

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 85/MP/2014**

- Subject : Petition under Section 79 (1) (c) and (f) of the Electricity Act, 2003 read with appropriate provisions of the Central Electricity Regulatory Commission ( Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State transmission and related matters)Regulations,2009 and Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and losses) Regulations, 2010.
- Date of hearing : 14.10.2014
- Coram : Shri Gireesh B. Pradhan, Chairperson  
Shri M. Deena Dayalan, Member  
Shri A.K. Singhal, Member  
Shri A.S. Bakshi, Member
- Petitioner : Power Grid Corporation of India Limited
- Respondents : Damodar Valley Corporation and others
- Parties present : Ms. Suparna Srivastava, Advocate, PGCIL  
Shri A.M.Pavgi, PGCIL  
Shri Aryman Saxena, PGCIL  
Shri S.K.Venkatesan, PGCIL  
Shri R.P.Padhi, PGCIL  
Shri Vikas Singh, Sr. Advocate, DVC  
Shri Ajay Sharma, Advocate, DVC  
Ms. Deepika Kalia, Advocate, DVC  
Shri Subrata Ghosal, DVC  
Shri Arijit Maitra, Advocate, BYPL  
Shri Sameer Singh, BYPL  
Shri Abilia Zaidi, POSOCO  
Ms. Jyoti Prasad, POSOCO  
Shri S.S. Barpanda, NLDC

**Record of Proceedings**

Learned counsel for the petitioner submitted that the present petition has been filed for seeking direction to Damodar Valley Corporation (DVC) to make payment of

transmission charges to CTU for the LTA of 119.19 MW power from Mejia Unit-8 since October 2012 along with delayed payment surcharge. Learned counsel further submitted as under:

(a) In the meeting on 22.11.2011 with CEA and DVC, the transmission system requirement for power transfer to long term beneficiaries was finalized in which it was decided that long term transfer for the DVC generating units shall be applicable depending on the readiness of the transmission system or the date of PPA applicability, whichever is later.

(b) On 6.2.2012, a meeting was held by DVC with distribution companies of Delhi regarding re-scheduling in their power in which it was decided that BYPL shall continue to share 119.18 MW for Mejia B (2X500 MW).

(c) BYPL vide its letter dated 3.12.2012 informed the petitioner that it had already surrendered the power allocated to it from Mejia Unit-8 and therefore, it was not liable to pay the transmission charges with respect to any power being scheduled from Mejia Unit-8.

(c) The petitioner vide letter dated 31.12.2012 requested DVC to confirm regarding surrender of 119.19 MW by BYPL so that bill of transmission charges for the same to BYPL may be discontinued and the same may be billed to DVC till PPA is signed with other beneficiaries.

(d) The petitioner vide letter dated 11.7.2013 wrote to DVC regarding the dispute and non-payment and advised that under such situation, DVC should pay the amount. In response, DVC informed that in terms of bilateral agreement executed between DTL and DVC on 24.8.2006 and subsequent DERC order dated 31.3.2007 and MOM dated 6.2.2012, BYPL is liable to pay the transmission charges.

(e) In case DVC identified BYPL as a beneficiary, it would be the responsibility of DVC as a generator, to take up with its LTA customer, BYPL, to make payment towards the subject transmission charges, otherwise the subject LTA shall have to be treated as the LTA of the generator without identified beneficiary and the transmission charges are payable by the generator as per the Regulation 11 (9) of the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and losses) Regulations, 2010 (Sharing Regulations). Accordingly, the petitioner vide its letter dated 11.7.2013 informed DVC that the transmission charges are payable by it and started billing to DVC w.e.f. September, 2013. However, DVC is not making payment for the transmission charges.

2. Learned senior counsel for DVC submitted as under:

(a) As per clause 4.3 and 4.4 of the PPA entered between DVC and DTL on 24.8.2006, DVC is required to sell power at a delivery point i.e. at their periphery and all charges beyond that periphery will be borne by DTL.

(b) In the meeting dated 6.2.2012, BYPL confirmed that it would not surrender any power out of its share (119.18 MW). The same was acknowledged by PGCIL vide letter dated 19.4.2012. It is the responsibility of BYPL to bear the transmission charges, which was being paid by BYPL from October, 2012 till March, 2013. Therefore, the petitioner should amend the prayers of the petition.

(c) The Commission vide order dated 29.6.2011 in L-1/44/2010- CERC approved the deletion of provision in the BCD Procedure for the generators who have a long term PPA and where sale of power is at the generator bus bar. The petitioner misrepresented the said direction and declared that the above findings of the Commission was applied in matters where PPA entered into between the Central Generating Company and the beneficiaries was valid and binding.

(d) DVC never applied for any LTA to the petitioner. Further any verbal discussion and order of Minutes of Meeting cannot make any generator/beneficiaries entitled for availing LTA unless the application for LTA is made before the petitioner.

(e) DVC repeatedly informed the petitioner through various correspondences that as per the PPA executed between DVC and BYPL, DVC is liable to pay the charges only up to its periphery. Beyond that periphery, all charges including the transmission charges are to be borne by the beneficiaries.

(f) As per Regulation 5 of Connectivity Regulations, the person availing LTA is required to made an application for grant of LTA before PGCIL. However, DVC did not apply for LTA before the petitioner. Therefore, the question of collecting the transmission charges from DVC does not arise at all.

2 In response, learned counsel for the petitioner submitted that PGCIL approved LTA for the unit 7 only. 400 kV Maithon-Mejia D/C line associated with Mejia TPS (Unit 7 and 8) is included in the Schedule of the TSA. Learned counsel for the petitioner submitted that the parties have signed model TSA. The scheme of grant of LTA and recovery of charges is that once the Inter-State Transmission System (ISTS) has been developed, it has to be serviced. As DVC did not identify an acceptable beneficiary for the subject LTA of 119.19 MW from Mejia Unit-8, DVC is liable to make payment of the transmission charges as per the provisions of Sharing Regulations. However, in the present case, the petitioner is unable to recover the transmission charges from DVC.

3. Learned counsel for BYPL submitted that BYPL is not a LTA customer of MTPS Unit-8, therefore, it is not liable to pay transmission charges. BYPL is a beneficiary in the context of PPA but mere existence of PPA does not *ipso facto* make BYPL LTA customer. Learned counsel for BYPL submitted that BYPL sought long-term open access after obtaining the clearance from STU for transmission of power from DVC Mejia Stage-II Unit 7 only and not for Unit-8. Since in the present petition, the petitioner has claimed payment of transmission charges from DVC and not from BYPL, the petition is not maintainable qua BYPL. Learned counsel for BYPL requested the Commission to direct DVC to provide copy of the affidavit dated 12.9.2014 to BYPL.

4. The representative of POSOCO submitted as under:

(a) The transmission system was evolved through a coordinated planning process and the transmission plan was discussed and approved in the Standing Committee on Transmission Planning. Earlier, most of the inter-State generating stations (ISGS) were in Central Sector with identified beneficiaries for the entire capacity of the plants. Even the unallocated portion is also allocated, and transmission charges paid by the beneficiaries for the full capacity of the station.

(b) Though DVC is controlled by the Central Government, power from the generating stations of DVC is not allocated by Govt. of India, unlike generating stations of NTPC, NHPC or other PSUs under Ministry of Power. The payment of transmission charges can be divided into consumption by DVC, allocation by Govt. of India, LTA taken by beneficiaries and deemed LTA based on minutes of meeting, etc.

(c) While, transmission system was planned for evacuation of power from power stations developed by DVC, transmission charges for the same are not being paid, as there is no beneficiary at present. This is leading to higher transmission charges for the other DICs of the country under the Sharing Regulations.

(d) DVC generating stations of Mejia Units 7 and 8 (500 MW each), Koderma U-1&2( 500 MW each) and DSTPS Unit-1 & 2 (500 MW each) have already been commissioned and out of 3000 MW capacity from these generating stations, only 913.38 MW LTA is operational. Since, DVC has not applied for LTA for the entire output, transmission charges for the balance quantum of 2086.62 MW are being borne by all the DICs of the country.

(e) When the transmission system is developed by an ISTS licensee for evacuation of generator's power, it becomes the prime responsibility of the generator to make the payment of transmission charges.

5. After hearing the learned counsels and representatives of the parties, the Commission directed the petitioner to submit the following information, on affidavit by 15.11.2014:

- (a) Comprehensive tabular statement indicating generating stations, capacity, unit-wise date of commercial operation for these generating stations for whom the entire transmission system under DVC scheme has been planned.
- (b) List of various transmission elements and their date of commercial operation.
- (c) BPTA, if any with beneficiaries regarding the transmission system.
- (d) Long term access being treated for the generation projects mentioned at 5.(a) above under following categories:
- (i) Allocation by Ministry of Power
  - (ii) LTA sought through applications under CERC regulations
  - (iii) Deemed LTA through minutes of meeting
  - (iv) Balance quantum, if any
- (e) The responsibility for payment of transmission charges by generator/beneficiary under the above heads at S. No. 5 (d) above.
6. The Commission directed to POSOCO submit on affidavit by 15.11.2014, details of scheduling under long term being done by RLDCs for the above generating stations and their buyers.
7. The Commission directed DVC to serve copy of the affidavit dated 12.9.2014 on BYPL who may file its response on affidavit by 15.11.2014 with an advance copy to the petitioner and DVC.
8. The Commission directed the petitioner and respondents to file their written submissions by 15.11.2014 with copy to each other.
9. The Commission further directed that the due date of filling the information, response and written submissions should be strictly complied with. The information, response and written submissions filed after due date shall not be considered.
10. Subject to above, the Commission reserved order in the petition.

**By order of the Commission**

**Sd/-  
(T. Rout)  
Chief (Law)**