

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 128/MP/2019  
Alongwith IA No.42/2019**

Subject : Petition under Sections 79(1)(c) and 79(1)(f) of the Electricity Act, 2003 read with Regulation 32 of Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 challenging the legality of Bill Nos. OGPTL-OPGC-01 dated 15.10.2018 and OPGTL-OPGC-02 dated 8.3.2019 raised by the Central Transmission Utility.

Petitioner : Odisha Power Generation Corporation Limited (OPGCL)

Respondents : Power Grid Corporation of India Limited and Another

Date of hearing : 16.5.2019

Coram : Shri P.K. Pujari, Chairperson  
Dr. M.K. Iyer, Member  
Shri I.S. Jha, Member

Parties present : Shri Sitiesh Mukherjee, Advocate, OPGCL  
Shri Deepa Rao, Advocate, OPGCL  
Shri Haresh Kumar Satapathy, OPGCL  
Shri TAN Reddy, OPGCL  
Ms. Anisha Chopra, OPGCL  
Ms. Suparna Srivastava, Advocate, PGCIL  
Ms. Anita A. Srivastav, PGCIL  
Ms. Jyoti Prasad, PGCIL  
Shri V. Srinivas, PGCIL  
Shri Hemant Singh, Advocate, OGPTL

**Record of Proceedings**

Learned counsel for the Petitioner submitted that the present Petition has been filed to set aside the Bill Nos. OGPTL-OPGC-01 dated 15.10.2018 and OGPTL-OPGC-02 dated 8.3.2019 raised by Power Grid Corporation of India Limited (PGCIL) to the Petitioner. Learned counsel for the Petitioner further submitted as under:

(a) The Petitioner made an application to PGCIL for grant of 600 MW LTA to inter-State Transmission System (ISTS) in the Northern, Western and Southern Regions. The 600 MW LTA was procured by the Petitioner from PGCIL for inter-State sale of power from Unit 4 of the Petitioner's project. Subsequently, on 11.9.2013, the Petitioner entered into a LTA Agreement and TSA with PGCIL and these agreements provide that the transmission system to facilitate the Petitioner's immediate evacuation of power would include, 400 kV D/C OPGC-Jharsuguda (Sundargarh) line connecting Unit 4 of the Petitioner's expansion project to the ISTS at PGCIL's Sundargarh Substation.

(b) On 4.12.2017, the Petitioner entered into a Tripartite Connection

Agreement with PGCIL and Odisha Generation Phase-II Transmission Ltd. (OGPTL). However, the LTA is yet to be operationalized in terms of the LTA and TSA, PGCIL raised two bills on the Petitioner for the purported transmission charges pertaining to the entire period between 30.8.2017 to 28.2.2019.

(c) On 18.9.2017, CEA approved the commissioning of the Petitioner's 2 nos. 400 kV line bays at generation switchyard. OGPTL's 400 kV D/C OPGC-Jharsuguda Line's Circuit-2 was charged on 5.12.2017. Subsequently, the Petitioner commissioned the 2 nos. 400 kV line bays at generation switchyard on 19.12.2017 due to delay in commissioning of the upstream 400 kV line and associated bays at Jharsuguda. Therefore, there was no delay on part of the Petitioner.

(d) During the Validation Committee Meeting dated 20.6.2018, OGPTL was allowed to bill annual transmission charges on the Petitioner and PGCIL in 50:50 proportion for the period between 30.8.2017 to 5.12.2017. However, the Petitioner was not a part of the said Validation Committee Meeting. Subsequently, PGCIL raised impugned bills despite the 18<sup>th</sup> and 19<sup>th</sup> JCC meeting held on 28.9.2018 and 20.12.2018 respectively, clearly noting that the commissioning of elements under the respective scope of both the Respondents were not in a position to be commissioned.

(e) On 13.12.2018, the Petitioner relinquished 600 MW LTA which was accepted by PGCIL vide letter dated 17.1.2019. However, still the impugned bills for the payment of transmission charges have been raised by PGCIL without the operationalization of the LTA which is contrary to the law.

(f) On 15.5.2019, OGPTL has served a notice for Regulation of Power Supply to the Petitioner wherein it has been stated that in case of failure by the Petitioner to clear the outstanding dues by 28.5.2016, the power supply of the Petitioner would be regulated w.e.f. 30.5.2019.

2. Learned counsel for OGPTL submitted as under:

(a) OGPTL has commissioned an ISTS at Odisha and Chhattisgarh comprising of 400 kV D/C OPGC-Jharsugusa Transmission Line under the Tariff Based Competitive Bidding Guidelines. The said transmission line is an evacuation line from which start up power is drawn by the Petitioner and has been commissioned as per the schedule. Subsequent to the completion of the transmission line, OGPTL submitted the details of the transmission charges to PGCIL upon which PGCIL raised bills on the Petitioner.

(b) Despite the invoices raised by the PGCIL and as per the directions of the Validation Committee meeting dated 20.6.2018, the Petitioner failed to pay any of the monthly bills for more than 19 months.

(c) PGCIL had filed Petition No. 350/MP/2018 on similar subject for seeking stay on the operation of the minutes of the same Validation Committee Meeting. However, PGCIL had withdrawn the said Petition.

3. Learned counsel for PGCIL requested for time to file its reply to the Petition.

4. After hearing the learned counsels for the Petitioner, OGPTL and PGCIL, the

Commission admitted the Petition and directed to issue notice to the Respondents.

5. The Commission directed the Respondents to file their replies by 6.6.2019 with an advance copy to the Petitioner who may file its rejoinder, if any, by 20.6.2019. The Commission directed that due date of filing the replies and rejoinders should be strictly complied with. No extension shall be granted on that account.

6. Learned counsel for the Petitioner submitted that the Petitioner has filed IA No.42/2019 for restraining the Respondents from taking any coercive steps including the encashment of bank guarantee against the Petitioner till the final disposal of the Petition. In response, learned counsel for PGCIL submitted that that PGCIL would not take any coercive measure subject to the condition that bank guarantee shall be kept alive by the Petitioner. Considering the submissions of the learned counsel for the Petitioner and PGCIL, the Commission directed the Respondents not to take any coercive measure against the Petitioner till the next date of hearing. The Commission directed the Petitioner to keep the Bank Guarantee alive till the next date of hearing. Accordingly, the Commission disposed of the IA No. 42/2019.

7. The Petition shall be listed for hearing in due course for which separate notice shall be issued to the parties.

**By order of the Commission**

**Sd/-  
(T.D. Pant)  
Deputy Chief (Law)**