

**CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi**

Petition No. 261/TT/2015

- Subject** : Petition for determination of transmission tariff from COD to 31.3.2019 for assets under line Bays and Reactor provisions at Powergrid Sub-stations associated with System Strengthening Common for Western Region and Northern Region in Western Region .
- Date of Hearing** : 16.6.2020
- Coram** : Shri P.K. Pujari, Chairperson
Shri. I.S. Jha, Member
Shri Arun Goyal, Member
- Petitioner** : Power Grid Corporation of India Ltd.
- Respondents** : MB Power (Madhya Pradesh) Ltd & others
- Parties Present** : Ms. Suparana Srivastava, Advocate, PGCIL
Shri Tushar Mehta, Advocate, PGCIL
Shri Abhishek Gupta, Advocate, PGCIL
Shri Hemant Sahai, Advocate, MBPMPL & Essar Power Jharkhand Ltd.
Ms. Moolshree Bhatnagar, Advocate, MBPMPL & Essar Power Jharkhand Ltd.
Shri S.S Raju, PGCIL
Shri Pankaj Sharma, PGCIL
Shri Zafrul Hasan, PGCIL
Shri B. Dash, PGCIL

Record of Proceedings

The matter was heard through video conferencing.

2. The learned counsel for the Petitioner submitted that the instant petition is re-opened for redetermination of sharing of the transmission charges for the period of mismatch from the COD of Asset-I: 765 kV line bay and 240 MVAR Switchable Line Reactor at Jabalpur Pooling Sub-station for 765 kV S/C Jabalpur Bina Circuit-III (IPTC) and Asset-II: 765 kV Line Bay and 240 MVAR Line Reactor (Non-switchable) at Bina Sub-station for 765 kV S/C Jabalpur-Bina Circuit III (IPTC) till the execution of 765 kV S/C Jabalpur-Bina TCB line implemented by Jabalpur Transmission Company Ltd. (JTCL) pursuant to the direction of the Commission in the combined order dated 28.1.2020 in Petition No. 35/RP/2018 and 232/MP/2018. She submitted that approval of COD of Assets-I and II was sought under Regulation 4(3)(ii) of the 2014 Tariff Regulations on account of non-readiness of associated transmission line



viz. 765 kV S/C Jabalpur-Bina and 765 kV D/C Dharamjaygarh-Jabalpur transmission line by JTCL. She submitted that the time over-run of 15 months in case of Assets-I and II was condoned by the Commission vide order dated 27.5.2016 in Petition No. 261/TT/2015 and it was further held that the tariff for the period of mismatch i.e. from the COD of Assets-I and II till the execution of 765 kV S/C Jabalpur-Bina TBCB line, i.e. from 5.10.2014 to 1.7.2015 in respect of Asset-I and from 13.11.2014 to 1.7.2015 in respect of Asset-II shall be billed to LTTCs of TBCB licensees till the execution of transmission lines.

3. Learned counsel for the Petitioner submitted that aggrieved with the order dated 27.5.2016, MBPMPL filed Petition No. 232/MP/2018 for quashing the bills raised by PGCIL claiming transmission charges for the period of mismatch and Review Petition No.35/RP/2018 challenging the imposition of liability of transmission charges on LTTCs from COD of Assets-I and II till the COD of the transmission line under the scope of JTCL. The Commission vide order dated 28.1.2020, allowed the review petition and re-opened the instant petition on the limited issue of sharing of transmission charges and directed the Petitioner to implead all the LTTCs for whom the instant transmission assets are envisaged. Learned counsel submitted that JTCL, which is responsible for implementation of the Jabalpur-Bina Transmission Line has not filed the reply in the matter and JTCL should be directed to file the reply in the matter.

4. In response to Commission's query regarding recovery of transmission charges through POC mechanism and the reasons for delay of two years in raising the bill on MBPMPL, learned counsel for the Petitioner clarified that the Commission vide its provisional order dated 17.12.2015 in Petition No. 261/TT/2015 directed the Petitioner to recover the transmission charges for the assets through POC mechanism and accordingly the billing was done under POC mechanism. However, after passing the final order dated 27.5.2016, bilateral billing was done on LTTCs' for the period of mismatch in the execution of transmission assets. She submitted that delay of two years in raising the bilateral bill on MBPMPL was mainly due to the fact that the instant case was a departure from the consistent approach of the Commission as instead of imposing the transmission charges on the defaulting party for the period of mismatch, for the first time, the liability for the period of mismatch was fixed on the LTTCs. Hence, there was issue of reversal of earlier billing done under POC mechanism and then raising bilateral bill on LTTCs which consumed considerable time and as a result of which there was a delay of two years in raising the bills on MBPMPL.

5. Learned counsel for the Petitioner further submitted that as per order dated 28.1.2020, they have impleaded all the LTTCs including MBPMPL in the instant petition and filed amended memo of parties after effecting service upon them.

6. Leaned counsel for MBPML and Essar Power (Jharkhand) Ltd. (EPJL) submitted that the facts of the present case are squarely covered by the judgment dated 3.3.2016 of the Hon'ble Supreme Court in the matter of Power Grid Corporation of India Limited Vs. Punjab State Power Corporation Limited & Ors (Barh-Balia case) wherein it has been categorically held that unless there is actual



supply of electricity, the beneficiaries cannot be made liable to bear any transmission cost and hence MBPML and EPJL are not liable to pay the transmission charges for the period of mismatch. He further submitted that LTA of MBMPL was operationalized after the COD of the transmission line of JTCL and hence they are not liable to pay the transmission charges for the period of mismatch. He sought time to file reply on behalf of Essar Power (Jharkhand) Ltd.

7. The Commission observed that as per CEA approval, the Petitioner has provisionally put line reactor into commercial operation as bus reactor and directed the Petitioner to clarify whether the reactor is used as a bus reactor or a line reactor with the commercial operation of the transmission line of the JTCL. Further, the Commission directed the petitioner to submit the list of IPPs associated with the instant project and the present status of IPPs on affidavit by 29.6.2020 with an advance copy to the Respondents.

8. After hearing the parties, the Commission directed all the Respondents including the impleaded LTTCs', beneficiaries and JTCL, to file their reply by 3.7.2020 on the limited issue of sharing of transmission charges for the period of mismatch and the Petitioner to file its rejoinder, if any, by 13.7.2020. The Commission also directed the parties to comply with the above directions within the specified timeline and further observed that no extension of time shall be granted.

9. The Commission directed to list the matter for hearing in due course.

By order of the Commission

sd/-
(V. Sreenivas)
Dy. Chief (Law)

