

# CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Petition No. 240/TT/2013  
(On remand)

**Coram:**

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

**Date of Order : 17.08.2023**

**In the matter of:**

Petition for determination of fees and charges for Fibre Optic Communication System in lieu of existing Unified Load Despatch and Communication (ULDC) Microwave links in Northern Region for tariff block 2009-14 under sub-section 4 of Section 28 and Section 79(1)(d) of the Electricity Act, 2003.

**And in the matter of:**

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

.....**Petitioner**

**Vs**

1. NTPC Limited,  
NTPC Bhawan, Core-7, Scope Complex,  
7, Institutional Area, Lodhi Road,  
New Delhi-110 003.
2. National Hydro Power Corporation Limited,  
NHPC Office Complex, Lodhi Road,  
New Delhi.
3. Satluj Jal Vidyut Nigam Limited,  
Power Project, Jhakri, Rampur, District Shimla,  
Himachal Pradesh-172 201.
4. THDC India Limited,  
Bhagirath Puram, Tehri,  
Uttarakhand-249 001.



5. Nuclear Power Corporation of India Limited,  
Nabhkiya Bhawan, Anu-Shakti Nagar,  
Mumbai-400 094
6. ADHPL,  
Bhilwara Towers, A-12, Sector-1,  
Noida-201 301.
7. Aravali Power Company Private Limited,  
Indira Gandhi Super Thermal Power Project,  
PO: Jharli, District Jhajjar, Haryana.
8. Jaypee Karchan Hydro Corporation Limited,  
Sector-128, Noida-201 304.
9. Everest Power Private Limited,  
1st Floor, Hall-1, NBCC Tower,  
Bhikaji Cama Place,  
New Delhi-110 066.
10. Shree Cement Limited,  
PO Box No. 33, Bangur Nagar,  
Beawar-305 901, District: Ajmer (Rajasthan)
11. Chandigarh (Electricity Department),  
UT Chandigarh, Sector-9,  
Chandigarh-160 019.
12. Delhi Transco Limited,  
SLDC Building (Behind Jakir Husain College),  
Tagore Hostel Lane, Minto Road,  
New Delhi-110 002.
13. Haryana Vidyut Prasaran Nigam Limited,  
Room No.-213, Shakti Bhawan, Sector-6,  
Panchkula-134 109, Haryana
14. Himachal Pradesh State Electricity Board,  
Totu, Shimla-171 011, Himachal Pradesh.
15. Power Development Department,  
Government of J & K, Narwal Bala,  
Gladni-180 004, Jammu
16. PSTCL,  
SLDC Building, 220 kV Sub-station Ablowal,  
Patiala-147 001, Punjab
17. Vidyut Bhawan, Jyoti Nagar,  
Vidyut Marg, Jaipur-302 015, Rajasthan



18. U.P. Power Corporation Limited,  
Electricity Import-Export & Payment Circle,  
11th Floor, Shakti Bhawan Extension,  
14-Ashok Marg, Lucknow-226 001, U.P
19. Northern Central Railway,  
Nawabyusuf Road, Allahabad.
20. Uttranchal Power Corporation Limited,  
Kanwali Road, Urja Bhawan,  
Dehradun-248 001, Uttrakhand.
21. Powerlinks Transmission Limited,  
10th Floor, DLF Tower-A,  
District Centre, Jasola,  
New Delhi-110 044.

**...Respondents**

**For Petitioner:** Ms. Swapna Seshadri, Advocate, PGCIL  
Ms. Surbhi Gupta, Advocate, PGCIL  
Shri B.B. Rath, PGCIL  
Ms. Supriya Singh, PGCIL

**For Respondents:** None

### **ORDER**

Powergrid Corporation of India Limited (PGCIL) filed the instant Petition No. 240/TT/2013 for determination of fees and charges in respect of the Fibre Optic Communication System in lieu of the existing Unified Load Despatch and Communication (ULDC) Microwave Links in the Northern Region (hereinafter referred to as the “transmission project”) for the 2013-14 period in respect of Asset-I: 1099.803 km of Fibre Optic Communication System, Asset-II: 1628.966 km of Fibre Optic Communication System and Asset-III: 493.064 km of Fibre Optic Communication System. The fees and charges for the said assets were approved vide order dated 1.9.2015, wherein the time over-run of 3 months and 6 months in respect of Asset-II and Asset-III, respectively (hereinafter collectively referred to as “assets”) was not condoned. The relevant portion of the order dated 1.9.2015 is as follows:



*“19. As regards the fog in Northern Part of India adversely affecting various services like transportation and communication and that demobilizing and re-mobilizing of manpower due to this intermittent condition at regular intervals also affected the progress of the work for which the petitioner has also submitted the extracts of log book for 58 days maintained by control room indicating the condition of fog in various parts of Northern Region. We are of the view that foggy conditions during winter season is a normal phenomenon in parts of Northern Region and that the impact of fog could not be so much that the work of laying OPGW was held up for entire 2 months, both in 2011-12 and 2012-13. Therefore, we are not inclined to condone the delay of 3 months and 6 months in commissioning of both Asset-II and Asset-III respectively.”*

2. PGCIL filed Appeal No.15 of 2016 before the Appellate Tribunal for Electricity (“APTEL”) against the order dated 1.9.2015 in Petition No. 240/TT/2013 on the issue of disallowance of time over-run in the case of Assets II and III. The APTEL, vide judgment dated 28.10.2022, in Appeal No. 15 of 2016, condoned the time over of 3 months and 6 months in the case of Asset-II and Asset-III, respectively, and vacated the Commission’s order dated 1.9.2015 to that extent and directed the Commission to pass the consequential orders. The relevant portion of APTEL’s order dated 28.10.2022, is as follows:

- “6. The Central Commission has failed to appreciate that UPPTCL had not been willing to take up the implementation of Microwave replacement project due to funding reasons since it desired the department of tele-communication to provide the compensation. The survey was thus carried out in the State of Uttar Pradesh by the Appellant without participation by UPPTCL. It was only in January, 2011, good ten months after the award of the package, that UPPTCL took an about turn and confirmed its participation this, inter alia, necessitating repetition of the exercise of survey, having the ripple effect of reducing the optimization of manpower, causing delay in implementation of the project, several new links having consequently being introduced compelling a change of plan. It cannot be ignored that the share of UPPTCL to the extent of 2039 km was substantial, it being 45% of the total project length of 4848 kms.*
- 7. It is not in dispute that PTCUL was initially not part of the project. It was included only in March, 2011, agreement relating to financial terms having been finalized even later in September, 2011.*
- 8. The Central Commission has unfairly short-shifted the ground of foggy conditions. On facts there was no contest. The observations that impact of fog could not be so much that the work would be held up for entire period of 2 months is rather vague. The Commission failed to take into account the explanation that the assigned work had to be carried out in “live line condition” it being not safe to execute the task in the foggy conditions since line would trip due to failure of the connected systems.*
- 9. For the foregoing reasons, we are unable to uphold the view taken by the Central Commission on the subject of condonation of time over-run of 3 months and 6 months in relation to Asset-II and Asset- III respectively. We vacate the impugned order to such extent and allow the prayer of the Appellant for condonation.*



10. *The Central Commission is directed to pass consequential orders in light of the above decision”*

3. Accordingly, the matter was heard on 26.7.2023, and PGCIL was permitted to file the details of interest during construction (IDC) and incidental interest during construction (IEDC). PGCIL filed the details of IDC and IEDC on 31.7.2023

4. We have perused the APTEL’s judgement dated 28.10.2022 in Appeal No. 15 of 2016 and considered the submissions of PGCIL. The Assets II and III were put into commercial operation on 1.1.2013 and 1.4.2013, respectively, i.e. in the 2009-14 tariff period. The Commission, vide order dated 9.7.2018, in Petition No.108/TT/2017, trued up the annual fees and charges of the 2013-14 period and determined the fees and charges of the 2014-19 tariff period for the assets covered in the transmission project. Further, the annual fees and charges of the 2014-19 tariff period were trued-up, and the fees and charges of the 2019-24 tariff period were approved vide order dated 4.6.2022 (and subsequent corrigendum dated 22.3.2023) in Petition No. 381/TT/2020.

5. As stated above, the Assets II and III were put into commercial operation in 2013-14 and the tariff for 2013-14, 2014-19 and 2019-24 has already been approved by the Commission. As per APTEL’s judgment dated 28.10.2022, in Appeal No. 15 of 2016, the tariffs of the Assets II and III for the 2013-14, 2014-19 and 2019-24 tariff periods have to be revised. The 2019-24 tariff period would end a few months from now, and PGCIL has to file a petition for the truing up of the fees and charges of the 2019-24 tariff period and the determination of the fees and charges of the assets for the 2024-29 tariff period. We are of the view that fees and charges for Assets II and III should be revised as per the APTEL’s judgement dated 28.10.2022, at the time of the truing of the fees and charges for the 2019-24 tariff period to avoid multiple revisions of fees and charges. Accordingly, the PGCIL is directed to claim the revised IDC and IEDC and the



consequent fees and charges of Assets II and III from the COD, i.e. 2013-14, 2014-19 and 2019-24 tariff periods, based on the APTEL's judgement at the time of the truing up of the fees and charges of the 2019-24 tariff period.

6. Accordingly, this order disposes of Petition No. 240/TT/2023 on remand.

**sd/-**  
**(P. K. Singh)**  
**Member**

**sd/-**  
**(Arun Goyal)**  
**Member**

**sd/-**  
**(I. S. Jha)**  
**Member**

**sd/-**  
**(Jishnu Barua)**  
**Chairperson**

