

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 186/MP/2013**

Subject : Petition under section 79 (1) (c) and (d) of the Electricity Act, 2003 read with regulation 24 of the Conduct of Business Regulations, 1999 for initiation of proceedings on the aspect of sharing of Short Term Open Access charges on the Inter-State transmission system.

Date of hearing : 7.1.2014

Coram : Shri Gireesh B. Pradhan, Chairperson  
Shri M. Deena Dayalan, Member  
Shri A.K. Singhal, Member

Petitioner : Power Grid Corporation of India Limited, Gurgaon

Parties present : Shri M.G. Ramachandran, Advocate, PGCIL  
Ms. Anushree Badhan, Advocate, PGCIL  
Shri U.K Tyagi, PGCIL  
Shri R.P. Padhi, PGCIL  
Shri A.M. Pavgi, PGCIL

**Record of Proceedings**

Learned counsel for the petitioner submitted that the present petition has been filed for re-consideration of the amendment to Regulation 25 of the Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) (Second amendment) Regulations, 2013 and seeking direction that the sharing of 25% of the Short Term Open Access Charges for it as Central Transmission Utility to continue.

2. Learned counsel for the petitioner submitted that the Commission had differentiated between Central Transmission Utility and other inter-State transmission licensee considering the statutory functions and responsibilities vested upon CTU for development of inter-State transmission system. Accordingly, on 21.2.2005 the Commission issued the amendment of Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2004. He further submitted that Central Transmission Utility undertake various activities for overall development of transmission sector. These activities are being performed by CTU based on its experience, knowledge bank, expertise, technical knowledge etc. Learned counsel further submitted that 25% of the recovery from short-term customers shall be continued to be retained by CTU and STU for intra- regional system.

3. Learned counsel of the petitioner submitted that the petitioner as a transmission licensee has to perform additional statutory duty of CTU in terms of Section 38 (2) (b) of the Electricity Act, 2003 and therefore, the Commission has allowed retention of the charges only to CTU and not to any other licensees. In support of his argument, learned counsel for the petitioner placed its reliance on Supreme Court judgment in Vodafone International Holding Vs Union of India [(2012) 6 Supreme Court Cases 613]. Learned counsel for the petitioner requested the Commission to grant 2 to 3 years time for adjustment of funds and such funds should not be stopped immediately.

4. In response to Commission's query regarding total accumulation of fund, learned counsel for the petitioner submitted that to meet the planned capital expenditure, ₹ 30,000 crore (30% of the total investment) would be required to generate from internal sources and the present loan outstanding is going beyond 70% against the covenant of the lending agencies specifying the debt to be less than 75%.

5. Learned counsel for the petitioner further referred to the Supreme Court judgment in Official Liquidator Vs Dayanand [(2008) 10 Supreme Court Cases1)] and submitted that the concept of 'due process of law' ensures fairness in public administration. The administrative authorities are bound to comply with the rules of natural justice which include compliance with *audi alteram partem*.

6. Learned counsel for the petitioner referred to para 19 of the Statement of Reason (SOR) dated 4.3.2008 and submitted that said SOR provides for utilization of transmission charges recovered from open access customer.

7. After hearing learned counsel for the petitioner, the Commission directed the petitioner to file details of utilization of the funds received under the said provision, on affidavit by 5.2.2014.

8. Subject to above, the Commission reserved order in the petition.

By order of the Commission

SD/-  
(T. Rout)  
Chief (Law)