

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 363/MP/2022
and
Petition No. 368/MP/2022

Coram:

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

Date of Order: 05.10.2023

Petition No. 363/MP/2022

In the matter of:

Petition under Section 79 of the Electricity Act, 2003 read with Regulation 111, 112 and 119 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for enforcement / execution of the tariff order dated 28.11.2019 in Petition No. 137/TT/2018 directing bilateral billing and payment of transmission charges by Respondent No. 1 to the Petitioner on account of delay in commissioning of its downstream transmission networks.

And in the matter of:

Power Grid Corporation of India Limited,
"Saudamini", Plot No. 2,
Sector-29, Gurgaon (Haryana)-122001.

...Petitioner

Vs.

1. Jharkhand Urja Sancharan Nigam Limited (JUSNL),
Engineering Building, H.E.C., Dhurwa,
Ranchi-834004 (Jharkhand).
2. Central Transmission Utility of India Limited,
Plot No. 2, 1st Floor, Saudamini, Sector 29,
Gurugram-122001.

...Respondent(s)



In the matter of:

Petition under Section 79 of the Electricity Act, 2003 read with Regulation 111, 112 and 119 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for enforcement / execution of the tariff order dated 21.11.2019 in Petition No. 105/TT/2018 directing bilateral billing and payment of transmission charges by Respondent No. 1 to the Petitioner on account of delay in commissioning of its downstream transmission networks.

And in the matter of:

Power Grid Corporation of India Limited,
"Saudamini", Plot No. 2, Sector-29,
Gurgaon-122001 (Haryana).

..... Petitioner

Versus

1. Jharkhand Urja Sancharan Nigam Limited (JUSNL),
Engineering Building, H.E.C., Dhurwa,
Ranchi-834004 (Jharkhand).
2. Central Transmission Utility of India Limited,
Plot No. 2, 1st Floor, Saudamini, Sector 29,
Gurugram-122001.

...Respondent(s)

For Petitioner : Shri Shubham Arya, Advocate, PGCIL
Ms. Reeha Singh, Advocate, PGCIL
Ms. Supriya Singh, PGCIL
Ms. Suchitra, PGCIL

For Respondents : Shri Puneeth Ganapathy, Advocate, JUSNL

ORDER

Petition No. 363/MP/2022

The Power Grid Corporation of India Limited has filed Petition No. 363/MP/2022 under Section 79 of the Electricity Act, 2003 read with Regulations 111, 112 and 119 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for enforcement/ execution of the order dated 28.11.2019 in Petition No. 137/TT/2018, as



Jharkhand Urja Sancharan Nigam Limited (JUSNL) has not paid the transmission charges claimed as per the abovesaid order dated 28.11.2019.

2. The Petitioner has made the following prayers in the instant petition:

“a) Direct the Respondent No. 1- Jharkhand Urja Sancharan Nigam Limited (JUSNL) to pay/clear all outstanding dues along with applicable Late Payment Surcharge with immediate effect;

b) Award the cost of litigation to the Petitioner;

c) Pass such other order(s) and/or direction(s) as this Hon’ble Commission may deem just and proper in the facts and circumstances of the case.”

Background

3. The Commission vide order dated 28.11.2019 in Petition No. 137/TT/2018 approved the transmission charges for Asset-I: 1X160 MVA ICT-I along with associated bays at Daltonganj Sub-station, 1X160 MVA ICT-II along with associated bays at Daltonganj Sub-station and 2X132 kV Line bays at Daltonganj Sub-station Asset-II: 02 Nos of 132 kV line bays at Daltonganj Sub-station under “ERSS XVII Part A in Eastern Region” for 2014-19 tariff period under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014. Further, the Commission approved the COD of Asset-II as 2.9.2018 under proviso (ii) of Regulation 4(3) of the 2014 Tariff Regulations, as the downstream assets under the scope of JUSNL were not completed and directed JUSNL to bear the transmission charges from the COD of Asset-II i.e. 2.9.2018 till COD of associated downstream transmission line under its scope. The relevant portion of the order dated 28.11.2019 is as follows:

“73. As regards Asset-II, the COD has been approved under proviso (ii) of Regulation 4(3) of 2014 Tariff Regulations. The asset has not been put to regular use as the associated downstream transmission system, under the scope of JUSNL, is not ready. Accordingly, the transmission charges of Asset-II, from the COD i.e. 2.9.2018 till the commissioning of related downstream network will be borne by JUSNL. Thereafter, the transmission charges approved in the instant petition in respect of Asset-II shall be recovered on monthly basis in



accordance with Regulation 43 of the 2014 Tariff Regulations. The billing, collection and disbursement of the transmission charges approved shall be governed by the provisions of Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010, as amended from time to time.”

4. The Petitioner has submitted that bilateral bills have been raised on JUSNL by CTUIL as per the Commission’s directions in the order dated 28.11.2019 in Petition No.137/TT/2018. However, JUSNL has not paid the amount raised in the invoices in spite of reminders from CTUIL. Therefore, the Petitioner has filed the instant Petition No.362/MP/2022 for enforcement of the Commission’s order.

Petition No. 368/MP/2022

5. Power Grid Corporation of India Limited has filed Petition No. 368/MP/2022 under Section 79 of the Electricity Act, 2003 read with Regulation 111, 112 and 119 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for enforcement/ execution of the tariff order dated 21.11.2019 in Petition No. 105/TT/2018, as JUSNL has not paid the transmission charges as per the Commission’s directions in order dated 21.11.2019. The Petitioner has made prayers similar to the prayers in Petition No.363/MP/2022.

6. The Commission vide order dated 21.11.2019 in Petition No. 105/TT/2018 approved the transmission charges for six transmission assets under the “Eastern Region Strengthening Scheme-III (ERSS-III)” in Eastern Region for 2014-19 tariff period under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014. The Commission further approved the COD of the 4 Numbers 220 kV Line Bays at Daltonganj Sub-station as 1.9.2018 (referred to as “Asset-II” in Petition No.105/TT/2018) under proviso (ii) of Regulation 4(3) of the 2014 Tariff Regulations as the downstream



lines under the scope of JUSNL were not ready and held that JUSNL will bear the transmission charges from the COD on 16.9.2018 till COD of associated downstream transmission lines under the scope of JUSNL. The relevant portion of the Commission's order dated 21.11.2019 is as follows:

"98. As regards Asset-II, the COD has been approved under proviso (ii) of Regulation 4(3) (ii) of 2014 Tariff Regulations. The asset has not been put to regular use as the associated downstream transmission system, under the scope of JUSNL, is not ready. Accordingly, the transmission charges of Asset-II, from the COD till the commissioning of downstream network shall be borne by JUSNL. Thereafter, the transmission charges approved in the instant petition in respect of Asset-II shall be recovered on monthly basis in accordance with Regulation 43 of the 2014 Tariff Regulations. The billing, collection and disbursement of the transmission charges approved shall be governed by the provisions of Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010, as amended from time to time."

7. The Petitioner has submitted that JUSNL has not paid the bilateral bills raised by the CTUIL as per the Commission's directions in the order dated 21.11.2019 in Petition No.105/TT/2018. Therefore, the Petitioner has filed the instant Petition No.368/MP/2022 for enforcement of the Commission's order.

8. Since the issues raised by the Petitioner in both the petitions are similar, they are taken up together.

9. JUSNL filed Appeal No. 102 of 2023 along with IA No. 1637, for interim relief, against the Commission's order dated 28.11.2019 in Petition No. 137/TT/2018 and Appeal No.106 of 2033 along with IA No.1638 of 2023, for an interim order, against the Commission's order dated 21.11.2019 in Petition No. 105/TT/2018 before APTEL.

10. The APTEL in its interim order dated 24.7.2023 in IA No.1637 of 2023 in Appeal No.102 of 2023 granted an interim stay of all further proceedings on the condition that JUSNL pays 50% of the pending bills raised by the Petitioner and continues to pay 50%



of the bills raised by the Petitioner in future. The relevant portion of the order dated 24.7.2023 is as follows:

“There shall be interim stay of all further proceedings, on condition that the Appellant pays 50% of the bills raised so far by PGCIL. The said amount shall be paid in two equal fortnightly instalments, the 1st instalment shall be paid by 05.08.2023 and the 2nd instalment shall be paid by 20.08.2023. The Appellant shall continue to pay 50% of the bills raised by PGCIL, till the disposal of the main Appeal. The IA is disposed of accordingly.

APPEAL NO.102 OF 2023

The Appeal is already included in the ‘List of Finals’, and shall be taken up from there, in its turn.”

11. An identical order has been passed by the APTEL in IA No.1638 of 2023 in Appeal No.106 of 2033, which is against the Commission’s order dated 21.11.2019 in Petition No. 105/TT/2018.

12. During the hearing on 22.9.2023, the learned counsel appearing on behalf of JUSNL has submitted that JUSNL has paid the amount as per the directions of APTEL in its orders dated 24.7.2023 and it has also been confirmed by the learned counsel for the Petitioner.

13. The learned counsel for the Petitioner requested both Petition No.363/MP/2022 and Petition No.368/MP/2022 be adjourned *sine die*, pending disposal of the Appeals by APTEL so that the Petitioner can revive them in case of any requirement in future.

14. We are of the view that no useful purposeful would be served by keeping Petition No.363/MP/2022 and Petition No.368/MP/2022 pending as APTEL has already granted interim relief to the Petitioner and Appeal No.102 of 2023 and Appeal No.106 of 2023, filed against the instant petitions, are being considered by APTEL.



15. Further, if any petition(s) is/are filed by the Petitioner with regard to the issues raised in the instant petition, the filing fee paid by the Petitioner towards these petitions shall be adjusted towards them.

16. This order disposes of Petition No. 363/MP/2022 and Petition No. 368/MP/2022 in terms of the above discussions and findings.

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

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

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

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

