



सत्यमेव जयते



**ORDER
OF THE
WEST BENGAL ELECTRICITY REGULATORY COMMISSION
IN CASE NO. OA-354/20-21**

IN REGARD TO THE APPLICATION SUBMITTED BY HMEL UNDER REGULATION 2.8.4 OF WBERC (TERMS AND CONDITIONS OF TARIFF) REGULATIONS, 2011 AND AMENDMENTS THEREOF SEEKING APPROVAL OF THE WEST BENGAL ELECTRICITY REGULATORY COMMISSION REGARDING ADMISSIBLE FINAL COST OF TRANSMISSION ASSETS AND ITS RECOVERY UNDER SUPPLEMENTARY AGREEMENT READ WITH ORIGINAL CONNECTION AGREEMENT BETWEEN HMEL AND WBSETCL

PRESENT:

**SRI SUTIRTHA BHATTACHARYA, CHAIRPERSON
SRI DURGADAS GOSWAMI, MEMBER
SRI PULAK KUMAR TEWARI, MEMBER**

DATE: 08.09.2021



Certified true Copy



Application submitted by HMEL under Regulation 2.8.4 of WBERC (Terms and Conditions of Tariff) Regulations, 2011 and amendments thereof seeking approval of the West Bengal Electricity Regulatory Commission regarding admissible final cost of transmission assets and its recovery under Supplementary Agreement read with Original Connection Agreement between HMEL and WBSETCL



Facts in brief:

1.0 Hiranmaye Energy Limited ("HMEL") has submitted an application before the West Bengal Electricity Regulatory Commission ("Commission") on 20.01.2021 seeking approval of the Hon'ble Commission regarding admissible final cost of transmission assets from switchyard outgoing terminal of the power station at Haldia to 220 kV bays at New Haldia 220 kV sub-station of West Bengal State Electricity Transmission Company Limited (WBSETCL) worth Rs. 2647.48 lakh and reimbursement of the cost by WBSETCL under Supplementary Agreement dated 14.01.2021 read with Original Connection Agreement between HMEL and WBSETCL entered on 22.08.2016. Subsequently, HMEL has submitted additional information/data on 08.04.2021. The application dated 20.01.2021 along with subsequent submission dated 08.04.2021 (collectively termed as "petition") has been admitted by the Commission on 28.04.2021 in Case no. OA-354/20-21.

2.1 The Salient points of the application dated 20.01.2021 are as follows:

- A. HMEL has entered into a connection agreement with WBSETCL on 22.08.2016 for necessary connection with state grid to synchronize its units with the grid and to supply power to IPCL using the state grid, where delivery point was New Haldia 220 kV sub-station. HMEL accordingly constructed 220 kV D/C line from its Power station to New Haldia 220 kV substation of WBSETCL and 2 no. of 220 kV bays at New Haldia substation at their cost considering the line as a dedicated transmission line under Section 10 of the Electricity Act, 2003, in terms of the Connection Agreement.
- B. The cost of such transmission asset is covered in the DPR of HMEL Generating station under the head "Overhead construction including Transmission Lines, pre-operational expenditure" without mentioning the break-up related to transmission asset. The Commission had accorded "in-principle" investment approval of the same on 20.11.2017, in case no. WBERC/OA-159/12-13.
- C. Post commissioning of unit-1 and unit-2, HMEL entered into first supplementary PPA with WBSEDCL on 06.04.2018. The supplementary agreement dated 06.04.2018 read with the original PPA dated 28.12.2010, executed between HMEL and WBSEDCL, the delivery point mentioned for sale of power by the





Application submitted by HMEL under Regulation 2.8.4 of WBERC (Terms and Conditions of Tariff) Regulations, 2011 and amendments thereof seeking approval of the West Bengal Electricity Regulatory Commission regarding admissible final cost of transmission assets and its recovery under Supplementary Agreement read with Original Connection Agreement between HMEL and WBSETCL



HMEL to the WBSEDCL is the switchyard outgoing terminal of the power station at Haldia.

- D. Considering the change in scenario, HMEL and WBSETCL have entered into a supplementary connection agreement dated 14.01.2021 with amendments to original Connection Agreement dated 22.08.2016. The said supplementary connection agreement stipulates change in delivery point, changing the status of the dedicated transmission line, handing over the 220 KV D/c HMEL to New-Haldia transmission line to WBSETCL and reimbursement of the cost of the Transmission asset by WBSETCL to HMEL.
- E. WBSETCL, after analyzing the project cost of transmission line has agreed to a revised cost of Rs. 2647.48 lakh in place of the actual cost of Rs. 2908.89 lakh as per audited accounts of HMEL. HMEL has submitted audited certificate regarding actual cost along with the petition.
- F. HMEL has accordingly prayed for :
- (i) approval of final completed cost of the 220 kV transmission line from Power Station of HMEL to the 220 kV bays at New Haldia 220 kV sub-station of WBSETCL as Rs. 2647.48 lakh;
 - (ii) issuing suitable direction to WBSETCL for one time reimbursement of final cost of the said transmission line, as approved by the Commission, within 30 days of issuance of the order;
 - (iii) allowing such interest amount over and above the cost of the transmission line in case of delay in finalization of the order/ or change in time period of recovery as proposed above.

2.2 The Commission, vide letter dated 06.04.2021 asked HMEL to clarify whether HMEL or WBSETCL has sought any approval from the Commission prior to change of status of the dedicated transmission line and under which regulation WBSETCL is authorized to reimburse the cost of such dedicated transmission asset. In reply, HMEL vide letter dated 08.04.2021 inter-alia submitted that:-



West Bengal Electricity Regulatory Commission

Certified true Copy



Application submitted by H MEL under Regulation 2.8.4 of WBERC (Terms and Conditions of Tariff) Regulations, 2011 and amendments thereof seeking approval of the West Bengal Electricity Regulatory Commission regarding admissible final cost of transmission assets and its recovery under Supplementary Agreement read with Original Connection Agreement between H MEL and WBSETCL



- A. Initially under the connection agreement dated 22.08.2016, the delivery point was 220 kV New Haldia sub-station of WBSETCL and accordingly, the 220 kV H MEL – New Haldia line was considered as dedicated transmission line. H MEL constructed the line at their cost. Subsequently, with the first supplementary PPA between H MEL and WBSEDCL dated 06.04 2018, the delivery point becomes switchyard outgoing terminal of H MEL. H MEL inter-alia submitted that, with change of beneficiary, PPA and delivery point, the status of the dedicated transmission line has changed. Accordingly, H MEL has amended their connection agreement with WBSETCL on 14.01.2021. It has also been submitted that, petitioner or WBSETCL has not sought specific approval for connectivity agreement, as this was not mandated under any applicable regulations of the Commission.
- B. H MEL has further submitted that it is a responsibility of the STU to develop transmission lines and being a State transmission licensee, WBSETCL can take over the above mentioned transmission asset, after change of its status of dedicated transmission line. Thus, the line becomes part of state network. Accordingly, in the supplementary connection agreement dated 14.01.2021, WBSETCL has agreed to consider the 220 KV H MEL - New Haldia line as part of their transmission network and has agreed to reimburse the cost to H MEL.

3.0 As directed by the Commission, H MEL published the gist of the application on 06.05.2021 simultaneously in (i) Anandabazar Patrika (Bengali) (ii) The Telegraph (English) (iii) Sanmarg (Hindi) seeking suggestion/objections from the stakeholders within 14 days from the date of publication. No suggestion/objection/comments have been received till the last date as mentioned in the gist.

4.1 The Commission, vide letter dated 09.06.2021 asked WBSETCL to clarify (i) how this transmission line between the power station of H MEL to New Haldia 220 kV substation of WBSETCL is going to help in overall network flow of WBSETCL, (ii) what are the reasons behind considering the transmission line as a part of WBSETCL network and sharing the cost of the said line among all the beneficiaries of WBSETCL and (iii) views of WBSETCL regarding undertaking such emanating dedicated lines of any Captive Power Producers (CPPs) or Independent Power Producers (IPPs) in future.





Application submitted by HMEL under Regulation 2.8.4 of WBERC (Terms and Conditions of Tariff) Regulations, 2011 and amendments thereof seeking approval of the West Bengal Electricity Regulatory Commission regarding admissible final cost of transmission assets and its recovery under Supplementary Agreement read with Original Connection Agreement between HMEL and WBSETCL



4.2 WBSETCL submitted their clarifications vide letters dated 29.06.2021, 30.06.2021 and 13.07.2021. WBSETCL, in the letter dated 29.06.2021 along with supplementary submission dated 30.06.2021 submitted that

- A. With injection of 300 MW power at load centre through this transmission line, reliability of power supply and power scenario in the State has been improved.
- B. Since as per the approved PPA, delivery point of power is ex-bus of HMEL, WBSETCL has proposed to take over the transmission assets beyond the delivery point of HMEL through supplementary connection agreement for regularization of the matter in compliance of the terms of the PPA. The cost of transmission asset would be paid back to HMEL, as would be directed by the Commission and would be included in the transmission tariff of WBSETCL and shared by the beneficiaries of WBSETCL in terms of Tariff Regulations/Order of WBERC.
- C. In future, undertaking of emanating dedicated lines of any CPPS or IPPs would be considered as per terms of PPA with the beneficiaries of WBSETCL duly approved by the Hon'ble Commission.

WBSETCL, further in their letter dated 13.07.2021, has elaborated the historical facts as below:

- D. A PPA was executed between WBSEDCL with IPC(H)L (presently known as HMEL) on 28/12/2010 for purchase of 300MW power from IPC(H)L from its 3 X 150 MW Thermal Power Station and the PPA was approved by the Hon'ble Commission in Case No WBERC/PPA-22/10-11 dated 08.04.2011;
- E. In the said PPA under clause no. (D) above, it is mentioned that, transmission connectivity for the off-take of entire power from generating station to grid sub-station of WBSETCL shall be done by WBSETCL. Further, in terms of clause (E) of the PPA, the delivery point is outgoing terminal of the power station at Haldia;
- F. In terms of the PPA, WBSETCL made survey of line and issued work order for construction of 220 kV line on 15.03.2013. Consequent upon termination of the PPA, the work order was cancelled.





Application submitted by HMEL under Regulation 2.8.4 of WBERC (Terms and Conditions of Tariff) Regulations, 2011 and amendments thereof seeking approval of the West Bengal Electricity Regulatory Commission regarding admissible final cost of transmission assets and its recovery under Supplementary Agreement read with Original Connection Agreement between HMEL and WBSETCL



- G. Subsequently, IPC(H)L developed the dedicated transmission line for evacuation of power and entered into connection agreement with WBSETCL on 22.08.2016.
- H. WBSEDCL executed first supplementary agreement dated 06.04.2018 and Amendment no. 1 dated 02.08.2019 with HMEL (formerly known as IPC(H)L) as an inseparable entity to the original PPA and part & parcel of the same. The supplementary agreement has also been approved by the Commission on 15.10.2020.
- I. When WBSEDCL resumed the PPA with same terms in regard to development of evacuation system and Hon'ble Commission approved it, the transmission assets beyond the delivery point of HMEL should be possessed by WBSETCL. Accordingly, Supplementary Connection Agreement was executed on 14.01.2021 for regularization of the matter.

Observations of the Commission:

- 5.0 The Commission observes that, there are two basic issues (i) whether the transmission line between HMEL power station to New Haldia sub-station of WBSETCL is a dedicated transmission line or it is a part of meshed intra-state transmission network (ii) approval of the cost of the transmission line.
- 6.0 The Commission as a first step decides to analyze the status of the transmission line, which will ultimately decide whether the cost of the transmission asset will be shared by all the users of STU as a part of state transmission charge or only by HMEL & its beneficiary as usage of dedicated transmission line.
- 7.0 According to the definition of dedicated transmission line at clause (16) of section 2 of the Electricity Act 2003, one of the major attributes of dedicated transmission line is "point-to-point" transmission and it is the responsibility of generating stations to establish operate and maintain the dedicated transmission lines. Relevant portion of the Electricity Act 2003 is reproduced below:

clause (16) of section 2 of the Electricity Act 2003:-



West Bengal Electricity Regulatory Commission

Certified true Copy



Application submitted by HMEL under Regulation 2.8.4 of WBERC (Terms and Conditions of Tariff) Regulations, 2011 and amendments thereof seeking approval of the West Bengal Electricity Regulatory Commission regarding admissible final cost of transmission assets and its recovery under Supplementary Agreement read with Original Connection Agreement between HMEL and WBSETCL



*"dedicated transmission lines" means any electric supply-line for **point to point transmission** which are required for the purpose of connecting electric lines or electric plants of a captive generating plant referred to in section 9 or generating station referred to in section 10 to any transmission lines or sub-stations or generating stations, or the load centre, as the case may be;"*

[Emphasis added]

sub-section (1) of section (10) of the Electricity Act 2003:-

*"Subject to the provisions of this Act, the duties of a generating company **shall 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."*

[Emphasis added]

8.0 From the submissions and records available with the Commission, it is observed that, IPC(H)L (now HMEL) and WBSEDCL had executed a long term PPA dated 28.12.2010 which was approved by the Commission on 08.04.2011. WBSEDCL had served a termination notice of the PPA on 20.05.2014. Now, prior to synchronization of unit-1 & 2, IPC(H)L entered into a PPA with IPCL for supply of its infirm power, where delivery point was New Haldia substation of WBSETCL. Accordingly, HMEL constructed the dedicated transmission line from its power station to New Haldia grid sub-station at their cost. Subsequently, the termination letter of PPA between WBSEDCL & HMEL was revoked by WBSEDCL through a letter dated 24.03.2018 reaffirming its commitment to the PPA. HMEL & WBSEDCL entered into first supplementary PPA dated 06.04.2018 with delivery point at HMEL outgoing feeder, which was approved by the Commission on 29.08.2018. Now, HMEL has proposed that, due to change in delivery point, the 220 kV HMEL to New Haldia transmission line is no longer a dedicated transmission line. Accordingly, HMEL and WBSETCL amended their connection agreement with an intention to regularize the provisions of PPA wherein WBSETCL agrees to make reimbursement of the cost.

9.0 From the submission made in the petition as well as in subsequent clarifications given by HMEL and WBSETCL, it appears that the 220 kV D/C transmission line between HMEL and



West Bengal Electricity Regulatory Commission

Certified true Copy



Application submitted by HMEI under Regulation 2.8.4 of WBERC (Terms and Conditions of Tariff) Regulations, 2011 and amendments thereof seeking approval of the West Bengal Electricity Regulatory Commission regarding admissible final cost of transmission assets and its recovery under Supplementary Agreement read with Original Connection Agreement between HMEI and WBSETCL



New Haldia (of WBSETCL) is developed for point – to – point transmission of power from HMEI to state grid and thus, falls under the definition of 'dedicated transmission line' as given in the Electricity Act 2003. Despite different rationales put forward by the petitioner, the Commission observes that definition of 'dedicated transmission line' has nothing to do with provisions of PPA or delivery point of power. The Commission also observes that, in an inter-connected grid, power can flow from a generating plant to the load center using transmission assets of multiple transmission licensees including dedicated lines of generator, if any. So, the contention of the petitioner that, with change of delivery point as mentioned in the PPA, the status of the transmission line shall change too, is not appropriate. The delivery point simply means the point at which electricity is to be supplied by the generator, scheduled by SLDC and after the delivery point generally beneficiary bears the transmission cost and losses, based on the terms of PPA.

- 10.0 From the present submission, the Commission also observes that power through the 220 kV D/C HMEI – New Haldia transmission line will flow only from the HMEI plant for evacuation of HMEI generation. Therefore, it is not a to and fro line and is a point-to-point dedicated transmission line only. Further, the line will be used by HMEI and its beneficiary (i.e WBSEDCL) and possibility of usage of this transmission line by other licensees connected with the STU, viz., CESC and IPCL, is quite remote.
- 11.0 In view of above analyses, the Commission observes that, in existing network condition, the 220 kV D/C HMEI – New Haldia transmission line is a dedicated transmission line under sub-section (1) of section (10) of the Electricity Act 2003 read with clause (16) of section (2) of the Electricity Act 2003. However, WBSETCL has the right to approach the Commission in case they feel that change of nature of this line is necessary, arising out of technical transmission requirements in future.
- 12.0 Further, regarding approval of cost of the transmission asset, the Commission is of the view that, the cost has been considered under the cost of power as already admitted under the DPR of the power plant. On the other hand, if in future, the nature of transmission line changes due to technical transmission requirement and the transmission asset becomes a part of WBSETCL's network, WBSETCL shall have to file petition for approval of the cost of transmission line in terms of the Tariff Regulations.





Application submitted by HMEL under Regulation 2.8.4 of WBERC (Terms and Conditions of Tariff) Regulations, 2011 and amendments thereof seeking approval of the West Bengal Electricity Regulatory Commission regarding admissible final cost of transmission assets and its recovery under Supplementary Agreement read with Original Connection Agreement between HMEL and WBSETCL



Order:

- 13.0 The Commission after considering all the facts and analyses mentioned above, declares that, the 220 kV D/C Transmission line between HMEL and New Haldia sub-station of WBSETCL is a point-to-point dedicated transmission line and to be established, operated and maintained by the generating company in terms of sub-section (1) of section (10) of the Electricity Act 2003.
- 14.0 WBSETCL may approach the Commission if they feel that change of nature of the transmission line is necessary in future, arising out of technical transmission requirements. In that case, WBSETCL will take due approval of the Commission as a licensee of its CAPEX acquisition in terms of extant regulation. WBSETCL shall submit such petition along with detailed justifications and financial impacts.
- 15.0 WBSEDCL, WBSETCL and HMEL are directed to make due corrections in their records and agreements accordingly.
- 16.0 The petition is thus disposed off. Let a copy of the order be served upon WBSETCL, WBSEDCL and HMEL.

sd/-
(PULAK KUMAR TEWARI)
MEMBER

sd/-
(DURGADAS GOSWAMI)
MEMBER

sd/-
(SUTIRTHA BHATTACHARYA)
CHAIRPERSON

DATED: 08.09.2021

[Signature]
Secretary



West Bengal Electricity Regulatory Commission

Certified true Copy