

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 224/TT/2012

alongwith

I.A. No.14/2014 & I.A. No.18/2014

Coram:-

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

**Date of Hearing: 26.08.2014
Date of Order : 01.04.2015**

In the matter of

Interlocutory Application No.14/2014 for splitting of tariff granted to Asset III, viz. Byrnihat-Bongaigaon 400 kV Twin Moose Palatana-Bongaigaon Transmission Line of North East Transmission Company Limited into (i) Byrnihat-Azara and (ii) Azara-Bongaigaon sections.

And in the matter of

Interlocutory Application No.18/2014 seeking directions for payment of tariff for both circuits for D.C Silchar-Byrnihat section Asset (II) of tariff for both circuits for D/C Silchar-Byrnihat section Asset (II) of 400 kV D/C twin Moose Palatana-Bongaigaon Transmission Line of North East Transmission Company Limited.

And in the matter of:

Petition for determination of transmission tariff from the anticipated date of commercial operation to 1.4.2014 for Asset-I: 400 kV D/C Palatana-Silchar Twin Moose Conductor Transmission Line-247 km, Asset-II: 400 kV D/C Silchar-Byrnihat Twin Moose Conductor Transmission Line-210 km and Asset-III: 400 kV D/C Byrnihat-Bongaigaon Twin Moose Conductor Transmission Line-204 km associated with Gas Based Combined Cycle Power Project (GBCCPP) of ONGC Tripura Power Company Limited.



And in the matter of:

North East Transmission Company Limited,
House No. 051358, Road No. 3,
P.O- Dhaleswar, Agartala,
West Tripura-799007

....Petitioner

vs

1. Tripura State Electricity Corporation Limited,
Bidyut Bhawan, North Banamaliupr,
Agartala-799001
2. Assam Electricity Grid Corporation Limited,
Bijulee Bhawan, Paltan Bazar, Guwahati-781001
3. Meghalaya State Electricity Board.
Lumjingshai, Short Round Road, Shilong-1
4. Department of Power, Government of Nagaland,
Kohima-797001
5. Power & Electricity Department, Government of Mizoram,
Aizwal-796001
6. Electricity Department, Government of Manipur,
Keishampat, Imphal-795001
7. Department of Power, Government of Arunachal Pradesh,
Itanagar-791111
8. ONGC Tripura Power company Limited,
ONGC Tripura Assets, Baarghat Complex,
Agartala, Tripura-799014.
9. North Eastern Regional Power Committee,
Nongrim Hills, Shillong- 793003

...Respondents

For petitioner : Shri M.G. Ramachandran, Advocate, NETCL
Shri Vishal Gupta, Advocate, NETCL
Shri Rajeev Mohan, NETCL
Shri Kumar Mihir, NETCL

For respondent : Shri S.S. Barapanda, NLDC
Shri H.M. Sharma, AEGCL



ORDER

Background of the Case

The petitioner, North East Transmission Company Ltd (NETCL), a joint venture company between Power Grid Corporation of India Limited (PGCIL), ONGC Tripura Power Company Ltd. (OTPCL) and the States of North-Eastern Region (Assam Electricity Grid Corporation Limited (AEGCL), Government of Tripura, Mizoram, Manipur and Meghalaya) is implementing 400 kV D/C Twin Moose Conductor Transmission Line from Palatana (in Tripura) to Bongaigaon (in Assam) associated with 726.6 MW (2X363.3 MW) Gas Based Combined Cycle Power Project (GBCCPP) of OPTCL at Tripura. The aforesaid transmission line is a trunk transmission line spread over 661 km (originally estimated as 650 km) traversing through the state of Tripura, Assam and Meghalaya for dispersal of power from OTPCL's generating station to North Eastern Region States.

2. The petitioner was granted licence on 16.6.2009 under Section 14 of the Electricity Act, 2003 in Petition No. 16/2009 for the following transmission lines:-

S. No.	Description	Length
1	400 kV D/C Palatana-Silchar D/C transmission line (twin moose)	250 km
2	400 kV Silchar-Bongaigaon D/C transmission line (twin moose)	400 km

3. Consequent to planning of major 400 kV Transmission system associated with Palatana and Bongaigaon Generation Projects, States of Assam and Meghalaya expressed their requirements for 400 kV sub-stations to facilitate a strong electrical



connectivity. Accordingly, in the 6th NERPC meeting held on 8.8.2008, it was approved that construction of Azara and Byrnihat Sub-stations would be undertaken by AEGCL and Meghalaya State Electricity Board (MeSEB) (now MeECL) respectively. In the 9th TCC and 9th NERPC meetings held on 11.8.2010 and 12.8.2010, it was further decided that AEGCL would carry out establishment of new 2X315 MVA, 400/220 kV sub-station at Azara by LILO of Silchar-Bongaigaon 400 kV D/C line and MeSEB (now MeECL) would establish Byrnihat Sub-station by LILO of one ckt of Silchar-Bongaigaon 400 kV D/C line.

4. The petitioner has filed the instant petition seeking transmission tariff for the following assets:

- (a) Asset-I: 400 kV D/C Palatana-Silchar Twin Moose Conductor Transmission Line-247 km;
- (b) Asset-II: 400 kV D/C Silchar-Byrnihat Twin Moose Conductor Transmission Line-210 km;
- (c) Asset-III: 400 kV D/C Byrnihat-Bongaigaon Twin Moose Conductor Transmission Line-204 km.

The petitioner had also prayed for grant of provisional tariff for the three assets under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (hereinafter referred to as “2009 Tariff Regulations”). The Commission allowed the provisional tariff for the said transmission assets vide order dated 26.9.2012.

Interlocutory Application (I.A.) No. 14/2014

5. The petitioner filed I.A. No. 14/2014 for splitting of Asset-III into two sections, viz. 400 kV D/C Byrnihat-Azara Twin Moose Conductor Line and 400 kV D/C Azara-Bongaigaon Twin Moose Conductor Line and for revision of the provisional tariff allowed for Asset-III taking into consideration the physical splitting of the said asset.

6. The petitioner has submitted that the Asset-III was anticipated to be commissioned on 1.4.2013. However, due to various reasons, the said asset could not be commissioned on 1.4.2013. However, a part of the said Asset-III, i.e. the Byrnihat- Azara sub-section was anticipated to be commissioned on 1.4.2014 and the Azara-Bongaigaon sub-section was anticipated to be commissioned on 1.7.2014. The petitioner submitted that apart from the approved system requirement, the splitting of asset is necessarily required for the purpose of payment of transmission tariff in view of the fact that the Byrnihat-Azara sub-section was expected to be commissioned in about 3 to 4 months before the commissioning of the Azara-Bongaigaon sub-section.

7. The petitioner has submitted that earlier both the sub-sections were envisaged to be completed simultaneously. However, on account of the following reasons, simultaneous commissioning of Azara-Bongaigaon D/C sub-section with Byrnihat-Azara D/C sub-section is not possible:

- a) Forest clearance (1st and 2nd stage) is pending for a stretch of 1.174 Km (2 tower locations) in Goalpara Division of Assam for which the proposal was submitted in August, 2012 and clarifications were submitted on 29.11.2012.

The Assam Forest Department has forwarded the case to Regional MoEF, Shillong on 11.9.2013. The Regional MoEF, Shillong has referred back the proposal to Assam Forest Department on 4.12.2013 seeking further clarifications. Clearance is still awaited. This stretch of forest was earlier declared by Assam Forest Department as non-forest area during the processing of original proposal but subsequently the stretch was indicated as forest area which required fresh forest clearance;

- b) Permission for cutting of about 44 nos. of trees after the 2nd stage forest clearance in Aievalley division in Assam is yet to be received. The 1st stage clearance was issued by MoEF to Assam Forest Department on 1.11.2013. An amount of ₹66,56,350/- was deposited with Assam Forest Department on 24.2.2014 for Compensatory Afforestation. Assam State Forest Department is yet to give compliance report to MoEF to issue the 2nd stage clearance. The final clearance for tree cutting will be given after submitting compliance report by Assam State Forest Department;
- c) In-spite of taking up the matter at higher levels of administration regarding frequent ROW issues, the resolution process has been very slow;
- d) Frequent court cases;
- e) Frequent deterioration of law and order situation in Assam. An employee of the construction contractor KEC International Ltd., Gurgaon (KEC) was reportedly kidnapped from project site in Goalpara District on 26.6.2013 and was released after two weeks. The event has been hampering the progress of

work due to fear and demoralization of labour and supervisory staff deployed in Assam. The situation was further aggravated due to agitation by BODOs and Rajvansh is in Assam; and

f) Prolonged monsoon and water logging in Assam.

8. The petitioner has submitted that Palatana-Silchar D/C Line and one circuit of Silchar-Byrnihat D/C Line were commissioned on 1.9.2012 and 1.3.2013 respectively. The Byrnihat-Azara Line and the Azara-Bongaigaon Line were anticipated to be commissioned on 1.4.2014 and 1.7.2014 respectively. The petitioner has submitted that as per the scheme of the Palatana-Bongaigaon 400 kV D/C transmission line associated with GBCCPP, one of the circuits of Silchar-Bongaigaon section was to be looped in and looped out at Bynihat 400 kV Sub-station of MeSEB (now MeECL) and both the circuits of the said transmission line were to be looped in and looped out at Azara 400 kV Sub-station of AEGCL. However, one of the circuits (ckt 1) of the 400 kV D/C transmission line has only been looped in at Bynihat 400 kV Sub-station of MeSEB (now MeECL). As the 400 kV Bay for the loop out circuit has not yet been completed by MeSEB due to land acquisition problems, the loop out connection of ckt 1 has not been established resulting in discontinuity in the circuit for its onward connection to Azara/Bongaigaon sub-sections. Further, AEGCL was anticipating completion of the loop in and loop out (LILO) of only one circuit (ckt 2) by March, 2014 in place of two circuits of Silchar-Bongaigaon 400 kV D/C line.

9. The petitioner has further submitted that though it would complete construction of 400 KV D/C lines between Byrnihat and Azara (ckt I and ckt 2) by end March, 2014, one of the circuits would still remain un-energised because (i) the loop out connection was not established at Byrnihat and (ii) loop in and loop out of second circuit was not established by AEGCL. The petitioner has further submitted that even though the petition was ready to commission the 400 kV D/C lines in its scope between Azara and Bongaigaon (ckt 1 and ckt 2) by end June, 2014, one of the circuits (ckt 1) would remain un-energised because loop out connection was not established at Byrnihat. The petitioner has further submitted that the design of the transmission line structure being double circuit, splitting of the asset into two individual circuits is not possible and the petitioner has to complete construction of the transmission lines in its scope entirely as 400 kV D/C lines. Therefore, the petitioner would have to incur the entire capital expenditure for the D/C line even though some sections of the circuits may remain un-energised due to reasons beyond its control.

10. AEGCL has filed its reply vide affidavit dated 1.8.2014. AEGCL has submitted that the licence was granted to the petitioner for two lines viz. 400 kV D/C Pallatana-Silchar transmission line (Twin Moose) and 400 kV D/C Silchar-Bongaigaon transmission line (Twin Moose). The petitioner is now seeking approval of splitting of the assets. This splitting of asset would amount to amendment of the license, which is permissible under Section 18 of the Electricity Act, 2003 ("Act"). The petitioner has not followed the procedure specified in Section 18 of the Act and hence the splitting of asset is not permissible and accordingly the present IA may be dismissed. AEGCL further



submitted that provisional tariff was approved vide order dated 26.9.2012 for three assets. However, only Asset I and Silchar-Byrnihat section of Asset II have been commissioned. Therefore, AEGCL has prayed for direction to the petitioner to split the 400 kV D/C Silchar-Bongaigaon transmission line only after following the procedure laid down in Section 18 of the Act.

I.A. No. 18/2014

11. In I.A. No. 18/2014, the petitioner has made submissions similar to the ones made in I.A. No.14/2014. Besides that, the petitioner has also submitted that it incurred capital expenditure for completion of the transmission line under its scope and hence it needs to be suitably compensated by way of tariff. The petitioner has prayed for tariff for both the circuits of 400 kV D/C Silchar-Byrnihat transmission line (Asset II) as per the provisional tariff order dated 26.9.2012 and for IDC for the 2nd circuit beyond the declared DOCO of 1.3.2013 till the actual date of commercial operation.

12. AEGCL, in its reply dated 4.8.2014, has reiterated the submissions regarding the requirement of amendment of the transmission licence issued vide order dated 16.6.2009 for splitting the assets as prayed by the petitioner. AEGCL has submitted that provisional tariff was granted to the petitioner vide order dated 26.9.2012. AEGCL has submitted that since the assets were not commissioned within six months of filing the petition, the provisional tariff granted for the assets should be withdrawn. AEGCL has submitted that the tariff for Asset-II should be allowed only after the petitioner files a revised petition as per the law. AEGCL has also submitted that the time over-run is

attributable to the petitioner and hence IDC should not be granted for the period of time over-run.

13. The petitioner has filed a combined rejoinder to the replies of AEGCL in I.A. Nos. 14/2014 and 18/2014, vide affidavit dated 25.8.2014. The petitioner has clarified that delay in completion of the transmission lines is attributable to AEGCL and MeSEB (now MeECL) and the delay in getting the forest clearance. Therefore, the petitioner is entitled to tariff for the assets or in the alternative to IDC from the date of SCOD till the commercial operation of the assets. The petitioner has further submitted that there is no decrease or increase in the scope of work and hence, there is no requirement for amendment of the transmission licence issued to it.

14. POSOCO, vide affidavit dated 24.6.2014, has submitted that the original configuration was 400 kV D/C Silchar-Bongaigaon transmission line. However after approval in NERPC forum, 1st circuit was to be LILoed at Byrnihat (Meghalaya) and 2nd circuit at Azara (Assam). Hence, the configuration would now be Silchar-Byrnihat S/C, Byrnihat-Bongaigaon S/C, Silchar- Azara S/C and Azara- Bongaigaon S/C. Provisional tariff has already been approved for both circuits of Silchar-Byrnihat transmission line. As only one circuit of Silchar-Byrnihat transmission line was commissioned, the issue was discussed in the Validation Committee meeting and the 2nd circuit was removed from the computation of PoC charges. POSOCO has suggested that while determining the transmission charges, the 400 kV D/C Silchar-Bongaigaon transmission line may be segregated into four lines viz. Silchar-Byrnihat S/C, Byrnihat-Bongaigaon S/C, Silchar-

Azara S/C and Azara- Bongaigaon S/C. POSOCO has also submitted that these lines would be considered for computation of PoC charges as and when the lines are commissioned progressively.

15. During the hearing on 26.8.2014, the learned counsel for the petitioner submitted that it has looped-in one circuit at Byrnihat but could not loop out the said circuit since the loop out arrangement was not ready. He further submitted that the petitioner constructed the 2nd circuit but could not charge due to non-readiness of Azara Substation. This second circuit has been test charged on 23.6.2014 and has been put into regular service with effect from 28.6.2014. The representative of AEGCL submitted that since Asset-III has been commissioned during 2014-19 period, the petitioner should file a revised petition under the 2014 Tariff Regulations. He submitted that splitting of asset is arbitrary on the part of the petitioner and the interim application seeking splitting of asset should not be allowed by the Commission. While reiterating the submissions made in reply dated 4.8.2014, he submitted that any change in the configuration of the assets can be allowed only if the licence issued under Section 14 of the Act is suitably amended as provided under Section 18 of the Act. As such, the petitioner should seek amendment of the transmission licence issued to it.

Analysis and Decision

16. The petitioner was granted licence for execution of 400 kV Palatana-Silchar transmission line and 400 kV D/C Silchar-Bongaigaon transmission line with total line length of 650 km. The 400 kV Palatana-Silchar transmission line has been commissioned. However, only sections of 400 kV D/C Silchar-Bongaigaon transmission

line have been commissioned. NETCL has prayed for splitting the 400 kV D/C Silchar-Bongaigaon transmission line into three assets and POSOCO has also recommended the splitting of the said asset into four sections. However, the recommendations of POSOCO for splitting the asset is different from the prayer made by NETCL and the details are given below:-

Assets as per licence	NETCL's prayer	POSOCO's recommendations	Date of commercial operation
Asset I: 400 kV D/C Palatana-Silchar transmission line	Asset I: 400 kV D/C Palatana-Silchar transmission line	Asset I: 400 kV D/C Palatana-Silchar transmission line	1.9.2012
Asset II: 400 kV D/C Silchar-Bongaigaon transmission line	400 kV D/C Silchar-Byrnihat transmission line	Asset II: 400 kV S/C Silchar-Byrnihat transmission line	1.3.2013
	400 kV D/C Byrnihat-Azara transmission line	Asset III: 400 kV S/C Silchar-Azara transmission line	27.7.2014
	400 kV D/C Azara-Bongaigaon transmission line	Asset IV: 400 kV S/C Byrnihat-Bongaigaon transmission line	Yet to be commissioned
		Asset V: 400 kV S/C Azara-Bongaigaon transmission line	Yet to be commissioned

POSOCO has submitted that after splitting of the 400 kV D/C Silchar-Bongaigaon transmission line into four assets, these assets should be considered as segregated assets for the purpose of computation of PoC charges after they are commissioned.

17. The basic contention of AEGCL is that the petitioner's prayer for splitting of 400 kV D/C Silchar-Bongaigaon transmission line into three assets would amount to change of the terms and conditions of licence granted vide order dated 16.6.2009 in Petition

No.16/2009. Therefore, the petitioner is required to file a separate petition to amend the licence in accordance with Section 18 of the Act. It is noticed that the petitioner is entrusted with the responsibility of implementing the transmission line from Palatana to Bongaigaon and the petitioner has completed its portion of the line to a large extent. Certain portions of the line have not been completed due to delay in forest clearance and delay in completion of 400 kV Byrnihat Sub-station and 400 kV Azara Sub-station by MeSEB (now MeECL) and AEGCL respectively. The splitting of the 400 kV D/C Silchar-Bongaigaon transmission line by the petitioner was necessitated due to the delay in obtaining forest clearance and non-completion of the sub-stations within the scope of MeSEB (now MeECL) and AEGCL in time. We are in agreement with the POSOCO's recommendation for splitting the 400 kV D/C Silchar-Bongaigaon transmission line into four lines, namely Silchar-Byrnihat S/C line, Byrnihat-Bongaigaon S/C line, Silchar-Azara S/C line and Azara-Bongaigaon S/C line. As per the petitioner's submission, the line length has increased from 650 km to 661 km. Thus, there is a marginal increase of 11 km. There is only splitting of Asset II into four lines without any change of the routes. Moreover, these splitting have been carried out after due deliberation in the NERPC forum. In our view, there is no change in the scope of work which would necessitate amendment of the transmission licence by following the provisions of section 18 of the Act as suggested by AEGCL. We direct the petitioner to provide the detailed configurations of the split assets alongwith the line length of each for making necessary entries in the transmission licence issued to the petitioner.



18. The Commission has already granted provisional tariff for Asset I. The provisional tariff was also granted for two circuits of 400 kV Silchar-Byrnihat Twin Moose Conductor line. However, on account of non-commissioning of the second circuit of Silchar-Byrnihat line, the second circuit was removed from PoC charges. The petitioner has prayed for grant of modified provisional tariff after taking into account the split assets of Byrnihat-Azara and Azara-Bongaigaon. We find that the two assets namely, 400 kV D/C Palatana-Silchar transmission line and 400 kV S/C Silchar-Byrnihat transmission line have been commissioned during the tariff period 2009-14. Out of the remaining three assets, 400 kV S/C Silchar-Azara transmission line has been commissioned during 2014-19 tariff period and the other two assets are yet to be commissioned. Therefore, the assets are covered under two tariff periods. In respect of the assets commissioned during 2009-14 period, the petitioner has filed the claims on projection basis and has been granted provisional tariff. If the final tariff is granted now on the basis of projected information i.e. after the 2009-14 tariff period is over, the petitioner will be required to file true-up petition. This will prolong the process of determination of tariff of the assets. Similarly, in respect of the assets which have been commissioned or are likely to be commissioned during 2014-19 period, the petitioner should be required to file the petition in accordance with the 2014 Tariff Regulations. In our view, it would be appropriate, if the present petition is disposed of with directions to the petitioner to file separate petitions for the assets commissioned during 2009-14 and 2014-19 periods in accordance with the applicable tariff regulations.



19. In view of the above, we direct the petitioner to file fresh petitions in accordance with the applicable regulations in respect of the assets of the project within one month from the date of issue of this order. Till the tariff is determined in accordance with the petitions filed to be by the petitioner, the provisional tariff granted vide order dated 26.9.2012 shall continue to be applicable in order to protect the commercial interests of the petitioner.

20. The Petition No. 224/TT/2012 alongwith IA Nos.14 and 18 of 2014 are disposed of in terms of the above.

sd/-

(A.S. Bakshi)
Member

sd/-

(A. K. Singhal)
Member

sd/-

(Gireesh B. Pradhan)
Chairperson

