

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

IA No. 128 of 2013 in
DFR No. 671 of 2013

Dated: 22nd May, 2013

**Present: Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. Rakesh Nath, Technical Member**

In the matter of:

**Chhattisgarh State Power Distribution
Co. Ltd.
Vidyut Seva Bhavan, Danganiya
Raipur – 492 013, Chhattisgarh**

...Appellant(s)

Vs

- 1. Central Electricity Regulatory Commission ...Respondent(s)
3rd & 4th Floor, Chanderlok Building
36, Janpath, New Delhi – 110 001**
- 2. Jindal Power Limited
Tamnar, Distt.
Raigarh – 496 107
Chhattisgarh**
- 3. Jindal Steel & Power Ltd.
G.E. Road, P.O. Mandir Hasoud
Distt. Raipur – 492 001
Chhattisgarh**

**4. Power Grid Corporation of India Ltd.
Western Region – I
Sampriti Nagar, Nari Ring Road
P.O. Uppalwadi, Nagpur – 440 026
Maharashtra**

Counsel for the Appellant (s): Ms. Suparna Srivastava

**Counsel for the Respondents (s): Ms. Ranjitha Ramachandran
for R-2 & R-3**

ORDER

This Application has been filed by Chhatishgarh Power Distribution Company Limited for condonation of delay of 142 days in filing the Appeal as against the Provisional Tariff Order dated 26.09.2012 passed by the Central Electricity Regulatory Commission in which the provisional transmission charges for the transmission system of Jindal Power Limited have been decided.

2. The facts of the case are as under:

- i) Jindal Power Limited, the Respondent no. 2, had set up a 1000 MW thermal power generating station with a dedicated 400 kV double circuit transmission line from its power plant at Tamnar to Raipur sub-station of Power Grid for evacuation of its power. Jindal Steel & Power Ltd., the Respondent no. 3, being Group Company of Respondent no.2, is engaged in business of manufacturing of steel and steel products and has also established a captive power plant is also in process of commissioning of another power plant. The power plant of the Respondent no. 3 is also connected to the generation project of the Respondent no. 2 at Tamnar.
- ii) The Respondent no. 2 filed a petition on 26.3.2010 before the Central Commission for grant of Inter-State Transmission Licence for the limited purpose of making

- available surplus capacity of its dedicated transmission system for evacuation of surplus power of its group company, the Respondent no.3.
- iii) On the above petition, the Central Commission vide order dated 10.12.2010 held that when the dedicated line is proposed to be used as a main transmission line it ceases to be a dedicated line and is used for transmission of electricity which can only be operated by a transmission licensee. The Central Commission opined that the application of the Respondent no.2 for grant of Transmission Licence could be considered subject to certain conditions. Thereafter the Respondent no.2 after accepting the conditions laid down by the Central Commission requested for grant of transmission licence.

- iv) On 17.3.2011, the Central Commission directed the Respondent no.2 to publish a notice of their proposal to grant transmission licence.

- v) Thereafter on 09.05.2011, the Central Commission granted Inter-State Transmission Licence to the Respondent no.2 for the 400 kV double circuit transmission system from its power plant at Tamnar to Raipur sub station of Power Grid.

- vi) On 16.5.2012, the Respondent no.2 filed a petition before the Central Commission seeking approval of tariff for its transmission line from FY 2011-12 to FY 2013-14. The Central Commission passed the impugned order dated 26.09.2012 deciding the provisional transmission tariff to be recovered and shared by the beneficiaries in accordance with its Tariff Regulations 2009 from 09.05.2011 to 03.06.2011 and

- with effect from 01.07.2011 as per the (Sharing of inter-State Transmission Charges and Losses) Regulations 2010. In the meantime, the Appellant has filed its objections in the main tariff petition stating that these charges are not required to be recovered from them.
3. At this stage the Applicant has filed this Appeal as against the Provisional order dated 26.9.2012.
 4. Learned Counsel for the Applicant/Appellant has given the following explanation for delay in filing of the Appeal.
 - i) The Appellant received a copy of the impugned Provisional Tariff Order dated 26.09.2012 on 16.12.2012. The Applicant/Appellant did not file an Appeal against this order as Western Regional Power Committee had given intimation to them that there were

- no identified beneficiaries to whom the Respondent nos. 2 and 3 were supplying power on long term basis by use of the said transmission line.
- ii) Earlier the Applicant/Appellant had also not filed any objection to the publication of notice by the Respondent no.2 for grant of transmission licence since they felt that they were not to utilize the transmission system of the Respondent no. 2 and, therefore, grant of the licence would not cause any impact on them.
- iii) Only on 01.02.2013 when the Respondent no. 2 sent a transmission charges invoice to the Applicant/Appellant for the period May, 2011 and June, 2011 with a request for releasing payment followed by another letter dated 06.02.2013 from Power Grid where the inter-State transmission charges for the month of January, 2013 were enclosed, it became clear to the Applicant that the

- transmission charges/losses of the licenced line of the Respondent no. 2 were being billed to the Applicant/Appellant as per the impugned provisional tariff order even though the Applicant/Appellant is not a user of the said transmission line.
- iv) Thereafter on 01.04.2013, the Appellant filed this Appeal challenging the Provisional Tariff Order dated 26.09.2012 passed by the Central Commission. Some time has been taken from the date of getting the first transmission charges invoice dated 01.02.2013 to the date of filing of the Appeal on 01.04.2013 for consultation and preparation of the Appeal.
5. In this manner the delay of 142 days in filing of the Appeal has been explained by the Applicant/Appellant.

6. The IA has been vehemently opposed by the Learned Counsel for the Respondent no. 2 stating that the clarification given by the Power System Operation Corporation Ltd. to the Applicant/Appellant by letter dated 10.07.2012 clearly indicated that after the transmission charges for the transmission line of the Respondent no. 2 are determined, the same shall be considered for computation of Point of Connection charges as per the 2010 Regulations of the Central Commission.

7. In the light of the objections raised by the learned counsel for the Respondent, we are not fully satisfied by the explanation offered by the Applicant/Appellant for delay in filing of the Appeal by 142 days.

8. However, we deem it fit to condone the delay on payment of cost considering that there were some grey

- areas relating to sharing of transmission charges of the transmission system of the Respondent no.2 by the Applicant/Appellant.
9. Accordingly we direct the Applicant/Appellant to pay the cost of Rs. 25000/- as donation to **“The Child Rights and You (CRY), 632, 2nd Floor, Lane No.3, West End Marg, Saiyadal Ajaib, New Delhi”** within one week from the date of this order.
10. Accordingly, the IA no. 128 of 2013 is disposed of.
11. Registry is directed to number the Appeal after verification of the compliance of the order and post for admission on 31.5.2013.

(Rakesh Nath)
Technical Member

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(Justice M. Karpaga Vinayagam)
Chairperson

REPORTABLE/NON-REPORTABLE

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