

TAMIL NADU ELECTRICITY REGULATORY COMMISSION
(Constituted under section 82 (1) of the Electricity Act, 2003)
(Central Act 36 of 2003)

PRESENT:

Thiru S.Akshayakumar

.... Chairman

and

Thiru G.Rajagopal

.... Member

D.R.P.No.2 of 2014

M/s.Suryadev Alloys and Power Pvt Ltd.
No.2&4, Golden Enclave
4th Floor, 184, Poonamallee High Road
Kilpauk
Chennai – 600 010.

... Petitioner
(Thiru K.Seshadri
Counsel for the Petitioner)

Vs

1. The Director / Operation
TANTRANSCO
144, Anna Salai
Chennai – 600 002.
2. The Superintending Engineer
LD & GO
144, Anna Salai
Chennai – 600 002.
3. The Superintending Engineer
Chennai Electricity Distribution Circle / North
144, Anna Salai
Chennai – 600 002.

... Respondents
(Thiru M.Gopinathan
Standing Counsel for the Respondents)

Dates of hearing : **19-02-2014; 21-03-2014; 11-07-2014 and
08-11-2018**

Date of Order : **04-01-2019**

The D.R.P.No.2 of 2014 came up for final hearing on 08-11-2018. After hearing the learned Counsels for both the parties and after perusing the petitions, counter and connected records, the Commission passes the following:-

ORDER

1. Prayer of the Petitioner in D.R.P.No.2 of 2014:-

The prayer of the Petitioner in the above D.R.P.No.2 of 2014 is to fix O&M, inspection and supervision charges payable by the Petitioner for maintaining 230 K.V.Switch yard located in Petitioner premises for the year 2013-14 and consequently direct the Respondents to refund the excess amounts collected with interest as contemplated under section 62 (6) of the Electricity Act, 2003 and with cost and thus render justice.

2. Facts of the Case:-

The petition has been filed to fix O&M, inspection and supervision charges for one year in respect of 230 KV switching station inside the Petitioner premises, where the switching station is being maintained by the Petitioner and no staff of the Respondents have been posted till date.

3. Contentions of the Petitioner:-

3.1. The Petitioner submits that it has established 2 x 80 MW. Coal based captive generating plants at new Gummidipoondi, Thiruvallur District. The Petitioner has also obtained grid connectivity from the Respondents by LILO temporary arrangement in the existing 230 KV Gummidipoondi - Sriperumbudur line. While granting grid connectivity, the Petitioner has also been directed to maintain the temporary LILO portion of the temporarily connectivity line till Thervoikandigai 400 KV SS is

commissioned and the Petitioner has to complete the lines laying work from their generating plant to 400 KV SS Thervaikandigai within 18 months.

3.2. The 3rd Respondent has raised a demand for the payment of Rs.62,17,560/- in Lr.No.SE/CEDC/N/AEE/Dev/AE/D2/FM/s.Surya Dev/PPP/D2051/13 dated 09.07.2013 towards posting of TNEB Staff for 230 K.V. LILO Switchyard at 2x80 M.W. Coal based Captive Power plant premises of the Petitioner and inspection and supervision charges for the maintenance and operation activities of the 230 K. V. switch yard.

3.3. The Switch yard belongs to the Petitioner and the Annual Revenue Returns of the 1st Respondent does not seem to have included the financial cost of the switching station of the Petitioner. Since the financial cost included (i) depreciation (ii) interest on debt (iii) return on equity (iv) return on working capital (v) O&M Charges etc., the Respondents are not entitled to collect a separate O&M Charges from the Petitioner. This apart, the Respondents are collecting transmission charges from the petitioner, therefore the Petitioner is not liable to pay O&M charges for inspection and supervision of 230 K.V. switch yard of the Petitioner for the year 2013-14.

3.4. The Respondents ought to have approached the Commission for fixation of the O&M charges to be collected from the Generators before demanding and collecting such huge amounts from the Petitioner.

3.5. The 3rd Respondent has demanded and collected the O&M charges for maintenance and operation activities of the 230 K.V. Switch yard, where the switch yard is being maintained by the Petitioner and no staff has been appointed for the said purposes.

3.6. The Respondents have not taken into account the transmission charges collected from the Petitioner while calculating the O&M Charges for the maintenance of 230 K.V. Switch Yard of the Petitioner premises.

3.7. The Respondents have not followed any specific regulation or order to demand and collect the O&M charges from the Petitioner.

4. Contentions of the Respondent:-

In the counter affidavit filed on 15-04-2014, the Respondents have submitted as follows:-

4.1. The Petitioner had requested grid connectivity approval for their power plant at Gummidipoondi having installed capacity of 2x80 MW coal based power plant at the voltage level of 230KV vide their letter 18.03.2011. As per the load flow study conducted, it was proposed to connect the power plant with proposed 400 KV Thervaikandigai SS by erecting 230KV SC line on DC towers for a distance of 17 KM from their power plant at Gummidipoondi to proposed Thervoikandigai 400/230-11 KV SS and erection of 1 No.230 KV bay at Thervoikandigai SS under DCW basis.

4.2. Since the company have proposed to carry out the above works under the supervision of TANTRANSCO and hence establishment and supervision charges

and Testing and commissioning charges which works out to Rs.328.55 Lakhs vide (Per) CH TANTRANSCO Proceedings No.79 dated 23.05.2013 has to be borne by the company.

4.3. The company requested approval for the Temporary Grid connectivity to first Unit of 80 MW Generator to Gummidipoondi 230 KV SS at 230 KV level since their commissioning schedule of their first Unit will not match with the commissioning schedule of the proposed Thervoikandigai SS and the company have given undertaking to bear the cost for both temporary and permanent connectivity schemes vide their letter dated 31.10.2011.

4.4. As per the request of the company approval was accorded for temporary connectivity for their first unit of 80 MW by making LILO arrangement in 230KV Gummidipoondi Sriperumpudur feeder and erection of 1No. 230 KV bay at Gummidipoondi SS vide D.No.349/22.02.2013 subject to certain terms and conditions. The first Unit of 80 MW was synchronised with the grid on 01.04.2013 at 18.40 Hrs and COD declared on 16.04.2013. The company have stated vide their letter dated 06.02.2013, as the LILO yard at their premises being a Grid connected Substation, the expenses towards TNEB staff posted there will be borne by them and have furnished an undertaking on the above. The switch yard was commissioned on 08.02.2013 in the presence of TANTRANSCO officials.

4.5. The company have stated that they have been requested to pay Rs.62,17,560/- vide their office letter dated 15.07.2013 towards posting of TNEB staff for 230 KV LILO switchyard at 2 X 80 MW, coal based captive power plant

premises of the company and inspection and supervision charges for the maintenance and operation activities of the 230 KV switch yard. In this regard, it is submitted that action is being taken for posting the staff at 230 KV Switch yard in the company's premises. In the meantime the operation and maintenance activities are being carried out by Executive Engineer/Operation/Gummidipoondi with his supporting staff from the date of commissioning of the switch yard. Hence the company was requested to pay the O&M Charges of Rs.62,17,560/- vide letter dated 04.06.2013, 26.06.2013 and 15.07.2013.

4.6. The company requested to adjust the above amount from the security deposit available with their surrendered HT service No.1848 vide their letter dated 16.07.2013 and the same was adjusted in the security deposit of HT service No.1848.

4.7. In order to avoid the O&M charge, the generating company should be independent in their duties and they should not depend on State Utility and hence the generating companies have to pay O&M charges to State Utility as per High Court order dated 21.10.2011 in W.P.No. 18791.

4.8. In this case due to LILO arrangement, the generating company has to depend on TANTRANSCO for any operation in 230 KV switching station. Since the above arrangement have significant impact in maintaining the grid, O&M charges are being collected from the company.

4.9. The company has agreed to bear expenditure for operation and maintenance of the switching station by TANTRANSCO.

4.10. The State Utility is also paying O&M charges to CTU for interconnection transmission system vide CERC Order dated 1.5.2007.

4.11. The supervision of switching station is being done by the staff of 230 KV Gummidipoondi SS.

4.12. The yard maintenance, line maintenance are being done by the TANTRANSCO.

4.13. The switching station is being maintained by the existing staff of 230 KV Gummidipoondi SS without any interruption to the generator. However, arrangements are being made for posting of staff early.

4.14. In order to serve better in public interest and to meet the annual recurring expenditure, the State Utility has to levy O&M charges on the generating companies.

4.15. While applying for temporary connectivity of their power plant, the petitioner had stated that they will propose to supply power to TANGEDCO around 40 MW. Based on which, the LILO arrangement of 230 KV Gummidipoondi-Sriperumbudur feeder and erection of 230 KV switching station for temporary connectivity of their plant has been approved by the Respondent to facilitate the generator to evacuate their power temporarily through above LILO arrangement without waiting for the

permanent evacuation scheme to Thervoikandigai SS. But after getting temporary connectivity approval, the Petitioner is not supplying power to TANGEDCO. The Petitioner is wheeling to their captive users only. By using the temporary connectivity arrangement, the Petitioner generates his power and using it for their own benefit only. It is not an agreement of re-imbusement towards O&M charges of the switching station. Hence, the O&M charges for maintenance of 230 KV switching station shall be borne by the Petitioner only.

5. Findings of the Commission:-

The Commission perused the submissions of both the Petitioner , M/s.Suryadev Alloys and Power Pvt. Ltd. and the Respondent, TANTRANSCO and render its findings as follows:-

5.1. The Petitioner has sought approval of the Respondent for grid connectivity for their coal based power plant at Gummudipoondi having an installed capacity of 2 x80 MW at the 230 kV voltage level.

5.2. The Respondent conducted load flow study and suggested connectivity to the Respondent's proposed Thervaigandigai 400/230-110 kV SS by erecting 230 kV Single Circuit (SC) line on Double Circuit (DC) towers for a distance of 17 Kms. The Petitioner has proposed to carry out the above power evacuation line works under the supervision of TANTRANSCO and agreed to bear the establishment & supervision charges and Testing & Commissioning charges (which works out to Rs.328.55 Lakhs) of TANTRANSCO.

5.3. Since the commissioning schedule of the first unit would not match with the commissioning schedule of the proposed Thevoikandigai 400/230-110 kV SS, the Petitioner, subsequently, has requested approval for Temporary grid connectivity to evacuate power from the first unit of 80 MW Generator to Gummudipoondi 230 kV SS at 230 kV level and has given an undertaking to bear the cost of both temporary and permanent connectivity schemes. As per the request of the Petitioner, approval for temporary connectivity has been accorded by TANTRANSCO by making Line In Line Out (LILO) arrangement of Gummudipoondi – Sriperumbudur 230 kV Line at 230 kV switching station inside the generating plant premises of the Petitioner. The switching station being connected with grid connectivity to Gummudipoondi 230 kV Substation and Sriperumbudur 400 kV Substation of TANTRANSCO, it has to be operated and maintained by TANTRANSCO. The Petitioner has also agreed to bear expenses towards TNEB staff posted in the 230 kV switching station for Operation and Maintenance purpose.

5.4. The 230 kV switching station has been commissioned on 08.02.2013. The 1x80 MW generating unit of the Petitioner has been synchronized with the grid on 01.04.2013 and Commercial Operation Date (COD) declared on 16.04.2013.

5.5. Consequent to the commissioning of the generating plant and the associated switchyard, the Respondent has requested the Petitioner to pay Rs.62,17,560/- per year towards posting of TNEB staff for operation and maintenance of 230 kV LILO switchyard as agreed to by the Petitioner.

5.6. TANTRANSCO has requested again to remit the O&M charges in respect of the 230 kV switching station along with establishment and supervision charges towards erection of 230 kV SC line from the Petitioner 's plant to Thervoikandigai 400/230-110 kV SS for considering the temporary grid connectivity of second unit of 80 MW and the amount has been subsequently adjusted against Security Deposit available on closure of HT account of the Petitioner .

5.7. Now, the Petitioner in the present DRP contend that the O&M charges is being demanded and collected by the Respondent for maintaining the 230 kV switching station inside the Petitioner 's premises when the switching station in actuality is maintained by the Petitioner and no staff of the Respondent has been posted till date and that the Respondent has not followed any specific regulation or order to demand and collect O&M charges and have not taken into account the transmission charges collected while arriving at the O&M charges and therefore seek to redress their grievance by fixing an appropriate charges payable by the Petitioner towards O&M, inspection and supervision charges for maintenance of the 230 kV switchyard located in their premises. However, the Respondent would contend that the supervision of the switching station is being done by the staff of 230 kV Gummudipoondi Substation without any interruption to the generator and that arrangements are being made for posting of staff. The Respondent further contend that by using the temporary connectivity arrangement, the power generated by the Petitioner is being used for its own purpose and hence O&M charges of the switching station shall be borne by the Petitioner only.

5.8. Under the above circumstances, the Commission would like to refer to the provisions in Electricity Act, 2003 with respect to Captive Generation and duties of generating companies which are as follows:

“9. Captive Generation- (1) Notwithstanding anything contained in the Act, a person may construct, maintain or operate a captive generating plant and dedicated transmission lines.

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10. Duties of generating companies:- (1) Subject to the provisions of this Act, the duties of a generating company shall be to establish, operate and maintain generating stations, tie lines, sub-stations and dedicated transmission lines connected therewith in accordance with the provisions of this Act or the rules or regulations made thereunder.”

As per the above provisions of the Electricity Act, 2003, for evacuation of power from the Petitioner 's coal based captive plant, the Respondent has suggested a dedicated 230 kV SC Transmission line from their Petitioner 's plant to Thervoikandigai 400/230-110 kV sub-station by terminating in a 230 kV bay at Thervoikandigai sub-station. However based on the request of the Petitioner subsequently to match the commission of the generating units, a temporary connectivity scheme of making LILO of Gummudipoondi- Sriperumbudur 230 kV Line at the 230 kV switching station in the premises of the Petitioner 's plant has been evolved by TANTRANSCO to facilitate the generator to evacuate power temporarily. Since, the switching station in the Petitioner 's premises being grid connected with Gummudipoondi 230 kV substation and Sriperumbudur 400 kV sub-station at either ends, the same has to necessarily be maintained by TANTRANSCO and this has been done by TANTRANSCO with the existing staff of 230 kV Gummudipoondi sub-station till the posting of the regular staff to ensure power evacuation from the Petitioner 's plant without interruption. In as much as the temporary connectivity has been established based on the request of the Petitioner and that it has also been agreed to bear the expenses of the maintenance staff, the

Petitioner is ought to pay the amount claimed by TANTRANSCO towards maintenance of the 230 kV switching station. This charge is not related to Open Access (OA) charges as contended by the Petitioner. The OA charges are payable by the Petitioner for injection of power into the State grid for its captive consumption at a different location and this include transmission charges for using the transmission system, wheeling charges for wheeling power to the consumer utilizing the distribution network, scheduling and system operation charges for the SLDC function. Hence it is for a different purpose and not to be linked with the Maintenance charges claimed by TANTRANSCO. Once the permanent connectivity to Thervoikandigai 400 kV sub-station is established by the Petitioner as per provisions of Electricity Act 2003, it would become the duty of the Petitioner to operate and maintain the same in accordance with the provisions of the Electricity Act, 2003, or the rules or regulations in force. The LILO connectivity temporarily provided would stand dispensed. Hence, till such time the permanent connectivity to Thervoikandigai 400/230-110 kV sub-station is established, the expenses towards maintenance of staff need to be borne by the Petitioner as agreed by it.

With the above orders, the petition is finally disposed of.

6. Appeal:-

An appeal against this Order shall lie before the Appellate Tribunal for Electricity under section 111 of the Electricity Act 2003, within a period of 45 days from the date of receipt of a copy of this order by the aggrieved person.

(Sd.....)
(G.Rajagopal)
Member

(Sd.....)
(S.Akshayakumar)
Chairman

/True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission