

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 478/TT/2020

- Subject** : Petition for approval of Annual Fixed Cost and determination of tariff from COD to 31.3.2024 in respect of 220 kV Srinagar Baramwari line under UITP Scheme as per Commission's order dated 31.1.2013 in Petition No. 133/MP/2012 for 2019- 24 tariff period.
- Date of Hearing** : 25.11.2021
- Coram** : Shri P.K. Pujari, Chairperson
Shri I.S. Jha, Member
Shri Arun Goyal, Member
Shri P.K. Singh, Member
- Petitioner** : Power Transmission Corporation of Uttarakhand Ltd.
- Respondents** : Power Grid Corporation of India Ltd. (CTU) and Ors.
- Parties present** : Shri Sitesh Mukherjee, Advocate, PTCUL
Ms. Sonam Anand, Advocate, PTCUL
Shri Sajan Poovayya, Sr. Adv., L&T Uttaranchal
Shri Aniket Prasoon, Advocate, L&T Uttaranchal
Shri Md. Aman Sheikh, Advocate, L&T Uttaranchal
Ms. Raksha Agarwal, Advocate, L&T Uttaranchal
Shri A.K. Agarwal, PTCUL
Shri S. P. Arya, PTCUL
Shri Vikas Khitha, L&T Uttaranchal
Shri Lakshman Singh, L&T Uttaranchal

Record of Proceedings

Case was called out for virtual hearing.

2. Learned counsel of the Petitioner made the following submissions:

a. Instant petition has been filed for determination of transmission tariff of 220 kV Srinagar-Baramwari Transmission Line [Point of Inter-connection (Singoli-Bhatwari HEP from the proposed Baramwari-Srinagar 220 kV D/C line) to Khandukhal-Srinagar Sub-station] under UITP Scheme pursuant to the order dated 31.1.2013 in Petition No. 133/MP/2012.



- b. 220 kV Ckt.-I of Srinagar-Baramwari D/C line and 220 kV Ckt.-II of Srinagar-Baramwari D/C line was charged on 2.6.2020 and 3.6.2020 respectively on no load basis. Trial run operation certificate dated 29.6.2020 was issued by POSOCO to the effect that the subject asset was charged on no load basis from Srinagar end.
- c. The Petitioner has sought approval of COD of Ckt.I and Ckt.-II of the subject line as 2.6.2020 and 3.6.2020 respectively under Regulation 5(2) of the 2019 Tariff Regulations since the generator (L&T) for whom the transmission line was made was not commissioned on the said dates. The Petitioner gave notice to the generator and the Respondents as contemplated under Regulation 5 of the 2019 Tariff Regulations. The subject asset was developed matching with timeline for commissioning of the generating station of L&T and the timeline was revised periodically from October, 2018 to March, 2020.
- d. In compliance of RoP for the hearing dated 31.7.2020, the Petitioner has submitted the desired information vide affidavit dated 12.10.2020.
- e. Time was sought to place on record the trial operation certificate as it was received only in January, 2021 after charging of the line and inspection being carried out.
- f. The Commission directed the Petitioner, vide RoP dated 15.6.2020, to implead all necessary parties. The Petitioner has impleaded all the necessary and proper parties vide affidavit dated 28.6.2021 and has also served a copy of the petition on them. However, except for L&T Uttaranchal, no reply has been received from any of the Respondents. Rejoinder to the reply of L&T Uttaranchal has been filed vide affidavit dated 30.7.2021.
- g. Initially, the asset was being developed for two generators i.e. LANCO and L&T. LANCO went into insolvency proceedings and its status as on date is uncertain. The Petitioner was advised in the Standing Committee meeting held on 25.9.2017 to develop the asset in two phases. The arrangement of commissioning schedule in two phases is evident from the letter of PGCIL dated 5.12.2017.
- h. In the JCC meeting held on 20.9.2017, L&T informed that its commissioning is anticipated to be in October, 2018.
- i. COD of the subject asset was initially on anticipated basis as 28.2.2020 but the same could not be achieved owing to various reasons including the outbreak of Covid-19.
- j. L&T commenced its commercial operation on 12.11.2020 and the same is recorded in the RoP dated 27.4.2021.
3. Learned senior counsel for L&T Uttaranchal made the following submissions:



- a. The name of L&T Uttaranchal has now been changed to ReNew Jal Urja Limited and permission may be granted to place on record the relevant documents concerning the change in name of the entity.
- b. The Petitioner is required to clarify the line length of first portion of the line that connects Singoli-Bhatwari HEP of L&T to Khandukhal (erstwhile Srinagar) Sub-station and that the second portion of the line which connects to Phatbyung station of LANCO.
- c. This line was conceived for evacuation of power not just from Singoli-Bhatwari HEP of L&T and Phatbyung station of LANCO but also to evacuate power from three Small Hydro Power Plants, namely, Kaliganga-I, Kaliganga-II and Madmaheshwar. Therefore, the line was envisaged for 4 projects besides L&T HEP.
- d. Item No.11 of 10th and 13th JCC meeting for Generation Projects in Northern Region held on 25.3.2019 and 23.12.2019 respectively provide for interim arrangement and final arrangement for the line in respect of L&T Uttaranchal Hydro Energy Ltd. which clearly postulate that common inter-State transmission system is required for connectivity and the same is not developed exclusively for L&T.
- e. Pursuant to grant of LTA, Connection Agreement dated 9.10.2020 was executed amongst PGCIL, L&T and PTCUL. Recital B of this Agreement provides for interim and final arrangements of the line which earmark that there shall be common inter-State transmission system needed for connectivity. Note added to recital B of the said Agreement clearly mentions that Baramwari 220 kV switching station and Baramwari-Khandukhal (erstwhile Srinagar) 220 kV D/C line to be implemented by PTCUL as part of Common Transmission System for connectivity of Phatabyung and Singoli Bhatwari HEPs and the commissioning of Baramwari may be matched with Phatabyung.
- f. The entire transmission charges cannot be imposed on L&T as L&T is not the only beneficiary and is one of beneficiaries in the common pool of 5 beneficiaries. L&T cannot be made to pay because of the uncertainty in LANCO's Project and Small Hydro Power Projects.
- g. The Petitioner has submitted that the line was conceived and developed only for L&T and that CTU is the nodal agency and it was the Petitioner's duty to implement the directions of CTU. While the Petitioner, based on the advice of CTU, distributed the development of the Project in two phases, the same cannot be interpreted to mean that payment of transmission charges of Phase-I is exclusively the burden of L&T.
- h. The Petitioner in its rejoinder affidavit dated 30.7.2021 submitted that power from Kaliganga-I and Kaliganga-II will be evacuated through 33 kV distribution network via Ukhimath Sub-station of UPCL and placed reliance on letter dated 5.9.2020 of UJVNL. The Petitioner also submitted that evacuation from



Madmaheshwar was made part of Phase-II of the project. However, the letter dated 5.9.2020 of UJVNL per se mentions that the power from Kaliganga-I, Kaliganga-II and Madmaheshwar cannot be evacuated through the 33 kV distribution network via Ukhimath Sub-station of UPCL and also mentions that the construction of 220 kV Srinagar-Baramwari Transmission Line is essential for evacuation of power from the said Small Hydro Power Projects.

i. CEA in its minutes of the meeting held on 12.9.2018, at paragraph 2(v), on the issue of Baramwari-Srinagar 220 kV D/C line nowhere mentioned specifically that Phase-I shall be exclusively for L&T. Rather, it clearly mentions that the line is for evacuation of power from various generating stations. CEA in its 2nd meeting of Northern Region Standing Committee on Transmission System held on 13.11.2020, at paragraph 4.2. proposed that 220/33 kV sub-station would be connected to 400 kV Srinagar Sub-station i.e. ISTS network through Baramwari-Srinagar 220 kV D/C line (Phase-I and Phase-II) which is also part of ISTS. None of the said minutes of the meeting differentiate regarding the treatment for Phase-I and Phase-II and there is nothing in the minutes to suggest that L&T shall bear the exclusive burden transmission charges of Phase-I.

j. Though LANCO is in insolvency proceedings, the Petitioner may ask for the payment from LANCO under the indemnification clause of the Implementation Agreement. LANCO has not been liquidated and it exists as an entity and the Petitioner can seek payment from LANCO.

k. It is evident from minutes of 44th meeting of Northern Region Constituents regarding LTA and connectivity applications held on 31.3.2021 that UVJNL applied for grant of connectivity on 2.2.2021 for 15 MW which can only be through the subject transmission asset.

l. Regulation 13(3) of the 2020 Sharing Regulations clearly states that where COD of a generating station or unit(s) thereof is delayed and the Associated Transmission System has achieved COD, which is not earlier than its SCOD, the generating station shall pay Yearly Transmission Charges for the Associated Transmission System corresponding to Long Term Access granted for the generating station or unit(s) thereof, which have not achieved COD. Therefore, the burden of paying transmission charges to the Petitioner will have to be shared amongst all the generators and not just by L&T.

m. The claim of the Petitioner is that its line was commissioned on 2.6.2020 and L&T's generating station was commissioned on 18.11.2020 and as such the transmission charges for the period from 2.6.2020 to 18.11.2020 shall be on L&T. However, it is pertinent to mention that 2.6.2020 cannot be the date of commissioning of the transmission line as Regulation 5 of the 2019 Tariff Regulations requires that a prior notice of at least a month must be given to the generator before the transmission system can be declared under commercial operation.



- n. The Petitioner has relied upon a letter dated 5.6.2020 issued to L&T to contend that it was ready on 2.6.2020 whereas Regulation 5 of the 2019 Tariff Regulations clearly states that at least a month's prior notice is required to be given to the generator.
- o. The Petitioner issued a notice dated 28.12.2019 to L&T stating that the system shall be ready for commercial operation on 31.1.2020. However, PTCUL was not ready by 31.1.2020. Similarly, on 3.2.2020, the Petitioner issued another notice to L&T stating that it will be ready by 28.2.2020. However, the notice dated 3.2.2020 does not comply with the provisions of Regulation 5 of the 2019 Tariff Regulations, which mandates a month's prior notice.
- p. Final clearance i.e. approval for energization was given by CEA to the Petitioner only on 12.10.2020 pursuant to the application by the Petitioner on 7.2.2020. The said letter also states that the letter dated 23.4.2020 by the Petitioner to CEA requested for provisional approval and the said provisional approval was granted only on 28.4.2020. Further, NoC from defense authorities was granted only on 3.7.2020 which was sent to CEA vide email dated 12.10.2020 i.e. Compliance Report-III. Therefore, the Petitioner could not have declared the line under commercial operation from 2.6.2020. A *de facto* energisation and usage is of no consequence and only a *de jure* energisation could allow the Petitioner to seek commercial operation.
- q. Provisional approval dated 28.4.2020 was given to the Petitioner in respect of the subject line subject to furnishing defense NOC within three months and the Petitioner was supposed to send the same to CEA by 27.7.2020. NOC by Defense authorities was given to the Petitioner for "construction" of asset on 3.7.2020 and it was valid for 7 years from the date of its issuance.
- r. On 6.7.2020, the Petitioner wrote to CEA seeking approval for commissioning of the transmission asset after the issuance of NOC from defense authorities on 3.7.2020, pursuant to which the approval was given by CEA on 12.10.2020. Hence, the commissioning of the subject asset can only be claimed from 12.10.2020.
- s. L&T issued a *force majeure* notice dated 22.3.2020 under the Implementation Agreement addressed to the Energy Secretary, Government of Uttarakhand and to Managing Director, PTCUL. The Commission in Petition No. 602/MP/2020 vide order dated 12.8.2020 and in Petition No. 615/MP/2020 vide order dated 28.8.2020 has granted 6 months extension to thermal power projects. Further, MNRE vide its notification dated 13.8.2020 has also granted 6 months extension to renewable energy projects. MoP vide its letter dated 27.7.2020 has indicated that 5 months extension must be given to transmission projects on account of Covid-19 pandemic.
- t. Two weeks' time may be granted for submitting written submissions.



4. In response, learned counsel for the Petitioner made the following submissions:
 - a. The line was successfully charged on no load basis on 2.6.2020 and 3.6.2020 for Ckt-I and Ckt-II respectively as recorded in the communication dated 29.6.2020 issued by POSOCO. The trial operation certificate could not be issued on that date as there was no power flow on the line.
 - b. It is evident from all the minutes of the meetings and communications that Phase-I was only for L&T. The Implementation Agreement signed with L&T in 2016 contains an indemnification clause.
 - c. Two weeks' time may be granted for submitting written submissions.
5. After hearing, the Commission directed the Petitioner to place on record the trial operation certificate and written submissions by 17.12.2021. The Commission also directed L&T to place on record the documents with reference to change in name of entity and written submissions by 17.12.2021. The Commission observed that the parties should comply with the above direction within the specified timeline and observed that no extension of time shall be granted.
6. Subject to above, the Commission reserved order in the matter.

By order of the Commission

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(V. Sreenivas)
Deputy Chief (Law)

