

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 190/MP/2016**

Subject : Petition for seeking directions in respect of LTA granted for Budhil Hydro Electric Project in terms thereof.

Date of hearing : 14.12.2016

Coram : Shri Gireesh B. Pradhan, Chairperson  
Shri A.K. Singhal, Member  
Shri A.S. Bakshi, Member  
Dr. M.K. Iyer, Member

Petitioner : Greenco Budhil Hydro Power Private Limited

Respondents : 1. Power Grid Corporation of India Limited  
2. PTC India Ltd.

Parties present : Shri Sanjay Sen, Senior Advocate, GBHPPL  
Shri Hemant Singh, Advocate, GBHPPL  
Shri Nimesh Jha, Advocate, GBHPPL  
Shri Manoj Tanwar, GBHPPL  
Ms. Suparna Srivastava, PGCIL  
Shri V. Srinivas, PGCIL  
Shri A.M. Pavgi, PGCIL  
Shri Swapnil Verma, PGCIL

**Record of Proceedings**

Learned senior counsel for the petitioner submitted that the present petition has been filed for seeking direction to CTU to modify the existing BPTA for a change in the drawee entity and drawl location and for seeking a declaration that petitioner is not liable to pay the transmission charges as claimed by PGCIL due to deliberate and willful breach of its contractual and statutory obligations by PGCIL under BPTA dated 18.10.2007 read with the minutes of the meeting dated 25.4.2012. Learned senior counsel for the petitioner further submitted as under:

(a) On 30.3.2005, the petitioner entered into a long term PPA with PTC India Ltd. for a period of 35 years from the agreed date of commercial operation for supply of the entire saleable power from the project to PTC India Ltd.

(b) On 21.9.2006, PTC India entered into a Power Sale Agreement with the Haryana Power Generation Corporation Ltd. (HPGCL). For the purposes of transfer of power from the petitioner to Haryana State, PTC obtained long term open access from CTU in the year 2005. Further, the petitioner and PTC signed a Bulk Power Transmission Agreement with CTU on 18.10.2007. However, on 18.12.2009, the petitioner terminated the PPA dated 30.3.2005 due to certain force majeure events.

(c) Prior to the commissioning of the petitioner's generating station, the petitioner entered into a "Connection Agreement" on 30.3.2012 with CTU and NHPC. In terms of the said Agreement, the petitioner applied to CTU for connecting its 70 MW Budhil HEP to CTU's transmission system to transmit electricity from its power plant. CTU agreed to give connection to the petitioner's generating station at the connection point so that the petitioner can transmit electricity through CTU's transmission and communication systems.

(d) On 25.4.2012, a meeting was held in the Chamber of Member (PS), CEA in the presence of representatives from POSOCO, PGCIL, NRLDC, HPSLDC, the petitioner and PTC regarding commissioning of 70 MW Budhil HEP. In the said meeting, PTC agreed to surrender its LTA rights and the petitioner agreed to apply for fresh LTA for full maximum injection envisaged for a target region or for a new beneficiary as the case may be. In the said meeting, it was decided that in the interim, the petitioner would reimburse the LTA charges till the decision of the Standing Committee of Power System Planning on the petitioner's application for LTA.

(e) The petitioner made an application on 15.3.2016 to CTU to change the drawee utility from HPGCL to UPCL. CTU vide its letter dated 11.4.2016 sought comments from PTC on the request of the petitioner to which PTC vide its letter dated 18.4.2016 replied that since the PPA between PTC and Lanco Budhil had been terminated and the dispute is presently under consideration of the Hon'ble Supreme Court, the subject LTA granted to PTC for Budhil Hydro Electric Project may be changed in favour of Lanco without any liability on PTC. CTU vide its letter dated 14.6.2016 did not agree to change the name of drawee utility and advised the petitioner that till the dispute is resolved, the petitioner may avail MTOA for a maximum period of three years which may be followed by subsequent MTOAs if necessary.

(f) PGCIL vide its letter dated 20.9.2016 raised POC bills for the months of March, 2016 to August, 2016. The petitioner has paid transmission charges of Rs.1.35 crore per month even though it is not required to pay any such charges. The said payments are made solely on the threat of PGCIL to take coercive action by it if the payments are not made. The petitioner is also paying short term open access charges to PGCIL without being provided with the credit for the STOA charge in the monthly LTOA charges being paid.

2. Learned counsel for CTU submitted that the dispute pending before the Hon'ble Supreme Court has relevant to the issue of grant of LTA to the petitioner on alternative

drawee entity and therefore, CTU cannot take a view that the dispute before the Supreme Court is alien to the request of Greenco for delivery of power to Uttarakhand. Learned counsel submitted that back-to-back PPAs between the petitioner and PTC, and between PTC and Haryana are a part of one transaction and are directly relevant to the LTA granted to PTC for delivery of power from Greenco to Haryana. Learned counsel further submitted that since PTC is the long term customer, CTU could not have proceeded on the petitioner's request for change in drawee entity. If the petitioner is interested in supply of power to Uttarakhand, it can make application to CTU which will be considered after following the due process. Learned counsel for CTU further submitted that the Minutes of Meeting dated 25.4.2012 in respect of LTA/MTOA/STOA under Member (PS), CEA were acted upon and agreed by all the concerned parties.

3. Learned senior counsel for the petitioner submitted that since CTU is willing to accept the application for LTA by the petitioner for supply of power to Uttarakhand, the petitioner agrees to make an application to that effect.

4. Learned counsel for PTC submitted that CTU for reasons best known it, has not accepted the petitioner's request for change of drawee entity. The PPA signed between PTC and Haryana is in dispute and thus is in abeyance. Therefore, the LTA should also be kept in abeyance and PTC should not be made to pay transmission charges for the LTA granted.

5. The Commission observed that since CTU's submission during the hearing to consider the application for LTA, if made by the petitioner, is at variance with its stand taken in the letter dated 14.6.2016, CTU should file its submission on affidavit by 30.12.2016 and in case, if the information is not furnished, the decision shall be taken on the basis of the documents on record.

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

**By order of the Commission**

**Sd/-  
(T. Rout)  
Chief (Legal)**