

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 183/TT/2016**

**Coram:**

**Shri P.K. Pujari, Chairperson**

**Dr. M. K. Iyer, Member**

**Shri I.S Jha, Member**

**Date of Order: 5.02.2020**

**In the matter of**

Approval of transmission tariff of **Asset-I:** 220 kV D/C Rangpo-New Melli Line and associated bays at Rangpo and New Melli alongwith one no. 220 kV Bus Coupler Bay each at Rangpo and New Melli, **Asset-II:** 1 no. 31.5 MVAR Bus Reactor (1st) at New Melli and associated bay and **Asset-III:** 1 no. 31.5 MVAR Bus Reactor (2nd) at New Melli and associated bay, under Sikkim Generation Projects-Part-B in Eastern Region for 2014-19 tariff block under Regulation 86 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014.

**And in the matter of:**

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

**.....Petitioner**

**Vs**

1. Gati Infrastructure Chuzachen Limited,  
1-7-293, MG Road, 268, Udyog Vihar, Phase-IV,  
Secunderabad, Andhra Pradesh - 500 003.
2. Gati Infrastructure Bhasmay Power Limited,  
1-7-293, MG Road, 268, Udyog Vihar, Phase-IV,  
Secunderabad, Andhra Pradesh-500 003.
3. PTC India Limited,  
2nd Floor, NBCC Tower, 15, Bhikaji Cama Place,  
New Delhi.



4. Lanco Energy Private Limited,  
Plot No. 397, 2nd Floor, Udyog Vihar, Phase-III, Gurgaon,  
Haryana-120 016.
5. Dans Energy Private Limited,  
5th Floor, DLF Building No. 8, Tower C, DLF Cyber City Phase-II,  
Gurgaon, Haryana-122 002.
6. Jal Power Corporation Limited,  
405-406, Raja House, 30-31,  
Nehru Place, New Delhi-110 019.
7. Madhya Bharat Power Corporation Limited,  
NH-31-A, Golitar, Singtam,  
Gangtok- 737 134, Sikkim.
8. Bihar State Power (Holding) Company Limited,  
(Formerly Bihar State Electricity Board-BSEB),  
Vidyut Bhawan, Bailey Road,  
Patna-800 001.
9. West Bengal State Electricity Distribution Company Limited,  
Bidyut Bhawan, Bidhan Nagar, Block DJ, Sector-II, Salt Lake City,  
Kolkata-700 091.
10. Grid Corporation of Orissa Limited,  
Shahid Nagar,  
Bhubaneswar-751 007.
11. Damodar Valley Corporation,  
DVC Tower, Maniktala, Civil Centre,  
VIP Road, Kolkata-700 054.
12. Power Department,  
Govt. of Sikkim, Gangtok-737 101.
13. Jharkhand State Electricity board,  
In Front of Main Secretariat,  
Doranda, Ranchi-834 002
14. SHIGA Energy Pvt. Ltd.  
5th Floor. DLF Building No.8  
Tower-C, DLF Cyber City, Phase-II,  
Gurgaon- 122002, Harayana.
15. Sikkim Hydro Power Ventures Ltd.  
5th Floor, Orbit Plaza, New Prabhadevi Road,  
Prabhadevi, Mumbai-400025, Maharashtra.

16. Teesta Vellay Power Transmission Ltd.  
2nd Floor, Vijaya Building,  
17, Barakhamba Road, New Delhi-110001

.....Respondents

**Parties present**

**For Petitioner:** Ms. Suparna Srivastav, Advocate, PGCIL  
Shri Tushar Mehta, Advocate, PGCIL  
Shri A.K Verma, PGCIL  
Shri S. S. Raju, PGCIL  
Shri Amit Yadav, PGCIL  
Shri Dwarpayan Sen, PGCIL

**For Respondents:** Shri M.G Ramachandran, Sr. Advocate, DEPL  
Ms. Swapna Sheshdari, Advocate, DEPL  
Shri Amal Nair, Advocate, DEPL  
Shri Vijay Kumar, Advocate, DEPL  
Shri Ravi Kishore, Advocate, PTC  
Ms. Rajshree Chaudhary, Advocate, PTC  
Shri Ankur Gupta, Advocate, TPTL  
Shri R.B Sharma, Advocate, BSP(H)CL,  
Shri Mohit Mudgal, Advocate, BSP(H)CL,

**ORDER**

The Petitioner has filed the present petition claiming tariff of Asset-I: 220 kV DIC Rangpo-New Melli Line and associated bays at Rangpo and New Melli along with one no. 220kV Bus Coupler Bay each at Rangpo and New Melli, Asset-II: 1 no. 31.5 MVAR Bus Reactor (1st) at New Melli and associated bay and Asset-III: 1 no. 31.5 MVAR Bus Reactor (2nd) at New Melli and associated bay under Sikkim Generation projects-Part-B in Eastern Region.

2. The Commission had earlier allowed tariff for the said assets vide order dated 14.11.2017 in the instant Petition. In the said order, it was held that IDC and IEDC in



respect of Asset-I from 21.5.2015 to 21.9.2015 shall be borne by Respondent No. 5 (DANS Energy Pvt. Ltd. or DEPL, in short) and Respondent No. 6 (JAL Power Corporation Ltd., or JALPCL in short, also known as Rangit-IV) in the ratio of LTA granted to them. Further, it was directed that from the COD of the assets, the transmission charges shall be shared by DEPL and JALPCL in the ratio of the LTA granted and that after operationalisation of the LTA granted to these generators, the transmission charges was to be included in PoC charges and in case of part operationalisation of LTA, the corresponding charges was to be included in PoC.

3. Aggrieved by the aforesaid order of the Commission, DEPL preferred Review Petition No. 28/RP/2018 which was disposed of by the Commission vide order dated 19.3.2019 observing that the issue of sharing of the transmission charges for the said three assets needs to be decided after hearing all the necessary parties viz. DANS Energy Pvt. Ltd. (Respondent No. 5), JAL Power Corp. Ltd. (Respondent No. 6), Shiga Energy Pvt. Ltd. (Respondent No. 14) and Sikkim Hydro Power Ventures Ltd. or Rangit-II (Respondent No. 15) and directed to reopen Petition No.183/TT/2016 for hearing. The Commission further directed PGCIL to file amended “Memo of Parties” in Petition No. 183/TT/2016 making Shiga Energy Pvt. Ltd. (SEPL), Sikkim Hydro Power Ventures Ltd. (SHPVL) and any other generator for whom the instant transmission assets are envisaged and to serve a copy of the petition on them.

4. The Petitioner vide its affidavit dated 26.7.2019 has prayed as follows:

*“direct the subject assets to be included in the PoC pool from the date of their actual commissioning i.e. 21.5.2015 and the billing and collection of the transmission charges of the subject assets to be shared by the long term customers/beneficiaries in accordance to the provisions of Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010, as amended from time to time, as provided in Regulation 43 of the 2014 Tariff Regulations”*



## **Submissions by DANS Energy Pvt. Ltd (DEPL)**

5. DEPL has, vide affidavit dated 14.5.2019, submitted as under:
- a. The present matter has been reopened based on the Order dated 19.03.2019 passed in Review Petition 28/RP/2018 that states as under:

“11. *The Review Petitioner has filed I.A No.61/IA/2018 seeking condonation of delay in filing the present Review Petition. Taking into consideration the complexities of the issues involved, we condone the delay in filing the instant Review Petition and admit the same.*

12. *We have considered the submissions of the Review Petitioner and PGCIL. The instant Review Petition has been filed for review of the Commission's order dated 14.11.2017 wherein it was held that the IDC and IEDC of Asset-I, i.e. 220 kV D/C Rangpo-New Melli Line and associated bays at Rangpo and New Melli alongwith one no. 220 kV Bus Coupler Bay each at Rangpo and New Melli from 21.5.2015 to 21.9.2015 would be borne by the Review Petitioner and Rangit-IV (JAL Power Limited) in the ratio of LTA allotted to them and thereafter transmission charges shall be borne by them in the said ratio. PGCIL has submitted that one more generator, Shiga Energy Pvt. Ltd. has commissioned its generating station and its power is pooled at New Melli Sub-station through the transmission system of Government of Sikkim for onward transmission to the ISTS. Accordingly, the IDC and IEDC charges pertaining to Asset-I for the period 21.5.2015 to 21.9.2015 may have to be shared by Shiga Energy Pvt. Ltd. as well besides Jorethang and Rangit IV. This aspect was not brought to the notice of the Commission in Petition No.183/TT/2016 as PGCIL in its affidavit dated 25.4.2017 in the Main Petition had submitted that Asset-I was envisaged for Jorethang and Rangit IV. It is observed that Asset-I was constructed for DANS Energy Pvt. Ltd., JAL Power Corp. Ltd., Shiga Energy Pvt. Ltd. and Rangit II. Therefore, the issue of sharing of the charges needs to be decided after hearing all the necessary parties. The Review Petitioner has also raised the issue of sharing of transmission charges for Asset-I, II and III up to operationalisation of LTA. Accordingly, we allow the review to the limited extent of reconsideration of the sharing of transmission charges for the three assets and set down the main petition for hearing on the aspect of sharing. PGCIL is directed to file an amended “Memo of Parties” in Petition No.183/TT/2016 making Shiga Energy Pvt. Ltd. and Rangit II and any other generator for whom the instant transmission assets are envisaged and serve a copy of the petition on them within 15 days of issue of this order.*

13. *The Review Petitioner has also filed I.A. No.62/IA/2018 for “Stay” of the operation of impugned order and the bill dated 9.4.2018 raised by PGCIL. PGCIL has operationalized the LTA on 13.2.2019 (erroneously typed as 13.2.2019 instead of 23.2.2019). Since we have decided to look afresh the sharing of the IDC and IEDC and transmission charges till the date of operationalisation of the LTA, we direct PGCIL not to take any coercive measures to recover the charges for the period prior to operationalisation of the LTA till further orders. I.A. No.62/IA/2018 is accordingly disposed of.*

14. PGCIL is directed to submit the details of the Teesta III to Rangpo (GIS) transmission line and Rangpo (GIS) to Kishanganj transmission line, including their mode of execution (whether under TBCB or cost plus), the details of the generators for whom the said lines are constructed, the LTA granted to the generators, whether all the generators for whom the said lines were constructed have commissioned their generating stations and their associated transmission lines, if any.”

b. Even though this Commission has directed PGCIL to give full details of the transmission lines from Teesta III to Rangpo (GIS) and Rangpo (GIS) to Kishanganj, PGCIL has provided only vague details and has not filed the COD of the respective transmission lines. Teesta III – Kishanganj 400 KV D/C line was commissioned on 13.2.2019 and LILO of one circuit of Teesta III – Kishanganj at Rangpo was commissioned on 26.11.2016. However, the LILO of the second circuit of the Teesta III – Kishanganj at Rangpo is expected to be commissioned only by June 2020.

c. DEPL is a generating company which has established a Project of 2 x 48 MW each aggregating to 96 MW at Jorethang in the State of Sikkim. The project was declared under commercial operation on 30.09.2015. DEPL and some other generators had applied for long term access (LTA) to PGCIL for generation Projects in Sikkim, which was granted by PGCIL vide letter dated 26.05.2009. Subsequent to grant of LTA, DEPL and other generators had entered into BPTA with PGCIL on 24.02.2010. The system identified in the BPTA (as amended subsequently) is as under:

*“Transmission System under the Scope of POWERGRID*

***A. Transmission system for Transfer of power from generation projects in Sikkim to NR/WR (Part-A)***

- *Establishment of New 2x315 MVA, 400kV sub-station at Kishanganj*
- *LILO of siliguri (Existing) – Purnea 400 kV D/C line (quad) at new pooling station Kishanganj*
- *LILO of Siliguri (Existing) – Purnea 400 kv D/C line (on which re-conductoring is being carried out) at Kishanganj with higher capacity (quad) conductor*
- *LILO of siliguri – Dalkhola 220kV D/C line at new pooling station Kishanganj*

➤ LILO of Gangtok-Melli 132kV S/c line upto Rangpo where Chuzachen-Rangpo 132kV D/C would be connected so as to form Chuzachen-Gangtok and Chuzachen-Melli 132kV S/C lines. [This would be a temporary arrangement till establishment of Rangpo pooling substation under Part-B of the scheme and termination of Gangtok-Rangpo, Melli-Rangpo and Chuzachen-Rangpo]

**B. Transmission System for transfer of power from generation projects in Sikkim to NR/WR (Part-B)**

➤ Establishment of 400/220/132kV (400/220kV, 16x105 MVA , Single, phase transformer and 220/132kV,3x100MVA) Gas Insulated Substation at Rangpo

➤ Establishment of 220kV Gas Insulated substation at New Melli

➤ LILO of Teesta III –Kishanganj 400kV D/c line (quad, Teesta III - kishanganj 400kV D/c line to be constructed through JV route) at Rangpo

➤ Rangpo - NEW Melli 220kV D/C line (with twin Moose conductor)

➤ LILO of Gangtok-Rangit 132kV S/c line at Rangpo and termination of Gantok-Rangpo/Chujachen and melli – Rangpo/Chujachen 132kV lines (constructed under part-A through LILO of Gangtok-Melli 132kV S/c line upto Rangpo) at Rangpo substation

➤ LILO of Teesta V – siliguri 400kV D/c line at Rangpo

➤ Kishanganj – Patna 400V D/c (quad) line

**Note:**

*Teesta – III – Mangan and mangan-Kishanganj 400kV D/C line (proposed to be implemented by TPTL under JV route) is to be LILoed at Rangpo pooling station for evacuation of Phase- I generation projects to Kishanganj as per Annexure – I. This line would be LILoed at proposed Mangan pooling station at a later date on identification of future generation projects at upper part of Sikkim. Accordingly at present the Teesta - III – Rangpo portion of this line is for evacuation of Teesta – III – generation only, however after commissioning of Mangan pooling station, the Mangan – Rangpo portion of this line would be utilized by other generation projects also.”*

d. As per Annexure 3 of the BPTA, PGCIL was under an obligation to complete various substations and transmission lines for evacuation of power from the power plants of DEPL. The BPTA is an agreement between PGCIL and DEPL that is under the 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 (hereinafter referred to as the 2009 Connectivity Regulations) between PGCIL



and DEPL. This is the only contract between the parties providing for the respective rights and obligations qua each other.

e. In each of the meetings held prior to the signing of the BPTA and also in the BPTA, it was provided that the LTA Charges for the system will be shared by DEPL, PTC India Ltd, Lanco Energy Pvt. Ltd., Jal Power Corporation Ltd., TT Energy Pvt. Ltd., Shiga Energy Pvt. Ltd., Madhya Bharat Power Corporation Ltd., Gati Infrastructure Limited and Gati Infrastructure Bhasmay Power Pvt. Ltd.

f. A review meeting was held in the CEA on 01.02.2010 to ascertain the status of generation projects and to prioritize the development of associated transmission system. Further, the matter was also discussed in the meeting of the Standing Committee on power system planning in Eastern region held on 20.09.2010 at NRPC, New Delhi and at the meeting of Standing Committee Meeting on power system planning in Eastern region held on 28.12.2010 at PGCIL's Office. In all the meetings, it was reiterated that the transmission charges would be shared by all the LTTCs.

g. Despite DEPL achieving commercial operation on 30.09.2015, PGCIL had not operationalized the LTA because it had not completed the full system as per Annexure 3. The LTA has only recently been operationalized on 23.02.2019.

h. From COD of DEPL i.e. 30.09.2015 till recently, DEPL was pushing its power through short term open access (STOA) without the LTA being operationalized and paying the short term open access charges.

i. There is no default on its part. This Commission as well as the Appellate Tribunal for Electricity (APTEL) has been taking the view that when the upstream or downstream portions of transmission schemes do not get commissioned, the transmission charges for the portion which is commissioned cannot be recovered through POC mechanism but have to be paid for by the defaulting entity, namely the entity that has not constructed/ commissioned the



upstream or downstream transmission asset.

j. The consistent principle which has been followed qua recovery/ sharing of transmission charges right till the Hon'ble Supreme Court is that a non-defaulting party ought not to pay the transmission charges. In this regard, the Hon'ble Supreme Court in Power Grid Corporation of India Limited v PSPCL & Ors (2016 4 SCC 797) has held as under:

*“11. From the above definition, it is clear that switchgear and other works are part of transmission lines. In our opinion, Regulation 3 (12) of the Regulations, 2009 cannot be interpreted against the spirit of the definition of “transmission lines” given in the statute. It is evident from record that it is not a disputed fact that switchgear at Barh end of Barh-Balia line for protection and metering were to be installed by NTPC and the same was not done by it when transmission line was completed by the appellant. As such the appellant might have suffered due to delay on the part of NTPC in completing the transmission lines for some period. But beneficiaries, including respondent No. 1, cannot be made liable to pay for this delay w.e.f. 01.07.2010 as the energy supply line had not started on said date.”*

k. In the above judgment of the Hon'ble Supreme Court, the view taken by APTEL in the Judgment dated 02.07.2012 was upheld. This Commission itself in several cases has refused to approve the COD of PGCIL in accordance with second proviso to Regulation 4(3) of the Tariff Regulations, 2014.

l. Applying the above principles to the present case, the defaulting party is the Joint Venture Company of PGCIL and Teesta – III (in the case of transmission line) and PGCIL itself (in the case of the LILO). Therefore, under no circumstances can DEPL be asked to bear the IDC/ IEDC or transmission charges of the following assets:

**“Asset-I:** 220 kV D/C Rangpo-New Melli Line and associated bays at Rangpo and New Melli along with one no. 220 kV Bus Coupler Bay each at Rangpo and New Melli,

**Asset-II:** 1 no. 31.5 MVAR Bus Reactor (1st) at New Melli and associated bay and

**Asset-III:** 1 no. 31.5 MVAR Bus Reactor (2nd) at New Melli and associated bay”

m. In fact, in absence of its LTA being operationalized, DEPL was already paying for STOA charges to schedule its power through STOA. The above lines are part of the scheme to operationalise the LTA to the generators including DEPL but in the absence of the entire scheme, LTA of DEPL was not

operationalized by PGCIL and power of DEPL was evacuated through STOA for which DEPL already paid STOA charges and thus transmission charges for these individual assets cannot be loaded on DEPL.

n. On the second aspect of the generators for whom the said lines were constructed, DEPL has nothing to do with the matter. DEPL has commissioned its generating station as well as its dedicated transmission line. It is PGCIL who did not operationalise the LTA of DEPL upon COD of DEPL and power of DEPL was evacuated through STOA.

o. The consequences of relinquishment of LTA or termination of TSA have to be seen and adjudicated between PGCIL and the respective individual generators and cannot be linked to DEPL. DEPL cannot be penalized in any manner for the defaults of other generators.

### **Submissions by Shiga Energy Pvt. Ltd.(SEPL)**

6. SEPL, vide affidavit dated 17.5.2019, has submitted as under:

a. SEPL was not a part to the original matter 183/TT/2016, but by virtue of the matter being reopened before this Commission by the Order dated 19.03.2019 passed in Review Petition 28/RP/2018, SEPL has been made a party to the matter.

b. SEPL has also filed a petition, being No. 92/ MP/2018 before this Commission under Sections 79(1)(c) read with 79(1)(f) of the Electricity Act, 2003, seeking a direction to PGCIL to pay a sum of Rs. 112.39 crore, being the financial loss suffered by SEPL on account of delay in commencement of the Long Term Access granted to it. The said petition is pending for adjudication before this Commission.

c. SEPL is a generating company which has established a Project of 2 x 48.5 MW each aggregating to 97 MW at Tashiding in West District in the State of Sikkim. SEPL completed dry commissioning and testing of both its units by December 2016. SEPL had also completed its dedicated transmission line by

December 2016.

d. Due to the inordinate delays on the part of PGCIL in completing its works of the 220 KV 'Legship' Pool (Tingmoo) to New Melli (as detailed in Petition No. 92/MP/2018) which were completed only in October 2017, the project was declared under commercial operation on 06.11.2017.

e. SEPL and some other generators had applied for long term access to PGCIL for generation Projects in Sikkim, which was granted by PGCIL vide letter dated 26.05.2009. Subsequently in the meeting held on 28.12.2010 between SEPL and PGCIL along with other project developers, the scope of work was revised. SEPL entered into LTA Agreement with PGCIL on 19.10.2011 pertaining to the sharing of transmission charges of the common transmission system to evacuate and dispatch power to respective beneficiaries from the generating projects which is to be developed by PGCIL. In order to give effect to the LTA, the system identified by PGCIL itself in the LTA Agreement is as under:

**Annexure-3**

**Transmission system for transmission of power to be developed by ISTS Licensee**

***(Completion Schedule shall be as finalized with the ISTS Licensee through Tariff Based Competitive Bidding)***

<b>Sl. No.</b>	<b>Name of Scheme &amp; Elements</b>
1.	<i>Pannan- Mangan 400kV D/C Line**</i>
2.	<i>Establishment of 4x105MVA, Single Phase, 400/132kV Gas Insulted Pooling Station at Mangan</i>
3.	<i>LILO of Teesta-III- Kishanganj 400kV D/c line at Mangan</i>
4.	<i>Mangan- Kishanganj 400 kV D/c line with quad moose conductor#</i>
5.	<i>New Melli- Rangpo 220kV D/c with twin moose conductor(2nd)</i>

*\*\* These lines would be taken up upon receipt of LTA application and issue of LTA intimation to Pannan and Lethang HEP*

*# This line would be taken up along with receipt of LTA application for additional generation projects in the upper part of Sikkim*

**Transmission System under the scope of Govt. of Sikkim**

➤ *Establishment of 220kV Gas Insulted Pooling Station near Tashiding*



- Pooling station near Tashiding- New Melli 220kV D/c with twin moose conductor
- Gangtok- Mangan 132kV D/c line with Zebra Conductor.

**Note:**

1. *The termination of the line as well as location of pooling station/sub-station is subject to changes depending upon final survey and physical constraint, if any.*
2. *In case of any major development, if there is any change in the transmission system to achieve overall optimization of the system, then above details would be modified accordingly.*
3. *In case any of the above system or the associated bays of any of the above transmission system is to be implemented by POWERGRID, the same would form part of this Agreement.*

f. As per Annexure 3 of the LTAA, PGCIL was under an obligation to complete various substations and transmission lines for evacuation of power from the power plant of SEPL. Note 3 specifically states that “3. *In case any of the above systems or the associated bays of any of the above transmission system is to be implemented by POWERGRID, the same would form part of this Agreement*”. This is the only contract between the parties providing for the respective rights and obligations qua each other.

g. Insofar as SEPL is concerned, the dedicated portion to be developed by it was the Tashiding – Legship 220 kV D/C line.

h. SEPL wrote several letters to PGCIL to inform that its generating unit is in the advanced stages of commissioning and is likely to be completed by December 2016. SEPL also wrote to PGCIL to complete the "Legship" Substation and the Transmission line from "Legship" to "New Melli" on a priority basis to avoid any delay in power evacuation.

i. Pursuant to the above, SEPL attended several meetings with PGCIL as well as CEA and impressed upon them to complete the “Legship” Substation and the Transmission line from "Legship" to "New Melli".

j. Due to the delay by PGCIL in completing scope of work as per

Annexure 3 of the LTAA, even though SEPL had completed dry commissioning and testing of its units in December 2016 and completed its dedicated transmission line also by December, 2016, the COD could only be declared on 06.11.2017. However, PGCIL had not operationalized the LTA because it had not completed the full system as per Annexure 3. The LTA has only recently been operationalized on 23.02.2019.

k. There is no default on its part. This Commission as well as APTEL has taken the view that when the upstream or downstream portions of transmission schemes do not get commissioned, the transmission charges for the portion which is commissioned cannot be recovered through POC mechanism but have to be paid for by the defaulting entity, namely the entity who has not constructed/ commissioned the upstream or downstream transmission asset. In fact, in the absence of its LTA being operationalized, SEPL has suffered huge losses which have been claimed by Shiga on PGCIL by filing Petition No. 92/MP/2018. There can be no question of loading the transmission charges of the instant assets on SEPL.

l. PGCIL has also sought to mislead this Commission in their affidavit dated 02.04.2019. In the Table given by PGCIL, with regard to SEPL, PGCIL has included Legship pool – New Melli transmission line and Legship pool substation under the head of Dedicated Transmission System whereas as per Annexure 3 of the LTAA dated 19.10.2011, it is not part of the Dedicated Transmission System.

m. On the other aspect of the generators for whom the said lines were constructed, SEPL has nothing to do with the matter. SEPL had commissioned its generating station as well as its dedicated transmission line and the entire default lies on the part of PGCIL. It is PGCIL who did not operationalise the LTA of SEPL and also has not facilitated in evacuating the power through STOA.

n. The consequences of relinquishment of LTA or termination of TSA have

to be seen and adjudicated between PGCIL and the respective individual generators and cannot be linked to SEPL. SEPL cannot be penalized in any manner for the defaults of the other generators.

7. During hearing dated 24.05.2019, the petitioner submitted that it has impleaded all the necessary parties as respondents in the present petition vide affidavits dated 29.03.2019 & 22.05.2019 and has also filed amended memo of parties.

**Submission by Teesta Valley Power Transmission Limited (TPTL)**

8. Teesta Valley Power Transmission Limited (TPTL), vide affidavit dated 27.06.2019, has submitted as under:

a. TPTL was not originally a Respondent to the Petition and has been impleaded by PGCIL pursuant to the reopening of the Petition by this Commission vide Order dated 19.03.2019 in Review Petition 28/RP/2018.

b. The instant assets have been executed by PGCIL solely for the four generating stations namely DEPL, SEPL, JALPCL and SHPVL pursuant to the LTA granted by PGCIL to these LTTCs and the BPTA dated 24.02.2010 between the said generating companies and PGCIL. TPTL has not entered into any agreement with either of these generating companies with regard to matching of the commissioning of TPTL's transmission system with that of the generating stations. Further, the BPTA dated 24.02.2010 *inter-alia* stipulates the penalties to be levied in the event of delay in the completion of the generating stations or the transmissions assets of PGCIL.

c. TPTL, an Inter State Transmission (ISTS) licensee, has constructed 215 km of 400 kV D/C Teesta III- Kishanganj transmission line along with 2 nos. line bays and 2 nos. 63 MVAR reactors at Kishanganj switchyard as a part of the master plan for evacuation of power from 1200 MW Teesta III HEP as well as other hydro-electric projects in the State of Sikkim.

d. The Standing Committee on Power System Planning in Eastern Region in its meeting held on 14.09.2009 decided that 400 kV D/C Teesta III HEP - Kishanganj transmission line would be LILOed at proposed Mangan Pooling Station at a later date for future generation projects in Northern part of Sikkim. Execution of Mangan Pooling Station by PGCIL is yet to commence. The Standing Committee in its meeting held on 20.09.2010 decided to LILO 400 kV D/C Teesta III HEP - Kishanganj transmission line at Rangpo sub-station of PGCIL and it was decided to be under the scope of PGCIL. Accordingly, the 400 kV D/C Teesta III- Kishanganj system is developed as detailed below: -

**Table-1**

S.N.	Particulars	Petition Details before CERC	Actual COD
1.	Teesta III – Rangpo Section i.e. Circuit #2 (36 Ckt Km)	Petition No.108/TT/2016 – Final Order dated 15.05.2018.	COD achieved on <b>17.01.2017</b>
2.	Teesta III - Dikchu Section i.e. Circuit #1(a) (14 Ckt Km)		COD achieved on <b>14.04.2017</b>
3.	Dikchu - Rangpo Section i.e. Circuit #1(b) (22 Ckt Km)	Petition No. 368/TT/2018 dated 04.09.2018	COD achieved on <b>02.07.2018</b>
4.	Ckt-2(a) of Rangpo LILO Point - Kishanganj D/C transmission line (179 Km) along with associated bays at Kishanganj Sub station	Petition No. 96/TT/2019 dated 19.02.2019	COD achieved on <b>06.01.2019</b>
5.	Ckt-1(c) of Rangpo LILO Point - Kishanganj D/C transmission line (179 Km) along with associated bays at Kishanganj Sub station		COD achieved on <b>13.02.2019</b>

e. With the COD of Ckt-1(c) of Rangpo LILO Point - Kishanganj D/C transmission line mentioned at Sl. No. 5 above, the complete transmission system of TPTL stands commissioned on 13.02.2019. The Petition No. 96/TT/2019 for determination of tariff for 179 Km 400 kV D/C line Rangpo – Kishanganj section of Teesta III-Kishanganj system including details of various Force Majeure events leading to time over run is presently under consideration of the Commission.



f. Asset-I has been put to regular service from 22.09.2015 after successful trial operation being achieved on 20.05.2015. The Commission has approved the COD of the Asset-I as 22.09.2015, i.e. upon commissioning of Jorethang HEP of DEPL. According to first proviso to Regulation 12(2) of the 2014 Tariff Regulations, no impact of time over-run or cost over-run shall be allowed on account of non-commissioning of generating station and the same should be recovered through Implementation Agreement (IA) between the generating company and transmission licensee. The second proviso to Regulation 12(2) of the 2014 Tariff Regulations provides that if the generating station is not commissioned on SCOD of the associated transmission system, the generating company shall bear IDC and if the transmission system is declared under commercial operation by the Commission under second proviso of Regulation 4(3), then the generating company shall bear the transmission charges of the transmission system till the generating station is commissioned.

g. The instant case is covered under the second proviso to Regulation 12(2) of the 2014 Tariff Regulations. Therefore, the Commission may decide the issue of sharing of IDC and IEDC from 21.5.2015 to 21.9.2015 of Asset-I among the generating stations whose power was to be evacuated through Rangpo-New Melli line after taking into the relevant facts of the generating stations. TPTL was in no way responsible for delay in commercial operation of Asset-I of PGCIL and, therefore, no part of liability for IDC and IEDC for the period from 21.5.2015 to 21.9.2015 can be fastened on it.

h. The instant assets were envisaged under “Transmission System for Transfer of Power from Generation Projects in Sikkim to NR/WR Part-B in Eastern Region” for evacuation of power from Generation Projects of Sikkim, details of which is submitted by PGCIL in Para 5.1 of the instant Petition. In the table provided in Para 5.1, it can be noticed that the tariff of various assets envisaged under Part-B scheme has been approved by the Commission through different Tariff orders. The list of elements under the aforesaid Transmission System, respective CODs and the orders by which their tariff was determined by CERC is provided below:

S.N.	Asset	Actual COD	Petition / Order	Remarks
1.	Termination of Gangtok-Rangpo/ Chuzahen & Melli-Rangpo/ Chuzachen line at Rangpo & associated bays at Rangpo S/s, LILO of 400 kV D/C Teesta V – Siliguri Line (ckt-I) at Rangpo and associated bays along with 1 no. 400 kV Bus Coupler bay at Rangpo S/s, 01 no. 3 x 105 MVA Single Phase 400/220 kV Transformer (1 <sup>st</sup> ) and associated bays along with 1 No. 1x 105 MVA Single Phase, 400/220 kV Spare Transformer at Rangpo S/s, & one no. 100MVA 220/132 kV transformer (1 <sup>st</sup> ) and associated bays along with 1 no. 132 kV Bus Coupler Bay and 1 no. 132 kV Bus Sectionalizer bay at Rangpo S/s	24.04.2014	68/TT/2016  Order dated 29.07.2016	Included in POC pool with effect from COD when the asset was put to use without linking it to operationalisation of LTA
2.	LILO of 132 kV S/C Gangtok-Rangit Line at Rangpo and associated bays at Rangpo Sub-station	01.12.2014		
3.	01 no. 3X105 MVA Single Phase 400/220 kV Transformer (2nd) and associated bays at Rangpo Sub-station	22.05.2014		
4.	01 no. 80 MVAR Bus Reactor (1st) & associated bays at Rangpo Sub-station	22.05.2014		
5.	400/220 kV 125 MVAR, Bus Reactor along with associated bays at Patna Sub-station	01.08.2013	292/TT/2013  Order dated 08.02.2016	Included in POC pool with effect from COD when the asset was put to use without linking it to operationalisation of LTA.
6.	1 no. 3x105 Single Phase, 400/220 kV Transformer (3rd) with	09.06.2014	118/TT/2014  Order dated	Included in POC pool with effect from COD when the asset was

S.N.	Asset	Actual COD	Petition / Order	Remarks
	associated bays under Rangpo Sub-station		29.12.2016	put to use without linking it to operationalisation of LTA.
7.	1 no. 100 MVA, 220/132 kV transformer (2nd), 1 no. 132 kV Bus Coupler bay and 1 no. 132 kV Bus Sectionalizer with associated bays at Rangpo Sub-station	22.05.2014		
8.	1 no. 80 MVAR Bus Reactor (2nd) and associated bays at Rangpo Sub-station	09.06.2014		
9.	1 no. 3x105 Single Phase, 400/220 kV Transformer (4th) with associated bays under Rangpo Sub-station	30.06.2014		
10.	1 no. 3x105 Single Phase, 400/220 kV Transformer (5th) with associated bays under Rangpo Sub-station	03.07.2014		
11.	1 no. 100 MVA, 220/132 kV transformer (3rd) with associated bays under Rangpo Substation	13.06.2014		
12.	LILO of 400 kV D/C Teesta V-Siliguri line (Ckt-II) at Rangpo and associated bays at Rangpo Sub-station	31.10.2014		
13.	63 MVAR Line Reactor of Ckt-I of 400 kV D/C Patna-Kishanganj line at Patna Sub-station as Bus Reactor	02.10.2014	530/TT/2014 Order dated 29.02.2016	
14.	63 MVAR Line Reactor of Ckt-II of 400 kV D/C Patna-Kishanganj line at Patna Sub-station as Bus Reactor	29.11.2014		
15.	400 kV D/C (Quad) Kishanganj - Patna transmission line along with associated bays at Kishanganj Sub-station including 2 no of 63 MVAR Switchable Line Reactor at Kishanganj	28.03.2016	230/TT/2015 Order dated 31.05.2016	

S.N.	Asset	Actual COD	Petition / Order	Remarks
	Sub-station			
16.	LILO of one ckt of 400 kV D/C Teesta III Kishanganj line (LIL0-I) at Rangpo and associated bays at Rangpo Sub-station	26.11.2017	123/TT/2017 Order dated 05.09.2018	Included in POC pool with effect from COD when the asset was put to use without linking it to operationalisation of LTA
17.	220 kV D/C Rangpo-New Melli Line and associated bays at Rangpo and New Melli alongwith one no. 220 kV Bus Coupler Bay each at Rangpo and New Melli	22.09.2015	183/TT/2016	Instant Petition
18.	1 no. 31.5 MVAR Bus Reactor (1st) at New Melli and associated bay	31.01.2016	183/TT/2016	Instant Petition
19.	1 no. 31.5 MVAR Bus Reactor (2nd) at New Melli and associated bay	21.03.2016	183/TT/2016	Instant Petition

i. In Order dated 29.12.2016 in Petition No. 118/TT/2014 related to seven (7) assets of Rangpo Substation, the Commission has directed that the transmission charges to be included in POC pool with effect from respective CODs in 2014 and not on operationalisation of LTA. Relevant extracts are as below: -

*“It was recorded in SCM that charges for Part “B” of the scheme covered in the instant petition shall be initially borne by generation developers and accordingly the petitioner was directed to clarify the same as no mention about the same was made in the petition. In response, the petitioner vide affidavit dated 12.10.2015 has submitted that at the time of signing the LTA agreement, the sharing of transmission charges was based on the postage stamp method. However, currently the sharing of transmission charges is applicable as per POC mechanism. Therefore, the transmission charges for the instant assets shall be as per PoC mechanism and governed by “2010 Sharing Regulations”. The petitioner has further submitted that, while granting regulatory approval, in order dated 31.5.2010 in Petition No. 233/2009, the Commission held that the transmission charges and its sharing by the constituents will be determined in accordance with the applicable regulations and accordingly the sharing of transmission charges should be as per 2010 Sharing Regulations.”*

j. When all assets of Rangpo sub-station have been included in POC pool upon achieving COD in 2014, the instant assets which terminate at Rangpo sub-station, should also have been included under POC pool upon achieving

COD in 2015 and 2016 when the assets were put to use.

k. While passing the Order dated 08.02.2016 in Petition No. 292/TT/2013, the Commission had asked PGCIL to submit list of generators who sought LTA, status of generation projects and liability of payment of transmission charges and whether PGCIL had matched commissioning of line with commissioning of generation projects. PGCIL provided the likely date of commissioning of all the Projects including that of DEPL and SEPL. Further, CEA had also clarified that commissioning of 400/220 kV Sub-station at Kishanganj along with associated LILO works would help in meeting increasing load demand in Bihar. The Commission had observed that Patna 400/220 kV Sub-station had been experiencing high voltage problem, particularly during light load conditions of Eastern Grid and commissioning of bus reactor at Patna Sub-station had helped in mitigating overvoltage problem. Accordingly, the Commission approved the transmission asset to be included in PoC charges under CERC (Sharing of Transmission Charges & Losses) Regulations, 2010. Similarly, with commissioning of assets under the instant Petition, full power evacuation was facilitated from the generation projects of DEPL and SEPL. Further, transmission charges were directed to be included in POC pool with effect from COD when the assets were put to use and not on operationalisation of LTA.

l. Assets of TPTL mentioned at S.No. 1, 2, and 3 in table above have also been included in POC pool from the dates they were put to regular service, without linking it to the operationalisation of LTA. Similarly vide order dated 15.09.2018 in Petition No. 123/TT/2017, the Commission while determining the tariff of LILO of one circuit of Teesta III-Kishanganj 400 kV D/C line at Rangpo, which is also falling under Part-B Transfer Scheme for Sikkim Generation Projects, has included the tariff in POC pool from the date it was put to regular service, without linking it to the operationalisation of LTA. Similarly, the tariff of Instant Assets may be included in POC pool from the date they were put to regular service and declared under commercial operation, without linking it to the operationalisation of LTA.

m. DEPL has contended in its Review Petition No. 28/RP/2018 that their case is not covered under the first and second proviso but under the third proviso to Regulation 12(2) of the 2014 Tariff Regulations since the LTA was not operationalized. In this regard it is submitted that the case of DEPL is not covered under third proviso to Regulation 12(2) which envisages that if the transmission system is not commissioned as on SCOD of the generating station, the transmission licensee shall make alternative arrangement to evacuate power from the generating station. The generating station of DEPL and other three projects were not ready on 20.05.2015 when the successful trial operation of Asset-I of PGCIL was completed. The asset of PGCIL was put to use only after the generating station of DEPL was commissioned. The second proviso to Regulation 12(2) has two parts viz., i) if the generating station is not commissioned on the SCOD of the associated transmission system then the generating company shall bear IDC of the transmission system till the COD of the generating station and ii) if the COD of the transmission system is declared under second proviso to Regulation 4(3), then the generating company has to bear the transmission charges of the associated transmission system till the COD of the generating station. It is further submitted that DEPL has been utilizing the Asset-I of PGCIL for evacuating the full output of its generating station since the COD of the generating station, i.e. 22.09.2015.

n. In the Review Petition, DEPL has relied upon the judgement of Hon'ble Supreme Court in POWERGRID Vs Punjab State Power Corporation Limited [2016 4 SCC 797]. The Hon'ble Supreme Court has held that transmission charges cannot be levied on the beneficiaries since the Switchgear and Substation at the NTPC Barh Project end, which were essential elements of the transmission line in question and without which the power flow over the line could not start, had not been completed. In the instant case, the Asset-1 was completed by POWERGRID on 20.05.2015 and upon commissioning of Jorethang HEP of DEPL on 20.09.2015; the said generation Project has enjoyed full evacuation of its power.

o. DEPL, under Para 26 and 27 of their Review Petition, has referred to

the Commission's Order dated 15.12.2017 in Petition No. 141/TT/2015 and Order dated 29.09.2017 in Petition No. 206/TT/2016 in which the Commission declined to approve COD of the transmission assets of PGCIL in accordance with second proviso to Regulation 4(3) of the 2014 Tariff Regulations. It is submitted that the findings of the Commission in these Orders do not help DEPL considering that though the transmission Asset -1 was held to have been completed on 20.05.2015, it could not be put to regular service as Jorethang HEP had not been commissioned. In both cases, the Commission has not allowed the COD of the respective transmission assets till the generating station is ready.

p. DEPL, under Para 27 of their Review Petition, has quoted Orders of the Commission where the COD of transmission assets could not be achieved due to delay on the part of another licensee (either upstream or downstream). The Orders quoted by DEPL are not relevant to the instant matter as the Instant Assets have not been delayed on account of delay in the upstream/ downstream transmission assets of any licensee and in fact the delay in COD of Asset 1 was due to delay in the generating stations of DEPL, SEPL and other generators. COD of Asset-I of PGCIL was declared on the date it was put to use. Neither the generating station of DEPL nor its dedicated transmission line was ready when COD of the Asset-I was declared.

q. Relying upon the judgment of the Hon'ble Supreme Court, both DEPL and SEPL have submitted that licensees are defaulting parties and the generators cannot be asked to bear IDC/IEDC or transmission charges. Asset-I of PGCIL has been duly commissioned matching with generating station of DEPL and transmission licensees cannot be termed as defaulting parties in so far as the COD of Asset-I is concerned. Further, since DEPL and some other generators in Sikkim Region have no long term PPA and hence no firm beneficiaries, the transmission charges have to be borne by them till the beneficiaries are firmed up.

r. New Melli-Rangpo Line is a transmission line constructed for the



evacuation of power primarily of four generating stations namely DEPL, SEPL, SHPVL and JALPCL. Out of these, DEPL and SEPL got commissioned on 30.09.2015 and 06.11.2017 respectively and have been evacuating their full power through Ranpo-Siliguri Line from their respective CODs. DEPL and SEPL were solely dependent on COD of the New-Melli Rangpo transmission line for the evacuation of their power without which they could not have commissioned their projects.

s. COD of either New Melli –Rangpo line or generation projects evacuating power through New-Melli Rangpo line have no link with completion of transmission system of TPTL. Further, TPTL has not executed any Agreement either with PGCIL or generation projects being evacuated through New Melli - Rangpo line so as to match their respective COD's with the commissioning of TPTL's transmission line. TPTL is also not a party to the BPTA dated 24.02.2010 referred to by the generators in their replies.

t. Both DEPL and SEPL have evacuated their full capacity since their respective CODs even prior to operationalisation of LTA in February 2019.

### **Rejoinder of the Petitioner to reply of DEPL**

9. PGCIL has, vide affidavit dated 26.7.2019, filed its rejoinder to the reply of DEPL and submitted as under:

a. Contention of DEPL that the transmission charges for the subject transmission assets should be borne by all the respective LTTCs as deliberated in various Meetings is incorrect. As per the BPTA dated 24.2.2010, the subject transmission asset was being implemented by the Petitioner for evacuation of power from generating stations of DEPL and SEPL through 220 kV D/C New Melli – Rangpo line. This line has been in active use, since DEPL has been evacuating its power through under STOA. Considering the fact that the 220 kV D/C New Melli – Rangpo line is meant for utilization by multiple generators, and was being utilized for evacuation of power under STOA, the IDC and IEDC should to be capitalized for the period from 21.05.2015 to 21.09.2015 and the

system should be allowed to be put under POC from the date of commissioning for recovery of tariff as per sharing mechanism.

b. Insofar as the contention of DEPL that having already paid the STOA charges for the said line, DEPL cannot be asked to bear transmission charges for the same, it is submitted that charges under STOA are only considered for transmission system included in PoC pool. Since said system has not been put under PoC pool till the date of LTA operationalisation, the charges corresponding to 220 kV D/C New Melli-Rangpo line are not covered under STOA charges paid by generators for utilization of the same. Therefore, since the subject transmission line was commissioned for evacuation of power from multiple generators and was in active use after commissioning for evacuation of power from generating station of DEPL even though LTA was not operationalized, the said line being part of ISTS should be included in the PoC pool from the date of its actual commissioning and the IDC and IEDC from 21.5.2015 to 21.9.2015 should be allowed to be capitalized.

c. Insofar as the allegation of DEPL that the Petitioner did not operationalise its LTA until 23.2.2019 despite its generating stations being ready for use since 21.9.2015, it is submitted that DEPL is wrongly linking the issue of operationalisation of its LTA with its liability to bear transmission charges from its COD. The generating stations of DEPL achieved its COD on 21.9.2015 whereas the subject transmission assets were ready for evacuation of power much before that on 21.5.2015. Under the BPTA executed between the Petitioner and Respondent No.5, clause 2.0 (c) provides as under:

*“(c) Each Long term transmission customer (including its successor/assignee) shall pay the applicable transmission charges from the date of commissioning of the respective transmission system which would not be prior to the scheduled commissioning date of generating units as indicated by the respective developer as per Annexure-1. The commissioning of the transmission system would be preponed only if the same is agreed mutually by concerned parties.”*

d. DEPL under the said BPTA, had unequivocally agreed to pay the applicable transmission charges from the date of commissioning of the respective transmission system, irrespective of the operationalisation of its LTA.

Vide its Order dated 14.11.2017 in this Petition, this Commission, has rightly and after duly taking into account the obligations of the Petitioner qua payment of transmission charges under the BPTA dated 24.2.2010 and the provision of the 2010 Sharing Regulations, held that the applicable transmission charges would be shared by DEPL and JALPCL in the ratio of the LTA granted. This Commission further rightly held that after operationalisation of the LTA, the transmission charges allowed in the Order would be included in PoC pool and shared as provided under Regulation 43 of the 2014 Tariff Regulations and recovered as provided in the 2010 Sharing Regulations.

e. As per its own submission, DEPL has been successfully evacuating its full capacity of power through STOA and thus there is no transmission constraint causing any loss to DEPL on account of the alleged delayed operationalisation of its LTA. Further, DEPL has till date not executed any long-term Power Purchase Agreements (PPAs) and thus even if the Petitioner had LTA of DEPL on achieving COD, DEPL would have sold power under STOA only on account of absence of any long term PPA.

f. Vide affidavit dated 13.6.2017 filed in compliance of RoP of hearing dated 6.6.2017 in Petition No.114/MP/2017, status of operationalisation of the LTA of DEPL and the reasons for its delay, was placed before the Commission. LTA of DEPL along with 7 other IPPs in the Sikkim Region was to become operational after commissioning of the Teesta-III-Rangpo-Kishanganj 400kV D/C (quad) line being implemented by TPTL. The said line was completed and commissioned on 13.2.2019 and consequently, the Petitioner also operationalized the LTA of DEPL on 23.2.2019. Since the time of grant of LTA, DEPL was aware that its LTA would commence subject to availability of transmission system to be built progressively by the Petitioner. In the meantime, power evacuation could take place through short-term open access as per the available margin. The Petitioner even provided the interim arrangement to DEPL as contemplated in the Standing Committee Meetings for the intervening period between the date of commissioning of the generating station of DEPL (21.9.2015) and the date of commissioning of its dedicated line (November,

2016). Thus DEPL cannot be now allowed to contend that it had suffered any loss on account of alleged delayed operationalisation of its LTA.

g. DEPL has wrongly contended that since there is a mismatch in commissioning of the upstream/ downstream transmission systems, the transmission charges for the portion commissioned cannot be recovered through PoC mechanism and has to be paid by the defaulting entity which is TPTL. Insofar as the liability of DEPL to bear IDC from 21.05.2015 to 21.09.2015 and transmission charges after 22.09.2015 is concerned, the same has been levied on account of delayed commissioning of its generating station vis-à-vis the commissioning of the subject transmission assets of the Petitioner. DEPL is trying to raise a completely misplaced plea that since the transmission lines being constructed by TPTL had not been commissioned on the date of commissioning of the subject transmission assets of the Petitioner, the liability should be of TPTL and not that of DEPL.

h. In the present Petition, the subject transmission assets have been envisaged under “*Transmission System for Transfer of Power from Generation Projects in Sikkim to MR/WR Part-B in Eastern Region*” (hereinafter referred to as the “subject scheme”) and a total of 19 assets under the said scheme have been placed before this Commission under various Tariff Petitions whereunder this Commission has consistently held that the assets are to be included in the PoC pool upon achieving COD, irrespective of the operationalisation of LTAs. As an illustration, this Commission in its Order dated 8.2.2016 passed in Petition No.292/TT/2013, while approving the transmission tariff from COD to 31.3.2014 for 400/220 kV 125 MVAR, Bus Reactor along with associated bays at Patna Sub-station of the Petitioner for tariff block 2009-14 period, has held as under:

“68. We have considered the submission of petitioner and views of CEA vide its letter dated 14.10.2015. Patna 400/220 kV Sub-station has been experiencing high voltage problem, particularly during light load conditions of the Eastern Grid and commissioning of bus reactor at Patna Sub-station has helped in mitigating overvoltage problem. CEA has also clarified that commissioning of 400/220 kV Sub-station at Kishanganj along with associated LILO works would help in meeting increasing load demand in Bihar. Accordingly, we approve the transmission asset covered in the instant petition to be included in PoC charges

*under Central Electricity Regulatory Commission (Sharing of Transmission Charges & Losses) Regulations, 2010.”*

i. In the above order, the Commission has observed that since the Patna sub-station had helped mitigating overvoltage problem for the entire power evacuation scheme in the Eastern Region, the transmission charges for the same are liable to be recovered through the PoC mechanism from the date of its commissioning. Similar view has been taken by this Commission while approving transmission tariff for other assets of the Petitioner in its Order dated 29.2.2016 passed in Petition No.530/TT/2014; Order dated 31.5.2016 passed in Petition No.230/TT/2015; Order dated 29.7.2016 passed in Petition No.68/TT/2016; and Order dated 5.9.2018 passed in Petition No.123/TT/2017. This Commission, while directing recovery of transmission charges through the PoC mechanism in the above Orders has not linked the commissioning of the transmission lines with the operationalisation of LTAs as has been wrongly claimed by DEPL. This Commission has consistently taken a view that liability of payment of transmission charges from the date of commissioning of a transmission asset is not contingent upon operationalisation of LTA.

j. Therefore, this Commission may allow the subject assets to be included in the PoC pool and be governed under the 2010 Sharing Regulations from the date of their actual commissioning i.e. 21.5.2015.

### **Rejoinder of the Petitioner to reply of SEPL**

10. The Petitioner, vide affidavit dated 26.07.2019, has filed rejoinder to the reply of SEPL and submitted as under:

a. For evacuating power from its project, SEPL had applied to the Petitioner for grant of LTA in ISTS on target region basis (Northern Region/ Western Region). The said LTA was granted to SEPL vide intimation dated 26.05.2009 of the Petitioner whereunder the date of commencement of open access was informed as under:

“(e) *Date of commencement of open access:*

- *Date of commencement of above long term open access would be schedule date of commissioning of generating units in phased manner as indicated in Annexure-2.*
- *Availability of transmission system to be built progressively by POWERGRID as per Annexure – 4.*

*(1) In the interim period between the commissioning of the generation project and commissioning of the indicated transmission, the generation project would be allowed connectivity to ER grid for transfer of power to their beneficiaries through short term open access as per the available margin.”*

Thus, at the time of grant of LTA itself, SEPL was duly informed of the manner of LTA commencement and power evacuation in the interim through the mode of open access.

- b. The transmission system to be implemented by SEPL (as the dedicated part) was to be as under:

*“4. With Tingting & Tashiding Generation Project*

- *Tingting – New Melli 220kV D/C line with Twin moose conductor, one ckt via Tashiding, along with associated line bays.  
[The line would be routed through the proposed pooling point substation near Tingting/Tashiding]”*

- c. Subsequently, in a meeting of IPP generation projects in Eastern Region held on 28.12.2010, the transmission system under the scope of SEPL was modified to be,

*“Tashiding – Pooling Station near Tashiding 220 kV D/C line”*

- d. Respondent No.12 (Government of Sikkim) was entrusted with the responsibility of implementing the following transmission system for power evacuation from the project of SEPL:

***“C. Transmission System under the scope of Govt. of Sikkim***

- *Establishment of 220kV Gas Insulated Pooling Station near Tashiding*
- *Pooling station near Tashiding – New Melli 220kV D/c with twin moose conductor:*

- e. On 23.2.2015, the comprehensive scheme for strengthening of transmission and distribution system in North-Eastern Region and Sikkim was discussed in a Meeting with the Central Electricity Authority (CEA). In the said Meeting, the representative of Respondent No.12, Government of Sikkim,

informed that the establishment of Dikchu and Legship pooling station had been overlooked during the finalization of scope of work for the comprehensive scheme for Sikkim. At both the pooling stations, power from a number of hydro projects in Sikkim was to be pooled; and power from Tashiding was to be pooled at Legship sub-station. The representative further requested to include construction of 220 kV D/C transmission line with HTLS/ twin moose conductor from Legship 220 kV pooling station (State Government) to the New Melli 220 kV (PGCIL) pooling station and construction of 220/132 kV, 2x50 MVA pooling station at Legship under the comprehensive scheme. After discussions, the revised scope of works for the comprehensive scheme was agreed considering the aforesaid additions/ modifications. In this manner, the Legship pooling station and the 220kV D/C transmission line from Legship pooling station to New Melli sub-station (the “Legship-New Melli” transmission assets) also came to be included in the comprehensive transmission system strengthening scheme approved by the Government of India for the States of Arunachal Pradesh and Sikkim. Thus, the construction of any asset under the Legship-New Melli transmission assets ceased to be within the scope of work of the Petitioner.

f. Legship-New Melli transmission assets being outside the scope of work of the Petitioner and SEPL being completely aware of the said position, it cannot now contend that the Petitioner was responsible for providing the connectivity system for enabling SEPL to evacuate power, whether under the LTA or through the STOA in the interim. Thus, SEPL has wrongly pleaded before this Commission that it was the responsibility of Petitioner to implement the Legship-New Melli transmission assets and that any delay in their implementation was attributable to the Petitioner. On this misplaced understanding of the factual position, SEPL has filed Petition No.92/MP/2018 contending inter alia, that the Petitioner had failed to fulfill its obligation of completing the transmission system for power evacuation from the generation project of SEPL within the time period agreed to coincide with the commercial operation date of the project, which had resulted in delay in evacuation of power



from the project of SEPL for the period from January 2017 to 10.10.2017 owing to which SEPL has suffered financial loss to the tune of Rs.112.39 crores. SEPL has in the said petition contended that the Petitioner was liable to compensate SEPL for the financial loss suffered by it. On 15.12.2018, the Petitioner filed a reply to the above said Petition and it is pending adjudication before this Commission.

g. SEPL has contended that in case of mismatch of commissioning of upstream and downstream assets, the transmission charges for the portion of an un-commissioned line cannot be recovered through PoC pool but have to be borne by the defaulting entity. In this regard, it is submitted that the subject assets have been envisaged under “Transmission System for Transfer of Power from Generation Projects in Sikkim to NR/WR Part-B in Eastern Region” wherein a total of 19 assets have been placed before this Commission under various Tariff Petitions. This Commission has consistently held that the assets must be included in the PoC pool upon achieving COD, irrespective of the operationalisation of LTAs of its LTTCs.

h. This Commission has consistently taken a view that the payment of transmission charges is to be as per the PoC mechanism from the date of commissioning of a transmission line. Since there are multiple points of entry and exit for power flow to take place, the charges of the said system may be shared under PoC mechanism as has been done by this Commission in the earlier cases.

i. SEPL has till date not executed any long term Power Purchase Agreements (PPAs) and thus even if the Petitioner had operationalized its LTA when generating station of SEPL achieved COD, it would have sold power under STOA only on account of absence of any long term PPA. Moreover, the Petitioner did not have under its scope the construction of Legship-New Melli transmission assets and which was being implemented by Respondent No.12, Govt. of Sikkim. Thus, if any delay in commissioning of the same has caused losses to SEPL and it deserves to be compensated, such compensation is

payable by Respondent No.12 and the Petitioner cannot in any manner be held liable for the same.

j. SEPL has alleged that the Petitioner has tried to mislead this Commission in its Affidavit dated 2.4.2019 stating that the Petitioner has sought to wrongly include the Legship pool-New Melli Transmission line and Legship pool substation under the head of dedicated transmission system. A bare perusal of the said Affidavit of the Petitioner would reveal that the Petitioner under the column of 'Dedicated Transmission System' has clearly mentioned that the Tashiding-Legship pool line is under the scope of SEPL and the Legship pool-New Melli transmission line and the Legship substation are under the scope of Government of Sikkim. Thus, the contention of SEPL is devoid of any merit.

11. During hearing held on 12.09.2019, TPTL submitted that COD of New Melli-Rangpo line or generation projects evacuating power through New Melli-Rangpo line have no link with the completion of transmission system of TPTL. Bihar State Power (Holding) Company Ltd., BSPHCL submitted that whenever the generators decline to pay the transmission charges of the assets, the petitioner contends that the assets should be included in the PoC mechanism. BSPHCL submitted that the transmission charges of the said line should not be included in the POC pool and the same are required to be shared by the generators using the transmission line.

12. The Commission, during the hearing, observed that DEPL and SEPL in their reply dated 14.5.2019 and 17.5.2019 respectively had submitted that the transmission of the instant assets should not be included in the PoC pool and have to be paid by the defaulting party. However, now DEPL and SEPL are suggesting that the transmission charges should be included in the PoC mechanism. Therefore, the Commission directed DEPL and SEPL to file their written submissions regarding

inclusion of the transmission charges in POC pool.

13. Subsequently, DEPL and SEPL have filed their written submission dated 07.10.2019 and submitted that the transmission charges of the instant assets may be recovered through the POC pool as suggested by PGCIL. They have also submitted that there can be no liability on DEPL and SEPL to pay IDC or IEDC to PGCIL since there has been no default on their part in commissioning their respective generating stations or transmission lines.

### **Analysis and Decision**

14. Commission vide Order dated 19.03.2019 in Review Petition 28/RP/2018 has observed as follows:

*“12. We have considered the submissions of the Review Petitioner and PGCIL. The instant Review Petition has been filed for review of the Commission’s order dated 14.11.2017 wherein it was held that the IDC and IEDC of Asset-I, i.e. 220 kV D/C Rangpo-New Melli Line and associated bays at Rangpo and New Melli alongwith one no. 220 kV Bus Coupler Bay each at Rangpo and New Melli from 21.5.2015 to 21.9.2015 would be borne by the Review Petitioner and Rangit-IV (JAL Power Limited) in the ratio of LTA allotted to them and thereafter transmission charges shall be borne by them in the said ratio. PGCIL has submitted that one more generator, Shiga Energy Pvt. Ltd. has commissioned its generating station and its power is pooled at New Melli Sub-station through the transmission system of Government of Sikkim for onward transmission to the ISTS. Accordingly, the IDC and IEDC charges pertaining to Asset-I for the period 21.5.2015 to 21.9.2015 may have to be shared by Shiga Energy Pvt. Ltd. as well besides Jorethang and Rangit IV. This aspect was not brought to the notice of the Commission in Petition No.183/TT/2016 as PGCIL in its affidavit dated 25.4.2017 in the Main Petition had submitted that Asset-I was envisaged for Jorethang and Rangit IV. It is observed that Asset-I was constructed for DANS Energy Pvt. Ltd., JAL Power Corp. Ltd., Shiga Energy Pvt. Ltd. and Rangit II. Therefore, the issue of sharing of the charges needs to be decided after hearing all the necessary parties. The Review Petitioner has also raised the issue of sharing of transmission charges for Asset-I, II and III up to operationalisation of LTA. Accordingly, we allow the review to the limited extent of reconsideration of the sharing of transmission charges for the three assets and set down the main petition for hearing on the aspect of sharing. PGCIL is directed to file an amended “Memo of Parties” in Petition No.183/TT/2016 making Shiga Energy Pvt. Ltd. and Rangit II and any other generator for whom the instant transmission assets are envisaged and serve a copy of the petition on them within 15 days of issue of this order.”*

15. Accordingly, the instant Petition has been reopened for limited aspect of

sharing of transmission charges impleading all relevant parties.

16. Based on the submissions of the parties and the documents available on record, the issues which arise for our consideration are as follows:

**Issue No.1: Who shall pay the IDC/IEDC Charges to the Petitioner for period from 21.5.2015 to 21.09.2015 for Asset-1?**

**Issue No. 2: What shall be treatment of sharing of transmission charges from COD of assets in the instant Petition?**

**Issue No. 3: Whether any directions are required to be issued for claim of SEPL against PGCIL?**

The issues are dealt with in subsequent paragraphs.

**Issue No.1: Who shall pay the IDC/IEDC Charges to the Petitioner for period from 21.5.2015 to 21.09.2015 for Asset-1?**

17. DEPL and SEPL in their respective replies dated 14.5.2019 and 17.5.2019 had submitted that the transmission charges of the instant assets should not be included in the PoC pool and have to be paid by the defaulting party. However, subsequently, they, vide their written submission dated 07.10.2019, have submitted that the transmission charges of the instant assets may be recovered through the POC pool as suggested by PGCIL. They have also submitted that there can be no liability on them to pay IDC/IEDC to PGCIL since there has been no default on their part in commissioning their respective generating stations or transmission lines.

18. DEPL has submitted that it has achieved commercial operation on 30.09.2015, but PGCIL had not operationalized the LTA because it had not completed the full

system as per Annexure-3 of the BPTA and that the LTA has been operationalized only on 23.02.2019. From the COD of the generating station of DEPL i.e. 30.09.2015 until recently, DEPL was evacuating its power through short term open access (STOA) without the LTA being operationalized and thus transmission charges for these assets cannot be loaded on DEPL. The defaulting party is the Joint Venture Company of PGCIL and Teesta – III (in the case of transmission line) and PGCIL itself (in the case of the LILO) due to which LTA has not been operationalised.

19. TPTL has submitted that the instant assets have been executed by PGCIL solely for four generating stations, namely, Dans Energy Pvt. Ltd. (Jorethang HEP), Shiga Energy Pvt. Ltd. (Tashiding HEP), JAL Power Corporation Ltd. (Rangit-IV HEP) and Sikkim Hydro Power Ventures Ltd. (Rangit-II HEP) pursuant to the LTAs granted by PGCIL to these LTTCs and the BPTA dated 24.02.2010 signed between the said generating companies and PGCIL.

20. TPTL has submitted that it was in no way responsible for delay in commercial operation of Asset-I of PGCIL and no part of liability for IDC and IEDC for the period from 21.5.2015 to 21.9.2015 can be loaded on it. It has submitted that COD of neither New Melli-Rangpo line nor Generation projects evacuating power through New Melli-Rangpo line have any link with completion of transmission system of TPTL. Also, TPTL has not executed any Agreement either with PGCIL or generation projects evacuated through New Melli-Rangpo line so as to match their respective CODs with the commissioning of TPTL's transmission line. TPTL is also not a party to the BPTA dated 24.02.2010 referred to by the generators in their replies.

21. PGCIL has submitted that LTA of DEPL along with 7 other IPPs in the Sikkim Region was to become operational after commissioning of the Teesta-III-Rangpo-Kishanganj 400kV D/C (quad) line being implemented by TPTL and the said line was completed on 13.2.2019 and consequently, the Petitioner operationalized the LTA of DEPL on 23.2.2019.

22. PGCIL submitted that it has provided the interim arrangement to DEPL as contemplated in the Standing Committee Meetings for the intervening period between the date of commissioning of the generating station of DEPL (22.9.2015) and the date of commissioning of its dedicated line (November 2016). Thus, DEPL cannot now contend that it had suffered any loss on account of delayed operationalisation of its LTA.

23. PGCIL has submitted that New Melli-Rangpo line has been in active use, since DEPL has been evacuating its power through the same under STOA. Considering the fact that the 220 kV D/C New Melli – Rangpo line is meant for utilization by multiple generators, and was being utilized for evacuation of power under STOA, the system should be put under POC mechanism from the date of commissioning for recovery of tariff as per provisions of the 2010, Sharing Regulations.

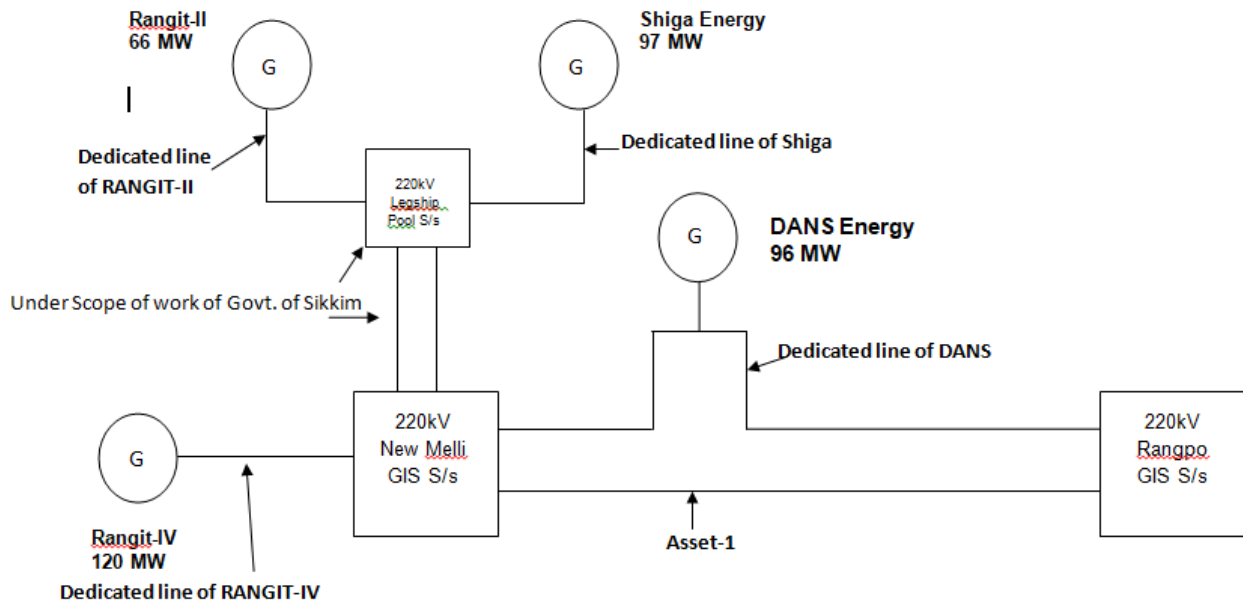
24. PGCIL has taken two conflicting stands as regards sharing of transmission charges for Asset-I. On one hand, vide its rejoinder dated 26.7.2019 to reply of DEPL, it has proposed to allow IDC and IEDC to be capitalized for the period from 21.05.2015 to 21.09.2015. On the other hand, vide its rejoinder dated 26.7.2019 to reply of SEPL, it has submitted that the transmission charges for Asset-1 may be

included in the PoC pool w.e.f. 21.5.2015.

25. We have considered the submissions of the Petitioner and the Respondents. The assets (Sikkim Generation Projects-Part-B in Eastern Region) under consideration in the instant petition are as under:

- a. Asset-I: 220 kV D/C Rangpo-New Melli Line and associated bays at Rangpo and New Melli alongwith one no. 220 kV Bus Coupler Bay each at Rangpo and New Melli;
- b. Asset-II: 1 no. 31.5 MVAR Bus Reactor (1st) at New Melli and associated bay; and
- c. Asset-III: 1 no. 31.5 MVAR Bus Reactor (2nd) at New Melli and associated bay

26. The single line diagram (SLD) for the assets and generators covered in the instant petition as per information submitted by Petitioner is as below:



27. As against SCOD of 16.11.2013, COD of the instant assets i.e. Asset-I, Asset-II and Asset-III were declared as 22.9.2015, 31.1.2016 and 21.3.2016 respectively by the Commission vide order dated 14.11.2017 in the instant petition. The relevant extract of the order is as under:



*“16. ----- The COD of the 220 kV D/C Rangpo-New Melli Line and associated bays at Rangpo and New Melli alongwith one no. 220kV Bus Coupler Bay each at Rangpo and New Melli shall be reckoned as 22.9.2015 matching with COD of Jorethang generating station. However, the IDC and IEDC in respect of Asset-I from 21.5.2015 to 21.9.2015 shall be borne by the developers of both the generating companies in the ratio of their LTAs and the IDC and IEDC for the said period shall be excluded from capital cost.*

*17. The petitioner has claimed the COD of Asset-II and Asset-III as 31.1.2016 and 21.3.2016 respectively and has submitted ERLDC Certificate dated 25.4.2016 pursuant to successful trial operation and COD notification dated 3.2.2016 and 23.3.2016 issued by the petitioner. The petitioner vide affidavit dated 20.1.2017 has also submitted the CEA certificate for both assets. Taking into consideration the ERLDC certificate and the CEA certificates, the COD of the Assets-II and III has been considered as 31.1.2016 and 21.3.2016 respectively.”*

28. As per above order, it was directed that IDC/IEDC from 21.5.2015 to 21.9.2015 shall be recovered from two generators, namely, Rangit-IV (JALPCL) and DEPL. This was based on submissions of the Petitioner vide Affidavit dated 25.4.2017 where the Petitioner submitted the status of upstream/downstream system in response to a query of the Commission. Petitioner, vide its affidavit dated 25.4.2017, had submitted the following regarding the status of upstream and downstream system of New Melli and Rangpo Sub stations:

*“With regard to New Melli Station, it is submitted that as discussed and approved in the Standing Committee Meeting on Power System Planning in Eastern Region held on 20/09/2010, under the instant project, the New Melli Station have been planned and implementation as a 220kV GIS switching station with interconnection with following generators:*

- Jorethang through 220kV D/C Jorethang — New Melli line*
- Rangit-IV, expected to be commissioned in Sep 2019 (unit 1) and Oct 2019 (unit 2 & 3), through 220kV D/C Rangit — — New Melli line, which is expected to be completed by Dec 2017.*

*The power from the following generators is being/shall be pooled at 132/220/400kV Rangpo Station through New Melli GIS switching station through 220kV D/C Rangpo — New Melli Transmission line, which have been commissioned on 21/05/2015.”*

29. We note that the Petitioner had clearly submitted that only 2 (Two) generators, namely, Jorethang (DEPL) and Rangit-IV (JALPCL) were getting connected to New Melli pooling station.

30. We observe from the Commission's order dated 19.3.2019 in Petition No. 28/RP/2018 that during the hearing on 7.3.2019, PGCIL submitted that one more generator from Phase-II of the transmission system, namely, Shiga Energy Pvt. Ltd (SEPL) has commissioned its generating station and is also using the transmission system and hence may have to bear the transmission charges.

31. DEPL has submitted a copy of LTA grant dated 26.5.2009 after this Petition has been reopened, subsequent to order dated 19.3.2019 in Petition No. 28/RP/2018. As per the said LTA grant, it is observed that LTA has been granted to 9(Nine) entities, including Teesta-VI/LANCO, Jorethang/DEPL, Rangit-IV/JALPCL, Tingting/TT Energy, Tashiding/SEPL and others. The said LTA grant provides that 5 (Five) Generators, namely, Teesta-VI/LANCO, Jorethang/DEPL, Rangit-IV/JALPCL, Tingting/TT Energy and Tashiding/SEPL are connected to New Melli 220 kV D/c line with dedicated line up to pooling station at New Melli in the scope of generation developer.

32. DEPL has also submitted BPTA dated 24.2.2010 which provides that BPTA is signed by 7 (Seven) generators including Teesta-VI/LANCO, Jorethang/DEPL and Rangit-IV/JALPCL. As per the said BPTA, Teesta-VI/LANCO, Jorethang/DEPL and Rangit-IV/JALPCL have to connect to pooling station at New Melli.

33. We, thus, observe that the Petitioner PGCIL did not provide complete and true information vide affidavit dated 25.4.2017 on the Commission's query about upstream/downstream System. For example, information about SEPL was provided

only during hearing of 28/RP/2018 and no information has been provided about Teesta-VI/LANCO which was supposed to connect at New Melli as per LTA grant dated 26.5.2009. We are, therefore, constrained to conclude that the Petitioner, PGCIL, has provided incomplete information in so far as upstream/ downstream system is concerned.

34. SEPL, vide its submission dated 17.05.2019, has submitted the LTA Agreement dated 19.10.2011. It is observed that the LTA Agreement is entered into by SEPL/Tashiding and TT Energy/Tingting which provides that both generators are to connect at Pooling Station near Tashiding via 220 kV D/c line and further it is mentioned that 220 kV GIS pooling station near Tashiding and 220 kV line from GIS pooling station near Tashiding to New Melli is covered under the scope of Govt. of Sikkim.

35. We observe that as per original LTA grant dated 26.5.2009, SEPL and Tingting were supposed to connect to New Melli Substation. There is no mention of scope of Government of Sikkim in the original LTA grant. However, scope of Government of Sikkim has been included in LTA Agreement dated 19.10.2011.

36. The Petitioner, PGCIL has submitted that on 23.2.2015, in a meeting with the Central Electricity Authority, the representative of Government of Sikkim informed that the establishment of Dikchu and Legship pooling station had been overlooked during the finalization of scope of work for the comprehensive scheme for Sikkim. At both the pooling stations, power from a number of hydro projects in Sikkim was to be pooled and power from Tashiding was to be pooled at Legship sub-station. The

representative of Government of Sikkim further requested to include construction of 220 kV D/C transmission line with HTLS/ twin moose conductor from Legship 220 kV pooling station (State Government) to the New Melli 220 kV (PGCIL) pooling station and construction of 220/132 kV, 2x50 MVA pooling station at Legship under the comprehensive scheme. After discussions, the revised scope of works for the comprehensive scheme was agreed considering the aforesaid additions/modifications. The Petitioner has submitted that in view of these discussions, the Legship pooling station and the 220kV D/C transmission line from Legship pooling station to New Melli sub-station (the “Legship-New Melli” transmission assets) also came to be included in the comprehensive transmission system strengthening scheme approved by the Government of India for the States of Arunachal Pradesh and Sikkim. It has further submitted that the construction of any asset under the Legship-New Melli transmission assets ceased to be within the scope of work of the Petitioner.

37. We observe that submissions of Petitioner are not clear regarding the scope of Government of Sikkim for the transmission system from Legship to New Melli. It is also not clear as to whether the system was under scope of the Petitioner till 23.2.2015.

38. Due to lack of completeness in submissions of the Petitioner as regards the number generators who have been granted LTA and signed LTAA/BPTA for connecting at New Melli s/s and as to when scope of Government of Sikkim was included, we are not inclined to give any directions regarding liability of IDC and IEDC for the period 21.5.2015 to 21.9.2015. Accordingly, we direct that bills raised for



IDC/IEDC in terms of Commission's order dated 14.11.2017 in the instant Petition shall be withdrawn and charges paid by generating stations, if any, shall be refunded by Petitioner within 15 days of issue of this Order.

**Issue No. 2: What shall be treatment of sharing of transmission charges from COD of assets in the instant Petition?**

39. DEPL has submitted that it has achieved commercial operation on 30.09.2015, but PGCIL had not operationalized the LTA because it had not completed the full system as per Annexure 3 of the BPTA. The LTA has been operationalized only on 23.02.2019. From the COD of DANS i.e. from 30.09.2015, DEPL was evacuating its power through short term open access (STOA) without the LTA being operationalized and thus transmission charges for these individual assets cannot be loaded on DEPL. The defaulting party is the Joint Venture Company of PGCIL and Teesta – III (in the case of transmission line) and PGCIL itself (in the case of the LILO) due to which LTA has not been operationalised.

40. SEPL has submitted that it had completed the dry commissioning and testing of both its units and its dedicated transmission line by December, 2016. However, due to delays in completing works of the 220 KV 'Legship' Pool to New Melli, which were completed only on 12.10.2017, the project was declared under commercial operation on 06.11.2017.

41. TPTL has submitted that the instant assets have been executed by PGCIL solely for the four generating stations, namely, Dans Energy (Jorethang HEP), Shiga Energy (Tashiding HEP), Jal Power Corporation (Rangit-IV HEP) and Sikkim Hydro Power Ventures Ltd. (Rangit-II HEP) pursuant to the LTA granted by PGCIL to these LTTCs and the BPTA dated 24.02.2010 between the said generating companies and PGCIL. When all assets of Rangpo sub-station have been included in POC pool upon achieving COD in

2014 when the assets were put to use, the instant assets which terminate at Rangpo sub-station, should also be included under POC pool upon achieving COD in 2015 and 2016 when the assets were put to use.

42. PGCIL has submitted that LTA of DANS Energy along with 7 (Seven) other IPPS in the Sikkim Region was to become operational after commissioning of the Teesta-III-Rangpo-Kishanganj 400kV D/C (quad) line being implemented by TPTL and the said line was completed on 13.2.2019 and consequently, the Petitioner operationalized the LTA of Respondent No.5 on 23.2.2019.

43. PGCIL has submitted that New Melli-Rangpo line has been in active use, since DEPL, the Respondent No.5 has been evacuating its power through the same under STOA. Considering the fact that the 220 kV D/C New Melli – Rangpo line is meant for utilization by multiple generators, and was being utilized for evacuation of power under STOA, the system should be put under POC from the date of commissioning for recovery of tariff as per sharing mechanism.

44. We observe that regarding sharing of Transmission charges for the instant assets, Commission in its order dated 14.11.2017 directed as under:

***“Sharing of Transmission Charges***

*83. The petitioner has submitted that the annual transmission tariff for the instant assets for the period 2014-19 shall be shared as per Regulation 43 of the 2014 Tariff Regulations and that the charges shall be recovered on monthly basis and the billing collection and disbursement of Transmission Charges will be governed by provision of Central Electricity Regulatory Commission (Sharing of Page 53 of 64 Order in Petition No.183/TT/2016 inter-State Transmission Charges and Losses) Regulations, 2010 (2010 Sharing Regulations).*

84. We have considered the submissions of the petitioner. As per the BPTA, the assets covered in the instant petition are constructed for evacuation of power from the two generating companies i.e. Jorethang and Rangit-IV. It is observed that LTA in case of the generators has not been operationalised. As such, the transmission charges shall be shared by the generating companies (i.e. Jorethang and Rangit-IV) in the ratio of the LTA granted. After operationalisation of the LTA granted to these generators, the transmission charges allowed in this order shall be included in PoC charges as shall be shared as provided under Regulation 43 of the 2014 Tariff Regulations and recovered as provided in the 2010 Sharing Regulations. Further, in case of part operationalisation of LTA, the corresponding charges shall be included in PoC.”

45. Vide above order, the Commission had directed to bill the transmission charges for instant assets on DANS and Rangit-IV till operationalization of their LTA. DANS has stated that LTA has not been operationalized by CTU due to non-commissioning of TPTL, Teesta-III-Kishnaganj line and PGCIL line (LILO of Teesta-Kishanganj at Rangpo). PGCIL has stated that LTA was not operationalised due to non-availability of Teesta-III-Kishanganj line. The CoD of instant assets, namely, Asset-I, II and III were declared on 22.9.2015, 31.1.2016 and 21.3.2016, respectively and the LTA was operationalized on 23.02.2019.

46. We observe that instant assets are part of LTA grant of several generators in Sikkim region. We observe from the Single Line diagram that the instant assets are not dedicated system for the generating stations. Each generating station had a separate dedicated line in its own scope of works. Therefore, we direct that the transmission charges for instant assets, approved in order dated 14.11.2017, shall be included in PoC pool from date of approved CODs under CERC (Sharing of Inter-state transmission charges and losses) Regulations, 2010.

**Issue No.3: Whether any directions are required to be issued for claim of SEPL**



**against PGCIL?**

47. SEPL has submitted that due to the delay committed by PGCIL in completing scope of work as per Annexure-3 of the LTAA, even though SEPL had completed dry commissioning and testing of its units in December 2016 and completed its dedicated transmission line also by December 2016, the COD could only be declared on 06.11.2017. However, PGCIL did not operationalize LTA because it had not completed the full system as per Annexure-3 of LTAA. The LTA has been operationalized only on 23.2.2019. SEPL has claimed that in absence of its LTA being operationalized, it has suffered huge losses, which have been claimed in Petition No. 92/MP/2018, filed by it.

48. We have considered the submissions of SEPL. We observe that the matter related to compensation and claim is already under adjudication in the Petition No. 92/MP/2018 before the Commission. We, therefore, consider it appropriate not to deal with the issue in the instant petition.

49. Petition No. 183/TT/2016 is disposed of in terms of the above.

<b>sd/-</b>	<b>sd/-</b>	<b>sd/-</b>
<b>(I.S. Jha)</b> <b>Member</b>	<b>(Dr. M.K. Iyer)</b> <b>Member</b>	<b>(P.K. Pujari)</b> <b>Chairperson</b>