

**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 Clauses 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** : 21.1.2022
- Coram** : 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

Record of Proceedings

The matter was called out for virtual hearing.

2. The learned counsel for the Petitioner submitted that the instant petition has been filed for quashing the bilateral bills issued by the Central Transmission Utility of India Limited ('CTUIL') on behalf of Power Grid Corporation of India Limited ('PGCIL') under Regulation 13(9) of Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020 ("the 2020 Sharing Regulations") seeking payment of Rs.14,91,28,281/- from the Petitioner towards bilateral transmission charges for the connectivity transmission line (i.e., 400 kV Anuppur-Jabalpur Transmission Line, constructed by PGCIL as part of ISTS, connecting the Petitioner's power project till Jabalpur Pooling Station of PGCIL) for the billing months from January 2021 to December 2021. The gist of the submissions made by the Petitioner are as under:



- a. The Petitioner has also filed an Interlocutory Application No.88/IA/2021, inter alia, for grant of ad interim ex parte stay of the said bilateral bills issued by CTUIL claiming bilateral charges for the connectivity transmission line and directions to restrain CTUIL from taking any adverse or coercive actions against the Petitioner arising out of or in relation to non-payment of the bilateral bills until final adjudication of Petition No. 272/MP/2021.
- b. Despite being aware about the pendency of the above Petition and IA, the reliefs sought therein and the matter being listed for hearing on 21.1.2022, CTUIL vide its letter dated 5.1.2022 has, inter alia, asked the Petitioner to make the payment of transmission charges as per the bilateral bills forthwith or else CTUIL will be constrained to take action as per the regulations of the Commission.
- c. The matter was also mentioned on 11.1.2022 before the Commission and the Commission had directed the Respondents not to take any coercive action against the Petitioner till next date of hearing i.e. 21.1.2022.
- d. The Petitioner had applied for open access for supply of power to TANGEDCO. The bilateral bills issued by CTUIL seeks to recover transmission charges from the Petitioner for the Connectivity Transmission Line which is already being recovered/ claimed by CTUIL under separate heads and, hence, the same amounts to double accounting which is not permissible in law.
- e. The bilateral bills issued are based on incorrect underlying parameters i.e., the Petitioner's (i) Connectivity quantum and (ii) Connectivity quantum not tied up under LTA, considered by CTUIL in the bilateral bills for computation of the bilateral transmission charges. He submitted that Regulation 21 of the 2020 Sharing Regulations provides for the consequences for non-payment of dues by a DIC.
- f. CTUIL has issued letters dated 14.12.2021 and 17.12.2021 to the Petitioner informing about closing its application dated 26.11.2021 for grant of 150 MW MTOA starting from 1.5.2022. CTUIL has not followed the procedure laid down under the 2020 Sharing Regulations and as per that, CTUIL can only suspend or terminate LTA or MTOA on failure of a DIC to make full payment of the bills. Further, an existing LTA or MTOA may be terminated and the right to suspend LTA or MOTA does not empower CTUIL to deny grant of fresh MTOA to the Petitioner. The Petitioner does not have existing LTA but merely has an existing application and requested the Commission to direct CTUIL not to cancel the existing application as the Petitioner will not be able to discharge its contractual obligation to supply power to Tamil Nadu.
- g. Pursuant to cancellation of MB Power's application for MTOA on 26.12.2021, PTC has applied for MTOA for 150 MW for supply from the Petitioner's Power Project to Tamil Nadu for effecting supply of power in terms of PPA dated



28.12.2021. There is imminent threat that CTUIL may even suspend the Petitioner's STOA.

3. The learned counsel for CTUIL submitted that RoP issued by the Commission on 11.1.2022 was passed ex parte without giving notice/ hearing to CTUIL. The Connectivity granted to MB Power was for 1200 MW and LTA granted was for 930.8 MW out of which MB Power has relinquished 200 MW for which there are relinquishment charges. She submitted that there is no dispute regarding the relinquishment charges and the bilateral bills issued by CTUIL are also in terms of Regulation 13(9) of the 2020 Sharing Regulations. She placed reliance on correspondences dated 1.7.2021 and 14.10.2021 wherein CTUIL had provided the justification for raising the aforesaid bilateral bills. As regards the Petitioner's contention that connectivity is only for 1122 MW and not 1200 MW, she submitted that the said issue is already settled as the Petitioner itself applied for 1200 MW for connectivity and the same has not been challenged by the Petitioner till date. As regards the contention that the connectivity quantum not tied up under LTA has been erroneously billed by CTUL, she clarified that the same is done as per Regulation 13(9) of the 2020 Sharing Regulations.

4. In response to a query of the Commission regarding the letter showing the grant of Connectivity to the Petitioner, learned counsel for CTUIL submitted that the Connectivity was granted for 1200 MW to the Petitioner and there is no double accounting as alleged by the Petitioner. The bilateral bills have been raised for difference between 1200 MW and 930 MW. She requested the Commission to direct the Petitioner to pay at least pay 50% of the billed amount. She further assured that the application of PTC for MTOA for 150 for supply from the Petitioner's Project to Tamil Nadu will not be entertained for the time being.

5. In response to another query on whether the relinquishment charges have been paid by the Petitioner, the learned counsel for CTUIL submitted that bill for relinquishment charges has been raised by the Petitioner and till date no relinquishment charges has been paid by the Petitioner.

6. The learned counsel for the Petitioner submitted that the contention of the Respondent that no notice was served to CTUIL is misplaced as notice of service was served vide affidavit dated 10.1.2022.

7. After hearing the learned counsel for the Petitioner, the Commission ordered as under:

- (a) Admit. Issue notice to the Respondents;
- (b) The Respondents not to take any coercive action against the Petitioner till the next date of hearing;
- (c) CTUIL not to cancel the Petitioner's application for grant of MTOA for 150 MW;



(d) The Petitioner to serve copy of the Petition on the Respondents immediately, if not already served. Respondents to file reply to the petition and IA by 15.2.2022 after serving copy of the same to the Petitioner, who may file its rejoinder, if any, by 28.2.2022;

(e) CTUIL to submit the following information on affidavit by 10.2.2022:

a. Proof of grant of connectivity by CTUIL to MB Power and reasons for grant of Connectivity for 1200 MW when Petitioner sought Connectivity for lesser quantum (deducting auxiliary power consumption).

b. Provisions of 2009 Connectivity Regulations and relevant paragraph of order dated 8.3.2018 in Petition No. 229/RC/2015, that have been invoked by CTUIL to close the MTOA application of the Petitioner.

8. The Commission directed the parties to comply with the directions within the specified time and observed that no extension of time will be granted.

9. The petition shall be listed for hearing in due course for which separate notice will be served.

By order of the Commission

sd/-
(V. Sreenivas)
Joint Chief (Law)

