

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.81/2010

Coram:

1. Dr. Pramod Deo, Chairperson
2. Shri S.Jayaraman, Member
3. Shri V.S.Verma, Member
4. Shri M.Deena Dayalan, Member

DATE OF HEARING: 19.8.2010

DATE OF ORDER 24.9.2010

In the matter of

Approval of date of commercial operation under Regulation 3(12)(c) of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 and Regulation 24 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for Kudankulam (NPC)-Tirunelveli (Power Grid) 400 kV (Quad) D/C Line I and II with associated bays and equipments under Kudunkulum Transmission system in Southern Region.

And in the matter of

Power Grid Corporation of India Limited, Gurgaon

..Petitioner

Vs

1. Karnataka Power Transmission Corporation Ltd, Bangalore
2. Transmission Corporation of Andhra Pradesh Ltd., Hyderabad
3. Kerala State Electricity Board, Thiruvananthapuram
4. Tamil Nadu Electricity Board, Chennai
5. Electricity Department, Government of Goa, Panaji
6. Department, Govt. of Pondicherry, Pondicherry
7. Eastern Power Distribution Company of Andhra Pradesh Ltd, ishakhapatnam
8. Southern Power Distribution Company of Andhra Pradesh Limited, Tirupati
9. Central Power Distribution Company of Andhra Pradesh Ltd, Hyderabad
10. Northern Power Distribution Company of Andhra Pradesh Ltd, Warangal
11. Bangalore Electricity Supply Company Ltd., Bangalore
12. Gulbarga Electricity Supply Company Ltd. Gulbarga
13. Hubli Electricity Supply Company Ltd., Hubli
14. MESCOM Corporate office, Mangalore
15. Chamundeswari Electricity Supply Corporation Ltd., Mysore.

.Respondents

The following were present:

1. Shri U.K.Tyagi, PGCIL
2. Shri M.M. Mondal, PGCIL
3. Shri R.Krishnaswami, TNEB

ORDER

The petitioner, Power Grid Corporation of India Limited, has filed this petition under Regulation 3(12)(c) of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 and Regulation 24 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for approval of the date of commercial operation as 1.4.2009 for the Kudankulam (NPC)-Tirunelveli (Power Grid) 400 kV (Quad) D/C lines I and II with associated bays and equipments under Kudankulam Transmission system in Southern Region.

2. The petitioner has submitted that it has been entrusted with the execution of the "Transmission System associated with the Kudankulam Atomic Power Project (2x1000)" in the Southern Region. As per the investment approval, the Kudankulam transmission system is scheduled for completion in a phased manner. The 400 kV D/C (Quad) Kudankulam - Tirunelveli line-I has an implementation schedule to match with the commissioning of first unit of Kudankulam project in May 2007 and 400 kV D/C (Quad) Kudankulam to Tirunelveli Line-II has an implementation schedule to match with commissioning of 2nd unit of Kudankulam in December 2007.

3. The petitioner has submitted that in the 140th meeting of the Southern Region Electricity Board (SREB) held on 18.3.2006, Nuclear Power Corporation of India Limited (NPCIL) who is developing the Kudankulam Atomic Power

Project (2x1000) indicated that the 1st unit of Kudankulam generation was expected to be commissioned by November 2007. The petitioner has accordingly placed awards on agencies to meet the above completion schedule. The main packages (Tower Package) was awarded in November 2005 with a completion schedule of 19 months. In the 2nd meeting of the Southern Regional Power Committee (SRPC) held on 31.10.2006, all the constituents were informed that the programme of commissioning of transmission system would be matching with the commissioning of generating units. However, on account of problems with the execution of the Kudankulam Generation Project, the commissioning of the generation has been delayed. The completion schedule of the generation project has been indicated by NCPIIL from time to time as under:

Sl. No.	SRPC Meetings	Schedule of commissioning of generation unit
1	3 rd SRPC meeting on 19.2.2007	1 st unit by December 2008 2 nd unit by June 2009
2	4 th SRPC meeting on 7.6.2007	1 st unit by December 2008 2 nd unit by June 2009
3	5 th SRPC meeting on 25.8.2007	1 st unit by December 2008 2 nd unit by June 2009
4	6 th SRPC meeting held on 15.2.2008	1 st unit by December 2008 2 nd unit by June 2009
5	7 th SRPC meeting held on 7.6.2008	1 st unit by June 2009 2 nd unit by December 2009
6	8 th SRPC meeting held on 19.12.2008	1 st unit by December 2009 2 nd unit by March 2010
7	9 th SRPC meeting held on 6.3.2009	1 st unit by December 2009 2 nd unit by March 2010
8	10 th SRPC meeting held on 2.7.2009	1 st unit by December 2009 2 nd unit by June 2010
9	11 th SRPC meeting held on 17.9.2009	1 st unit by June 2010 2 nd unit by December 2010
10	12 th SRPC meeting held on 18.12.2009	1 st unit by June 2010 2 nd unit by December 2010
11	13 th SRPC meeting held on 11.5.2010	1 st unit by September 2010 2 nd unit by March 2011

4. The petitioner has submitted that it had commenced the work of Transmission Lines keeping in view the parallel timelines of the generation. Even the petitioner had slowed down the work keeping in view the shift or delay in the commissioning schedule of the generating units. However it was not feasible to delay the transmission lines to the extent the generation unit was delayed as this would have bearing on the project cost. The petitioner has completed the construction activity and the lines have been completed. Though the lines are ready for intended use, the petitioner is unable to charge the lines due to delay in the commissioning of the generation unit which is not attributable to the petitioner. The petitioner has sought the approval of the Commission under second proviso to sub-clause (c) of clause (12) of Regulation 3 of 2009 regulations for approval of the date of commercial operation prior to the element coming into regular service.

5. The petitioner has made following prayers:

- (a) Invoke the provision of Regulation 3(12) (c) of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (hereinafter referred to as "the 2009 regulations") and Regulation 24 of Central Electricity Regulatory Commission (Conduct of Business) Regulation, 1999 for approval of the date of commercial operation as 1.4.2009;
- (b) Allow accordingly to approach CERC for approval under Regulation 86 of Central Electricity Regulatory Commission (Conduct of Business)

Regulation, 1999 and the 2009 regulations for determination of transmission tariff for Kudankulam (NPC)-Tirunelveli (Power Grid) 400 kV (Quad) D/C line- I & II with associated bays and equipments under Kudankulam Transmission System in Southern Region for the period 2009-14.

6. Tamil Nadu Electricity Board (TNEB) in its reply affidavit dated 22.4.2010 has submitted that NPCIL should also be impleaded as a respondent in the present petition. Powergrid had executed Indemnification Agreement in case of Neyveli TPS II-Expansion and Krishnapatnam UMPP and similar agreement if any between Powergrid and NPCIL for making good the losses in the event of delays by parties need to be filed before the Commission. In any case, the beneficiaries should not be burdened with the payment of the transmission charges prior to the commissioning of the generation or transmission lines. TNEB has further submitted that the progress of the lines was not informed during the SRPC meetings. TNEB has submitted that the claims of the petitioner for approval of 1.4.2009 as the DOCO of the Tirunelveli-Kudankulam Lines I and II associated with Kudankulam Transmission System be rejected.

7. The petitioner in its rejoinder dated 2.7.2010 has submitted that PGCIL had entered into a generic Indemnification Agreement with NPCIL and annexure to the Indemnification Agreement indicated that the project specific zero date has been under consideration of the NPCIL. The petitioner has been constantly following up with NPCIL for signing the same. The petitioner has submitted that during the deliberations in the various SRPC

meetings, it was explained to TNEB that the petitioner would commission the Triuneveli sub-station along with the LILO of 400 k V Madurai-Trivandrum line, based on approval of the date of commissioning of these assets without commissioning of the generation project. The petitioner has further stated that since the progress of the ongoing projects is discussed in the Technical Committee Meetings, all beneficiaries are aware of the progress of the works of the project.

8. During hearing of the petition, in reply to our query, the representative of the petitioner confirmed that it has an indemnification agreement with NPCIL, and clarified that the agreement does not define the "Zero date" for the project. For making the agreement effective, zero date has to be declared. Despite repeated efforts by the petitioner, NPCIL is not coming forward to sign the zero date. He further submitted that NPCIL kept deferring the commissioning schedule. However, the petitioner had made investment in transmission project and if the transmission lines are left idle without charging, there is a chance of theft of conductor, etc. The representative of the petitioner prayed for approval of date of commercial operations of these two lines as 1.4.2009.

9. We have considered the submissions made by the petitioner and the response of TNEB. It is well known fact that the Kudankulam Power Project of NPCIL is getting delayed due to various reasons such as delay in receipt of drawing and equipment from companies from Russia. Even the Government of India had to take up the matter at the highest level with their counter parts

in Russia. We also take note of the fact that the schedule for commissioning of the generating units kept changing frequently and hence, it would not have been prudent on the part of the petitioner to keep revising the schedule for commissioning of the transmission systems for evacuation of power and if these lines were kept in idle condition then there might be theft of conductors, etc. Hence the charging of the transmission lines becomes essential.

12. Clause (12) of Regulation 3 of 2009 regulations provides as under:

"(12) Date of commercial operation or COD means

(a) and (b) *****

(c) in relation to the transmission system, the date declared by the transmission licensee from 0000 hour of which an element of the transmission system is in regular service after successful charging and trial operation:

Provided that the date shall be first day of calendar month and transmission charges for the element shall be payable and its availability shall be accounted for, from that date:

Provided further that in case an element of the transmission system is ready for regular service but is prevented from providing such service for reasons not attributable to the transmission licensee, its suppliers or contractors, the Commission may approve the date of commercial operation prior to the element coming into regular service. "

13. The second proviso to sub-clause (c) of clause (12) of Regulation 3 of 2009 regulations clearly provides that in case an element of the transmission system is ready for regular service but is prevented from providing such service for reasons not attributable to the transmission licensee, its suppliers or contractors, the Commission may approve the date of commercial operation prior to the element coming into regular service. We are satisfied that the delay in putting the subject transmission lines to regular use is on account of

the delay in commissioning of the Kudankulam generating station of NPCIL which is beyond the control of the Petitioner. Moreover keeping the lines idle without charging increases the risk of theft of the conductors etc. We are of the view that this is a fit case for approval of the date of commercial operation prior to the element coming into regular service. In exercise of our power under sub-clause (c) of clause (12) of Regulation 3 of 2009 regulations, we approve the date of commercial operation as 1.4.2009 in respect of Kudankulam (NPC)-Tirunelveli (Power Grid) 400 kV (Quad) D/C lines I and II with associated bays and equipments under Kudankulam Transmission system in Southern Region. As regards the second prayer, the petitioner may file the petition for determination and approval for transmission charges for Kudankulam (NPC)-Tirunelveli (Power Grid) 400 kV (Quad) D/C lines I and II with associated bays and equipments under Kudankulam Transmission system in Southern Region for the period 2009-14 in accordance with the 2009 regulations.

14. The petition stands disposed of in terms of the above.

Sd/-	sd/-	sd/-	sd/-
(M.DEENA DAYALAN)	(V.S.VERMA)	(S.JAYARAMAN)	(Dr. PRAMOD DEO)
MEMBER	MEMBER	MEMBER	CHAIRPERSON