

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Review Petition No. 61/RP/2016**

**In  
Petition No. 127/TT/2014**

**Coram:**

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

**Date of Order : 29.6.2017**

**In the matter of:**

Review petition under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 103(1) of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, seeking review of order dated 29.7.2016 in Petition No. 127/TT/2014.

**And in the matter of:**

Power Grid Corporation of India Limited,  
'SAUDAMINI', Plot No. 2, Sector- 29,  
Gurgaon – 122 001 (Haryana)

**...Review Petitioner**

**Vs**

1. Karnataka Power Transmission Corporation Limited  
Kaveri Bhawan, K.G. Road  
Bangalore – 560 009
2. Transmission Corporation of Andhra Pradesh Limited  
Vidyut Soudha , Khairatabad,  
Hyderabad – 500 082
3. Kerala State Electricity Boards  
Vydyuthi Bhavanam  
Thiruvananthapuram – 695 004
4. Tamil Nadu Generation and Distribution Corporation Limited  
NPKRR Maaligai, 800, Anna Salai,  
Chennai-600 002
5. Electricity Department,



Government of Goa,  
Vidyuti Bhawan, Panaji, Goa 403 001

6. Electricity Department,  
Government of Puducherry  
58, NSC Bose Salai,  
Puducherry – 605 001
7. AP Eastern Distribution Company Limited  
Sai Shakthi Bhavan,  
30-14-09, Near Saraswathi Park  
Visakhapatnam – 530 020 (AP)
8. AP Southern Power Distribution Company Limited  
(APSPDCL), H. No. 193-93 (M) Upstairs  
Renigunta Road, Tirupathi – 517 501 (AP)
9. AP Northern Power Distribution Company Limited  
(APNPDCL), H. No. 1-1-504, Opp. NIT Petrol Pump  
Chaitanyapuri, Warangal – 506 004 (AP)
10. AP Central Power Distribution Company Limited  
(APCPDCL), Singareni Bhavan, Red Hills,  
Hyderabad-500 063 (AP)
11. Bangalore Electricity Supply Company Limited (BESCOM)  
Krishna Rajendra Circle  
Bangalore - 560 009
12. Mangalore Electricity Supply Company Limited (MESCOM)  
Paradigm Plaza, A.B. Shetty Circle,  
Mangalore – 575 001
13. Chamundeshwari Electricity Supply Corp. Limited  
(CESC Mysore), Corporate office, 927,  
L.J. Avenue, New Kantharajours Road,  
Saraswathi Puram, Mysore – 570 009
14. Gulbarga Electricity Supply Company Limited  
(GESCOM), Main road, Gulbarga, Karnataka,  
Gulbarga – 585 102
15. Hubli Electricity Supply Company Limited  
(HESCOM), Navanagar, PB Road,  
Hubli, Karnataka
16. Coastal Energen Private Limited,  
5th Floor, Buhari Towers,



No.4, Moores Road, Chennai-600 006, Tamil Nadu

17. Ind-Bharath Power (Madras) Limited,  
Pit No. 30-A, Road No.1  
Film Nagar, Jubilee Hills,  
Hyderabad-500 003, Andhra Pradesh

.....Respondents

For Petitioner : Ms. Swapna Seshadri, Advocate, PGCIL  
Shri S. S. Raju, PGCIL  
Shri Jasbir Singh, PGCIL  
Shri M. M. Mondal, PGCIL  
Shri S. K. Venkatesan, PGCIL  
Ms. Pratibha Raje Parmar, PGCIL  
Ms. Manju Gupta, PGCIL

For Respondents : Shri S. Vallinayagam, Advocate, TANGEDCO

### **ORDER**

This review petition is filed by Power Grid Corporation of India Limited (PGCIL) under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 103(1) of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking review of the order dated 29.7.2016 in Petition No. 127/TT/2014, wherein the transmission tariff was allowed for LILO of both circuits of Tuticorin JV-Madurai 400 kV D/C (Quad) line at Tuticorin Pooling Station along with new 765 kV Pooling Station at Tuticorin (initially charged at 400 kV) including 1x80 MVAR, 400 kV Bus Reactor under "Transmission System associated with Common System associated with Coastal Energen Private Limited (CEPTL) and Ind-Bharath Power (Madras) Limited (Ind-Bharath) LTOA Generation Projects in Tuticorin Area-Part-A" in Southern Region for 2014-19 tariff period under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (referred as "2014 Tariff Regulations").



### **Brief facts of the case**

2. The Commission in order dated 29.7.2016 in Petition No. 127/TT/2014 held that the transmission charges for the instant assets would be borne by CEPTL and Ind-Bharath from the date of commissioning of the instant assets to the commissioning of the dedicated transmission lines upto the Tuticorin Pooling Station by CEPTL and Ind-Bharath. The Commission further observed that in case one of the generating stations commissions the dedicated transmission line, 50% of the charges of LILO will be included under PoC and the balance 50% of the transmission charges shall be borne by the generating station which has not commissioned the dedicated transmission line till the commissioning of the dedicated transmission line. The relevant portion of the order dated 29.7.2016 in petition no. 127/TT/2014 is extracted hereunder:—

“77. Thus, drawing analogy from above, we are of the view that CEPL and IBPL shall pay transmission charges for the instant assets till the dedicated transmission line upto the Tuticorin Pooling Station are constructed and declared under commercial operation and put to regular use by the concerned generating station. If one of the generating stations commissions the dedicated transmission line, in that case 50% of the charges of LILO will be included under PoC and the balance 50% of the transmission charges shall be borne by the generating station which has not commissioned the dedicated transmission line. After both the generating stations commission the dedicated transmission lines, 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.

78. In case of non-payment of the charges by the generators, CEPL and IBPL, the petitioner shall be entitled to claim the same by encashing the Bank Guarantee given by these generators.”

3. The Review Petitioner has made the following prayers:-



(a) Allow the recovery of tariff of LILO of both circuits of Tuticorin JV-Madurai 400 kV D/C (Quad) line at Tuticorin Pooling Station along with new 765 kV Pooling Station at Tuticorin (initially charged at 400 kV) including 1 x 80 MVAR, 400 kV Bus Reactor in POC billing from date of commercial operation of the assets.

(b) Direct the encashment of Bank guarantees of Ind-Bharath Power Limited and compensate in the transmission charges (i.e. to bill to DICs) for the assets.

### **Grounds for Review**

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

a) In order dated 29.7.2016 in Petition No. 127/TT/2014, the Commission has linked the recovery and sharing of transmission charges between the two generating companies, CEPTL and Ind-Bharath until the construction of the respective dedicated transmission lines by them and partial/proportional inclusion of tariff in the PoC mechanism in accordance with the commissioning of their dedicated transmission lines. Such a course is not contemplated in the 2014 Tariff Regulations or in the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2010 (2010 Sharing Regulations).

b) As per the 2010 Sharing Regulations, the transmission charges are to be borne by the generator in cases where the generator has not commissioned its generating unit at the time of commissioning of the transmission system. In the instant case, CEPTL has been using the



Tuticorin Pooling Station to evacuate power under STOA from 24.12.2014 onwards since commissioning of its first unit on 23.12.2014.

c) Further, the instant transmission assets have been used by CEPTL by obtaining MTOA of 558 MW for supplying power to TANGEDCO for the period from 1.7.2015 to 3.6.2018. The MTOA stands duly operationalised and it is evident that the subject transmission system is being used.

d) A default in commissioning of dedicated transmission line by a generator cannot be a ground for non-inclusion of a transmission asset in the PoC mechanism. The Commission has already directed the petitioner to remove the LILO arrangement within six months from the date of the order, irrespective of commissioning of the dedicated transmission line. However, despite Review Petitioner having established and put to use the instant transmission system both under MTOA and STOA, the Commission is penalizing the Review Petitioner for the default of the generators by way of provisioning of a new recovery mechanism in the impugned order which is not provided under the 2014 Tariff Regulations or in the 2010 Sharing Regulations.

e) Ind-Bharath has failed to construct dedicated transmission line and there is adverse progress in the commissioning of their unit(s). Accordingly, as per Article 6 (a) & (b) of the BPTA / LTA agreement, the 'bank guarantee for construction phase' of Ind-Bharath could be encashed and adjusted/returned back to the PoC pool/beneficiaries.



5. The Commission directed the respondents to file their reply by 13.2.2017 and the petitioner to file rejoinder by 20.2.2017 and reserved the order vide RoP dated 24.1.2017.

6. TANGEDCO, Respondent No. 4, filed its reply vide affidavit dated 5.1.2017 and submitted that in the absence of upstream transmission sub-station/lines, commissioning of only the LILO portion of Tuticorin JV-Madurai 400 kV DC line at Tuticorin Pooling Station is not serving any purpose and declaration of COD and inclusion of this asset into POC charges will be in violation of the connectivity regulations and the TSA and LTA.

7. In response, the Review Petitioner filed a rejoinder vide affidavit dated 31.1.2017 whereby it is submitted that the Review Petitioner has designed, planned and implemented the instant transmission assets and Ind-Bharath and CEPTL were scheduled to evacuate power under Long Term Access. As per the 2010 Sharing Regulations, billing to a generator can only be done where it has failed to commission its generating units and not the 'dedicated transmission line'. In the instant case, one out of the two proposed generator i.e. Ind-Bharath, has already abandoned its generation project, whereas, the other generator i.e. CEPTL has already declared its unit under commercial operations. In the given scenario, the only action possible against Ind-Bharath is to encash its construction phase bank guarantee and return the amount recovered from such encashment to the pool. Whereas, raising bills upon CEPTL will be in violation of the 2010 Sharing Regulations as it has put its generating unit under commercial operation, and delay/default in construction of dedicated transmission line only attracts penalty of encashment of bank guarantee for construction phase and not



payment of entire transmission charges. Further, since the instant asset is and will be used to evacuate power for Southern Region beneficiaries, the transmission charges for the same must be shared through the POC.

### **Analysis and Decision**

8. We have considered the submissions of the Review Petitioner and TANGEDCO. Though this Review Petitioner was tagged with Review Petition No. 54/RP/2016 on the basis of the submission of TANGEDCO, on perusal of both Review Petitions we find that the prayers in the present petition are different from the prayers in Review Petition No. 54/RP/2016. Accordingly, we have decided to issue the order based on the facts and pleadings in each case. The basic contention of the Review Petitioner is that the transmission charges of the instant transmission assets should be included in the PoC charges as provided in the 2010 Sharing Regulations and there is no other mechanism to recover the transmission charges. We are of the view that only those transmission assets which are put to useful service of the DICs shall be included in the PoC charges. However, in cases where the transmission assets have not been put to useful service on account of the non-availability of upstream or downstream system, the transmission charges for the said assets cannot be loaded to the DICs through PoC mechanism. Accordingly, the transmission charges for the assets have not been correctly included in the PoC charges. As regards the mechanism for recovery of charges where they are not required to be included in PoC, we are of the view that this procedural difficulty has been resolved by the Commission in order dated 4.1.2017 in Petition No 155/MP/2016. The relevant portion of order dated 4.1.2017 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.”

9. The Commission has also taken a similar view in order dated 27.6.2016 in Petition No. 236/MP/2015. The relevant portion of the order is extracted hereunder:-

“42. ....

(a) It is noted that the petitioner completed its entire scope of the work on 27.3.2015. However, due to non-availability of inter-connection facility required to be developed by NTPC and PGCIL at each end, it could not commission the transmission line. Therefore, the transmission charges for the period from 4.8.2015 to 23.8.2015 shall be shared by both NTPC and PGCIL in the ratio of 50:50.....”

10. In the light of the above discussion, we do not find any merit in the contention of the petitioner that there is no mechanism for recovery of the transmission charges of the instant assets and accordingly, the review of the impugned order stand on the ground is rejected.

11. As regards the prayer of the Review Petitioner for permission to encash the Bank Guarantees of Ind-Bharath Power Limited, we are of the view that such prayers are outside the scope of the review. It is pertinent to mention that para



78 of the impugned order entitles the Review Petitioner to encash the bank guarantee in the event of non-payment of charges by the generators.

12. This order disposes of Petition No. 61/RP/2016.

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

**sd/-**  
**(A.S. Bakshi)**  
**Member**

**sd/-**  
**(A.K. Singhal)**  
**Member**

**sd/-**  
**(Gireesh B. Pradhan)**  
**Chairperson**

