

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 124/M/P/2017

- Subject : Petition under Section 79 (1)(f) read with Section 79(1)(c) & (d), Section 38, Section 39, Section 40 and Section 60 of the Electricity Act, 2003 concerning the unjust, arbitrary and illegal terms imposed by Himachal Pradesh Power Transmission Corporation Limited and Allain Duhangan Hydro Power Limited for transmission of power by the petitioner on inter-state transmission lines operated by them.
- Date of hearing : 14.9.2017
- Coram : Shri Gireesh B. Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member
- Petitioner : Kanchanjunga Power Company Pvt. Limited (KPCPL).
- Respondents : H.P. Power Transmission Corporation Ltd. and Others
- Parties present : Shri Sanjay Sen, Senior Advocate, KPCPL
Shri Parinay Deep Shah, Advocate, KPCPL
Shri Saransh Shaw, Advocate, KPCPL
Shri Vishal Binod, KPCPL
Shri Vijay Kumar Sharma, KPCPL
Shri Kumar Uday Pratap, KPCPL
Ms. Swapna Seshadri, Advocate, HPPCL
Shri I.P. Singh, HPPCL
Dr. Seema Jain, Advocate, ADHPL
Shri Dushyant K. Mahant, Advocate, ADHPL
Shri Sumit Garg, ADHPL
Ms. Jyoti Prasad, PGCIL

Record of Proceedings

Learned senior counsel for the petitioner submitted that the petitioner is inter alia seeking determination of one single transmission charge payable to the CTU for the petitioner's use of the 220 kV Fozal pooling station, HPPTCL Assets, AD Line and the transmission assets directly managed by the CTU as per the POC method as part of the inter-State transmission system operated and managed by the CTU in accordance with the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008 and Central Electricity Regulatory Commission

(Sharing of inter-State Transmission Charges and Losses) Regulations, 2010. Learned senior counsel further submitted as under:

a. The HPPTCL Assets and the AD Line are part of the inter-State Transmission System (ISTS) in the meaning of Section 2(36) of the Electricity Act (the Act) as they are incidental to the inter-State transmission of electricity from the Baragaon SHEP to the Nallagarh sub-station of PGCIL.

b). In respect of the AD Line, the Hon'ble Supreme Court vide its final order and judgment dated 24.4.2017 in Civil Appeal No. 1795 of 2013 titled Allain Duhangan Hydro Power Ltd. Vs. Everest Power Pvt. Ltd. & Others has held that the AD Line is part of the inter-State transmission system and falls within the jurisdiction of the Central Commission as per the Act. Moreover, the AD Line is being used as the main transmission line for the inter-State transmission of power from three power plants, namely, Everest Power Private Limited, Baragaon SHEP and AD Hydro itself and wheeling of power of Himachal Pradesh State Electricity Board Limited (HPSEBL).

c). The petitioner's use of HPPTCL Assets and the AD Line ought to be governed by the Open Access Regulations, Sharing Regulations and the Tariff Regulations and the terms and conditions including the transmission charges for the use of HPPTCL Assets and the AD Line ought to be determined by this Commission.

d). The transmission of electricity is a regulated business under the Act and the Act does not permit the imposition of unregulated charges or one-sided and arbitrary terms for inter-State transmission of power. The HPPTCL assets and the AD Line are subject to the Sharing Regulations and the Open Access Regulations. The transmission charges for their use must be as determined by this Commission under the Sharing Regulations read with the Tariff Regulations and the terms of their use must be in accordance with the Open Access Regulations and the Sharing Regulations.

2. In his rebuttal, learned counsel for ADHPL submitted as under:

a. The present petition is not maintainable as the petitioner is not connected to ADHPL's dedicated transmission line and therefore, has no locus standi to seek the determination of transmission charges for use of ADHPL's dedicated transmission line or any other reliefs regarding ADHPL's line. Only Everest Power Private Limited (EPPL) and HPPTCL are connected to ADHPL's dedicated transmission line. The petitioner is an embedded customer of STU, so grievance if any, does not lie before this Commission.

b. Pursuant to the Supreme Court's order dated 24.8.2015, HPPTCL approached ADHPL for connection on its dedicated transmission line. Thereafter, HPPTCL and ADHPL entered into an interim Agreement. Since, there is no agreement of ADHPL with the petitioner, therefore, the petitioner cannot seek any relief qua ADHPL.

c. Subsequently, on 28.4.2016, the petitioner entered into an Interim Power Transmission Agreement with HPPTCL .The petitioner is connected to HPPTCL's sub-station. The said sub-station is further connected to the transmission line of ADHPL, connected by a LILO at Naggar in the State of Himachal Pradesh for onward transmission of electricity upto the Nallagarh sub-station of PGCIL. Therefore, ADHPL is entitled for payments from HPPCL for use of its line for transmission of power of the petitioner through HPPCL.

d. The decision regarding the transmission charges and other issues of ADHPL's dedicated transmission line will be applicable to both EPPL and HPPTCL, the fall out of which will be applicable to the petitioner qua HPPTCL as the petitioner is connected to STU.

e. ADHPL Nalagarh Transmission line was sanctioned as dedicated transmission following N-1 criteria. This line does not fulfill the basic requirement of a line being an ISTS as per para 3.5 of the Grid Code. Over the period of time, this line has also lost the N-1 criteria due to connectivity of EPPL and HPPTCL. CEA in the meeting held in the year 2013 had agreed that the said line is not capable for carrying the power of other utilities and has planned a new line of 220 kV being constructed by HPPTCL for evacuation of power of EPPL and other utilities.

3. Learned counsel for HPPTCL submitted that HPPTCL is in the course of filing a tariff petition and as per the Commission's directions dated 20.6.2017, KPCPL has paid dues of HPPTCL.

4. Learned counsel for ADHPL submitted that as per the Commission's directions dated 20.6.2017, KPCPL has not made full payment and requested the Commission to direct the petitioner to file the status of payment made by the petitioner towards ADHPL's outstanding dues.

5. After hearing the learned senior counsel for the petitioner and learned counsels for the respondents, the Commission directed the petitioner to file on affidavit by 6.10.2017, the status of outstanding dues paid by the petitioner to HPPTCL and ADHPL.

6. The petitioner was granted liberty to participate in the tariff petitions filed by ADHPL and to be filed by HPPTCL.

7. The petition shall be listed for hearing after disposal of the tariff petitions filed by ADHPL and to be filed by HPPTCL.

By order of the Commission
Sd/-
(T. Rout)
Chief (Legal)

