

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No.272/MP/2021
along with IA No. 88/IA/2021**

- Subject** : Petition under Section 79 of the Electricity Act 2003 read with Clause 9 and 10 of Billing, Collection & Disbursement Procedure dated 1.1.2021 seeking directions to quash and set aside the Bilateral Bills issued by Central Transmission Utility of India Limited on behalf of Power Grid Corporation of India Limited towards Bilateral Transmission Charges for the Connectivity Transmission Line (i.e., 400 kV Anuppur-Jabalpur Transmission Line) for the Billing Months January 2021 to December 2021.
- Date of Hearing** : 10.3.2022
- Coram** : Shri P.K Pujari, Chairperson
Shri I. S. Jha, Member
Shri A.K Goyal, Member
Shri P.K. Singh, Member
- Petitioner** : MB Power (Madhya Pradesh) Limited
- Respondents** : Central Transmission Utility of India Limited and Anr.
- Parties present** : Shri Amit Kapoor, Advocate, MB Power
Shri Akshat Jain, Advocate, MB Power
Shri Pratyush Singh, Advocate, MB Power
Shri Abhishek Gupta, Advocate, MB Power
Ms. Swapna Seshadri, Advocate, CTUIL
Shri Aditya H. Dubey, Advocate, CTUIL
Shri Mr. Anand K Ganesan, Advocate, CTUIL
Shri R. Amal Nair, Advocate, CTUIL
Ms. Sugandh Khanna, Advocate, CTUIL

Record of Proceedings

The matter was called out for virtual hearing.

2. The learned counsel for the Petitioner made the following submissions referring to his Note of Arguments:
- a. The instant petition has been filed against the bilateral bills raised by CTUIL under Regulation 13(9) of the 2020 Sharing Regulations towards recovery of transmission charges for the capacity and element of the transmission system



(i.e. 200 MW capacity in the 400 kV Anuppur-Jabalpur dedicated Transmission Line) for which it has already claimed transmission charges in the form of relinquishment charges for the period upto August 2028. This amounts to duplication which is not permissible in law and is violative Electricity Act, 2003 ("2003 Act") and Tariff Policy.

- b. The Petitioner's connectivity quantum has been considered as 1200 MW instead of 1122 MW. The Petitioner had sought Connectivity for 1122 MW after reducing the auxiliary power consumption (APC) of 78 MW @ 6.5% of the installed capacity of 1200 MW and (ii) Connectivity quantum not tied up under operational LTA has been considered by CTUIL as 268.20 MW (1200-operational LTA i.e. 930.80 MW instead of 191.20 MW (1122 MW- 930.80 MW).
- c. CTUIL's website shows that the connectivity granted to the Petitioner as 1122 MW. However, bills are raised on the basis of 1200 MW.
- d. The questions for consideration is whether CTUIL can be permitted to claim transmission charges from the Petitioner for same capacity and same element of the transmission system twice under different heads?
- e. Placing reliance on Commission's order dated 7.10.2019 in Petition No. 187/MP/2017 and order dated 16.3.2017 in Petition No. 306/MP/2015 submitted that the LTA/Connectivity quantum allocated to a LTTC shall be the quantum for which LTTC has applied for and LTTC is liable to pay charges only to the extent of applied quantum.
- f. On 25.2.2010, the Petitioner applied to CTUIL for grant of 1122 MW connectivity and on 19.4.2010, CTUIL issued a letter to the Petitioner intimating grant of Connectivity for 1200 MW. However, as per Format-5 attached with the letter, the Connectivity is for 1122 MW. Thus, there is contradiction in CTUIL's letter itself with respect to Connectivity quantum. On 14.6.2010, Petitioner and PGCIL entered into Transmission Service Agreement which shows that the Petitioner had sought connectivity for only 1122 MW. Referred to letters dated 14.6.2010, 23.1.2014, 2.2.2012, 29.11.2012 and highlighted the Connectivity sought by the Petitioner and granted by CTUIL.
- g. On 6.1.2012, in the meeting of 3rd Coordination Committee of IPPs, the Petitioner informed CTUIL that it was directed to submit BG for 1200 MW whereas its Connectivity is only for 1122 MW and accordingly to reduce the BG amount. CTUIL in its reply has accepted that the Connectivity quantum is net of APC.
- h. 200 MW of LTA capacity was relinquished by MB Power with effect from 5.5.2018. Accordingly, CTUIL vide letter dated 8.1.2020 and 26.2.2021 has claimed relinquishment charges amounting ₹58.04 crore. The Commission in the order dated 8.3.2019 in Petition No. 92/MP/2015 has held that the



relinquishment charges are in nature of transmission charges payable by long term customers relinquishing the access rights subject to determination of stranded capacity.

- i. The entire YTC of 400 kV Annupur-Jabalpur Connectivity transmission line corresponding to Connectivity quantum of 1122 MW is being recovered by CTUIL. Out of the Connectivity quantum of 1122 MW, YTC of 400 kV Annupur-Jabalpur Connectivity Transmission Line corresponding to operational LTA quantum of Petitioner, i.e. 930.80 MW, is being recovered by CTUIL in terms of Regulation 5 to 8 of the 2020 Sharing Regulations. The YTC of 400 kV Annupur-Jabalpur Connectivity transmission line for the period upto August, 2028 corresponding to 200 MW (LTA quantum relinquished) amounting to ₹56.81 crore has already been claimed by CTUIL by way of relinquishment charges. Therefore, the entire YTC of the Connectivity Transmission line i.e. 1130.98 (930.8 MW plus 200 MW) is already being recovered by PGCIL/CTUIL.
 - j. As regards the contention that the petition is time barred and issue of Connectivity quantum was not raised by the Petitioner initially, the Petitioner has raised dispute/objections to the Connectivity quantum of 1200 MW as opposed to 1122 MW on various occasions in 2012, i.e. within 2 years of grant of connectivity.
 - k. Appeal No. 365 of 2019 has been filed before APTEL challenging the manner and methodology of computation of relinquishment charges by PGCIL/CTUIL. The Petitioner will abide by the directions of APTEL in Appeal No. 365 of 2019 with respect to payment of relinquishment charges. CTUIL has only claimed the relinquishment charges amounting to ₹58.04 crore with respect to relinquishment of 200 MW LTA from Petitioner and has not raised any invoice for the said relinquishment charges.
3. Learned counsel for the CTUIL referring to its reply made the following submissions:
- a. The bilateral bills raised are based on correct parameters such as the Connectivity quantum and the Connectivity quantum not tied-up under the LTA. There is no double recovery of transmission charges by CTUIL as contended by the Petitioner. The question for determination before the Commission is regarding the quantum of connectivity, nature and scope of charges claimed by CTUIL. CTUIL raises bills in terms of Regulation 13(9) of the 2020 Sharing Regulations not only against the Petitioner but also against similarly placed generators.
 - b. The submissions of the Petitioner have to be examined in the light of Regulation 13(9) of the 2020 Sharing Regulations. The contention of the Petitioner on the manner of calculation is not to be confused with the category of transmission charges sought to be levied under Regulation 13(9) of the 2020 Sharing Regulations.



- c. After the notification of the 2009 Connectivity Regulations, the Petitioner at first applied for connectivity for 1122 MW and LTA for 392 MW from the same project as per the 2009 Connectivity Regulations. The said applications were taken up in the 12th meeting of WR constituents regarding Connectivity/ Open Access applications held on 8.7.2010, wherein the proposed transmission system for Connectivity was discussed considering injection of Gross Capacity of 1200 MW from the Petitioner's generation project. The Petitioner further enhanced the LTA quantum up to 1130.80 MW through other separate LTA applications.
- d. Challenging the manner of computation of relinquishment charges by CTUIL is misplaced as the calculation of relinquishment charges and the elements to be considered for the same are based on the order dated 8.3.2019 in Petition No. 92/MP/2015.
- e. In case of all the generators who applied for connectivity after the notification of the 2009 Connectivity Regulations, CTUIL has granted the connectivity based on installed capacity. This has been the consistent practice of CTUIL. The grant of ISTS connectivity did not envisage any payment liability based on Connectivity quantum and a number of generators were granted ISTS Connectivity considering their installed capacity.
- f. CTUIL vide its letter dated 19.4.2010 had granted the Connectivity for 1200 MW considering the quantum of connectivity shall be equal to installed capacity of the generating station. The Petitioner had never challenged grant of 1200 MW Connectivity and now it is late for the Petitioner to challenge the connectivity of 1200 MW in the year 2021.

4. In response to a query of the Commission, learned counsel for CTUIL submitted that the relinquishment charges are calculated in accordance with order dated 8.3.2019 in Petition No. 92/MP/2015. The YTC is proportionate to 200 MW LTA relinquished out of the 1130.80 MW LTA granted. The 400 kV Anuppur-Jabalpur transmission line was built as part of the ISTS system, and 200 MW is now stranded in this dedicated transmission line.

5. In response to another query of the Commission regarding whether granting of Connectivity equivalent to the installed capacity is flowing from any Regulations or is a matter of practice adopted by CTUIL, she submitted that the same has been consistent practice of CTUIL for all the generators. As regards the Petitioner's letters dated 2.1.2010 and 29.1.2010, she clarified that the letters written by the Petitioner were confined to reduction of Bank Guarantee value and was not related to connectivity quantum and the same was formally denied CTUIL. She submitted that the Petitioner has also not paid any amount towards relinquishment charges as on date.

6. In response to the contentions of CTUIL, the learned counsel for the Petitioner submitted that the order dated 16.3.2017 in PTC India Vs. PGCIL needs to be



applied in the instant case, wherein it has been held that the LTTC is liable to pay charges only to the extent of applied quantum. The contention of the CTUIL that no issue was raised by the Petitioner regarding Connectivity quantum is misplaced as in the 3rd Coordination Committee Meeting of IPPs granted LTOA in WR held on 6.1.2012, the issue of connectivity quantum was taken up by the Petitioner and no document has been shown by CTUIL denying the same. Referring to the Transmission Service Agreement entered between CTUIL and Petitioner dated 14.6.2010 and Connection Agreement dated 23.1.2014, he submitted these documents reflects that the connectivity was granted only for 1122 MW. He requested the Commission to allow him to place on record Note of Arguments.

7. Learned counsel for the Petitioner requested that the interim protection granted by the Commission vide RoP dated 21.1.2022 be continued till the disposal of the petition. The request was allowed by the Commission.

8. The Commission directed CTUIL to submit copy of minutes of 11th meeting of WR constituents regarding Long-term Open Access (LTOA) applications in WR held on 10.9.2009 wherein the proposed transmission system was discussed considering injection of Gross Capacity of 1200 MW from the Petitioner's generation project, on affidavit by 31.3.2022 with a copy to the Petitioner. The Commission permitted the Petitioner and the Respondents to upload the Note for Arguments referred to by them during the hearing.

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

By order of the Commission
sd/-

(V. Sreenivas)
Joint Chief (Law)

