

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 106/MP/2019

Coram:

Shri P.K. Pujari, Chairperson

Shri I. S. Jha, Member

Shri Arun Goyal, Member

Date of Order: 15th March, 2021

In the matter of:

Petition under Sections 79(1)(c) and 79(1)(f) of the Electricity Act, 2003 (“Act”) read with the regulatory framework under the Central Electricity Regulatory Commission (Grant of Connectivity, Long Term and Medium Term Open Access to the Inter-State Transmission and related matters), Regulations 2009, by the Petitioner under the Uttarakhand Integrated Transmission Project (“UITP”) as Deemed Inter State Transmission System (“ISTS”), that is required for providing Long Term Open Access (“LTA”) for evacuation of power from the said generation plants and to also enter into tripartite Long Term Access Agreements (“LTA Agreements”) with the Petitioner and the Central Transmission Utility (“CTU”).

And

In the matter of

Power Transmission Corporation of Uttarakhand Ltd
“Vidyut Bhawan”, Near I.S.B.T Crossing,
Saharanpur Road, Majra
Dehradun-248002.

.....Petitioner

Vs

1. Power Grid Corporation of India Ltd.
(Central Transmission Utility)
“Saudamini”, Plot No. 2, Sector-29,
Gurgaon-122001, Haryana.

2. M/s NTPC Limited
NTPC Bhawan, Scope Complex 7,
Institutional Area, Lodhi Road,
New Delhi-110003.

3. M/s L&T Uttaranchal Hydropower Ltd
L&T-PDL-Hydel
5th Floor, 12/4, Delhi Mathura Road,

Near Sarai Khwaja Chowk,
Faridabad, Haryana-121003.

4. M/s Lanco Mandakini Hydro Energy Pvt Ltd
14-H, Pushpanjali Enclave, GMS Road,
Dehradun-248001, Uttarakhand.

5. M/s THDC India Ltd
Vishnugad Pipalkoti Hydro Electric Plant,
Alaknanda Puram, Siyasain,
Pipalkoti, Distt-Chamoli, Uttarakhand.

6. M/s SJVN Ltd.
SJVN Corporate Office Complex,
Shanan, Shimla-171006,
Himanchal Pradesh

.....Respondents

Parties present:

Shri Sitesh Mukherjee, Advocate, PTCUL
Shri Aryaman Saxena, Advocate, PTCUL
Shri Vikas Sharma, PTCUL
Mr. S.P. Arya, PTCUL
Shri Himanshu Baliyan, PTCUL
Ms. Suparna Srivastava, Advocate, PGCIL
Ms. Nehul Sharma, Advocate, PGCIL
Ms. Jyoti Prasad, PGCIL
Shri Mukesh Khanna, PGCIL
Shri Rajesh Verma, PGCIL
Ms. Swapna Seshadri, Advocate, NTPC
Ms. Ritu Apurva, Advocate, NTPC
Ms. Malvikay, NTPC
Shri G. Umapathy, Advocate, LTUHL
Shri Parteek Gupta, Advocate, LTUHL

ORDER

The present Petition has been filed by the Petitioner, Power Transmission Corporation of Uttarakhand Limited (PTCUL) under Sections 79(1)(c) and 79(1)(f) of the Electricity Act, 2003 (hereinafter referred to as “the Act”) read with the provisions of the Central Electricity Regulatory Commission (Grant of Connectivity, Long Term

and Medium Term Open Access to the Inter-State Transmission and related matters), Regulations 2009 (hereinafter referred to as “the Connectivity Regulations”), seeking issuance of appropriate directions to the generators, which are impleaded herein as Respondents, to execute the revised Implementation Agreements with fresh timelines for expedient and efficient execution of the generation plants and the associated transmission system, which is being implemented by the Petitioner under the Uttarakhand Integrated Transmission Project (UITP) as deemed Inter-State Transmission System (ISTS). The issue involves providing Long Term Open Access (LTA) for evacuation of power from the said generation plants and to also enter into tripartite Long Term Access (LTA) Agreements with the Petitioner and the Central Transmission Utility (CTU). The Petitioner has made the following prayers:

“(a) List the present petition on an urgent basis;

(b) Admit the instant Petition;

(c) Direct the CTU to issue revised intimations for grant of connectivity to each of the generators, impleaded as Respondents Nos. 2 to 6, incorporating the complete associated transmission system, detailed in paragraphs 17.1 to 17.34, as the transmission system required for Connectivity;

(d) Direct the generators, impleaded as Respondents Nos. 2 to 6, to execute supplementary Implementation Agreements with the Petitioner with revised timelines, detailed in paragraphs 17.1 to 17.34 for implementation of their respective generating plants;

(e) Direct the generators and the CTU to enter into tripartite LTA Agreements, including all elements of associated transmission system with the Petitioner, in accordance with the Connectivity Regulations and the Detailed Procedure notified therein, with revised timelines as provided in the supplementary Implementation Agreements to be executed as prayed in prayer (d) above;

(f) Award the Petitioner the costs of the instant Petition;

(g) Pass any other orders as the Commission may deem fit in the present set of facts and circumstances in the interest of justice”

Submission by the Petitioner

2. The Petitioner, Power Transmission Corporation of Uttarakhand Limited (PTCUL) has submitted as under:

a) It is a company incorporated under the Companies Act, 1956 and discharges the functions of the State Transmission Utility (STU) in the State of Uttarakhand under Section 2(67) read with Section 39 of the Act. The Petitioner has also been granted the status of a deemed ISTS licensee by the Commission vide its order dated 31.1.2013 in Petition No. 133/MP/2012.

b) State Government of Uttarakhand (GoU) recognising the potential for setting up hydro power projects in the State along major river basins, namely, Alaknanda, Bhagirathi, Sharda and Yamuna decided to develop generation and transmission facilities by following the integrated basin approach. For the development of hydro power projects in the river basins in the State, GoU signed Memorandum of Understandings (MoUs) with the Central Sector Generating Companies and Independent Power Producers (IPP). About 85% of power generated from these hydro power projects was proposed to be sold outside the State and the balance 15%, including 12% free power, is proposed to be consumed within the State.

c) UITP involved construction of 22 transmission lines of 400/220/132 kV and 8 new substations and sub-station extensions to evacuate power up to the designated pooling points at Kashipur, Pithoragarh and Dehradun. The power from the Kashipur sub-station was proposed to be evacuated by PGCIL outside the State to the beneficiaries of the Northern Region.

d) The issue of construction of UITP was discussed in the meeting convened by Secretary, Ministry of Power, Government of India on 15.9.2006 where it was decided that the matter first needed to be discussed in the Northern Regional Power Committee (NRPC) having regard to the integrated nature of the system involving both inter-State and intra-State transmission systems.

e) In the 2nd meeting of Technical Coordination Committee (TCC) of Northern Region and 3rd meeting of NRPC held on 9.11.2006 and 10.11.2006, respectively, it was agreed that the Petitioner or the hydro power generators in the State of Uttarakhand would apply for open access to CTU so that CTU in consultation with Central Electricity Authority (CEA) could firm up ISTS and in the process also firm up necessary modification in the system up to the pooling points.

f) A proposal was submitted to CEA vide letter dated 3.1.2007 for approval of UITP to construct the power evacuation system for 5406.5 MW of generation projects in Yamuna, Bhagirathi, Alaknanda and Sharda basins for an estimated cost of Rs.2446.74 crore. CEA examined the proposal by taking note of the decision in the TCC and NRPC meetings that the transmission systems would be developed from the generating stations to the pooling points within Uttarakhand and accorded no objection to the Petitioner to take up implementation of the transmission system. Subsequently, on 4.5.2007, the Ministry of Power (MoP) granted its approval to the proposal of the Petitioner for setting up UITP with ADB assistance.

g) The Petitioner approached the Uttarakhand Electricity Regulatory Commission (UERC) for prior approval for its capital investment for UITP in terms of the tariff regulations of UERC. UERC, vide communication dated 10.12.2009, informed the Petitioner that UITP being developed for the purpose of evacuation of power from the hydro power projects in the Alaknanda basin formed part of ISTS and was amenable to jurisdiction of the Central Commission under clause (c) of sub-section (1) of Section 79 of the Act. Subsequently, UERC directed the Petitioner to comply with the requirements of the CERC (Sharing of Transmission Charges and Losses) Regulations, 2010 (hereinafter referred to as "the 2010 Sharing Regulations") to ensure recovery of transmission charges as a deemed ISTS.

h) In the absence of any regulatory framework to ensure recovery of transmission charges for assets of UITP scheme; directions of UERC to approach CERC; and discussions in 22nd TCC and 25th NRPC meetings held on 23rd and 24th February 2012, PTCUL filed Petition No. 133/MP/2012 before

CERC on 4.5.2012 and prayed that assets under UITP Scheme be declared a “deemed ISTS network” as defined in Regulation 2(1)(k) of the 2010 Sharing Regulations.

i) Subsequently, the Commission, vide Order dated 31.1.2013 in Petition no. 133/MP/2012, declared the transmission system under Uttarakhand Integrated Transmission Project (UITP) Scheme as deemed ISTS. In compliance with the Commission’s Order dated 31.1.2013, the Petitioner entered into a Transmission Service Agreement (TSA) and a Revenue Sharing Agreement (RSA) with CTU on 19.3.2013.

j) Transmission system under UITP Scheme having been declared a deemed ISTS network, CTU became the nodal agency in terms of Regulation 4 of the Connectivity Regulations. Accordingly, issues related to Connectivity, grant of LTA, and the execution of Implementation Agreements (IAs) were discussed in various Standing Committee Meetings (SCMs). The Petitioner, being the implementing agency, was advised to enter into Implementation Agreement with the generators, who intended to seek Connectivity and LTA on the transmission system under UITP Scheme. Accordingly, the Petitioner executed Implementation Agreements (IA) with three generators as follows:

- i. NTPC Ltd. (Tapovan Vishnugad HEP)- IA was signed on 29.12.2016.
- ii. M/s L&T Uttaranchal Hydro Power Limited (Singoli Bhatwari HEP)- IA was signed on 1.12.2016.
- iii. M/s Lanco Mandakini HEPL (Phata Byung HEP)- IA was signed on 12.7.2016 and Supplementary IA was signed on 29.11.2016.

3. The Petitioner has provided generation project-wise details of COD (also revised COD) of generation projects, COD (also revised COD) of the associated transmission elements of UITP Scheme, reasons for revision in COD of associated transmission system, present status of various projects etc. in respect of L&T Uttaranchal Hydro Power Ltd (Singoli Bhatwari HEP- 99 MW); NTPC (Tapovan Vishnugad 520 MW); Lanco Mandakini HEPL (Phata Byung 76 MW); SJVN Ltd.

(Naitwar Mori HEP- 60 MW); SJVN Ltd. (Devsari HEP-252 MW); and THDC (Vishnugad Pipalkoti 444 MW).

4. Generation project-wise issues related to grant of Connectivity and LTA as submitted by the Petitioner are as under:

a) L&T Uttaranchal Hydro Power Ltd (Singoli Bhatwari HEP- 99 MW)

- i. Intimation for grant of Connectivity was issued to M/s L&T by CTU on 18.4.2016. The point of connection was 400/220/132 kV S/s Srinagar.
- ii. The Petitioner raised its concerns regarding the intimation for grant of Connectivity in the meeting held on 24.4.2017 and stated that in the grant of Connectivity intimation by CTU, the transmission system should include the whole of the associated transmission system up to Kashipur since the complete network will be required for evacuation of power from Singoli Bhatwari HEP. However, no consensus could be reached.
- iii. The issue was again discussed in 39th SCM (Standing Committee Meeting) held on 29-30.05.2017 and the 10th LTA/ Connectivity Meeting held on 30.5.2017. Based on these meetings, revised intimation for grant of Connectivity and proposal of LTA was issued by CTU to M/s L&T on 26.10.2017 and 6.11.2017, respectively. However, the Petitioner again raised its observations on the revised intimation for grant of Connectivity and LTA and requested to include complete system in Connectivity as well as in intimation for grant of LTA and accordingly, the Petitioner did not give its consent to these intimations. A meeting was further held at CEA on 4.4.2018 but the matter of inclusion of complete transmission system in the LTA intimations and the consequent Agreements remains unresolved. During meeting on 12.9.2018, CEA and CTU suggested that for any further clarification, PTCUL may approach CERC.
- iv. In response to the clarification sought by M/s L&T on intimation for grant of Connectivity dated 18.4.2016, CTU vide its Letter dated 23.6.2016 clarified that Transmission Agreement is not required to be

signed as the transmission line is being built by the Petitioner under coordinated transmission system planning.

b) NTPC (Tapovan Vishnugad 520 MW)

i. Intimation for grant of connectivity was issued to NTPC by CTU on 9.8.2016. In terms of intimation for connectivity, the point of connection was generation switchyard of Tapovan Vishnugad HEP.

c) Lanco Mandakini HEPL (Phata Byung 76 MW)

- i. The intimation for grant of Connectivity was issued to M/s Lanco by CTU on 12.10.2017.
- ii. Similar to the case of other generators, the revised intimation for grant of LTA was issued by CTU to M/s Lanco on 26.10.2018, which again records that the transmission system required for LTA is 400 kV D/c Srinagar-Kashipur Line along with associated 400 kV bays at both ends.
- iii. In the meeting dated 25.9.2017, it was proposed that the Petitioner should implement the 220 kV Baramwari-Srinagar Line in two phases. The second phase of the line shall be implemented by the Petitioner matching with the commissioning of Phata Byung HEP. Accordingly, intimation for grant of Connectivity for phase –I has been issued by CTU.
- iv. As per contractual obligations, there will be difficulties to take the line in two phases and the line from generation switchyard of M/s L&T will become a dedicated line and commercial treatment of this line would be an issue. If Phata Byung HEP comes in near future then, in Phase-II, M/s L&T will have to open its LILO portion of 220 kV Baramwari-Srinagar line and will have to construct a separate line up to 220 kV Baramwari sub-station (which is the point of connection for Phase-II). M/s L&T have shown their inability to construct the line in Phase-II. In view of these practical constraints, it is imperative that the complete 220 kV line should be implemented by the Petitioner along with the 220 kV S/s Baramwari as this line is part of the Coordinated Transmission System planning. Later

on, when Phata Byung HEP of M/s Lanco will be commissioned, the transmission charges may be shared proportionately.

- v. Apart from the above, the complete UITP being implemented by the Petitioner should be included in Connectivity as well as LTA Agreement so as to ensure recovery of transmission charges against these transmission elements. In the 40th SCM held on 22.06.2018 and the meeting organized by CEA between the Petitioner, CTU and generators on 12.9.2018, it was informed by M/s Lanco that their Project is not uncertain and expected COD of Phata Byung HEP is December 2020. This is contrary to the information that has been conveyed to the Petitioner by the Nodal Agency. Such uncertainty on the future of a generating Project makes it difficult for the Petitioner to implement the transmission system. M/s Lanco Infratech Ltd. (LITL), the promoter group and EPC contractor of the project (76 MW Phata Byung HEP of M/s Lanco Mandakini HEPL) was admitted to NCLT (National Company Law Tribunal) for corporate insolvency during August 2017.
- vi. CTU has issued revised intimation of Connectivity and LTA to M/s Lanco on 20.12.2018 based on MoM dated 12.9.2018, minutes of 2nd meeting of NRSCT and 17th LTA/Connectivity meeting of Northern Region.

d) SJVN Ltd. (Naitwar Mori HEP- 60 MW)

- i. As per intimation for grant of Connectivity that was issued to M/s SJVN Ltd. (in short, SJVN) by CTU on 16.10.2017, SJVN was required to submit a BG amounting to Rs. three (3) crore to the Petitioner. Further, in terms of the Intimation for Connectivity, the point of connection is 400/220 kV Dehradun sub-station.
- ii. CTU is considering the transmission line from generation switchyard of Naitwar Mori HEP up to proposed site of Mori sub-station and from the proposed site of Mori sub-station up to Dehradun sub-station as dedicated transmission line and is insisting for signing of Transmission Agreement between SJVN and the Petitioner for the system proposed for

Connectivity. This would reduce the entire system being constructed by the Petitioner up to the Dehradun sub-station to dedicated transmission system, which is neither feasible nor acceptable.

iii. CTU had issued revised intimation of connectivity and LTA to SJVN (for Naitwar Mori 60 MW HEP) on 20.12.2018 based on the minutes of meeting of 2nd NRSCT and 17th LTA/Connectivity meeting.

e) SJVN Ltd. (Devsari HEP-252 MW)

i. SJVN was requested to submit BG to the Petitioner in terms of the intimation of grant of Connectivity issued by CTU, but no BG was submitted. CTU had issued revised intimation of Connectivity to SJVN (for Devsari 252 MW HEP) on 26.10.2017 based on the MoM of 2nd NRSCT and 17th LTA/Connectivity meeting.

f) THDC (Vishnugad Pipalkoti 444 MW)

- i. In terms of the intimation for grant of Connectivity dated 9.8.2016, THDC was required to submit a BG amounting to Rs. 22.20 crore to the Petitioner. Further, the point of connection was generation switchyard of Pipalkoti HEP.
- ii. Pursuant to the above, CTU vide its letter dated 9.9.2016 informed THDC that a Tripartite Transmission Agreement is required to be signed between the Petitioner, THDC and CTU in accordance with the Connectivity Regulations.
- iii. The Petitioner, vide its communications dated 28.9.2016 had raised its concerns regarding the Tripartite Transmission Agreement proposed to be signed between THDC, CTU and the Petitioner and the intimation of Connectivity issued by CTU dated 9.8.2016 and had reiterated that the whole transmission system should be treated as the transmission system required for Connectivity and should also include following transmission elements:-
- 400 kV S/s Srinagar.
 - 400 kV Srinagar-Srinagar HEP Line.

- 400 kV D/C Srinagar-Kashipur line.
- 2 No. 400 kV Bays at 400KV S/s Kashipur

5. The Petitioner has submitted that from the aforementioned instances, it is clear that there is a clear violation of the regulations promulgated by the Commission. Non-signing of the Implementation Agreements, non-compliance of the timelines envisaged in the Implementation Agreements, non-fulfilment of various statutory and regulatory requirements by the generators, and non-consideration of the entire UITP in the intimation for grant of connectivity/LTA by CTU are not only violative of the provisions of the Connectivity Regulations, but they are also in violation of the Commission's directions in its order dated 31.1.2013 in its Petition No. 133/MP/2012.

6. The Petitioner has submitted that UITP Scheme provides for evacuation of power from the bus-bar of various generating stations till the pooling point. Power shall be evacuated beyond the pooling point upto the beneficiaries through ISTS. In terms of Regulation 15 of the Connectivity Regulations, LTA agreements are to be executed between the Petitioner, CTU, and applicants, which in this case are the generators. LTA agreement is required to provide details of timeline for construction of the facilities of the applicant and the transmission licensee, i.e. the Petitioner, the bank guarantee required to be given by the applicant and other details in accordance with the Detailed Procedure formulated under the Connectivity Regulations.

7. The Petitioner has submitted that recovery of transmission charges against various transmission elements is ensured through LTA agreement. By way of an LTA agreement, the beneficiary agrees to bear transmission charges for the transmission system identified for grant of LTA. Hence, in the absence of prior commitment by the

beneficiaries for bearing the transmission charges of the transmission system, the Petitioner shall face difficulty in recovery of transmission charges against investment made by the Petitioner in establishment of transmission facilities.

8. Notices were issued to the Respondents. SJVN, THDCIL, LTUHL, PGCIL, NTPC and LMHEPL have filed their replies and the Petitioner has filed the consolidated rejoinder to the reply of SJVN, THDCIL, LTUHL and PGCIL; some additional information to the replies of the Respondents; and a separate rejoinder to the reply of NTPC.

Reply of Respondent No. 6, SJVN

9. The Respondent SJVN has, vide affidavit dated 9.5.2019, submitted the following as regards 60 MW Naitwar Mori Hydro Electric Project (NMHEP):

a) Naitwar Mori Hydro Electric Project (NMHEP) with a generation potential of 60 MW is located on River Tons, a major tributary of River Yamuna on the Ganga basin, in Uttarkashi district of Uttarakhand. The project is designed as a standalone run of the river project. Letter of Award (LoA) for civil package was issued on 5.12.2017 and work of desilting tank, barrage, diversion channel and HRT etc. are in progress. LoA for Hydro-Mechanical Package and Electro-Mechanical Package was issued on 18.4.2018 and 11.6.2018 respectively and the Project is likely to be commissioned in September 2021.

b) SJVN had filed an application for grant of Connectivity and grant of LTA for NMHEP on 29.4.2016 and 29.11.2017 respectively. CTU vide letter dated 16.10.2017 and its revisions dated 20.12.2018 and 17.1.2019, has forwarded the intimation for grant of Connectivity (Format CON-3) for NMHEP. As per CON-3, Connectivity required for power evacuation from the project is 6.7.2021 or availability of ISTS for Connectivity, whichever is later; and commissioning schedule of generating unit(s) are 10.9.2021 and 10.10.2021. Further, it is also mentioned in the aforesaid intimation that the Tripartite

Transmission Agreement (TTA) is required to be signed within 30 days amongst SJVN, PTCUL and CTU.

c) CTU vide letter dated 20.12.2018 and its revision dated 4.1.2019 has forwarded the intimation for Grant of Long Term Access (LTA) for NMHEP. The start date of LTA as granted by CTU is 10.10.2021. In future, when Mori 220 kV pooling station gets materialized as deemed ISTS, the 220 kV line from Naitwar Mori shall be terminated at Mori 220 kV pooling station by SJVN including 220 kV bays at Mori 220 kV Pooling station. Further, it is also mentioned in the aforesaid intimation that the LTA applicant shall enter into Tripartite Long Term Access Agreement (LTAA) with CTU and PTCUL within 30 days of the LTA intimation.

d) Accordingly, SJVN vide letter dated 14.1.2019 informed PTCUL for signing of Tripartite Transmission Agreement (TTA) and Tripartite LTA Agreement at PGCIL office, Gurugram. These agreements were signed by SJVN on 16.1.2019 in the office of CTU, Gurugram but due to the absence of PTCUL's representative, the same was not signed by PTCUL. Further, SJVN has again requested PTCUL vide letter dated 31.1.2019 and 26.3.2019 to sign the above Agreements already signed by SJVN in CTU office.

e) PTCUL vide letter dated 6.3.2019 informed that it has some reservations on signing of Tripartite Transmission Agreement and Tripartite LTA Agreement for the transmission system and requested CTU/CEA to consider 220 kV D/C Mori- Dehradun line as transmission system required for LTA. In order to resolve the issue, remedial measure as per the Regulations/ Act is under consideration and any formalities regarding signing of TTA & TLTAA shall be considered & intimated accordingly by PTCUL.

f) PTCUL in its letter dated 26.3.2018 indicated that Implementation Agreement between PTCUL and SJVN can only be signed after signing of necessary LTA Agreements. However, PTCUL wrongly indicated in the petition that SJVN has neither signed Implementation Agreement nor established BG in its favour. The same is also non-compliance of the Connectivity Regulations.

g) SJVN vide letter dated 26.2.2019 and 2.4.2019 requested CEA to call a joint meeting of CTU, PTCUL, CEA and SJVN so that the issue regarding the signing of agreements and construction of transmission lines by PTCUL from Mori to Dehradun for NMHEP may be resolved on priority as NMHEP is already at implementation stage and any delay in execution of associated transmission line would affect the power evacuation from the project.

h) SJVN has also raised the issue in 41st TCC & 44th NRPC meeting held on 18th & 19th March, 2019, wherein PTCUL was requested to sign Tripartite Transmission Agreement, Tripartite LTA Agreement & Implementation Agreement so that the construction of associated transmission system of NMHEP could be expedited to match with COD of NMHEP.

i) Further, SJVN vide letter dated 4.4.2019 requested MoP, Govt. of India and Govt. of Uttarakhand to expedite the construction of transmission line on priority for facilitating the evacuation of power as the construction of transmission line is becoming critical due to little time left for commencement of generation from NMHEP. Public Investment Board (PIB) while recommending the investment decision for NMHEP has also expressed concern regarding transmission infrastructure. Construction of the project is likely to be completed by September 2021. For pre-commissioning activities, connectivity for the project is required from July 2021 onwards.

10. The Respondent SJVN has, vide affidavit dated 9.5.2019, submitted the following as regards its 252 MW Devsari Hydro Electric Project:

a) Devsari HEP with installed capacity of 252 MW is located on river Pindar, a tributary of river Alaknanda on Ganga basin, in Chamoli district of Uttarakhand. The project is designed as run of the river project. SJVN has filed an application for grant of Connectivity for Devsari HEP on 29.4.2016. However, the application for grant of LTA would be filed after the Forest Clearance from MoEF&CC.

b) CTU vide letter dated 26.10.2017 and its revisions dated 20.12.2018 has forwarded the intimation for grant of Connectivity (Format CON-3) for

Devsari HEP. As per CON-3, connectivity required for power evacuation from the project is 21.7.2022 or availability of transmission system, whichever is later; and commissioning schedule of generating unit(s) are 21.7.2022, 31.8.2022 and 30.9.2022.

Reply of Respondent No. 5, THDCIL vide affidavit dated 28.5.2019

11. The Respondent THDCIL, vide affidavit dated 28.5.2019, has submitted as follows:

a) THDCIL is, inter alia, implementing the Vishnugad Pipalkoti Hydro Electric Plant - 444 MW (VPHEP) in the State of Uttarakhand. The power from VPHEP is to be supplied to the procurers in different States as per the allocation by the Government of India which has been done by Ministry of Power (Government of India) on 26.12.2011 and the Power Purchase Agreements for VPHEP have been signed with the concerned beneficiaries of Northern Region. The conveyance of the power from the place of generation to the different States shall be through the Inter State Transmission System (ISTS) being laid down by the Petitioner.

b) On 9.8.2016, PGCIL issued a letter intimating the grant of Connectivity for VPHEP. In this letter, it was stated that either Rs 22.20 crore be submitted to PTCUL as bank guarantee (BG) or there is no requirement of BG if the application is submitted along with allocation of power by Ministry of Power/ PPA.

c) During the meeting held on 22.5.2017 and further at the 39th meeting of the Standing committee on Power System Planning of Northern Region held on 29.5.2017, it was stated that THDCIL or its beneficiaries are yet to apply for Long Term Access (LTA) to PGCIL for evacuation of power from VPHEP. It was stated that THDCIL should facilitate the beneficiaries of VPHEP to apply for LTA to PGCIL and subsequently beneficiaries may sign Long Term Access Agreements so that the work on power evacuation system could be taken up by PTCUL/PGCIL. In pursuance to this, THDCIL wrote to all the beneficiaries on 7.6.2017, requesting them to apply to PGCIL for LTA in terms of the

Connectivity Regulations so that there is no delay in construction of transmission system by PTCUL/PGCIL. As the beneficiaries of VPHEP took time to apply for LTA to PGCIL and given the urgency of the matter, the issue was discussed in the TCC & NRPC meetings held on 27.10.2017 & 28.10.2017 respectively at Srinagar, J&K. It was advised by TCC and later concurred by NRPC in the meetings that THDCIL may apply for LTA to PGCIL on behalf of the concerned beneficiaries of VPHEP.

d) In pursuance to the above, LTA Application No. 1200001113 was submitted online, successfully on 13.4.2018 by THDCIL along with the requisite fee but the application was rejected by PGCIL vide letter dated 6.6.2018 on trivial grounds. Since LTA was submitted by THDCIL in accordance with PGCIL guidelines in the prescribed formats and was successfully submitted, THDCIL has been requesting PGCIL to reconsider the application and accord LTA to VPHEP in the best interest of the project work.

e) THDCIL has sought consent of all the beneficiaries for signing of LTA agreement within one month of accord of LTA by PGCIL. Till date three beneficiaries namely UPCL, UPPCL and PSPCL have given their consent. THDCIL has been pursuing the matter of signing the Implementation Agreement with PTCUL since 2016 but till date the Implementation agreement has not been signed. On 3.9.2016, PTCUL sent the draft Implementation Agreement to THDCIL whereupon THDCIL sent its comments to PTCUL on 18.10.2016. On 11.1.2017, a meeting for finalization of draft Implementation Agreement was held with PTCUL and on 22.2.2017, THDCIL sent its revised draft Implementation Agreement to PTCUL requesting them to sign the Implementation Agreement at the earliest. On 10.4.2017, THDCIL, in response to the letter dated 6.4.2017 of PTCUL regarding unit-wise commissioning, provided the anticipated unit-wise commissioning dates of all 4 units of VPHEP and a copy of the letter dated 10.4.2017.

f) Later at the meeting held on 5.5.2017, PTCUL asked THDCIL to sign LTA/ Connectivity Agreement at the earliest which was communicated by PTCUL vide their letter dated 18.5.2017. On 13.12.2017, PTCUL wrote a letter

to THDCIL stating that necessary formalities of signing of LTA, Connection Agreement and Bank Guarantee needs to be completed before signing of Implementation Agreement. On 20.4.2018, THDC informed PTCUL that since the total power generated from VPHEP has been duly allocated by Ministry of Power, Government of India, and as THDCIL has already entered into the long term PPA with all the beneficiaries, there is no need of the Bank Guarantee in terms of the letter dated 9.8.2016 of PGCIL. On 8.6.2018, PTCUL again wrote to THDC that Implementation Agreement shall be signed only after completion of formalities related to LTA and requested to provide the details of allocation of power as made by Government of India along with the status of PPA. On 13.6.2018, THDCIL provided the information on allocation of power and status of PPA signed with beneficiaries and again requested PTCUL to sign the implementation agreement.

g) Due to reasons beyond the control of THDCIL, VPHEP is delayed beyond the date of the sought Connectivity i.e. December 2019. As on date, the expected date of commissioning is December 2022.

h) In view of the above, the submissions made by PTCUL that there is delay in associated transmission system for VPHEP on account of THDCIL not applying to PGCIL for LTA and that THDCIL is deficient in entering into the implementation agreement with PTCUL is patently erroneous. THDCIL has been diligently pursuing the matter with PTCUL and PGCIL for signing of IA and for LTA. As mentioned above, PTCUL despite repeated requests has not come forth to sign the IA and has delayed it on the basis that there ought to be LTA/ Connectivity Agreement and bank guarantee.

i) In view of the Regulation 24.1(a) of the Connectivity Regulations, since the total power to be generated from VPHEP has been allocated by Gol, and THDCIL has already entered into PPAs with all the beneficiaries, there is no requirement to submit the Bank Guarantee. In terms of the Long Term PPAs entered into by THDCIL with the beneficiaries, the delivery of power generated from VPHEP is at the bus-bar of VPHEP and the obligation to evacuate power therefrom is of the beneficiaries.

j) As THDCIL has spent huge amount on the project after investment approval by Government of India and Long Term PPAs have been signed with the beneficiaries, PTCUL may be directed to sign IA with THDCIL without any pre-condition (beyond what has been specified in the Connectivity Regulations) so that the work of power evacuation system of VPHEP is taken up in time for synchronized completion of transmission system.

Reply of Respondent No. 3, L&T UTTARANCHAL HYDROPOWER LTD (LTUHL)

12. The Respondent LTUHL has, vide affidavit dated 24.6.2019, submitted the following:

a) It is in the process of commissioning its hydropower-based plant i.e. Singoli Bhatwari HEP – 99 MW consisting of three units of 33 MW each, which are scheduled to be commissioned by 31.3.2020. LTUHL was awarded the project in 2006 on Build, Own, Operate and Transfer ('BOOT') basis after a competitive bidding process by Government of Uttarakhand. LTUHL has executed the Implementation Agreement with GoU in November 2009 for implementation of its power plant.

b) LTUHL preferred an application dated 15.5.2015 to CTU for grant of Connectivity for its 99 MW power plant. CTU vide its letter dated 18.4.2016 intimated LTUHL of the grant of connectivity for the power plant. The said intimation letter inter alia indicated the (a) the capacity (MW) for which connectivity is granted; (b) the point at which Connectivity is granted including interim arrangement and final arrangement; (c) the date from which the Connectivity is granted; and (d) the transmission system required for evacuation of power which clearly indicated the transmission elements being implemented by the Petitioner.

c) Subsequently, in view of minutes of the 10th Connectivity and LTA Meeting of NR Constituents held on 30.5.2017, intimation letter dated 18.4.2016 for grant of LTA to LTUHL was revised by CTU and revised intimation letter dated 26.10.2017 was issued for grant of 99 MW Connectivity to LTUHL.

d) The Revised Intimation letter dated 26.10.2017 granting connectivity to LTUHL was further revised on 20.12.2018 in view of the change in name of Srinagar S/s as Khandukhal S/s and Kashipur S/s as Rampura S/s. The transmission system for evacuation of power from its power plant has been clearly identified and consistently been mentioned in the intimation letters. The aforesaid Revised Intimation Letter dated 20.12.2018 for grant of Connectivity had a typographical error in Clause 6(f) which did not specify the entities for the tripartite agreement. The same was rectified vide letter dated 2.1.2019 issued by CTU.

e) LTA granted by CTU indicated the execution of a tripartite LTA agreement between CTU, PTCUL and LTUHL within a period of thirty (30) days and execution of Transmission Service Agreement by LTUHL. Accordingly, CTU vide its email dated 3.1.2019 shared the drafts of the Tripartite Transmission Agreement, Tripartite LTA Agreement and Transmission Agreement with LTUHL for execution in terms of the applicable regulations.

f) The Tripartite LTA Agreement and Tripartite Transmission Agreement is pending necessary action. However, LTUHL is willing and ready to execute the said Agreements. Without apprising LTUHL, the Petitioner approached this Commission seeking modification of the LTA Agreement and the Transmission Agreement to include all the elements of UITP instead of the associated transmission system of the LTUHL.

g) LTUHL and the Petitioner had executed an Implementation Agreement on 1.12.2016 which provided the details of the Associated Transmission System, the schedule of commissioning of the Associated Transmission System and the Power Plant and the impact of the time overrun and cost overrun in case of delay in commissioning either by the LTUHL or by the PTCUL. The Implementation Agreement was executed by the parties pursuant to Regulation 12 of the CERC (Terms and Conditions of Tariff) Regulations, 2014. Based on the commitment of the Parties by way of the Implementation Agreement, LTUHL made huge investments in order to implement its Power Plant.

h) The Petitioner is obligated to implement the Associated Transmission System (ATS) related to the evacuation of power from the Power Plant of LTUHL within the schedule provided therein. In the event of delay in commissioning of ATS, the Petitioner/ PTCUL is obligated under Clause 1(ii) of the Implementation Agreement, to provide an alternate arrangement at its own cost for evacuation of power from the LTUHL's Power Plant until the commissioning of ATS beyond the scheduled commissioning date of ATS.

i) The Power Plant was scheduled to be commissioned as under and the same was agreed under the Implementation Agreement-1:

- a) Unit No 1: October 2018
- b) Unit No. 2: November 2018
- c) Unit No. 3: December 2018

j) During implementation of the Power Plant, the Central Government modified the minimum E-flow norms for the river on 9.10.2018 vide a gazette notification. Consequently, LTUHL had to make modifications to its Power Plant to accommodate the revised norms. In December 2018, LTUHL approached the Government of Uttarakhand for revision of the schedule commissioning date of all the three units of the Power Plant. In view of the extension sought by LTUHL, the progress of the development of the Power Plant was assessed by a joint team comprising of representatives of Ministry of Environment and Forest, Central Electricity Authority, Uttarakhand Jal Vidyut Nigam Limited and CWC and a report was submitted to GoU for its consideration. GoU considered inter alia the following grounds as stated in the Report, for granting extension to the scheduled commissioning date of all the three units of the Power Plant:

- a) Revision of E-flow norms by the Central Government;
- b) The Generator Transformers (GTs), each weighing about 70 MT could not be moved to the site for over a year as the Rudraprayag bridge was being repaired by the State Government's agencies; and
- c) The ongoing road widening works along the national highway severely restricting the movement of supplies.

k) In respect of the Bank Guarantee, LTUHL has submitted that neither the Implementation Agreement nor the intimation for grant of LTA mandated

any submission of Bank Guarantee by LTUHL to the Petitioner. However, upon CTU's advice, LTUHL undertook to provide Bank Guarantee of Rs. 4.95 crore to the Petitioner. On 24.10.2017, LTUHL vide its letter to the Petitioner furnished a Bank Guarantee dated 23.10.2017 in favour of the Petitioner for an amount of Rs. 4.95 crore valid upto 31.3.2019. In the said letter, LTUHL unequivocally stated that the said Bank Guarantee was to be furnished at the signing of the LTA Agreement as per the Connectivity Regulations.

I) The Petitioner vide its letter dated 30.10.2017 objected to the Bank Guarantee furnished by LTUHL and requested to furnish a fresh bank Guarantee as per the format prescribed by the Commission. Further, the Petitioner returned the original Bank Guarantee to LTUHL. LTUHL vide its letter dated 3.11.2017 clarified to the Petitioner that the additional clauses inserted in the Bank Guarantee were standard clauses inserted by the issuing Bank and that LTUHL had no control over the same. However, LTUHL approached the issuing bank and obtained necessary letter for deletion of the clauses objected by the Petitioner. Since the original Bank Guarantee had not reached LTUHL, it undertook to furnish the original Bank Guarantee subsequently and submitted the letter from the issuing Bank confirming the deletion of the clauses as well as the Amendments to the Bank Guarantees. On 17.11.2017, the Petitioner returned the Bank Guarantee to LTUHL stating that the Bank Guarantee was delayed and thus, the implementation work of ATS has been delayed and thereby leading to revision in the commissioning date beyond 31.3.2019. Thus, the Bank Guarantee with the validity upto 31.3.2019 was not acceptable to the Petitioner. LTUHL vide its letter dated 21.12.2017 responded to Petitioner's letter dated 17.11.2017 inter alia stating that the validity of the Bank Guarantee was in line with the Implementation Agreement executed by the parties and any averment to the contrary was incorrect. Further, LTUHL stated that it has duly complied with the Connectivity Regulations and the Bank Guarantee has been submitted to the Petitioner as per the prescribed format. Thus, the Petitioner ought to complete the implementation of ATS as per the schedule under the Implementation Agreement. LTUHL again furnished the original Bank Guarantee along with the Amendment letter to the Petitioner. Even CTU in its

revised intimation dated 22.12.2017 for grant of connectivity to LTUHL, had noted that the Bank Guarantee had been furnished to the Petitioner by LTUHL.

m) Without paying any heed to the averments of LTUHL stated in letter dated 21.12.2017, the Petitioner again returned the Bank Guarantee to LTUHL on 09.02.2018 asking that the validity of the Bank Guarantee be extended upto 30.9.2019. LTUHL vide its letter dated 3.3.2018 resubmitted the Bank Guarantee to the Petitioner. However, the Petitioner vide its letter dated 7.7.2018 again returned the Bank Guarantee seeking extension of the validity of the Bank Guarantee beyond 31.3.2019. Due to non-acceptance of the Bank Guarantee by the Petitioner and the concerns of LTUHL in respect of the implementation of ATS, LTUHL was constrained to furnish the Bank Guarantee with an extended validity upto 30.9.2019. LTUHL has duly furnished the Bank Guarantee of Rs. 4.95 crore to the Petitioner and thus the commissioning of 220 kV S/s at Baramwari and 220 kV D/C line on single Zebra Conductor from Baramwari (Rudrapur) to Srinagar, ought to be carried out as per the schedule under the Implementation Agreement.

n) CTU has not issued the necessary CON-5 and Connection Agreement to LTUHL yet. LTUHL apprised the Petitioner of the delay in furnishing the details to Respondent No.1/CTU vide its letter dated 3.11.2017. In the said letter, it was observed that CTU was seeking the details from Petitioner since 26.7.2017 and despite which the Petitioner had not provided the details to CTU. LTUHL is yet to receive CON-5 from CTU. LTUHL is unaware if the Petitioner has provided the technical specification to CTU.

o) In respect of the 220 kV Baramwari (Rudrapur) – Srinagar line, it is stated that the Petitioner's initial contract with M/s Lanco for the development of the said line, was terminated for non-performance. As per monthly progress report dated 28.02.2019 of CEA, ROW issues along this line were impeding construction progress and were being resolved by PTCUL. Even the 400 kV Srinagar – Kashipur line is delayed beyond the scheduled commissioning date as it was contracted to M/s Cobra who has abandoned the development work due to their poor financial condition. The development of the said line is

expected to take about three (3) years from the date of issuing a fresh contract to a new contractor, which is yet to be carried out by the PTCUL.

p) LTUHL is likely to commission its Power Plant (all 3 units) by 31.3.2020. Accordingly, the need for transmission facility for evacuation of power from the Power Plant as per the agreement already executed between the Petitioner and LTUHL is critical and in absence thereof, the Power Plant of LTUHL will be stranded. In the event of delay in commissioning of ATS from the schedule, an alternate arrangement is must for evacuation of power from the Power Plant of LTUHL. The Petitioner has prayed for directions from the Commission to LTUHL to execute Supplementary Implementation Agreement with revised timelines for implementation of ATS. However, if the timelines for implementation of ATS is revised, the Power Plant will be stranded and the commercial dynamics of the Power Plant will be adversely affected. Commissioning of ATS is sine qua non to prevent the Power Plant and the associated investment of Rs. 2000 crore from becoming stranded.

q) On the basis of the Implementation Agreement, LTUHL entered in a Memorandum of Understanding with L&T Hyderabad Metro Rail Limited for supply of 150 MU from April 2019 onwards. This was subsequently revised to April 2020. However, due to the delay in providing the necessary transmission facility, LTUHL may not be able to comply with its obligations under the said MOU and thereby, may attract penalties for breach of obligation under the MOU.

r) LTUHL may also be exposed to liability towards CTU on account of the LTA applications made by LTUHL in respect of the transmission system beyond the State of Uttarakhand. Since LTUHL will not be able to evacuate its power and use the transmission system, it will incur transmission charges even though it is unable to utilise the same for no fault of its own. It is prayed that these penalties are not levied on LTUHL as the present situation arose on account of factors beyond the control of LTUHL.

Reply of Respondent No. 1, PGCIL (CTU) vide affidavit dated 3.7.2019

13. PGCIL (CTU), vide affidavit dated 3.7.2019, has submitted as under:

a) PGCIL has no objection in becoming a signatory thereto for signing of Long-Term Access (LTA) Agreements between the Petitioner and Respondents (NTPC, LTUHL, LMHEPL, THDCIL and SJVN) on the terms prayed by the petitioner in the event the Petitioner and the Respondents agree to sign the Tripartite LTA Agreements.

b) The applicant, after getting Connectivity, may apply for grant of LTA. After which the LTA application is processed and system studies are carried out to identify transmission system required to effect the desired power transfer. LTA is granted either through existing ISTS or with the new proposed ISTS network (if required) for transfer of power from generation projects/ injection points to the identified/ target beneficiaries. Upon such grant, LTA agreement is required to be signed amongst CTU, applicant/beneficiaries (if firmed up) and the ISTS licensee (if applicable) whose system is to be used.

c) It was decided and agreed during the meeting dated 12.9.2018 held in CEA that Pipalkoti S/s is not required in the timeframe of Tapovan Vishnugarh HEP and that it shall be required with Pipalkoti HEP. Thus the system has been planned in an optimal manner. PTCUL should have raised these concerns during the various past Standing Committee/ LTA & Connectivity meetings of Northern Region.

d) As per the intimations, the Petitioner is required to sign the Tripartite Transmission Agreement and Tripartite LTA Agreement immediately to complete the regulatory compliance and for facilitating matching development of transmission system vis-à-vis generation projects, which is yet to be signed.

e) Regarding Baramwari S/s, CTU vide letter dated 12.12.2017 stated that earlier, Phata Byung HEP & Singoli Bhatwari generation projects were to be commissioned in similar timeframe. Phata Byung was the first generation project to be commissioned. However, later on Phata Byung HEP got delayed/ became uncertain and Singoli Bhatwari was to materialize first. Accordingly, Baramwari S/s to Srinagar S/s 220 kV line was envisaged to be implemented in two phases i.e. Phase-I matching with Singoli Bhatwari HEP and Phase-II matching with Phata Byung HEP. Also, it was envisaged that Baramwari S/s

shall be required with Phata Byung HEP. In fact, there was no requirement of Baramwari pooling station with only one generating station and same is required only when two or more generation projects come up.

f) PTCUL did not agree to the CTU's intimation and matter was discussed in a number of meetings i.e. in CEA on 4.4.2018, 40th Meeting of Standing Committee on Power System Planning of Northern Region dated 22.6.2018 and 2nd Meeting of Northern Region Standing Committee on Transmission (NRSCT) held on 13.11.2018. Since the matter remained unresolved due to Petitioner's reluctance to accept the Connectivity and LTA intimations granted, based on the minutes of meeting held in CEA on 12.9.2018 and 17th LTA/Connectivity meeting of NR held on 26.11.2018 wherein it was mentioned that due to insistence of PTCUL, CEA/CTU agreed that revised LTA intimations may be issued indicating Connectivity system also, which would be required in addition to LTA system for effecting LTA. In addition, Connectivity intimations were also revised on account of change in name of Srinagar S/s as Khandukhal S/s and Kashipur S/s as Rampura S/s and other developments. Thereafter, CTU issued the revised LTA/ Connectivity intimations to M/s Lanco Mandakini on 20.12.2018.

g) The status of generation projects under the UITP scheme is mentioned below:

Sl. No.	Applicant	Latest time frame of Generator
1	Lanco Mandakini Hydro Energy Pvt. Ltd. (Phata Byung HEP) – 76 MW	June 2021
2	L&T Uttaranchal Hydropower Ltd. (Singoli Bhatwari HEP) – 99 MW	Mar 2020
3	NTPC Ltd. (Tapovan Vishnugad HEP) – 520 MW	November 2020
4	THDC Ltd. (Vishnugad Pipalkoti HEP) – 444 MW	June 2022
5	SJVN Ltd. (Devsari HEP) – 252 MW	July 2022
6	SJVN Ltd. (Naitwar Mori HEP) – 60 MW (Yamuna Basin)	September 2021

h) On the issue raised again and again by PTCUL to include Connectivity system in LTA intimation, it is submitted that as per the Transmission system mentioned in Connectivity intimation, Connectivity can be made effective and as per the Transmission system mentioned in LTA intimation, LTA can be made effective and PTCUL cannot deny this hard fact.

Consolidated Rejoinder by the Petitioner

14. The Petitioner, vide affidavit dated 9.9.2019, has submitted as follows:

a) The Commission, vide its order dated 31.1.2013 in Petition No. 133/MP/2012, has held that the UITP Scheme is an Inter-State Transmission System. In compliance with the Commission's Order dated 31.1.2013, the Petitioner entered into a Transmission Service Agreement and a Revenue Sharing Agreement with CTU on 19.3.2013.

b) Pursuant to the execution of IAs, the Petitioner constantly requested the respective generators to complete the formalities of LTA as the LTA agreements are a necessary requirement for network implementation by the ISTS Licensee/CTU. For the same, it was imperative for CTU to have granted LTA to these generators in timely manner by including all the elements of the Associated Transmission System, as identified in the Petition. However, due to delay in grant of LTA and non-inclusion of complete ATS in LTA intimations/Agreements, the respective timelines as agreed in these Implementation Agreements were not adhered by the generators. Even the planning agencies such as CTU and CEA have advised the Petitioner to delay the implementation of ATS when commissioning of Tapovan-Vishnugad HEP was revised by NTPC.

c) Signing of IAs ought to have been followed by grant of LTA and signing of LTA agreements in terms of the Connectivity Regulations. As LTA agreements are not in place till date, timelines of IAs are, admittedly, not being adhered to by the generators. Thus, claim of CTU that Implementation Agreement is an inter-se issue between the Petitioner and the generators is not entirely correct as it is only because of the incorrect treatment of ATS in granting LTA by CTU that has contributed to delay in the implementation of

ATS. There is significant delay by the CTU in processing various application for connectivity/ LTA received from the Generators.

d) If transmission system including dedicated transmission line is to be constructed by the CTU/ISTS Licensee, then the applicant (generator) will be required to submit a construction phase Bank Guarantee at the rate of Rs 5 lakh/MW. However, if allocation of power from the Central Sector Generating Station is carried out by Gol, then the generator is not required to submit the BG but augmentation of transmission system as identified for grant of LTA is to be undertaken only after the agreement of the beneficiaries for bearing its transmission charges.

e) Another issue that strengthens the plea of the Petitioner that the complete ATS ought to be included in the LTA agreements is that vide order dated 31.01.2013, the Commission had settled that since the entire transmission system from the bus-bar of the generation projects up to the pooling point is ISTS, neither NTPC nor its beneficiaries are required to sign a separate Transmission Service Agreement with the Petitioner as they have already signed TSA with CTU. Now, CTU is considering the upstream network as dedicated/ connectivity lines and insisting on signing of a Transmission Agreement, which is a bilateral agreement between the Petitioner and NTPC (later on CTU has made it a Tripartite Transmission Agreement), then it is in contravention of the Order dated 31.01.2013.

f) According to the intimations for grant of connectivity/ LTA issued by CTU, a tripartite transmission agreement and a tripartite LTA agreement is to be signed between the Petitioner, SJVN & CTU for Naitwar Mori HEP. SJVN has already signed these Agreements on 16.1.2019. However, the Petitioner didn't agree to sign these agreements for the reasons stated below:-

- i. As per the Connectivity Regulations and Detailed Procedure made thereunder, a Transmission Agreement is signed for a dedicated transmission line between the generator and CTU/ ISTS Licensee. In case of Naitwar Mori HEP, dedicated transmission line from generating station switchyard up to proposed site of Mori sub-station (point of connection) is to be constructed by SJVN itself. Hence, there is no need to sign a

Tripartite Transmission Agreement, as suggested by CTU.

- ii. The transmission line beyond the proposed site of Mori S/s i.e. 220KV D/c Mori-Dehradun (PGCIL) line is to be constructed by the Petitioner for evacuation of power from the generating project which should essentially be considered as transmission system required for LTA and accordingly, LTA agreements for implementation of this line is to be signed between CTU, the Petitioner & SJVN.
 - iii. Further, Regulation 15 of the Connectivity Regulations clearly suggests that the Applicant has to sign a tripartite LTA agreement with the Petitioner and CTU. Such LTA Agreement is required to provide the details of the timeline for construction of the facilities of the applicant and the transmission licensee, i.e. the Petitioner; the bank guarantee required to be given by the applicant; and other details in accordance with the detailed procedure.
 - iv. The Petitioner raised the issue of non-consideration of 220 kV D/c Mori-Dehradun line as part of LTA system at various meetings i.e. 40th SCM dated 22.06.2018, meeting at CEA on 12.9.2018 and 2nd NRSCT held on 13.11.2018.
 - v. In the 2nd NRSCT, CTU/CEA had suggested that “connectivity system” can be mentioned as “transmission system required for effecting the LTA” in the LTA intimations. However, the Petitioner didn’t agree to this proposal as the same was not in line with the provisions of the Connectivity Regulations. But LTA intimation was issued to SJVN by CTU vide letter dated 20.12.2018.
- g) As SJVN had not applied for LTA in a timely manner and also Intimation for grant of LTA was issued by CTU after one year, it is not justified to ask the Petitioner to complete the line as per commissioning schedule of the generator i.e. November 2021 (revised further to September 2021).
- h) Since the point at which connectivity is granted by CTU to the Vishnugad Piplakoti 444MW HEP is its generation switchyard, it is essential

that CTU should consider the entire system being implemented by the Petitioner under deemed ISTS network as Transmission System required for LTA and accordingly, beneficiaries of Vishnugad Piplakoti 444MW HEP should sign a Tripartite LTA Agreement with the Petitioner and CTU to bear its transmission charges. Generator should also apply for LTA to CTU and submit the required Bank Guarantee to the Petitioner timely so as to enable the Petitioner to complete the transmission system.

i) In terms of the provisions of Implementation Agreement, M/s L&T has sought alternate evacuation system for evacuation of power from its Generating Project. In fact, M/s L&T is not able to identify its beneficiaries and has not signed PPAs and is shifting the reason of non-signing of PPAs on delay in commissioning of ATS by the Petitioner. In reality, due to non-signing of appropriate LTA agreements and delay in submission of BG by M/s L&T, the progress of implementation of ATS by the Petitioner is seriously affected and this lackadaisical approach of M/s L&T has jeopardized the recovery of transmission charges of the 220 kV D/c Baramwari-Srinagar line which is on the verge of commissioning and M/s L&T has now delayed its Generating Project up to March 2020.

Additional Information submitted by the Petitioner

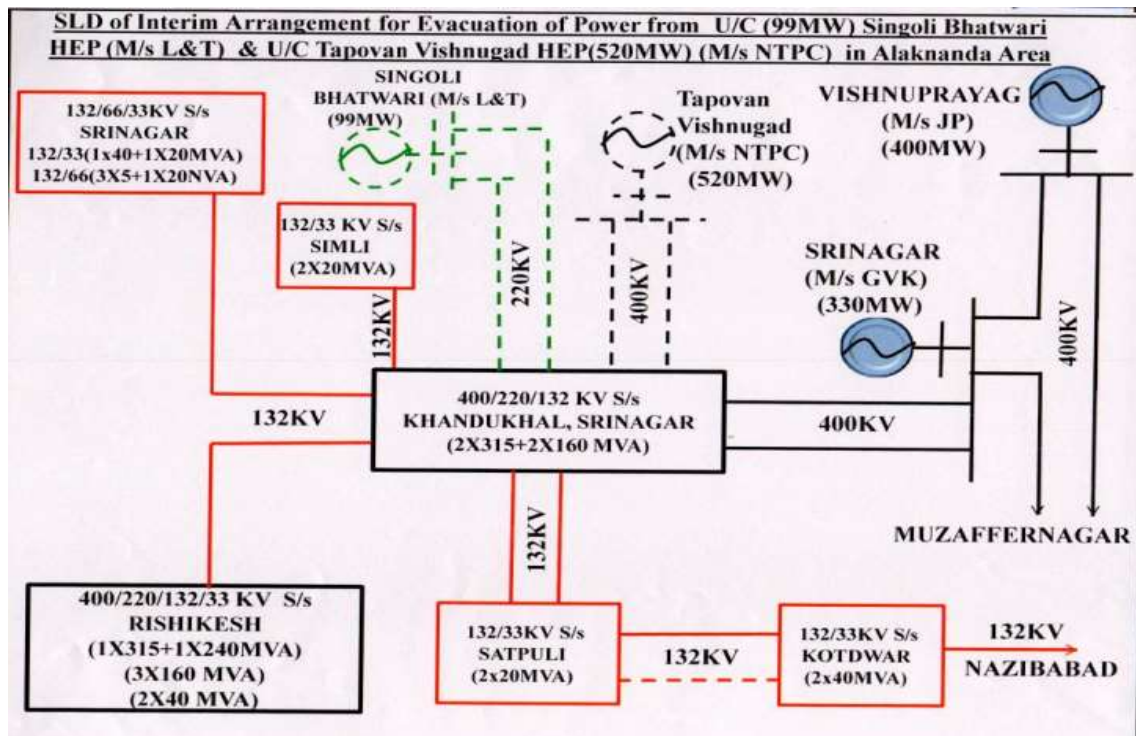
15. The Petitioner, vide affidavit dated 7.10.2019, has submitted the following:

- a) The reasons for delay in implementation of 400 kV D/C Srinagar (Khandukhal) - Kashipur (Rampura) Line is as below:
- i. The contract for construction of 400 kV Srinagar (Khandukhal) - Kashipur (Rampura) ("Srinagar- Kashipur Line") was awarded on 24.12.2013 to M/s Cobra Instalaciones Y Servicios S.A.
 - ii. The said contract had to be terminated on account of default on part of the contractors on 16.11.2017.
 - iii. Fresh tender was floated on 8.3.2019 for construction of 400 kV D/C Khandukhal-Rampura (earlier 400 kV D/C Srinagar-Kashipur) Line after getting all the statutory approvals.

b) So far only two generators i.e. 520 MW Tapovan Vishnugad HEP (M/s NTPC) and 99 MW Singoli Bhatwari HEP (M/s L&T) in Alaknanda basin are in pipeline and in case of delay in implementation of Srinagar-Kashipur Line, the power from these generating projects can be evacuated through an interim arrangement. The Commission may consider the same and issue necessary directions to CTU for recovery of the transmission charges of the upstream network being implemented by the Petitioner, in case the interim arrangement is provided for evacuation of power from these generating projects by the Petitioner.

c) The System Study Report of Alaknanda Basin has been prepared based on existing/ proposed/ under construction transmission system for Interim Arrangement for evacuation of power from the 99 MW Singoli Bhatwari HEP of M/s L&T and Tapovan Vishnugad HEP (520 MW) of NTPC in Alaknanda Valley in view of the fact that the proposed 400 kV Khandukhal (Srinagar)- Rampura (Kashipur) Line is expected to come after currently anticipated COD of Tapovan-Vishnugad (520 MW) HEP. Load flow study has also been prepared on the basis of Interim arrangement for evacuation of power from the upcoming 520 MW Tapovan Vishnugad HEP and 99MW Singoli Bhatwari HEP of M/s L&T as well as the existing 330 MW Srinagar HEP of M/s GVK and 400 MW Vishnuprayag HEP of M/s JP without considering the proposed 400 kV D/C Khandhukhal (Srinagar)-Rampura (Kashipur) line.

d) The single line diagram of interim arrangement as discussed in a meeting with CEA on 4.10.2019 is as below:



e) In view of the above, the Commission should not consider the implementation aspect of transmission system in the absence of the commercial aspect, which is vital and important for the Petitioner to be able to discharge its obligations and complete the transmission system in time.

Reply of Respondent No. 2, NTPC vide affidavit dated 7.10.2019

16. NTPC has, vide its affidavit dated 7.10.2019, submitted the following:

a) PTCUL in its Petition is demanding for execution of revised Implementation Agreements with fresh timelines from the generators whereas PTCUL has not taken any stand regarding their own execution of work or any definite time period about commissioning of the transmission system. In so far as NTPC is concerned, none of the grievances of PTCUL are correct. Originally NTPC (Tapovan Vishnugad HEP) had signed the agreements with PTCUL which included the Implementation Agreement which was signed on 29.12.2016. LTA has been signed by almost all the beneficiaries of NTPC except for Himachal Pradesh, Haryana and Delhi Discoms.

b) In so far as the Himachal Pradesh is concerned, matter is with the Ministry of Power for de-allocation of their share. Haryana is willing to sign the same immediately after firm date for availability of power is informed so that

power procurement can be approved by HERC. In any event, this has no impact on PTCUL.

c) In view of the Commission's Order dated 9.3.2018 in Petition No. 20/MP/2017, it is not understood as to how non-signing of LTA Agreement will affect the right of PTCUL to implement and recover charges for the transmission system.

d) NTPC has no dispute in revising the implementation schedule with fresh timelines. In so far NTPC – Tapovan Vishnugarh is concerned, it is likely to be commissioned from September 2020 - December 2020. The only issue which is apprehended by NTPC is that PTCUL will not be able to execute the transmission system on time even after revising the implementation schedule. In such a case, the electricity generated by NTPC would get bottled up. The very fact that PTCUL has not given any time schedule for commissioning of its transmission project indicates that it will most likely get delayed.

e) In case PTCUL delays implementation, they are obliged to provide an alternate path for evacuation as per Clause 1 of the Implementation Agreement. However, if PTCUL is not able to commission its project and is also not provide an alternative evacuation path, PTCUL should be held liable for paying the deemed fixed charges of generation to NTPC. Power Grid Corporation of India has been making efforts to review the status of the generation and transmission projects from time to time via meetings. In all these meetings, PTCUL has participated but been non-committal and not given any firm dates of commissioning its transmission system. Further, in case transmission system by PTCUL is commissioned and NTPC gets delayed, NTPC would be liable to pay the transmission charges only to the extent of its quantum of LTA i.e. 513.76 MW and not for the delay caused by other generators.

Rejoinder of the Petitioner to the reply of Respondent No.2, NTPC

17. The Petitioner, vide its affidavit dated 17.10.2019, submitted as follows:

a) NTPC has expressed its concerns that if the transmission system is not in place by the time NTPC's HEP is commissioned, its power may get bottled up. Status of elements of the transmission system associated with NTPC's HEP that are required for evacuation of its power and are being implemented by the Petitioner are as follows:-

- i. 400 kV D/c Tapovan-Vishnugad HEP–Pipalkoti line (Scheduled to be commissioned matching with the timeframe of NTPC's HEP i.e. December 2020).
- ii. 400 kV D/C Pipalkoti-Khandukhal (Srinagar) line (Scheduled to be commissioned matching with the timeframe of NTPC's HEP i.e. December 2020).
- iii. 400 kV D/c Khandukhal (Srinagar)- Rampura (Kashipur) line (certain issues in its implementation which have already been presented before the Commission)

b) NTPC has been constantly revising the schedule of implementation of its HEP. It was during the meeting dated 4.4.2018 at CEA that the Petitioner was made aware about the revision in the commissioning schedule of NTPC's HEP from December 2019 to September 2020, which may further stretch to December 2020. Accordingly, the Petitioner was directed to commission the 400 kV D/C Pipalkoti-Khandukhal (Srinagar) line matching with the revised commissioning schedule of NTPC's HEP.

c) In order to ensure that there is no dearth of capacity for evacuation of power from NTPC's HEP and there is no bottling up of power, the Petitioner is making every effort to provide an interim arrangement for evacuation of power as well. The proposal of interim arrangement was discussed in a meeting with CEA on 4.10.2019 in accordance with the meeting notice of CEA dated 27.9.2019. The said meeting was attended by the representatives of CEA, UP Power Transmission Corporation Limited, CTU, and NTPC.

d) NTPC has placed reliance on the Commission's order dated 9.3.2018 in the Petition No. 20/MP/2017 to suggest that even if the LTA Agreements are not signed, it will not jeopardise the recovery of transmission charges for the Petitioner. In this regard, it is submitted that the aforementioned order was in

the case of a Central Sector Generating Station like NTPC, where the power from the generating project is allocated by the Government of India among the beneficiaries and the beneficiaries enter into the Power Purchase Agreements with the said generator and agree to bear the transmission charges. The generator then applies for LTA to CTU on behalf of the beneficiaries and the beneficiaries are obliged to sign necessary LTA agreements and to pay the transmission charges. In such a situation, even if the beneficiary/ies fail to sign the LTA Agreements, CTU would be obligated to operationalize LTA qua the said beneficiary who shall be liable to bear the transmission charges in terms of its contractual obligations in terms of its PPA with generator. While the said situation may be true for a CSGS, the instant case stands on a different footing, which in turn gives rise to the apprehensions of the Petitioner. In the instant case, the Associated Transmission System is to be implemented by the Petitioner as deemed ISTS network for the five generators out of which, so far M/s L&T and NTPC have applied for and have been granted LTA by CTU; M/s Lanco was granted LTA by CTU after the said generator became uncertain; M/s THDC has not been granted LTA by CTU; and SJVN has not applied for LTA.

e) Therefore, in the instant case, transmission elements of the Associated Transmission System are being implemented/ to be implemented not only for NTPC but also for other generators (including IPPs and CSGS). However, LTA application/ status of the other three generators is not in place till date. In view of the above, non-existence of application for grant of LTA or the delay in the same, there may be dispute in recovery of transmission charges against the transmission system being implemented by the Petitioner.

f) An important issue raised by NTPC is that in case the Petitioner's transmission system gets commissioned and NTPC gets delayed, NTPC would be liable to pay the transmission charges only to the extent of its quantum of LTA i.e. 513.76 MW and not for the delay caused by other generators. Although the elements of transmission system being implemented by the Petitioner is for evacuation of power from more than one generator and this instant Petition is filed by the Petitioner before the Commission to adjudicate upon the dispute of LTA related issues with the CTU and the generators, the basis of

implementation of various elements is the Implementation Agreements signed between the Petitioner and the generators. These Implementation Agreements between the generators and the Petitioner have been signed on the directions of CEA and CTU. Transmission elements to be implemented by the Petitioner for evacuation of power from NTPC's HEP are (i) 400 kV D/c Tapovan Vishnugad –Pipalkoti line, (ii) 400 kV D/C Pipalkoti-Khandukhal (Srinagar) line and (iii) 400 kV D/c Khandukhal (Srinagar)- Rampura (Kashipur) line. The element (i) is to be implemented for evacuation of power from NTPC's HEP and the element (ii) shall be required for evacuation of power from HEPs of NTPC, THDC and , SJVN. The 400 kV D/c Khandukhal (Srinagar)- Rampura (Kashipur) line will be required for evacuation of power from all of these generators as well as the power from 99 MW Singoli Bhatwari HEP of M/s L&T and 76 MW Phata Byung HEP of M/s Lanco. Accordingly, the elements (ii) and (iii) are to be implemented by the Petitioner matching with the timeframe of NTPC's HEP. IA was signed between the Petitioner and NTPC and both parties are under obligation to perform their duties as defined and agreed in the IA.

g) From the IA, it is clear that NTPC is liable to bear the transmission charges and NTPC cannot escape from its liability in case the Petitioner's system is ready and NTPC gets delayed. The Commission may take a comprehensive and holistic view to apportion the liability of transmission charges between various generators/ their beneficiaries. The Petitioner's only concern is that when it is implementing the transmission system in accordance with the procedure established and in terms of the commitments made by the generators, there ought not to be a situation where the Petitioner is rendered out of pocket or unpaid for the work carried out by the Petitioner as that will severely adversely impact the Petitioner's financial health.

h) NTPC has submitted that almost all of the beneficiaries have signed LTA agreements. NTPC may be directed to put on record all of the LTA agreements. CTU had issued revised intimation for grant of LTA to NTPC for NTPC's HEP on 20.12.2018. Till date no information has been provided to the Petitioner when the Draft Tripartite LTA agreement was provided by CTU to the

beneficiaries and the Petitioner, after issuance of revised intimation for grant of LTA dated 20.12.2018.

Reply of Respondent No. 4, Lanco Mandakini Hydro Energy Private Limited (LMHEPL)

18. The Respondent No.4 LMHEPL, vide its affidavit dated 25.10.2019, has submitted the following:

a) After execution of Implementation Agreement dated 6.10.2008 with Government of Uttarakhand, LMHEPL started executing the work in all earnest. By June 2013, LMHEPL had completed more than 70% of the project and it was on schedule to be commissioned by 5.10.2014. The same has been mentioned in the Implementation Agreement. However, flash floods in June 2013 which caused immense loss and damage across the State of Uttarakhand, also adversely impacted the Project. The dam area structures, Head Race Tunnel (HRT) and Power House area structures suffered severe damages and Project's physical progress stood reduced drastically in comparison to original progress of 70% before flash floods. Flash flood was acknowledged as a Force Majeure event by Government of Uttarakhand (GoU) under Implementation Agreement dated 6.10.2008 and revised the Commercial Operation Date (COD) to 31.12.2018 vide letter no. 621/1/2016-04(08)/22/2006 dated 22.7.2016.

b) During the period between resumption of construction/ restoration activity in 2014-15 to 2017, the Project had achieved a cumulative progress of 74%.

c) While the work at site was progressing well, in June 2017, a Petition under Insolvency and Bankruptcy Code, 2016 filed against the EPC contractor i.e. Lanco Infratech Ltd (LITL) before National Company Law Tribunal (NCLT) was admitted. In view of the same, LITL wrote a letter dated 6.7.2017 to LMHEPL conveying its inability to continue with the execution of EPC works of the Project. Further, in August 2018, NCLT passed order directing liquidation of LITL. While the construction activity came to standstill after June 2017, LMHEPL took active steps to preserve the project.

d) It is estimated that construction activities would resume at project site during Financial Year 2020-21 once process of change in management and post-resolution activities are carried out by the Project lenders in Financial Year 2019-20. Process for change of management is being carried out by the lenders and LMHEPL has no control over the same. Considering the bad macro-economic conditions in the country and precarious condition of the power sector, finding a new management may not be easy. Therefore, the timelines for change of management is only indicative and are beyond control of LMHEPL.

e) The Project may take approximately 36 to 39 months to achieve its Commercial Operation (COD) i.e. by December 2022. Therefore, LMHEPL is agreeable to execute revised supplementary Implementation Agreement and a tripartite agreement with Petitioner and CTU on basis of revised COD of December, 2022.

Hearing Dated 16.6.2020

19. Learned counsel for the Respondent, CTU has submitted as under:

a) Generators who had not applied for the LTA, were directed to make an application to CTU for grant of LTA. However, THDC Ltd. (Vishnugad-Pipalkoti HEP) and SJVN (Devsari HEP) have not applied for LTA till date. Further, Lanco Mandakini Hydro Energy Private Limited (LMHEPL) is undergoing insolvency proceedings before the National Company Law Tribunal (NCLT).

b) Out of the remaining three Projects, SJVN has signed the Tripartite LTA Agreement with respect to Naitwar Mori HEP. As regards NTPC's Tapovan Vishnugad Project, draft format for LTA Agreement has been agreed to between the parties and signing of the same is being coordinated by NTPC with the beneficiaries. As regards L&T Uttaranchal Hydro Power Limited-Singoli Bhatwari HEP, the tripartite LTA Agreement has been signed by the Therefore, coordination for signing of the LTA Agreements at the end of CTU has been completed and now the Petitioner is required to further follow up with the concerned.

c) Despite signing of the Tripartite LTA Agreement by SJVN with respect to Naitwar Mori HEP, the contract for construction of transmission line from Naitwar Mori HEP to Dehradun has not been awarded as yet. Since the Project is expected to be commissioned by September 2021, prima-facie it appears that there is a time gap of 18 months and the power may get bottled up. Accordingly, alternate arrangement has been sought by SJVN.

20. Learned counsel for the Respondent, NTPC submitted that vide letter dated 18.2.2020, NTPC has already communicated to the Petitioner that its HEP is expected to achieve commercial operation between September to December 2021 and the Petitioner vide its letter dated 28.5.2020 has forwarded the revised LTA Agreement. She further submitted that NTPC has sent the Agreements to the respective beneficiaries and they will sign the same accordingly.

21. Learned counsel for the Respondent, L&T Uttaranchal Hydro Power Limited (LTUHL) submitted that its Project was to be commissioned by 31.3.2020. However, due to nation-wide lockdown on account of Covid-19 pandemic, LTUHL could not commission its Project and it is likely to achieve commercial operation within two months.

Analysis and Decision

22. The Petitioner and the Respondents have raised plethora of issues and presented claims and counter-claims through their submissions. After considering the submissions of the Petitioner and the Respondents, perusing the documents on record and considering the prayers of the Petitioner, the following issues arise for consideration:

Issue No.1: Whether any direction is required to be given to CTU to issue revised intimations for grant of connectivity to each of the generators, implemented as Respondents Nos. 2 to 6 (NTPC Ltd, L&T Uttaranchal

Hydropower Ltd., Lanco Mandakini Hydro Energy Pvt Ltd., THDC and SJVN), incorporating the complete associated transmission system as the transmission system required for Connectivity?

Issue No.2: Whether any direction is required to be given to generators, impleaded as Respondents Nos. 2 to 6, to execute supplementary Implementation Agreements with the Petitioner with revised timelines of their respective generating plant?

Issue No.3: Whether any direction is required to be given to the generators and CTU to enter into tripartite LTA Agreements, including all elements of associated transmission system with the Petitioner with revised timelines as provided in the supplementary Implementation Agreements?

Issue No.4: How the recovery of transmission charges for system implemented by the Petitioner shall be effected?

The issues are dealt with in subsequent paragraphs.

Issue No.1: Whether any direction is required to be given to CTU to issue revised intimations for grant of Connectivity to each of the generators, impleaded as Respondents Nos. 2 to 6 (NTPC Ltd, L&T Uttaranchal Hydropower Ltd., Lanco Mandakini Hydro Energy Pvt Ltd., THDC and SJVN), incorporating the complete associated transmission system as the transmission system required for Connectivity?

23. The Petitioner has submitted that having been declared a deemed ISTS network, CTU became the nodal agency in terms of Regulation 4 of the Connectivity Regulations. In terms of provisions of the Connectivity Regulations and the Detailed Procedure issued thereunder, issues related to Connectivity, grant of LTA, and the execution of Implementation Agreements (IAs) had been discussed in various Standing Committee Meetings (SCMs). The Petitioner, being the implementing agency, was advised to enter into Implementation Agreement with the generators, who intended to seek Connectivity and LTA on the transmission system under UITP Scheme. Accordingly, the Petitioner executed Implementation Agreements (IAs) with following three generators:

- i. NTPC Ltd. (Tapovan Vishnugad HEP) - IA was signed on 29.12.2016.

- ii. M/s L&T Uttaranchal Hydro Power Limited (Singoli Bhatwari HEP) - IA was signed on 1.12.2016.
- iii. M/s Lanco Mandakini HEPL (Phata Byung HEP) - IA was signed on 12.7.2016 and Supplementary IA was signed on 29.11.2016.

24. The Petitioner has been insisting on issuance of revised intimations for grant of Connectivity for the said projects viz. NTPC Ltd, L&T Uttaranchal Hydropower Ltd. and Lanco Mandakini Hydro Energy Pvt Ltd. According to the Petitioner, the transmission system indicated in the intimation for grant of Connectivity as well as LTA should include whole of associated transmission system. Concerns of the Petitioner have been discussed in several meetings of the Standing Committee, CEA, LTA/Connectivity meeting, NRPC etc. However, the matter has largely remained unresolved since PTCUL kept insisting on inclusion of complete associated transmission system in intimation for grant of Connectivity under the plea that if the same is not included, there would be issues related to recovery of transmission charges for the complete transmission system created by it under the UITP Scheme. During one of the meetings on 12.09.2018, CTU and CEA suggested that the Petitioner should approach the Commission for resolution of the dispute. The Petitioner has also raised concerns regarding the necessity of signing of the Transmission Agreement since such agreement is required to be signed for dedicated transmission lines only.

25. CTU has submitted that since the matter remained unresolved due to Petitioner's reluctance to accept the Connectivity and LTA intimations granted, based on the minutes of meeting held in CEA on 12.09.2018 and 17th LTA/Connectivity meeting of NR held on 26.11.2018, CTU agreed to revise LTA intimations indicating Connectivity system also. In addition, Connectivity intimation

was also revised on account of change in name of a few sub-stations and other developments.

26. CTU has further submitted that despite revision in Connectivity and LTA intimations, the Petitioner is still contending that CTU is arbitrarily choosing not to include the complete UITP Scheme in its LTA intimation. CTU has submitted that it has time and again emphasized and explained to the Petitioner in various meetings/forums that Connectivity and LTA are two separate products. The transmission system which connects generation project to nearest ISTS pooling station forms the part of "Connectivity system", whereas the transmission system facilitating transfer of power to various destination points constitutes "LTA system". Further, any specific existing transmission system either standalone or as a part of other transmission systems cannot be included in intimations, as complete existing transmission network is utilized for transfer of power to the beneficiaries and it is not possible to segregate/classify/identify and mention such system in an integrated grid. Therefore, only under-construction and new transmission systems are mentioned in the intimation of Connectivity/LTA as these systems in conjunction with all other existing Transmission Systems are utilized/required at the time of operationalization of Connectivity/LTA.

27. CTU has further submitted that the scheme with respect to grant of Connectivity and LTA is governed by the provisions of the Connectivity Regulations. In terms of the said Regulations, the Respondent No.1 i.e. CTU is the nodal agency for the grant of Connectivity/LTA. The Connectivity and LTA are separate and distinct products. CTU, through an established mechanism of coordination between other agencies involved in the ISTS to be used, (including STU, if the state network

is likely to be used), processes the application and grants Connectivity/LTA. The intimation for grant of Connectivity includes the transmission system required for Connectivity which essentially covers the Transmission System from the generation project to the nearest ISTS Point. After the grant, the applicant is required to sign the Transmission Agreement, in case the connectivity system involves implementation of scheme under ISTS/deemed ISTS.

28. CTU has also submitted that the recovery of the transmission charges for the system identified in the Connectivity and LTA is governed in accordance with the provisions of the CERC (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010 (hereinafter referred to as “the 2010 Sharing Regulations”). Contention of the Petitioner that the complete transmission system is required to be mentioned in Connectivity as well as LTA intimation is unfounded and has no statutory or legal basis. Once LTA is made effective with commissioning of Connectivity and the LTA system, the transmission charges are recovered under the PoC mechanism as per provisions of the 2010 Sharing Regulations. Therefore, CTU has submitted that revision in the intimation for the grant of Connectivity incorporating the complete associated Transmission System as being prayed by the Petitioner is not warranted.

29. We observe that intimations for Connectivity were issued by CTU considering UITP Scheme as deemed ISTS. Regulations 8(2) and 8(3) of the Connectivity Regulations provide as follows:

“(2) On receipt of the application, the nodal agency shall, in consultation and through coordination with other agencies involved in inter-State Transmission system to be used, including State Transmission Utility, if the State network is likely to be used, process the application and carry out the necessary inter-connection study as specified in the Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007.

.....

(3) While granting connectivity, the nodal agency shall specify the name of the sub-station or pooling station or switchyard where connectivity is to be granted. In case connectivity is to be granted by looping-in and looping-out of an existing or proposed line, the nodal agency shall specify the point of connection and name of the line at which connectivity is to be granted. The nodal agency shall indicate the broad design features of the dedicated transmission line and the timeframe for completion of the dedicated transmission line.”

30. As per above provisions of the Connectivity Regulations, CTU, in its capacity as nodal agency, is required to undertake inter-connection study in consultation and through coordination with other agencies involved in ISTS to be used. While granting Connectivity, CTU is required to specify name of the sub-station or pooling station or switchyard where Connectivity is to be granted or if Connectivity is to be granted through LILO, the point of connection and name of the line at which connectivity is to be granted.

31. We observe that CTU has clearly explained to the Petitioner that *“Transmission system which connects generation project to nearest ISTS pooling station forms the part of Connectivity system”* which is as per the Connectivity Regulations. However, PTCUL has been insisting to include various elements of the transmission system under UITP Scheme to be executed by it.

32. From the submissions of the Petitioner, we gather that the Petitioner has apprehension that if its transmission system is not included in the intimations for Connectivity, it may face problems in recovery of transmission charges for the transmission system being constructed by it. In our view, the apprehension of the Petitioner is unfounded since the Commission has already declared the UITP Scheme as deemed ISTS vide order dated 31.01.2013 in Petition No. 133/MP/2012. Also, CTU having clarified that recovery of transmission charges will be governed by provisions of the Connectivity Regulations and the 2010 Sharing Regulations (since

repealed and the 2020 Sharing Regulations has been promulgated in its place), we see no basis for apprehensions of the Petitioner.

33. Therefore, we see no ground for interfering with decisions of CTU to revise the intimations of Connectivity to generators as suggested by the Petitioner. This has already been made clear to the Petitioner by CTU through deliberations and decisions in various meetings.

Issue No.2: Whether any direction is required to be given to generators, impleaded as Respondents Nos. 2 to 6, to execute supplementary Implementation Agreements with the Petitioner with revised timelines, of their respective generating plants?

34. The Petitioner has submitted that the Commission, vide Order dated 31.01.2013 in Petition no. 133/MP/2012, held the transmission system under Uttarakhand Integrated Transmission Project (UITP Scheme) as deemed ISTS. In compliance with the Commission's Order dated 31.01.2013, the Petitioner entered into a Transmission Service Agreement (TSA) and a Revenue Sharing Agreement (RSA) with CTU on 19.03.2013. The Petitioner being the implementing agency, was advised to enter into Implementation Agreement with the generators, who intend to seek connectivity and LTA on the UITP. Accordingly, the Petitioner had executed Implementation Agreements (IA) with generators as follows:

- i. NTPC Ltd. (Tapovan Vishnugad HEP) - IA was signed on 29.12.2016.
- ii. M/s L&T Uttaranchal Hydro Power Limited (Singoli Bhatwari HEP) - IA was signed on 1.12.2016.
- iii. M/s Lanco Mandakini HEPL (Phata Byung HEP) - IA was signed on 12.7.2016 and Supplementary IA was signed on 29.11.2016.

35. The Petitioner has submitted that non-signing of the Implementation Agreements, non-compliance of the timelines envisaged in the Implementation Agreements, non-fulfilment of the various statutory and regulatory requirements by

the generators and non-consideration of the entire UITP in the intimation for grant of connectivity/LTA by CTU together are in violation of provisions of the Connectivity Regulations as well as the Commission's directions in order dated 31.1.2013 in its Petition No. 133/MP/2012.

36. CTU vide its reply dated 3.7.2019 has submitted that the issue of signing of Implementation Agreement is an inter-se issue between the Petitioner and the generators impleaded as Respondents Nos. 2 to 6 and as such, merits no response from CTU.

37. The Respondent THDCIL has submitted that it is implementing the Vishnugad Pipalkoti Hydro Electric Plant (VPHEP) with an installed capacity of 444 MW in the State of Uttarakhand. The allocation of power from VPHEP has been done by Ministry of Power (Government of India) on 26.12.2011 and the Power Purchase Agreements for VPHEP have been signed with the concerned beneficiaries. CTU vide its letter dated 9.8.2016 has intimated the grant of connectivity to THDCIL for VPHEP. THDCIL has been pursuing the matter of signing the Implementation Agreement with PTCUL since 2016 but till date the Implementation agreement has not been signed and the argument of the Petitioner that THDCIL is deficient in entering into the implementation agreement (IA) with PTCUL is incorrect. PTCUL despite repeated requests has delayed signing of IA on the basis that there ought to be LTA/ Connectivity Agreement and bank guarantee. Since THDCIL has spent a huge amount on the project after investment approval by Government of India and Long Term PPAs have been signed with the beneficiaries, PTCUL may be directed to sign the IA with THDCIL without any pre-condition.

38. The Respondent LTUHL has submitted that it is likely to commission its Singoli Bhatwari HEP (all 3 units) by 31.3.2020. If the timelines for the implementation of ATS is revised, its power plant will be stranded and the commercial dynamics of the power plant will be adversely affected. LTUHL has further submitted that on the basis of the Implementation Agreement, LTUHL entered in a Memorandum of Understanding (MOU) with L&T Hyderabad Metro Rail Limited for supply of 150 MU of power from April 2019 onwards and the same was subsequently revised to April 2020. However, due to the delay in providing the necessary transmission facility, LTUHL may not be able to comply with its obligations under the said MOU and thereby, may attract penalties for breach of obligations under the MOU.

39. The Petitioner has submitted that due to the delay in grant of LTA and non-inclusion of complete ATS in LTA intimations/ agreements, the respective timelines as agreed in these Implementation Agreements were not adhered by the generators. Even the planning agencies such as CTU and CEA have advised the Petitioner to delay the implementation of ATS when commissioning of Tapovan-Vishnugad HEP was revised by NTPC. Signing of IAs ought to have been followed by grant of LTA and signing of the LTA Agreements in terms of the Connectivity Regulations. As LTA agreements are not in place till date, timelines of IA are, admittedly, not adhered to by the generators. Thus, claim of CTU that Implementation Agreement is an inter-se issue between the Petitioner and the generators is not entirely correct as it is only because of the incorrect treatment of ATS in granting LTA by CTU that has contributed in the delay in the implementation of ATS.

40. NTPC has submitted that it has no dispute in revising the implementation schedule with fresh timelines. In so far as Tapovan Vishnugarh HEP is concerned, it is likely to be commissioned during September 2020 to December 2020. The only issue which is apprehended by NTPC is that PTCUL will not be able to execute the transmission system on time even after revising the implementation schedule. In such a case, the electricity generated by NTPC would get bottled up. The very fact that PTCUL has not given any time schedule for commissioning of its transmission project indicates that it will most likely get delayed. In case PTCUL delays implementation, they are obliged to provide an alternate path for evacuation of power as per Clause 1 of the Implementation Agreement.

41. The Respondent Lanco Mandakini Hydro Energy Private Limited (LMHEPL) has submitted that due to various events beyond its control, its project may achieve commercial operation (COD) by December 2022. Therefore, LMHEPL is agreeable to execute revised supplementary Implementation Agreement and a tripartite agreement with Petitioner and CTU on basis of revised COD of December 2022.

42. We have considered the submissions of the Petitioner and Respondents. The Petitioner has prayed for a direction to be issued to generators listed as Respondents 2 to 6 to sign supplementary Implementation Agreements with revised timelines. A list of such generating stations with status of signing Implementation Agreements is as under:

Sr. No.	Name of Generator	Status of Signing of Implementation Agreement
1.	L&T Uttaranchal Hydropower Ltd. (Singoli Batwari HEP) – 99 MW	IA signed on 1.12.2016
2.	NTPC Ltd. (TapovanVishnugad HEP) – 520 MW	IA signed on 29.12.2016
3.	Lanco Mandakini Hydro Energy Pvt. Ltd. (Phata Byung HEP) – 76 MW	IA signed on 12.7.2016 and Supplementary IA signed on 29.11.2016
4.	THDC. (Vishnugad Pipalkoti HEP) - 444 MW	-
5.	SJVN Ltd. (Devsari HEP) - 252 MW	-
6.	SJVN Ltd. (Naitwar Mori HEP) - 60 MW	-

43. Though there is no provision of Implementation Agreement in the Connectivity Regulations, we observe that several generating stations/transmission licensees have signed such agreements. Implementation Agreement provides for commitment towards scheduled completion timeline of associated transmission system and generating station (units) and also entails consequent liability in case of delay by either. The Petitioner has sought direction upon generators to sign Supplementary Implementation Agreement stating that due to the delay in grant of LTA and non-inclusion of complete ATS in LTA intimations/ agreements, the respective timelines as agreed in these Implementation Agreements were not adhered by the generators.

44. There being no provision for Implementation Agreement in the Connectivity Regulations, we agree with suggestion of CTU that Implementation Agreement is an issue inter-se between the Petitioner and the generators. Therefore, the Commission does not consider it appropriate to direct any party to sign or revise Implementation Agreements. Needless to say, in cases where the parties have signed Implementation Agreements, they would be governed by the terms of such agreements.

Issue No. 3: Whether any direction is required to be given to the generators and the CTU to enter into tripartite LTA Agreements, including all elements of associated transmission system with the Petitioner with revised timelines as provided in the supplementary Implementation Agreements?

45. The Petitioner, vide its communication dated 28.09.2016 had raised its concerns regarding the Tripartite Transmission Agreement proposed to be signed between THDC, CTU and the Petitioner.

46. SJVN has submitted that vide letter dated 14.1.2019, it had informed PTCUL for signing of Tripartite Transmission Agreement and Tripartite LTA Agreement at PGCIL office, Gurugram. However, the above agreements were signed by SJVN on 16.1.2019 in the office of CTU, Gurugram. However, the same was not signed by PTCUL due to absence of PTCUL's representative. SJVN had again requested PTCUL vide letter dated 31.1.2019 and 26.3.2019 to sign the above Agreements, already signed by SJVN.

47. PTCUL vide letter dated 6.3.2019 informed that it has some reservations on signing of Tripartite Transmission Agreement and Tripartite LTA Agreement for the transmission system and requested CTU/CEA to consider 220 kV D/C Mori-Dehradun line as Transmission system required for LTA.

48. CTU has submitted that it has issued revised intimations for Connectivity and LTA dated 20.12.2018 to Respondents wherein the associated transmission system for LTA also included connectivity system. However, tripartite LTA Agreements need to be signed immediately by the Applicants/ beneficiaries and PTCUL. Regarding this, an email dated 03.01.2019 was sent to PTCUL on which no action has been taken till date. The signing of the agreements is held up due to PTCUL's non-cooperation on account of various issues which have already been addressed and

explained to them several times. CTU has further stated that PTCUL is obligated to comply with the regulatory provisions and take up the implementation of transmission system as identified in the intimations granted for all generation projects so that there are no constraints in power transfer.

49. CTU has further submitted that subsequent to the issuance of revised LTA and Connectivity intimations dated 20.12.2018, CTU had also forwarded a copy of the draft tripartite agreement to the concerned parties i.e. the Petitioner and Respondent generation project developers for execution. However, as on date, the tripartite agreements have not been executed. In the 10th Joint Co-ordination Committee meeting of Generation Projects granted Connectivity/LTA in Northern Region held on 25.03.2019, it was again emphasized to sign the required tripartite agreement. CTU has submitted that signing of these agreements will be in favour of PTCUL as it will bind the parties commercially and will ensure the recovery of the charges for the transmission assets to be implemented by PTCUL.

50. During hearing held on 16.6.2020, CTU submitted that despite signing of the Tripartite LTA Agreement by SJVN with respect to Naitwar Mori HEP, the contract for construction of transmission line from Naitwar Mori HEP to Dehradun has not been awarded. Since the project is expected to be commissioned by September 2021, prima-facie it appears that there is a time gap of 18 months and the power may get bottled up. As regards NTPC's Tapovan Vishnugad Project, CTU has submitted that draft format for LTA Agreement has been agreed to between the parties and signing of the same is being coordinated by NTPC with the beneficiaries. As regards L&T Uttaranchal Hydro Power Limited-Singoli Bhatwari HEP, the tripartite LTA

Agreement has been signed by the CTU and the same has been sent to the Petitioner on 12.6.2020 for signing.

51. NTPC has submitted that pursuant to the meeting dated 18.12.2019, NTPC, vide its letter dated 18.2.2020, has already communicated to the Petitioner that its HEP is expected to achieve commercial operation between September to December 2021 and the Petitioner vide its letter dated 28.5.2020 has forwarded the revised LTA Agreement. NTPC has sent the Agreements to the respective beneficiaries and they will sign the same accordingly.

52. From the above submissions and the prayer of Petitioner, we observe that signing of Tripartite LTA Agreements has been held up due to insistence of the Petitioner to issue revised intimations as regards Connectivity. Having already held under Issue No.1 that there is no requirement of revising the Connectivity intimations any further, we direct the Petitioner, CTU and generators to enter into tripartite LTA Agreements in accordance with the Connectivity Regulations. In cases where beneficiaries are required to enter into LTA Agreements, the signing of same may be coordinated by the respective generating stations.

Issue No.4: How shall the recovery of transmission charges for system implemented by the Petitioner be effected?

53. The Petitioner has submitted that recovery of transmission charges against various transmission elements is ensured through LTA Agreement. By way of an LTA Agreement, the beneficiary agrees to bear the transmission charges for the transmission system identified for grant of LTA. Hence, in the absence of prior commitment by the beneficiaries for bearing the transmission charges of the transmission system, the Petitioner shall face difficulty in recovery of transmission

charges as a huge investment will be made by the Petitioner in establishment of the transmission facilities.

54. However, it is clear that once the system implemented by the Petitioner has been declared as deemed ISTS vide Order dated 31.1.2013 in Petition No. 133/MP/2012, the payment of transmission charges and treatment of delay and other provisions shall be governed in accordance with the provisions of the CERC (Sharing of inter-state transmission charges and losses) Regulations, 2010 or the CERC (Sharing of inter-state transmission charges and losses) Regulations, 2020, as applicable.

Summary of decisions

55. (a) Revision in the intimation for the grant of Connectivity incorporating the complete associated Transmission System as being insisted by PTCUL is not warranted.

(b) Signing of Implementation Agreement and associated timeline is an inter-se issue between generators and the Petitioner, and no direction of the Commission is warranted.

(c) The Petitioner, CTU and generators are required to enter into tripartite LTA Agreements in accordance with the provisions of the Connectivity Regulations. In cases where beneficiaries are required to enter into LTA Agreements, the signing of same may be coordinated by the respective generators.

(d) Payment of transmission charges and treatment of delay as regards the transmission system under the UITP Scheme shall be in accordance with provisions of the CERC (Sharing of inter-State transmission charges and losses) Regulations,

2010 or the CERC (Sharing of inter-State transmission charges and losses) Regulations, 2020, as applicable.

56. No order as to costs.

57. Petition No. 106/MP/2019 is disposed of in terms of the above.

sd/-
(Arun Goyal)
Member

sd/-
(I. S. Jha)
Member

sd/-
(P.K. Pujari)
Chairperson