

**CENTRAL ELECTRICITY REGULATORY COMMISSION**

**Petition No. 2/RP/2021**

**Coram:**

**Shri P.K. Pujari, Chairperson**

**Shri I.S Jha, Member**

**Date of Order: 16.4.2022**

**In the matter of:**

Petition under Section 94 of the Electricity Act, 2003 read with Regulation 103(1) of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, read with Order 47 Rule 1 of the Code of Civil Procedure, 1908 for review of order dated 5.2.2020 in Petition No.129/MP/2017

**And in the matter of:**

Central Transmission Utility,  
Power Grid Corporation of India Limited,  
B-9, Qutab Industrial Area,  
Katwaria Sarai,  
New Delhi-110016

**....Review Petitioner**

**Vs**

Simhapuri Energy Limited,  
Madhucon Greenlands,  
6-3-866/2, 3<sup>rd</sup> Floor, Begumpet,  
Hyderabad-500016

**....Respondent**

**Parties Present:**

Ms. Suparna Srivastava, Advocate, CTU  
Mr. Mr. Tushar Mathur, Advocate, CTU  
Ms Soumya Singh, Advocate, PGCIL  
Mr. Siddharth Sharma, CTUIL  
Mr Ranjeet Singh Rajput, CTUIL  
Mr. Swapnil Verma, CTUIL  
Mr. Abhishek Swaroop, Advocate (SEL)  
Mr. Naman Kamdar, Advocate, (SEL)  
Ms. Chhavi Jain, Advocate, (SEL)

## **ORDER**

The present Review Petition against the order dated 5.2.2020 passed by this Commission in Petition No.129/MP/2017 has been filed by Central Transmission Utility (CTU) seeking rectification in the said order to the extent that it holds the Simhapuri Energy Limited to be liable to pay transmission charges for 146 MW LTA from 11.12.2015 instead of 16.6.2016.

2. Review Petitioner has prayed for:

- a) *admit the present Review Petition and review and rectify the Order dated 5.2.2020 passed in Petition No.129/MP/2017 to the extent it holds the Respondent liable to pay transmission charges for 146 MW LTA from 11.12.2015 (i.e. the date on which the last element of the associated transmission system under the LTA has been commissioned) instead of 16.6.2016 (i.e. the date of LTA operationalization actually done); and*
- b) *pass such further and other order(s) as this Hon'ble Commission may deem fit in the facts and circumstances of the present case.*

### **Submissions of the Review Petitioner**

3. The Review Petitioner has submitted as under:

a. Simhapuri Energy Limited (here in after referred as 'Respondent') had filed Petition No.129/MP/2017 seeking declaration that the LTA of 146 MW granted to it stands relinquished without any liability upon the Respondent. Commission vide order dated 5.2.2020 in Petition No. 129/MP/2017 disposed of the Petition inter-alia observing that the Respondent is liable to pay PoC charges for 146MW from 16.6.2016 up to the date of relinquishment.

b. Review sought in the present Petition relates to the limited aspect of date of effectiveness of the LTA granted to the Respondent, which has been erroneously considered by this Commission as 16.6.2016 in its Order dated 5.2.2020 in Petition no. 129/MP/2017, based on which the Respondent becomes liable to pay transmission charges only for the period between 16.6.2016 and the date of relinquishment. However consideration of the said date does not take into

account the previous orders of this Commission passed in Petition No.103/MP/2017, Petition No.229/RC/2015 and Petition No.92/MP/2015 which has led to an error apparent in the order under review qua the LTA operationalization date, which error is liable to be rectified by this Commission.

4. The Review Petitioner has further submitted, including the controversy raised before this Commission in Petition No.129/MP/2017, as under:

a. Respondent had set up a power plant of 600 MW (4x150 MW) in District Nellore, Andhra Pradesh. For evacuating power from its project, the Respondent had applied to the Review Petitioner vide application dated 2.8.2007 for grant of LTA for 446 MW, which was granted vide intimation dated 6.7.2009 with target region as Southern Region-311 MW and Western Region-135 MW. Bulk Power Transmission Agreement (BPTA) for the referred grant of LTA was also signed on 24.2.2010. Subsequently, pursuant to revision in the generation capacity, the LTA quantum was revised vide intimation dated 24.2.2010 to 491 MW. Pursuant to another request for LTA for an additional quantum for 55 MW which was granted to the Respondent vide letter dated 23.12.2011, the total LTA granted to the Respondent became 546 MW with target regions as Southern Region-411 MW & Western Region-135 MW.

b. In furtherance of the aforesaid LTA grant, the Respondent and another generator namely, Meenakshi Energy Pvt. Ltd entered into a BPTA with the Respondent on 24.2.2010. For the Respondent's project, the time frame for commissioning schedule as per Annexure-I of the BPTA was December, 2010. The Respondent was granted LTA with the commissioning of High Capacity Power Transmission Corridor-VI along with certain inter-regional (IR) links, including 765KV D/C Narendra (New Kudgi)-Kolhapur line (initially charged at 400KV). The Respondent was made aware of the envisaged commissioning of the last link required, namely the said 765KV D/C Narendra (New Kudgi)-Kolhapur line in the Special Joint Coordination Committee Meeting held on

7.7.2015 wherein it was recorded that the efforts were being made to complete the line by September, 2015.

c. Subsequently, vide letter dated 7.12.2015, the Respondent was informed about the imminent commissioning of the transmission system required for evacuating power from its generation project as well as requested to establish a payment security mechanism (Letter of Credit) of Rs. 25.36 Crore.

d. As the Respondent did not establish the requisite payment security mechanism, the Review Petitioner vide another reminder letter dated 8.2.2016 requested the Respondent to open the LC. In response thereto, the Respondent, vide letters dated 10.2.2016 and 27.4.2016, sought time extensions for establishing the payment security mechanism on account of various difficulties. Ultimately, on 13.6.2016, the Respondent opened the LC and accordingly, the LTA of 546 MW came under operation from 16.6.2016. In discharge of its obligations under the BPTA, the Respondent made regular payments since commencement of the LTA and only once the payment was realized through invocation of LC during January, 2017 (towards adjustment of August, 2016, September, 2016 and part October, 2016 bills). The Respondent subsequently reinstated the LC and also made the payments regularly till the bills of January, 2017. The Respondent stopped paying transmission charges to the Review Petitioner for the subject LTA from February, 2017 and approached this Commission vide Petition No.103/MP/2017 seeking suspension of payment of transmission charges to the Review Petitioner in terms of the BPTA (read with the Transmission Service Agreement) till the commencement of supply of power under its agreements with the beneficiaries on the ground of being affected by force majeure events.

e. The Commission vide order dated 6.7.2017 in the said Petition No.103/MP/2017, while hearing on admission, declined to grant the reliefs since the Respondent had been granted LTA to target regions and was under statutory as well as contractual obligations to pay transmission charges after commissioning of the transmission system as per the LTA, , irrespective of whether it actually availed the long term access or not. As regards the date of

operationalization of the LTA and the consequent liability of the Respondent to pay transmission charges, this Commission specifically held that the liability to pay transmission charges commenced from the date of commissioning of the transmission system based on which the LTA had been granted. Under the directions of this Commission in Petition No.103/MP/2017, the Respondent became liable to pay transmission charges under the LTA w.e.f. 11.12.2015.

f. Thereafter, the Respondent approached the Hon'ble Delhi High Court [WP(C) No.5708/2017], the Appellate Tribunal [Appeal No.205/2017] and also the Hon'ble Supreme Court [Civil Appeal No.10012] seeking a restraint on the Review Petitioner from invoking the LC, but to no avail. The Review Petitioner had in the meantime invoked the said LC during August, 2017 and accordingly, the transmission charges for the subject LTA stood paid for the period up to April, 2017. The Appeal No.205/2017 filed by the Respondent challenging the order dated 6.7.2017 passed by this Commission in Petition No.103/MP/2017 with regard to its liability to pay transmission charges in view of alleged force majeure events is presently pending adjudication before the Appellate Tribunal.

g. The respondent vide letter dated 28.4.2017, informed the Review Petitioner that while it had been successful in a long term tender for tie up of a quantum of 400 MW in the Southern Region, it had been unable to enter into any firm long term PPA with the distribution companies in the Western Region for 135 MW. The Respondent contended that the said non-execution of long term PPA was beyond its control and as such, it amounted to a force majeure event in terms of clause 9 of the BPTA dated 24.2.2010. Accordingly, the Respondent informed that it was surrendering a quantum of 146 MW in terms of clause 9 of the BPTA without any liabilities. However, the Review Petitioner declined to accept the Respondent's request for surrender of LTA and informed Respondent that if any reduction/ relinquishment in LTA quantum was sought, the same had to be as per the advisory on the Review Petitioner's webpage with unequivocal consent for payment of applicable relinquishment charges as per the Regulations of this Commission and as were to be determined by this Commission in Petition No.92/MP/2015.

h. The Review Petitioner, vide its letter dated 15.6.2017, requested the Respondent to extend the LC for payment of transmission charges for the full quantum of 546 MW. Being aggrieved by the said request, the Respondent filed a Petition No.129/MP/2017 before this Commission seeking a declaration that the LTA of 146 MW stood relinquished w.e.f 28.4.2017 without any liability and directions to the Review Petitioner not to raise any invoice upon the Respondent pertaining to transmission charges for the corresponding LTA quantum of 146 MW.

i. During the pendency of the above Petition, the issue regarding computation of stranded capacity and payment of relinquishment compensation was adjudicated by the Commission vide order dated 8.3.2019 passed in Petition No.92/MP/2015, wherein this Commission observed that the payment of compensation for relinquishment of LTA is a statutory obligation on part of the long-term customers relinquishing the access rights, subject to the determination of stranded capacity.

j. At the time of adjudication of the Petition No.103/MP/2017 (i.e. July, 2017) filed by the Respondent, the matter regarding the date of effectiveness of LTA in a case where the concerned long term customer had either not established or had delayed the establishment of payment security mechanism, was under consideration of this Commission in Petition No.229/RC/2015. The Commission vide order dated 8.3.2018 in Petition No. 229/RC/2015 took cognizance of the non-operationalization/effectiveness of LTA upon non-submission of payment security mechanism in the past, and directed CTU to ensure mandatory effectiveness of LTA from the date of commissioning of the entire associated transmission system for evacuation of power from the concerned long term customer's generation project irrespective of payment security mechanism. Further, the Commission also directed that in such cases, the CTU shall retrospectively operationalize the LTA from the date of commissioning of the entire transmission system and raise the bills as per Regulations.

k. In compliance with the aforesaid directions issued by this Commission, the Review Petitioner computed the relinquishment charges liability for various generators who had relinquished their LTAs. A chart containing the same was uploaded on the website of the Review Petitioner on 20.5.2019 which showed the relinquishment charges for 146MW computed for the Respondent as Rs.22.68 Crore by considering the date of relinquishment as 1.6.2018. The Commission vide Order dated 5.2.2020 in Petition No.129/MP/2017 directed to consider date of relinquishment as 28.4.2017.

l. Further, considering the direction of this Commission regarding the date of operationalization of LTA as per order dated 6.7.2017 passed in Petition No.103/MP/2017, order dated 8.3.2018 in Petition No.229/RC/2015 and Order dated 8.3.2019 passed in Petition No.92/MP/2015, where the date of effectiveness of LTA was linked to commissioning of last element of transmission system, the date of effectiveness of LTA comes out to be 11.12.2015 and hence the Respondent became liable to pay transmission charges under the subject LTA w.e.f. 11.12.2015 up to the date of relinquishment.

5. The Review Petitioner has submitted that the Commission vide order dated 5.2.2020 in Petition No.129/MP/2017 observed that the transmission capacity of 146 MW stood relinquished by the Respondent w.e.f. 28.4.2017 with the attendant liability to pay relinquishment charges upon the Respondent in terms of the decision in the Order dated 8.3.2019 passed in Petition No.92/MP/2015. The direct implication of the Order was that the liability for transmission charges was to stand up to 27.4.2017.

6. The Review Petitioner has submitted that as regards the transmission charges for the period prior to the LTA relinquishment, this Commission directed as under:

*“33. In third prayer, the Petitioner has sought that no invoice should be raised by the Respondent pertaining to transmission or PoC charges for 146MW. It is directed that the*

*Petitioner shall be liable to pay the PoC charges for 146MW from 16.6.2016 up to the date of relinquishment.”*

As per above, the Commission directed the Respondent to pay transmission charges for the period between 16.6.2016 and 28.4.2017(i.e. the date of relinquishment) to the Review Petitioner. The Review Petitioner has since then revised the relinquishment charges to be paid by the Respondent and published the same on its website on 21.8.2020 where under, the revised relinquishment charges payable by the Respondent is Rs.29.31 Crore. This consideration of liability by the Commission in Order dated 5.2.2020 in Petition No. 129/MP/2017 from 16.6.2016 is erroneously based upon the ‘actual’ or *de-facto* date of operationalization, which in turn is based on the date of establishment of payment security mechanism i.e. 13.6.2016. Whereas, in terms of this Commission’s categorical directions in Petition No.229/RC/2017 and Petition No.103/MP/2017, the *de-jure* liability towards transmission charges extends from the date of commissioning of the last element of the transmission system i.e. 11.12.2015.

7. Thus, the Review Petitioner has submitted that while so directing the Respondent to pay transmission charges under the LTA as aforesaid, an error apparent in the Order dated 5.2.2020 has occurred in as much as the date from which the liability to pay transmission charges is to commence has wrongly been considered as the date of LTA operationalization (i.e. 16.6.2016) instead of the date on which the last transmission line/sub-station of HCPTC-VI has been commissioned (i.e. 11.12.2015). The said error has occurred on account inadvertently omitting to take into account the directions issued vide its earlier Orders passed in Petition No. 229/RC/2015, Petition No. 103/MP/2017 and Petition No. 92/MP/2015 in which it is not the LTA operationalization



date but the date of commissioning of the last element of the transmission system under which the LTA has been granted, has been held to be the commencement date for payment of transmission charges.

8. The Review Petitioner has submitted that the Respondent filed Petition No.103/MP/2017 before this Commission, seeking suspension of payment of transmission charges for 400MW out of the total LTA quantum of 546 MW granted to it, which was rejected by this Commission and the Commission held that the Respondent shall be liable for payment of transmission charges irrespective of its claims for force majeure and suspension of liabilities. The Commission in its order dated 6.7.2017 passed in Petition No.103/MP/2017 has explicitly directed the Review Petitioner to take immediate steps to operationalize the LTA after commissioning of the transmission system since the LTA customers carry the liability to pay the transmission charges from the date of commissioning of the transmission system based on which the LTA has been granted.

9. The Review Petitioner has submitted that the effect of the Order dated 5.2.2020 in Petition No.129/MP/2020 is that the start date for 400 MW LTA remains as 11.12.2015 in terms of this Commission's Orders and directions in Petition No.103/MP/2017 and Petition No.229/RC/2017 but the LTA start date for 146 MW comes out to be 16.6.2016 instead of 11.12.2015 in terms of Commission's order dated 5.2.2020.

**Hearing dated 18.6.2021**

10. Commission vide RoP in the matter listed for hearing on 18.6.2021 observed as below:

*“4. In response to a query of the Commission regarding the error in the impugned order, the learned counsel for the Review Petitioner submitted that the Respondent is liable to pay the transmission charges from COD of the transmission line, based on which the LTA was granted, to the date of relinquishment of the LTA. However, the Commission in the impugned order considered the date of operationalization instead of the COD of the transmission line. She accepted that the error has crept into the impugned error due to the inaction on the part of Review Petitioner for not placing the facts correctly i.e. the date of commissioning of transmission system and date of LTA operationalization before the Commission.*

*5. In response to another query of the Commission as to whether the Review Petitioner has revised the date of LTA operationalization as per the order passed in Petition No. 103/MP/2017, the learned counsel for the Review Petitioner submitted that a formal letter regarding the same has not been issued yet. However, the bills were raised on the generator as per the revised date of LTA operationalization and the same has been accepted by the generators.*

*6. The learned counsel appearing on behalf of SEL submitted that the SEL is under insolvency proceedings since June, 2020. He further submitted that there has been a considerable delay in filing of the Review Petition and sought time to file its reply to the Review Petition.*

*7. After hearing the learned counsel for the Review Petitioner, the Commission observed that the impugned order was passed on the basis of the submissions made by the Review Petitioner and there is no apparent error on the face of the record in the impugned order. The alleged error pointed out by the Review Petitioner occurred due to non-submission of the correct facts by the Review Petitioner. However, taking into consideration the peculiar circumstances in the matter, the Commission condoned the delay in filing the review petitioner and disposed I.A. No. 5/IA/2021 and admitted the petition. The Commission further directed to issue notice to the Respondents and directed the Petitioner to serve a copy of the petition on the Respondents by 30.6.2021.*

*8. The Commission directed the Review Petitioner to place on record all the relevant documents on affidavit, by 5.7.2021, with a copy to the Respondents and the Respondents to file their reply by 19.7.2021 and the Petitioner to file its rejoinder, if any, by 30.7.2021.”*

11. In compliance of RoP dated 18.6.2021, Review Petitioner vide affidavit dated 23.11.2021 has submitted that consequent to order in Petition No. 229/RC/2015, the PoC bills were required to be revised with the start date of LTA as 11.12.2015 i.e. the

date of commissioning of the last transmission line/sub-station. The issue concerning relinquishment of LTA was pending adjudication before this Commission in Petition no. 92/MP/2015, where this Commission was considering issue of payment of relinquishment charge and the date of relinquishment of LTA. As such, during the pendency of Petition No. 129/MP/2017 and Petition No. 92/MP/2015, the PoC bills of the Respondent were not revised. With passing of order in Petition No. 229/RC/2015 and Petition No. 92/MP/2015 Review Petitioner gained clarity on start and end date of LTAs for a grantee such as the Respondent. Review Petitioner issued revised/ supplementary bills on 20.1.2020 (which were further revised on 15.10.2020) on the Respondent revising the start dated of LTA from 16.6.2016 to 11.12.2015 i.e. date of commissioning of transmission system based on which LTA was granted to the Respondent. The aforesaid revised /supplementary bills, although remaining outstanding, were never disputed by the Respondent. Therefore, in terms of clause 3.5.1 of the Billing, Collection and Disbursement (BCD) Procedure under the CERC (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010, the said bills have deemed to be admitted to be correct, complete and conclusive between the Respondent and the Petitioner.

### **Hearing dated 26.11.2021**

12. The matter was heard on 26.11.2021, where Review Petitioner submitted that the Review Petition is limited to the aspect of date of effectiveness of the LTA granted to the Respondent and that it has placed on record all relevant bills, letters, correspondences etc. issued by it to the Respondent. After hearing the matter, Commission reserved the order.

## **Analysis and Decision**

13. Review Petitioner has submitted that the review sought in the present Petition relates to the limited aspect of date of effectiveness of the LTA granted vide the order dated 5.2.2020 in Petition No. 129/MP/2017 to the Respondent, which has been erroneously considered by this Commission as 16.6.2016. However, the Review Petitioner has submitted that the said date does not take into account the previous orders of this Commission passed in Petition No.103/MP/2017, Petition No.229/RC/2015 and Petition No.92/MP/2015 which has led to an error apparent in the order under review qua the LTA operationalization date, which error is liable to be rectified by this Commission.

14. The relevant paragraphs of order dated 5.2.2020 in Petition No. 129/MP/2017 is reproduced below:

“.....

*29. In the light of the above decision, the date of relinquishment of 146 MW shall be considered as 28.4.2017 and relinquishment charges shall be payable by the Petitioner as determined by the Commission in accordance with order dated 8.3.2019 in Petition No.92/MP/2015.*

***Issue No.4: What are the reliefs admissible to the Petitioner in terms of the prayers in the petition?***

*31. The first prayer of the Petitioner is for a declaration that LTA of 146 MW under BPTA dated 24.2.2010 stands relinquished with effect from 28.4.2017 without any relinquishment charges. In terms of our order dated 8.3.2019 in Petition No.92/MP/2015, the Petitioner has a statutorily permissible right to relinquish its LTA subject to payment of compensation determined under Regulation 18 of the Connectivity Regulations.*

*32. The second prayer of the Petitioner is for a direction to CTU not to raise any demand upon the Petitioner for opening the Letter of Credit pertaining to 146 MW LTA. Since the relinquishment of 146 MW LTA has been accepted from 28.4.2017, the Petitioner is not required to open Letter of Credit (LC).*

*33. In third prayer, the Petitioner has sought that no invoice should be raised by the Respondent pertaining to transmission or PoC charges for 146 MW. It is directed that the*

Petitioner shall be liable to pay the PoC charges for 146 MW from 16.6.2016 up to the date of relinquishment.

34. *In the fourth prayer, the Petitioner has sought for quashing the letters dated 22.5.2017, 30.5.2017, 13.6.2017, 15.6.2017 and e-mail dated 6.6.2017 issued by CTU for opening LC. Since we have decided the date of relinquishment and the issue of LC, no further directions are required to be issued on the letters/e-mail of CTU as mentioned in this prayer.*

35. *Petition No. 129/MP/2017 is disposed of in terms of the above.”*

15. We observe in the above order that the date of relinquishment of 146 MW LTA has been considered as 28.4.2017 and the Respondent has been held liable to pay relinquishment charges in accordance with the Order dated 8.3.2019 in Petition No. 92/MP/2015. Further, the Respondent has been held liable to pay the transmission charges from 16.6.2016 till the date of relinquishment of 28.4.2017 in terms of paragraph 33 of the order. Therefore, the limited aspect of the present Review Petition for our consideration pertains to the date from which Respondent is liable to pay transmission charges.

16. We observe that the Respondent had filed the Petition No. 103/MP/2017 seeking suspension of payment of PoC charges *for LTA quantum* of 400 MW (Southern Region) out of total LTA quantum of 546 MW granted under Bulk Power Transmission Agreement dated 24.2.2010. Vide order dated 6.7.2017 in Petition No. 103/MP/2017, the Commission observed as follows:

*“14. In the light of the above discussion, we are of the view that since the Petitioner has been granted LTA to target regions and is under statutory as well as contractual obligations to pay transmission charges after COD of the transmission system executed based on the LTA, the Petitioner is liable to pay the transmission charges, irrespective of whether it actually avail the long term access or not. Accordingly, no relief can be granted on the prayers of the Petitioner.*

15. *We also observe that even though the transmission lines were ready in February, 2016, PGCIL has operationalized the LTA only in July, 2016. Since the LTA customers*

carry the liability to pay the transmission charges from the date of commissioning of the transmission system based on which LTA has been granted, any delay in operationalization of the LTA beyond the COD of the concerned transmission system goes against the letter and spirit of the Connectivity Regulations and BPTA. In our view, CTU should take immediate steps to operationalize the LTA after commissioning of the transmission system without being at the mercy of the LTA customers to open the LC in order to operationalize the LTA”

17. As per the above order, Commission noted that the LTA customers are liable to pay the transmission charges from the date of commissioning of the transmission system based on which LTA has been granted and directed CTU to take immediate steps to operationalize the LTA after commissioning of the transmission system without waiting for LTA customers to open the LC.

18. Further, Commission vide order dated 8.3.2018 in Petition No. 229/RC/2015 observed as under :

*“Summary of Decisions:*

*63. The summary of our decisions is as under:*

.....

*(d) Where the entire transmission system has been commissioned but the generator has not established payment security mechanism and/or the generating station has not been commissioned, CTU shall operationalize the LTA from the date of the commissioning of the entire transmission system and raise the bills as per Regulations in vogue. In case, a particular generator has carried out certain transactions under STOA / MTOA after the date of commencement of LTA i.e. date of commissioning of entire transmission system, the charges already paid towards such transactions shall be offset from the bills to be raised for LTA. If the generator does not open the LCs, it shall be denied medium term open access and short term open access till the LCs are opened.”*

19. We observe from the above quoted orders dated 6.7.2017 and dated 8.3.2018 that there were directions to CTU to operationalize the LTA from the date of commissioning of the entire transmission system on which LTA is granted.

20. We observe that the Petition No. 129/MP/2017 was filed with following prayers:

*“(a) hold and declare that the LTA of 146 MW under BPTA dated 24.02.2010 stands surrendered with effect from 28.04.2017 (date of issuance of letter to PGCIL), without any liability upon the Petitioner;*  
*(b) direct the Respondent not to raise any demand upon the Petitioner for opening of Letter of Credit pertaining to 146 MW;*  
*(c) direct the Respondent not to raise any invoice upon the Petitioner, pertaining to transmission or POC charges for 146 MW;*  
*(d) quash the following letters/ communications issued by the Respondent to the Petitioner: i) letter dated 22.5.2017 issued by the Respondent; ii) letter dated 30.5.2017 issued by the Respondent; iii) e-mails and bill dated 6.6.2017 issued by the Respondent; iv) letter dated 13.6.2017 issued by the Respondent; and v) letter dated 15.6.2017 issued by the Respondent.”*

21. In the above mentioned Petition No. 129/MP/2017, vide Prayer (c), it was prayed by the Petitioner that PGCIL/CTU should not raise any invoice upon the Petitioner pertaining to transmission or POC charges for 146 MW. There was no prayer or dispute pertaining to the start date of LTA or LTA operationalization date. However, the Respondent PGCIL vide affidavit dated 22.9.2017 submitted the status existing as on that date that the LTA of the Petitioner has come under operation from 16.6.2016. The CTU did not bring the fact on records that the LTA operationalization date for Respondent SEL was to be considered as 11.12.2015 based on the commissioning of last element of the transmission system and keeping in view the Order of the Commission dated 6.7.2017 in Petition No. 103/MP/2017.

22. We have already observed that the start date of LTA was never the issue in the Petition No. 129/MP/2016. Therefore, the start date of LTA of the Petitioner was recorded as 16.6.2016 in the paragraph 33 of the Order dated 5.2.2020 in the Petition No. 129/MP/2017 as was submitted by the CTU. The Review Petitioner during the hearing dated 18.6.2021 has accepted that the error has crept in due to lapse on the part of Review Petitioner for not placing the facts correctly before the Commission,

namely, the date of commissioning of transmission system and the date of LTA operationalization.

23. The start date of LTAs has been clearly adjudicated in various Orders of the Commission including that in Petition No. 103/MP/2017 and Petition No. 229/RC/2015, wherein it has been unequivocally brought out that an LTA customer is liable to pay the transmission charges from the date of commissioning of the last element of the transmission system based on which LTA has been granted.

24. In the light of above discussions, the present Review Petition is allowed.

25. Accordingly, the paragraph 33 of the Order dated 5.2.2020 in Petition No. 129/MP/2017 is revised to the extent that date “16.06.2016” shall be read as “11.12.2015” and accordingly POC charges shall be payable by Respondent SEL from 11.12.2015 instead of 16.6.2016. All other directions of Order dated 5.2.2020 in Petition No. 129/MP/2017 remains unchanged.

26. Review Petition No. 2/RP/2021 in Petition No. 129/MP/2017 is disposed of in terms of above.

**Sd/  
(I. S. Jha)  
Member**

**Sd/  
(P. K. Pujari)  
Chairperson**