

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 45/MP/2021

- Subject** : Petition under Section 79 of the Electricity Act, 2003 read with Central Electricity Regulatory Commission (Sharing of Transmission Charges) Regulations, 2010, Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter- State Transmission and related matters) Regulations, 2009, and Central Electricity Regulatory Commission (Regulation of Power Supply) Regulations, 2010 seeking quashing demand of approximately ₹39.23 crore as transmission charges (under Non-PoC mechanism) by Power Grid Corporation of India Ltd. vide letter dated 21.9.2020 and seeking to restrain PGCIL from curtailing open access/regulation of power pursuant to Regulation Notice dated 26.11.2020.
- Date of Hearing** : 10.5.2023
- Coram** : Shri Jishnu Barua, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner** : GMR Kamalanga Energy Ltd. (GMR)
- Respondents** : Power Grid Corporation Limited (PGCIL) & Ors.
- Parties Present** : Shri Vishrov Mukerjee, Advocate, GMR
Ms. Yashaswi Kant, Advocate, GMR
Ms. Priyanka Vyas, Advocate, GMR
Ms. Swapna Seshadri, Advocate, CUTIL/PGCIL
Shri Utkarsh Singh, Advocate, CTUIL/PGCIL
Shri Yogeshwar, CTUIL/PGCIL
Ms. Chitikena Abhijith, CTUIL/PGCIL
Shri Alok Mishra, NLDC

Record of Proceedings

The instant petition has been filed by GMR Kamalanga Energy Limited, a generator owning and operating 1050 MW thermal power project in Dhenkanal, Odisha, for setting aside the invoices raised by PGCIL and the Regulation of Power Notice dated 26.11.2020 issued by PGCIL and to pass interim directions restraining PGCIL from taking coercive action against the Petitioner during the pendency of the petition.



2. Learned counsel for the Petitioner submitted that the Petitioner was liable to pay an amount of ₹738 lakh against the LTA granted, for the period from 1.4.2013 to 21.12.2014. However, PGCIL raised demand for ₹3923 lakh as transmission charges, which the Petitioner has paid under protest. He submitted that since other generators have relinquished their part of LTA's, PGCIL cannot be permitted to claim the entire capacity of LTA from the Petitioner. He submitted that the Petitioner has paid the amount as per the directions of the Hon'ble Delhi High Court (in W.P. No. 10261 of 2020). He requested that directions be issued to PGCIL to refund the additional amount collected from the Petitioner along with interest.

3. The learned counsel for CTUIL submitted that the issue in the instant matter is not of LTA quantum but it pertains to the transmission charges of the transmission assets which remained unutilized due the non-completion of the dedicated transmission line of the Petitioner. She submitted that the contentions of Petitioner have been dismissed by the Hon'ble Supreme Court (in C.A. No. 3331 of 2020, filed against the APTEL's judgment dated 1.9.2020 in Appeal No. 57 of 2018 and batch matters). She further submitted that PGCIL has raised the bills as per the Commission's order in Petition No. 112/TT/2013 and Petition No. 73/MP/2017. If the Petitioner had problem with the proportionality, then they should have raised the same before the APTEL, when the APTEL was deciding Appeal No. 57 of 2018 and batch matters. The Petitioner has started the second round of litigation after the matter has reached the finality. The Petitioner is barred by res-judicata read with Order-II Rule 2 of the Code of Civil Procedure, 1908 to raise the issues which have already been decided and the instant petition may be dismissed.

4. In response to the Commission's query, learned counsel for the Petitioner submitted that the Petitioner is not objecting the bill amounting to ₹950 lakh raised by PGCIL, but the quantification of LTA imposed on the Petitioner. The Petitioner is liable to pay only ₹738 lakh. PGCIL subsequently raised another bill amounting to ₹3923 lakh including ₹950 lakh and the Petitioner is opposing the said bill which includes the amount of transmission charges of other generators who have abandoned their project or relinquished their part of LTA.

5. In response to the Commission's query, learned counsel for CTUIL submitted that JITPL's share was 95 MW and the Petitioner's share was 647 MW of operationalized LTA. Hence, the Petitioner has to pay more than JITPL. The bill raised was on the basis of ratio and not on quantum.

6. The Commission directed the Petitioner to provide the details of calculation and the basis for arriving at the amount of ₹738 lakh on an affidavit alongwith its written submissions by 2.6.2023 with an advance copy to the Respondents. The Commission also directed CTUIL to provide the details of calculation and the basis for arriving at ₹950 lakh and of ₹3923 lakh claimed by CTUIL, along with the separate details of transmission charges claimed and LPS, on an affidavit and written submissions by 2.6.2023 with an advance copy to the other parties. The Commission further directed the parties to comply with the above directions within the specified timeline and observed that no further extension of time will be allowed.



7. After hearing the learned counsel for the Petitioner and PGCIL at length, the Commission reserved the order in the matter.

By order of the Commission

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(V. Sreenivas)
Joint Chief (Law)

