

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 259/2010

Coram:

Dr. Pramod Deo, Chairperson

Shri S. Jayaraman, Member

Shri V.S. Verma, Member

Shri M. Deena Dayalan, Member

Date of Order: 18.01.2013

In the matter of:

Issue of consequential order in Petition No.259/2010 in compliance with the directions of the Appellate Tribunal for Electricity in judgement dated 2.1.2013 in Appeal No.81/2011(Allain Duhangan Hydro Power Limited V Everest Power Private Limited & Others)

In the matter of:

Everest Power Private Limited

....Petitioner

Vs

1. Allain Duhangan Hydro Power Limited, Noida
2. Central Electricity Authority, New Delhi
3. Ministry of Power, New Delhi
4. Power Grid Corporation of India Limited, Gurgaon
5. Northern Regional Load Despatch Centre, New Delhi
6. Ministry of Power, Government of Himachal Pradesh, Shimla
7. Himachal Pradesh State Electricity Board, Shimla
8. Himachal Pradesh Power Transmission Corporation Limited, Shimla
9. Department of Forests, Government of Himachal Pradesh, Shimla

....Respondents

ORDER

The Commission in its order dated 1.6.2011 in Petition No.259/2010 had directed that the Commission has the jurisdiction to adjudicate the dispute between the petitioner and Respondent No.1 with regard to the use of the 220 kV D/C Allain Duhangan Hydro Power Limited(ADHEP)-Nalagarh Transmission Line and issued certain consequential directions in para 20 of the said order. Aggrieved by the said order, Respondent No.1 filed Appeal No.81/2011 before the Appellate Tribunal for

Electricity (hereinafter “Appellate Tribunal”). The Appellate Tribunal has disposed of the appeal vide judgement dated 2.1.2013 with the following directions:

“55. Conclusion

(i) The arrangement for interconnection of the dedicated transmission system of the earlier for evacuation of power from the hydro power stations of Parbati Basin and constraints hydro power project of the Respondent no.1 with the dedicated transmission system of the Appellant and the evacuation of the power of the Respondent no.1 through the dedicated transmission system of the Appellant upto the sub-station of Power Grid at Nalagarh has been planned and coordinated by the CEA and CTU in consultation with the parties. This has been necessitated by delay in construction of Parbati Pooling Station planned by the CTU in providing alternative transmission corridor in the hilly and forest area and environmental consideration.

(ii) The Central Government granted permission to the Respondent no.1 under Section 68 to construct its dedicated transmission system comprising 132 kV transmission line and 220/132 kV sub-station to loop-in-loop-out one of the circuits of Allain Duhangan – Nalagarh 220 kV double circuit approval for which was earlier granted by the Central Government to the Appellant as its associated transmission system. The approval to the Respondent no.1 under Section 68 was granted with the understanding reached in a meeting taken in the CEA for the sharing arrangement with the consent of the Appellant and the Respondent no.1

(iii) In view of the Loop-in-Loop-out of one of the Allain Duhangan – Nalagarh circuits at Chhaur, part of the line is used for conveyance of electricity across the territory of an intervening State/within the State which is incidental to inter-State transmission of electricity of Malana II of the Respondent no.1. Thus, the transmission of power on this line has to be regulated by the Central Commission. Thus, the Central Commission has the jurisdiction to adjudicate upon the dispute between the Appellant and the Respondent no.1 regarding sharing of transmission charges, losses, etc. by the Respondent no.1 as per Section 79(1)(f) of the Act. Thus, this issue is decided against the Appellant.

(iv) We have given specific findings about the various issues raised by the Appellant and the Respondent no.1 for usage of the transmission system of the Appellant, and other related issues in Paragraph 53 of the judgment. The Central Commission shall pass consequential order on the basis of our directions after hearing the concerned parties within 45 days of receipt of the copy of this judgment. However, till the passing of the consequential order by the Central Commission the interim arrangement for payment of transmission charges and transmission losses by the Respondent No.1 to the Appellant as per our interim order dated 10.6.2011 will continue.

56. The Appeal is dismissed with directions to the Central Commission to pass the consequential order. No order as to costs.”

2. In para 53 of the judgement, the Appellate Tribunal has issued specific directions regarding capital cost, return on equity, sharing of transmission losses, priority in case of outage of a circuit, control of 132/220 kV Chhaur sub-station.

Briefly, the directions of the Appellate Tribunal on the above issues are as under:

(a) The Central Commission shall decide the capital cost on the basis of the provisions of 2009 Tariff Regulations which shall form the basis for determination of transmission charges payable by the petitioner to Respondent No.1.

(b) Respondent No.1 cannot claim return on equity more than that specified in the 2009 Tariff Regulations for transmission business for determine the transmission charges payable by the petitioner.

(c) The Commission shall decide the O&M charges to be borne by the petitioner afresh after hearing the parties.

(d) As regards the outage handling and priority in scheduling, the Commission shall give detailed directions to NRLDC on the principles enumerated in para 53.4 of the judgement after hearing the parties.

(e) The operations at Chhaur sub-station for Nalagarh and Allain Duhangan sections have to be carried out under the control of the Northern Regional Load Dispatch Centre.

(f) In respect of other operational issues, the Appellate Tribunal has granted liberty to Respondent No.1 (appellant) to raise the issue before the Commission which the Commission shall consider afresh after hearing the parties and pass consequential order.

3. In view of the above, we direct the Respondent No.1 to file the tariff petition for the 220 kV D/C ADHEP - Nalagarh Transmission Line in accordance with the provisions of 2009 Tariff Regulations of this Commission after serving a copy of the petition on the petitioner within 15 days of the issue of this order. The tariff petition shall be accompanied by all relevant documents including the certificate of the statutory auditor with regard to the capital cost and other expenditures. The petitioner is directed to file its reply to the tariff petition within 7 days thereafter. It is clarified that the Respondent No. 1 shall not be required to publish the public notice in the news papers as required under Regulation 5(1) of 2009 Tariff Regulations read with Central Electricity Regulatory Commission (Procedure for making of Application for Determination of Tariff, Publication of the Application and Other Related Matters) Regulations, 2004.

4. Since technical issues are involved, we direct Central Electricity Authority, Central Transmission Utility and Northern Regional Load Despatch Centre to assist the Commission during the hearing.

5. The petition shall be listed for hearing on **21.2.2013**.

sd/-
(M. Deena Dayalan)
Member

sd/-
(V. S. Verma)
Member

sd/-
(S. Jayaraman)
Member

sd/-
(Dr. Pramod Deo)
Chairperson