

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 199/MP/2020**

**Coram:**

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

**Shri I.S. Jha, Member**

**Shri Arun Goyal, Member**

**Shri P.K. Singh, Member**

**Date of Order: 20<sup>th</sup> of December, 2021**

**IN THE MATTER OF:**

Determination of fees and charges payable to the Petitioner which has been designated as the Settlement Nodal Agency by the Ministry of Power, Government of India under the Guidelines for Import/Export (Cross Border) of Electricity, 2018 to undertake various activities for settlement of grid operation related charges as enumerated in the Central Electricity Regulatory Commission (Cross Border Trade of Electricity) Regulations, 2019.

**And in the matter of**

**NTPC Vidyut Vyapar Nigam Limited,**

NTPC Bhawan, SCOPE Complex,

Institutional Area, Lodhi Road,

New Delhi - 110 003....

**....Petitioner**

Versus

**Power System Operation Corporation Limited,**

B-9 (1st Floor), Qutab Institutional Area, KatwariaSarai,

New Delhi - 110016

And

**PTC India Limited,**

2<sup>nd</sup> floor, NBCC Tower, 15 Bhikaji Cama Place

New Delhi – 110 066

**....Respondents**

**Parties Present**

Ms. Anushree Bardhan, NVVN

Ms. Srishti Khindaria, NVVN

Mr. Ravi Nair, Advocate, NVVN



Ms. Shikha Sood, Advocate, NVVN  
Ms. Renu Sarin, NVVN  
Mr. Anurag Gupta, NVVN  
Mr. Sukesh Mohan, NVVN  
Mr. Ravi Kishore, PTC  
Ms. Prerna Singh, PTC  
Mr. Alok Kumar Mishra, POSOCO  
Mr. Subhendu Mukherjee, POSOCO

## **ORDER**

The Petitioner has filed the present Petition under Regulation 37 of the Central Electricity Regulatory Commission (Cross Border Trade of Electricity) Regulations, 2019 (hereinafter referred to as ‘the CBET Regulations’) seeking determination of fees/ charges payable to the Petitioner to undertake various activities for settlement of grid operations as enumerated in the ‘Guidelines for Import/Export (Cross Border) of Electricity, 2018’ and Regulation 25, Regulation 26, Regulation 30, Regulation 32 and Regulation 33 of the CBET Regulations.

2. The Petitioner has made the following prayers:

*“a. Determine the fees/charges payable to NVVN for undertaking the activities of the Settlement Nodal Agency for the settlement of grid operation related charges as enumerated in the Guidelines for Import/Export (Cross Border) of Electricity-2018 and Regulation 25,26,30,32 and 33 of the Central Electricity Regulatory Commission (Cross Border Trade of Electricity) Regulations, 2019;*

*b. Pass such further order or orders as this Hon’ble Commission may deem just and proper in the circumstances of the case.”*

### **Submissions by the Petitioner**

3. The Petitioner has, inter alia, submitted as under:

a) On 18.12.2018, the Ministry of Power (MoP) issued Guidelines for Import/Export (Cross Border) of Electricity, 2018. In accordance with Clause 8.8 of these Guidelines, MoP was to notify Nodal Agency for each neighbouring country for settlement of grid operation related charges as per the regulations, to be notified by this Commission.

b) On 08.03.2019, the Commission notified the CBET Regulations. The Regulations provide, inter alia, that the appointed Settlement Nodal Agency shall be responsible for settling all charges pertaining to grid operations (including operating charges, deviation charges and other charges related to transactions) with the corresponding neighbouring country.

c) On 26.11.2019, NVVN was appointed as the Settlement Nodal Agency (SNA) for settlement of grid operation related charges for the transactions in cross border trade of electricity with (i) Bangladesh, (ii) Bhutan, (iii) Nepal, and (iv) Myanmar.

d) In the CBET Regulations, specific fees/charges are not mentioned which are payable to the SNA for its services for facilitating the cross border electricity transactions. Therefore, the Petitioner has requested to determine the same under Regulation 37 (Power to issue directions) of the CBET Regulations.

### **Hearing of the Petition**

4. During the hearing of the Petition on 21.07.2020, in response to a specific query of the Commission regarding the present/ existing arrangements of fees/ charges, the Petitioner submitted that, presently, it is collecting the same either on lump sum basis or per unit basis. However, in absence of any specific fees/ charges determined by the Commission, certain neighbouring countries are not paying any charges.

5. After hearing the Petitioner, the Commission directed the Petitioner to implead POSOCO and PTC as parties to the Petition and to file revised memo of parties by 04.08.2020. The Commission further directed the Petitioner to serve copy of the Petition on the impleaded respondents immediately. The Commission directed the respondents to file their reply, if any, by 24.08.2020 with advance copy to the Petitioner, who may file its rejoinder, if any, by 10.09.2020.

6. The Commission further directed the Petitioner to file the following information on affidavit, by 24.8.2020:

- a. Detailed break-up and basis of estimation of fees and charges required to perform activities as Settlement Nodal Agency, and
- b. Fees and charges in the Agreements/Draft Agreements executed/to be executed with the neighbouring countries and Indian entities for providing services as SNA.

7. In compliance with the directions of the Commission, the Petitioner impleaded POSOCO and PTC as parties to the Petition and filed revised memo of parties on 30.07.2020. In addition, the Petitioner on 24.08.2020 has submitted the details sought vide ROP. Further, the Respondents POSOCO and PTC have submitted their comments respectively on 11.09.2020 and 02.09.2020. For providing its response to the comments of PTC, the Petitioner filed a rejoinder on 24.09.2020.

8. The second hearing of the Petition was held on 23.11.2021 wherein the Petitioner and the respondents reiterated their written submissions. After hearing the parties, the Commission reserved the Order.

### **Analysis and Decision**

9. We have considered the submissions made by the Petitioner, comments of respondents and reply of the Petitioner thereon. The Petitioner has stated that as the Settlement Nodal Agency under the CBET Regulations, it is responsible for settlement of grid operation related charges like operating charges and charges for deviation, etc. under Regulation 25, Regulation 26, Regulation 30, Regulation 32 and Regulation 33. However, there being no specific fees/ charges mentioned in the CBET Regulations that will be payable to the SNA for the aforesaid activities, the Petitioner has invoked Regulation 37 (Power to issue directions) of the CBET Regulations and prayed for issuance of direction for determination of fees/ charges payable to the SNA for its services for facilitating the cross border electricity transactions.

10. We note that Regulation 37 of the CBET Regulations reads as under:

*“37. Power to issue directions*

*If any difficulty arises in giving effect to these regulations, the Commission may on its own motion or on an application filed by any affected party, issue such directions as may be considered necessary in furtherance of the objective and purpose of these regulations.”*

11. We find that Regulation 37 of the CBET Regulations deals with the power to issue direction to remove difficulty, if any in giving effect to the CBET Regulations. The Petitioner has drawn reference to Regulation 25, Regulation 26, Regulation 30, Regulation 32 and Regulation 33 of the CBET Regulations, under which it is discharging certain functions. It is not the case of the petitioner that there is any difficulty in giving effect to these existing provisions of the CBET Regulations. Therefore, we are of the view that the pre-requisites for invoking Regulation 37 is not fulfilled. Further, we observe that determination of fees and charges is a substantive exercise and cannot be undertaken under the provision of ‘Power to issue directions’.

12. Therefore, we are of the view that the prayer as sought is not maintainable.

13. Accordingly, Petition No. 199/MP/2020 is disposed of in terms of the above.

**Sd./-**  
**(P.K. Singh)**  
**Member**

**Sd./-**  
**(Arun Goyal)**  
**Member**

**Sd./-**  
**(I.S. Jha)**  
**Member**

**Sd./-**  
**(P. K. Pujari)**  
**Chairperson**