

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 54/RP/2016

In

Petition No. 403/TT/2014

Coram:

Shri A.K. Singhal, Member

Shri A.S. Bakshi, Member

Dr. M.K. Iyer, Member

Date of Order : 18.07.2017

In the matter of:

Review petition under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking review of the order dated 19.7.2016 in Petition No. 403/TT/2014

And in the matter of:

Powergrid Corporation of India Ltd.
Saudamini, Plot No. 2, Sector-29,
Gurgaon-122 001 (Haryana)

.....**Petitioner**

Vs

1. Karnataka Power Transmission Corporation Ltd.
Kaveri Bhawan, K. G. Road
Bangalore-560 009.

2. Transmission Corporation of Andhra Pradesh Ltd.
Vidyut Soudha, Khairatabad,
Hyderabad-500 082.

3. Kerala State Electricity Boards,
Vydyuthi Bhavanam,
Thiruvananthapuram-695 004.

4. Tamil Nadu Generation and Distribution Corporation Ltd.
NPKRR Maaligai, 800, Anna Salai,
Chennai-600 002



5. Electricity Department,
Government of Puducherry,
58, NSC Bose Salai, Puducherry-605 001.

6. AP Eastern Distribution Company Ltd.,
Sai Shakthi Bhavan, 30-14-09, Near Saraswathi Park,
Visakhapatnam-530 020.

7. AP Southern Power Distribution Company Ltd. (APSPDCL)
H. No. 193-93 (M) Upstairs, Renigunta Road,
Tirupathi-517 501.

8. AP Northern Power Distribution Company Ltd. (APNPDCL)
H. No. 1-1-504, Opp.: NIT Petrol Pump, Chaitanyapuri,
Warangal-560 004.

9. AP Central Power Distribution Company Ltd. (APCPDCL)
Singareni Bhavan, Red Hills,
Hyderabad-500 063.

10. Bangalore Electricity Supply Company Ltd. (BESCOM)
Krishna Rajendra Circle,
Bangalore-560 009.

11. Mangalore Electricity Supply Company Ltd. (MESCOM)
Paradingm Plaza, A.B Shetty Circle,
Mangalore-575 001.

12. Chamundeshwari Electricity Supply Corp. Ltd. (CESC Mysore),
Corporate Office, 927, L. J. Avenue, New Kantharajours Road, Saraswathi Puram,
Mysore-570 009.

13. Gulbarga Electricity Supply Company Ltd. (GESCOM)
Main Road, Gulbarga, Karnataka,
Gulbarga-585 102.

14. Hubli Electricity Supply Company Ltd.,
P.B. Road, Nava Nagar Hubli,
Karnataka-580 025.

15. Electricity Department,
Government of Goa,
Vidyuti Bhawan, Panaji,
Goa-403 001.

....Respondents



For Petitioner: Shri Sanjay Sen, Sr. Advocate, PGCIL
Ms. Swapna Seshadari, Advocate, PGCIL
Ms. Saloni Sachoti, Advocate, PGCIL
Shri R. Prasad, PGCIL
Ms. Manju Gupta, PGCIL

For Respondents: Shri S. Vallinayagam, Advocate, TANGEDCO

ORDER

This review petition has been filed by Powergrid Corporation of India Ltd. (PGCIL) under Section 94(1)(f) of the Electricity Act, 2003 (the Act) read with Regulation 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking review of the order dated 19.7.2016 in Petition No. 403/TT/2014 wherein tariff for 2014-19 period for Gooty-Madhugiri 400 kV D/C line alongwith associated bays and establishment of new 400/220 kV Sub-station in Madhugiri with 2x500 MVA transformers was allowed under "Transmission System associated with System Strengthening-XIII in Southern Regional Grid" (hereinafter referred to as the "instant assets") under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (referred as "2014 Tariff Regulations").

2. The Commission in its order dated 19.7.2016 held that the transmission charges for the instant assets would be borne by the Karnataka Discoms from the date of commissioning of the instant assets, which was 1.12.2015, till the commissioning of the downstream assets by the Karnataka Discoms. The transmission charges of the instant assets are to be included in the PoC charges after the commissioning of the downstream assets by Karnataka Discoms. The relevant portion of the order dated 19.7.2016 is extracted hereunder:-



"76. Drawing analogy from the above, we are of the view that the assets have been planned to cater drawl requirements of Karnataka Discoms and due to non-availability of downstream, the assets have not been put in regular use, we direct that the transmission charges from the COD of the instant asset shall be borne by the Karnataka Discoms till the commissioning of downstream network. After that the billing, collection and disbursement of the transmission charges approved shall be governed by the provisions of Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010, as amended from time to time, as provided in Regulation 43 of the 2014 Tariff Regulations."

3. Aggrieved by order dated 19.7.2016, the Review Petitioner has filed the instant review petition and has sought review of the said order wherein the Commission linked the recovery of transmission charges to the commissioning of the downstream system by KPTCL. According to the Review Petitioner, instant transmission system has been implemented as a system strengthening scheme and not merely for the benefit of the distribution companies in Karnataka. Hence, the transmission charges for the instant assets should be included in the computation of PoC charges from the date of commercial operation. Linking of the recovery of transmission charges to the commissioning of downstream assets is an apparent error which requires to be rectified.

4. The Review Petitioner has made the following submissions in support of the review petition:-

a. The instant transmission assets were developed as a system strengthening scheme and it would benefit all the beneficiaries of Southern Region and it was not planned for Karnataka alone. The instant assets were implemented under the "Transmission System associated with System Strengthening-XIII in Southern Regional Grid" and the scope of the scheme was discussed and agreed in the 28th SCM dated 15.6.2009 and 10th SRPC meeting dated 2.7.2009.



b. There were severe ROW issues in case of other elements of SRSS-XIII, like Madhugiri-Yelhanka 400 kV D/C line. The ROW and compensation issues were discussed in the TCC and SRPC meetings. The Review Petitioner requested KPTCL to expedite the commissioning of the downstream assets to reap the benefits of the upstream system. After discussions, the TCC recommended that the Review Petitioner could declare the commercial operation of the Gooty-Madhugiri transmission line and Madhugiri Pooling Station as and when they are ready without linking the same to the downstream system.

c. Linking of the recovery of the transmission charges and postponing the recovery of the same to commissioning of downstream is not envisaged in the Tariff Regulations or the Sharing Regulations. Once an asset is commissioned, its transmission charges should be included in the POC as provided in the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2010 (hereinafter referred to as “Sharing Regulations”).

d. There is no statutory or contractual relationship between the Review Petitioner and Discoms in Karnataka to bill and recover the transmission charges from the Discoms. The new mechanism for recovery of transmission charges is against the regulations and it will lead to regulatory uncertainty and jeopardize the investments made by the Review Petitioner.

5. TANGEDCO, Respondent No.4, in its reply dated 22.10.2016 has submitted that the Review Petitioner was aware that the Gooty-Madhugiri line and the Madhugiri Sub-station could be put to beneficial use only after the commissioning of the downstream



assets. The downstream assets were not commissioned and in the absence of the downstream assets, the radial 400 kV Gooty-Madhugiri line and the Madhugiri Sub-station are of no use to the grid and the beneficiaries. Mere charging of the lines would not entitle for declaration of COD unless it has some beneficial use to the beneficiaries. TANGEDCO has further submitted that the instant assets were not commissioned due to non-commissioning of the downstream assets by KPTCL and it is the responsibility of the Review Petitioner to insulate the beneficiaries through appropriate planning, phasing of execution of project and indemnification agreement. In the absence of downstream connectivity, there is no scope of declaring of COD and inclusion of the transmission charges in the PoC computation. There is no error on the face of record in order dated 19.7.2016 and the Commission was right in holding that the transmission charges should be recovered from Karnataka Discoms as it failed to provide the downstream connectivity.

6. In response, the Review Petitioner in its rejoinder, filed vide affidavit dated 11.4.2016, has submitted that the instant transmission assets are part of the system strengthening system and the transmission charges of the system strengthening system are to be included in the PoC computation as provided under the Sharing Regulations. The Review Petitioner does not have any contract with the Discoms of Karnataka for recovery of transmission charges and hence there is no basis for the Commission to direct the Review Petitioner to recover the charges from Discoms in Karnataka. The Review Petitioner cannot suffer for the defaults of upstream and downstream constituents. The Review Petitioner has submitted that SRPC and TCC had recommended declaring the COD without linking to the commissioning of the



downstream assets and they are the appropriate forums to discuss the commercial implication of any asset. TANGEDCO is liable to pay the charges as per the Sharing Regulations and it is trying to wriggle out of the obligations under the Sharing Regulations.

7. In response, TANGEDCO has submitted, vide affidavit dated 9.12.2016, that the Review Petitioner cannot deny that a radially charged line and sub-station without downstream assets cannot provide any beneficial use to the beneficiaries. SRPC is not a forum to certify the beneficial use of such elements of transmission system and the Commission is the authority to decide the COD and the method of recovery of transmission charges. TANGEDCO is not trying to avoid payment of transmission charges and it is liable to pay the transmission charges only if the transmission elements are useful to the beneficiaries. The transmission charges are to be recovered from those responsible for the delay and accordingly the transmission charges should be recovered from the Karnataka Discoms. TANGEDCO has further submitted that the Commission should revisit its decision approving the COD of the instant assets. Further, during the hearing on 11.5.2017, learned counsel for TANGEDCO submitted that comments of CEA and SRPC were not available at the time of hearing in the main petition and these comments cannot be brought in at the time of final hearing.

Analysis and Decision

8. We have considered the submissions of the Review Petitioner and TANGEDCO. The main ground for review is that the instant asset was developed as a System Strengthening Scheme for the benefit of the beneficiaries of the Southern Region and



not for only Karnataka. Linking the recovery of the transmission charges to the establishment of the downstream system by KPTCL is neither envisaged in the 2014 Tariff Regulations nor in the Sharing Regulations. According to the Review Petitioner, once the asset is declared under commercial operation, its recovery gets automatically shared as per the Sharing Regulations. It has been further submitted that the purpose of proviso (iii) of Clause (3) of Regulation 4 of the 2014 Tariff Regulations is to ensure that the Review Petitioner ought not to suffer for the default of other constituents executing the upstream and downstream systems.

9. TANGEDCO has submitted that the Gooty-Madhugiri transmission line and the Madhugiri Sub-station cannot be put to beneficial use of the beneficiaries without the commissioning of the downstream assets by KPTCL. TANGEDCO has submitted that the Review Petitioner's claim is based on the discussion held in the SRPC and the TCC meetings that the transmission assets could be commissioned without waiting for the commissioning of the downstream assets. However, SRPC is not the appropriate forum to certify the usefulness of the transmission assets and approve the COD of the assets and hence, the Commission should revisit its decision of SRPC in the matter of COD. In this connection, it is clarified that the decision of the SRPC and TCC of which TANGEDCO is also a constituent pertained to determining the usefulness of the asset and whether it could be put into service without the completion of downstream assets being built by KPTCL. SRPC/TCC did not decide the date of commercial operation which as per the 2014 Tariff Regulations is to be decided by the Commission. In fact, the Commission approved the COD of the asset under proviso (iii) to Regulation 4(3) of



the 2014 Tariff Regulations. Accordingly, there is no merit in TANGEDCO's request to revisit the Commission's decision to approve the COD of the instant transmission assets.

10. The Review Petitioner's main contention is unit being a System Strengthening Scheme, the transmission charges for the assets shall be borne by all beneficiaries and not Karnataka alone. The Commission has taken a view that if any asset cannot be put to use on account of the delay in the commissioning of the upstream and downstream system, then the developers of the upstream and downstream system would be liable for payment of the transmission charges from the date of deemed commercial operation under proviso (iii) to Regulation 4(3) of the 2014 Tariff Regulations till the assets are put to use for the benefit of all the DICs. In that perspective, there is no error in our order directing recovery of transmission charges from KPTCL.

11. It was strongly canvassed during the hearing that the transmission assets are serving the needs of the region and therefore, should be included in the PoC. Accordingly, in order to understand the usefulness of the instant transmission line and the sub-station, comments of CEA, SRPC and SRLDC were sought on the usefulness of the instant assets. CEA has submitted that instant assets cannot be considered to be in regular use on account of the reason that the two elements that were planned alongwith the instant assets, i.e. Madhugiri-Yelahanka 400 kV Sub-station D/C line (to be implemented by PGCIL) and the 220 kV lines from 220 kV bus of Madhugiri Sub-station (to be implemented by KPTCL) were not commissioned in the timeframe of the instant line. CEA has submitted that the instant assets can be put to regular service



upon commissioning of transmission elements connecting Madhugiri end to the grid which will significantly help in transmission of power. Accordingly, with the commissioning of Madhugiri-Bidadi link in August, 2016, the Gooty-Madhugiri transmission line has become useful in the grid. However, the Madhugiri Sub-station can be put to regular service only after the completion of downstream assets by KPTCL. The comments received from CEA are as follows:-

“1. The Gooty-Madhugiri 400 kV line, which is stated to have been charged on 01-12-2015 remains as radial connection from Gooty because there is no connectivity from Madhugiri onwards till commissioning of the Madhugiri-Bidadi 400 kV line. The Madhugiri-Bidadi line was commissioned in August, 2016.

2. As such, the Gooty-Madhugiri line and the Madhugiri 400/220 kV sub-station cannot be considered to be in regular service because the two elements that were planned along with this system i.e. the Madhugiri-Yelahanka 400 kV D/C line (to be implemented by PGCIL) and the 220 kV lines from 220 kV bus of Madhugiri Substation (to be implemented by KPTCL) did not come in the timeframe of Gooty-Madhugiri line. These two elements have still not been commissioned.

3. Notwithstanding non-commissioning of above mentioned two elements by PGCIL and KPTCL, the Gooty-Madhugiri line can be put to regular service upon commissioning of some other transmission element(s) connecting Madhugiri end to the grid and thus significantly helping in transmission of power. As such, upon commissioning of the Madhugiri-Bidadi link in August, 2016, the Gooty-Madhugiri line has become useful in grid. However, the Madhugiri 400/220 kV S/s can be put to regular use only after completion of 220 kV lines by KPTCL and drawal of power by Karnataka from Madhugiri.”

12. SRPC vide letter dated 19.1.2017 has submitted that since the downstream system which was being implemented by KPTCL was getting delayed, it was agreed in the 27th TCC and SRPC meeting held on 12.5.2015, that Gooty-Madhugiri line would be declared under commercial operation without linking the same to the downstream assets. With the commissioning of the Madhugiri-Bidadi line in August, 2016, 200 MW power flow has taken place through the line. It has provided parallel network considering 400 kV Gooty-Madhugiri D/C with 400 kV Madhugiri-Bidadi D/C, thus relieving the overloading of 400 kV Gooty-Neelmangala, 400 kV Gooty-Somanahally



S/C and 400 kV Hiriyur-Neelmangala D/C lines. Thus, these lines have helped the grid in importing power through Raichur-Solapur line and benefiting the whole of Southern Region. SRPC's comments are as follows:-

"In the 27th SRPC meeting held on 12.05.2015, the following had been noted in para 3.2.11:'SRPC concurred that PGCIL could declare commercial operation of 400 kV Gooty-Mdhugiri D/C line along with Madhugiri PS as and when they get commissioned without linking the same to downstream system.'

400 kV Gooty-Madhugiri D/C with 400 kV Madhugiri-Bidadi D/C acts as a parallel network to 400 kV Gooty-Nelamangala, 400 kV Gooty-Somanahally S/c and 400 kV Hiriyur-Nelamangala D/c. These lines are heavily loaded sometimes violating N-1 loading.

By commissioning 400 kV Madhugiri-Bidadi D/C, 400 kV Gooty-Madhugiri D/C with 400 kV Madhugiri-Bidadi D/C started carrying around 200 MW in each circuit (validated through SEM Data). This additional flow resulted in reduction in power flow in (1) 400 kV Hiriyur-Nelamangala D/C by 100 MW in each circuit (2) 400 kV Gooty-Nelamangala S/C by 100 MW (3) 400 kV Gooty-Somanahally S/c by 100 MW. This has helped relieve congested lines by 100 MW in each Circuit of the congested line."

13. In response to the comments of CEA and SRPC, the Review Petitioner has submitted, vide affidavit dated 28.3.2017, that the instant transmission assets are part of system strengthening system and were not constructed for the benefit of any particular beneficiary. As the downstream assets were not commissioned, the instant assets were commissioned in December, 2015 as agreed in the TCC and SRPC meetings held on 12.5.2015. With the commissioning of the Madhugiri-Bidadi line in August, 2016, power is flowing through the 400 kV Gooty-Madhugiri D/C line, thereby relieving the overloading of 400 kV Gooty-Neelmangala, 400 kV Gooty-Somanahally S/C and 400 kV Hiriyur-Neelmangala D/C lines. These lines have helped the grid in importing power through Raichur-Solapur line and benefitting the Southern Region.

14. We have considered the contention of Review Petitioner and TANGEDCO and the comments of SRPC and CEA. COD of the instant assets was approved under proviso



(ii) of Regulation 4(3) of the 2014 Tariff Regulations as 1.12.2015 and it was held in the order dated 19.7.2016 that the transmission charges for the instant assets shall be borne by Karnataka Discoms from 1.12.2015 till the commissioning of the downstream network, as the assets have not been put to regular use. As per the comments of CEA and SRPC, the 400 kV Gooty-Madhugiri D/C line has been put to use from 25.8.2016 with the charging of the Madhugiri-Bidadi 400 kV D/C Quad line (TBCB-L&T) on 25.8.2016, by making an interim arrangement at Bidadi as per the discussion held in CEA. As a result, the power flow in the range of 400-500 MW in 400 kV D/C Gooty-Madhugiri also started from that date thereby benefiting the SR beneficiaries. However, the 2x500 MVA transformers at Madhugiri Sub-station (as claimed by petitioner in Petition No.403/TT/2014) could be put to use only with the commissioning of the downstream assets by KPTCL. Accordingly, we are of the view that as the 400 kV Gooty-Madhugiri D/C transmission line is providing beneficial services to the beneficiaries of SR and helping the grid. As such, the transmission charges of the said line should be borne by Karnataka Discoms till commissioning of Madhugiri-Bidadi line, i.e. till 24.8.2016 thereafter the transmission charges shall be included in the PoC computation. We agree with CEA that the 2x500 MVA transformers at Madhugiri Sub-station can be put to use only with the commissioning of the downstream assets by Karnataka Discoms. As such, we are of the view that its transmission charges of 2x500 MVA transformers at Madhugiri Sub-station should be borne by Karnataka Discoms from 1.12.2015 till the commissioning of the downstream network of KPTCL. To that extent, our decision in the impugned order shall stand revised.



15. It is observed that the in order dated 19.7.2016, combined tariff was allowed for the 400 kV Gooty-Madhugiri D/C transmission line alongwith associated bays and new Madhugiri Sub-station with 2x500 MVA transformers at Madhugiri Sub-station. The Review Petitioner is directed to file a fresh petition giving segregated capital cost of (a) 400 kV Gooty-Madhugiri D/C transmission line along with associated bays and the other elements of new Madhugiri Sub-station, and (b) 2x500 MVA transformers at Madhugiri Sub-station within 6 weeks from the date of issue of this order. The Review Petitioner shall not be required to file the filing fees and publish notice in the newspapers as it only pertains to segregation of tariff. Pending filing of the petition and issue of segregated tariff, the Review Petitioner is directed to segregate the tariff allowed in the impugned order at its end based on the apportioned cost for 2x500 MVA transformer at Madhugiri sub-station from the rest of the transmission system, which the Review Petitioner shall be required to raise the transmission charges for 2x500 MVA transformer at Madhugiri sub-station on Karnataka Discoms, the transmission charges for the rest of the system shall be serviced through PoC mechanism.

16. The Review Petitioner has submitted that there is no provision other than the Sharing Regulations and Tariff Regulations to recover the transmission charges. The Commission has already laid down a procedure in order dated 4.1.2017 in Petition No.155/MP/2016. The relevant portion of the order is extracted hereunder:-

“17. The petitioner is directed to provide YTC details of its assets to NLDC and CTU. NLDC shall provide the same to RPC for inclusion in RTAs. The assets shall be billed along with bill 1 under the provisions of the Central Electricity Regulatory Commission (Sharing of inter-State Transmission charges and losses), Regulations, 2010 as amended from time to time. ISTS licensees shall forward the details of YTC to be recovered as per formats provided under the Sharing



Regulations to NLDC. ISTS licensees shall forward the details of entity along with YTC details from whom it needs to be recovered as per applicable order`s of the Commission to NLDC (only in cases of bilateral billing due to non-availability of upstream/downstream system). Based on the input received from respective licensees and the Commission`s order, NLDC shall provide details of billing pertaining to non-availability of upstream/downstream system to respective RPCs for incorporation in RTAs for all cases of bilateral billing. On this basis, CTU shall issue the bills. The process given in this para shall be applicable to all cases of similar nature and all concerned shall duly comply with the same.”

17. Accordingly, the transmission charges for the Gooty-Madhugiri 400 kV D/C transmission line from 1.12.2015 to 25.8.2016 and the 2x500 MVA transformers at Madhugiri Sub-station from the deemed COD to the commissioning of the downstream assets shall be recovered from KPTCL as stated above.

18. The Review Petitioner has submitted, vide affidavit dated 30.6.2017, that the asset was commissioned on 1.12.2015 and tariff has to be allowed for the years 2015-16, 2016-17, 2017-18 and 2018-19. However, while allowing Interest on Working Capital and transmission charges in para 65 and 66 respectively of the order dated 19.7.2016 the years were wrongly recorded as 2014-15, 2015-16, 2016-17 and 2017-18. This error is corrected. Accordingly, the years mentioned in para nos. 65 and 66 allowing Interest on Working Capital and transmission charges respectively shall be read as 2015-16, 2016-17, 2017-18 and 2018-19.

19. The Review Petition No. 54/RP/5016 is disposed in terms of the above.

sd/-
(Dr. M.K. Iyer)
Member

sd/-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

