

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Diary (IA) No. 501/2022 in Petition No.187/MP/2022

Subject : Application on behalf of the Petitioner under Regulation 111 and Regulation 113 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking interim relief.

Date of Hearing : 6.12.2022

Coram : Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Petitioner : Powerica Limited (Powerica)

Respondents : Central Transmission Utility of India Limited (CTUIL) and 5 Ors.

Parties Present : Shri Venkatesh, Advocate, Powerica
Ms. Suparna Sirvastava, Advocate, CTUIL
Ms. Priyakshi Bhatnagar, Advocate, JKTL

Record of Proceedings

The matter was mentioned today by learned counsel for the Petitioner citing urgency in the matter.

2. Learned counsel submitted that the Petitioner has moved the present IA in the matter, *inter-alia*, seeking ad-interim stay on the invoices raised by CTUIL and letters issued by CTUIL and POSOCO under the LPS Rules and restrain CTUIL and POSOCO from taking any coercive actions against the Petitioner including but not limited to regulation and/or reduction of LTA granted to it. Learned counsel for the Petitioner mainly submitted the following:

(a) The Petitioner has filed the Petition No. 187/MP/2022, *inter-alia*, seeking quashing of bilateral bill dated 2.6.2022 erroneously issued by CTUIL claiming the transmission charges from the Petitioner for the billing period of April, 2022 and direction to CTUIL not to raise any invoice upon the Petitioner towards transmission charges as the Petitioner's Project has been exempted from levy of transmission charges.

(b) During the course of hearing of the matter on 5.7.2022, the representative of CTUIL had stated that CTUIL will not proceed to encash the bank guarantee furnished by the Petitioner during the pendency of the Petition, which was taken on record by the Commission vide Record of Proceedings for the said hearing.

(c) However, in the meanwhile, CTUIL, in absence of a specific order of stay, has been raising the invoices (bilateral bills) for the transmission charges on the Petitioner and also providing the information regarding outstanding invoices to

POSOCO. The Petitioner is, therefore, being shown as a defaulter in the PRAAPTI portal of POSOCO.

(d) As a result, POSOCO has indicated that the penal consequences in terms of the Electricity (Late Payment Surcharge and related matters) Rules, 2022 ('LPS Rules') shall trigger against the Petitioner, including but not limited to, the Long-Term Access (LTA) of the Petitioner will be regulated and shall be reduced by 10% on a monthly basis.

(e) Thus, even though the Petitioner is protected from the encashment of Bank Guarantee, the Petitioner is exposed to the risk of regulation of its LTA and the other consequences, as may be applicable, under the LPS Rules. In the event, the LTA granted to the Petitioner is regulated, the Petitioner would not be able to evacuate the power from its renewable project and in addition, would also fail to fulfil its obligations under the Power Purchase Agreement.

(f) Accordingly, the Petitioner is urging for appropriate direction of ad-interim stay on the invoices raised by CTUIL and all the letters issued by CTUIL and POSOCO in relation to the LPS Rules, including any consequences under the LPS Rules till the disposal of the main Petition.

3. Learned counsel for CTUIL submitted that CTUIL is required to report the outstanding dues of a generating company to the PRAAPTI portal of the POSOCO which thereafter takes the appropriate actions as per the LPS Rules in the event the outstanding dues are not cleared by such generating company. Learned counsel also fairly submitted that since in the present case, the power from the generating station of the Petitioner is already being evacuated under the LTA, the Commission may consider extending the protection against the regulation of LTA capacity. Learned counsel sought liberty to file reply in the matter.

4. Learned counsel for the Respondent No.2, Jam Khabhaliya Transco Limited, however, opposed the submissions made by the Petitioner. Learned counsel submitted that the outstanding dues under the bilateral bills, as raised by CTUIL for the period from 12.4.2022 to 3.6.2022, to tune of approximately Rs. 10.28 crore are owed to Respondent No.2 and till date, no payment has been received from the Petitioner against such dues. Learned counsel further submitted that no relief ought to be granted to the Petitioner at this stage and the Respondent No.2 may be permitted to file its short response to the IA filed by the Petitioner. Learned counsel added that the Petitioner ought to be directed to make the payment 'under protest'.

5. In response, learned counsel for the Petitioner pointed out that the CTUIL/JKTL has arbitrarily sought to load the transmission charges for the entire 1500 MW transmission system on the Petitioner instead of charging the part commissioned project capacity or at maximum for the allocated capacity of 50.6 MW as per the LTA.

6. After hearing the learned counsel for the parties, the Commission directed the Respondents, CTUIL and WRLDC/POSOCO not to take any coercive measures against the Petitioner in terms of LPS Rules till the next date of hearing.

7. Meanwhile, the Respondents were directed to file their reply to the Petition and IA, if any, within two weeks with copy to the Petitioner who may file its rejoinder thereof, if any, within weeks thereafter.

8. The Petition along with IA shall be listed for hearing on 14.2.2023.

By order of the Commission

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