

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005
Tel. 022 22163964/65/69 Fax 22163976
Email: mercindia@merc.gov.in
Website: www.mercindia.org.in / www.merc.gov.in

Case No.162 of 2016

Date: 18 May, 2017

CORAM: Shri. Azeez M. Khan, Member
Shri. Deepak Lad, Member

Petition of Adani Transmission (India) Ltd. under Section 86 (1) (f) read with Section 142 of the Electricity Act 2003 against Maharashtra State Electricity Transmission Co. Ltd. seeking recovery of Delayed Payment Charges (DPC) and for initiation of proceedings for non-compliance of Commission's Order.

Adani Transmission (India) Ltd. (ATIL)

----- Petitioner

V/s

- 1) The Chief Engineer, Sate Transmission Utility (STU).
- 2) Maharashtra State Electricity Distribution Co. Ltd.(MSEDCL)
- 3) Maharashtra State Electricity Transmission Co. Ltd.(MSETCL)
- 4) The Chief Engineer, Maharashtra State Load Dispatch Centre(MSLDC)
- 5) The Chief Engineer Regulatory, B E S & T Undertaking (BEST)
- 6) The Tata Power Co. Ltd. -Distribution (TPC-D)
- 7) The Tata Power Co. Ltd. Transmission (TPC-T)
- 8) Reliance Infrastructure Ltd. –Distribution(RInfra-D)
- 9) Reliance Infrastructure Ltd. –Transmission(Rinfra-T)
- 10) Jaigad Power Transco Ltd.(JPTEL)
- 11) Mindspace Business Parks Pvt. Ltd.(MBPPL)
- 12) The Chief Electrical Distribution Engineer Central Railway
- 13) Amravati Power Transmission Co. Ltd.(APTCL)
- 14) Maharashtra Eastern Grid Power Transmission Co. Ltd.(MEGPTCL)
- 15) Vidarbha Industries Power Ltd. –Transmission(VIPL-T)

----- Respondents

Appearance

For the Petitioner : 1. Shri Bhavesh Kundalia (Rep.)
2. Ms. A.A. Mujawar (Adv.)

For the Respondent No.1 and 3 : Shri S.N. Bhopale (Chief Engineer)

For the Respondent No. 2 : Shri Ashish Singh (Adv.)

For the Respondent No.5 : Shri Sanjay Adlinge (Rep.)

For the Respondent No.6 &7 : Shri Bhaskar Sarkar (Rep.)
For the Respondent No.8&9 : Shri Ghansham Thakkar (Rep.)
For the Respondent No.10 : Shri C.P. Tated (Rep.)
For the Respondent No.14 : Shri Rakesh Bhalerao (Rep.)
For the Respondent No.4, 11 to 13 and 15 : None

Daily Order

Heard the Representatives / Advocates of the Petitioner and Respondents.

1. The Petitioner stated that:-

- (i) At the previous hearing held on 21.3.2017, it had made exhaustive arguments and all parties have accepted that the amount due from the STU towards DPC is undisputed. The Respondents were also directed to file their submissions.
- (ii) In compliance of the Daily Order dated 21.3.2017, it has received submissions from the following Respondents.
 - a) MSEDCL ;
 - b) TPC;
 - c) STU ;
- (iii) In its submission dated 11.5.2017, MSEDCL had stated that the Petitioner's claim for DPC is against STU, and requested that it be discharged from the proceedings.
- (iv) In its submission dated 16.3.2017 , STU has stated that it is undertaking billing, collection and disbursement of Transmission Charges as per the applicable BPTA clauses, procedures and guidelines of the Commission in the Tariff Orders. Substantial arrears against DPC are due from MSEDCL, and hence STU could not pay the Transmission System Users (TSUs). If both MSEDCL and STU are distancing themselves from the proceedings, the matter would not be resolved.
- (v) In the past, MSEDCL has paid Rs. 1000 crore towards arrears of principal Transmission Charges, and likewise it may pay the DPC arrears.
- (vi) The DPC amount is accumulating and there is no provision for interest if it is not paid. Hence, the TSUs are not paying DPC.
- (vii) Regarding recovery of DPC, Clauses 7.3.3 and 7.6 of the BPTA provides that, upon non-payment of DPC within a billing cycle, the balance DPC payable shall be included in the Monthly Transmission Charges (MTC) for the next billing cycle. This practice is not being followed.

- (viii) ATIL is not a Distribution Licensee, hence no dues towards Transmission Charges are payable to STU. STU could have made the payment of DPC to the Petitioner by encashing Letter of Credits (LCs) of TPC-D and RInfra-D which are in place, but has not done so. MSEDCL has not provided LCs since March, 2014 to STU.
- (ix) The BPTA provides that certain actions can be taken for default, but this is not practical. The Commission had asked STU long back to approach it with a Petition to deal with the DPC issue and Payment Security Mechanism (PSM), but STU has not done so.
2. MSEDCL stated that :
- 2.1 It has not renewed the LC because of serious financial difficulties.
- 2.2 MSEDCL has credited Rs. 1000 crore to the STU Pool Account on 31.08.2015, which was disbursed to the TSUs. Thereafter, MSEDCL has paid Rs. 700 crore towards arrears of Transmission Charges. It has cleared the past arrears towards Transmission Charges, except for MSETCL. MSEDCL had taken short-term loans for making the payments.
- 2.3 To a query of the Commission, MSEDCL stated that it recognises the DPC liability, and will sit with the other stake holders to resolve the issue of DPC.
3. The Commission rejected MSEDCL's submission dated 11.5.2017 seeking to be discharge from the proceedings on the ground that no prayer in the Petition is against MSEDCL. The Commission observed that MSEDCL is the main contributor to the arrears towards Transmission Charges and DPC. Hence, MSEDCL is impleaded as a Respondent in the Case. The Commission directed MSEDCL to argue the matter on merit and suggest the way forward to settle the past DPC dues.
4. STU stated that :
- 4.1 Major share of the DPC due is from MSEDCL. If MSEDCL make the payment of DPC, the issue will be largely resolved.
- 4.2 Recently, MSEDCL has paid Rs. 700 crore towards principal of Transmission Charges but not towards DPC. Hence, STU is not able to pay DPC to the TSUs.
- 4.3 To a query of the Commission, STU stated that the dues of TPC and RInfra are notional and are being settled by inter Company adjustment.
5. TPC stated that :
- 5.1 The issue of DPC raised by ATIL is pertaining to the past period and requires a one-time solution taking all the stake holders into consideration.
- 5.2 TPC-D has outstanding amount towards DPC from January, 2012 to 31 August, 2015. Thereafter, TPC is making all the payments regularly.

- 5.3 TPC-D has Rs. 89.19 crore outstanding arrears towards DPC, and TPC-T has Rs. 93.07 Crore as a receivable towards DPC. TPC-D is ready to pay the DPC, but it will not resolve the issue permanently as MSEDCL is the major defaulter. TPC will follow the directives of the Commission in this matter, if any. STU may resolve the issue by recognising the inter Company adjustments.
6. RInfra stated that it will discuss the issue in a meeting with STU. Regarding the interest on DPC, the Commission has already taken a view in its Orders.
7. JPTL stated that it has Rs. 20.24 crore receivables towards DPC and its Annual Revenue Requirement (ARR) is of Rs. 80 Crore only. Hence, the issue needs to be resolved.
8. BEST stated that it has filed its written submission on 30.3 .2017, and had nothing to add.
9. The Commission observed that the issue is lingering since the year 2012 and becoming more complicated year over year. It is the responsibility of STU to issue monthly bills, collect Transmission Charges including DPC and disburse them to the Transmission Licensees. However, STU, despite having authority, provisions of BPTA, MYT Regulations and directives of the Commission in its Orders, did not implement the PSM. STU has also not come up with a Petition on the way forward, as directed by the Commission long back.
10. In view of these facts and the issues involved in, the Commission directed Managing Director of MSETCL or his nominee to chair and convene meetings with all the Transmission Licensees and TSUs to resolve the pending issue of DPC and Transmission Charges, and the future protocol. The meeting shall be attended by senior and empowered officers of the Transmission Licensees and TSUs, with their suggestions on the way forward. The following issues may be discussed at the meetings:
- Modalities for onetime settlement of past arrears towards Transmission Charges and DPC, and methodology and implementation of PSM and renovation of LCs.
 - Modalities to ensure that non –payment of DPC and Transmission Charges does not arise in future.
 - Whether and what amendments are necessary to the existing and future BPTAs to implement PSM.
 - Provisions for non-compliance of PSM.
 - Mechanism and accounting system for inter Company adjustment of Transmission Charges and DPC, if considered appropriate.
11. MSETCL (STU) shall submit the minutes of the meetings signed by all Transmission Licensees and TSUs to the Commission, along with its recommendations, within a month.

Next date of hearing will be communicated by the Secretariat of the Commission.

**Sd/-
(Deepak Lad)
Member**

**Sd/-
(Azeez M. Khan)
Member**