

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No.162 of 2016

Date: 22 November, 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, State 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.(JPTL)
- 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 Harvinder Toor (Adv.)
2. Ms. A.A. Mujawar (Adv.)
3. Shri Bhavesh Kundalia (Rep.)

For the Respondent No.1 and 3

- : 1. Shri S.N. Bhopale (Chief Engineer, STU)
2. Shri R.D. Chavan, Director (Projects)

For the Respondent No. 2	: Shri A.N. Kalekar (G.M., Power Purchase)
For the Respondent No.4	: Shri Nikhil Chavan (Rep.)
For the Respondent No.5	: Shri R.D. Waikar (Rep.)
For the Respondent No. 6	: Shri R.M. Ranade (Rep.)
For the Respondent No.7	: Shri Manoj Kapse (Rep.)
For the Respondent No.8	: Shri Abaji Naralkar (Rep.)
For the Respondent No.9	: Shri Ghansham Thakkar (Rep.)
For the Respondent No.10	: Shri Tushar Borse (Rep.)
For the Respondent No.13	: Shri Nilesh Thakur (Rep.)
For the Respondent Nos 11, 12, 14 and 15	: None

Daily Order

Heard the Representatives / Advocates of the Petitioner and Respondents.

1. The Advocate of the Petitioner stated that:-

- (i) At the previous hearing, the Commission has heard the matter extensively and issued the Daily Order. However, STU has not acted on it till date.
- (ii) He referred to the Commission's Daily Orders dated 21.3.2017 and 18.5.2017 wherein the Commission has rejected the request of MSEDCL to waive Delayed Payment Charges (DPC). DPC is payable as per the provisions of MYT Regulations and Bulk Power Transmission Agreement (BPTA). In spite of these provisions, MSEDCL is asking rebate on DPC.
- (iii) He referred to Chapter 6 of the Committee report submitted by STU on 14.11.2017 in compliance to the Daily Order dated 18.5.2017. ATIL does not agree to any rebate in DPC amount as BPTA and MYT Regulations have no such provisions. Already, ATIL has been deprived of DPC amount since 2012.
- (iv) Vide Order dated 28.6.2016 in Case No. 7 of 2016, the Commission has considered DPC as a Non Tariff Income (NTI) at prevailing interest rate, i.e. 15%, and deducted it from Aggregate Revenue Requirement (ARR) of ATIL. The matter is subjudice before the Appellate Tribunal for Electricity (ATE). Hence, DPC cannot be recalculated at revised rates as proposed by MSEDCL.

- (v) To a query of the Commission regarding way forward on the issue of DPC, ATIL stated that ,if MSEDCL releases Rs. 80.10 crore, then outstanding DPC of all the Transmission Licensees would be cleared except MSETCL.
- (vi) ATIL is not agreed on 0.5 % rebate on Transmission Charges to Transmission System Users(TSUs) having valid Letter of Credit (LC) as suggested by STU in its report.
- (vii) DPC is restricted to a month, and there is no provision for interest if DPC is not paid. Due to this, the original amount of DPC remains the same as it was before, and hence TSUs do not feel any compulsion to pay.
- (viii) Clauses 7.3.3 and 7.6 of the BPTA provide 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 by STU.
- (ix) 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 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.

2. Representatives of STU stated that:

- (i) In compliance to the Daily Order dated 18.5.2017 , STU has conducted meetings of Transmission Licensees and TSUs and submitted the Committee report to the Commission on 14.11.2017.
- (ii) One time settlement of DPC for all Transmission Licensees except MSETCL could be done if MSEDCL pays Rs. 80.10 crore towards DPC but it will not resolve the issue completely.
- (iii) As of now, there is no outstanding towards Transmission Charges (excluding DPC) receivable from TSUs except MSEDCL. After August, 2015, all TSUs are paying Monthly Transmission Charges (MTC) regularly. All TSUs have renewed their LCs except MSEDCL.

3. Representatives of MSEDCL stated that:

- (i) To a query of the Commission, MSEDCL stated that the issue of DPC was discussed in the Maharashtra State Electricity Board Holding Co. Ltd. (MSEBHCL) meeting held in August, 2015 wherein MSETCL was instructed to waive the DPC. However, no further development has taken place on this issue.
- (ii) To a query of the Commission regarding renewal of LC, MSEDCL stated that LC is not renewed due to poor financial condition and requested for exemption from LC to save finance charges.
- (iii)MSEDCL is ready for one time settlement, if DPC is computed at 10 % interest rate considering the MCLR instead of prevailing 15 %.

4. Representative of MSLDC stated that it had nothing to add to its earlier submissions.
5. BEST stated that it has filed its written submission and has nothing to add.
6. TPC-T and TPC-D stated that they had given written submissions on 3.11.2017 to STU. They agree to calculate the outstanding DPC at 10 % rate instead of 15 % as requested by MSEDCL provided that the difference in DPC is reflected in the ARR of TPC-T. Further, the rate of 10 % for DPC computation should be applicable to all the Distribution Licensees. DPC for future should be at 15 % to discourage default of Transmission Charges by TSUs. To a query of the Commission, TPC-D stated that it is paying Transmission Charges to STU without any inter-company adjustment now.
7. RInfra-T and RInfra-D stated that their submission along the lines of TPC. To a query of the Commission, RInfra-D stated that it is paying Transmission Charges to STU since August, 2015 without any inter - Company adjustment.
8. The Commission noted that STU did not encash LCs of TPC-D and RInfra-D available with it, though they had defaulted on DPC payment.
9. JPTL stated that it is in agreement with the Petitioner and opposes one time settlement of DPC with rebate as proposed by MSEDCL.
10. The Commission directs MSEDCL to file its submission on renewal of its LC and opening of Escrow account, within a week.
11. On request of the Petitioner, the Commission granted a week to file its additional submission, if any.

The Case is reserved for Order.

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

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