

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Interlocutory Applications No.10/2011 & 57/2012

**In
Petition No. 239/2010**

Coram:

**Dr. Pramod Deo, Chairperson
Shri V.S. Verma, Member
Shri M. Deena Dayalan, Member**

**Date of Hearing: 16.05.2013
Date of Order : 08.06.2013**

In the matter of:

Petition under section 62 and 79(1) (a) of the Electricity Act, 2003 read with Chapter-V of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for approval of tariff of 400 kV D/C Jhajjar-Mundka transmission line, a dedicated transmission line of IGSTPP of Aravali Power Company Private Limited for the period from the anticipated commercial operation date 31.8.2010 to 31.3.2014

And

In the matter of:

Aravali Power Company Private Limited, New Delhi

.....Petitioner

Vs

1. North Delhi Power Limited
2. BSES Rajdhani Power Limited
3. BSES Yamuna Power Limited

.....Respondents

The following were present:

Shri Ajay Dua, APCPL
Shri S.K.Sharma, APCPL
Shri N.N.Sadasivan, APCPL



Ms. Shilpa Agarwal, APCPL
Ms. Jyotirmayee Raj, NTPC
Shri B.S.Rajput, NTPC
Shri R.B.Sharma, Advocate, BRPL
Ms. Ankita Singh, PGCIL
Shri Mukesh Khanna, PGCIL
Shri Y.K. Sehgal, PGCIL

ORDER

This petition has been filed by Aravali Power Company Private Limited (APCPL) (hereinafter referred to as “petitioner”) seeking approval of transmission tariff of 400 kV D/C Jhajjar-Mundka Transmission Line, a dedicated transmission line of Indira Gandhi Super Thermal Power Project (IGSTPP) (hereinafter referred to as “transmission asset”) under Section 62 and 79(1)(a) of the Electricity Act, 2003 (hereinafter referred to as the “Act”).

2. The petitioner has been incorporated under the Companies Act, 1956 and is joint venture company of NTPC, Haryana Power Generation Company Limited (HPGCL) and Indraprastha Power Generation Company Limited (IPGCL). The petitioner has set up a power station named IGSTPP in district Jhajjar of Haryana having an approved capacity of 1500 MW (3X500 MW). The petitioner has filed a separate application for approval of tariff for IGSTPP and it is being considered by the Commission. The power generated from IGSTPP was originally envisaged to be shared between Delhi and Haryana in the ratio of 50:50.

3. The petitioner has also constructed the instant transmission asset as a dedicated transmission line, of 65.69 km/ckt., connecting the 400 kV IGSTPP, Jhajjar to 400/220



kV Mundka Sub-station at Delhi, constructed by Delhi Transco Limited, for transmission of power to North Delhi Power Limited, BSES Rajdhani Power Limited and BSES Yamuna Power Limited. Haryana's share of 50% of the power from IGSTPP, Jhajjar is evacuated by Haryana at the bus bar of IGSTPP and hence no transmission charges for the subject transmission line are payable by Haryana.

4. The transmission asset was anticipated to be commissioned on 31.8.2010. However, the transmission asset was commissioned on 1.3.2011 and accordingly the petitioner was directed to submit revised tariff forms. The petitioner has filed an amended petition in February 2012, revising the tariff forms as per the actual date of commercial operation. The petitioner has submitted that the transmission tariff for this line would be charged from the beneficiaries of Delhi for evacuation of 50% of power from IGSTPP, Jhajjar.

5. The petitioner has filed an interlocutory application, I.A No. 10/2011, during April 2011 seeking provisional tariff @ 95% of the annual fixed cost under Regulation 5 of the 2009 Tariff Regulations.

6. The petitioner has also filed an interlocutory application, I.A. No. 57/2012, in December, 2012 and has prayed for the following:-

"a. Declare Jhajjar-Mundka Line as "Deemed ISTS" line under CERC (Sharing of Transmission Charges & Losses Regulations) 2010 and determine the tariff of the said line accordingly.

- b. Pass the order to shift Main meters at Jhajjar end for Jhajjar-Mundka line. Till the shifting of Main meters, check meters installed at Jhajjar end be considered for energy accounting and billing for Jhajjar.
- c. Direct NRLDC/NRPC to consider Check meters readings at Jhajjar end for billing and accounting purposes and revising UI accounts from COD of Unit#1 of IGSTPP, Jhajjar till arrangement at above comes into force"
7. The Commission sought the views of the Central Electricity Authority (CEA), PGCIL and POSOCO on whether transmission tariff could be determined by the Commission as part of the tariff of the generating station and if so, whether the tariff should be determined as per the norms applicable to the generating station or the transmission system.
8. In response, CEA, TATA Power Delhi Distribution Limited (TPDDL) and PGCIL have filed their comments. The comments filed by them are as follows:-
- (a) CEA has submitted, vide its letter dated 9.10.2012, that the power generated by IGSTPP was originally envisaged to be shared by Delhi and Haryana equally. Subsequently, some of the power surrendered by Delhi has been supplied by the petitioner to States like Kerala and Andhra Pradesh. The 400 kV bus of the inter-State generating station is connected to Delhi Transco Limited at Mundka through the so-called dedicated transmission asset and to the Haryana Grid at Daulatabad Sub-station through a 400 kV D/C line constructed by HVPNL. Mundka and Daulatabad Sub-stations are in turn connected with ISTS grid at different points. As the power station is connected to two grid points, the power flows in these lines according to laws of physics and not according to Delhi's share of 50%. CEA has further submitted that the petitioner is not operating the transmission asset as a dedicated line and therefore the transmission asset should be converted into to an ISTS line and the petitioner should be asked to apply for grant of transmission licence for the transmission asset;

(b) TPDDL has submitted, vide its letter dated 9.10.2012, that as per the Power Purchase Agreement executed by TPDDL and the petitioner, the transmission tariff of the transmission asset shall be determined the Commission. The transmission asset has been constructed exclusively for the purpose of evacuation of Delhi's share of power and hence the tariff shall be determined by the Commission independently as per the 2009 Tariff Regulations; and

(c) Power Grid Corporation of India Limited (PGCIL), vide affidavit dated 10.10.2012, has submitted that as per Section 7 of the Act, a generating company can establish, operate and maintain a generating station without obtaining a licence and as per Section 10 of the Act, a generating company can establish, operate and maintain a generating station, tie lines, sub-stations and dedicated transmission lines connected therewith. A dedicated transmission line is not a transmission line of a licensee and therefore tariff of a dedicated transmission line cannot be determined by the Commission. However, the tariff of a generating station, falling under Section 79(1) (a) and (b) is to be determined by the Commission which would include both generation and transmission tariff. The tariff of a dedicated transmission line, which is part of a generating company, has to be determined as a block of generation tariff. PGCIL has further submitted that the tariff cannot be allowed to be determined bilaterally between the generating company and the beneficiary as laid down by the Hon'ble Supreme Court in *BSES Limited v Tata Power Limited (2004) 1 SCC 195* and *West Bengal Electricity Regulatory Commission V CESC Limited (2002) 8 SCC 715*. The tariff of the dedicated transmission line will have to be treated as a block of the generation tariff within the meaning of Sections 61, 62 (1)(a), 64, 79 and 86 of the Act.

9. The petitioner has submitted, vide affidavit dated 5.12.2012, that the IGSTPP, Jhajjar was constructed on the initiative of Government of India, Government of Delhi and Government of Haryana to meet the power requirement of Delhi, especially during the Commonwealth Games 2010 and beyond, and to meet the growing power requirements of Haryana. The project was discussed in a meeting conducted by CEA on 25.7.2007 and following evacuation programme was evolved:-

- (a) Jhajjar-Mundka 400 kV D/C line
- (b) Jhajjar-Daulatabad 400 kV D/C line
- (c) Daulatabad 400 kV Sub-station of HVPNL
- (d) Daulatabad-Gurgaon (PG S/S) 400 kV D/C line

It was decided that HVPNL would construct Jhajjar-Daulatabad & Daulatabad-Gurgaon Line. CEA was of the view that the transmission asset, being an inter-State line could be constructed by PGCIL and the transmission asset would be a dedicated line and Delhi would bear its full transmission charges. The petitioner has submitted that all the respondents gave their consent for construction of the transmission asset by PGCIL. The petitioner has also submitted that in a meeting held on 23.11.2007, the CEA stated that PGCIL as a CTU is required to undertake transmission projects which are for the benefit of more than one State, however, due to the dedicated nature of the instant transmission asset it does not fall under the said category. As PGCIL was unwilling to execute the transmission asset, Ministry of Power taking into consideration the urgency of the project directed the petitioner to construct the dedicated line. Finally, the transmission asset was executed by PGCIL on deposit work basis.

10. The petitioner has further submitted that some of the power surrendered by Delhi was allocated by the Ministry of Power to southern States like Andhra Pradesh and Kerala and thus the transmission asset is carrying inter-regional power in addition to the intra-regional power. The petitioner has also submitted that Mahatma Gandhi Super Thermal Power Project (MGSTPP) of Jhajjar Power Limited (JPL) had LILO connection on Jhajjar- Daulatabad line for more than a year during 2011 and 2012. The power was flowing from MGSTPP to IGSTPP during that period. Hence, the transmission asset comprises of flows from Haryana to Delhi in addition to the injection by IGSTPP.

11. In compliance of the directions of the Commission during the hearing on 11.10.2012, CTU and CEA have filed their comments and they are as follows:-

(a) The CTU has submitted, vide its affidavit dated 10.12.2012, that no connectivity or Long Term Access application was received from the petitioner. Haryana constructed the Jhajjar-Daulatabad 400 kV D/C line for drawal of its share of power and the petitioner constructed the transmission asset as dedicated line for delivering power to Delhi. The Mundka 400/220 kV sub-station is a STU sub-station. Under normal circumstances, Jhajjar being a generating station and Mundka being a load centre, power would flow from Jhajjar to Mundka. The Commission can determine the tariff for the dedicated line; and

(b) The CEA, vide its letter dated 28.2.2013, has submitted that IGSTPP is connected to Mundka by the dedicated transmission asset for delivering the Delhi's share in IGSTPP. HVPNL has commissioned an intra-State line as STU from Daulatabad to IGSTPP for drawing its share of power. Therefore, the instant transmission asset is simultaneously connected to both DTL and Haryana grid and power would flow according to laws of Physics which may not be according to the

respective shares of Delhi and Haryana. Both Mundka and Daulatabad sub-stations are part of national grid consisting of Inter-STS and Intra-STS. The supply of power from IGSTPP to the beneficiaries in NR, Kerala and Andhra Pradesh or any other State in the country would be through the national grid beyond IGSTPP generation switchyard through Daulatabad and Mundka. CEA has further submitted that the dedicated nature of the transmission asset can be maintained till the petitioner is allowed transmission business or till the transmission asset starts functioning as an alternative path for flow of electricity of other generating stations/licensees or starts providing a parallel path to the grid.

12. In response to the comments submitted by CTU vide its affidavit dated 10.12.2012, the petitioner has given the following clarifications:-

(a) As regards the CTU's submission that the petitioner has not made any connectivity or long term access application, the instant transmission asset was finalised before the Grant of Connectivity, Long term Access & Medium Term Open Access Regulations, 2009 came into effect;

(b) The CTU was to build the transmission asset as per the decision taken on 25.7.2007. However, the CTU in the meeting held on 23.11.2007 had indicated that it is not obligatory for it to execute the instant transmission asset;

(c) The transmission asset has been used to transfer the surplus power from IGSTPP to some southern States. The transmission asset is carrying both intra-regional power and inter-regional power;

(d) As submitted by the CTU, normally the power should flow from Jhajjar to Mundka, but sometimes the power from MGSTPP may also flow through the

transmission asset. Further, under certain circumstances the power may also flow from Mundka-Jhajjar-Daulatabad depending upon the dynamic system conditions;

(e) The Regional Transmission Accounts issued by NRPC shows that the power from IGSTPP (ex-bus) is transmitted to both NR and SR beneficiaries through the subject transmission asset; and

(f) The subject transmission asset may be declared as “deemed ISTS” line, as provided under Regulation 2(1)(k) of the Sharing of Inter-State Transmission Charges and Losses Regulations, 2010 and determine the transmission charges.

13. During the hearing on 16.5.2013, the representative of the petitioner submitted that 14 beneficiaries are receiving power from IGSTPP through Mundka Sub-station through the dedicated transmission asset. The dedicated nature of the line is lost and it partakes position of ISTS. Therefore, the transmission line should be treated as ISTS. The representative of the petitioner further submitted that the metering arrangement which is presently being done at Mundka Sub-station should be changed to the bus bar of IGSTPP, as in the case with other stations of NTPC.

14. The representative of the CEA submitted that the Mundka Sub-station can be considered as the extended bus bar of the generating station and there is no requirement for shifting the metering arrangement from Mundka Sub-station. However, the petitioner may install separate meters at the bus bar of the generating station and provide the meter reading to RLDC for calculation of the transmission losses.

15. We have considered the submissions of the petitioner, the CTU, the CEA and the respondents. There is no denying the fact that the subject transmission line was constructed as a dedicated transmission line for carrying the 50% share of power of Delhi from Jhajjar till Mundka. However, on analyzing the network configuration and incidental flows in the present case, it emerges that the Jhajjar-Mundka line is a part of a meshed network. The Jhajjar-Daultabad line of Haryana is connected further by Daulatabad- Dhanonda line to Dhanonda Sub-station of Haryana, where APL Mundra Power is also received. On the other hand, the Jhajjar-Mundka line is connected to Delhi Transco's transmission system at Mundka which is connected to Bawana Sub-station of STU on one side and to Bamnauli Sub-station of STU on the other end. One circuit of Mundka-Bamnauli Circuit is LILoed at Jhatikara Sub-station of CTU. Hence, it is a complete meshed circuit of CTU, Delhi Transco and Haryana. Though Haryana has 50% share of power in the IGSTPP, the flow on Jhajjar-Daulatabad line is not exactly 50% of the scheduled generation. At times less power flows through Jhajjar-Daulatabad line than the Jhajjar Mundka line. It is also observed that there is incidental power flow from MGSTPP of Jhajjar Power Limited (JPL) through the subject transmission asset. It is further observed that the scheduling of generation of IGSTPP is being done at the bus bar of the generating station. However, the actual generation is being measured at Mundka end for the power allocated to NR and SR beneficiaries. Due to this, the losses are being borne by generating company and there is no methodology to allocate these losses to the NR and SR beneficiaries. Further, due to difference in schedule generation at Jhajjar and actual generation measurement at Mundka, the generator is required to pay UI charges as well. NRLDC is treating Mundka as the inter-State boundary and

metering at that point is as per CEA Metering Regulations. At present, this line is being treated as a dedicated transmission line and the petitioner is bearing the transmission losses and paying the UI charges as the actual generation is metered at Mundka end. We are of the view that the problem can be overcome by granting transmission licence for Jhajjar-Mundka line to the petitioner as prayed. This would enable NRLDC to meter both scheduled generation and actual generation at Jhajjar end. The line losses could then be considered as the NR pool losses and the same will be applied on the schedule of Jhajjar beneficiaries.

16. We are of the view that the subject transmission asset is not functioning as dedicated transmission line and is actually being used as an inter-State transmission line. Since, the business of transmission cannot be carried out without a transmission licence, the petitioner should file the appropriate application for grant of transmission licence for the subject transmission line. In view of decision, the first prayer of the petitioner, in I.A. No.57/2012, to treat the transmission line as deemed ISTS cannot be granted.

17. The second prayer is for shifting the meters installed at Mundka end to the bus bar of the generating station and till the shifting of main meters, check meters installed at Jhajjar end be considered for energy accounting and billing for IGSTPP, Jhajjar. After the petitioner is granted transmission licence for the subject transmission line, the main meters will be installed in the bus bar of the generating station and the check meters will be installed at Mundka. This will address the grievance of the petitioner.

18. As regards the petitioner's last prayer to direct NRLDC/NRPC to consider the check meter readings at Jhajjar end for billing and accounting purposes and revising UI accounts from the date of commercial operation of Unit 1 of IGSTPP, Jhajjar till arrangement as above comes into force, we are of the view that decision in this regard cannot be taken without hearing NRLDC and NRPC. The petitioner may file a proper petition in this regard, by impleading NRLDC and NRPC as respondents.

19. The petitioner is granted the liberty to apply for a transmission licence for the subject transmission line. Thereafter, the petition shall be listed for hearing for determination of tariff of the subject transmission line as an ISTS. The petitioner's prayer for provisional tariff shall also be considered thereafter.

20. In view of the above, the Interlocutory Applications No. 10/2011 and 57/2012 in Petition No.239/2010 are disposed of.

sd/-

(M. Deena Dayalan)
Member

sd/-

(V.S. Verma)
Member

sd/-

(Dr. Pramod Deo)
Chairperson