

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.** : 116/TT/2017

**Subject** : Petition for determination of transmission tariff from COD to 31.3.2019 for **Asset-I:** 400kV Lucknow-Kanpur(New) D/C transmission line alongwith associated bays at both end **Asset-II:** Augmentation of Transformation capacity at 400/220kV Ballabhgarh Sub-station by installing 500MVA ICT-III Anticipated, **Asset-III:**Augmentation of Transformation capacity at 400/220kV Ballabhgarh Sub-station by installing 500MVA ICT-IV,**Asset-IV:** Augmentation of Transformation capacity by 500MVA ICT(3rd) at 400/220kV GIS Gurgaon, **Asset-V:** Extension of GIS Parbati Pooling Station with 7x105MVA ICT along with associated bays and 2 Nos.220kV bays under NRSS-XXXII in Northern Region.

**Date of Hearing** : 7.7.2022

**Coram** : Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri Pravas Kumar Singh, Member

**Petitioner** :Power Grid Corporation of India (PGCIL)

**Respondents** :Rajasthan Rajya Vidyut Prasan Nigam Limited &Ors.

**Parties present** :ShriSitesh Mukherjee, Advocate, PGCIL  
Shri Aryaman Saxena Advocate, PGCIL  
Shri Anand K Ganesan Advocate, HPPTCL  
Ms. Swapna Seshadri, Advocate, HPPTCL  
Shri Amal Nair,Advocate, HPPTCL  
Ms. Sugandh Khanna, Advocate, HPPTCL  
Shri S. S. Raju, PGCIL  
ShriD.K Biswal, PGCIL  
ShriVed Rastogi, PGCIL  
Shri A. K. Verma, PGCIL

**Record of Proceedings**

The matter was called out for virtual hearing.

2. Learned counsel for the Petitioner submitted that HPPTCL filed Appeal No.182 of 2020 against order dated 20.7.2018 in Petition No.116/TT/2017 before APTEL on the ground that no notice was served on it in the matter and the liability of transmission charges of Asset-V from its COD till the COD of the downstream assets of HPPTCL was imposed on it without any opportunity of hearing.APTEL

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vide judgement dated 26.10.2021 remanded the matter to the Commission for reconsideration and fresh decision after hearing HPPTCL. Accordingly, the instant petition is being taken up for reconsideration of the Commission's order dated 20.7.2018 in Petition No.116/TT/2017 pursuant to the directions of APTEL in judgment dated 26.10.2021 in Appeal No. 182 of 2020. He submitted that HPPTCL has not challenged the tariff components of the order dated 20.7.2018 and is mainly aggrieved with the imposition of liability of transmission charges upon it with respect to Asset-V. He further submitted that reliance placed by HPPTCL on APTEL's judgment dated 14.9.2020 in Appeal No. 17 of 2019 NRSS-XXXI (B) Transmission Limited vs. CERC ("NRSS XXXI (B) Judgement") is misplaced as the Commission in its order dated 26.4.2022 in Petition No. 60/TT/2017 has extensively analyzed the NRSS judgement and has upheld the power of the Commission to impose liability of transmission charges on non-completion of upstream/downstream assets and has also dealt with the issue of force majeure. Accordingly, HPPTCL is solely responsible for non-utilisation of components of Asset-V after its COD on 30.12.2017.

3. The learned counsel appearing on behalf of HPPTCL made detailed submissions. The gist of the submissions made by HPPTCL are as follows:

- a) The COD of downstream assets i.e. 220kV Charor-Banala Transmission Line ("Charor-Banala line") under the scope of HPPTCL was delayed due to "force majeure" reasons and the Himachal Pradesh Regulatory Electricity Commission (HPREC) vide order dated 12.8.2021 partly condoned the delay. In accordance with the State Commission's order dated 12.8.2021 in Petition No. 97/2020, the transmission charges from the date of COD of Asset-V cannot be completely fastened upon HPPTCL, especially on account of the delay in time over-run being partially condoned by the State Commission.
- b) HPPTCL is not challenging the capital cost allowed to the Petitioner by the Commission vide order dated 20.7.2018 in Petition No. 116/TT/2017. The issue for reconsideration is whether HPPTCL can be fastened with the liability to pay the transmission charges due to delay in achieving the COD of downstream assets, in the absence of any contractual obligations.
- c) HPPTCL is a transmission licensee and the STU of Himachal Pradesh and does not deal with the electricity procurement or sale. HPPTCL does not have any contractual/ statutory relationship nor is a signatory to the TSA with PGCIL.
- d) By placing reliance on NRSS judgment dated 14.9.2020, he submitted that the submission of the Petitioner that the Commission vide order dated 26.6.2022 in Petition No. 60/TT/2017 has already dealt with the issues that arose in Appeal No. 17 of 2019 is incorrect. The issue in Petition No. 60/TT/2017 was with respect to payment of IDC and IDEC and not transmission charges like in the instant case and (ii) in NRSS judgment, the project was implemented under the TBCB route



however, the instant project is not under TBCB route.

- e) Relying on NRSS judgment, he submitted that imposition of transmission charges in absence of a contract, are more in the nature of 'damages' for delay in commissioning of assets and cannot be qualified as sharing of transmission charges. A pre-condition for imposition of transmission charge is existence of contract between the parties.
- f) The Petitioner did not fix any zero date for implementing the project. There was in fact 566 days delay in implementing the project by the Petitioner itself. In such circumstances, HPPTCL not being the beneficiary of the system cannot be made liable for the delay in commissioning of the downstream assets which has been partly condoned by State Commission.
- g) Placing reliance on APTEL's judgment dated 9.5.2022 in Appeal No. 343 of 2018 (HPSEB Vs NTL), he submitted that the APTEL has held that the Commission's Sharing Regulations clearly provide for mechanism to be followed for determination of share of each beneficiary i.e. LTTC, under the PoC mechanism. There is no mention of downstream or upstream network matching condition in Sharing Regulations under which specific LTTC can be penalized. In support of submissions, he submitted that HPPTCL is neither a LTTC nor a beneficiary therefore no liability can be imposed on HPPTCL.
- h) The 2020 Sharing Regulations does not apply in the instant case as the event occurred prior to the enactment of 2020 Sharing Regulations.
- i) Following the principle laid down by APTEL in its judgement dated 27.3.2018 in Appeal No 390 of 2017 (PSPCL Vs Patran Transmission Company Limited & Others). ("Patran judgment"), he submitted that the HPPTCL cannot be made liable for payment of transmission charges.
- j) As regards the COD of Charor-Banalatransmission line, he submitted that the line was charged on 24.7.2019 however, due to absence of telemetry system at the generator end, the actual power flow could take place only in October, 2019. The State Commission considered 1.10.2019 as the COD of the said line. However, from the perusal of the written submissions of the Petitioner, it appears that Petitioner has considered the COD of the line as 5.12.2019. He submitted that therefore HPPTCL cannot be in any way held liable beyond 24.7.2019 and requested the Commission to adjudicate upon this issue.

4. In response, the learned counsel for the Petitioner submitted that on the issue of COD of Asset V, he would seek instructions of the Petitioner. Further, HPPTCL ought to have impleaded the generator as a party on account of whom there was a delay in power flow. He requested the Commission to grant time to examine the applicability of APTEL's judgment dated 9.5.2022 in Appeal No. 343 of 2019 in the instant case.



5. Learned counsel for HPPTCL sought permission to file its revised written submissions to take care of the developments that have taken place after the filing of reply by HPPTCL.

6. The Commission gave the following directions:

- a. The Petitioner to implead CTUIL and the generator responsible for installation of the telemetry system as a party to the present proceedings as the issue of planning of the transmission system is involved and file revised memo of parties within a week.
- b. CTUIL to file its comments on the issue of planning of the transmission system on affidavit by 25.7.2022, with a copy to all the parties.
- c. The parties to file their consolidated written submissions by 25.7.2022 with a copy to all the other parties.
- d. The Petitioner to submit the following information on affidavit by 18.7.2022 with an advance copy to the other parties.
  - i. Single line diagram with clearly indicating upstream and downstream transmission system.
  - ii. Clarify whether the 2X315 MVA ICTs are part of common transmission system for evacuation of various small HEPS or exclusively developed for HPPTCL.
- e. HPPTCL to submit the following information on affidavit by 18.7.2022 with an advance copy to all the other parties.
  - i. The COD of the 220 kV Charor-Banala transmission line and in support of the COD of the transmission line CEA energisation certificate and SLDC charging certificate.
  - ii. Single line diagram clearly indicating the various generation stations connected to 220/132 kV Charor Sub-station.

7. The Petition shall be listed for further hearing in due course for which a separate notice will be issued.

**By order of the Commission**

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

