

**CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi**

Petition No. 134/MP/2021

- Subject** : Petition under Section 61, Section 63 and Section 79 of the Electricity Act, 2003 read with statutory framework and Article 11 and Article 12 of the Transmission Service Agreement dated 27.12.2016 executed between NER-II Transmission Limited and its Long-Term Transmission Customers for inter alia claiming compensation due to Changes in Law and seeking an extension to the scheduled commissioning date of the relevant elements of the Project on account of Force Majeure events.
- Petitioner** : NER-II Transmission Limited (NER-II TL)
- Respondents** : Assam Electricity Grid Corporation Limited and 8 Ors.
- Date of Hearing** : 22.5.2023
- Coram** : Shri Jishnu Barua, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Parties Present** : Shri Deep Rao Palepu, Advocate, NER-II TL
Shri Arjun Agarwal, Advocate, NER-II TL
Ms. Anita Gupta, Advocate NER-II TL
Ms. Swapna Seshadri, Advocate, PGCIL
Shri Uttkarsh Singh, Advocate, PGCIL
Shri Mohd. Mohseen, PGCIL
Shri Prasant Kumar, PGCIL
Shri Ranjit Singh Rajput, CTUIL
Shri Mukesh Agarwal, CTUIL
Ms. Anisha Chopra, NER-II TL
Shri Prateek Rai, NER-II TL
Shri Saurav Kumar Jha, NER-II TL

Record of Proceedings

Learned counsel for the Petitioner, referring to his 'Note for Arguments' recapitulated the main issues involved in the present petition such as, time over-run of the transmission elements within its scope of work due to force majeure events i.e. (i) delay in grant of forest clearance, (ii) unexpected requirement for and non-grant of NOC by Airports Authority of India (AAI), (iii) delay in the allotment of Government



land, (iv) protest in the North-East due to amendment in Citizenship Act, 2019, (vi) outbreak of the Covid-19 pandemic and extension in Scheduled Commercial Operation Date (SCOD) in terms of the Article 11 and Article 12 of the Transmission Service Agreement dated 27.12.2016.

2. Learned counsel for the Petitioner further made exhaustive arguments on 'Change in Law' events and referred to the notification and orders for payment of land compensation/additional forest compensation, expenses on account of Covid-19 and consequent restrictions imposed by Central and respective State Governments and diversion of lines due to the construction of Hollongi Airport.

3. Learned counsel for PGCIL referring to her Written Submissions dated 31.3.2023, made detailed arguments on the issue of mismatch with respect to the transmission assets under project NERSS-V being implemented by Sterlite and Powergrid and incorrect bilateral billing on Powergrid.

4. After hearing the parties, the Commission directed the Petitioner to submit the following additional information on affidavit by 9.6.2023:

- i. Connectivity diagram of Surajmaninagar Sub-station and P.K Bari Sub-station clearly showing the position of spare ICT along with the live ICT and how an ICT will be replaced by the spare ICT in case of occurrence of any fault in the live ICT.
- ii. The description of deemed COD and actual COD as given by the Petitioner in the table under paragraph no. 17 of the petition in respect of its elements mentioned at Sl. No. 5, 6, 7 and 8 is as follows:

	Element	Deemed COD	Actual COD
Element No. 5	400/132 kV, 7x105 MVA Single Phase (including one spare) S/S at Surajmaninagar	27.1.2021	31.3.2021
Element No. 6	400/132 kV, 7X105 MVA single phase (including one spare) S/S at P.K. Bari	27.1.2021	11.3.2021
Element No. 7	Surajmaninagar - P.K. Bari 400 kV D/C Line	27.1.2021	Ckt-1 4.2.2021 Ckt-2 11.2.2021
Element No. 8	2 nos. 400 kV line bays at Palatana GBPP Switchyard for termination of Palatana-Surajmaninagar 400 kV D/C Line	27.1.2021	13.7.2021

The Petitioner has declared deemed COD of Surajmaninagar Sub-station, Surajmaninagar - P.K. Bari 400 kV D/C Line and P.K. Bari Sub-station as 27.1.2021, stating that power could not flow since P.K. Bari – Silchar 400 kV D/C line (under the scope of Powergrid) was not ready. It is observed that P.K. Bari–Silchar 400 kV D/C line was ready on



8.3.2021 (deemed COD declared by Powergrid). However, despite this Surajmaninagar achieved actual COD on 31.3.2021 and not on 8.3.2021. Clarify reasons as to why the actual COD of Surajmaninagar Sub-station was achieved on 31.3.2021 even when P.K. Bari-Silchar line was ready on 8.3.2021.

- iii. The Petitioner has declared deemed COD of Palatana Bays on 27.1.2021 purportedly due to non-availability of Palatana–Surajmaninagar 400 kV D/C line under the scope of PGCIL. The said line of PGCIL was declared under deemed COD by PGCIL on 20.4.2021. However, the Petitioner could achieve actual COD on 13.7.2021. Reasons for declaring the actual COD of Palatana Bays on 13.7.2021, when the PGCIL line was ready on 20.4.2021.
- iv. Details of co-ordination done with the transmission licensee (including deemed licensee) executing the upstream or downstream transmission system for matching the timelines as the same was also directed by the Commission while granting transmission licence in Petition No. 80/TL/2017.
- v. When did the Petitioner inform the LTTCs and transmission licensees executing the upstream or downstream transmission system about the change in location of P.K. Bari and Surajmaninagar Sub-stations.

5. The Commission directed POSOCO to submit the following information on affidavit by 9.6.2023 with a copy to the other parties:

- i. What is the criterion to include any element in ISTS transmission charges pool? In the subject transmission system, it is noted that P.K.Bari - Surajmaninagar transmission line has been included in the POC much before the CODs of both end substations, while both substations and transmission line should have commissioned together for regular power supply.
- ii. Is there any charging certificate issued by NERLDC (POSOCO) for spare ICT? If so, how spare ICT charging has been checked?

6. The Commission further directed PGCIL, CTUIL and TSECL to clarify the following information on an affidavit by 9.6.2023:

- i. TSECL at a later stage has desired that one circuit of Palatana-Surajmaninagar (ISTS) be operated at 132 kV and to remain connected with Surajmaninagar (TSECL) which was also accepted by the stakeholders in the CEA meeting on 18.5.2021. Was any decision taken regarding the payment of the transmission charges in respect of elements which are not put to use (Palatana bay and PGCIL line) due to the changes in the system as per requirement of TSECL?
- ii. CTUIL to file Standing Committee Meetings' minutes and other minutes where Powergrid's scope of Palatana-Surajmaninagar (ISTS) was decided.



iii. PGCIL to furnish detailed information regarding award of works under its scope.

7. The Commission also directed the Petitioner and Respondents to file their respective Written Submissions by 9.6.2023 and observed that no further extension of time will be allowed and directed the parties to comply with the directions within the specified timeline. It was agreed by the learned counsels that any fresh oral hearing is not further required.

8. Subject to above, the Commission reserved order in the matter.

By order of the Commission

sd/-
(V. Sreenivas)
Joint Chief (Law)

