014 in Petition No. 184/TT/2011 proceeds on the assumption that NTPC is governed by Model Transmission Service Agreement (hereinafter "the Model TSA"). Para D of the Model TSA provides, "The development of an ISTS Scheme including any scheme which is under construction would continue to be governed in accordance with the Indemnification Agreement or Bulk Power Transmission Agreement or Transmission Service Agreement or any such Agreement, as entered into between the concerned ISTS Licensee and the



concerned DIC(s) (erstwhile beneficiary) to the extent relevant to the development, construction and commissioning of the elements referred therein till such time the said element is for commercial operation and actually brought into the operations, post which the terms and conditions of this TSA would come into force";

(b) As per the Indemnification Agreement (IA) dated 15.3.2002 between NTPC and PGCIL, NTPC agreed to pay in full IDC in respect of the associated transmission line for a maximum period of six months from the scheduled date of the commissioning, in case of delay in the commissioning of generation project. The IA further provided that zero date shall be worked out for each individual project and mutually agreed to in the Quarterly Director level Coordination meetings and such an agreement shall form part of IA;

(c) During the Director level Coordination meeting on 12.10.2011, "POWERGRID indicated that for the purpose of indemnification, agreed zero date shall be 1.7.2012. However, if NTPC requires ATS to be advanced to meet startup power requirement, POWERGRID may make efforts for the same, in which case NTPC shall bear the transmission charges from the date of commercial operation of the ATS till the commissioning of 1st generating unit and sign BPTA for the same". The minutes of this meeting were forwarded by NTPC to POWERGRID vide letter dated 24.11.2011. No comments have been received from POWERGRID on this minutes;

(d) NTPC is governed by this IA and not by Model TSA;

(e) Indian Contract Act does not require a formal Agreement. All it requires is a meeting of mind.

2. Learned counsel for POWERGRID submitted as under:-

(a) A specific annexure is required to be signed for the generic indemnification agreement to become applicable to any project. During Coordination meeting, a proposal is given by each party and it culminates into an Annexure where zero date is signed. Without this Annexure, the IA is not complete;

(b) IA would come into existence only if Annexure for the project is signed.



Else Model TSA would prevail. In the follow-up meeting after the said meeting on 12.10.2011, it is recorded that IA has been sent to NTPC for signing. There is no progress after that in this matter;

- (c) The order of the Commission dated 22.2.2014 in Petition No. 184/TT/2011 clearly recognizes this in para 51, "As per para 2.1.3 of Model Transmission Services Agreement approved by the Commission, ISGS who is not a signatory to a BPTA or TSA too shall enter into this agreement and bind itself to the terms of the agreement. Therefore, NTPC is governed by the Model Transmission Services Agreement. Accordingly, it is directed that NTPC shall bear the transmission charges for Asset I from 1.1.2013 till commissioning of Bongaigaon TPS in line with clause (6) of Regulation 8 of the Sharing Regulations";
- (d) In the absence of IA, NTPC is governed by Model TSA and hence there is no infirmity in the Commission's order dated 22.2.2014 in Petition No. 184/TT/2011.

3. The Commission directed POWERGRID to submit the minutes of the meeting subsequent to the said meeting on 12.10.2011, on affidavit, by 26.9.2014. In case the above information is not received by 26.9.2014, the Commission shall be at liberty to issue order without taking into consideration the submission made by it subsequently.

4. Subject to the above, order in this review petition is reserved.

By order of the Commission

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

