

COURT- 1

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)**

APL No. 162 OF 2016 & IA No. 570 OF 2016

APL No. 46 OF 2017

Dated: 1st October, 2019

Present: Hon'ble Mrs. Justice Manjula Chellur, Chairperson
Hon'ble Mr. Ravindra Kumar Verma, Technical
Member (electricity)

In the matter of:

APL No. 162 OF 2016 & IA No. 570 OF 2016

Amravati Power Transmission Co. Ltd. **Appellant(s)**
Versus
Maharashtra Electricity Regulatory Commission **Respondent(s)**
Counsel for the Appellant(s) : Mr. Vishrov Mukerjee
Mr. Ameya Vikram Mishra
Counsel for the Respondent(s) : Ms. Pratiti Rungta
Mr. Sumit Palgal
Mr. Shivankur Shukla for R-1

APL No. 46 OF 2017

Amravati Power Transmission Co. Ltd. **Appellant(s)**
Versus
Maharashtra Electricity Regulatory Commission **Respondent(s)**
Counsel for the Appellant(s) : Mr. Vishrov Mukerjee
Mr. Ameya Vikram Mishra
Counsel for the Respondent(s) : Ms. Pratiti Rungta
Mr. Sumit Palgal
Mr. Shivankur Shukla for R-1

ORDER

Heard both the parties.

The controversy pertaining to this Appeal is 400 kV Bays at MSETCL Akola-1 Sub-Station. In terms of Memorandum of Understanding, the COD date for both the Bays 417 and 418 of Bus-I and Bays 414 and 415 of Bus-II are 01.04.2014.

According to the Appellant, on 22.01.2014 though they sought for charging of both Bus-I and Bus-II (4 Bays), the charging and testing was conducted on 28.01.2014 only with regard to Bus-1, Bay 417 and 418. However, we do not have any correspondence pertaining to this test and charging said to have been done on 28.01.2014 pertaining to Bus-I.

According to the Appellant, regarding Bays of Bus-II, State Transmission Utility (STU) did testing and charging only on 19.09.2014; therefore, they are not at fault in delaying put to use so as to make payment (O & M charges). The date must be reckoned from 01.04.2014 even for Bays for Bus-II and not 19.09.2014.

In terms of CERC Tariff Regulation 2009, Regulation 12 in detail explains what date has to be considered as Commercial Operation Date which reads as under:

"(12) date of commercial operation or COD means

(a)

(b)

(c) In relation to the transmission system, the date declared by the transmission licensee from 0000 hour of which an element of transmission system is in regular service after successful charging and trial operation.

Provided that the date shall be the first day of a calendar month and transmission charge for the element shall be payable and its availability shall be accounted for, from that date;

Provided further than in case an element of the transmission system is ready for regular service but is prevented from providing such service for reasons not attributable to the transmission licensee, its suppliers or contractors, the Commission may approve the date of commercial operation prior to the element coming into regular service."

Since there is no report or communication of successful testing and charging of 2 Bays of Bus-II prior to 01.04.2014 and in the absence of any statement of State Transmission Utility why Bus-II bays were not tested and charged along with Bays of Bus-I when they tested and charged on 28/29 January 2014, we direct the Appellant to implead Maharashtra State Transmission Utility, so that further details could be ascertained in order to consider whether the Respondent-Commission was justified in reckoning the date as 19.09.2014 so far as Bus-II.

The Appellant shall carry out necessary amendment and file amended Appeal Memo. On filing such amended Memo of

Appeal, Registry shall issue notice to the proposed Respondent (STU). The Appellant is also permitted to serve STU by hand.

List the matter for further hearing on **24.10.2019.**

Ravindra Kumar Verma
Technical Member(electricity)

Justice Manjula Chellur
Chairperson

MK