

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 380/MP/2019

- Subject : Petition under Section 29(5), 79(1)(c) and 79(1)(k) of the Electricity Act, 2003 read with Regulations 6.4.2(c)(iii), 7(1) and 7(3) of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 seeking directions for shifting of Control Area from Eastern Load Despatch Centre to Odisha State Power Load Despatch Centre and operating the bus coupler between the Petitioner's 2×660 MW Units (viz. Unit 3 and 4) in closed condition for the common bus mode operation.
- Petitioner : Odisha Power Generation Corporation Limited (OPGCL)
- Respondents : State Load Despatch Centre, Odisha and Ors.

Petition No. 334/MP/2019

- Subject : Petition under Section 29 of the Electricity Act, 2003, Regulation 2.3.1(5), 2.3.1(6) and 2.3.1(7) of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 and Regulation 8(6) of the Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 and Regulation 6 and Regulation 8 of the Central Electricity Authority (Grid Standards) Regulations, 2010 with Regulation 1.5 of the Indian Electricity Grid Code, Section 29(6) and Section 142 of the Electricity Act, 2003.
- Petitioner : Eastern Regional Load Despatch Centre (ERLDC)
- Respondent : Odisha Power Generation Corporation Limited and Ors.
- Date of Hearing : 10.3.2022
- Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Parties Present : Shri Sitiesh Mukherjee, Advocate, OPGC
Shri Deep Rao, Advocate, OPGC
Shri Arjun Agarwal, Advocate, OPGC

Ms. Suparna Srivastava, Advocate, PGCIL/CTUIL
Shri Tushar Mathur, Advocate, PGCIL/CTUIL
Ms. Soumya Singh, Advocate, PGCIL/CTUIL
Shri Arijit Maitra, Advocate, GRIDCO
Shri Hemant Singh, Advocate, OGPTL



Shri Lakshyajit Singh Bagdwal, Advocate, OGPTL
Ms. Lavanya Panwar, Advocate, OGPTL
Shri Sakesh Kumar, Advocate, OPTCL
Shri Haresh Sathpathy, OPGC
Shri Swapnil Verma, CTUIL
Shri Siddharth Sharma, CTUIL
Shri Ranjeet Singh Rajput, CTUIL
Shri Rajesh Kumar, CTUIL
Shri Manish Ranjan, CTUIL
Shri Ashok Mishra, GRIDCO
Shri Mahfooz Alam, GRIDCO
Shri Nadim Ahmad, ERLDC
Shri Bilas Achari, ERLDC
Shri B. B. Mehta, SLDC Odisha

Record of Proceedings

Cases were called out for virtual hearing.

2. Learned counsel for Odisha Power Generation Corporation Limited (OPGCL) submitted that the Petition No. 380/MP/2019 has been filed *inter-alia* seeking approval of the Commission to operate both the Units (Unit 3 and Unit 4 of 600 MW each) under a common bus arrangement mode by closing bus coupler at its switchyard which is necessary in order to supply the entire power to sole beneficiary, namely, GRIDCO Ltd. through Respondent No.6, Odisha Power Transmission Corporation Limited i.e. STU's network. Learned counsel mainly submitted the following:

(a) Initially, 50% of power to be generated at OPGC's expansion project (Unit 3 & Unit 4) was to be tied up for sale to GRIDCO and remaining 50% power was to be sold inter-State. Accordingly, Unit 3 was to be connected with STU network through OPGC-Lapanga 400 kV D/C line and Unit 4 was to be connected through OPGC-Jharsuguda 400 kV D/C transmission line. OPGC planned the above connectivity scheme within its plant by installing a split bus arrangement in 400 kV bus at switchyard between its Unit 3 and Unit 4 to facilitate sale to GRIDCO and inter-State consumers.

(b) Pursuant thereto, OPGCL made an application to CTUIL for grant of connectivity to inter-State Transmission System (ISTS) and Long-Term Access (LTA) for 600 MW (Unit 4), which was granted to by the Respondent No.7, CTUIL. Accordingly, LTAA and TSA were executed with CTUIL on 11.9.2013. In terms of LTAA, the power evacuation scheme for OPGCL's expansion project included OPGC-Jharsuguda line, which came to be implemented by the Respondent No. 8, OGPTL under the tariff based competitive bidding route.

(c) However, due to the turn of events as detailed in the Petition and beyond its control, OPGCL has been required to sell 100% power from expansion basis to GRIDCO (i.e. intra-State) and consequently, on 13.12.2018 relinquished LTA as granted to in respect of Unit 4, which was accepted by CTUIL w.e.f. 1.1.2019. OPGCL envisaged evacuation of power from its Unit 4 by closing the bus coupler installed between Unit 3 and Unit 4 and operating the same in common bus mode to ensure delivery of power through STU network.

(d) Presently, as per direction of the Commission vide Record of Proceedings for the hearing dated 17.10.2019 to decide on the application of OPGCL, ERLDC

has permitted OPGCL to close the bus coupler and accordingly, the bus coupler is closed. Further, in terms of the directions of the Commission, a meeting was held on 20.11.2019 to discuss the commercial and operational issues involved in operating the bus coupler in closed position and minute of the said meeting has placed on record.

(e) As evident from the said minutes, there is no technical constraint or concern in the current operation of Unit 3 and Unit 4 in closed bus mode. The concern of CTUIL that if one circuit of OPGC-Lapnaga 400 kV D/C line trips then loading on the other circuit may become critical and may affect system security is also misplaced as SLDC and OPTC have clarified that there is no constraint in normal operating condition and there is no N-1 reliability concern in near future.

(f) In addition, certain commercial objections have been raised by the Respondents such as simultaneous connectivity with STU as well as ISTS (dual connectivity), payment of transmission charges of OPGS-Jharsuguda line, relinquishment charges and OPGS-Jharsuguda line cannot be considered as tie-line etc. However, these objections are unfounded.

(g) Number of commercial issues/objections have already been settled in terms of the judgment of Appellate Tribunal for Electricity (APTEL) dated 21.10.2020 in Appeal No. 16 of 2020 (OPGC Ltd. v. CERC Ors.), wherein APTEL has examined the liability of OPGCL regarding payment of transmission charges for OPGC-Jharsuguda line. APTEL has held that once the asset becomes part of ISTS (OPGC-Jharsuguda line), then it cannot be treated as dedicated line and that from 26.12.2018 onwards, recovery of transmission charges for the said line are required to be recovered from PoC mechanism.

(h) As regards the relinquishment charges, OPGC has already undertaken to pay the relinquishment charges as per the applicable regulation/ applicable law. However, the matter relating to relinquishment charges including the principles of computation is currently pending before APTEL in Appeal No. 322 of 2019. APTEL vide order dated 8.10.2020 in Appeal No. 251 of 2019 and Ors. has restrained CTUIL from raising invoices during the pendency of similar appeals. Whereas, the transmission charges for mismatched period have already been paid.

3. As regards Petition No.334/MP/2019, the learned counsel for OPGCL submitted that in its reply to said Petition, OPGCL has detailed the sequence of events/ circumstances and its understanding which led to the closure of bus coupler. OPGCL submitted that the bus-sectionaliser is not an important element as per the list of important elements in Eastern Region, so it cannot be that the Petitioner cannot open/close without prior clearance of ERLDC. However, regardless of the same, the learned counsel for OPGCL submitted that OPGCL tenders an unconditional apology for its action of closing the bus coupler. Reliance was placed on the judgment of Hon'ble Supreme Court in the case of Hindustan Steel Ltd. v. State of Orissa, [1969(2) SCC 627]. Accordingly, the Petitioner OPGCL requested that the prayer regarding initiation of proceedings against the Petitioner under Section 142 of the Electricity Act, 2003 may be closed.

4. Learned counsel for GRIDCO submitted that GRIDCO supports the case of OPGCL. Learned counsel further submitted as under:

(a) Petition No. 334/MP/2019 stands infructuous in light of stand subsequently taken by ERLDC that there is no technical constraint in closing of bus coupler. This has also been recorded in the minutes of meeting dated

20.11.2019 as held in terms of the direction of the Commission vide Record of Proceedings for the hearing dated 31.10.2019.

(b) As per Regulation 6.4.2(c)(iii) of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010, the control area jurisdiction over the Petitioner's expansion project is of SLDC Odisha as it is supplying the entire power to GRIDCO i.e. within the State of Odisha.

(c) Commercial objections such as the payment of relinquishment charges cannot come in a way of considering the closing of bus coupler.

(d) Pending payment of relinquishment charges if OPGCL is directed to open the bus coupler, it will be completely unfair to GRIDCO which will be refrained from receiving the power from OPGCL (Unit 4) and thus, any such direction is strongly opposed by the Respondent. In any case, in terms of the order of APTEL dated 8.10.2020 in Appeal No. 251 of 2019, CTUIL is restrained from raising invoice for relinquishment charges.

5. Learned counsel for CTUIL submitted that the OPGCL's outstanding charges to CTUIL include Rs.112.88 crore towards relinquishment charges and Rs.18.91 crore towards transmission charges for the period from 23.11.2017 till COD of generating station. Learned counsel further submitted that while the relinquishment charges in respect of OPGCL has been computed in terms of methodology decided by the Commission vide order dated 8.3.2019 in Petition No. 92/MP/2015, invoice to this effect is yet to be raised owing to direction of APTEL dated 8.10.2020 in Appeal No. 251 of 2019 restraining the Respondent from raising the invoice. Further no new computation of relinquishment charges is required pursuant to the judgment of APTEL and even if the line is considered as tie-line, the relinquishment charges stands same. Learned counsel referred to the minutes of meeting dated 20.11.2019 and submitted that the concerns of CTUIL recorded therein remain to be addressed. Learned counsel added that since OPGC-Jharusguda line had not been planned as tie-line, the same cannot be considered as tie-line.

6. After hearing learned counsel for the parties, the Commission observed that vide Record of Proceedings for the hearing dated 31.10.2019, the parties including CEA were directed to discuss and sort out the technical as well as the commercial issues and accordingly, a meeting was convened on 20.11.2019 and minutes of the said meeting have been filed containing the discussions on technical and commercial issues along with the recommendations. The Commission further observed that it would not be appropriate to consider the prayers only on the basis of findings/discussions on technical issues and without addressing the commercial issues. The Commission opined that all issues i.e. technical as well as the commercial issues are required to be considered and addressed.

7. The Commission further observed that while OPGCL has relinquished LTA of 600 MW for its Unit 4, the relinquishment charges computed by CTUIL pursuant to the Commission's order dated 8.3.2019 in Petition No. 92/MP/2015 are yet to be paid and the same has been challenged by OPGCL in Appeal No. 322 of 2019. Also, the invoice for such relinquishment charges is yet to be raised by CTUIL in view of the stay order of APTEL dated 8.10.2020 in Appeal No. 251 of 2019. However, during the course of hearing, the Commission observed that there is a need to arrive at some solution/settlement in the interregnum on all the commercial issue including relinquishment charges.

8. Learned counsel for OPGCL stated that CTUIL may be directed to re-compute the relinquishment charges in view of the judgment of APTEL dated 21.10.2020 in Appeal No. 16 of 2020, wherein the APTEL has held the OPGS-Jharsuguda line as ISTS line and which is now being used as tie line and charges thereof are being recovered from PoC. Learned counsel for CTUIL submitted that it is unlikely to impact computation of relinquishment charges as computed. However, the Commission deemed it appropriate to direct CTUIL to accommodate the said request of OPGCL and re-compute the relinquishment charges keeping in view the directions contained in order dated 8.3.2019 in Petition No. 92/MP/2015 and judgment of APTEL dated 21.10.2020 in Appeal No. 16 of 2020. The parties were also directed to confirm OPGCL's outstanding transmission charges prior to relinquishment, if any. Accordingly, CTUIL was directed to furnish its response complying with the above direction within two weeks with copy to the Petitioner.

9. Considering the request of the learned counsel for OGPCL, the Commission directed the Petitioner to file the following information/documents on affidavit within 10 days:

- (a) Short note on the judgment of APTEL dated 21.10.2020 and its implication on relinquishment charges;
- (b) Details of payments made till date and payments that have not been made; and
- (c) Copy of documents stating that connectivity of 618 MW was sought for entire 2 x 660 MW plant.

10. The Commission directed CTUIL to clarify on affidavit within 10 days as to whether OPGCL has been billed under Regulation 13 (9) of the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020 for OPGC-Jharsuguda 400 kV line read with order dated 26.12.2019 in Petition No. 128/MP/2019 and whether the Petitioner has paid the respective monthly bills and place on record the copy of such bills.

11. The Commission directed ERLDC to file the following information within two weeks with copy of other side:

- (a) Current status of metering and scheduling of Unit-4 of generating station of OPGCL i.e. who is scheduling and at which points meters are considered for drawal/injection;
- (b) Details of power flow through OPGC-Jharsuguda 400 kV D/C transmission line and corresponding schedule of the generating station block-wise since bus coupler was closed till date; and
- (c) Details of block-wise usage of ISTS by OPGCL and transmission charges paid for the same.

12. In the meantime, the bus coupler will remain in closed position till the next date of hearing.

13. The Petitions shall be listed for hearing in due course for which separate notice will be issued.

By order of the Commission

**Sd/-
(T.D. Pant)
Joint Chief (Law)**