



**ORDER  
OF THE  
WEST BENGAL ELECTRICITY REGULATORY COMMISSION**

**In Case No. WBERC/OA-57/09-10**

IN REGARD TO THE APPLICATION SUBMITTED BY INDIA POWER CORPORATION LIMITED (IPCL) FOR APPROVAL OF FINAL PROJECT COST TOWARDS CONSTRUCTION OF 220/33 KV SUB-STATION AT J. K. NAGAR, DISTRICT: PASCHIM BURDWAN WITH ASSOCIATED TRANSMISSION AND DISTRIBUTION LINES AND SYSTEMS (PHASE-I) IN TERMS OF REGULATION 2.8.4.1 OF THE WEST BENGAL ELECTRICITY REGULATORY COMMISSION (TERMS AND CONDITIONS OF TARIFF) REGULATIONS, 2011 AS AMENDED AND REGULATIONS 2.5.1 AND 2.6.1 OF THE WEST BENGAL ELECTRICITY REGULATORY COMMISSION (CONDUCT OF BUSINESS) REGULATIONS, 2013.

**PRESENT:**

**SHRI SUTIRTHA BHATTACHARYA, CHAIRPERSON**

**SHRI DURGADAS GOSWAMI, MEMBER**

**SHRI PULAK KUMAR TEWARI, MEMBER**

**DATE: 13.02.2020**



**Certified true Copy**





In Re the application submitted by India Power Corporation Limited (IPCL) for approval of final project cost towards construction of 220/33 KV sub-station at J. K. Nagar, District Burdwan with associated transmission and distribution lines and systems (Phase-I) in terms of regulation 2.8.4.1 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011 as amended and regulations 2.5.1 and 2.6.1 of The West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013.

### FACTS IN BRIEF

This is in regard to the application submitted by India Power Corporation Limited (IPCL) for approval of final project cost towards construction of 220/33 KV sub-station at J. K. Nagar, District Burdwan with associated transmission and distribution lines and systems (Phase-I) in terms of regulation 2.8.4.1 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011 as amended (hereinafter referred to as the 'Tariff Regulations') and regulations 2.5.1 and 2.6.1 of The West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013 (hereinafter referred to as 'CB Regulations').

It was mentioned in the Order dated 13.02.2013 of this Commission on the petition of Disergarh Power Supply Corporation Limited (in short 'DPSCCL') dated 27.11.2012 that *"DPSCCL shall hand over the transmission line from LILO point up to proposed 220/ 33 kV J K Nagar substation to the West Bengal State Electricity Transmission Company Limited (in short 'WBSETCL') and submit the details of the cost associated with construction of the said transmission line with Auditor's Certificate to the Commission for approval of the final cost. WBSETCL shall reimburse the cost of such transmission line as approved by the Commission to DPSCCL within 30 days from the date of intimation of determination of such cost by the Commission."*

The said order was modified by a letter dated 05.01.2016 issued by West Bengal Electricity Regulatory Commission (WBERC), specifying the following,

" .....

- a) *Recovery of depreciation, return on equity and interest on loan for creation of transmission assets handed over to WBSETCL shall be allowed to DPSCCL. The operation and maintenance of transmission assets will be done by transmission company.*







In Re the application submitted by India Power Corporation Limited (IPCL) for approval of final project cost towards construction of 220/33 KV sub-station at J. K. Nagar, District Burdwan with associated transmission and distribution lines and systems (Phase-I) in terms of regulation 2.8.4.1 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011 as amended and regulations 2.5.1 and 2.6.1 of The West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013.

- b) *The component of the depreciation, return on equity and interest on loan for such transmission assets shall be submitted by DPSCCL along with their tariff petition for each control period. After examination the allowed amount will be passed through in the transmission tariff of WBSETCL. WBSETCL shall recover those cost so allowed in their tariff from the transmission system users and will pay to DPSCCL as may be directed in the respective tariff order of WBSETCL and DPSCCL.*
- c) *DPSCCL shall pay the transmission charge for using the transmission line in Long Terms Open Access (LTOA) mode. Necessary provision shall be included in the connectivity agreement made by them with WBSETCL."*

This Commission issued another Order dated 22.11.2018 (against the petition filed by IPCL for final approval and also against the petition filed by WBSETCL to modify the order dated 13.02.2013 & also dated 05.01.2016), which specifies the mode of recovery of the Transmission line as under,

*"..... Now, on the basis of the petition dated 20.07.2018 of WBSETCL, the Commission decides that IPCL shall hand over the transmission line from LILO point up to the J.K. Nagar substation to WBSETCL free of cost and WBSETCL shall maintain the line at their cost as it is forming a part of the State Transmission System under the ownership of WBSETCL.*

*IPCL shall recover the interest on loan, depreciation and return on equity, if any, on the approved project cost in their tariff."*

IPCL has submitted a review petition on 26.12.2018 for review of the Order dated 22.11.2018 and has prayed for the following before the Commission:

- (i) To approve the project cost of 220 kV transmission asset as Rs 6656.08 Lakh
- (ii) To approve the mode of recovery of transmission cost as per Order dated 05.01.2016







In Re the application submitted by India Power Corporation Limited (IPCL) for approval of final project cost towards construction of 220/33 KV sub-station at J. K. Nagar, District Burdwan with associated transmission and distribution lines and systems (Phase-I) in terms of regulation 2.8.4.1 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011 as amended and regulations 2.5.1 and 2.6.1 of The West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013.

On hearing both the parties, viz., IPCL & WBSETCL, the Commission found that the original scheme of connectivity of the said substation with State Transmission Utility (STU) for transaction of power between the West Bengal State Electricity Distribution Company Limited (in short 'WBSEDCL') and IPCL has changed substantially and does not have much of relevance. The fundamental promises on which the Direction dated 05.01.2016 was issued, has ceased to exist. The Order dated 22.11.2018 was issued on the revised premises that the network would no longer be utilised to cater to the needs of consumers other than those of IPCL and therefore, those consumers naturally cannot be made to bear the cost of such investment for the project catering consumers of IPCL only.

The Commission, without passing any Order, directed both the parties to discuss between themselves and to find out a mutually agreeable and better arrangement if possible, so that the infrastructure of the substation and the Transmission line can be utilised for larger consumer base. The Commission also directed IPCL & WBSETCL to submit the new scheme within 15 (fifteen) days from the date of receiving this Order.

Accordingly, both IPCL and WBSETCL have jointly submitted minutes of the meeting held on 25<sup>th</sup> November, 2019 and 10<sup>th</sup> December, 2019 between them to arrive at a new scheme in order to resolve the issue of recovery of the project cost, which inter-alia states that –

- a) On the proposal of IPCL to take over the 220 KV LILO line of J. K. Nagar 220 KV sub-station of IPCL as was done by WBSETCL in case of Bakreswar TPS, WBSETCL denied to accept the proposal of IPCL for the reason that IPCL is not a long term open access customer of WBSETCL. WBSETCL further explained that since WBSEDCL is a long term customer of WBSETCL and entire generated power from Bakreswar Thermal Power Station (in short 'Bakreswar TPS') is sold by the West Bengal Power Development Corporation Limited (in short 'WBPDCCL') from ex-bus of Bakreswar TPS, the Commission had ordered WBSETCL to take over the transmission lines constructed by WBPDCCL and cost of the transmission assets was refunded to WBPDCCL as per the order of the Commission.







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- b) IPCL pointed out that the financing of the project was done by the banks / lenders based on the premises that the cost is reimbursable by WBSETCL but with the change in the mode of recovery it will impact both the consumers as well as lenders of IPCL. In reply, WBSETCL pointed out that by a supplementary agreement executed on 11.08.2015, IPCL had agreed to hand over the 220 KV transmission line asset to WBSEDCL free of cost. WBSETCL further submitted that WBSETCL had taken over the transmission line at zero cost in terms of agreement of IPCL with WBSETCL and that IPCL has been drawing over 100 MW (maximum 116 MW in September, 2019) power at J.K. Nagar only through short term open access. Therefore, there is no reason to pay the cost of transmission line to IPCL by WBSETCL in absence of any long term open access agreement with IPCL.
- c) In view of above, WBSETCL proposed that –
- IPCL has the option to become LTOA customer of transmission system of WBSETCL for 124 MW for 25 years at J.K. Nagar 220 KV sub-station based on the Commission's order / directives on this matter;
  - On becoming LTOA customer of WBSETCL, the approved cost of transmission line taken over by WBSETCL shall be reimbursed during the lifetime of the assets in equal instalments as to be approved by the Commission.
- d) IPCL proposed that –
- IPCL will seek LTOA from WBSETCL in phases and will come with LTOA application in time bound manner. Till such time, it is proposed that bilateral / open access arrangement may continue and such transmission charges so arising from the bilateral transaction could be offset and adjusted with LT charges payable upon entering into the LTOA agreement considering the fact that there will be no significant difference in the amount of recovery of charges from LT and ST open access consumers as per the WBERC (Open Access) (Amendment) Regulations, 2019;
  - For recovery of cost of transmission line, one of the following options may be agreed:







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- One time reimbursement of entire approved cost of J. K. Nagar 220 KV Transmission line by WBSETCL within stipulated time and as specified by the Commission based on the approval of the proposal.
  - Reimbursement of total J. K. Nagar 220 KV transmission line cost in 72 monthly instalments as per the provisions of regulation 10.3 (f) of WBERC (Open Access) Regulations, 2007 or reimbursement of ROE, Depreciation and Interest by WBSETCL to IPCL as per Bakreswar model as deemed appropriate.
- e) In the subsequent meeting held between IPCL and WBSETCL on 10.12.2019, IPCL agreed to intra-state LTOA arrangement for drawal of power at J.K. Nagar 220 KV sub-station with WBSETCL for the quantum based on current usage for 124 MW and accordingly, submit application for LTOA to WBSETCL. After obtaining approval of the Commission, LTOA will be granted and necessary agreement will be executed by IPCL and WBSETCL. IPCL also agreed that based on the future load growth of IPCL, quantum of LTOA will be firmed up for future. IPCL also submitted that, in case of any incidence of Short Term Open Access (STOA) charge, being levied in addition to LTOA charges within granted LTOA quantum, the same shall be adjusted against annual LTOA charges, subject to approval of the Commission which has been agreed by WBSETCL.
- f) Regarding recovery of cost of transmission line, IPCL reiterated their views as has been expressed under paragraph d (ii) above.
- g) The final submission of WBSETCL was that –
- i) The process of recovery of cost of transmission line will be effected only after LTOA agreement of IPCL with WBSETCL for 124 MW, being approved;
  - ii) Regulation 10.3 (f) of WBERC (Open Access) Regulations, 2007 is not relevant here, since the provision applies to system strengthening and not arrangement of connectivity (which was provided based on the PPA between WBSEDCL







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and IPCL). Further, Bakreswar model is also not comparable, since Bakreswar is a generating station under generating licensee and the entire evacuation is utilized by WBSEDCL;

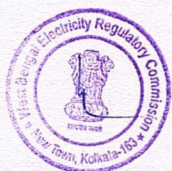
- iii) IPCL had agreed to hand over the 220 KV transmission line assets to WBSETCL free of cost as per the supplementary agreement executed on 11.08.2015;
- iv) Cost of the line shall be recovered during the lifetime of the assets in equal instalments to be approved by the Commission. Any other arrangement for recovery of cost of lines upfront or front-ended will create undue financial burden on WBSETCL as cost of the lines shall be recovered through tariff over the life of the assets only.
- h) Since both IPCL and WBSETCL could not come to a resolution regarding recovery of cost of the transmission line, they decided that the matter shall be placed before the Commission for final consideration and approval.

IPCL and WBSETCL have submitted the minutes of the meeting along with their letter under reference RA/II/002/19-20/1980 dated 26<sup>th</sup> December, 2019 and CE/CPD/IPCL/3114 dated 26<sup>th</sup> December, 2019 with a request to condone the delay in submission of the minutes of meeting held between IPCL & WBSETCL as per the direction of the Commission.

Upon going through the minutes, the Commission observes that a hearing of both IPCL and WBSETCL may be taken to arrive at a conclusion in regard to recovery of transmission cost. Accordingly, a hearing was held on 27<sup>th</sup> January, 2020 at 2.30 hours at the office of the Commission, where the representatives from both IPCL and WBSETCL were present.

### **SUBMISSION DURING HEARING**

At the outset, the representative of IPCL submitted that as per the direction of the Commission in its last order dated 22.11.2019, IPCL and WBSETCL have come to a decision regarding all the issues related to J.K. Nagar 220 KV substation excepting the issue of recovery of cost of transmission line. The representative of IPCL stressed upon





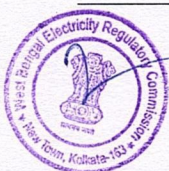


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the recovery of cost by either reimbursement of entire approved cost of transmission line within the time as specified by the Commission or reimbursement of Return on Equity (ROE), Depreciation and Interest as per Bakreswar Model as deemed fit by the Commission. IPCL further submitted that after entering into LTOA agreement with WBSETCL, the situation becomes similar to the Bakreswar mode where the transmission assets were handed over by generator to WBSETCL and the reimbursement of cost was done in the form of ROE, depreciation and interest by WBSETCL. The representative of IPCL also submitted that although this is not an exact case of system strengthening approved by STU/State Load Despatch Centre (SLDC) under the regulation 10.3 (f) of WBERC (Open Access) Regulation, 2007, but it was agreed and constructed as a part of service line of State Transmission system with the initial arrangement that the cost shall initially be paid by IPCL and the same shall be refunded by the transmission licensee. Therefore, this line may be considered as line extension of STU system as a special case. The representative of IPCL submitted that it is imperative to have a time bound recovery of cost of transmission line in view of its commitment for repayment to lenders.

The representative of WBSETCL submitted that the regulation 10.3 (f) of the WBERC (Open Access) Regulations, 2007 do not apply in the instant case as it is not a case of strengthening of transmission system. WBSETCL further submitted that the cost of lines shall be recovered during the lifetime of the assets in equal instalments to be approved by the Commission. Any other arrangement for recovery of cost of lines upfront or front-ended will create undue financial burden on WBSETCL as cost of the lines shall be recovered through tariff over the life of the assets only.

On query from the Commission, WBSETCL confirmed that the constructed line is not meant for system strengthening but it is for connectivity. WBSETCL also confirmed that connectivity should be done through dedicated line but as a special case based on Power Purchase Agreement (PPA) entered into by and between WBSEDCL and IPCL for purchase of power by WBSEDCL from IPCL, LILO arrangement was agreed to. Now the purpose has been changed.







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### OBSERVATIONS

The Commission observes that barring all other issues settled mutually by IPCL and WBSETCL, the only issue left to be resolved is the recovery of cost of the transmission line. It is also observed by the Commission that the regulation 10.3 (f), as has been referred by IPCL during the hearing for recovery of cost of transmission line, has no relevance in this case. The Commission further observes that circumstances contemplated under order of the Commission dated 13.02.2013 and 05.01.2016 are not what are present today.

### ORDER

Upon hearing both the parties and based on the above observations, the Commission directs that –

- a) Both IPCL and WBSETCL are allowed one more chance at their joint prayer to discuss between themselves and find out a mutually agreeable and better arrangement within the ambit of the extant Regulations of the Commission dealing with the architecture of the scheme for recovery of cost of transmission line and submit their views within one week (7 days) from the date of the order.
- b) The next date of hearing is fixed on 12<sup>th</sup> March, 2020 at 2.30 p.m.

sd/-  
(PULAK KUMAR TEWARI)  
MEMBER

sd/-  
(DURGADAS GOSWAMI)  
MEMBER

sd/-  
(SUTIRTHA BHATTACHARYA)  
CHAIRPERSON

DATE: 13.02.2020

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(T. K. MUKHERJEE)  
SECRETARY

