

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 188/MP/2016**

- Subject : Petition under Section 79 (1) (b) read with Sections 79 (1) (c) and 79 (1) (b) and Section 60 of the Electricity Act, 2003, *inter alia*, seeking adjudication of disputes as regards the term of payment/compensation for operation and maintenance of the petitioner's 2 Nos. of 400 kV Line bays including 2 tie bays at 765/400 kV switchyard at Power Grid, Bharari, sub-station, Bilaspur, Chhattisgarh
- Date of hearing : 15.11.2016
- Coram : Shri Gireesh B. Pradhan, Chairperson  
Shri A.K. Singhal, Member  
Shri A.S. Bakshi, Member  
Dr. M.K. Iyer, Member
- Petitioner : Lanco Amarkantak Power Ltd.
- Respondents : 1. Power Grid Corporation of India Ltd.  
2. Western Regional Load Despatch Centre
- Parties present : Shri Gopal Jain, senior advocate, LAPL  
Shri Deepak Khurana, Advocate, LAPL  
Shri M.G. Ramachandran, Advocate, PGCIL  
Ms. Anushree Bandhan, Advocate, PGCIL  
Shri R.P. Padhi, Advocate, PGCIL  
Shri B.P. Kundu, Advocate, PGCIL  
Shri Shashi Bhusha, PGCIL  
Shri Abhishek Garg, PGCIL

**Record of Proceedings**

Learned senior counsel for the petitioner submitted that the present petition has been filed inter-alia for adjudication of disputes between the petitioner and PGCIL in relation to terms of payment/compensation to be paid by petitioner to PGCIL for carrying out Operation and Maintenance (O&M) of the petitioner's 2 Nos. of 400 kV line bays including 2 tie bays at 765/400 kV switchyard at Power Grid Bharari sub-station at Bilaspur in the State of Chhattisgarh. Learned senior counsel for the petitioner further submitted as under:

(a) The petitioner has set up a 2x300 MW coal based thermal power plant (generating station) in village Pathadi, Korba District in the State of Chhattisgarh. The petitioner is selling power generated from unit-1 to PTC for which long term PPA was executed between the petitioner and PTC on 16.5.2005. PTC is selling this power to Madhya Pradesh Discoms for which long term PSA was executed between PTC and Discoms.

(b) For supply of power from unit-2, the petitioner was required to construct 2 nos of 400 kV line bays at Western Region pooling point for connectivity of 400 kV D/C Pathadi Thermal Power Station-WR Pooling point. On 20.10.2009, the petitioner entered into an agreement with PGCIL which was amended on 8.3.2010. As per clause 2.1 (ix) of the agreement, O & M of the 2 nos of 400 kV bays at WR pooling station was required to be carried out by PGCIL on behalf of the petitioner in accordance with the provisions of the Central Electricity Regulatory Commission (Terms and Conditions of tariff) Regulations, 2014 (2014 Tariff Regulations).

(c) As per Regulation 3 (42) of the 2014 Tariff Regulations, 'O & M expenses' expenses means the expenditure incurred for O & M of the project, or part thereof, and includes the expenditure on manpower, repairs, maintenance spares, consumables, insurance and overheads but excludes fuel expenses and water charges.

(d) PGCIL is deviating from the 2014 Tariff Regulations and is seeking to charge more than what is stipulated in the said Regulations, which is impermissible and unjustified.

(e) Regulation 3(42) of the 2014 Tariff Regulations provides that the O & M expenses are inclusive of the cost of major spares, consumables and cost of insurance cover of the equipment at the bays.

(f) The petitioner vide its letter dated 18.11.2015 requested PGCIL to charge the O&M as per the 2014 Tariff Regulations. PGCIL, vide its email dated 6.6.2016 proposed revised O & M rates at Rs. 24.46 lakh per bay/annum for the financial year 2017 without including spares and overheads. However, PGCIL wrongly considered tie bays separately and demanded O & M charges for a total of 4 bays (2 main bays and 2 tie bays) instead of 2 bays. This stand of PGCIL is contrary to the provisions of 2014 Tariff Regulations in as much as the Regulations do not consider tie bays separately for the O & M expenses of main bays. PGCIL is deviating from the said Regulations by excluding the cost of the major spares and consumables as well as insurance cover for equipment's from the O &M charges.

(g) As per the MOU, the petitioner is required to pay PGCIL as per the provisions of 2014 Tariff Regulations. However, in case of any change in O & M norms in future, the revised cost for O & M of bays is required to be paid to PGCIL.

2. Learned senior counsel for the petitioner requested to pass an interim order directing the petitioner to pay the O & M expenses for the bays as per the provisions of the 2014 Tariff Regulations in a workable manner. In support of his argument, learned senior counsel relied upon the judgment of Hon'ble Supreme court in **Siliguri Municipality vs Amalendu Das and Others {(1984) 2 SCC 436}** wherein it was held that the main purpose of passing an interim order to is to evolve a workable formula or a workable arrangement to the extent called for by the demands of the situation keeping in mind the presumption regarding the constitutionality of the legislation and the vulnerability of the challenge, only in order that no irreparable injury is occasioned.

3. Learned counsel for PGCIL opposed the contention of learned senior counsel for the petitioner and submitted that the tie bays were not included in MOU. However, as per revised MOU, O & M expenses will be applicable for both main and tie bays @ Rs. 24.46 lakh. Learned counsel submitted the same norms are being made applicable in all cases where PGCIL is doing maintenance of the bays for the generators/distribution companies and no exception can be made in the case of the petitioner.

4. After hearing the learned senior counsel for the petitioner and counsel for PGCIL, the Commission admitted the petition and directed to issue notice to the respondents.

5. The Commission directed the petitioner to serve copy of the petition on the respondents immediately, if already not served. The respondents were directed to file their replies by 2.12.2016 with an advance copy to the petitioner, who may file its rejoinder, if any, on or before 19.12.2016. The Commission directed that due date of filing the replies and rejoinder should be strictly complied with. No extension shall be granted on that account.

6. The Commission directed that during the pendency of the petition, the petitioner to pay O & M expenses of the bays in accordance with provisions of the 2014 Tariff Regulations for the past period as well as future period. PGCIL was directed to carry out operation and maintenance of the bays of the petitioner in terms of 2014 Tariff Regulations.

7. The petition shall be listed for hearing on 10.1.2017.

**By order of the Commission**

**Sd/-  
(T. Rout)  
Chief (Legal)**