

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 220/MP/2018

**Coram:
Shri P.K.Pujari, Chairperson
Dr. M. K. Iyer, Member
Shri. I.S Jha, Member**

Date of Order: 27.11.2019

In the matter of

Petition under Section 79(1) (c), 79(1) (d), 79(1) (f) of the Electricity Act, 2003 and Regulation 8 of the Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010, for adjudication of dispute on the recovery of transmission charges of Element-II and Element-III of Kudgi Associated Transmission system from the beneficiaries before the Commercial Operation of the Kudgi STPS.

And in the matter of

Kerala State Electricity Board Limited
Vydyuthi Bhavanam,
Thiruvananthapuram – 695004.

.....Petitioner

Vs

1. Power Grid Corporation of India Limited,
Central Transmission utility,
B-9, Qutab Institutional Area, Katwarai Sarai,
New Delhi - 110016

2. National Thermal Power Corporation Limited
NTPC Bhavan, Core-7, Scope Complex,



7, Institutional Area, Lodhi Road,
New Delhi – 110 003.

3. Kudgi Transmission Corporation Limited,
Building No.3, Second Floor Sudeep Plaza,
MLU Sector 11 Pocket-4, Dwarka,
New Delhi – 110075.
4. Bangalore Electricity Supply Company Limited,
K.R.Circle, Bengaluru – 560001
5. Mangalore Electricity Supply Company Ltd.
MESCOM Bhavana Corporate Office, Bejai Kevai Cross Road
Mangalore-575004
6. Gulbarga Electricity Supply Company Ltd.
Station Main Road, Gulbarga – 585 102
7. Hubli Electricity Supply Company Ltd.,
Corporate Office, Navanayar, PB Road,
Hubli – 580 025
8. Chamundeshwari Electricity Supply Company Ltd.
Corporate Office, No.29, Ground Floor,
Kaveri Grameena Bank Road, Vijaynagar 2nd Stage,
Mysore – 570017
9. Power Company of Karnataka Ltd.
KPTCL Building, Kaveri Bhavan, K.G.Road,
Bengaluru – 560009
10. Tamil Nadu Generation and Distribution Corporation Ltd.
7th Floor, NPKRR Maaligai, 144, Anna Salai,



Chennai – 600002

11. Southern Power Distribution Company Ltd. of Andhra Pradesh Ltd.(APSPDCL)
H.No.19-13-65/A, Srinivasapuram, Tiruchanoor Road,
Tirupati – 517 503.
12. Eastern Power Distribution Company of Andhra Pradesh Ltd.,
P&T Colony, Seethammadhara,
Visakhapatnam – 530 013.
13. Southern Power Distribution Company of Telengana Ltd.
6-1-50, Mint Compound,
Hyderabad – 500063
14. Northern Power Distribution Company of Telengana Ltd.
H.No.2-5-31/2, Corporate Office, Vidyut Bhavan,
Nakkalgutta Hanamkonda, Warangal – 506001
15. Central Power Distribution Company of Andhra Pradesh Limited
6-1-50, Corporate Office, Mint Compound,
Hyderabad – 500063

....Respondents

Parties present: Shri Prabhas Bajaj, Advocate, KSEB Ms.
Suparna Srivastava, Advocate, PGCIL
Ms. Nehul Sharma, Advocate, PGCIL
Shri K.K. Jain, PGCIL
Shri Nishant Gupta, NTPC



ORDER

The Petitioner, Kerala State Electricity Board Limited (KSEBL) is an integrated public sector power utility catering to the entire power requirement of Kerala.

2. KSEBL in the instant Petition has raised the issue that the transmission charges of Element-II and Element-III of Associated Transmission system of Kudgi STPS had been erroneously included in the PoC Bills (PoC bill-1 and PoC bill-3) from 2nd quarter (i.e. July` 16- September' 16) of FY 2016-17 onwards even before commissioning of the generating station and have been recovered from the beneficiaries of the Kudgi STPS. KSEBL has prayed as below:

“KSEBL humbly request before Hon'ble Commission that the action of PGCIL/CTU in recovering the transmission charges of Element-2 and Element-3 of Kudgi ATS from the beneficiaries of the project by inclusion under PoC pool from the 2nd quarter of FY 2016-17 onwards may be nullified and CTU may be directed to reimburse the same to the beneficiaries with interest.”

Submissions of the Petitioner:

3. The Petitioner has submitted that Kerala State Electricity Board Limited (KSEB) had signed Power Purchase Agreement with NTPC (Respondent No.2) on 3.11.2010 for purchase of power from their 2400 MW coal based power station in Kudgi. The allocation of power from the station was 119 MW to the Petitioner as per the Government of India policy.
4. The Petitioner has submitted that the transmission system for evacuation of power from Kudgi was finalized in the 33rd Standing Committee Meeting of Southern Region Constituents held on 20.10.2011. The evacuation system from Kudgi STPS comprise of following transmission elements:
 - 1) Kudgi TPS - Narendra (New) 400 kV 2xD/C quad lines (Element-I)



- 2) Narendra (New) – Madhugiri 765 kV D/C line and (Element-II)
- 3) Madhugiri – Bidadi 400 kV D/C (quad) line. (Element-III)

5. The Petitioner has submitted that the above transmission system was evolved as the Associated Transmission System (ATS) of Kudgi STPS. This was recorded in para 6.2.4 of the minutes of the 13th Meeting dated 20.10.2011 of Southern Region Constituents. This is also recorded in para 10.4 of the Minutes of the 33rd Standing Committee on Power System Planning in Southern Region held on 15.11.2011 extracted below:

*“10.4 As regards Kudgi Transmission System following system was agreed:
Transmission system for Kudgi Phase-I Generation project of NTPC (3X800MW)
To be provided by NTPC*

- (i) Stepping up of power at generation project to 400kV.*
- (ii) Provision of Bus reactor of 2X125MVA at generation switchyard.*
- (iii) Provision of 2X500MVA, 400/220kV transformers at generation switchyard and 6 nos. of 220kV bays.*

To be implemented as ISTS (as evacuation system for Kudgi TPS Phase-I)

- (i) Kudgi TPS - Narendra (New) 400kV 2XDC quad lines.*
 - (ii) Narendra (New) - Madhugiri 765kV D/C line (initially charged at 400kV).*
 - (iii) Madhugiri - Bangalore 400kV D/C (quad) line.*
- (the terminal point at Bangalore is yet to be decided, for which POWERGRID would take action and inform CEA/SCPSPSR)”*

6. The Petitioner has submitted that the Empowered Committee on Transmission in its 29th meeting held on 15.6.2012 recommended the implementation of the transmission elements through tariff based competitive bidding. The meeting decided that the system has to be ready by June 2015.

7. The Petitioner has submitted that the execution of the Kudgi ATS was awarded to L&T Infrastructure Development Projects Limited (LTIDPL) based on competitive bidding. LTIDPL acquired Kudgi Transmission Limited (KTL) as its fully owned subsidiary. KTL entered into the Transmission Service Agreement with Long Term Transmission Customers of the project on 14.5.2013. As per Schedule-2 of the Transmission Service Agreement, all the three elements coming under Kudgi ATS are



required for evacuation of power from Kudgi TPS.

8. The Petitioner has submitted that the Commission granted license to KTL on 7.1.2014 and vide order dated 8.1.2014 in Petition No.190/TT/2013 had adopted transmission charges of the transmission system.

9. The Petitioner has submitted that NTPC applied for LTA for evacuation of power from the project on 15.4.2011 on behalf of the beneficiaries as per the PPA. The quantum for which LTA applied was linked with commissioning of the generation units given below.

Generating unit	CoD	Cumulative Capacity
Unit-1	31.05.2015	797.5 MW
Unit-II	30.11.2015	1595 MW
Unit-III	31.05.2016	2392.49 MW

10. The Petitioner has submitted that CTU granted LTA to NTPC for 2392.49 MW on 23.1.2015. Subsequently, the Petitioner and CTU signed LTA Agreement for the allocated 119.18MW of power on 30.3.2015.

11. The Petitioner has submitted that the date of signing the Transmission Service Agreement (TSA) (effective date) was 30.8.2013. The first element of the project was scheduled to be commissioned within 18 months from the effective date and the other two elements within 24 months of the effective date. Therefore, the scheduled date of commercial operation (SCOD) of the first element was 28.2.2015.

12. The Petitioner has submitted that KTL completed the first element of the project on 27.3.2015. However, the element could not be tested and charged due to non-commissioning of substations by NTPC and PGCIL at both ends and KTL could not declare COD.

13. The Petitioner has submitted that KTL filed a petition before this Commission (Petition No.236/MP/2015) for recovery of transmission charges of first element of Kudgi ATS. The Commission vide order dated 27.6.2016 approved deemed COD of



Element-1 as 4.8.2015 and ordered methodology for sharing of transmission charges of the Element-1 between NTPC and PGCIL.

14. The Petitioner has submitted that the date of commissioning of the three transmission elements of the Kudgi ATS are as follows:

Element	Scheduled COD	Actual COD
Element-1	31.5.2015	4.8.2015
Element-2	30.11.2015	24.9.2016
Element-3	31.5.2016	27.8.2016

15. The Petitioner has submitted that PGCIL followed the order of the Commission in the matter of cost recovery of Element-1 of Kudgi ATS till operationalisation of LTA. However in the matter of recovery of cost of Element - 2 and 3 of Kudgi ATS, following discrepancies were noted:

- a. Though Element - II and III were commissioned on 24.9.2016 and 27.8.2016 respectively, the commissioning of generating stations were delayed considerably.
- b. The Unit-1 of the generating station was commissioned on 31.7.2017. The LTA was operationalized with effect from 1.8.2017. The Unit-2 of the station was commissioned on 31.12.2017 and Unit-3 has not yet been commissioned.
- c. However, PGCIL began charging the beneficiaries for the Elements-2 and 3 which forms part of Associated Transmission System of Kudgi by including in the PoC Bills (PoC bill-1 and PoC bill-3) from 2nd quarter (i.e. July'16-September'16) of FY 2016-17 onwards even before commissioning of the generating station.
- d. The transmission charges so claimed by the Respondent No.1 from the



beneficiaries of the project before the operationalisation of LTA and the share of KSEBL are tabulated below:

Year	2016-17			2017-18		Total from all beneficiaries	KSEBL share 4.59%
	Quarter	Q2	Q3	Q4	Q1		
Amount (Rs. Lakhs)	633.23	4955.86	4828.01	4899.18	1671.70	16987.98	7.79 Crore

e. Also, from the date of operationalisation of LTA of Kudgi TPS, i.e. w.e.f. 01.08.2017, two issues were observed:

- (i) The transmission charges for the Q2 (July-17 to Sept-17) under PoC bill-1 was calculated based on the entitlement from all the 3 units of Kudgi, even though only one unit was commissioned as on the date of start of LTA. Since this led to huge increase in transmission charges billed under PoC-1, the bill was not admitted and dispute was raised vide letters to PGCIL to withdraw the transmission charges billed pertaining to Kudgi Unit-2 & 3 from the beneficiaries since the Unit-2 & 3 are not commissioned. This amount was subsequently billed to NTPC by PGCIL without revising the bills raised on the beneficiaries. This matter is under the consideration of this Commission in Petition No.261/MP/2017.
- (ii) On further verification of the PoC bills, it is observed that under PoC bill-3 of the 3rd quarter of FY 2017-18, the entire monthly transmission charges of Kudgi ATS is billed to beneficiaries, even though approximately only 1/3rd of the charges (corresponding to LTA quantum of Unit-1) are only liable to be borne by the beneficiaries as per the prevailing Regulations since commissioning of Unit-2 and Unit-3 were delayed. The amount billed under PoC bill-3 for the Kudgi ATS for the 3rd quarter and that payable by the beneficiaries are tabulated below.



2017-18			
Quarter 2	August'17	Sept'17	Total
Transmission charges billed (Rs. Cr)	17.25	16.70	33.95
Payable by all the beneficiary (Rs.lakhs)(1/3 rd)	5.75	5.57	11.32
Balance to be reimbursed to the beneficiaries			22.64
KSEBL share (4.59%)			1.04 Cr

- (iii) The total amount to be reimbursed to KSEBL for the period 2016-17 and till September of 2017 comes to approximately **Rs.8.83 Cr. (7.79 + 1.04).**
- (iv) The Petitioner vide letter dated 14.3.2018 has already raised dispute on this irregular billing of the Kudgi ATS by Respondent No. 1 on the long term customers. However, the Respondent has not considered the dispute raised by the petitioner so far.

16. The Petitioner has submitted that the action of CTU in recovering the transmission charges of Element-2 and Element-3 of Kudgi Associated Transmission System from the long term beneficiaries before Commercial Operation of Generating station is against the Regulation and orders of the Commission and it may be disallowed and the Respondent, PGCIL may be directed to reimburse the same to the beneficiaries with interest.

Submissions during hearing:

17. In hearing dated 4.7.2019, the Petitioner submitted that the issue raised in the present Petition has been dealt with by the Commission in order dated 6.11.2018 in Petition No. 261/MP/2017 and as per the said order; NTPC is liable to pay the transmission charges for the period prior to commissioning of the generating station. Further, PGCIL submitted that PGCIL is raising the bills as per the Commission's



order dated 6.11.2018 in Petition No. 261/MP/2017 and PGCIL has already recovered Rs. 305 crore from the NTPC and balance amount would be recovered after finalization of Regional Transmission Account (RTA). The Petitioner submitted that the Petitioner has filed Interlocutory Application (IA No. 54/2019) for impleadment of NLDC as party to the Petition and direction to NLDC to revise the PoC charges in compliance with the Commission's order dated 6.11.2018. The Commission directed NLDC to carry out revised calculations of PoC charges expeditiously as per the Commission's order dated 6.11.2018. Accordingly, the Commission disposed of the I.A No. 54/2019 vide RoP dated 04.07.2019.

Analysis and Decision

18. The petitioner vide instant petition has prayed that the action of PGCIL/CTU in recovering the transmission charges of Element-2 and Element-3 of Kudgi ATS from the beneficiaries of the project by inclusion under PoC pool from the 2nd quarter of FY 2016-17 onwards may be nullified and CTU may be directed to reimburse the same to the beneficiaries with interest.

19. Element –2 and Element- 3 are Narendra (New) – Madhugiri 765 kV D/C line and Madhugiri – Bidadi 400 kV D/C (quad) line, respectively.

20. In hearing dated 4.7.2019, the Petitioner submitted that the issue raised in the present Petition has been dealt with by the Commission in order dated 6.11.2018 in Petition No. 261/MP/2017 and, as per the said order, NTPC is liable to pay the transmission charges for the period prior to commissioning of the generating station. Further, PGCIL submitted that PGCIL is raising the bills as per the Commission's order dated 6.11.2018 in Petition No. 261/MP/2017 and PGCIL has recovered Rs. 305 Crore from the NTPC and balance amount would be recovered after finalization of RTA.

21. Relevant extract of order dated 6.11.2018 in Petition No. 261/MP/2017 is as below:



“39. xxxx

(vi) In the light of the above, as per Regulation 8(6) of the Sharing Regulations, the petitioner is liable to pay the transmission charges till COD of its delayed units. Hence, we direct that the annual transmission charges of the associated transmission system (i.e. Kudgi-Narendra, Narendra-Madhugiri and Madhugiri Bidadi and associated bays) as determined or adopted by the Commission shall be considered in PoC mechanism corresponding only to the unit declared under commercial operation i.e. Unit-I (as per records available in this petition) and the balance transmission charges shall be recovered from NTPC till the remaining units are declared under commercial operation. On COD of Unit-II & Unit-III, proportionate transmission charges corresponding to Unit-II & Unit-III, shall be considered in PoC from their respective CODs.”

22. We are of the view that the issue raised in the instant petition has become infructuous by virtue of order of the Commission dated 6.11.2018 in Petition No. 261/MP/2017 and subsequently PGCIL recovering Rs 305 Crore from NTPC as per order in Petition No. 261/MP/2017. We direct that the transmission charges recovered by PGCIL be accounted for in terms of order dated 6.11.2018 in Petition No. 261/MP/2017 by raising bills based on revised RTA as soon as possible, if not done already.

23. Petition No. 220/MP/2018 is disposed of in terms of above.

**Sd/-
(I.S. Jha)
Member**

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

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

