

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 92/MP/2015

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri A. K. Singhal, Member

Shri A.S. Bakshi, Member

Date of Hearing: 21.7.2015

Date of Order: 28.8.2015

In the matter of

Petition seeking directions with regard to difficulties in implementing some of the directions given in the Order dated 16.2.2015 in Petition Nos. 92/MP/2014 along with I.A. Nos. 43/2014, 51/2014, 52/2014, 54/2014, 56/2014 and 59/2014, Petition Nos.376/MP/2014, Petition Nos. 382/MP/2014, Petition Nos. 393/MP/2014 and Review Petition No. 25/RP/2014.

And

In the matter of

Power Grid Corporation of India Ltd.
Saudamini, Plot No. 2, Sector 29,
Gurgaon, Haryana-122 001

...Petitioner

Vs

1. Kerala State Electricity Board,
Vaidyuthi Bhavanam, Pattom,
Trivandrum – 695 004, Kerala

2. PTC India Limited,
2nd Floor, NBCC Tower,
15 Bhikaji Cama Place, New Delhi-110066

3. NTPC Vidyut Vyapar Nigam Ltd.,
NTPC Bhawan, Core-7,
Scope Complex, 7 Institutional Area,
Lodhi Road, New Delhi-110003

4. DB Power Limited
Block IA, 5th Floor Corporate Block,
DB City Park, DB City, Arera Hilss,
Opp MP Nagar, Zone-I, Bhopal-462 016

5. EMCO Energy Limited
IBC Knowledge Park,

4/1, Bannerghatta Road,
Bangalore-560 029

6. KSK Mahandi Power Co. Limited
8-2/293/82/A/431A,
Road No. 22, Jubilee Hills, Hyderabad-500 033

7. Jindal Power Limited
Plot No. 2, Tower-B Sector-32,
Gurgaon, Haryana-122 001

8. Karnataka Power Transmission Company Limited
Cauvery Bhawan, K.G. Road, Bangalore-560009, Karnataka

9. Tamil Nadu Generation and Distribution Corporation Ltd.,
NPKRR Maaligai, 44, Anna Salai,
Chennai-600 002

10. Essar Power MP Limited,
Equinox Business Park, Off BandraKurla Complex,
LBS Marg, Kurla (West), Mumbai-400 070

11. National Load Dispatch Centre
B-9, Qutab Institutional Area, Katwaria Sarai,
New Delhi-110 016

12. Western Regional Load Despatch Centre
F-3, M.I.D.C. Area, Marole,
Opp SEEPZ, Central Road,
Andheri (East), Mumbai-400 093 13.

13. Central Electricity Authority,
Sewa Bhawan, R.K. Puram,
New Delhi-110 066

14. Bharat Aluminum Company Ltd.
1200 MW O&M Office,
PO-BALCO Nagar, District-Korba, Chhattisgarh-495684

15. Ind-Barath Energy (Utkal) Limited
Plot No. 30-A, Road No. 1 Film Nagar,
Jubilee Hills Hyderabad-500 033 16.

16. Dhariwal Infrastructure Limited
CESC House, Chowringhee Square,
Kolkata- 700 001

17. Adhunik Power and Natural Resources Limited
701, 7th Floor, World Trade Tower Barakhamba Lane,
New Delhi-110001

18. MB Power (Madhya Pradesh) Limited
239, Okhla Industrial Estate Phase III
New Delhi-110020

19. Jhabua Power Limited Avanta Power & Infrastructure Limited
6th& 7th Floor, Vatika City Point M.G. Road,
Gurgaon-122002

20. Jindal India Thermal Power Limited
Plot N. 12 Local Shopping Complex Sector B-1,
Vasant Kunj New Delhi-110070

21. GMR Kamalanga Energy Limited
Plot No. 29, Satya Nagar Bhuaneswar,
Odisha-751007

22. Monnet Ispatand Energy Limited Mohta Building,
3rd Floor 4, Bhikaji Cama Place,
New Delhi-110066

23. Jal Power Corporation Limited
A-102, Secor-65 Noida-201307

24. Essar Power (Jharkhand) Limited
Essar Power Complex, Kanchan Nagri,
Chandwa District-Latehar,
Jharkhand-829203

25. Lanco Babandh Power Pvt. Ltd.
Plot No. 397, Phase-III Udyog Vihar,
Gurgaon-122016

26. TRN Energy Pvt. Ltd.
7th Floor, Ambience Office Block Ambience Mall,
NH-8 Gurgaon, Haryana-122001

27. Maruti Clean Coal & Power Ltd
Hira Arcade, Ground Floor New Bus Stand Pandri,
Raipur-492001 (C.G)

28. Jaiprakash Power Ventures Limited
Sector-U8, Noida-201304

..Respondents

Parties present:

- 1) Shri Gopal Jain, Senior Advocate, Dhariwal
- 2) Shri Ramajee Srinivashan, Senior Advocate, TRN Energy
- 3) Ms. Prerna Priyadarshini, Advocate, PGCIL
- 4) Ms. Jyoti Prasad, PGCIL
- 5) Shri Jafar Alam, Advocate, EMCO
- 6) Shri Vishal Binod, Advocate, EMCO

- 7) Ms. Drishti Bawa, Advocate, EMCO
- 8) Shri Anand K. Ganeshan, Advocate, KSK Mahanadi
- 9) Ms. Swapna Seshari, Advocate, KSK Mahanadi
- 10) Shri Deepak Khurana, Advocate, DB Power
- 11) Shri Akhil Sibal, Advocate, DB Power
- 12) Shri H. Sharma, DB Power
- 13) Shri Matru Gupta Mishra, Advocate, TRN Energy Private Ltd.
- 14) Shri Hemant Singh, Advocate, TRN Energy Private Ltd.
- 15) Shri Molshree Bhatnagar, Advocate, MB Power (MP) Limited
- 16) Ms. Esha Shekhar, Advocate, MB Power (MP) Limited
- 17) Shri Abhishek Gupta, MB Power (MP) Limited
- 18) Ms. Abilia Zaidi, POSOCO
- 19) Ms. Pragya Singh, POSOCO
- 20) Shri Vikas Saksena, JPL
- 21) Shri P.C. Sen, Advocate, BALCO
- 22) Ms. Divya Chaturvedi, Advocate, JPL
- 23) Shri Rajeev Bharadwaj, Advocate, PTC India

ORDER

In para 135 of the order dated 16.2.2015, the Commission had made the following observations:

“134. Regulation 18 of the Connectivity Regulations provides for the relinquishment of transmission charges as under:

"18. Relinquishment of access rights

(1) A long-term customer may relinquish the long-term access rights fully or partly before the expiry of the full term of long-term access, by making payment of compensation for stranded capacity as follows:-

(a) Long-term customer who has availed access rights for at least 12 years

(i) Notice of one (1) year –If such a customer submits an application to the Central Transmission Utility at least 1 (one) year prior to the date from which such customer desires to relinquish the access rights, there shall be no charges.

(ii) Notice of less than one (1) year –If such a customer submits an application to the Central Transmission Utility at any time lesser than a period of 1 (one) year prior to the date from which such customer desires to relinquish the access rights, such customer shall pay an amount equal to 66% of the estimated transmission charges (net present value) for the stranded transmission capacity for the period falling short of a notice period of one (1) year.

(b) Long-term customer who has not availed access rights for at least 12 (twelve) years – such customer shall pay an amount equal to 66% of the estimated transmission charges (net present value) for the stranded

transmission capacity for the period falling short of 12 (twelve) years of access rights:

Provided that such a customer shall submit an application to the Central Transmission Utility at least 1 (one) year prior to the date from which such customer desires to relinquish the access rights;

Provided further that in case a customer submits an application for relinquishment of long term access rights at any time at a notice period of less than one year, then such customer shall pay an amount equal to 66% of the estimated transmission charges (net present value) for the period falling short of a notice period of one (1) year, in addition to 66% of the estimated transmission charges (net present value) for the stranded transmission capacity for the period falling short of 12 (twelve) years of access rights.

(2) The discount rate that shall be applicable for computing the net present value as referred to in sub-clause (a) and (b) of clause (1) above shall be the discount rate to be used for bid evaluation in the Commission's Notification issued from time to time in accordance with the Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees issued by the Ministry of Power.

(3) The compensation paid by the long-term customer for the stranded transmission capacity shall be used for reducing transmission charges payable by other long-term customers and medium-term customers in the year in which such compensation payment is due in the ratio of transmission charges payable for that year by such long term customers and medium-term customers."

135. As per the above provision, LTA can be relinquished by paying the compensation for the stranded capacity. CTU has expressed difficulty in assessing stranded capacity on account of the meshed network of the inter-State transmission system. Whenever a LTA customer seeks change of region, there is a corresponding reduction in the LTA in the region from which change is sought. The issue remains as to how the stranded capacity shall be assessed. As CTU has expressed difficulty in deciding the stranded capacity on account surrender of LTA or reduction of LTA on account of change in region, CEA is directed to suggest methodology to work out stranded capacity and the formula for calculating corresponding relinquishment charges of LTA keeping in view the load generation scenario and power flows considered at the time of planning and changes subsequent to proposed relinquishment. Till a decision is taken based on the recommendations of CEA, CTU shall continue to take the relinquishment charges in accordance with Regulation 18 of the Connectivity Regulations."

2. Subsequently, Central Transmission Utility (CTU) filed Petition No. 92/MP/2015 bringing to the notice of the Commission certain difficulties encountered by CTU to give effect to some of the directions of the Commission in Petition No.92/MP/2014 and related petitions. One of the difficulties flagged by CTU was regarding relinquishment charges. CTU has submitted that the identification of

utilization/non-utilization of transmission elements in a meshed network for a long period is not possible except for dedicated transmission lines. CTU has submitted that since utilization/non-utilization of various elements of the grid depends on a large number of factors like generation despatches, seasonal load variations, market mechanism etc., the determination of the elements in a meshed network which shall get stranded and the extent to which they shall get stranded cannot be known. However, if there is a change in the target region pursuant to the signing of long term PPA, then it can be said with certainty that power drawl to the extent of the change shall be less than what was considered while granting LTA and to that extent the meshed network shall remain unutilized and can be considered for determination of relinquishment charges. CTU has submitted that only in those cases, it would be prudent to link the relinquishment charges with published point of connection rates as these rates are computed quarterly by associating all stakeholders under the aegis of the Commission. CTU has also submitted a mechanism in Annexure 4 to the petition for approval of the Commission. The said mechanism is enclosed as **Appendix A** to this order. After hearing the CTU, the Commission in the order dated 20.3.2015, issued the following interim directions:-

“As regards the procedure for determination of relinquishment charges, CTU has suggested a mechanism as per Annexure-4 regarding determination of the relinquishment charges till a decision is taken by the Commission in the light of the recommendations of CEA which are awaited. It is noted that all applicants who are seeking LTA to a new region by surrendering their LTA in the existing regions shall be affected. Accordingly, we direct issue of notice to all such LTA applicants who are likely to be affected if the suggested mechanism is accepted. CTU is directed to make all the affected LTA applicants parties to this petition. Since, CTU is in the process of granting the LTA based on the applications received in the month of November, 2013 and afterwards, we direct that the LTA intimations to the LTA applicants shall contain a provision that the grant of LTA shall be subject to the payment of relinquishment charges as may be decided by the Commission in this petition.”

3. In compliance with our directions, CTU has amended the memo of parties and has impleaded the generators who are likely to be affected by the relinquishment of

the LTA if the suggested mechanism is adopted. The names of the generators impleaded by CTU are as under:

- i) DB Power Limited
- ii) EMCO Energy Limited
- iii) KSK Mahanadi Power Co. Limited
- iv) Jindal Power Limited
- v) Essar Power MP Limited
- vi) Bharat Aluminium Company Limited
- vii) Ind-Bharat Energy (Utkal) Limited
- viii) Dhariwal Infrastructure Limited
- ix) Adhunik Power and Natural Resources Limited
- x) MB Power (Madhya Pradesh) Limited
- xi) Jhabua Power Limited Avanta Power & Infrastructure Limited
- xii) Jindal India Thermal Power Limited
- xiii) GMR Kamalanga Energy Limited
- xiv) Jal Power Corporation Limited
- xv) Essar Power (Jharkhand) Limited
- xvi) Lanco Babandh Power Pvt. Limited
- xvii) TRN Energy Pvt. Limited
- xviii) Jaiprakash Power Ventures Limited
- xix) Maruti Clean Coal & Power Limited

4. The Commission vide its order dated 3.7.2015 directed the affected parties to file their replies. In response, the replies from the following generators have been received:

- (a) Dhariwal Infrastructures Limited
- (b) GMR Kamalanga Energy Limited
- (c) Emco Energy Limited
- (d) Ind Bharat Utkal Limited
- (e) Essar Power (M.P) Limited
- (f) DB Power Limited
- (g) Dhariwal Infrastructure Limited
- (h) Jindal Power Limited

5. The gist of the submissions of the above generators are as under:

- (a) PGCIL's proposal to consider entire quantum of LTA as stranded capacity for recovery due to relinquishment in case of change of target region as per Annexure-IV of the petition is based on assumption, conjectures and surmises and such an approach is completely erroneous and unsustainable in law.
- (b) Relinquishment charges may be levied only if there is positive determination of stranded transmission capacity.
- (c) Relinquishment charges are not payable in a meshed network as there would be no unutilized or stranded capacity.
- (d) Regulation 18 contemplates relinquishment charges as a compensatory mechanism. Suggestion of CTU to use the PoC mechanism to calculate the relinquishment charges would change the relinquishment charges into a penalty.

- (e) Entitlement of relinquishment charges on account of application for change of region should not be permitted unless CTU has incurred actual losses which are directly attributable to the generating station on account of change of region.
- (f) The extent of liability of relinquishment charges by an LTA customer has to be worked out having regard to the stranded capacity which would require clear identification of several factors such as what should be treated as stranded capacity, the duration for which capacity is stranded, whose capacity is stranded and how much of the capacity remains stranded. Relinquishment charges should be recoverable/adjusted after having a complete accounting of the commercial usage and the revenue earned by the CTU for the transmission system.
- (g) When Connectivity Regulations provide for execution of the transmission lines without prior agreement with beneficiaries and transmission lines are built based on regulatory approval, relinquishment charges for change in region do not arise.
- (h) Clauses (5) and (9) of Regulation 11 of Sharing Regulation provides for set off of withdrawal POC charges for any reason against injection POC charges for the long term access to the target period without identified beneficiaries. When charges of DICs having LTA without beneficiaries comprise only Injection POC charges and set off of charges is provided across regions, charging of relinquishment charges for change of region does not arise.

- (i) Although a serious LTA applicant takes a very considered decision before applying for LTA, no LTA applicant can exercise any control of the process of PPA finalization with any utility and there is inherent possibility of change of utility which may also be across the regional boundary. Therefore, change of point of off take or of target region should be allowed with minimal financial implication to encourage optimum use of available generation capacity.
- (j) The formula suggested by CTU for calculation of relinquishment charges does not consider the stranded capacity factor, the extent and manner in which augmentation and system strengthening has been done, the system usage by other LTA, MTOA and STOA customers.
- (k) The petitioner has not suggested the method to calculate the stranded capacity which is necessary for levy of relinquishment charges as per Regulation 18.

6. During the course of hearing, learned senior counsel for Dhariwal Infrastructure Limited submitted that the issue regarding determination of relinquishment charges for LTA in case of change of target region was dealt with by the Commission in para 135 of the order dated 16.2.2015. In the said order the Commission has categorically held that the stranded capacity has to be determined and then the relinquishment charges are to be computed on the basis thereof. He further submitted that since CEA has not submitted any methodology to work out stranded capacity and the formula for calculating corresponding relinquishment charges, CTU cannot levy relinquishment charges as per mechanism suggested at Annexure 4 to the petition. He submitted that CTU has to comply with Regulation 18 of the Connectivity Regulations. Learned counsel for the KSK Mahanadi submitted

that the present petition is not maintainable as there is no methodology to work out stranded capacity and the formula for calculating corresponding relinquishment charges. Learned Senior Counsel for the TRN Energy Private Ltd submitted that methodology suggested by CTU does not have provision to consider specific situations. It is a uniform formula applicable even if there is no stranded capacity and no augmentation or system strengthening undertaken by CTU. The calculation of the relinquishment charges is not possible without CEA submitting methodology to work out stranded capacity and the formula for calculating corresponding relinquishment charges, which is still awaited. Learned counsel for the MB Power (MP) Limited submitted that the relinquishment charges cannot be treated as penalty/compensation. The impact and risk of relinquishment charges are individual issues. Learned counsel for the BALCO submitted that the petitioner has admitted that in the meshed network, determination of the elements which shall get stranded and the extent to which they shall get stranded cannot be known.

7. After considering the submission of the learned counsel for the respondents and taking note of the fact that the recommendations from CEA with regard to the assessment of stranded capacity and calculation of relinquishment charges have not been received, the Commission decided to constitute a Committee with representative of CTU, CEA, POSOCO, Association of Power Producers and staff of the Commission to go into all aspects of the stranded capacity and relinquishment charges. The Commission further directed the parties to submit their suggestions regarding the terms of reference for the committee. Accordingly, suggestions have been received from Emco Energy Limited, GMR Kamalanga Limited, Dhariwal Infrastructures Limited, Jindal Power Limited, Essar Power (MP) Limited, M.B. Power (MP) Limited and TRN Energy Pvt. Limited. The suggestions of the Respondents

received with regard to the terms of reference have been compiled and annexed as **Appendix B** to this order.

8. As per the Connectivity Regulations, stranded capacity has been defined as the transmission capacity in the inter-State transmission system which is likely to remain unutilized due to relinquishment of access right by a long term customer. Regulation 18 provides that a long term customer may relinquish the long term access rights fully or partly before expiry of the full term of the long term access by making payment of compensation for the stranded capacity. Regulation 18 (3) provides that the compensation paid by the long term customer for the stranded transmission capacity shall be used for reducing transmission charges payable by other long term customers and medium term customers in the year in which such compensation of payment is due in ratio of the compensation charges payable for that year for such long term customers and medium term customers. Long term customer has been defined as a person who was granted long term access. Keeping in view the above provisions of the regulations and the suggestions received with regard to terms of reference, the Commission has decided the terms of reference for the Committee as under:-

- (a) Identify the events/circumstances which are likely to result in relinquishment of long term access right by an LTA customer in terms of the provisions of the Connectivity Regulations.
- (b) Suggest the methodology(ies) for assessment/determination of the stranded capacity in case of relinquishment of long term access right by a long term customer, keeping in view the meshed network of the inter-State transmission system.

- (c) Alternative methodology for computation of relinquishment charges.
- (d) The manner and mode of recovery of the relinquishment charges.
- (e) Any other suggestion that the Committee considers appropriate in the light of the suggested terms of reference by the parties as per Appendix B to this order.
- (f) Suggest changes, if any, required to be made to the existing provisions of the Connectivity Regulations to make the process of relinquishment of long term access right and calculation of compensation therefor simple, fair and equitable keeping in view the need for expansion of ISTS network.

9. The Committee shall consist of the following:-

- (a) Shri Pravin Bhai Patel, Ex-Chairperson, GERC, Chairperson
- (b) Shri Mrutyunjay Sahoo, Ex-Additional Chief Secretary, Government of Andhra Pradesh
- (c) Shri V.J. Talwar, Ex-Member, Appellate Tribunal for Electricity
- (d) Shri S.K. Soonee, Chief Executive Officer, POSOCO
- (e) Shri Ajay Talegaonkar, SE, NRPC
- (f) Representative of CEA (to be nominated by CEA)
- (g) Representative of CTU (to be nominated by CTU)
- (h) Shri Ashok Khurana, Director General, Association of Power Producers
- (i) Shri Akhil Kumar Gupta, Joint Chief (Engineering)- Convenor and Member Secretary of the Committee

10. The committee shall devise its own procedure for conduct of its business including consultation with stakeholders and experts in the field. The Chairperson would be at liberty to co-opt any person or expert who in his opinion would add value to the work of the Committee. All concerned are directed to extend full cooperation to the Committee.

11. The committee shall submit the report to the Commission by 30.11.2015.

sd/-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson

METHODOLOGY FOR COMPUTATION OF RELINQUISHMENT CHARGES

The formula for computation of relinquishment charges in case the LTA applicant changes the region owing to which there is a change in Injection as well as Drawal points

$$\text{Relinquishment Charges} = 66\% \text{ of } \sum_{i=1}^Y \{[(\text{Inj. PoC} * X) + (\text{Drawal PoC} * X)] / (1+\text{rate})^i\}$$

Where,

- X = Quantum of LTA to be reduced in MW
- Y = Period falling short of 12 years of LTA from the month of receipt of request plus notice period falling short of 12 months, in years.
- Inj. PoC = Published PoC rates for the month of receipt of request at the point of injection (if generation is existing) or of the Injection zone (if generation is yet to be commissioned)
- Drawal PoC = Published Minimum of PoC rates for the month of receipt of request for target region (if the relinquished capacity is based on target region) or PoC rates of drawl zone (if the relinquished capacity is based on firm PPA)

- a) In case of change of only drawl region, the injection point remains the same, hence the compensation shall be calculated on the basis of PoC charges of the drawl region only.

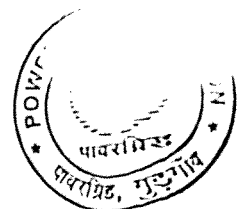
The compensation as per Regulation 18 of the Connectivity Regulations is equal to 66% of the estimated transmission charges (NPV) for the period falling short of 12 years of access rights.

In the present cases, the access for the LTA customers has not commenced, therefore, the period of twelve years shall have to be considered to be remaining stranded.

$$\text{Compensation} = 66\% \text{ of } \sum_{i=1}^Y \{(\text{Drawal PoC} * X) / (1+\text{rate})^i\}$$

Where,

- X = Quantum of LTA to be reduced in MW
- Y = Period falling short of 12 years of LTA from the month of receipt of request plus notice period falling short of 12 months, in years.



Drawl PoC = Published Minimum of PoC rates for the month of receipt of request for target region (If the relinquished capacity is based on target region) or PoC rates of drawl zone (If the relinquished capacity is based on firm PPA)

Discount rate for NPV = Published discounting rate from CERC "Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees".

Based on the above methodology, the compensation amount for an LTA customer whose revised LTA application with firmed up beneficiary was received in November 2013 has been calculated.

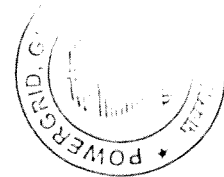
As the request was received in November 2013, accordingly PoC rates for the quarter October-December 2013 as published by CERC have been considered for calculation of compensation amount. (Copy of the order for PoC rates is enclosed at **Flag 1**).

Similarly, the discount rate for NPV has been taken from CERC rate in "Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees" published by CERC dated April 1, 2013 applicable upto 30.09.2013 is enclosed at **Annexure-A2**.

Quarter	Oct-Dec 2013
Minimum PoC rate in NEW Grid (Rate NEW Grid) (A)	Rs. 88,067/MW/Month
Transmission Charges based on the Minimum PoC rates for 12 months	12*88,067= Rs. 10,56,804
Discounting Factor (Discount Rate) (C)	13.1%
Change in Drawl Region	1 MW

$$D = 0.66 * NPV(C, Z1, Z2, Z3, Z4, Z5, Z6, Z7, Z8, Z9, Z10, Z11, Z12)$$

	X	Y	Z
Year 1	12	* A	Rs. 10,56,804
Year 2	12	* A	Rs. 10,56,804
Year 3	12	* A	Rs. 10,56,804
Year 4	12	* A	Rs. 10,56,804
Year 5	12	* A	Rs. 10,56,804
Year 6	12	* A	Rs. 10,56,804
Year 7	12	* A	Rs. 10,56,804
Year 8	12	* A	Rs. 10,56,804
Year 9	12	* A	Rs. 10,56,804
Year 10	12	* A	Rs. 10,56,804
Year 11	12	* A	Rs. 10,56,804
Year 12	12	* A	Rs. 10,56,804



Total NPV of the above series of Transmission Charges receivable for 12 years = Rs. 62,25,705.38

66% of the above NPV = $.66 * 6225705.38 = \text{Rs } 41,08,965.55$

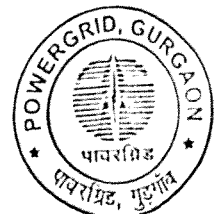
From the above, it may be seen that the per MW relinquishment charges for relinquishment of target region in NEW Grid works out to Rs.41.09 Lakhs/MW



Total NPV of the above series of Transmission Charges receivable for 12 years = Rs. 62,25,705.38

66% of the above NPV = $.66 * 6225705.38 = \text{Rs } 41,08,965.55$

From the above, it may be seen that the per MW relinquishment charges for relinquishment of target region in NEW Grid works out to Rs.41.09 Lakhs/MW



SUGGESTIONS RECEIVED WITH REGARD TO TERMS OF REFERENCE

(a) GMR Kamalanga Energy Limited & EMCO Energy Limited:

- (i) Whether change of beneficiary region by a long term open access (LTA) customer amounts to “relinquishment” of LTA in the meaning of Regulation 18 of the Connectivity Regulations, 2009?
- (ii) Whether relinquishment charges are payable given that in an inter-meshed network there is no “stranded” capacity in the meaning of Regulation 18 of the Connectivity Regulations, 2009?
- (iii) Whether relinquishment charges are payable by a LTA customer without regard to the actual loss, if any, caused to PGCIL or the relevant Designated Inter-State Transmission System Customers (DICs)?
- (iv) Whether the regulatory policy of requiring a generating company to indicate a target region at the time of making its LTA application, particularly, when the generating company is still developing its generating station (and thereby exposing it potential relinquishment charges on a subsequent change of beneficiary region), is not arbitrary and unreasonable?
- (v) Whether the levy of relinquishment charges on a LTA customer seeking a change of beneficiary region is not arbitrary and unreasonable?
- (vi) Whether any loss resulting from stranding, if any, on account of a change of beneficiary region ought not to be shared by the utilities whose information and representations form the basis of demand forecasts by statutory authorities such as the CEA, the Central and State Transmission Utilities and the RPCs as also the generating companies themselves?
- (vii) Whether calculating relinquishment charges for LTA customers seeking a change in beneficiary region based on the POC mechanism will not amount to imposing a penalty on LTA customers and result in the unjust enrichment of the designated ISTS customers, instead of merely compensating PGCIL which is the intention of Regulation 18 of the Connectivity Regulation?

- (viii) Whether it is not arbitrary and unreasonable to require LTA applicants to create bank guarantees in lieu of relinquishment charges at the rate of INR 50 lakh per MW or at all, at the time of grant of LTA?

(b) Dhariwal Infrastructure Limited:

- (i) There is need to distinguish between generating companies which have absolutely abandoned their project as well as LTA and those generating companies which have merely changed the Target Region(s) on account of dynamics of demand and supply factors prevalent in the Power Sector.
- (ii) Whether the change in Target Regions by the generating companies have been on account of some controllable factor or due to uncontrollable factors like abandonment of projects due to Force Majeure conditions or due to changing dynamics of demand supply forces of market?
- (iii) Whether the transmission system was strengthened or any part thereof for a particular applicant which could have possibly led to stranded capacity?
- (iv) Whether there is a need to determine stranded capacity on a case to case basis or can the relinquishment charges be levied on the basis of assumptions as proposed by Power Grid?
- (v) Whether relinquishment charges can be levied in the absence of determination of stranded capacity in view of the prevalent CERC's Connectivity Regulations and Open Access Regulations?
- (vi) Whether the prevalent CERC's Connectivity Regulations and Open Access Regulations provide for levying relinquishment charges in the interim till the stranded capacity is determined?

(c) Jindal Power Limited:

- (i) Whether, it is feasible to determine transmission capacity getting stranded in a meshed and developing network in case of relinquishment of LTA by Generating Companies in various scenarios as under:
 - (a) In case of change of Target Region to another Target Region.
 - (b) In case of generation plant getting abandoned.

- (ii) If answer to (a) above is 'yes' then what should be the methodology for determination of stranded capacity. In this regard, it will be useful for the Committee to give illustrative examples for the sake of clarity.
- (iii) In a developing power system where establishment of new generating plants as well as loads growth is continuing, how can it be predicted and with what certainty that capacity determined as stranded at any point of time would remain stranded in future also.
- (iv) In a scenario where only common transmission is developed catering to a large generators and no dedicated line was constructed for a particular generator, how such case is to be treated?
- (v) What should be the treatment, if only a part of the system that was envisaged for a group of generators has been commissioned as on the date of determination of stranded capacity?
- (vi) What should be the treatment, if planning for some parts of the system that was envisaged for a group of generators has been modified subsequent to signing of BPTA?
- (vii) If some parts of the common system that was envisaged for a group of generators will still get utilized with changed region, how this will be treated while determining the stranded capacity?
- (viii) Whether the reasons for change in Target Regions by the generating companies should have a bearing on levy of relinquishment charges viz. These being on account of some controllable factor or due to uncontrollable factors like abandonment of projects due to Force Majeure conditions or due to changing dynamics of demand supply forces of market?
- (ix) Whether relinquishment charges can be levied in absence of determination of stranded capacity in view of the prevalent CERC's Connectivity Regulations and Open Access Regulations?

(d) Essar Power (Madhya Pradesh) Limited:

- (i) To determine the methodology for ascertaining the extent of 'Stranded Capacity' created in a meshed network (ISTS) to the extent the network is 'unutilized', by any transmission service user.
- (ii) To determine whether change in Target Region or Target Beneficiary within the same Region can be considered as 'Relinquishment of LTA' under Regulation 18 of the Connectivity Regulations.

- (iii) To determine the basis and extent, if any, of Relinquishment Charges under Regulation 18 of the Connectivity Regulations, in cases where such change/relinquishment of LTA is due to:
 - a) Change in Target Region.
 - b) Change in Target Beneficiary within the Region specified at the time of application of LTA.
 - c) Execution of the firm Power Purchase Agreement (“PPA”) is affected by ‘force majeure’ or any other reason not attributable to the entity relinquishing the LTA.
 - d) The Long Term Access Customer (“LTAC”) is affected by ‘force majeure’ events or any other reason not attributable to such LTAC and results in abandonment of the Project.
- (iv) To determine the relinquishment charges to be levied by LTAC considering the obligation of PGCIL to mitigate losses and also the possibility of ‘unutilized’ network to be used for other LTA, MTOA or STOA arrangements. To further determine whether the relinquishment charges can be recovered in advance considering the principles of law relating to compensation and restitution.
- (v) To determine the principles regarding relinquishment charges where the relinquishment of LTA is due to LTAC being affected by force majeure events or reasons not attributable to the LTAC; who shall be liable under for such relinquishment charges.
- (vi) To specify the manner in which the relinquishment charges need to be adjusted by PGCIL in case the ‘stranded capacity’ is utilised. In such eventuality the relinquishment charges has to be credited back to the account/adjusted against the account of the LTAC since it would otherwise amount to unjust enrichment.
- (vii) To determine if the assessment of Relinquishment Charges go beyond the nearest pooling station or the line with which LILo was to be executed.
- (viii) To determine that since the transmission planning is done with a long term perspective and grid strengthening is done based on analysis of different demand supply scenarios listed in the CEA PLAN DOCUMENT, irrespective of which individual generator would be scheduled, is it reasonable and possible to attribute the investment in individual grid elements to a particular generator for the purpose of ROC?

(e) MB Power (Madhya Pradesh) Limited:

- (i) To carry out impact analysis of LTA relinquishment in terms of:
 - a) Quantum of LTA relinquished so far and its impact qua stranding of transmission capacity.
 - b) Network Expansion undertaken by CTU without LTA vis-a-vis Network Expansion after grant of LTA.
 - c) In event of quantum of LTA relinquished being low vis-à-vis total LTA quantum granted by CTU, determine possibility of recovery of associated relinquishment charges under PoC rather than making it incidental on LTA Customer.

- (ii) To identify the cases actually qualifying under “Relinquishment of LTA” like:
 - a) Absolute relinquishment of LTA on account of Project abandonment or delay in project execution beyond a reasonable period (force majeure or otherwise)
 - b) Relinquishment of LTA granted under firm beneficiary, under PPA(force majeure or otherwise)
 - c) Change in beneficiary within the same region of the LTA so granted.
 - d) Change of Region of LTA granted under Target Region i.e. where LTA granted on Target Region is surrendered by Generator and a fresh LTA application for another Target Region/Firm Beneficiary is made by such Generator within some specific period (say 2 Yrs) of surrendering the LTA.

- (iii) At what stage of grant of LTA may the LTA applicant be allowed to relinquish LTA without inviting any financial liabilities i.e. till signing of LTA Agreement or till submission of BG or till regulatory approval of CERC for strengthening of ISTS so identified in the LTA Agreement or till placing the final order to the contractor by PGCIL/TSP etc.?

- (iv) To determine the methodology for ascertaining the ‘Stranded Capacity’ in a meshed network (ISTS). This methodology to take into account the daily and seasonal diversity of load.

While laying down such methodology, regard should be given to all commercial transaction including Long Term, Medium Term (MTOA) and Short Term (STOA) commercial transaction whether projected or in actual, at the time of relinquishment of capacity.

- (v) To determine the basis and extent, if any, of Relinquishment Charges in the cases enumerated in Para (ii) above and other such cases.
- (vi) While determining the basis and extent of relinquishment charges, the outstanding applications with CTU seeking LTA/MTOA/STOA for such region where LTA is being relinquished by any LTA Customer should also be taken into account. Currently, in absence of formal relinquishment of LTA by the applicant (due to involvement of significant “Relinquishment Charges”). CTU is not releasing such capacity (which may otherwise get free on account of such relinquishment) under LTA to other applicants in queue, thereby leading to non-optimum utilization of transmission assets.
- (vii) To further determine whether the relinquishment charges can be recovered in advance considering the principles of law relating to compensation and restitution.
- (viii) To specify the process for levy and recovery of such relinquishment charges.
- (ix) To specify the methodology for treatment/adjustment of the amount collected against such relinquishment charges i.e. in event, such stranded capacity is gets utilized, these relinquishment charges, so levied, may be credited back/adjusted to the account of the LTA customer, since it would otherwise amount to unjust enrichment.

(f) TRN Energy Private Limited:

- (i) Computation of the stranded capacity should be precondition for calculating relinquishment charges.
- (ii) Relinquishment charges should not be determined in uniform manner and actual stranded capacity must be kept in mind.
- (iii) Entity/Person to be allowed to exchange corridors/constituents with permission of the PGCIL.
- (iv) Opportunity of being heard to be provided before determining stranded capacity and relinquishment charges.