

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

PRESENT:

Thiru M.Chandrasekar Chairman
Dr.T.Prabhakara Rao Member
and
Thiru. K.Venkatasamy Member (Legal)

D.R.P. No.3 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
Advocate 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 Respondents)

**Dates of Hearing : 19-02-2014;21-03-2014;11-07-2014
06-08-2019;05-09-2019;24-09-2019**

Date of Order : 28-01-2020

The DRP No. 3 of 2014 came up for final hearing on 24-09-2019. The Commission upon perusing the affidavit filed by the petitioner, counter affidavit filed

by the respondent and all other connected records and after hearing both the parties passes the following:-

ORDER

1. Prayer of the Petitioner in DRP No.3 of 2014:-

The prayer of the Petitioner in the above DRP no. 3 of 2014 is to fix the charges /tariff payable by the Petitioner towards Establishment and supervision charges for the transmission lines to be erected 230 KV SC line from the Petitioner power plant to the proposed permanent transmission lines from the Petitioner plant to Thervoikandigai 400/230-110KV SS and for the temporary transmission lines from Gummidipoondi to Sriperumbudur, by the Commission 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 .

2. Facts of the case:-

2.1 The Petitioner M/s. Suryadev Alloys and Power Pvt. Ltd., have proposed to establish 2x80 MW capacity coal based power plant at Gummidipoondi. As per the original load flow study results, the power plant has to be connected to the proposed 400 KV Thervoikandigai SS by erecting 230 KV SC line on DC towers for a distance of 17 KM from their power plant at Gummidipoondi to the proposed 400/230-110 KV Thervoikandigai SS and erection of 230KV bay at Thervoikandigai SS.

2.2 The Petitioner requested approval for the temporary Grid connectivity of their first unit of 80MW generator to Gummidipoondi 230KV 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 Petitioner have given undertaking to bear the cost for both temporary and permanent connectivity schemes vide their letter dated 31.10.2011.

2.3 However, the Petitioner had informed that their trial run was scheduled on August 2012 and the establishment of Thervoikandigai 400 KV SS would not match with the commissioning of their plant and hence requested temporary connectivity. Once Thervoikandigai 400 KV SS is commissioned, the Petitioner power plant has to be connected permanently as per the original load flow study recommendations.

2.4. The Petitioner requested for temporary connectivity and was accorded by making LILO arrangement in 230KV Gummidipoondi – Sripermpudur tie feeders until the commissioning of Thervoikandigai 400 KV Substation by the 2rd Respondent subject to the specific conditions in their Ir no. Dir/O/SE/LD&GO/EE/AEE2/OA/F.Suryadev/D.631/12 dt 29/3/12.

3. Contentions of the Petitioner:-

3.1. The Petitioner submits that it has established 2X80 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 Thervaikandigai 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 Petitioner stated that the 1st Respondent has raised a demand for the payment of Rs.2,59,91,000/- towards establishment and supervision charges of 230 KV SC line from the Petitioners power plant to Thervaikandigai 400/230-110 KVSC in Lr.No.DIR/OPN/SE /LD&GO/EE /OA/ AEE2/F.Suryadev /D.1189/13 dated 15.07.2013. The 1st Respondent has also directed the Petitioner to pay the said amount within 15 days from the date of receipt of the letter referred to above for considering the temporary grid connectivity of Second Unit of 80 KW. That apart the 1st Respondent in his letter No. DIR/ 01/ SE/LD&GO EE/EE/ AE2/OA/ F.Suryadev/ D1469/12 dated 11.06.2012 had requested to pay Rs.144.08 lakhs towards establishment and Supervision charges, Rs.27.87 lakhs towards testing and Commissioning charges, Rs.3.00 Lakhs for providing terminal equipments and Rs.1.00 lakh towards deposit payable to BSNL leased line charges, totaling to Rs.175.95 Lakhs. The Petitioner submits that the amount was paid on 12.06.2012 to the 3rd Respondent. On 04.10.2012 the 1st Respondent had requested for the payment of Rs.33.87 lakhs towards Establishment and supervision charges for the difference in cost of provisions of Multi Circuit Towers instead of Double Circuit Towers for line deviation works and LILO works in respect of temporary connectivity. The said amounts have been claimed for LILO temporary arrangement in the existing 230 KV Gummidipoondi – Sriperumbudur line while granting temporary connectivity vide letter dated 11.06.2002. The above amount was paid on 09.10.2012. The Petitioner submits that on 20.11.2012, the 3rd Respondent had requested to pay a sum of Rs.23,60,340 /- towards Establishment and supervision charges for line deviation works on 230 KV Gummidipoondi –

Sulurpet and Gummidipoondi – NCTPS feeders. The said amount was also paid on 21.11.2012. The Respondent have collected Establishment and supervision charges for various works at the rate of 22% without any basis or approval from this Commission.

3.3. The Petitioner further submitted that the 3rd Respondent on the advice of the 1st Respondent had adjusted the sum of Rs.2,59,91,000/- from and out of the Security Deposit amount refundable to the Petitioner consequent on the surrender of HT service connection No.1848 – Vide Lr.No. SE/ CEDC/ N/AAO/ HT/A1/F1848/D5845/10 dated 20.07.2013.

3.4 . The Petitioner submitted that though they have undertaken to pay and erect all the said transmission lines as specified by the Respondents, the Petitioner was advised to pay the above huge amounts without indicating any Rule or Regulation of this Commission. The Respondents have collected the said charges without any basis. The Petitioner submits that the Respondents have chosen to collect the said huge amount by adjusting without the approval or consent of this Commission out of the Security deposit standing in the Petitioner's surrendered HT service connection and by drawing cheques in their favour none of the payments received by the Respondents are covered under any tariff order prescribed by this Commission.

3.5. The Petitioner submitted that charging of 22% on the cost of erection towards Establishment and Supervision charges for the proposed permanent as well as temporary transmission lines are arbitrary illegal and without authority of law.

3.6. The Petitioner submitted that the Respondents ought to have approached this Commission for fixation of the appropriate tariff / charges to be collected from the generators before demanding and collecting such huge amounts from the Petitioner.

3.7. The Petitioner submitted the following salient features involved in the above petition for consideration of this Commission:-

- i. The Respondents have collected 22% towards Establishment and Supervision charges without any approved regulations or orders by the TNERC.
- ii. The Respondents have not followed the procedure as contemplated under NON-TARIFF RELATED MISCELLANEOUS CHARGES issued by the TNERC.
- iii. The Respondents are not collecting the said Establishment and supervision charges uniformly from the generators. The Respondents are collecting the said charges at their will arbitrarily.
- iv. The Respondents commit gross discrimination in collecting the said charges.

3.8. The petitioner has stated that they are constrained to file this petition before this Commission for redressal of their grievances to fix the appropriate charges / tariff payable by the Petitioner who erected the entire transmission lines from their Power Plant to the TANGEDCO's Grid towards Establishment and supervision

charges and for direction to refund the amounts collected unauthorisedly from the Petitioner.

4. Contentions of the Respondents:-

4.1. The Petitioner is having 2 x 80 MW coal based power plant at Gummidipoondi and connected their power plant with TANTRANSCO grid through LILO arrangement in Gummidipoondi – Sriperumpudur 230 KV feeder as a temporary connectivity.

4.2. As per load flow study the generator has to be connected with proposed Thervaikandigai 400 KV SS (at present Thervaikandigai 400 KV SS has been commissioned).

4.3. As per the request of the Generator only, temporary connectivity has been granted to the generator by LILO arrangement in 230 KV Gummidipoondi – Sriperumpudur line for which 230 KV switching station was erected by the generator.

4.4. The erection of above temporary connectivity transmission scheme has been carried out by the generator under the supervision of TANTRANSCO.

4.5. The following works were carried out by the Licensee, TANTRANSCO even though the Generator executed the temporary evacuation scheme works by themselves under 10(1) of the Electricity Act 2003.

- a. Estimation of the evacuation scheme

- b. Issuing standard specifications of Transmission scheme as per TANTRANSCO norms
- c. Issuing LC (line clear) for erection of line and bay by the generator. In this particular case, TANTRANSCO coordinated with other private generators in that area for backing down their generation to carry out the LILO (line in line out) work in Gummidipoondi – Sriperumpudur line for temporary connectivity of their generator.
- d. Supervision of the line and bay works is carried out while execution to ensure their standards to avoid mishaps during synchronization of their generator with the grid.

4.6. The Petitioner had accepted to pay the establishment and supervision charges for the above works vide their letter dt.31.10.2011, 26.12.2011, 29.03.2012, 24.07.2012. The copies of above letters have already been submitted along with the additional counter.

4.7. In this case due to LILO arrangement, the erection of transmission system by the generating company will have significant impact in maintaining the grid. Hence, the supervision of transmission scheme work is essential and hence the supervision charge @ 22% of estimated cost has been collected as per BP (FB) No.84, 10.4.1992 for which the company have already agreed.

4.7. The following are the details of Supervision Charges collected from the Generator.

Sl. No	Details of the work	Amount Rs. (Lakhs)
1	For erection of LILO arrangement, testing and commissioning charges for the temporary connectivity scheme vide B.P. (Per) CH TANTRANSCO Proceedings No.56 dt.08.08.2012.	175.95
2	Due to Space constraint, as per company's request provision of Multi circuit Towers instead of Double circuit towers were carried out by the company vide B.P. (Per) CH TANTRANSCO Proceedings No.83 dt.08.11.2012.	33.87
3	Deviation works in 230KV Gummidipoondi –Sulurpet feeder and NCTPS - Gummdipoondi feeder vide B.P. (Per) CH TANTRANSCO Proceedings No.87, dt.26.11.2012.	23.60
4	Erection of 230KV S/C line on D/C towers to Thervoikandigai 400KV SS towards permanent connectivity scheme vide (Per) CH TANTRANSCO Proceedings No.: 79, dt.23.05.13.	259.91
5	Erection of one No.230 KV bay at Thervoikandigai 400KV SS towards permanent connectivity scheme vide (Per) CH TANTRANSCO Proceedings No.: 79, dt.23.05.2013.	68.64

4.8. The Respondent have further submitted that:-

- (a) The date of commencement of the work by Transmission Line Construction (TLC) wing is 15.06.2012 and by Sub-Station Erection (SSE) wing is 08.08.2012.
- (b) The completion date of the work is 19.01.2013.
- (c) Supervision by General Construction Circle (GCC) wing was carried out for the following works 1) erection of new line which includes foundation & erection of tower and 2) stringing of conductors and earth wire 3) Dismantling of some portion of line and connecting new

line (Suryadev line) to the existing 230KV Gummidipoondi-Sriperumbadur feeder for making LILO at M/s. Suryadev.

(d) The above works were carried out for the standard of TANTRANSCO.

(e) The following staff and officials of TLC wing were deputed for the supervision of the work from 15.06.2012 to 19.01.2013.

1.	Foreman I Gr.	-	1 No.
2.	Foreman II Gr.	-	1 No.
3.	Assistant Engineer/TLC/CNI	-	1 No.
4.	Assistant Exe. Engineer/TLC/CNI	-	1 No.

(f) The following staff and officials of SSE wing were deputed for the supervision of the work from 08.08.2012 to 19.01.2013.

1.	Foreman I Gr.	-	1 No.
2.	Foreman II Gr.	-	1 No.
3.	Assistant Engineer/TLC/CNI	-	1 No.
4.	Assistant Exe. Engineer/TLC/CNI	-	1 No.

(g) The rate of supervision charge @ 22% of estimated cost is being also adopted by other Government departments.

4.9. In this particular case, TANTRANSCO coordinated with other private generators in that area for backing down their generation to carry out the LILO (line in line out) work.

4.10. TANTRANSCO has also carried out backing down of the North Chennai Thermal Power Station (NCTPS) for LILO works.

4.11. It is submitted that mishaps during synchronization of any generator with the grid could be avoided only under the supervision of TANTRANSCO.

5. Findings of the Commission:-

5.1. We have heard the submissions of learned Counsel appearing for the Petitioner and the Respondents. The Petitioner has filed this petition to fix the charges /tariff payable by the Petitioner towards Establishment and supervision charges for the transmission lines to be erected 230 KV SC line from the Petitioner power plant to proposed permanent transmission lines from Petitioner plant to Thervoikandigai 400/230-110KV SS and for the temporary transmission lines from Gummidipoondi to Sripermbudur, by the Commission and consequently direct the Respondents to refund the excess amounts collected unauthorisedly with interest as contemplated under section 62(6) of the Electricity Act 2003 and with cost .

5.2. The Respondents have submitted that the General Construction Circle (GCC) will have supervised:

- (a) The erection of new line which includes foundation, erection of tower and stringing of conductors and earth wire
- (b) Dismantling of some portion of line and connecting new line (Suryadev line) to the existing 230KV DC Gummidipoondi – Sriperumbudur feeder for making LILO arrangement at Suryadev.

5.3. Further the Respondents have stated that the above works were supervised by TANTRANSCO officials as per the request of the Petitioner to the standards of TANTRANSCO.

5.4. The staff and officials such as Assistant Executive Engineer, Assistant Engineer, Foreman Grade I, Foreman Grade II, were deputed from 15.06.2012 to 19.01.2013 and from 08.08.2012 to 19.1.2013 from TLC wing and SSE wing respectively to supervise the above works.

5.5. The Respondents have further stated that the Petitioner had requested the Respondent (TANTRANSCO) vide their letter dt. 14.12.2011 to permit them to undertake the entire work towards installation/erection of LILO connection by themselves under supervision of TANTRANSCO on payment of necessary supervision charges to the TANTRANSCO. The Petitioner have accepted to pay the Establishment & Supervision charges for temporary and permanent connectivity scheme vide their letters dt. 31.10.2011, 14.12.2011, 26.12.2011, 24.1.2012, 29.03.2012 and 25.09.2012.

5.6. From the records submitted by the Respondent it is seen that the Petitioner had accepted to pay the necessary Establishment & Supervision charges as per the guidelines of the Respondents without making any protest. For establishment of Petitioner's Transmission network, the Petitioner himself has voluntarily came forward and accepted to pay necessary charges/fees for Establishment and Supervision charges, therefore it is a concluded contract. After agreeing upon to pay the charges at the rate, under the established proceedings as per B.P.(FB) No.84, dated 10-04-1992 and after having availed the services of the respondent, denial of the charges now is only an afterthought.

5.7. Under Section 10 of the Electricity Act, 2003, 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. It is the requirement of the generating company to submit technical details to the Appropriate authority and to coordinate with the concerned. Therefore any service rendered by the Transmission licensee incidental to the work is chargeable. Refusal to pay the above charges, is covered under the doctrine of promissory estoppel.

5.8. The Respondent have deputed 2 teams of staff and officers to the work spot for almost 7 months for which the Petitioner is liable to pay the Establishment and Supervision charges as per the norms of the Respondent.

5.9. Further it is brought to the notice of this Commission during the hearing of this case that the Establishment and Supervision charges @ 22% is uniformly collected on the cost of Estimate from all such consumers/ generators including Govt. Departments.

5.10. In view of the above findings, we are unable to accept the contention of the Petitioner and accordingly the petition is dismissed.

(Sd.....)
(K.Venkatasamy)
Member (Legal)

(Sd.....)
(Dr.T.Prabhakara Rao)
Member

(Sd.....)
(M.Chandrasekar)
Chairman

/True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission