WEST BENGAL ELECTRICITY REGULATORY COMMISSION

WEST BENGAL

Petition No. OA-230/16-17

Date of hearing: 24th October, 2019

Time of hearing: 15:30 hours

Coram:

Shri Sutirtha Bhattacharya, Chairperson

Shri Durgadas Goswami, Member

Shri Pulak Kumar Tewari, Member

In the matter of

Application for in-principle clearance from the Commission for construction of 3-phase 132 KV double circuit transmission line from J. K. Nagar to Railway traction feeding point at Pandabeswar under regulation 2.8.4.1 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) (Amendment) Regulations, 2013.

And

In the matter of

India Power Corporation Limited
Plot – X-1, 2 & 3
Block – EP, Sector – V
Salt Lake City
Kolkata 700 091. ..... **Petitioner**

And

In the matter of

West Bengal State Electricity Distribution Company Limited
Vidyut Bhavan
Block DJ, Sector – II
Salt Lake City
Kolkata 700 091. ..... **Respondent**

And

In the matter of

West Bengal State Electricity Transmission Company Limited

Vidyut Bhavan
Block DJ, Sector – II
Salt Lake City
Kolkata 700 091 ..... **Respondent**

In the matter of

Eastern Railway .....**Respondent**
3rd floor
17 N.S. Road, Fairlie Place
Kolkata 700 001

Representatives attended:

India Power Corporation Limited (IPICL) [Petitioner]

1. **Sri Sakya Singha Chaudhuri, Legal Counsel,**
2. **Sri Pramod Kumar Singh, President (Regulatory & Commercial)**
3. **Sri KarnPallav, General Manager (Regulatory),**
4. **Sri Somesh Dasgupta, Group President & CCRO,**
5. **Sri Debashis Sarkar, Vice President & Business Head,**
6. **Sri Suman Ganguly, Assistant General Manager (Regulatory)**

West Bengal State Electricity Distribution Company Limited (WBSEDCL) [Respondent]
Absent

West Bengal State Electricity Transmission Company Limited (WBSETCL) [Respondent]

1. **Sri AsitKarmakar, Chief Engineer (CPD).**

Eastern Railway (ER) [Respondent]
Absent

CASE IN BRIEF

1.0 India Power Corporation Limited (IPCL) submitted a petition on 10.06.2016 for in-principle clearance for construction of 132 kV Double Circuit Line from their J K Nagar Substation to Railway Traction Feeding point at Pandabeswar in terms of Regulation 2.8.4.1 of West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) (Amendment) Regulation, 2013. IPCL had also furnished a DPR of the project along with their petition. In their petition, IPCL submitted that Eastern Railway (ER) has expressed interest to take power at 132 kV for traction load at Pandabeswar Traction Sub-station (TSS) of Eastern Railway and accordingly an agreement has been entered into by and between IPCL and

Eastern Railway on 26.06.2015. The project cost as submitted by IPCL in their petition has been tabulated below:

Particulars	Rs Crore
Land and Site Development	4.35
Plant and Machinery including Transmission System	53.72
Miscellaneous Fixed Assets	3.60
Pre-Operative Expenses	0.96
Provisions for Contingencies – 3%	1.88
Interest During Construction	3.38
Margin for Working Capital – First Year of Operations	5.02
Total Project Cost (estimated)	**72.91**

2.0 On receipt of the petition, the Commission vide letter dated 05.07.2016 conveyed to IPCL that for the purpose of construction of the 132 kV, 3 phase Double Circuit line from J K Nagar Substation to Railway Traction Feeding point at Pandabeswar, the cost for the work is to be borne by Eastern Railway as per provision of Section 46 of the Electricity Act, 2003 and Regulation framed under the Act. However, IPCL vide letter dated 09.01.2017 clarified that the DPR consists of intermediate substations/ lines for future beneficiaries but the portion of the cost for construction of the dedicated lines for giving supply to Eastern Railway will be recovered from them and the remaining part will be recovered from other beneficiaries in proportion to their connected loads.

3.0 Further, IPCL vide letter dated 07.08.2017 has informed that Eastern Railway has made a payment of Rs. 13.93 Crores towards the cost of line, equipment etc. required for effecting service connection to Eastern Railway in terms of the agreement between IPCL and Eastern Railway.

4.0 Subsequently, IPCL vide letter dated 12.02.2018 further submitted the sharing of cost break-up of the project.

The break up has been presented in a table in next page.

Sl No.	Particulars	Beneficiary	Distribution of Cost (Rs. Crore)			**Total Estimated Cost (Rs. Crore)**
			To be borne only by Railways	To be borne only by other beneficiaries	To be borne by all the consumers	
a)	Bankola S/s to Pandabeswar TSS- 10 kms of 10 Kms of 132 kV S/c Tr Line on D/c Tower	Dedicated Line for Railways	11.6647	-	-	**11.6647**
b)	132 kV line cost from J K Nagar to Bankola S/s along with system strengthening and augmentation	Line for Railways and other beneficiaries	2.2653	25.5800	-	**27.8453**
c)	Addition of transformers and associated bays at J K Nagar Substation	Entire consumer base of Licensee	-	-	25.0000	**25.00**
	Total		**13.93**	**25.58**	**25.00**	**64.51**

5.0 The Commission considering the additional information/ clarifications/ documents submitted by IPCL admitted the petition and directed IPCL to publish the approved gist of their petition in the newspapers. IPCL accordingly published the gist of the petition in (i) the Times of India (ii) the Ei Samay (iii) The Aajkaal and (iv) the Sanmarg on 17.03.2018 inviting suggestions and objections on their petition latest by 03.04.2018.

6.0 Against the publication of aforesaid gist, WBSETCL and WBSEDCL submitted certain objections through petitions, as below.

6.1 WBSETCL in their petition dated 02.04.2018 submitted the following

a) WBSETCL was not informed before the construction of OH line,

b) IPCL has not obtained LTOA for drawal of power

6.2 WBSEDCL in their petition dated 03.04.2018 submitted the following

a) Railway traction point at Pandabeswar is outside the licensed area of IPCL

b) IPCL has not shown any plan for development of LT network only to resort to cherry picking of HV & EHV consumers.

7.0 WBSEDCL subsequently withdrew their petition dated 03.04.2018 vide their letter dated 17.05.2019 in regard to objections as to the dispute on area of operation raised against the subject petition submitted by IPCL before the Commission.

8.0 Upon going through the submissions of the parties involved, the Commission felt that the parties involved in the instant case may be heard and accordingly, a hearing was held on 12th September, 2019.

9.0 Upon hearing, the Commission vide its interim order dated 21.10.2019 directed that –

a) IPCL will submit route profile to the WBSETCL with intimation to the Commission within 15 days from the date of receipt of this order;

b) IPCL will also submit their future plan / investment proposal regarding L&T network within 15 days from the date of receipt of this order;

c) Next date of hearing was fixed on 24th October, 2019 at 12.00 hours

In view of above, the hearing was held on 24th October, 2019 at the office of the Commission, where representatives of IPCL and WBSETCL were present.

SUBMISSION DURING HEARING

10.0 The Ld. Advocate, on behalf of IPCL, submitted that –

10.1 IPCL has already submitted the route profile to WBSETCL as per the direction of the Commission.

10.2 IPCL has also submitted their interest and plan for laying down L&T network in the area of supply, which inter-alia, states that –

a) IPCL as on date has a consumer base which includes Domestic (LT Urban, Rural and HT) consumers, Commercial (LT below 30 KVA, LT above 30 KVA and HT) consumers, Industry (LT, HT below 50 KVA, HT above 50 KVA and HT 33 KVA) consumers, Educational Institutes and Hospitals, Public Water Works, LED Street Lights, Cold Storage, Co-operative Housing Society and Cluster of BPL consumers amongst others.

b) After taking over of ownership and management of DPSCL, petitioner has been making concerted efforts to ensure compliance with USO and supply of power to all categories of consumers by re-orienting its focus to also cater to LT consumers.

c) After change in management control since 2012-13, IPCL has been making significant investments in the LT networks in the Ranigunj-Asansol area and has been utilizing its strong HV / EHV network backbone to extend its services to LT segment through Distribution Transformer and other LT line & equipments.

d) IPCL has been systematically expanding its LT network keeping in mind its primary network presence, load density etc. in its licensed area. Number of L&T consumers has increased from 387 in financial year 2014 to 2654 in financial year 2019 at CAGR of 47%, distribution transformers have increase from 15 numbers in financial year 2014 to 263 in financial year 2019. Correspondingly, installed capacities of DTs have increased from 4.5 MVA to 32 MVA during the same period at a CAGR of 48%. The connected load of LT consumers has increased from 0.3 MVA in financial year 2014 to 22.15 MVA in financial year 2019 at CAGR of 132%.

e) IPCL is operating in an area that is being serviced by two other competing licensees i.e. WBSEDCL and DVC. Due to historical reasons, DPSCL did not have an occasion to develop LT network. Majority of the LT demand in the license area is being met by other licensee, which has a well developed distribution network. In such background, network development is being planned by IPCL having regard to consumer requirements and increased demand, either due to development of new areas not already serviced by other licensees, re-development of residential and commercial set-up and localities or migration of existing consumers from other licensee to IPCL.

f) IPCL is pro-actively pursuing all the new connection and meeting 100% of the new connection requirement in the vicinity of its network and majority of all new connection requirements in the parallel license area. IPCL is also meeting the connection & supply requirements of any of the willing customer who wants to migrate from its existing utility.

g) IPCL has been expanding and extending the existing network to create LT network infrastructure in phased manner and installing distribution transformers and other LT equipment suitably depending on the requirements, availability of required ROW, feasibility and cost aspects etc. and where-ever the LT network exists or easy to extend, put effort on bringing new consumers into the network and orienting the service and people capability to match the LT service requirement. IPCL has tried its level best for compliance of USO and has never received any grievance on this account from any applicant as there have been no instances of refusal to receive any application falling within their network.

h) IPCL has built network based on HVDS, which helps ensure economical power distribution and is also a recognized method for reducing technical losses, preventing theft, improving voltage profile and providing better consumer service. The same has been recognized in the National Electricity Policy and the Tariff Policy.

i) IPCL is present in almost all the LT segments including domestic, commercial, hotels, malls, small industry, educational institutes, BPL

consumer clusters, etc. IPCL has proactively connected around 40% of all new individual dwelling units, small shops, small establishments & new residential complexes providing LT domestic connections to such units, 20% of hotels & hospitals and 15% of educational institutions present in the network vicinity in their license area. IPCL is making further investments in LT network expansion based upon the new applications, which they are receiving on regular basis.

j) IPCL has also taken steps in cluster development of areas comprising mostly BPL consumers, such as in Durbar Cultural Association area in Jamuria comprising of more than 250-300 BPL consumers and the number is increasing. This clearly demonstrates IPCL's commitment to reach out to all categories of consumers, and not limit itself to HT consumers.

k) The LT network plan of IPCL includes –

   i) Identification of load centres at LT voltage levels which could be catered by IPCL in next few years of operation in its area of license;

   ii) Construction of 11 KV feeders, distribution transformers and LT lines for ultimate delivery of power to end consumers in the identified locations and last mile connectivity;

   iii) HVDS Distribution network upto LT consumption load centres for reducing the overall loss as much as possible. Provision for advance technology in metering, like remote metering, GIS Mapping, Smart Grid, etc. and smart service lines & systems for last mile connectivity with consumers and for the purpose of energy billing.

l) Development of network cannot be an unguided and haphazard activity. It has to be carried out in a planned and coordinated manner in line with consumer requirement and consumer application for supply of electricity by IPCL so that it does not result in undue tariff burden for consumers. As per the proposed LT plan of IPCL, it intends to provide LT network accessibility to all major load centres of its license area within the next three years or so and expects to generate more and more LT consumers for its network.

m) IPCL is subject to the WBERC (Standard of Performance) Regulations and the terms of the license. Therefore, as and when there is a requirement to provide any connection or to augment or expand the existing system, they will have to be adhered to as per the WBERC (Standard of Performance) Regulations and terms of the license.

n) It is pertinent to mention here that the majority of LT network in the common area of supply has already been developed by the State Discom. IPCL through its marketing initiatives is trying to reach out and attract such consumers while also is targeting the new consumers and LT establishments in the licensed area and the demand driven by such consumers to plan its LT network development.

o) There are challenges in the way of network development in the form of Right of Way (ROW) issues due to congestion and absence of dedicated infrastructure corridor in densely populated areas for laying of lines. However, with the help of dedicated teams and administrative support from the State Machinery, IPCL is trying to address such issues to carry out network development. However, there has been difficulty in achieving hundred per cent penetration in its license area.

p) In the MYT petition for the period FY 2014-15 to FY 2016-17, IPCL had submitted a proposed capital expenditure plan of Rs. 179 crores for the LT network.

q) IPCL, in compliance with the MYT order dated 21.07.2016 of this Hon'ble Commission, submitted a report on readiness to supply electricity to all consumers in the licensed area on 11.08.2016.

r) IPCL on 09.08.2016 submitted its MYT Business Plan for FY 2017-18 to FY 2019-20 wherein it specified its proposal to construct 11/0.415 KV substations and 11 KV lines and construct new or augment existing 11 KV lines with inclusion of DT, Feeder Pillar etc.

s) IPCL vide letter dated 19.09.2016 submitted their LT load growth projections. IPCL also informed this Hon'ble Commission that they were in advanced

stage of adding 2.5 MVA LT load in Ranigunj and around, 2.5 MVA load each at Asansol and Barakar as prospective consumers have approached IPCL.

t) IPCL over the past 3 years has added around 1200 new LT connections in their existing license area. The Hon'ble Commission has been kept informed about these developments through various letters in proceedings of different matters. By prudent capex involvement, the Petitioner has been able to increase their consumer count & sales in LT segment as well as fulfill its USO by providing electricity to all categories of consumers irrespective of low voltage or high voltage contrary to the concerns raised.

u) The provisions under section 42 of the Electricity Act, 2003 states that a distribution licensee has to develop and maintain an efficient coordinated and economical distribution system in the license area. Therefore, laying down network with complete disregard to the requirements of the consumers and in an uneconomical manner would result in waste of resources and finally lead to an increased burden on the consumers. IPCL has therefore proceeded to develop LT network in a planned manner having regard to consumer requirement and the requirement of USO. As of date, IPCL has effected supply against the LT applications received by it and there is no complaint against IPCL for illegally refusing supply to any consumer.

v) As a parallel licensee, WBSEDCL has a mammoth infrastructure and had 100% of the LT base in IPCL license area till few years back, but with constant effort and attractive services, IPCL is slowly and steadily making inroads in the LT domain despite significant challenge in network development.

w) Migration of ECL consumers enmasse, who were the major consumers of IPCL, has brought a major jolt in the network development work due to reduction in cross-subsidy amounts to support LT supply. Further, the additional cost liability on consumers and anticipated tariff increase under the pending FPPCA and APR petitions for power supplied to ECL in earlier years, will have an adverse impact on IPCL's ability to attract LT consumers and consequently make IPCL's business and growth plans, unviable. LT network

development & LT consumer addition is the need of the hour. The HT segment has strong competition in view of lower tariff of DVC, the other parallel licensee, therefore, LT network development & LT consumer addition is a basic survival requirement for IPCL.

x) In view of severe ROW issues in certain areas, the Hon'ble Commission may kindly recommend the implementation of concept of network sharing / wheeling facility on existing networks in an area for the time being in providing faster connectivity and supply to the consumers of IPCL. This would help in providing connection to approximately 20000- 30000 LT consumers to IPCL across the parallel license area within next 3-4 years including the customers willing to migrate from other supplier.

11.0 The representative of WBSETCL stated that they have received the route profile from IPCL and as a STU they have nothing to comment upon.

OBSERVATIONS OF THE COMMISSION

12.0 The Commission observes that from the submissions made by the Ld. Advocate of IPCL, it is evident that they have envisaged several plans for development of LT network to supply electricity to LT consumers and to comply with the USO as per the extant provisions of the Electricity Act, 2003 and the Regulations made thereunder by the Commission. But no specific investment plan giving details of the investment for development of every segment of LT network has been submitted by IPCL, though the Commission, in its last interim order dated 21.10.2019, had directed IPCL to submit their investment proposal regarding L&T network also.

13.0 The Commission also observes that IPCL has referred to the section 42 of the Electricity Act, 2013 but remained silent about the section 43 of the Electricity Act, 2003 which entails the duty to supply on request. The Commission opined that the sections 42 and 43 of the Electricity Act, 2003 have to be read together in the light of sub-section (1) of section 42 which reads –

"It shall be the duty of a distribution licensee to develop and maintain an efficient coordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in this Act."

14.0 Regarding IPCL's submission of investment proposals for expanding LT network as enumerated at paragraph 2 (p), (q), (r) and (s) above, it point merits mention that –

a) The Commission in its tariff order dated 21.07.2016 for the year 2014 – 2015, 2015 – 2016 and 2016 – 2017 observed that though IPCL submitted an exhaustive report on LT Network Rollout Plan of Rs. 17900.00 lakh on 20.08.2014 in compliance with the order dated 13.08.2014 of the Commission in case no. SM-11/14-15 but no application for investment approval in terms of regulation 2.8.2.3 of the Tariff Regulations has been submitted by IPCL following the procedure laid down in West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations 2013. The Commission accordingly could not accord approval to the proposal and intimated the views of the Commission through its letter No. WBERC/TP-58/13-14/0563 dated 07.08.2015. The Commission further noticed that IPCL has proposed capital investment plan for a total amount of Rs. 950.00 lakh, Rs. 661.00 lakh and Rs 395.00 lakh during 2014 – 2015, 2015 – 2016 and 2016 – 2017 respectively but could not submit details of projects, in respect of the following schemes of capital investment:

i) 220 KV Downstream proposal for utilization of surplus power after commission of J. K. Nagar 220 KV sub-stations and lines in Luchipur area.

ii) Infrastructure development for enhancing existing consumer base in Luchipur area.

iii) Switchgear replacement in Seebpur area.

iv) Infrastructure development for enhancing existing consumer base in Seebpur area.

Moreover, most of the above schemes are developmental investment in a new area for which details of scheme are required for examination of the Commission before admission.

The aforesaid direction has not been complied with so far.

15.0 The Commission also observes that IPCL has submitted the petition for 'in-principle clearance' for construction of 3-phase, 132 kV Double Circuit Transmission Line from J K Nagar to Railways Traction Feeding Point at Pandabeswar and prayed for grant of 'in-principle clearance' in terms of Regulation 2.8.4.1 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) (Amendment) Regulations, 2013. However, from the subsequent submission of IPCL, the Commission observes that IPCL is incurring capital expenditure and thus the instant case falls under Regulation 2.8.2.3 of West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended. The extract of the relevant Regulation 2.8.2.3 of Tariff Regulation is given below:

"2.8.2.3 The approval of the Commission for investment in new transmission project commissioned after 31.12.2007 is mandatory. Similarly, the approval of the Commission for distribution project whose cost is above rupees one hundred and twenty five crore or 5 % of the gross fixed asset of distribution business of the licensee at the time of taking up the project, whichever is lower and commissioned after the publication of these regulations is mandatory. Such approval in both cases shall be taken before investment is made in order to minimize their investment risk. Any subsequent revision of such investment must also be required to be got approved by the Commission before filing application for determination of tariff. For the investment approval licensee shall submit an application along with a gist.

Each investment proposal of any distribution licensee shall also take into consideration the duty to be discharged for supplying electricity to any person who has submitted application requesting for such supply in accordance with sub-section (1) of section 43 of

the Act. This aspect is to be duly reflected in the investment proposal and in case of any absence of such aspect due justification is to be provided.

..."

ORDER

16.0 Upon hearing, the Commission directs that –

a) Approval is accorded for construction of 3-phase 132 KV double circuit transmission line from J. K. Nagar to Railway traction feeding point at Pandabeswar with an investment of not more than Rs. 64.51 crore (excluding IDC and margin money for working capital), as submitted in their petition in terms of Regulation 2.8.2.3 of West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended.

b) The total sharing of cost of the above investment has been detailed below:

Particulars	Estimated Cost (Rs. Crores)	Distribution of Cost (Rs. Crores)		
		To be borne by Railways	To be borne by other beneficiaries	To be borne by IPCL as pass through in Tariff
Bankola S/s to Pandabeswar TSS- 10 kms of 10 Kms of 132 kV S/c Tr Line on D/c Tower	11.6647	11.6647	-	-
132 kV line cost from J K Nagar to Bankola S/s along with system strengthening and augmentation	27.8453	2.2653	25.58	-
Addition of transformers and associated bays at J K Nagar Substation	25.0000	-	-	25.00
Total	**64.51**	**13.93**	**25.58**	**25.00**

Out of the above investment of Rs. 64.51 crore, Rs. 13.93 crore (excluding IDC and margin money) is to be borne by Railways and Rs. 25.58 crore (excluding IDC and margin money) is to be borne by other beneficiaries and cannot be recovered through tariff.

c) IPCL shall strictly adhere to the provisions as laid down in Section 46 of Electricity Act, 2003 for recovery of expenditure and the Regulation 4.2 of West Bengal Electricity Regulatory Commission (Recovery of Expenditure for Providing New Connections) Regulations, 2013 for providing new connections.

d) The above investment approval shall be subject to the condition that the cost of each item of investment shall be discovered through open and transparent bidding process and without any cost and time over run;

e) IPCL shall submit the details of project as mentioned in the paragraph 14.0 (a) under OBSERVATIONS OF THE COMMISSION within two (2) months from the date of issuance of this order.

f) And in order to monitor the progress of expansion of LT network, the Commission shall constitute a task-force and IPCL shall be required to submit progress report to them for this purpose as would be asked for, and this petition will be converted into an OA petition to take care of the next course of action.

Sd/-	Sd/-	Sd/-
(PULAK KUMAR TEWARI)	**(DURGADAS GOSWAMI)**	**(SUTIRTHA BHATTACHARYA)**
MEMBER	**MEMBER**	**CHAIRPERSON**

DATE: 15.11.2019

Sd/-

(T. K. MUKHERJEE)
SECRETARY