

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the matter of: Representation made by M/s. Sravanthi Energy Pvt. Ltd. for refund of Supervision charges of Rs. 45.32 Lac paid to Power Transmission Corporation of Uttarakhand Ltd.

And

In the matter of:

M/s Sravanthi Energy Pvt. Ltd

Petitioner

Vs

Power Transmission Corporation of Uttarakhand

Respondent

Coram

Shri Jag Mohan Lal

Chairman

Dated: 3rd September 2012

ORDER

The Order relates to the representation dated 09.05.2012 made by M/s Sravanthi Energy Pvt. Ltd. (hereinafter referred to as "M/s SEPL" or "Petitioner") for refund of Supervision charges of Rs. 45.32 Lac paid to Power Transmission Corporation of Uttarakhand Ltd. (hereinafter referred to as "PTCUL" or "Respondent"). Background of the issue, submissions of M/s SEPL, reply thereof by PTCUL and the Commission's view has been dealt in the subsequent sections.

1. Background

M/s SEPL is developing a 2x225 MW combined cycle power plant at Khaikhera village in Tehsil Kashipur. M/s SEPL requested PTCUL for grant of

connectivity to its Inter State Transmission System (IASTS) to evacuate the power generated from the first phase of 225 MW. PTCUL granted connectivity to M/s SEPL (225 MW) power plant. PTCUL raised an amount of Rs. 45.32 Lac towards supervision charges which was, subsequently deposited by M/s SEPL. M/s SEPL subsequently, made a representation before the Commission for refund of aforesaid supervision charges from PTCUL. The Commission taking cognisance of the issue, decided to initiate suo-moto proceedings in the matter. The representation of M/s SEPL was sent to PTCUL for its response and PTCUL's reply in the matter was forwarded to M/s SEPL for submission of its response. The Commission also held a hearing session on 22.08.12 in which representatives from both the sides appeared and presented their views in the matter before the Commission.

2. Submission of the Petitioner

- (1) M/s SEPL in its representation informed that it had submitted preliminary route survey & price billing break up from switchyard of the aforesaid plant to LILO point of 220 kV single circuit Kashipur-Mahuakheraganj line and had also submitted the profile tower schedule and bill of material and had sought PTCUL's approval for the same. PTCUL approved the profile, tower schedule and bill of material and advised M/s SEPL to construct the said line and also raised an amount of Rs. 45,32,189.70 towards supervision charges on M/s SEPL subject to finalization of said charges based on executed estimates. M/s SEPL vide its letter dated 25.05.2011 deposited supervision charges with PTCUL.
- (2) M/s SEPL submitted that to evacuate power from its power plant it has constructed 220 kV line from its switchyard to 220 kV s/s of PTCUL situated at Mahuakheraganj under the supervision by a selected group of well qualified and experienced Electrical, Mechanical and Civil Engineers working with it as permanent employees, and that no help whatsoever was provided by PTCUL in the supervision work. Though it has submitted that PTCUL authorities extended all the co-operation like checking and approval of preliminary route survey, price billing breakup and tower structure. Further,

after construction of the line, PTCUL also assisted in meter checking, pole to pole line inspection and charging of the line after completion.

- (3) M/s SEPL has also referred to Regulation 38(2) & (3) of UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and Non-fossil fuel based Co-generating Station) Regulations, 2010 (hereinafter referred to as "Renewable Regulations") and submitted that in accordance with Regulation 38(3) supervision charges should not be levied on it since all the construction, erection and commissioning related works of the transmission line were carried out by it only. In its subsequent submission, M/s SEPL has recognised that it does not come under the purview of renewable energy sources.
- (4) M/s SEPL also referred to "Model PPA for Renewable Energy Sources" of the Commission which provides that in case the Generating Company elects to get the power evacuation system constructed by an agency other than STU/transmission licensee/distribution licensee, no supervision charges shall be payable to the STU/transmission licensee as the case may be.
- (5) M/s SEPL also referred to the Order issued by CSERC dated 29.10.2009 on the petition filed by M/s R.R. Energy Ltd., Raigarh against CSPTCL in the matter of refund of 15% supervision charges levied by CSPTCL, wherein CSERC directed CSPTCL to refund back the amount collected towards 15% supervision charges and service tax thereon. CSPTCL filed an appeal before Hon'ble Appellate Tribunal for Electricity and the same has been dismissed by Hon'ble ATE.
- (6) M/s SEPL vide its subsequent submission and also during the hearing submitted that since there was no gas based/ coal based power project in the state of Uttarakhand, the Commission has not given any guidelines/regulation for Gas Based Combine Cycle Generating Stations. Further, it submitted that since PTCUL has only granted some approvals, and not supervised the construction of line, therefore, PTCUL is eligible for maximum 7.5% of estimated cost of the line, i.e. Rs. 22, 66,095 instead of 15%.

3. Reply of PTCUL

- (1) PTCUL in its reply submitted that M/s SEPL had informed it that they were constructing 220 kV DC line from the aforesaid Plant upto LILO point at Mahuakheraganj and the generator had also confirmed its willingness to deposit supervision charges. M/s SEPL had also requested PTCUL to accord permission to construct the above line near Mahuakheraganj under supervision of PTCUL. Further, M/s SEPL submitted the preliminary route survey and price billing breakup for the said line and requested to inform the amount to be deposited with PTCUL for supervision charges of the above line and also requested PTCUL to approve the same.
- (2) The profile of said transmission line was checked and approved by PTCUL. Seeing the willingness of M/s SEPL to construct the said line under supervision of PTCUL on payment of supervision charges, PTCUL estimated the supervision charges which came to an amount of Rs. 45,32,189.70/- payable by M/s SEPL for the above referred supervision work. Accordingly, PTCUL informed M/s SEPL to deposit the supervision charges. Subsequently, M/s SEPL, as mutually agreed, deposited the supervision charges.
- (3) PTCUL informed that it has done supervision for the work of construction of 220 kV DC line from M/s SEPL Switchyard to LILO point near Mahuakheraganj in terms of approving the profile, tower schedule, BOQ and by supervising the construction work at site.
- (4) PTCUL also submitted that since the present issue relates to a Gas based generation which does not come under Renewable Energy Sources and hence, the Renewable Regulations cannot be applied in this case.
- (5) Further, with regard to CSERC's Order, as referred to by M/s SEPL, PTCUL in its reply and also during the course of hearing, argued that it is clear that the issue of supervision charges was not mutually agreed upon by the Appellant and the CSEB. Insistence of CSEB to connect the line only after deposition of supervision charges by the Appellant resulted in the dispute, whereas, PTCUL and M/s SEPL had mutually agreed upon the supervision work to be carried out by PTCUL before the start of work and PTCUL levied supervision charges and has carried out the supervision of the work.

Therefore, the above referred order of CSERC will not hold in this case as the present petition filed before this Commission is different from the petition filed before CSERC.

- (6) PTCUL submitted that M/s SEPL have constructed 220 kV DC line from M/s SEPL Switchyard to LILO point near Mahuakheraganj under the supervision of PTCUL and the charges for the same have been levied. Hence, PTCUL has submitted that the contention of M/s SEPL to refund the supervision charges or part thereof cannot be accepted as this is the hindsight thought of the generator only after it has constructed the line under the supervision of PTCUL.

4. Commission's Analysis

The Commission has taken cognizance of the written submissions made by M/s SEPL, PTCUL and also the submissions made by the parties during the course of the hearing. The views of the Commission in the matter are discussed in the following paragraphs:

- (1) From the submissions made by both the parties, there is no denial to the fact that M/s SEPL informed PTCUL about the construction of transmission line to be carried out from 225 MW Gas based Power Plant upto LILO point at Mahuakheraganj. M/s SEPL had also expressed its willingness to construct the line on its own, under the supervision of PTCUL, on payment of supervision charges. This is apparent from the Petitioner's letter dated January 15, 2011. M/s SEPL, during hearing session, also admitted that officials from both the sides were deputed for the said work.
- (2) Infact in its letter dated April 11, 2011, the Petitioner while submitting the preliminary route survey and the price billing break up for the line, had requested PTCUL to inform the amount to be deposited towards supervision charges of the line.
- (3) Further, on the request of M/s SEPL, PTCUL had approved the Profile, Tower Schedule & BoM and had carried out the checking, pole to pole inspection and charging of the line after its completion by the generator.

Accordingly, PTCUL had raised a demand for the supervision charges @ 15% of the estimated cost of transmission line. Hence, it is amply clear that demand for supervision charges were not solely raised by PTCUL rather the charges were paid to PTCUL by the generator on mutual consent of both the parties.

- (4) Reference made to Regulation 38(3) of the Renewable Regulations and the Model PPA for Renewable Energy Sources by M/s SEPL does not have merit, since the Gas based Power Generation do not come under the ambit of the above referred regulations and model PPA are categorically specified only for renewable energy sources.
- (5) Further, reference made by M/s SEPL to the Order of CSERC does not have a resemblance in this matter. In that particular case CSEB did not allow connectivity of 132 kV line with its 132 kV sub-station Raigarh on the plea that 15% supervision charges which was due for payment was not paid by the petitioner. Upon insistence for the payment of 15% supervision charges by CSEB and to avoid delay in commissioning of the line, the petitioner deposited the charged under protest.
- (6) In the present case, even though the construction of line was done by the Petitioner itself, however, PTCUL has time and again provided its assistance in approving the preliminary route survey and the price billing break up for the line, the Profile, Tower Schedule & BOQs and had also carried out the checking, pole to pole inspection and charging of the line after its completion by the generator. This fact has also not been denied by the Petitioner. As understood during the course of proceedings that transmission line was completed/energised on 07.12.2011 whereas M/s SEPL has submitted its representation on 09.05.2012 i.e. almost 5 months have elapsed since the work has been completed and now M/s SEPL is disputing validity of supervision charges and claiming for its refund from PTCUL. It would be pertinent to mention that PTCUL has charged these supervision charges based on its internal OM dated 30.01.2002 and the Petitioner should have conveyed its reservation towards levy of supervisions charges before the commencement of the work with valid reasons. Instead, M/s SEPL

expressed its willingness to construct the line on its own under the supervision of PTCUL and also agreed to pay supervision charges. Also, the intimation for grant of connectivity based on connection agreement dated 30.09.2011 stipulates that M/s. SEPL will construct the line at its own cost under the supervision of PTCUL (STU/transmission licensee of the State).

- (7) M/s SEPL in its subsequent submission and also during the course of hearing submitted that PTCUL has extended all cooperation like checking and approval of preliminary route survey, price billing breakup and tower structure. Further, after the construction of the line PTCUL helped in meter checking, pole to pole line inspection and charging of the line after it was found to be fit for charging. Accordingly, M/s SEPL has submitted that PTCUL may be considered eligible for recovery of supervision charges only to the extent of 7.5% of the estimated cost of line instead of 15% as claimed by PTCUL. The Commission is of the view that since M/s SEPL has not provided justifiable reasons in support of its deviation from its earlier stand of refund of 100% supervision charges to now requesting refund of only 50% of the said amount.
- (8) Based on the above, the Commission is of the view that the levy of supervision charges were mutually agreed upon between both the parties and considering that both these parties are commercial entities governed by mutual agreements/contracts entered between them. Therefore, the Commission finds no reason to grant any relief to M/s SEPL and directs that no refund of the supervision charges is allowed to M/s SEPL by PTCUL. The Petition is accordingly disposed off.

(Jag Mohan Lal)
Chairman