

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**I. A. No. 43/IA/2018**  
**in**  
**Petition No. 102/TT/2018**

**Coram:**

**Shri P. K. Pujari, Chairperson**  
**Shri A. K. Singhal, Member**  
**Shri A. S. Bakshi, Member**  
**Dr. M. K. Iyer, Member**

**Date of Order : 11<sup>th</sup> June, 2018**

**In the matter of:**

Interlocutory Application No.43/IA/2018 filed by NTPC seeking directions to direct the CTU to transfer the PoC charges in respect of the two 400 kV bas at Gandhar Switchyard of NTPC directly to NTPC.

NTPC Limited  
NTPC Bhawan,  
SCOPE Complex, Institutional Area,  
Lodhi Road, New Delhi-110003

**...Applicant**

**And in the matter of:**

Approval of transmission tariff for the 2x400 kV bay at Jhanor Gandhar GPS of NTPC Ltd. which form part of the inter-State transmission system of EPTCL.

**And in the matter of:**

Essar Power Transmission Co. limited  
Lower Ground Floor, Hotel Treebo Conclave Riviera,  
A-20, Kailash Colony,  
New Delhi-1100048.

**....Petitioner**

**Vs**

1. NTPC Limited  
NTPC Bhawan,  
SCOPE Complex, Institutional Area,  
Lodhi Road, New Delhi-110003



2. Essar Steel India Ltd.  
27<sup>th</sup> KM on Surat-Hazira Road,  
Hazira, District-Surat-394270
3. Government of State of Madhya Pradesh  
Mantralaya 435, Vallabh Bhavan,  
Bhopal-462004.
4. Essar Power M. P. Ltd.  
Lower Ground Floor, Hotel Treebo Conclave Riviera  
A-20, Kailash Colony, New Delhi-110048.
5. Power Grid Corporation of India Ltd.  
'Saudamini', Plot No. 2,  
Sector-29, Near IFFCO Chowk,  
Gurgaon-122001.
6. Western Regional Power Committee  
F-3, MIDC Area, Marol,  
Opp. SEEPZ, Central Road,  
Andheri (East),  
Mumbai-400093.
7. Power System Operation Corporation Ltd.  
B-9, Qutab Institutional Area,  
KatwariaSarai,  
New Delhi-110016.

....Respondents

**For Petitioner** : Shri Alok Shankar, Advocate, EPTCL

**For Respondents** : Shri Shyam Kumar, NTPC  
Shri ParimalPiyush, NTPC

### **ORDER**

Petition No.102/TT/2018 has been filed by Essar Power Transmission Company Limited (EPTCL) for determination of transmission tariff for the 2x400 kV bays at Jhanor Gandhar GPS of NTPC as per the directions of the Commission in order dated 31.1.2018 in Review Petition No. 55/RP/2016 in Petition No. 173/TT/2013 and 111/TT/2015.



2. Brief facts of the case are that EPTCL was granted licence by this Commission for undertaking transmission of power generated from Gandhar TPS. The transmission assets covered under the licence included 2 Nos. 400 kV line bays at Gandhar (NTPC) switchyard. As per the Commercial Agreement entered into between EPTCL and NTPC, the bays would be owned, controlled and maintained by NTPC at Gandhar Switchyard and NTPC would be entitled to recover the annual transmission charges from EPTCL as per Commission's Tariff Regulations. Further, as per the Agreement, the capital cost of the bays to be adopted for the calculation of tariff was to be the same as capitalized in the books of accounts of NTPC. Accordingly, NTPC constructed the two bays at the NTPC Gandhar Switchyard and commissioned the same on 23.2.2013. EPTCL filed the tariff Petition Nos. 173/TT/2013 and 111/TT/2015 for grant of transmission charges for the transmission assets covered under the licence. In respect of the 2x400 kV bay at Gandhar Switchyard EPTCL claimed the asset as special O&M Expenses on actual basis. EPTCL was granted provisional tariff vide order dated 12.9.2013. On that basis, EPTCL was making payment to NTPC. The Commission after consideration of the claim issued the following directions vide order dated 15.6.2016 in respect of the bays:

“72. We direct NTPC and the petitioner to jointly approach the Commission for approval of tariff of two 400 kV line bays at Gandhar (NTPC) switchyard. After approval of the tariff, the petitioner shall recover the same through PoC and reimburse it to NTPC.”

After issue of this order, EPTCL stopped payment to NTPC. NTPC filed Review Petition No.55/RP/2016 seeking review of the Commission's order. The Commission in order dated 30.1.2018 in the said review petition made the following observations:-



“11. NTPC was directed to submit the cost of the two bays at Gandhar Switchyard and accordingly NTPC has submitted the same alongwith rejoinder to the reply of EPTCL. EPTCL is directed to file a petition for determination of tariff of the two bays at Gandhar Switchyard within 30 days of issue of this order on the basis of the details of cost furnished by NTPC. Further, NTPC is directed to provide further details, if any, required by EPTCL for filing the tariff petition.

12. EPTCL has submitted that the Commission in RoP dated 24.1.2017 had directed that till the disposal of the review petition, EPTCL would be reimbursed transmission charges provisionally as allowed in order dated 12.9.2013 in Petition o.173/TT/2013 from June, 2016 onwards, pro-rated to the capital cost of the bays to enable EPTCL to pay to NTPC. Though EPTCL approached NTPC to issue revised invoices for urther submission to CTU, NTPC did not issue revised invoices as a result of which the interim directions of the Commission could not be given effect to. EPTCL further approached CTU which expressed its inability to recover the transmission charges.

13. It is observed that EPTCL has not paid the transmission charges from the bays to NTPC since the issue of order dated 15.6.2016. Further, despite directions of the Commission in ROP dated 24.1.2017, EPTCL has not been reimbursed the provisional tariff for the bays. Pending filing of the tariff petition as per our order in para 11 above and determination of tariff for the bays at Gandhar Switchyard, we direct that as an interim measure, EPTCL be reimbursed tariff at the rate of 80% of the transmission charges claimed by EPTCL (80% of which EPTCL has claimed from CTU towards transmission charges) from POC from June, 2016 onwards till the determination of final tariff of the bays. EPTCL is directed to make payment of the charges to NTPC within 3 days of receipt of transmission charges from CTU.”

3. In compliance with the above directions, the petitioner has filed the instant tariff petition based on the capital cost and other related inputs shared by NTPC with the Petitioner. It is observed that the details submitted by the petitioner are not certified by the Auditor. As the two bays are owned by NTPC, we direct NTPC to submit the capital cost as on COD and the details of additional capital expenditure subsequently incurred duly certified by the Auditor. NTPC is also directed to submit the FR cost and the completion cost of two bays and the scheduled date of COD of the bays. The Annual Fixed Charges for the instant bays will be approved for inclusion in the PoC charges after the receipt of the above said information.



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4. NTPC has filed the present IA seeking directions to CTU to transfer the money collected through PoC to NTPC pertaining to the 2 No. of 400 kV Gandhar bays owned and maintained by NTPC for usage by EPTCL. NTPC has submitted that the reimbursement amount against the transmission assets of EPTCL gets credited to the Trust and Retention Account (TRA) of EPTCL managed by Rural Electrification Corporation as TRA agent. NTPC has submitted that TRA mechanism seeks to protect the project lenders against the credit risks by shifting the control over future cash flows from the hands of the borrowers (project company) to the TRA agents duly mandated by the lenders. NTPC has submitted that 2 Nos. of 400 kV bays have been constructed and financed by NTPC. Routing of the money collected by CTU through TRA pertaining to the transmission assets of EPTCL including the 2 Nos. of 400 kV bays is resulting in delays in receipt of dues by NTPC.

5. The representative of NTPC submitted that as on date, NTPC has received total amount of ₹2.59 crore from EPTCL as the usage charges against the total outstanding amount of ₹5.95 crore (i.e. 80% of ₹7.44 crore as the billed amount). He submitted that considering the difficulties faced by NTPC in realizing the amount due to it, the Commission may direct the CTU to transfer the transmission charges in respect of 2 Nos. of 400 kV bays collected through PoC to NTPC account directly. Leaned counsel for EPTCL submitted that EPTCL does not have objection to the arrangement proposed by NTPC.



6. We have considered the submissions of NTPC and EPTCL. Though EPTCL has been granted licence for the 2 Nos. of 400 kV bays at Gandhar Jhanoor TPS of NTPC, the two bays have been constructed, financed, owned and maintained by NTPC. NTPC has entered into a bilateral agreement on 11.2.2010 with EPTCL according to which user charges for the bays would be paid by EPTCL computed as per the applicable tariff regulations. Since these bays are assets of NTPC, they have been financed by NTPC and not by the lenders of EPTCL. Therefore, there is no reason to route the tariff of these assets of NTPC through TRA which is the agent of the lenders of EPTCL and has been appointed to protect the interest of the lenders. NTPC has submitted that routing the tariff of these bays through TRA is resulting in delay in getting the usage charges of the bays. Considering the fact that the bays are assets of NTPC and EPTCL has an agreement to pay the usage charges of the bays at the applicable tariff of the Commission and the tariff of the bays shall be determined based on the cost details provided by NTPC from its books of account, we consider it appropriate to issue directions to CTU to make direct payment of the monthly PoC charges to NTPC for the 2 Nos. of 400 kV bays at Jhanoor Gandhar TPS of NTPC till further orders.

7. IA No.43/IA/2018 filed by NTPC is disposed of. The tariff petition shall be listed for hearing on 31.7.2018.

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

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

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

sd/-  
**(P. K. Pujari)**  
**Chairperson**

