

Before
UTTARAKHAND ELECTRICITY REGULATORY COMMISSION
Petition No. 39 of 2016

In the Matter of:

Petition filed under Regulation 37(1) of the UERC(Conduct of Business) Regulations, 2014, Clause 3.2 and 14.A of the Transmission License read with Section 18 of the Electricity Act and other relevant provisions of the Electricity Act, 2003 for amending the terms and condition of the Transmission License of Power Transmission Corporation of Uttarakhand.

And

In the Matter of:

Power Transmission Corporation of Uttarakhand Limited (PTCUL)
Vidyut Bhawan, Near ISBT Crossing, Saharanpur Road,
Majra, Dehradun.

Coram

Shri Subhash Kumar Chairman

Date of Order: 3rd May, 2017

ORDER

This order relates to the Petition filed by Power Transmission Corporation of Uttarakhand Ltd. (hereinafter referred to as "PTCUL" or "the Petitioner") vide its letter No. 1245/MD/PTCUL/UERC dated 19.08.2016 seeking approval of the Commission under Regulation 37(1) of the UERC (Conduct of Business) Regulations, 2014, Clause 3.2 and 14.A of the Transmission License [Licence No. 1 of 2003], read with Section 18 of the Electricity Act and other relevant provisions of the Electricity Act, 2003.

2. The Petitioner, through the instant Petition is seeking modification in clause 11.5 of the Transmission Licence so as to increase the limit of minor investment from ₹ 2.50 Crore to ₹ 10.00 Crore.

3. The Petitioner has submitted that the terms and conditions for the Transmission Licence were laid down by the Commission in the year 2003 i.e. almost 14 years back. As per the Clause 11.3 of the Licence, the licensee has to make an application to the Commission for obtaining prior approval of the Commission for schemes involving Major Investments. The clause 11.5 of the transmission Licence defines major investment as any planned investment the cost of which equals or exceeds ₹ 2.50 Crore. According to the Petitioner, over the years and especially in the last decade, the inflation rate on almost all the material and labour charges have increased manifolds, different taxes and surcharges have also been imposed/ increased significantly, therefore, the execution of routine works of important nature is not possible under the limit of ₹ 2.50 Crore. Therefore, the Petitioner has requested that the limit of minor investment, for which the approval of the Commission is not required, be increased from ₹ 2.50 Crore to ₹ 10.00 Crore as this will not only save on time but will also reduce revenue loss to the Petitioner.
4. Petitioner has further stated that the inflation of more than 200% has occurred in the cost of civil works since 2002 calculated on the basis of difference in rates of main civil works as given in DSR, 2014.
5. In justification for increasing the limit of minor investment from ₹ 2.5 Crore to ₹ 10 Crore, the Petitioner has stated that the following routine works can be done without the need of approaching the Commission for approval which shall reduce the overall time in awarding and completing the work:
 - a. Supply and installation of transformers at various sub-stations.
 - b. Construction of transmission line 132 kV voltage and above level upto 10 Km of line length.
 - c. Supply and installation of Reactor at various grid sub-station.
 - d. Construction of bays (above 132 kV voltage level) at various sub-stations.
 - e. Procurement of ERS system for different transmission lines
 - f. Hot line maintenance of different transmission lines

6. For admissibility of the instant Petition, a hearing in the matter was held on 06.09.2016. While admitting the Petition, the Commission directed the Petitioner to comply with the provisions of 37(2) (a) of UERC (Conduct of Business) Regulations, 2014, which stipulates that:

“(a) where the licensee has made an application proposing any alteration or modifications in his licence, the licensee shall publish a notice of such application within seven days from the date of admission giving the reason for the proposed amendment, the effect of the amendment proposed on the discharge of the functions of the licensee under the Licence granted, the alternate arrangement proposed for such discharge of the functions and such other particulars as the Commission may direct.”

7. The Petitioner, in compliance of the Orders of the Commission, submitted draft of the advertisement, vide letter No.1738 dated 09.09.2016, for approval of the Commission. The same was approved by the Commission vide its letter No. 924 dated 12.09.2016 and the Commission directed the Petitioner to publish the same in at least one Hindi and English Newspapers.
8. Accordingly, the Petitioner published the advertisement in two daily news papers i.e. Amar Ujala 13.09.2016 and Times of India on 14.09.2016 for seeking comments of stakeholders by 13.10.2016 in the matter of amendment of the condition of the licence for increasing the limit of the minor investment from ₹ 2.5 Crores to ₹ 10 Crores. No comments were received from any of the Stakeholders by the stipulated date.

Commission’s Views and Decision

9. The Commission granted Transmission Licence (Licence No. 1 of 2003) to Power Transmission Corporation of Uttarakhand on 20.06.2003 for a period of 25 years for carrying out business of transmission of electricity in the area as authorized under the said licence. It is pertinent to reproduced Clause 11 of the Uttarakhand Transmission Licence (Licence No. 1 of 2003) which reads as below:

“11. Investments

- 11.1 *The Licensee shall not make any investment under any scheme or schemes except in an economical and efficient manner and in terms of this Licence and in*

accordance with the Regulations, guidelines, directions and orders the Commission may issue from time to time.

11.2 *The Licensee shall promptly notify the Commission, schemes pertaining to the Transmission System which the Licensee from time to time proposes to implement together with relevant details, including the estimated cost of such schemes, with requisite break-up and proposed investment plans. The Licensee shall furnish to the Commission such further details and clarifications as to the schemes proposed, as the Commission may require from time to time. The schemes proposed may be implemented by Licensee, subject to the following conditions:*

- a) If the scheme does not involve major investment as defined hereunder, without the need for any specific approval from the Commission but subject however to any reasonable direction or condition which the Commission may give or impose during the implementation of the scheme;*
- b) If the scheme involves major investment, after taking specific prior approval of the Commission as provided in Paragraph 11.3.*

11.3 *The Licensee shall make an application to the Commission for obtaining prior approval of the Commission for schemes involving major investments as per the procedure which the Commission may specify from time to time and demonstrate to the satisfaction of the Commission that:*

- a) there is a need for the major investments in the Distribution System, which the Licensee proposes to undertake;*
- b) the Licensee has examined the economic, technical, system and environmental aspects of all viable alternatives to the proposal for investing in or acquiring new Distribution system assets to meet such need; and*

11.4 *The Licensee's contracts for major investments shall be awarded only pursuant to a transparent and competitive procurement process acceptable to the Commission. The Licensee shall follow the Practice Guidelines regarding major investments issued by the Commission from time to time. The Licensee shall invite and finalize tenders for procurement of equipment, materials and/or services relating such investment, consistent with the above.*

- 11.5 *For the purpose of Paragraph 11, the term "Major Investment" means any planned investment in or acquisition of distribution facilities, the cost of which, when aggregated with all other investments or acquisitions (if any) forming part of the same overall transaction, equals or exceeds Rs. 250 Lakhs.*
- 11.6. *The Licensee shall submit to the Commission along with the "Expected Revenue Calculation" filed in terms of Paragraph 23, the annual investment plan for the ensuing financial year and shall make investment in the said financial year in accordance with the said investment plan. Provided, however, if any unforeseen contingencies required reallocation of funds within the schemes listed in the annual investment plan, the Licensee may do so provided further that such reallocation in respect of individual projects does not exceed Rs. 250 Lakhs, after intimating the Commission. **If on account of unforeseen circumstances the Licensee is required to make investment in a scheme which does not find a place in the annual investment plan, the Licensee may do so upto the limit of Rs. 250 Lakhs after intimating the Commission.**"*
10. The Petitioner, has requested the Commission to enhance the limit for those unforeseen investments which do not find a place in the annual investment plan from ₹2.5 Crore to ₹10 Crore.
11. While examining the threshold limit of Major Investment by transmission licensee in other States for which approval of the respective Commission is required, it is found that in States like Delhi, Kerala, Madhya Pradesh, Maharashtra, Uttar Pradesh, such limit varies from ₹ 5 Crore to ₹ 10 Crore.
12. Delving into the individual Investment Proposals submitted by the transmission licensee/Petitioner before the Commission from October 2014 and till date, it has been observed that around 5% of the total investment proposals involved capital expenditure of less than ₹ 10 Crore and mostly comprised of works pertaining to augmentation of 132/220/400 kV Sub-stations, by enhancing the capacity of existing transformers, installation of additional transformers, construction of associated bays and other allied works. The Commission is of the view that augmentation of 132/220/400 kV Sub-stations is a routine system improvement

works of the licensee and should be done expeditiously in order to maintain uninterrupted and quality supply in its area of Licence.

13. Considering the submission of the Petitioner and on the basis of the observations made as above, the Commission is of the view that the threshold limit of the Major Investment be enhanced from the existing ₹ 2.5 Crores to ₹10 Crores. Therefore, clause 11.5 and 11.6 of the Transmission License [Licence No. 1 of 2003] may now be read as:

“11.5 For the purpose of Paragraph 11, the term “Major Investment” means any planned investment in or acquisition of distribution facilities, the cost of which, when aggregated with all other investments or acquisitions (if any) forming part of the same overall transaction, equals or exceeds ₹1000 Lakhs.

11.6. The Licensee shall submit to the Commission along with the “Expected Revenue Calculation” filed in terms of Paragraph 23, the annual investment plan for the ensuing financial year and shall make investment in the said financial year in accordance with the said investment plan. Provided, however, if any unforeseen contingencies required reallocation of funds within the schemes listed in the annual investment plan, the Licensee may do so provided further that such reallocation in respect of individual projects does not exceed ₹1000 Lakhs, after intimating the Commission. If on account of unforeseen circumstances the Licensee is required to make investment in a scheme which does not find a place in the annual investment plan, the Licensee may do so upto the limit of ₹1000 Lakhs after intimating the Commission.”

Ordered accordingly.

(Subhash Kumar)
Chairman