

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**I.A. No. 69/2017 in
Petition No. 209/MP/2017**

Subject : Interim Application for directions to Respondent No. 1 to make payment for use of the Petitioner's Dedicated Transmission line in terms of the Interim Power Transmission Agreement till disposal of Petition of Petitioner for approval of Transmission charges and losses by the Commission

Date of hearing : 22.12.2017

Petitioner : A.D. Hydro Power Limited

Respondents : Everest Power Private Limited and Others

Coram : Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member

Parties present : Ms. Seema Jain, Advocate, AD Hydro
Ms. Kakoli Sengupta, AD Hydro
Shri Praveen Kumar, AD Hydro
Shri Sumit Garg, AD Hydro
Shri Tarun Johri, Advocate, EPPL
Shri Abhishek Vats, EPPL
Shri Anand K.Ganesan, Advocate, PTC India Ltd.
Ms. Swapna Seshadri, Advocate, PTC India Ltd.
Shri Matrugupta Mishra, Advocate, KPCPL
Shri Nishant Kumar, Advocate, KPCPL
Shri Kumar Uday Pratap, KPCPL

Record of Proceedings

The Petitioner has filed the Interlocutory Application seeking directions to Everest Power Private Limited (EPPL) to make payments for use of the dedicated transmission line of the Petitioner as per the Interim Power Transmission Agreement till disposal of the Petition for approval of transmission charges and losses.

2. During the hearing, the learned counsel for the Petitioner submitted the following:

- (a) EPPL has not been making payments to the Petitioner as per IPTA and has been deducting the billed charges suo-motu. There is outstanding amount of Rs. 38.01 crores payable by EPPL to the Petitioner towards use of the dedicated transmission line till June, 2017.

- (b) As directed by the Commission in Order dated 20.6.2017 in the case of Kanchanjunga Power Compnay Private Limited, EPPL may be directed to pay 80% of the outstanding bills raised by the Petitioner and continued to pay the monthly charges subject to adjustment based on the outcome of the original Petition.

3. Learned counsel for EPPL objected to the above and submitted as under:

- (a) In terms of the judgement of the Hon'ble Supreme Court in its judgement dated 26.4.2017 in Civil Appeal No.1395/2017 confirming the judgment of the Hon'ble APTEL's order dated 2.1.2013 in Appeal No. 81 of 2011 and the Commission's order dated 1.6.2011 in Petition No. 259 of 2010, the 220 kV Pirni to Nalagarh transmission line is an inter-State Transmission (ISTS) line and accordingly monthly charges applicable on EPPL as per PoC charges is determined by this Commission.
- (b) The Petitioner has already over-invoiced an amount of Rs. 112 crores on EPPL and hence the same is required to be adjusted prior to the grant of interim tariff to the Petitioner.
- (c) The transmission charges claimed by the Petitioner and in terms of the CERC Regulations are not in compliance with the Hon'ble APTEL's Interim order dated 10.6.2011 and IPTA dated 9.8.2011, wherein the transmission charges are to be worked out on the Capital Cost of the transmission line as per the audited accounts of the Petitioner and as per the provisions of the 2009, Tariff Regulations of this Commission.
- (d) The Petitioner has raised invoice on EPPL from the date of synchronization of the first unit of the power project of EPPL on 3.8.2011 and payment of transmission charges has been made by EPPL to the Petitioner.
- (e) In case the Commission proposed to grant interim transmission charges payable by EPPL it should determine the interim transmission charges retrospectively considering the 70% of the Capital Cost. In this regard, EPPL has calculated Annual Fixed Charges (AFC) considering 70% of the Capital Cost (without considering MAT as proof of paying MAT has not been submitted by the Petitioner) and the amount payable to the Petitioner works out to Rs. 106.25 crore.
- (f) Since EPPL has already paid an amount of Rs. 121.42 crore to the Petitioner on account of monthly transmission charges, the excess amount of Rs.15.17 crore (121.42-106.25) shall be adjusted before the grant of interim relief to the Petitioner.

4. Learned counsel appearing on behalf of PTC India Ltd. supported the above submissions of EPPL and stated that the Commission may grant 60% of the claim as interim relief payable to the Petitioner by EPPL considering the fact that there has been delay on the part of the Petitioner in filing the Petition. The learned counsel for the Petitioner objected to the above submission and stated that there has been no wilful delay

on the part of the Petitioner in filing the Petition. She reiterated that the Commission may direct the payment of 80% of the outstanding bills raised by the Petitioner,

5. Learned counsel appearing on behalf of Kanchanjunga Power Company Private Limited (KPCPL) prayed that the Commission may direct the Petitioner to implead KPCPL as respondent in the Petition and to permit the filing of its response to the Petition. In response, the learned counsel for the Petitioner clarified that the KPCPL may be permitted to participate in the proceedings instead of being made a respondent to the Petition. Learned counsel for the Petitioner submitted that the copy of the Petition has been served on KPCPL.

6. The Commission after hearing the parties directed EPPL to make payment of 60% of the outstanding bills raised by the Petitioner and to continue the payment of monthly transmission charges at the said rate for use of the dedicated transmission line of the Petitioner, subject to the determination of tariff of the said transmission line. I.A. No. 69/2017 is disposed of in terms of the above.

7. Petition No.209/MP/2017 shall be listed for hearing in due course for which parties shall be intimated separately.

By order of the Commission

**Sd/-
(T. Rout)
Chief (Law)**