

**CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi**

Petition No. 525/MP/2020

- Subject.** : Petition under Section 79 read with Regulations 20 and 21 of the Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010 read with Regulation 33A and 33B 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 Regulations 111 and 112 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 invoking the jurisdiction of the Commission for inter-alia resolving discrepancies arising on account of conflict between the SCOD under the PPA and the date of operationalisation of connectivity and long term access, for seeking recognition of Change in Law and Force Majeure events impacting the implementation of the Project by the Petitioner and seeking appropriate reliefs with regard to exemption from payment of transmission charges, opening a Letter of Credit for PoC charges and quashing of Default Notice issued by CTU.
- Petitioner** : Sprng Renewable Energy Private Limited (SREPL)
- Respondents** : Power Grid Corporation of India Limited and Anr.
- Date of Hearing** : 13.1.2022
- Coram** : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri P. K. Singh, Member
- Parties Present** : Shri Sajan Poovayya, Senior Advocate, SREPL
Shri Deep Rao Palepu Advocate, SREPL
Ms. Harneet Kaur Advocate, SREPL
Ms. Parichita Chowdhury, SREPL
Shri Gaurav Sood, Advocate, SREPL
Shri Avinash Mirajkar, SREPL
Shri M. G Ramachandran, Senior Advocate, SECI
Ms. Tanya Sareen, Advocate, SECI
Ms. Poorva Saigal, Advocate, SECI



Ms. Neha Singh, Advocate, SECI
Ms. Shreedhar Singh, Advocate, SECI
Shri Shubham Mishra, Advocate, SECI
Ms. Aditee Nitnavare, Advocate, SECI
Ms. Suparna Srivastava, Advocate, CTUIL

Record of Proceedings

Case was called out for virtual hearing.

2. Learned senior counsel for the Petitioner submitted that the instant petition has been filed for recognition of “Change in Law” and *force majeure* events impacting the implementation of the wind power project of the Petitioner and seeking appropriate reliefs with regard to exemption from payment of transmission charges, opening a Letter of Credit (“LC”) and quashing of the Default Notice issued by the CTUIL. The gist of the submissions made by the learned senior counsel are as follows:

a. The Petitioner is developing a 300 MW wind power project ('the Project'). In order to evacuate the power generated from the Project, the Petitioner obtained connectivity and LTA from CTUIL on the existing transmission system. Long Term Access Agreement (LTAA) dated 20.9.2018 was entered into between Petitioner and PGCIL to avail Long term Access of transmission utilities for transfer of 300 MW power from the Wind Farm on the target region basis in NR.

b. The Petitioner has executed Power Purchase Agreement (PPA) dated 4.9.2018 with Solar Energy Corporation of India Limited (SECI). As per the PPA, the original SCOD of the Project was 28.2.2020. The Petitioner sought extension to the original SCOD due to *force majeure* and “Change in Law” events and SECI vide multiple extensions extended and revised SCOD of the Project and the final SCOD of the Project has been extended by SECI until 13.7.2021 vide its letter dated 2.8.2021.

c. Subsequent to the filing of the petition, the Project was commissioned on 30.10.2021. Accordingly, by virtue of the extension granted by SECI, the Petitioner is entitled to benefit of extended COD till 13.7.2021.

d. However, CTUIL operationalised LTA on 30.11.2019. As SECI has granted extension of SCOD of the Project under the PPA, the timeline for implementation of the dedicated transmission line ought to be realigned with the final SCOD and the Petitioner is entitled to benefit qua LTAA. Therefore, the issue is w.r.t the period between 30.11.2019 to 13.7.2021.

e. As per Clause 1.0(d) of LTAA, the transmission charges and losses shall be applicable as per order dated 13.2.2018 of Ministry of Power (MoP), Government of India and Central Electricity Regulatory Commission (Sharing



of Inter-State Transmission Charges and Losses) Regulations, 2010 (“the 2010 Sharing Regulations”). However, if due to any amendment to the 2010 Sharing Regulations/ Government of India order, LTC shall be required to pay the applicable transmission charges for ISTS network and/ or if transmission losses are attributable to the LTC, then ‘LTC’ is required to pay the applicable transmission charges. The Petitioner and PGCIL consciously agreed and incorporated in LTAA that transmission charges will be applicable as per MoP order dated 13.2.2018.

f. As per MoP order dated 13.2.2018, the transmission charges and losses on transmission of electricity generated from wind and solar projects are waived under the Tariff Policy for a period of 25 years from the commissioning of such projects.

g. Subsequently, the MoP order was amended on 15.1.2021 which dealt with subject of waiver of ISTS charges on transmission of electricity and this amended order automatically gets incorporated in LTAA. As per this amended order dated 15.1.2021, *“a Renewable Energy generation capacity which is eligible for ISTS waiver in terms of the extant orders, is granted an extension in COD by the competent authority, the commencement and the period of the LTA shall also get extended accordingly, and it will be deemed that the period of ISTS waiver is extended by the said period”*.

h. The Petitioner's inability to execute the Project on the date of operationalization of LTA was due to “Change in Law” and *force majeure* events and, therefore, the Petitioner is not obliged to pay transmission charges and is entitled for alignment of connectivity and LTA with the revised SCOD.

3. After hearing the learned senior counsel for the Petitioner, the Commission observed that the benefit of waiver can be availed only when the project is commissioned. The Commission further observed that as the Petitioner’s case apparently pertains to the liability of transmission charges for the period of mismatch in commissioning of the Project and the date of operationalisation of LTA which is for the period prior to commissioning of the project, the same falls within the ambit of the Sharing Regulations/Connectivity Regulations. In this context, the Commission asked the learned senior counsel of the Petitioner to explain the applicability of various MoP circulars/orders cited by him to the present matter.

4. In response to the Commission’s observations, the learned senior counsel for the Petitioner, agreeing that the period in issue being prior to commissioning of the project, sought time to re-examine the applicability of MoP’s order/circulars to the facts and circumstances of the instant case.

5. The learned senior counsel for the Petitioner, however, submitted that transmission charges can be levied by CTUIL only on the commencement of LTA. If the LTA is required to be aligned with SCOD of the Project, the transmission charges cannot be levied prior to SCOD.



6. Learned counsel for CTUIL submitted that the instant case can be examined in the light of Regulation 13(7) of the 2020 Sharing Regulations and Commission's order dated 5.2.2020 in Petition No.195/MP/2019.

7. CTUIL is directed to submit the information as per the table attached, on affidavit by 30.1.2022, with a copy to the Petitioner and PGCIL.

8. The Petition shall be listed for hearing in due course for which separate notice will be issued.

By order of the Commission

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

Petition No.	SCOD of Generation Project as per PPA	Extended SCOD of Generation Project, if any	Actual COD of Generation Project	Start date of Connectivity	LTA start date as per LTAA & LTA on existing system or through augmentation	LTA extended, if any	Schedule for completion of ATS	Actual COD of ATS	Status of LTA (operational/ relinquished, in part or full)	Whether CTUIL raised bill during the period of mismatch between COD of Generation & ATS	Remarks

