

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 169/TT/2020

Subject : Petition for determination of transmission tariff from COD to 31.3.2014 for one number of asset under “Sub-station works associated with additional inter-regional AC link for import of power into Southern Region i.e., Warora Warangal and Chilakaluripeta-Hyderabad-Kurnool 765 kV Link” in Southern Region.

Date of Hearing : 7.7.2022

Coram : Shri I.S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Petitioner : Power Grid Corporation of India Ltd.

Respondents : Karnataka Power Transmission Corporation Ltd.& 16 Others

Parties present : Shri Anand K. Ganesan, Advocate, PGCIL
Ms. Swapna Seshadri, Advocate, PGCIL
Shri Jai Dhanani, Advocate, PGCIL
Shri Amit Kapur, Advocate, WKTL
Ms. Poonam Verma, Advocate, WKTL
Ms. Aparajita Upadhyay, Advocate, WKTL
Ms. Sakshi Kapoor, Advocate, WKTL
Ms. Gayatri Aryan, Advocate, WKTL
Shri S. Vallinayagam, Advocate, TANGEDCO
Shri S. S. Raju, PGCIL
Shri D.K. Biswal, PGCIL
Shri Ved Prakash Rastogi, PGCIL
Shri A.K. Verma, PGCIL
Shri Bhavesh Kundalia, WKTL
Dr. R. Kathiravan, TANGEDCO
Shri R. Ramalakshmi, TANGEDCO
Shri R. Srinivasan, TANGEDCO
Shri B. Rajeswari, TANGEDCO

Record of Proceedings

Case was called out for virtual hearing.



2. Learned counsel for the Petitioner made the following submissions:
 - a. Liberty may be given to withdraw the claim regarding cost of PLCC equipment at Kurnool in this petition and amend the truing up tariff petition of Kurnool.
 - b. The Petitioner is seeking declaration of deemed COD for line bays at Hyderabad which is connecting Hyderabad-Maheshwaram 765 kV Sub-station at Warangal. The line is to be executed by the TBCB licensee, Warora-Kurnool Transmission Limited (WKTL) and the same has not yet been put into commercial operation and is expected to achieve COD by November, 2022. Despite the present petition being filed by the Petitioner on 9.1.2020, reply to the petition is filed by WKTL on 22.10.2021 wherein no firm date of achieving COD of its line has been indicated by WKTL. Therefore, the Petitioner cannot be left remediless.
 - c. Since the transmission line has not yet been put into commercial operation by TBCB licensee, the Petitioner has invoked provisions of Regulation 5(2) of the 2019 Tariff Regulations for declaration of deemed COD of its asset as 9.11.2019. The Petitioner satisfies all the conditions as contemplated under Regulation 5 of the 2019 Tariff Regulations for claiming deemed COD. All the documents required as per Regulation 5(2) of the 2019 Tariff Regulations have already been placed on record by the Petitioner.
 - d. Further, as per Regulation 6 of the 2019 Tariff Regulations, in the present case of mismatch of commercial operation, the liability has to be fixed upon WKTL.
 - e. If WKTL succeeds in its case of *force majeure* in Petition No. 334/MP/2020, it may pass on the liability to its beneficiaries. However, the approval of deemed COD cannot be held back.
3. Learned counsel for WKTL made the following submissions:
 - a. WKTL's asset has not been put under commercial operation on account of continuing force majeure events and its asset is expected to be put under commercial operation by January, 2023. The asset has faced RoW issues, unprecedented rainfalls in Andhra and Telangana, overlapping of route alignment, objections raised by Telangana State Industrial Infrastructure Corporation (TSIIC), directions of Western Coalfields Limited (WCL) and Singareni Collieries Company Limited (SCCL), delay in grant of wildlife approval and delay due to issue of proposed wayside amenity and helipad. In these circumstances, Article 4.4.2 and Article 11.7 of the TSA clearly provide for extension of the SCOD.
 - b. The judgment of APTEL dated 14.9.2020 in Appeal No. 17 of 2019 in the case of NRSS XXXI B Transmission Ltd. v. CERC and Ors. is binding and it cannot be brushed aside in the present case.
 - c. Section 178 of the Act envisages that the Commission may only make rules consistent with the Act and rules.



4. Learned counsel for TANGEDCO referred to his reply and made the following submissions:

a. Insofar as the 2019 Tariff Regulations are concerned, the defaulting party has to bear the transmission cost i.e. WKTL.

b. WKTL has relied upon a letter of MoP which is not binding on the Commission and it is in direct conflict with the 2019 Tariff Regulations.

c. As no force majeure has been established by WKTL, it is liable to bear the transmission charges.

5. The Commission allowed the request of the Petitioner to file affidavit regarding communication system by 18.7.2022. The Commission also directed the parties to file their Written Submissions, if any, by 25.7.2022.

6. After hearing the parties, the Commission reserved order in the matter.

By order of the Commission

sd/-

(V. Sreenivas)
Joint Chief (Law)

