

**CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi**

Petition No. 33/TT/2023

- Subject** : Petition for determination of transmission tariff from COD to 31.3.2024 for two no. of transmission assets at Indore Sub-station under “Connectivity and LTA for 325 MW Wind Project of M/s SBESS Services Projects Pvt. Ltd.” in Western Region.
- Date of Hearing** : 20.12.2023
- Coram** : Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri P.K. Singh, Member
- Petitioner** : Power Grid Corporation of India Limited
- Respondents** : Madhya Pradesh Power Management Company Limited and 8 Others
- Parties Present** : Ms. Swapna Seshadari, Advocate, PGCIL
Shri Utkarsh Singh, Advocate, PGCIL
Ms. Sneha, Advocate, PGCIL
Ms. Rohini Prasad, Advocate, BSPHCL
Shri Hemant Singh, Advocate, Adani Wind
Ms. Ankita Bafna, Advocate, Adani Wind
Ms. Alchi Thapliyal, Advocate, Adani Wind
Ms. Lavanya Panwar, Advocate, Adani Wind
Shri Bhaorya Kumar, Advocate, Adani Wind
Shri Ayush Raj, Advocate, Adani Wind
Shri Lakshyajit Singh Bagdwal, Advocate, Adani Wind
Shri Zafrul Hassan, PGCIL
Shri Divyanshu, PGCIL
Shri Arjun Malhotra, PGCIL
Shri Swapnil Verma, CTUIL
Shri Siddharth Sharma, CTUIL

Record of Proceedings

Power Grid Corporation of India Limited (PGCIL) has filed the instant petition for determination of transmission tariff from COD to 31.3.2024 in respect of transmission assets i.e. Asset-1: 1x500 MVA, 400/220 kV ICT (3rd) along with associated bays and 2 no. 220 kV Bus Sectionalizer bay (Hybrid/MTS) at Indore (Powergrid) Sub-station and Asset-2: 1 no. 220 kV Hybrid/MTS Line Bay at Indore Sub-station under “Connectivity and LTA for 325 MW Wind Project of SBESS Services Projects Two Pvt. Ltd.” in Western Region.



2. The Petitioner has claimed the COD of Asset-2 under Regulation 5(2) of the 2019 Tariff Regulations with effect from 30.4.2022, as the Petitioner could not utilize its asset due to delay caused in completion of the associated generating system by SBESS Services Project Two Pvt. Limited (SBESSPTPL) now Adani Wind Energy MP One Pvt. Limited [Adani Wind]

3. Learned counsel for the Petitioner made the following submissions:

- (i) Adani Wind has contended that it is not liable to pay the transmission charges for the period of mismatch for three reasons, namely, (i) the generator, Adani Wind had extension of SCOD for its SCOD from SECI, (ii) the directions under Section 107 of the Electricity Act, 2003 are there from the Ministry of Power which require the Commission to align its regulations in accordance with the said directives, and (iii) there is no contract between the Petitioner and Adani Wind.
- (ii) The said three issues raised by Adani Wind in its reply in the present matter have already been settled by the judgment of APTEL dated 2.5.2023 in the case of Fatehgarh Badla Transmission Company Limited v. Central Electricity Regulatory Commission and others. Therefore, the Petitioner is entitled for payment of transmission charges for the mismatch period from the defaulting party as per the prevalent regulations.
- (iii) The information sought by the Commission through its RoP dated 30.10.2022 has been submitted vide affidavit dated 10.11.2023, wherein the purpose of construction of 500 MVA ICT at Indore Sub-station, the reasons to claim COD of the line bay under Regulations 5(2) of the 2019 Tariff Regulations and details with reference to TSA signed by SBESSPTPL have been given.

4. Learned counsel for the MPPMCL submitted that MPPMCL is not the beneficiary in the present case as no power is being used by it. Therefore, no liability for payment of transmission charges should be imposed on MPPMCL.

5. Learned counsel for Adani Wind made the following submissions:

- (i) SECI executed 2 nos. of PPAs dated 16.12.2019 with the erstwhile SBESSPTPL for the development of a Wind Power Project having 274.4 MW and 50 MW capacity separately wherein SCOD of the project was originally mentioned as 15.3.2021.
- (ii) SECI, in its letter dated 27.2.2022, revised the SCOD of the generation as stipulated in the PPAs to 26.8.2022 in terms of the MNRE notification dated 17.3.2022.
- (iii) The delay attributable to SBESSPTPL (Adani Wind) is between 26.8.2022 till 10.9.2022 (i.e. for a period of 15 days) for 251.1 MW and till 17.9.200 (i.e. for a period of 22 days) for 76.5 MW.
- (iv) In view of the extension of SCOD granted to SBESSPTPL (Adani Wind), the prayer of the Petitioner for recovery of the transmission charges from



SBESSSPTPL for the mismatch period (i.e. 29.4.2022 to 17.9.2022) for 4 months is liable to be rejected.

- (v) The CTUIL operationalized the LTA of SBESSSPTPL (Adani Wind) from 26.5.2022 and as such no liability can be imposed on SBESSSPTPL (Adani Wind) prior to 26.5.2022 in view of Electricity (Transmission System Planning, Development and Recovery of IST charges) Rules.
- (vi) Article 4.2.2 of the PPA stipulates penalties, fines, and charges imposed by CTU/STU under any statute or requirement in relation to delay in commissioning of the project shall be payable by WPD to the extent the delay is attributable to WPD.
- (vii) Adani Wind (formerly SBESSSPTPL) has already deposited the amount of liquidated damages with SECI as stipulated under the PPAs and, as such, no liability falls on Adani Wind for payment of the transmission charges for the mismatch period.

6. After hearing the parties, the Commission directed the parties to file their respective Written Submissions by 12.1.2024, with a copy to the other parties. The Commission further directed the parties to adhere to the above timeline and observed that no extension of time would be granted.

7. Subject to the above, the Commission reserved the order in the matter.

By order of the Commission

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(V. Sreenivas)
Joint Chief (Law)

