

**बिहार ग्रिड कम्पनी लिमिटेड**  
(संयुक्त उपक्रम बिहार स्टेट पावर (होल्डिंग) कं० लि० एवं पावरग्रिड)  
**BIHAR GRID COMPANY LIMITED**  
(Joint Venture of Bihar State Power (Holding) Co. Ltd. & POWERGRID)



बिहार ग्रिड

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CIN : U40100BR2013PLC019722

Ref: JV/PT/BG/COMML/TARIFF PETITION-FY 22-23/

Date: 09.02.2023

To,  
The Secretary,  
Bihar Electricity Regulatory Commission,  
Vidyut Bhawan-II,  
Bailey Road, Patna-800001.

Sub: Filing of additional submission to the Petition for True-up of FY 2021-22 under Bihar Electricity Regulatory Commission (Multi Year Transmission Tariff and SLDC charges) Regulations, 2018, Annual Performance Review (APR) for FY 2022-23 and Determination of Annual Revenue Requirement (ARR) for the FY 2023-24 along with Determination of Transmission Tariff for the FY 2023-24 to 2024-25 for Bihar Grid Company Limited (BGCL), Patna against Case No – 19/2022 .

Respected Sir,

Enclosed herewith please find 06 copies of additional submission to the Petition for True-up of FY 2021-22 under Bihar Electricity Regulatory Commission (Multi Year Transmission Tariff and SLDC charges) Regulations, 2018, Annual Performance Review (APR) for FY 2022-23 and Determination of Annual Revenue Requirement (ARR) for the FY 2023-24 along with Determination of Transmission Tariff for the FY 2023-24 to 2024-25 for Bihar Grid Company Limited (BGCL), Patna against Case No – 19/2022 .

We respectfully pray the Hon'ble Commission to admit the additional information along with the Tariff Petition of 2022-23 of BGCL and do the needful.

Thanking you,

Yours faithfully,

(Rajesh)  
Sr.GM (O&M/Comml)

Enclosure:

1. Six Copies of additional Submission.

## **Additional Submissions to the Petition filed by BGCL for the true up of FY 2021-22, APR for FY 2022-23 and ARR along with Tariff determination for FY 2023-24**

1. The present submissions are being filed in pursuance to the Order dated 11.11.2022 passed by this Hon'ble Commission in Review Petition being Case No. 15 of 2022. The Review Petition was filed by BGCL before this Hon'ble Commission seeking review of the Tariff Order dated 25.03.2022. This Hon'ble Commission, vide Order dated 11.11.2022 was pleased to consider the request of BGCL and pass the following directions:

*"The Commission considers the request of the petitioner BGCL and directs that they may seek approval of the scheme-wise/work-wise capex and capitalization including IDC/IEDC, cost and material/equipment variance, amendment of project/scheme cost, etc. as part of tariff petition to be filed for FY 2023-24."*

2. In compliance of the said directions of this Hon'ble Commission wherein the Hon'ble Commission gave BGCL the liberty to seek the capitalization as a part of the tariff petition for 2023-24, BGCL has provided the required information herein below in the format desired by this Hon'ble Commission vide Order dated 25.03.2022.
3. Before that, the background of the matter is briefly stated as follows:
  - a. BGCL had filed a petition for True up of FY 2019-20. However, during the course of proceedings, due to want of certain documents, this Hon'ble Commission had not approved the Capex for part 1 of 2 and the same was restricted to Rs. 1459.97Cr. (hard cost) based on the LOA awarded hard cost for the consideration of

true up of FY 2019-20. BGCL, aggrieved by the said Order of Hon'ble Commission dated 12.03.2021, preferred a Review of the same. However, BGCL's plea was not accepted by this Hon'ble Commission. Thereafter, BGCL had to prefer an Appeal before the Hon'ble APTEL (DFR No. 145 of 2022) against the Hon'ble Commission's Order dated 12.03.2021. It is submitted that the matter is still under sub judice before Hon'ble APTEL.

- b. Vide Tariff Order dated 25.03.2022, this Hon'ble Commission held regarding the issue of Capex in manner similar to earlier Order dated 12.03.2021. This Hon'ble Commission had also issued directives to BGCL to provide the "details of capitalization and the revision in project cost". In this regard, Directive 1 from the said Order is reproduced as under:

***"7.2 Compliance of Directives issued:***

***Directive 1: Details of Capitalisation***

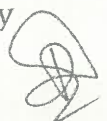
*The Commission has directed BGCL to submit the scheme-wise details of actual capitalization showing the details of:*

- i. Final cost of project versus approved DPR cost versus awarded cost*
- ii. Break up of scheme wise actual BoQ quantity vs LoA BoQ quantity (along with supporting reasons for change in quantity)*
- iii. Breakup of scheme wise actual hard cost in consonance with audited values versus LoA hard cost*
- iv. Calculation of interest from the planned date of infusion of debt fund up to planned date of commercial operation versus calculation of interest from the date of infusion of debt fund up to actual date of commercial operation.*
- v. Detailed working of approved variation due to impact of entry tax, other taxes, foreign exchange rate variation and miscellaneous expenses in MoM of BoD versus the expenses as approved in DPR*
- vi. Reconciliation with audited value along with supporting*



*documents, of the above stated expenses (as mentioned in point v above) separately for each item of deviation"*

- c. In compliance to the said directives, BGCL had filed Review Petition being Case No. 15 of 2022 before this Hon'ble Commission to furnish the data and information as required by the Hon'ble Commission in which the Order dated 11.11.2022 was passed.
4. It is respectfully submitted that BGCL has been endeavoring to satisfy the Hon'ble Commission on the capital cost incurred by it. In fact, the directives issued by this Hon'ble Commission from time to time have been taken by BGCL with utmost seriousness. However, due to the fact that the Hon'ble Commission required the capital expenditure incurred to be reflected in a particular manner, and BGCL was preparing its accounts in accordance with the Accounting Standards, BGCL has suffered a huge reduction in the capital expenditure and as a result, in its transmission tariff recovery.
5. BGCL states that the material which had been called for by the Hon'ble Commission is now available in the manner as has been directed by the Hon'ble Commission. There were no formats prescribed during the proceedings and the data required to be represented in a particular manner has been made known to BGCL only by the directives issued at Para 7.2 of the Order dated 25.03.2022. But now, BGCL has given extensive data and justification for the time and cost over-run as well as the capital cost actually incurred.
6. Since tariff determination is an inquisitorial exercise, the Hon'ble Commission can take a fresh view with this information provided by BGCL herein below. It has also been held by Hon'ble Supreme Court in the case of *UP Power Corporation Limited v. NTPC and Ors.* (2009) 6 SCC 235 that the regulatory Commission can revisit the tariff at any



stage if the occasion arises. Relevant extract from the judgement **UP Power Corporation Limited v. NTPC and Ors.** (2009) 6 SCC 235 is quoted below:

*"36. Having regard to the nature of jurisdiction of the Central Commission in a case of this nature, we are of the opinion that even principles of res judicata will have no application.*

*38. The Central Commission, as indicated hereinbefore, has a plenary power. Its inherent jurisdiction is saved. Having regard to the diverse nature of jurisdiction, it may for one purpose entertain an application so as to correct its own mistake but in relation to another function its jurisdiction may be limited. The provisions of the 1998 Act do not put any restriction on the Central Commission in the matter of exercise of such a jurisdiction. It is empowered to lay down its own procedure.*

*40. Regulations 92 and 94, in our opinion, do not restrict the power of the Central Commission to make additions or alterations in the tariff. Making of a tariff is a continuous process. It can be amended or altered by the Central Commission, if any occasion arises therefor. The said power can be exercised not only on an application filed by the generating companies but by the Commission also on its own motion.*

*46. The concept of regulatory jurisdiction provides for revisit of the tariff. It is now a well-settled principle of law that a subordinate legislation validly made becomes a part of the Act and should be read as such."*

7. BGCL is placing this Additional Information on record to substantiate its claim of Capital Cost pertaining to Part 1 of 2 in the True up proceedings for FY 2021-22. The information provided by BGCL pertaining to the directives given by this Hon'ble Commission in order dated 25.03.2022 is reproduced herein for the kind consideration of this Hon'ble Commission as shown in the sections below:



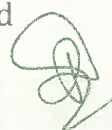
**DIRECTIVES AND RELEVANT DATA SHOWING COMPLIANCE OF THE SAME**

**DIRECTIVE 1(i): Final cost of project versus approved DPR cost versus awarded cost**

8. It is respectfully submitted that BGCL set up/extended 7 new sub-stations, 15 bay extensions and 23 transmission lines as part of Stage 1 transmission system. The primary costs in setting up the line can be divided into – land acquisition cost, crop compensation and equipment cost. The financing cost, IDC and other cost (IEDC) are in addition to the above components.
9. BGCL is attaching herewith as **Annexure A**, a cost comparison on all these aspects at the stage of DPR, at the stage of issuance of LOA and the final cost as on 31.03.2022.
10. This data has been compiled from the books of BGCL and represents the values with and without taxes as well the amendments that have been made from time to time.

BGCL is also submitting as **Annexure B**, the amendments which were made in the various sub-station and transmission-line packages, the reasons and date of the amendment, the contracts which had to be amended, the amounts before and after the amendment, as well as the differential cost. All the amendments have been named for operational reasons such as site requirements, change in route of underground cables, additional civil works, small corrections in the work to be executed, etc.

11. A perusal of **Annexure A** will also clarify that there is not a substantial increase in the cost as finally executed when compared with the DPR except due to the time over-run which has been incurred



in the project execution. The time over-run is for reasons entirely beyond the control of BGCL as will be explained subsequently. BGCL is also submitting herewith as **Annexure C**, a breakup of the substation wise and transmission-line wise data which corroborate the summary provided by BGCL in **Annexure A**. This data has been painstakingly prepared by BGCL to satisfy the Hon'ble Commission that BGCL has been serious in executing the project and only requires that the actual capital expenditure which has been incurred by it should form part of tariff determination since the assets commissioned are providing the necessary services to the intra-state grid.

12. Under the Electricity Act, following the principles of Section 61 and 62, in a cost-plus tariff determination regime, the actual cost of the assets providing service ought to be permitted. All reasonable costs and expenses along with a return on equity should be permitted to transmission licensees and the data now filed clearly indicates that BGCL has been able to set up and develop an excellent intra-state transmission network within the State of Bihar which was lacking for several earlier years. BGCL has been able to set up 109 assets in a short span of 4 to 5 years and the actual capital cost incurred as funded by debt and equity ought to be recognized for the purposes of tariff determination.

**DIRECTIVE 1(ii): Break up of scheme wise actual BoQ quantity vs LoA BoQ quantity (along with supporting reasons for change in quantity)**

13. BGCL is submitting herewith as **Annexure D**, a summary sheet showing the changes/amendments along with the cost implication, reason for the amendment in each sub-station and transmission line. The details of the BoQ variations in the substations and transmission-lines are already available in **Annexure C**. In **Annexure D**, BGCL has specifically addressed the Directive 2 which gives the reasons for



difference in the actual BoQ quantity and the LOA BoQ quantity. The difference has been explained with respect to each scheme and along with supporting reasons.

14. BGCL is also submitting herewith as **Annexure E**, the relevant documents issued by it to its contractors which support the claim of BGCL that the change in the BoQ quantity is for the capitalization and work implementation in the various schemes and not for any other purpose.

**DIRECTIVE 1 (iii): Breakup of scheme wise actual hard cost in consonance with audited values versus LoA hard cost**

15. It is stated that in every scheme, the actual hard cost incurred and the audited values would differ slightly. At the stage of LOA, the slight changes as compared to the DPR are built in to assume the hard cost that is estimated to be incurred. However, the actual hard cost is known only when the project gets implemented and there is a sequential contract closure. Even after implementation of the projects, as a prudent utility, BGCL ensures that before making final payments, the contractor has worked as per the terms of contract. Certain amounts are also held back as Contract Performance Guarantee.
16. BGCL is submitting herewith as **Annexure F**, the breakup of scheme wise actual hard cost as reflected in the audited values versus the LOA Hard costs. The details of land acquisition, crop compensation and equipment cost along with IDC and IEDC based on the various schemes executed has been summarized. The reference to the LOA number, the vendor and the work along with the tax component is reflected. The IDC, IEDC and crop compensation is being reflected year wise up-to 2015 and thereafter, for each year. It will be clear that the entire capital cost incurred is towards project implementation and for assets giving





useful service to the intra-state grid.

**Directive 1 (iv): Calculation of interest from the planned date of infusion of debt fund up to planned date of commercial operation versus calculation of interest from the date of infusion of debt fund up to actual date of commercial operation.**

17. The primary reason for issuance of Directive 1(iv) is for the Hon'ble Commission is to apply prudence check on the issue of time over-run. It is respectfully submitted that the time over run in the case of various sub-stations and transmission-lines executed by BGCL can be summarized as under:

- i. Delays due to land acquisition
- ii. Delays due to obtaining engineering approvals after surveys
- iii. Delays due to the various govt. policies such as demonetization and GST in the year 2017, delay in grant of approvals under the Bihar mines and minerals Act, 2017, the Wildlife Protection Act, 1972, the Forest Act, 1980, Covid related delays etc.
- iv. Time lost due to monsoon season affecting the commissioning works at various sub-stations;
- v. Public protests, hindrances caused by locals at site locations
- vi. Delays due to modification of works, replacement of damaged items, inspection of insurance agency, change in location, SLDC approvals, elections, etc.

18. The SCOD (Scheduled Commercial Operation Date) versus the actual COD along with the time over-run in the case of each sub-station and transmission-line has been documented. BGCL is submitting as **Annexure G**, a summary sheet showing these dates along with the appropriate reason for the delay. The time over-run is ranging from period of 10- 15 days to a period of 53 months. The reasons have been encapsulated in the **Annexure G**. It is respectfully submitted that the reasons are completely beyond the control of BGCL and ought to be

condoned. BGCL is relying on the principles decided by the Appellate Tribunal for Electricity (hereinafter referred to as "APTEL") & Central Electricity Regulatory Commission (hereinafter referred to as the "Central Commission") on the issue of time over-run in the following cases:

**(a) Maharashtra State Power Generating Company Ltd v MERC & Ors (Judgment dated 27.04.2011 in Appeal No. 127 of 2011)**

*"The Central Commission has also not laid down any benchmark norms for prudence check, but its Regulations only indicate the area of prudence check including cost overrun and time overrun. The State Commission has not examined the reasons for delay in commissioning of the project and attributed the entire time overrun related cost with respect to the contractual schedule agreed with BHEL to the Appellant. In our view, this is not prudence check. In the absence of specific regulations, we will now find answer to the question raised by us relating prudence check of time overrun related costs.*

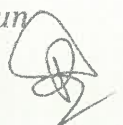
*7.4. The delay in execution of a generating project could occur due to following reasons:*

*i) due to factors entirely attributable to the generating company, e.g., imprudence in selecting the contractors/suppliers and in executing contractual agreements including terms and conditions of the contracts, delay in award of contracts, delay in providing inputs like making land available to the contractors, delay in payments to contractors/suppliers as per the terms of contract, mismanagement of finances, slackness in project management like improper co-ordination between the various contractors, etc.*

*ii) due to factors beyond the control of the generating company e.g. delay caused due to force majeure like natural calamity or any other reasons which clearly establish, beyond any doubt, that there has been no imprudence on the part of the generating company in executing the project.*

*iii) situation not covered by (i) & (ii) above.*

*In our opinion in the first case the entire cost due to time over run*



*has to be borne by the generating company. However, the Liquidated Damages (LDs) and insurance proceeds on account of delay, if any, received by the generating company could be retained by the generating company. In the second case the generating company could be given benefit of the additional cost incurred due to time over-run. However, the consumers should get full benefit of the LDs recovered from the contractors/suppliers of the generating company and the insurance proceeds, if any, to reduce the capital cost. In the third case the additional cost due to time overrun including the LDs and insurance proceeds could be shared between the generating company and the consumer. It would also be prudent to consider the delay with respect to some benchmarks rather than depending on the provisions of the contract between the generating company and its contractors/suppliers. If the time schedule is taken as per the terms of the contract, this may result in imprudent time schedule not in accordance with good industry practices.*

*7.5. In our opinion, the above principles will be in consonance with the provisions of Section 61(d) of the Act, safeguarding the consumers' interest and at the same time, ensuring recovery of cost of electricity in a reasonable manner."*

**(b) NRSS XXXI (B) Transmission Limited v CERC & Ors & Batch**  
– Judgment dated 03.12.2021 in Appeals No. 129 of 2020 & 276 of 2021

*16.10 The Central Commission failed to understand that the IDC and IEDC is not a financial benefit to the Appellant but due to the financial liability to be borne by the Appellant. This Tribunal vide Judgment dated 20.10.2020 in Appeal No. 208 of 2019 in – Bhopal Dhule Transmission Company Limited v Central Electricity Regulatory Commission & Ors. ("Bhopal Dhule Judgment") held that the Commission erred in denying Change in Law relief to the appellant for IDC which is a direct consequence of the Change in Law event. The relevant extract of the Judgement is reproduced herewith –*

*"8.7 The Central Commission's reasoning in the Impugned Order reads in two exceptions to the grant of Change in Law relief under Article 12.1.2 of the TSA namely: (a) that IDC is not a direct consequence of the Change in Law events and therefore must be denied; and (b) that no relief can be allowed for additional IDC incurred since IDC is not a component that is disclosed or evaluated at the time of bidding. CERC has in the same breath held that uncontrollable events in the form of Changes in Law have impacted the Project, but that the Appellant deserves no*



compensation for the same. Neither of these find any mention in the text of Article 12 of the TSA.

1.15 Since the spirit of Article 12 of the TSA is to ensure monetary restitution of a party to the extent of the consequences of Change in Law events, such exceptions cannot be read into Article 12 of the TSA. The Appellant has submitted that a crucial factor for the Appellant whilst bidding for the Project was that uncontrollable Change in Law events would be duly accounted for in accordance with Article 12 of the TSA. By the Impugned Order, the Central Commission has wrongly altered the meaning of the Change in Law clause of the TSA long after award of the bid and commissioning of the Project.

..... 1.16 Such a denial of the IDC by the Central Commission is in contravention of the provisions of Article 12.1.1 of the TSA in the facts and circumstances of the present case. By adopting such an erroneous approach, the Central Commission has rendered the Change in Law clause in the TSA completely nugatory and redundant. Such an interpretation by the Central Commission is causing the Appellant grave financial prejudice as it has no other means of recovering the IDC which it was constrained to incur for no fault of its own.

.... 1.17 We are of the view that the Central Commission erred in denying Change in Law relief to the Appellant for IDC and corresponding Carrying Costs on account of admitted Change in Law events after having arrived at unequivocal findings of fact and law that Change in Law events adversely affected the Appellant's Project in accordance with the TSA. Therefore, the impugned order passed by the Central Commission is liable to be set aside as the same is in contravention of settled law laid down by the Hon'ble Supreme Court (Supra) and also the previous orders passed by the Central Commission in Petition No73/MP/2014 read with 310/MP/2015 and 174/MP/2016 wherein the same issue has been dealt by the Commission differently. In view of these facts, the Appellant is entitled for the change in law relief as prayed for in the instant Appeal. The issue is thus, decided in favour of the Appellant."

16.11 Therefore, we are of the opinion that the Appellant is entitled to be fully compensated for the IDC and IEDC incurred on account of Change in Law & Force Majeure Events.

.....  
17.1 The Commission erred in passing the judgement as the claim of the Appellant in on account of change in length of the transmission



line and not due to time overrun. It can well be understood that slackness has not resulted into increase of length of the Transmission lines. The Appellant is not claiming extension of time because of change in the Gantry Coordinates but seeking relief due to change in the length of the Transmission Line as a result of change in Gantry Coordinates.

17.2 Shri Pradeep Mishra, Learned Counsel for Respondent No. 2 submitted that the decision dated 20.11.2019 in Appeal No. 121 of 2015; Sasan Power Ltd. Vs. CERC & Ors. of this Tribunal is not

applicable in the present case as the PGCIL vide its letter dated 04.07.2014 had informed the Petitioner as there may be change in north coordinate by few meters during detailed Engineering. Further, submitted that due to any fault on behalf of Appellant or PGCIL the replying Respondent cannot be penalized by making them to pay the higher tariff.

17.3 The submission is devoid of merit as any indication for change of coordinates which results into increased length after the submission of bids can't deny the Appellant with the additional cost incurred due to the erroneous Survey Report. However, we acknowledge that the contention of the Respondent that the Long Term Transmission Customers cannot be penalised by making them to pay the higher tariff for reason not accountable to them. We are inclined to pass directions to the Central Commission to develop a regulatory mechanism to deal with the matter so that such erroneous reports are dealt with firm hands.

17.4 Shri Alok Shankar, Learned Counsel for Respondent no. 19 submitted that the RFP issued by the Bid Process Coordinator, REC Transmission Project Company Limited (RECTPCL) is a standard form document. The RFP expressly instructs the bidders to undertake independent due diligence and disclaims completeness of any information. The learned Central Commission upon review of the provisions of the RFP and the conduct of the Appellant concluded that no relief could be granted.

17.5 The Commission has duly acknowledged the fact that the Survey Report is erroneous and misled the Appellant by granting extension of SCOD and cost incurred in obtaining the Forest Clearance. The change in Gantry Coordinates have also been acknowledged, however, compensation has not been granted for reasons as explained in the said judgement of the Commission which is unjustified. The point of challenge is compensation on account of unforeseen and uncontrollable events occurred due to the erroneous Survey Report and not the RFP document.

17.6 Therefore, we agree with the Appellant that full compensation has to be granted for the change in the length of the Transmission lines.”

(c) **Power Grid Corporation of India v. MPPMCL & Ors.** (Petition No. 203/TT/2021) - Order dated 26.05.2022

“35. .... The land acquisition was scheduled to be completed by 22.12.2017 against which the approval was received on 24.5.2018 causing a delay of about 153 days. It is evident from the chronology and correspondence dates made available by the Petitioner that the Petitioner applied for land acquisition well in time, carried out regular follow-up with the concerned Authority and promptly complied to the directives of land acquisition department like timely payment as per demand note etc. The delay of 153 days in making available of sub-station land had a cascading effect on the execution of the transmission asset. **Therefore, the time over-run of 153 days due to delay caused by land acquisition is beyond the control of the Petitioner and the same has been condoned.**

.....

36. It is observed from the chronology of Forest Clearance submitted by the Petitioner that the forest clearance proposal was made on 12.12.2017 and the stage-I clearance was received on 23.1.2019. However, working permission/ permission for tree cutting for tower foundation works was received on 19.5.2019 from the DFC, Banaskantha of Forest department. **Therefore, the total period of 553 days was taken on account of Forest clearance related issues.**

.....

In view of above, the additional time delay of 343 days in availability of sub-station land had a cascading effect on the execution of the transmission asset. **Therefore, the time over-run of 343 days due to delay caused by forest clearance is beyond the control of the Petitioner and is condoned.**

.....

Consequent to the above notification of Government of Gujarat, **severe RoW/ law and order issues surfaced** owing to

obstruction of works by the landowners as a result of reduction in diminution value of land for corridor compensation. The progress of works as such was severely impacted due to non - availability of right of way consequent to the notification.....

**The hindrance in work due to obstruction of work by local villagers between 10.3.2018 to 6.7.2020 (849 days) and between 12.7.2019 to 31.8.2020 (416 days) when the work was carried out under police protection also contributed to the time over-run. The combined impact of the delays on above counts after considering the overlapping period comes to about 905 days between 10.3.2018 to 31.8 2020. The time delay of 905 days had a cascading effect on the execution of the transmission asset and is beyond the control of the Petitioner.**

.....  
45. Therefore, the time over-run of 725 days in execution of 400 kV Banaskantha (Radhanesda) Pooling Station–Banaskantha (PG) D/C line along with 2 numbers 400 kV line bays at Banaskantha (PG) due to hindrance caused by delay in acquisition of sub-station land, delay in forest clearance of transmission line and RoW issues is beyond the control of the Petitioner and is condoned in line with Regulation 22 (2) of the 2019 Tariff Regulations.”

(emphasis supplied)

(d) **Power Grid Corporation of India Ltd. v. Bihar State Power (Holding) Company Ltd.** - Petition No. 278/TT/2015 – Order dated 20.09.2017

“Delay due to Severe rains & floods:-

19. The petitioner has submitted that a major part of the line is passing through Jajpur district and the State of Odisha was severely affected by flood in river Brahmani & Baitarani during September, 2011 due to which Jajpur district remained cut off for many days, leading to delays.



.....  
25. Hence, we are of the view that the delay due to **ROW issues, forest clearance, severe rains** and court cases were uncontrollable. Also the delay due to the non-readiness of the downstream system of OPTCL cannot be attributed to the petitioner. Hence the total delay of 991 days in case of Asset-2 is condoned.

(emphasis supplied)

(e) **Power Grid Corporation of India Ltd. v. Assam Electricity Grid Corporation & Ors.** – Petition No. 237/TT/2018 – Order dated 05.07.2019

**“III. Delay due to Severe Rain fall:** The Petitioner has submitted that severe rain fall in and around Silchar and Imphal area affected the supply of coarse and sand aggregate of the project and heavy rain resulted in difficulties in foundation works of equipment and GIS hall. In support of the delay, the Petitioner has submitted paper clippings as documentary evidence. From the submissions made by the Petitioner, it is observed that the out of the total time period of 53 days from 5.7.2017 to 28.8.2017, around 15 days is affected due to severe rail fall and which is beyond the control of the Petitioner. Hence, the time delay of 15 days is condoned.

.....  
**V. Economic Blockade/Bandh in Assam:** The Petitioner has submitted paper clippings as documentary evidence in support of delay due to economic blockade/Bandhs during April 2017 to March 2018. We have gone through the documentary evidence submitted by the Petitioner and it is observed that in the time period from April, 2017 to October, 2018, about 37 days is affected due to economic blockade and the same is beyond the control of the Petitioner. Therefore, the time delay of 37 days is condoned.”





19. There are several judgements of the APTEL & Central Commission on the issue of time over-run. Any delay in obtaining permissions from Government Authorities, land acquisition, ROW issues, adverse weather conditions, etc. have been consistently treated as reasons beyond the control of the transmission licensee. BGCL is also praying for the same by the Hon'ble Commission.
20. The summary sheet gives an overall view to the Hon'ble Commission. The supporting documents regarding reasons for delay on the basis of which the summary sheet has been prepared is attached hereto and marked as **Annexure H**.
21. Even though the Hon'ble Commission has asked for the calculation of interest from the planned date of infusion of debt fund up to planned date of commercial operation versus calculation of interest from the date of infusion of debt fund up to actual date of commercial operation, BGCL has made a more comprehensive calculation giving the details and justification for the time over-run which has caused the increase in IDC/IEDC.
22. The correct way to deal with the matter would be to apply prudence check on the reasons for time overrun and thereafter, permit the consequent IDC and IEDC.

**DIRECTIVE 1(v): Detailed working of approved variation due to impact of entry tax, other taxes, foreign exchange rate variation and miscellaneous expenses in MoM of BoD versus the expenses as approved in DPR.**

AND



**DIRECTIVE 1 (vi): Reconciliation with audited value along with supporting documents, of the above stated expenses (as mentioned in point v above) separately for each item of deviation.**

23. BGCL is submitting as **Annexure I**, the details of each component of tax including excise duty, central sales tax, entry tax, GST, customs duty and service tax. The tax component has been collated from the invoices of contractors received for all the substations and transmission lines.
24. Further, BGCL is submitting as **Annexure J**, the details of foreign exchange variation including package wise basic cost in USD, date of LOA, rate as on the date of LOA, amount as compared with the date of payment, rate as on date of payment, the actual amount incurred along with the difference is being indicated.
25. Every change in rate of taxes or foreign exchange rate variation and miscellaneous expenses is not approved by the board of directors. However, the investment approval taken pursuant to DPR is approved which was done on 15<sup>th</sup> September, 2014 which totaled to Rs 1699.36 Crores. Thereafter, the revised cost estimates (RCE 1) was prepared and approved by the board of directors on 13<sup>th</sup> February, 2017 which yielded an amount of Rs 1833.23 Crores. Progressively, as the schemes got completed, the RCE 2 was prepared and approved by the Board on 27<sup>th</sup> December, 2018, for an amount of Rs 2091.89 Crores. Copies of the Original Investment approval, RCE 1 and RCE 2 are attached hereto and marked as **Annexure K**.
26. Apart from the above data by which the directives stand substantially complied with, BGCL is also giving the following details in **Appendix 1**:



- i. The summary sheet of the amounts incurred as per the actual invoice date i. 31.03.2022, the amounts reflected in the Balance sheet as on 31.03.2022, the breakup of hard cost (without taxes) in the invoices as on 31.03.2022 and LOA
- ii. The package wise details of the supply and service component of hard cost with and without taxes as on 31.03.2022.
- iii. Details of IDC, IEDC and crop and land compensation as well as minor assets such as furniture and office equipment as on 31.03.2022.
- iv. Details of auxiliary service availed by BGCL for the various works along with date of LOA, amount of LOA and the tax component.

27. BGCL respectfully submits that the data now presented will enable the Hon'ble Commission to take a comprehensive relook on the capital cost permitted to it so far and the actual capitalization in its books which ought to be recognized for tariff determination. It is respectfully prayed that this Hon'ble Commission may kindly take a view uninfluenced by the view taken earlier.



**DATE:**

**PLACE:**

**BIHAR GRID COMPANY LTD.**

## List of Annexures

Annexure Number	Description	Mode of Submission
A	Cost comparison at the stage of DPR, at the stage of issuance of LOA, and the final cost as on 31.03.2022.	Soft Copy
B	Substation and Transmission Line package-wise list of Amendments	Soft Copy
C	Reasons for Delay in Commissioning of Substations and Transmission Line	Soft Copy
D	Substation and Transmission Line package-wise list of Amendments	Soft Copy
E	Supporting Documents regarding variation in BoQ quantity	Soft Copy
F	Breakup of scheme wise actual hard cost as reflected in the audited values versus the LOA Hard costs	Soft Copy
G	Reasons for Delay in Commissioning of Substations and Transmission Line	Soft Copy
H	Supporting documents for Delay in Commissioning of Transmission Assets	Soft Copy
I	Details of each component of tax	Soft Copy
J	Details of foreign exchange variation	Soft Copy
K	Copies of the Original Investment approval, RCE 1 and RCE 2	Soft Copy

