

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Review Petition No. 48/RP/2018
along with IA No. 103/2018
in
Petition No. 261/MP/2017**

Coram:

**Shri P.K. Pujari, Chairperson
Dr. M.K. Iyer, Member**

Date of Order: 16th April, 2019

In the matter of

Review of Commission's order dated 6.11.2018 in Petition No. 261/MP/2017

And

In the matter of

Kudgi Transmission Limited
TCTC Building, First Floor, PB No979,
Mount Poonamalle Road, Manapakkam
Chennai - 600 089

.....Review Petitioner

Vs

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

2. NTPC Ltd.,
NTPC Bhawan, Core-7, Scope Complex
7, Institutional Area, Lodhi Road,
New Delhi-110 003

3. Northern Regional Load Despatch Centre
18-A, Shaheed Jeet Singh Sansalwal Marg,
Katwaria Sarai, New Delhi - 110016

4. Bangalore Electricity Supply Company Ltd.
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-585102



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 Grammeena Bank Road, Vijaynagar 2nd Stage,
Mysore - 570017

9. Power Company of Karnataka Ltd.
KPTCL Building, Kaveri Bhavan,
K.G.Road, Bengaluru - 560009

10. Kerala State Electricity Board Limited
Vydyuthi Bhavanam,
Thiruvananthapuram-695004

11. Tamil Nadu Generation and Distribution
Corporation Ltd., 7th Floor NPKRR Maaligai,
144, Anna Salai, Chennai-600002

12. Southern Power Distribution Company Ltd of Andhra Pradesh Ltd.
H. No. 19-13-65/A, Srinivasapuram, Tiruchanoor Road,
Tirupati-517 503

13. Eastern Power Distribution Company of Andhra Pradesh Ltd
P&T Colony, Seethammadhara,
Visakhapatnam-530 013

14. Southern Power Distribution Company of Telangana Ltd
6-1-50, Mint Compound, Hyderabad-500 063

15. Northern Power Distribution Company of Telangana Ltd
H. No. 2-5-31/2, Corporate Office Vidyut Bhavan,
Nakkalgutta Hanamkonda, Warangal-506001

.....Respondents

Parties present

Shri Sanjay Sen, Senior Advocate, KTL
Shri Alok Shankar, Advocate, KTL
Shri R. Suraj, KTL
Ms. Swapna Seshadri, Advocate, NTPC
Ms. Parichita Chowdhury, Advocate, NTPC
Shri Anand K Ganesan, Advocate, NTPC
Shri Patanjali Dixit, NTPC
Shri A.S.Pandey, NTPC
Ms. Suparna Srivastava, Advocate, PGCIL
Shri V.Srinivas, PGCIL
Ms. Anita A. Srivastava, PGCIL
Shri S.K. Venkatesan, PGCIL



ORDER

Petition No. 261/MP/2017 was filed by the Respondent No.2, NTPC to set aside the bill dated 6.11.2017 of the Central Transmission Utility PGCIL/CTU towards LTA charges for Kudgi Transmission System. The Commission by order dated 6.11.2018 disposed of the said petition based on the following decisions:

“44. Summary of decisions:

a. The liability to pay charges towards Long term Access under Central Electricity Regulatory Commission (Sharing of inter-State Transmission charges and losses), Regulations, 2010 as amended from time to time shall be that of beneficiaries in view of Agreements entered into by them.

b. The LTA needs to be operationalized from the date of declaration of COD of the transmission system irrespective of the CoD of the generator.

c. Annual transmission charges of the associated transmission system (i.e in this case -Kudgi-Narendra, Narendra-Madhugiri and Madhugiri Bidadi and associated bays/ substation) as determined or adopted by the Commission shall be considered in PoC mechanism corresponding only to the units declared under commercial operation and the balance transmission charges shall be recovered from NTPC till the respective COD of remaining units.

45. SRPC shall revise the RTA accordingly and CTU shall raise the bills as based on revised RTA.”

2. Against the above order, the Review Petitioner, Kudgi Transmission Limited (KTL) has filed this petition and has submitted the following:

(i) The order of the Commission does not intend or direct that the amount shall be recovered from the respective TSP and such TSP shall be paid after payment by NTPC. However, *dehors* the directions of this Commission, the CTU vide its letter dated 30.11.2018 had arbitrarily directed KTL to refund the Yearly Transmission Charges (YTC) of ₹273.82 crore to the PoC pool corresponding to the un-commissioned capacity of the generating station which NTPC is solely liable to pay to CTU in accordance with the Commission’s order dated 6.11.2018

(ii) CTU had already demanded the transmission charges payable from NTPC in accordance with the Commission’s order dated 6.11.2018 vide letter dated 30.11.2018. Despite the demand letter, the CTU has arbitrarily and illegally demanded KTL to refund ₹273.82 crore to the PoC pool.

(iii) Pursuant to the said letter dated 30.11.2018, payments which were to be made to KTL have been withheld arbitrarily and illegally. While on the one hand the CTU is withholding the payments due to KTL, at the same time, CTU had



directed NTPC to make payment of the amounts in terms of the Commission's order dated 6.11.2018.

(iv) While payments were made to other transmission licensee, the payments due to the KTL have been withheld arbitrarily and illegally. Under the Model TSA approved by the Commission as part of the sharing Regulations, payments to ISTS licensees are to be made by the CTU. Any delayed payment/partial payment/non-payment of transmission charges in a month results in pro rata reduction in the pay outs to all the ISTS licenses. Therefore, the risk of recovery from NTPC in terms of the Commission's order cannot be passed on to the TSP.

(V) Since the Review Petitioner, KTL was arrayed as Kudgi Transmission Corporation Limited which is not in existence, by NTPC in Petition No.261/MP/2017, notice in the said petition was never served upon or received by the Review Petitioner.

3. Accordingly, KTL has submitted that the letter dated 30.11.2018 issued by CTU directing KTL to refund the amounts to the PoC pool and the direction to keep the disbursement to KTL in abeyance is arbitrary and not in accordance with the provisions of the Sharing Regulations, 2010 and PGCIL may be refrained from the said act. Hence, the present review petition.

4. KTL on 14.12.2018 has filed IA. No. 103/2018 for stay of implementation of the PGCIL letter dated 30.11.2018 during the pendency of the entire proceedings before this Commission.

5. After hearing the learned Senior counsel for KTL, the learned counsels for PGCIL and NTPC, the Commission in the ROP dated 20.12.2018 issued the following directions:

"5. The Commission directed CTU to raise revised bills in terms of the Commission's order dated 6.11.2018 immediately, but not later than seven days and NTPC shall make payments within 15 days thereafter. The Commission observed that any inter se issues between NTPC & CTU may be sorted out amicably and in case of any dispute, either party is at liberty to approach the Commission through appropriate application.

6. The Commission directed the Respondents to file their replies to the petition by 10.1.2019 with copy to the Petitioner who may file its rejoinder, if any, by 14.1.2019.

7. The Commission directed the CTU not to take any coercive steps against the Petitioner for recovery of the amount of ₹273.82 crore, until further orders."



6. The Respondent No.1, PGCIL vide its reply affidavit dated 10.1.2019 has submitted the following:

(a) Pursuant to the directions of this Commission, the revised billing towards applicable transmission charges for the transmission assets of KTL as well as for the bay extension works were carried out by PGCIL for ₹3040975284/- and the revised RTA was accordingly issued by SRPC on 22.11.2018. In line with the said RTA, PGCIL vide letter dated 27.11.2018 issued a credit bill to NTPC for ₹594810701/- towards the differential transmission charges and requested NTPC to make payment of the remaining outstanding dues of ₹3040975284/- immediately so as to avoid accumulation of surcharge on delayed payment.

(b) NTPC vide letter dated 5.12.2018 raised objections on the billing adjustments and requested PGCIL to raise fresh bill for the transmission charges payable by NTPC as per order dated 6.11.2018 which was denied by PGCIL vide order dated 11.12.2018.

(c) In terms of RoP of hearing dated 20.12.2018, PGCIL vide letter dated 28.12.2018 raised revised bill on NTPC for ₹3,04,09,75,284/- towards applicable transmission charges for the transmission assets of KTL and bay extensions by PGCIL, payable for NTPC by 12.1.2019. This bill was without prejudice to the rights of PGCIL to levy applicable surcharge on the said payment. The payment against this bill by NTPC as per Commission's order dated 6.11.2018 is awaited.

7. KTL vide additional affidavit filed on 17.1.2019 submitted that prior to the directions of the Commission, an amount of ₹6.52 crore as net payment, has been withheld from payments due and entitled to KTL.

8. During the hearing of the Petition on 22.1.2019, the learned Senior Counsel for the Review Petitioner submitted that the amount withheld by PGCIL has been refunded to the Review Petitioner. He accordingly prayed that the petition may be disposed of, subject to reconciliation of accounts. The learned counsel for NTPC submitted that payments have been made by NTPC to PGCIL in terms of the bills raised by it. In support of this, NTPC vide affidavit dated 31.1.2019 has submitted that the bill dated 28.12.2018 raised by PGCIL has been paid by NTPC on 11.1.2019. The learned counsel for PGCIL however submitted that it reserves the



right to claim surcharge on such payments made by NTPC. Accordingly the Commission reserved its order in the petition.

9. In view of the submissions of the learned counsel for the Review Petitioner that the amounts withheld by PGCIL have been refunded to the Petitioner, nothing survives in the Review Petition for consideration. Also, we take note of the fact that NTPC had made payments as per the bills raised by PGCIL. As regards the submission of PGCIL that it reserves the right to raise the issue of surcharge payments by NTPC, it is clarified that application, if any, filed on this count before this Commission shall be considered in accordance with law.

10. Review Petition No. 48/RP/2018 along with IA No. 103/2018 is disposed of as above.

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

Sd/-
(P.K. Pujari)
Chairperson

