

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
New Delhi**

**Petition No. 141/TT/2015**

- Subject** : Approval of transmission tariff for MB TPS (Anuppur)-Jabalpur Pooling Station 400 kV D/C (triple Snowbird) line, under Transmission System for connectivity of MB Power (M.P.) Limited in Western Region for tariff block 2014-19 under Regulation 86 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014.
- Petitioner** : Power Grid Corporation of India Limited (PGCIL)
- Respondents** : MB Power (Madhya Pradesh) Company Limited & 8 Ors.
- Date of Hearing** : 9.2.2023
- Coram** : Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member
- Parties Present** : Shri Hemant Sahai, Advocate, MB Power  
Ms. Utkarsh Singh, Advocate, MB Power  
Ms. Moolshree Bhatnagar, M.B Power  
Ms. Swapna Seshadri, Advocate, PGCIL  
Shri Anand K. Ganesan, Advocate, PGCIL  
Ms. Neha Garg, Advocate, PGCIL  
Ms. Surbhi Gupta, Advocate, PGCIL  
Ms. Nimish Sha, M.B Power  
Shri V. Srinivas, PGCIL  
Shri V.C Shekhar, PGCIL  
Shri Mukesh Khanna, PGCIL  
Shri Prashant Kumar, PGCIL  
Shri Pankaj K., PGCIL

**Record of Proceedings**

MB Power (Madhya Pradesh) Limited filed Appeal No. 73 of 2018 against the Commission's order dated 15.12.2017 in Petition No. 141/TT/2015 and CTUIL filed Appeal No. 196 of 2019 against the Commission's order dated 10.5.2019 in Petition No. 96/MP/2018. APTEL vide combined judgement dated 6.10.2022 dismissed the



Appeal No. 196 of 2019 filed by CTUIL and remitted Petition No. 141/TT/2015 for reconsideration of the Commission. Accordingly, Petition No. 141/TT/2015 is listed for reconsideration. The matter was listed for hearing on 7.2.2023 and the learned counsel for PGCIL argued the matter at length. The learned counsel for M.B Power requested to take up the matter on 9.2.2023 as the arguing counsel was not available. Accordingly, the instant petition was taken up for hearing on 9.2.2023.

2. The learned counsel for M.B Power argued the matter at length. The main submissions made by him are as follows:

- (a) The date of COD and date of readiness of the transmission asset has already been decided by APTEL as 25.2.2015 and 18.11.2014 respectively and the same cannot be raised by PGCIL in the present remand proceedings. The scope of remand is limited and these dates and other findings in relation thereto cannot be re-opened or re-argued by PGCIL in these proceedings.
- (b) PGCIL cannot declare the COD of the transmission asset without fulfilling the conditions stipulated in the Hon'ble Supreme Court order in NTPC Barh-Balia judgement. Therefore, prior to declaration of COD, no liability of transmission charges can be imposed.
- (c) The COD of the transmission asset has been approved by the Commission as 25.2.2015 and the same has now been upheld by APTEL in its Judgement dated 6.10.2022. Thus, only IDC and IEDC is payable for the period between the date of readiness of transmission asset and COD i.e. for the period from 18.11.2014 to 24.2.2015.
- (d) PGCIL has failed to place on record the calculations to substantiate its claim against MB Power. MB Power is liable to pay IDC and IEDC for the period 18.11.2014 till 24.2.2015 (99 days) pursuant to the APTEL's judgement as opposed to earlier finding of Commission of 8.8.2014 to 24.2.2015. Therefore, PGCIL should be directed to provide necessary evidence and certificates in support of its claim and MB Power be allowed an opportunity to rebut the same.
- (e) The IDC and IEDC and transmission charges can be recovered only to the extent 392 MW for which LTA was operationalised on 26.8.2015.
- (f) The claim for IDC and IEDC is in the nature of compensation of expenses incurred by PGCIL and thus has to be based on actuals and cannot be punitive. The law is well settled that damages for compensating losses/expenses has to be on actuals and cannot be punitive.
- (g) Sought one-week's time to file its written submissions.

3. In response, the learned counsel for PGCIL submitted that recovery of the capital cost cannot be regarded as damages. As PGCIL has completed its scope on



8.8.2014 and has submitted all documentary evidence, PGCIL is entitled for transmission charges of the Anuppur-Jabalpur Line from 8.8.2014 onwards.

4. The Commission directed both the parties to file their written submissions not exceeding three pages by 3.3.2023 and further observed that no further extension of time will be allowed.

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

**By order of the Commission**

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

