

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 196/MP/2019

Coram:

**Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member**

Date of Order: 21.11.2022

In the matter of:

Approval under Regulation 86 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 for determination of transmission tariff from COD to 31.3.2019 for 765 kV Line Bays and 240 MVAR Switchable Line Reactor at Raichur and Sholapur Sub-stations Under "Line bays and reactor at POWERGRID sub-station for Raichur-Sholapur transmission line for Synchronous interconnection between SR and WR"

And in the matter of:

Power Grid Corporation of India Limited
'SAUDAMINI', Plot No.- 2,
Sector- 29, Gurgaon- 122 001 (Haryana).
Petitioner

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Versus

1. Karnataka Power Transmission Corporation Limited (KPTCL),
Kaveri bhavan, Bangalore-560009.
2. Transmission Corporation of Andhra Pradesh Limited (APTRANSCO),
Vidyut Soudha, Hyderabad-500082.
3. Kerala State Electricity Board (KSEB),
Vaidyuthi Bhavanam, Pattom, Thiruvananthapuram-695004.
4. Tamil Nadu Electricity Board (TNEB),
NPKRR Maaligai, 800, Anna Salai, Chennai-600002.
5. Electricity Department,
Government of Pondicherry, Pondicherry-605001.
6. Eastern Power Distribution Company of Andhra Pradesh Limited (APEPDCL),
P&T Colony, Seethmmadhara, Vishakhapatnam, Andhra Pradesh.
7. Southern Power Distribution Company of Andhra Pradesh Limited



(APSPDCL),

Srinivasasa Kalyana Mandapam Backside,
Tiruchanoor Road, Kesavayana Gunta, Tirupati-517501,
Chittoor District, Andhra Pradesh.

8. Central Power Distribution Company of Andhra Pradesh Limited (APCPDCL),
Corporate Office, Mint Compound, Hyderabad-500063, Andhra Pradesh.
9. Northern Power Distribution Company of Andhra Pradesh Limited (APNPDCL),
Opposite NIT Petrol Pump, Chaitanyapuri,
Kazipet, Warangal-506004, Andhra Pradesh
10. Bangalore Electricity Supply Company Limited (BESCOM),
Corporate Office, K.R. Circle, Bangalore-560001, Karnataka.
11. Gulbarga Electricity Supply Company Limited (GESCOM),
Station Main Road, Gulbarga, Karnataka.
12. Hubli Electricity Supply Company Limited (HESCOM),
Navanagar, PB Road, Hubli, Karnataka.
13. MESCOM Corporate Office,
Paradigm Plaza, AB Shetty Circle, Mangalore-575001, Karnataka.
14. Chamundeswari Electricity Supply Corporation Limited (CESC),
927, I J Avenue, Ground Floor, New Kantharaj URS Road,
Saraswatipuram, Mysore-570009, Karnataka.
15. Madhya Pradesh Power Management Company Limited,
Shakti Bhawan, Rampur, Jabalpur-482008.
16. Maharashtra State Electricity Distribution Company Limited
Hong Kong Bank Building, 3rd Floor, M. G. Road, Fort, Mumbai-400001.
17. Gujarat Urja Vikas Nigam Limited,
Sardar Patel Vidyut Bhawan, Race Course Road, Vadodara-390007.
18. Electricity Department,
Government of Goa, Vidyut Bhawan, Panaji,
Near Mandvi Hotel, Goa-403001.
19. Electricity Department,
Administration of Daman & Diu, Daman-396210.
20. Electricity Department,
Administration of Dadra Nagar Haveli, U.T., Silvassa-396230.
21. Chhattisgarh State Electricity Board,
P.O. Sunder Nagar, Dangania, Raipur, Chhattisgarh-492013.
22. Madhya Pradesh Audyogik Kendra Vikas Nigam (Indore) Limited,



3/54, press complex, Agra-Bombay Road, Indore-452008.

23. Raichur Sholapur Transmission Company Private Limited (RSTCPL),
Patel Engineering Compound, Patel Estate Road,
Jogeshwari (West) Mumbai,
Mumbai, Maharashtra-400102.

..... Respondents

For Petitioner : Ms. Swapna Seshadri, Advocate, PGCIL
Shri Anand K. Ganesan, Advocate, PGCIL
Shri Jai Dhanani, Advocate, PGCIL

For Respondents : Shri Anindya Khare, Advocate, MPPMCL
Shri S. Vallinayagam, Advocate, TANGEDCO
Ms. B. Rajeswari, TANGEDCO
Ms. R. Ramalaksmi, TANGEDCO
Ms. R. Alamelu, TANGEDCO

ORDER

Power Grid Corporation of India Limited has filed the present petition for recovery of IDC and IEDC for the period of three months, i.e. from 1.4.2014 to 1.7.2014, for Asset-I: 765 kV bay extension at Solapur Sub-station along with Switchable Line Reactor for 765 kV S/C Raichur-Solapur line-II (Pvt line) and Asset-II: 765 kV bay extension at Raichur Sub-station along with switchable Line Reactor for 765 kV S/C Raichur-Solapur line-II (Pvt line) (hereinafter referred to as “transmission assets”) under “Line bays and reactor at POWERGRID sub-station for Raichur-Sholapur transmission line for Synchronous interconnection between SR and WR” in terms of the Commission’s order dated 22.8.2017 in Petition No.46/TT/2017. The relevant portion of the Commission’s order dated 22.8.2017 is as follows:

“18..... Accordingly, IDC and IEDC for 3 months have not been allowed in this petition. Since, RSTCL is not a party to the petition, the petitioner is directed to move a separate application by making RSTCL as a party for claiming IDC and IEDC from RSTCL for the said three months which shall be decided in accordance with law.”

2. The Petitioner has made the following prayers:

“a) Allow the Petitioner to recover the amount of Rs 78.02 lakhs from M/s RSTCL



in line with Para 19-21 of the order dated 22.08.2017 in Petition No 46/TT/2017; and
b) pass such other relief as Hon'ble Commission deems fit and appropriate under the circumstances of the case and in the interest of justice."

Background

3. The brief background of the transmission assets are as follows:

a) The Petitioner filed Petition No.291/TT/2013 claiming tariff for the transmission assets, wherein the Petitioner claimed the COD of Asset-I and Asset-II as 1.1.2014 and 1.2.2014 respectively under Regulation 3(12)(c) of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (2009 Tariff Regulations) as it was prevented from putting the transmission assets to regular use due to the delay in completion of the associated 765 kV Raichur-Sholapur S/C Transmission Line under the scope of Raichur-Sholapur Transmission Company Private Limited (RSTCPL).

b) The Commission referring to the judgement dated 2.7.2012 in Appeal No.123 of 2011 (in Punjab State Power Corporation Limited vs. Power Grid Corporation of India Limited & Ors.) of the Appellate Tribunal for Electricity, which was upheld by the Hon'ble Supreme Court vide judgement dated 3.3.2016, held that though the transmission assets consisting of bays and reactors were ready, the successful trial operation and charging cannot be carried out without the associated 765 kV S/C Raichur-Solapur Transmission Line. Therefore, the COD of the transmission assets was not approved under Regulation 3(12)(c) of the 2014 Regulations as claimed by the Petitioner. Further, taking into cognizance that the associated 765 kV S/C Raichur-Solapur Transmission Line achieved COD on 1.7.2014, the Commission approved the COD of the Asset-I and Asset-II as 1.7.2014.



c) As the COD of the transmission assets was approved as 1.7.2014, the Commission directed the Petitioner to file a separate petition under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (2014 Tariff Regulations) and disposed of Petition No.291/TT/2013 vide order dated 24.11.2015 filed under the 2009 Tariff Regulations. The relevant portion of the order dated 24.11.2015 is as follows:

"20. As per Regulation 3(12)(c), a transmission element is in regular service only after successful charging and trial operation. A perusal of second proviso reveals that this proviso can be invoked only when a transmission element is in regular service, but is prevented for providing such service for the reasons not attributable to the transmission licensee.

21. The Tribunal in its judgement dated 2.7.2012 in Appeal No. 123 of 2011 had examined the provisions of Regulation 3(12)(c) and has come to the conclusion that three conditions are required to be met for declaration of COD under the said regulation. Relevant paragraph of the judgement is extracted as under:-

"10. A transmission system may comprise of one or more transmission lines and sub-station, inter-connecting transformer, etc. According to above definition an element of the transmission system which includes a transmission line, could be declared as attained COD if the following conditions are met:

- (i) It has been charged successfully,*
- (ii) its trial operation has been successfully carried out, and*
- (iii) it is in regular service."*

22. As per the judgment of the Tribunal, an element of transmission system can be declared as having attained commercial operation only if it has been charged successfully after successful trial operation and is in regular service. Though the petitioner has submitted that the asset was ready for regular service but was prevented from providing regular service, it has not furnished any documentary evidence to justify that it was regularly coordinating with the transmission licensee for commissioning of the assets. Though the bays and reactors covered in this petition was ready, the successful trial operation and charging could not be carried out without the 765 kV S/C Raichur – Solapur Transmission line II getting commissioned. As per the information submitted, Raichur – Solapur Transmission line II was commissioned only on 1.7.2014. As the Bays and Line Reactors could not have been charged for trial operation without the availability of this transmission line, the case is not covered under the second proviso of Regulation 3(12)(c) of the 2009 Tariff Regulations. Accordingly, the date of commercial operation of Asset-I and Asset-II cannot be approved as 1.1.2014 and 1.2.2014 respectively as claimed by the petitioner.

23. The petitioner has claimed tariff for the transmission assets as per the 2009 Tariff Regulations. We are of the view that the instant transmission assets could be charged and trial operation could be successfully carried out only on commissioning of the Raichur-Solapur Transmission line II, which is



stated to have been commissioned on 1.7.2014. Accordingly, the date of commercial operation of the transmission assets could be only during the 2014-19 tariff period and will be governed by the provisions of the 2014 Tariff Regulations. As such, the petitioner is directed to file a fresh petition claiming tariff for the transmission assets as per the 2014 Tariff Regulations within 30 days of issue of this order."

d) Aggrieved with the Commission's order dated 24.11.2015 shifting the COD of the transmission assets to 1.7.2014, the Petitioner filed Review Petition No.7/RP/2016. The Commission rejected the Review Petition vide order dated 29.9.2016 as no case was made out for review of the order dated 24.11.2015. The relevant portion of the order dated 29.9.2016 is as follows:

"12. The review petitioner has contended that the line reactors at Raichur and Solapur sub-stations are being used as bus reactors. It is observed that the review petitioner had neither stated in the main petition nor submitted any document in support to show that the beneficiaries were taken into confidence for the use of line reactors as bus reactors at Raichur and Solapur Sub-stations. In the review petition, the review petitioner has submitted for the first time that the line reactors are being used as bus reactors to control over voltage at both Raichur and Solapur as per directive issued by POSOCO vide its letter dated 20.11.2012. The review petitioner is trying to reargue the matter by bringing in new facts which is not allowed at the stage of review. Further, we have also perused POSOCO letter dated 20.11.2012 and find that the letter refers to a few specific lines which were already commissioned prior to 20.11.2012 and neither contains the instant assets nor any principle that in future, line reactors should be installed as switchable reactors for voltage control. It is clarified that whenever the petitioner intends to put any asset into any alternate use that is originally envisaged, it should approach the respective Regional Power Committee for its approval in terms of Regulation 2.4.2 of Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010.

13. In the light of the above discussion, we are of the view that there is no error apparent in the impugned order and accordingly, the grounds for review made in the petition are rejected."

e) Subsequently, the Petitioner filed Petition No. 46/TT/2017 claiming tariff for the transmission assets as per the provisions of the 2014 Tariff Regulations, as per the directions of the Commission in order dated 24.11.2015 in Petition No.291/TT/2013. The tariff for the transmission assets from the approved COD of 1.7.2014 to 31.3.2019 was determined by the Commission vide order dated 22.8.2017 in accordance with the 2014 Tariff Regulations.



f) The Commission in order dated 22.8.2017 observed that the scheduled COD of the transmission assets was 1.4.2014 and as the COD of the transmission assets was approved as 1.7.2014, there is a time over-run of three months and declined to approve the IDC and IEDC for the period of time over-run of three months as RSTCPL, which has been attributed to the time over-run in case of the transmission assets, was not impleaded as a party by the Petitioner in Petition No.46/TT/2017. The Commission further directed the Petitioner to file a separate petition claiming IDC and IEDC for the period of three months, i.e. 1.4.2017 to 1.7.2017, and also to implead RSTPCL in the matter. The relevant portion of the order dated 22.8.2017 is as follows:

“Time over-run

18. The instant assets were scheduled to achieve COD on 1.4.2014. Even though the assets were ready, they could not be put into commercial operation as the corresponding transmission line namely Raichur-Solapur Transmission Line II being executed by RSTCL was not ready for commercial operation as on 1.4.2014. After completion of Raichur-Solapur Transmission Line II, the line bays and reactors at the sub-station of PGCIL and the transmission line of RSTCL were declared under commercial operation on 1.7.2014. Therefore, the delay in commercial operation by 3 months was solely attributable to RSTCL and therefore, the charges for the period cannot be recovered through POC charges. Accordingly, IDC and IEDC for 3 months have not been allowed in this petition. Since, RSTCL is not a party to the petition, the petitioner is directed to move a separate application by making RSTCL as a party for claiming IDC and IEDC from RSTCL for the said three months which shall be decided in accordance with law.”

g) Accordingly, the Petitioner has filed the instant petition claiming ₹78.02 lakh towards IDC and IEDC for the period of three months as per the directions of the Commission in order dated 22.8.2017 in Petition No.46/TT/2017.

4. The Petitioner has submitted that the time over-run of three months from 1.4.2017 to 1.7.2017 in case of the transmission assets was due to the delay in



COD of the associated 765 kV Raichur-Sholapur S/C Transmission Line under the scope of RSTCPL. As the time over-run is attributable to RSTCPL, the IDC and IEDC of ₹78.02 lakh for the period of three months has to be borne by RSTCPL as observed by the Commission in order dated 22.8.2017 in Petition No. 46/TT/2017. However, the IDC and IEDC was not approved by the Commission in order dated 22.8.2017 as RSTCPL was not impleaded by the Petitioner as a Respondent in Petition No.291/TT/2013. The Petitioner submitted that the Commission therefore directed to file a separate petition make RSTCPL as a party. Accordingly, the instant petition is filed for recovery of IDC and IEDC from RSTCPL.

5. The petition was admitted on 17.9.2019 and notice was issued to the Respondents. Madhya Pradesh Power Management Company Limited (MPPMCL), Respondent No. 15, has filed its reply vide affidavit dated 20.7.2019. No reply has been filed by RSTCPL.

6. MPPMCL in its reply has submitted that the transmission assets of the Petitioner could not be put to regular service due to delay in completion of the 765 kV Raichur-Sholapur S/C Transmission Line. There is time over-run of three months and it is beyond the control of Petitioner and is fully attributable to RSTCPL. As such, the Petitioner has to recover IDC and IEDC amounting to ₹78.02 lakh from RSTCPL and no part of the amount should be claimed from the other beneficiaries of the transmission assets.

7. During the hearing on 13.1.2022, the Petitioner submitted that a fresh notice is required to be served on RSTCPL as the earlier notice was served at its old address and sought permission to serve notice afresh at its new address and also to file revised Memo of Parties. The Commission directed the Petitioner to serve



notice on RSTPCL along with the copy of the petition and also to file revised “Memo of Parties”.

8. During the hearing on 28.6.2022, the learned counsel for the Petitioner reiterated the submissions made in the petition and in the hearings on 17.9.2019 and 13.1.2012. RSTCPL did not make any appearance and no reply was filed by RSTPCL.

The Commission after hearing the Petitioner reserved the order in the matter.

9. We have considered the submissions of the Petitioner and MPPMCL. The Petitioner has submitted that the time of three months from 1.4.2014 to 1.7.2017 is due to delay in completion of the associated 765 kV Raichur-Sholapur S/C Transmission Line by RSTCPL and therefore the IDC and IEDC of ₹78.02 lakh for the said period has to be borne by RSTCPL as held by the Commission in order dated 22.8.2017 in Petition No.46/TT/2017. MPPMCL has contended that RSTCPL is responsible for the time over-run of the transmission assets, therefore RSTCPL is liable to bear the IDC and IEDC and the other beneficiaries of the transmission assets should not be burdened with the same.

10. The transmission assets were scheduled to be put into commercial operation on 1.4.2014 as per the Investment Approval. The Petitioner filed Petition No. 291/TT/2013 claiming tariff for the transmission assets under the 2009 Tariff Regulations, wherein the COD of the Asset-I and Asset-II was claimed by the Petitioner as 1.1.2014 and 1.2.2014 as the associated 765 kV Raichur-Sholapur S/C Transmission Line under the scope of RSTCPL was scheduled to be put into commercial operation in January, 2014. However, the said line was put into commercial operation on 1.7.2014. The Commission vide order dated 24.11.2015, referring to the APTEL’s judgement dated 2.7.2012 in Appeal No.123 of 2011 held



that the transmission assets can be charged and trial operation can be successfully carried out only on completion of the associated transmission line and approved the COD of the transmission assets as 1.7.2014 as the associated transmission line achieved COD on 1.7.2014. The Commission further directed the Petitioner to file a fresh petition under the 2014 Tariff Regulations as the COD of the transmission assets was approved as 1.7.2014. Thereafter, the Petitioner filed Review Petition No. 7/RP/2016 against order dated 24.11.2015 against shifting of the COD of the transmission assets to 1.7.2014, which was rejected by the Commission vide order dated 9.9.2016. Subsequently, the Petitioner filed Petition No.46/TT/2017 claiming tariff for the transmission assets under the 2014 Tariff Regulations as directed by the Commission in order dated 24.11.2015. The Commission approved the tariff from 1.7.2014 to 31.3.2019 for the transmission assets vide order dated 22.8.2017 in Petition No.46/TT/2017, wherein it was held that the time over-run from 1.4.2014 to 1.7.2017 is attributable to RSTCPL and therefore RSTCPL is liable to bear the IDC and IEDC for the period of time over-run. However, the IDC and IEDC for the period of time over-run was not approved as RSTCPL was not a party to the proceedings in Petition No.46/TT/2017 and directed the Petitioner to file a fresh petition impleading RSTCPL as a party. Accordingly, the Petitioner has filed the instant petition for recovery of IDC and IEDC of ₹78.02 lakh from RSTCPL.

11. The Commission was not inclined to fasten any liability on RSTCPL without hearing it. Therefore, the Commission did not approve the IDC and IEDC for the period of time over-run and directed the Petitioner to file a fresh petition impleading RSTCPL. The Petitioner has impleaded RSTCPL as a Respondent in the instant petition and accordingly notices were issued to RSTCPL. However, RSTCPL has neither filed any reply nor has made any appearance. RSTCPL has chosen not to



file any response in spite of sufficient opportunity. As observed above in the order, the Commission has already held that the time over-run of three months from 1.4.2014 and 1.7.2014 is attributable to RSTCPL and therefore it is liable to bear the IDC and IEDC. As RSTCPL has not filed any reply in the matter, we do not find any reason to change our earlier view that RSTCPL is responsible for the time over-run. Accordingly, in continuance of our earlier order, we find and hold that RSTCPL is liable to bear the IDC and IEDC for the period of time over-run of three months from 1.4.2017 to 1.7.2017 and it will not be recovered through PoC charges. The Petitioner is at liberty to recover the IDC and IEDC of ₹78.02 lakh from RSTCPL.

12. Accordingly, Petition No. 196/MP/2019 is disposed of in terms of the above discussions and findings.

sd/-
(P. K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I. S. Jha)
Member

