

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No. 380/MP/2019
Petition No. 334/MP/2019**

Coram:

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

Date of Order: 1.09.2022

Petition No. 380/MP/2019

In the matter of:

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..

And

In the matter of:

Odisha Power Generation Corporation Limited,
Zone-A, 7th Floor, Fortune Towers,
Chandrashekharapur, Bhubaneswar,
Odisha – 751023.

...Petitioner

Versus

1. State Load Despatch Centre, Odisha,
SLDC Building, GRIDCO Colony,
P.O. Mancheswar Railway Colony,
Bhubaneswar– 751017.

...Respondent No. 1

2. Eastern Regional Load Dispatch Centre,
14, Golf Club Road, Tollygunge,
Golf Gardens, Tollygunge,
Kolkata, West Bengal – 700033.

...Respondent No. 2

- 3. Eastern Regional Power Committee,**
14, Golf Club Road, Tollygunge,
Golf Gardens, Tollygunge,
Kolkata, West Bengal – 700033. ...Respondent No. 3
- 4. Central Electricity Authority,**
36, Sector 5,
Rama Krishna Puram,
New Delhi, Delhi – 110066. ...Respondent No. 4
- 5. GRIDCO Limited,**
GRIDCO Colony,
Bhoi Nagar,
Bhubaneswar, Odisha – 751022. ...Respondent No. 5
- 6. Odisha Power Transmission Corporation Limited,**
Janpath Road, Industrial Area,
Satya Nagar, Bhubaneswar,
Odisha – 751022. ...Respondent No. 6
- 7. Power Grid Corporation of India Limited
(Central Transmission Utility),**
SAUDAMINI, Plot No. 2,
Sector-29, Gurgaon,
Haryana – 122001. ...Respondent No. 7
- 8. Odisha Generation Phase II Transmission Limited,**
F1 Mira Corporate Suites,
1&2, Ishwar Nagar, Mathura Road
New Delhi – 110065. ... Respondent No. 8
- 9. Commissioner cum Secretary to Government,**
Department of Energy, Government of Odisha,
Secretariat, Bhubaneswar,
Odisha – 751001. ... Respondent No. 9

Petition No. 334/MP/2019

In the matter of:

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.

And in the matter of:

Eastern Regional Load Despatch Centre
14, Golf Club Road, Tollygunge, Kolkata - 700033
Power System Operation Corporation Ltd.(POSOCO)

--- **Petitioner**

Versus

1. **Odisha Power Generation Corporation Limited,**
Zone-A, 7th Floor, Fortune Towers,
Chandrashekharpur, Bhubaneswar,
Odisha – 751023. **Respondent No. 1**
2. **State Load Despatch Centre, Odisha,**
SLDC Building, GRIDCO Colony,
P.O. Mancheswar Railway Colony,
Bhubaneswar– 751017. **Respondent No. 2**
3. **Eastern Regional Power Committee,**
14, Golf Club Road, Tollygunge,
Golf Gardens, Tollygunge,
Kolkata, West Bengal – 700033. **Respondent No. 3**
4. **Grid Corporation Of Orissa Ltd,**
Janpath, Bhubaneswar – 751022, **Respondent No. 4**
5. **Central Electricity Authority,**
Sewa Bhawan, Sector-1,
R.K. Puram, New Delhi- 110066, **Respondent No. 5**
6. **Power Grid Corporation of India Limited,**
(Central Transmission Utility),
Saudamini, Plot No.2,

Sector-29, Gurgaon -122001.

Respondent No. 6

7. **Odisha Power Transmission Corporation Limited,**
Janpath Road, Industrial Area,
Satya Nagar, Bhubaneswar,
Odisha – 751022.

Respondent No. 7

8. **Odisha General Phase II Transmission Limited,**
F-1, Mirra Corporate Suite,
1 & 2 , Ishwar Nagar, Mathura Road,
New Delhi-110065.

Respondent No. 8

Parties Present

Shri Mridual Chakravarty, Advocate, OGPTCL
Ms. Lavanya Panwar, Advocate, OGPTL
Shri Sakesh Kumar, Advocate, OPTCL
Shri Swapnil Verma, CTUIL
Shri V.Sriniwas, CTUIL
Shri Siddharth Sharma, CTUIL
Shri Shyam Sunder Goyal, CTUIL
Shri Ranjeet Singh Rajput, CTUIL
Shri Rajesh Kumar, CTUIL
Shri Nadim Ahmad, ERLDC
Shri Bilas Achari, ERLDC
Shri Debajoyti Majumder, ERLDC
Shri Shyam Kejriwal. ERPC
Shri Shishir Kumar Pradhan. ERPC
Shri B. B. Mehta, SLDC Odisha

ORDER

The Petitioner in 380/MP/2019, Odisha Power Generation Corporation Limited (OPGCL) has filed the present Petition for seeking approval for closing the bus coupler installed between Unit 3 and Unit 4 to run the Expansion Project under common bus arrangement for evacuating power to Respondent No. 5, GRIDCO Limited (“**GRIDCO**”/ “**Respondent No. 5**”) post the declaration of COD of Unit 4 through Respondent No. 6, Odisha Power Transmission Corporation Limited’s (**OPTCL**) State Transmission

Utility (“STU”) network, in compliance to the Government of Odisha Notification dated 20.12.2018.

2. The Petitioner has made the following prayers in Petition No. 380/MP/2019 :

- a) *Admit the instant Petition and list the same for urgent hearing;*
- b) *Declare that Unit 4 of Petitioner’s Plant as a state entity;*
- c) *Declare that the Respondent No. 1 will have jurisdiction over the Unit 4 of Petitioner’s Plant for purposes of scheduling, despatch, metering, energy accounting and all other incidental matters thereto;*
- d) *Allow Petitioner to close the bus coupler and deliver power to Respondent No. 5, GRIDCO Limited through Respondent No. 6’s STU network;*
- e) *During the pendency of this Petition, allow the Petitioner to close the bus coupler and deliver power to Respondent No. 5, GRIDCO Limited through Respondent No. 6’s STU system; and*
- f) *Pass any other order as this Hon’ble Commission may deem fit in the facts and circumstances of the present case.*

3. Petition No. 334/MP/2019 has been filed by ERLDC seeking direction to the OPGCL to open the bus sectionaliser breakers between Unit-3 (connected to STU) and Unit-4 (connected to CTU) and direction to State Load Despatch Centre, Odisha to stop scheduling of Unit-4 (connected to CTU) immediately. The petitioner herein has submitted that by closing the bus sectionaliser breaker between Unit-3 and Unit-4 without any concurrences/switching-in code from the Petitioner and by scheduling of the power of Unit- 4 to the State of Odisha, OPGCL and SLDC, Odisha have violated the Regulations 6 and 8 of the Central Electricity Authority (Grid Standards) Regulations, 2010, Sections 29 (2) and 29(5) of the Electricity Act, 2003 and Regulations 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. The Petitioner has made the following prayers :

- a) Admit the instant Petition;
- b) Direct Respondent No 1. to open the bus sectionaliser breakers between Unit-3(Connected to STU) and Unit-4 (Connected to CTU) immediately ;
- c) Direct Respondent No 2. to stop scheduling of Unit-4 (Connected to CTU) immediately ;
- d) Initiate appropriate penal action against Respondent No. 1 and Respondent No. 2 as per section 29(6) of the Electricity Act 2003 for failing to comply with direction of ERLDC ;
- e) Initiate appropriate action against each of the Respondent No. 1 and Respondent No. 2 , jointly and severally, under Section 142 of the Electricity Act, 2003 and/or any other appropriate provision/s of the Electricity Act, 2003, for their wilful disobedience and defiance of the provisions of this Act, Indian Electricity Grid Code,2010,CEA Grid Standard Regulations,2010 and Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations,2009.
- f) Pass any other order as this Hon'ble Commission may deem fit in the facts and circumstances of the present case.

4. The issues in Petition No. 380/MP/2019 and 334/MP/2019 have arisen from the same event, wherein the parties are contesting their corresponding prayers against each other. Petition No. 380/MP/2019 has been filed by OPGCL against SLDC Odisha, ERLDC and others. Whereas, Petition No. 334/MP/2019 has been filed by ERLDC against OPGCL, SLDC Odisha and others. Since, the issues are common and the parties are also the same, we are considering the consolidated replies/ rejoinders of both the Petitions. Both the petitions are being decided by this common order.

Submissions of the Petitioner

5. Petitioner has mainly submitted as follows:

- (a) The Petitioner, OPGCL is a 'generating company' in terms of Section 2(28) of the Electricity Act, 2003. The Petitioner has established a Thermal Power Plant in the Jharsuguda District of Odisha. Units 1 and 2 of the Plant, with a capacity of 210 MW each, have been in operation since the year 1994. In 2019, OPGCL commissioned Units 3 and 4 of the Plant, each with a capacity of 660 MW each ("Expansion Project").
- (b) The entire quantum of electricity generated at Units 1 and 2 of the Plant is sold to Respondent No. 5 (GRIDCO), under the terms of the Bulk Power Supply Agreement dated 13.08.1996, as amended by the Supplementary Agreement dated 19.12.2012.
- (c) At the time when, Units 3 and 4 of the Plant were envisaged, it was originally envisaged that 50% of the power to be generated at the Expansion Project was to be tied up for sale to GRIDCO (under Power Purchase Agreement dated 04.01.2011) and the remaining 50% power was to be sold inter-state, *i.e.*, outside the State of Odisha. Accordingly, to evacuate GRIDCO's share of power from the station, Unit 3 of the Expansion Project was connected to the intra-state grid through the proposed OPGC-Lapanga 400 kV D/C Transmission Line connecting the Expansion Project to the Respondent No. 6's (OPTCL) Lapanga Substation within the State of Odisha, which has been constructed by Respondent No.6, the STU of Odisha.
- (d) Further, to evacuate the power for sale outside the State of Odisha, Unit 4 of the Expansion Project was connected through the proposed OPGC-Jharsuguda 400 kV D/C Line, connecting the Expansion Project to the ISTS at Respondent No. 7's (PGCIL) Jharsuguda Substation. In line with the originally envisaged scheme for power sale from the Expansion Project, the Petitioner planned the connectivity scheme within its Plant, wherein it installed a split bus coupler between its Units 3 and 4, to facilitate sale to GRIDCO and inter-state

consumers, in the event any one of the two Units was not operational. In line with the aforesaid power sale arrangement, the Petitioner applied to PGCIL for the grant of Connectivity to the Inter-state Transmission System (“ISTS”) and LTA in Northern, Western and Southern region, which was granted by the PGCIL. The Petitioner’s LTA was for a capacity of 600 MW. Thereafter, the Petitioner executed a Long-Term Access Agreement dated 11.09.2013 (“LTAA”) and a Transmission Agreement dated 11.09.2013 (“TA”) with PGCIL.

(e) The LTAA and the TA provide that the transmission system to facilitate Petitioner’s evacuation of power would include a transmission line, the OPGC-Jharsuguda 400 kV D/C Line, connecting Petitioner’s Extension Units to the ISTS at the PGCIL’s Jharsuguda Substation. The said Line was to be constructed by a transmission licensee selected on tariff-based competitive bidding basis with a completion time of July, 2017. Sterlite Grid 3 Limited was selected as the successful bidder for setting up the said Line as part of the overall evacuation system under LTA granted to the Petitioner and others, through its subsidiary, Respondent No. 8, Odisha Generation Phase II Transmission Limited (OGPTL). Thereafter, the Petitioner signed a Tripartite Connection Agreement with PGCIL and OGPTL on 04.12.2017 for drawl of start-up power for Unit 4.

(f) Thereafter, the Petitioner requested Respondent No. 2, ERLDC for drawing start-up power of around 43 MW through the OPGC-Jharsuguda 400 kV D/C Line. The ERLDC granted Petitioner the permission to draw start-up power vide their email dated 27.12.2017, wherein it allowed Petitioner’s request and stated as follows:

“Drawl of start power of IB-OPGC-st2 of amount around 43MW as per the submitted application is here by approved from ERLDC side. Before drawl of power same need to be intimated to ERLDC control room. Meter reading would be submitted as per metering regulation.

Amount of start-up power drawl for different stages during commissioning work need to be intimated to ERLDC regularly.

Bus-coupler between STU & CTU buses need to be always remain in open condition.

- (g) Meanwhile, subsequent to the execution of the LTAA and the TA, the Ministry of Power, Government of India issued revised model bidding documents on 05.05.2015, which include requests for quotation, requests for proposal and model power supply agreements for medium term and long-term supply of power to distribution licensees (“Model Bidding Documents”). Under the revised Model Bidding Documents, coal allocated under the Government allotment route was not to be utilised for selling power thereunder. Since the Ministry of Coal allocated coal mines under Government allotment route as per Coal Mines Special Provisions Act, 2014 (“Concessional Fuel”) for specified end-use of the Petitioner’s Expansion Project, the Petitioner was statutorily barred from bidding for competitively bid out inter-state sale of power, which ought to be done in compliance with the aforesaid revised Model Bidding Documents.
- (h) In view of the upcoming COD of the Expansion Project, financial viability of the Petitioner’s Expansion Project and energy security of the State of Odisha, talks were initiated between the Respondent No.9 the Government of Odisha, the Petitioner and GRIDCO for tying up the entire capacity of the Expansion Project (*i.e.*, 2 x 660 MW) with GRIDCO in mid-2018.
- (i) Due to the aforesaid events which were squarely beyond the Petitioner’s control, the Petitioner vide its letter dated 13.12.2018 relinquished its LTA, which was accepted by Respondent No. 7 vide letter dated 17.01.2019, w.e.f. 01.01.2019.
- (j) Respondent No. 9, the Government of Odisha vide its Notification dated 20.12.2018, approved the arrangement for executing a supplementary power purchase agreement to the existing Power Purchase Agreement dated 04.01.2011 (between the Petitioner and GRIDCO) for sale of additional 25% of installed capacity of the whole power station comprising Units 3 and 4 from COD up to 31.03.2023; and 100% of installed capacity of the whole power

station comprising Units 3 and 4 from 01.04.2023 onwards for a period of 25 years thereafter, to GRIDCO. In view of the said Notification by Respondent No. 9, the Petitioner and GRIDCO executed the Supplementary Power Purchase Agreement dated 24.01.2019 to the Power Purchase Agreement dated 04.01.2011 (collectively, "PPA 2").

- (k) As evident, the Petitioner, in effect has to sell 100% power from its Expansion Units to GRIDCO in terms of the aforesaid Government of Odisha Notification dated 20.12.2018. Further, para 4(v) of the said Notification directs the Petitioner, GRIDCO and Respondent No. 6 (OPTCL) to ensure that evacuation of entire capacity of Expansion Project for this purpose is done through OPTCL's STU network. Similarly, in terms of Clause 1(c) of the Supplementary Power Purchase Agreement dated 24.01.2019, GRIDCO intends to draw power from Expansion Project through OPTCL's STU network.
- (l) Meanwhile, the Petitioner envisaged a plan to evacuate the power from Unit 4 of the Expansion Project to the GRIDCO by closing the bus coupler installed between Unit 3 and Unit 4 and operating the same on a common bus mode to ensure the delivery of power through OPTCL's STU network, in terms of the Government of Odisha's Notification dated 20.12.2018 and the Supplementary Power Purchase Agreement dated 24.01.2019. Accordingly, a System Study (Planning) comprising of Power Flow Study, Short Circuit Study was done by OPTCL for Units 3 and 4 for "bus coupler closed condition" ("OPTCL System Study"). The said OPTCL System Study was communicated by OPTCL to the Petitioner vide letter dated 04.01.2019. In terms of the OPTCL System Study, OPTCL has concluded that *the network is adequate (for connecting 3rd& 4th Units of IB TPS of 660 MW each with OPTCL system in the Bus coupler closed condition at IB)*
- (m) Subsequently, in pursuance to Petitioner's plan to operate the bus coupler between Units 3 and 4 in closed condition for common bus mode operation, the

GRIDCO, under its obligation as per PPA 2 to evacuate power from the bus bar of the Petitioner's power station, presented a proposal seeking permission before the 153rd Meeting of the ERPC Operation Coordination Sub-Committee ("ERPC OCC") held on 21.01.2019. In view of the aforesaid decision of 153rd ERPC OCC, Clause 1(c) of the Supplementary Power Purchase Agreement dated 24.01.2019 and the impending COD of Unit 4 requiring urgent arrangement for evacuation of power, the Petitioner wrote to Respondent No. 4 (CEA) vide letter dated 25.01.2019 requesting for CEA's approval for common bus arrangement between Units 3 and 4 for a reliable, efficient, secured and stable grid.

- (n) Subsequently, the Petitioner vide letter dated 07.02.2019, wherein the Petitioner apprised Respondent No. 3 (ERPC) of the need to operate under the common bus mode having connectivity with both OPTCL's STU network and Respondent No. 7's CTU network for a reliable, efficient, secured and stable grid and requested ERPC's approval for the said common bus arrangement.
- (o) In view of Petitioner's letter dated 25.01.2019 and GRIDCO's analogous proposal, CEA held a meeting at its office in New Delhi on 26.03.2019 and agreed to the technical feasibility of close bus arrangement. It was also clarified that the observation regarding potential compromise on N-1 rule is in the context of a scenario when the OPGC-Jharsuguda 400 kV D/C Line is permanently disconnected from the Expansion Project.
- (p) OPGC-Lapanga 400 kV D/C Line is a double circuit line with each circuit supporting 1151 MVA, while the OPGC-Jharsuguda 400 kV D/C Line is a double circuit line with each circuit supporting 1307 MVA. The cumulative capacity of Units 3 and 4 is $2 \times 660 \text{ MW} = 1320 \text{ MW}$. When both the aforesaid Lines are in use, there is no question of N-1 rule being compromised. On its own, OPGC-Lapanga 400 kV D/C Line (with the OPGC-Jharsuguda Line being

permanently disconnected) is not capable of ensuring N-1 compatibility at present. At present the Petitioner's proposal does not contemplate permanent disconnection of the OPGC-Jharsuguda 400 kV D/C Line. However, if required, appropriate System Protection Schemes ("SPS") can be implemented in the power station on the advice of SLDC Odisha/ ERPC, which is also an accepted practice and implemented across various generating stations in the country.

- (q) Further, the CEA advised that Petitioner to approach the Commission for resolution of technical/commercial aspects associated with the evacuation of power using the common bus arrangement, if desired.
- (r) Thereafter, ERPC in the 156th ERPC OCC Meeting held on 25.04.2019 deliberated on the instant issue based on the Minutes of Meeting dated 26.03.2019 and advised OPGC to approach CERC as per the decision taken in the meeting held at CEA on 26.03.2019. Further, *In view of commissioning of Unit 4 by May 2019 and immediate connectivity with the grid, OPGC was advised to approach CEA for necessary connectivity arrangement and mode of operation.*
- (s) Thereafter, on 27.04.2019, GRIDCO requested CEA for its approval for common bus arrangement. Petitioner vide its letter dated 08.05.2019, requested the CEA for interim approval for common bus arrangement, pending final resolution of the issue by ERPC and this Commission.
- (t) In view of the impending COD of the Expansion Project and the aforesaid developments, the Petitioner vide its letter dated 22.5.2019 requested ERLDC to approve the withdrawal of Unit 4's regional entity status and declare it as a state entity in order to facilitate shifting of area of control jurisdiction for scheduling of the State's power through Respondent No. 1, in accordance with Regulation 6.4.2(c)(iii) of the IEGC.

- (u) ERLDC vide its email dated 24.05.2019, informed that the Petitioner needs to take necessary steps as per CEA's advice vide Minutes of Meeting dated 26.03.2019.
- (v) The Petitioner vide another letter dated 04.06.2019 requested CEA for its interim approval of Respondent for common bus arrangement, pending final resolution of the issue by ERPC and this Commission, in view of the changed power sale scenario in terms of the Government of Odisha's Notification dated 20.12.2018 *inter alia* requiring evacuation of power from Unit 4 through OPTCL's STU network. The matter was taken up at the Eastern Region Standing Committee meeting held on 05.07.2019, wherein once again it was concluded that given the related commercial implications of the proposed common bus arrangement, the Petitioner needs to approach this Commission for seeking necessary approval.
- (w) Meanwhile, Energy Secretary, Government of Odisha requested Secretary, Ministry of Power, Government of India for the early resolution of the common bus operation issue. Accordingly, Ministry of Power, Government of India called for a joint discussion of all concerned parties on the 30.07.2019, wherein *inter alia* this Commission's representative suggested that the Petitioner may approach this Commission along with a prayer for interim relief, if so desired.
- (x) Subsequently, GRIDCO vide its letter dated 6.8.2019 requested OPTCL for necessary system strengthening/ alternate arrangement for evacuation of entire power from Units 3 and 4 of Petitioner's Expansion Project through OPTCL's STU network.
- (y) In view of the foregoing, the Petitioner has approached this Commission to get its formal approval for closing the bus coupler between Units 3 and 4 of the Expansion Project to operate the power plant under common bus mode. If the said approval is not granted expeditiously, then the Petitioner will not be able

to commence immediate supply of power to the GRIDCO from its Unit 4 upon achieving COD, thereby resulting in breach of its rights and obligations under PPA 2 as well as undesirable and wasteful stranding of power generated at Unit 4. This would also lead the Petitioner to be on the verge of being declared as a Non Performing Asset due to severe constraint in Petitioner's cash flow condition leading to dishonouring/ non-payment of the interest payment liabilities. Further, in terms of the conclusions arrived by ERLDC, ERPC and CEA, which are essentially advisory in nature, the Petitioner deems it appropriate to approach this Commission to get the proposal to operate the bus coupler in the Expansion Project under closed bus mode approved.

(z) Since, Petitioner's Expansion Project will be supplying power entirely to GRIDCO, *i.e.*, within the State of Odisha, ERLDC will not have a role to play in scheduling and despatch of power from the Expansion Project, *i.e.*, both Units 3 and 4. Therefore, ERLDC does not have control area jurisdiction over the Petitioner so far as scheduling of power from the Expansion Project is concerned. Accordingly, the Commission may direct Respondent No.1 to treat Unit 4 of the Expansion Project as an integral part of the Expansion Project (being a state entity) and exercise its jurisdiction over matters pertaining to its scheduling, despatch, metering, energy accounting and all other matters incidental thereto. Consequently, it is stated and submitted that Unit 4 of the Expansion Project kindly be de-registered as regional entity.

(aa) None of the statutory bodies that have examined Petitioner's request for operating on common bus mode, including Respondent Nos. 2-4 have expressed any technical issues in operation of bus coupler in closed condition for the common bus mode operation. It is significant to highlight here that the CEA has already concluded that operating the bus coupler between Unit 3 and Unit 4 in closed mode is technically feasible. Previously, OPTCL's System Study also approved the same.

(bb) Neither any of this Commission's extant regulation nor any of the provisions of the Act create any prohibition on operation of the bus coupler in closed condition for the common bus mode operation. Further, there is no specific prohibition on operating the bus coupler in closed condition for common bus mode operation in any of the Petitioner's contractual agreements. Accordingly, it is submitted that there are no restrictions whatsoever on the operation of bus coupler in closed condition for common bus mode operation either by way of statutory provisions or in terms of any contractual agreements entered into by the Petitioner.

(cc) Under Section 2(47) of the Act read with Section 42 thereof, every generator has a vested statutory right to seek Open Access, including intra-state Open Access. In the State of Odisha, right to Open Access to OPTCL's STU network is effectuated vide Regulation 4(1) of the Odisha Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005.

(dd) Central Electricity Authority (Technical Standards for Construction of Electrical Plants and Electrical Lines) Regulations, 2010 ("**CEA Technical Standards**"), stipulates that reliability of supply can be increased by way of the use of bus couplers. In this regard, Regulation 94(3) of the CEA Technical Standards is excerpted hereunder:

"94(3) – The reliability and security of supply shall be improved by use of sectionalizers, auto re-closers, ring main units (RMUs) and fault passage indicators as per techno economic considerations."

(ee) The aforesaid Regulation prescribes the use of couplers, which are in place at the Expansion Project, but does not prescribe whether they must be operated on an open or closed mode. It is stated and submitted that bus couplers are typically operated in closed mode, and open mode is usually employed in case of a technical fault on either side of the coupler so that a

generating station can be smoothly operated even while preventive/ breakdown maintenance of the affected section is carried out. In the Petitioner's case, the bus coupler was initially envisaged to be kept in open mode in view of the erstwhile power sale scenario and subsequently the restrictions imposed on the Petitioner by the ERLDC. Accordingly, it is submitted that keeping the bus coupler in either open or closed mode is Petitioner's own commercial discretion. Therefore, the Petitioner seeks the approval of this Commission to close the bus coupler as it is not in violation of the extant regulatory regime and in line with the Petitioner's obligation under PPA 2.

Submissions of Respondent Odisha Generation Phase II Transmission Limited

6. Odisha Generation Phase II Transmission Limited in its reply has mainly submitted as under:

- a) The Petitioner executed a Long-Term Access Agreement (LTAA) and Transmission Agreement (TA) dated 11.09.2013 with Respondent No. 7/ PGCIL for a quantum of 600 MW. Pursuant to the execution of aforesaid agreements, the project was awarded to the Answering Respondent through TBCB route under Section 63. Accordingly, the Answering Respondent commissioned inter-State Transmission System at Odisha and Chhattisgarh comprising of 400 kV D/C OPGC - Jharsuguda-Raipur Pool Transmission Lines, which is an ISTS transmission line for the evacuation of power from the Petitioner.

- b) The liability of OPGCL to pay for the transmission charges arises from the fact that the transmission line in question, being OPGC – Jharsuguda (Sundargarh) 400 kV D/C line, was constructed as an ISTS transmission line for evacuation of power from Unit 4 of the expansion project of OPGCL. For the evacuation of power, the answering Respondent commissioned an Inter State Transmission System at Odisha and Chhattisgarh comprising of 400 kV D/C OPGC -Jharsuguda-Raipur

Pool Transmission Lines, which is a ISTS transmission line for the evacuation of power from OPGCL generating station. After the commissioning of the said ISTS transmission line, OPGCL has been drawing the start-up power of around 43 MW through OPGC-Jharsuguda 400 kV D/C ISTS line built and operated by the Answering Respondent. The said line is connected to the ISTS transmission system of PGCIL and that the OPGCL is a user of ERLDC, as a regional entity, is being entrusted with the duty of scheduling and despatch of electricity within the region. Moreover, the permission provided by ERLDC for drawl of startup power of around 43 MW through the transmission line constructed by the Answering Respondent is subject to the payment of transmission charges and that the same needs to be paid by the OPGCL as per CERC Sharing Regulations.

- c) The connectivity to state network was never mentioned in the connectivity agreement and that the OPGCL at its will chose to close the 400 kV sectionalizer to establish the state network connectivity, without first clearing transmission charges dues of the Answering Respondent
- d) The petitioner also filed Petition No. 185/MP/2019, seeking permission of the Commission for allowing drawl of start-up power and injection of infirm power from Unit-4 of its plant. Accordingly, the Commission vide its order dated 22.07.2019, allowed injection of infirm power by the Petitioner into grid for commissioning. Therefore, it is clear the said line is being utilized as an immediate evacuation line” by the Petitioner for drawing start-up power from the above line and injecting infirm power and liable to pay transmission charges to the Respondent No.8.
- e) As per the Clause 2.0 of the LTAA and Clause 3.0 of the TA, after commissioning of the transmission project, the Answering Respondent

becomes entitled for the recovery of transmission charges, more so since the line constructed by the Answering Respondent was built as an “ISTS transmission line” for the Petitioner. Accordingly, the Answering Respondent vide its letter dated 17.04.2018, approached CTU for the recovery of transmission charges by the Petitioner and submitted all the details of the transmission charges of 400 kV D/C OPGC-Jharsuguda transmission line, and requested CTU to raise the bills upon the Petitioner and Respondent No. 7.

f) From bare reading of LTAA and TA, it is evident that the Petitioner itself agreed to make payment of the transmission charges from the date of commissioning by executing aforesaid covenants with the Respondent No.7/ PGCIL. The Petitioner relinquished its LTA in December, 2018, which makes the Petitioner liable to pay relinquishment charges for surrendering the LTA dated 11.09.2013 granted to it by Respondent No.7/ PGCIL. However, relinquishment of LTA by the Petitioner does not absolve the Petitioner from making payment of transmission charges in respect of 400kV D/C OPGC-Jharsuguda line of the Answering Respondent as the said line is being utilized by the Petitioner.

g) On account of the existence of contractual agreement between the parties as well as default liability principle set by this Commission in its previous orders in Petition Nos. 155/MP/2015, 43/MP/2016, etc., the Petitioner is liable to bear transmission charges towards the transmission asset implemented by the Answering Respondent. The said principle was upheld in *Appeal No. 390 of 2017 Punjab State Power Corporation Limited vs. Patran Transmission Company Limited &Ors. (“Patran Judgment”)* dated 27.03.2018 by holding that the defaulting party must bear the liability to pay transmission charges.

However, the Petitioner, instead of making payments of transmission charges, has filed the present petition seeking directions to close bus coupler and deliver power to Respondent No.5/ GRIDCO. By the said prayer, the Petitioner is seeking to avoid using ISTS line built by the answering respondent. However, it should be noted that even after closing of bus sectionalizer breakers, power from Unit-4 of OPGC will also flow through the said ISTS Line. Therefore, the petitioner will continue to use the ISTS Line of answering respondent without clearing the dues towards transmission charges.

Reply of Respondent PGCIL

7. PGCIL in its reply vide Affidavit dated 2.1.2020 has submitted as follows :

a) Petitioner, vide its letter dated 13.12.2018, informed PGCIL that it had been rendered incapable of selling its power on an inter-State basis due to change in provisions of power sale by the Central Government, and thus in view of the same, relinquished the 600MW LTA and undertook to pay relinquishment charges as decided by this Commission.

b) Notwithstanding such relinquishment, the liability of the Petitioner to pay transmission charges for the connectivity line continued and is liable to be duly discharged. The Petitioner entered into a Supplementary Power Purchase Agreement dated 24.1.2019 with GRIDCO for evacuation of entire installed capacity from units 3 and 4 of the generation plant to the State of Odisha. In view of the same, the Petitioner decided that since the entire power is to be transmitted to GRIDCO, the generation plant be operated in common bus mode with closed bus sectionaliser between unit-3 and unit-4 of the plant. The aforesaid proposal of the Petitioner was discussed in the 153rd Meeting of the Eastern Region Power Committee dated 21.1.2019 wherein GRIDCO sought approval of the members present to operate the bus coupler between unit-3 and unit-4 in a closed condition for common bus mode operation. It was

represented by GRIDCO that in view of the proposed common bus mode arrangement, declaration of the 400kV OPGC-Jharsuguda D/c line as the inter-State tie line of Odisha is necessary. In support of the aforesaid, OPTCL submitted that on conducting the system study (short circuit and load flow analysis) under common bus mode, the same is technically suitable within permissible limits. However, after further deliberations, GRIDCO was advised to submit the aforesaid proposal to Respondent No.4-Central Electricity Authority (CEA) for detailed discussion in the Standing Committee.

c) In order to discuss the technical and commercial implications of the request made by the Petitioner and GRIDCO, a meeting was convened by Respondent No.4-CEA for review of connectivity/LTA/evacuation system for the Petitioner's project on 26.3.2019. In the said Meeting, CEA stated as under:

"4. Chief Engineer (PSPA-II) stated that in the PPA, if delivery point is OPGC switchyard, the requisite transmission access and charges are to be arranged/paid by GRIDCO. And under the present configuration, there is no constraint in transmitting power to Odisha as per the PPA. However, OPGC has voluntarily relinquished the LTA granted to them but connectivity agreement with CTU still exists. OPGC would need transmission access to ISTS for scheduling & dispatch of their power from U-4. For this, one of the options is that OPGC may again apply for LTA, or alternatively, OPGC may seek Short Term Open Access (STOA). As complete transmission system has already been built as per request of OPGC's LTA application, any constraint in scheduling of power even under STOA is unlikely.

.....

10. Regarding avoidance of ISTS charges (and losses), Chief Engineer (PSP&A-II) said that investment in the ISTS for evacuation of power from OPGC has already been carried out. If sectionaliser is closed, these assets would be used by OPGC but the charges for the same would not be shared by them. Such scenario would be unfair to other states/DICs. He opined that, the other states may also follow example of OPGC/GRIDCO and also take cue from some of the CERC orders (eg. dated 09.03.2018 on Petition No.20/MP/2017 and dated 04.05.2018 on Petition No. 126/MP/2017)."

d) With regard to closing of bus sectionaliser, PGCIL stated that OPGC-Jharsuguda 400kV D/c ISTS line has been built under TBCB and executed by Odisha Generation Power Transmission Company Limited (OGPTL, a

subsidiary of Sterlite). The line has been exclusively built for evacuation of power from OPGCL Unit 4 (660MW) power. As the LTA has been relinquished, the additional burden of OPGC- Jharsuguda ISTS line would lie on all other DICs/states. Therefore OPGCL may consider sharing the entire transmission charges of the OPGC- Jharsuguda ISTS line as it would be used primarily by them.

e) With the upcoming date of commissioning of unit 4 of the generation project, the abovementioned issues relating to connectivity/evacuation system were again discussed in the 156th OCC Meeting held on 25.4.2019 wherein, the Petitioner was advised to approach Respondent No.4-CEA for necessary connectivity arrangement and mode of operation. As regards the proposed common bus arrangement, Respondent No.2-Eastern Region Load Despatch Centre (ERLDC) informed that unit-4 of the Petitioner is still registered as a central sector unit. The Petitioner was advised to take measures with the appropriate authority to review the status of unit-4 as State-sector unit and also to approach this Commission for seeking permission to operate the expansion units with the bus sectionalizer open. Thereafter, the Ministry of Power, Government of India convened a joint discussion of all the concerned parties on 30.7.2019 as regards operation of the Petitioner's generation plant in common bus operation mode.

f) In the said Meeting, the party representatives shared their concerns with respect to the additional financial burden that could ensue on other beneficiaries in the Eastern Region. It was concluded that the petitioner's proposal has technical as well as commercial implications and therefore Petitioner was advised to approach the CERC for resolution of technical/commercial matters.

g) The matter regarding closure of bus sectionalizer between unit 3 and unit 4 was also deliberated in the 2nd Eastern Region Standing Committee on Transmission (ERSCT) held on 5.7.2019 wherein the following was recorded in the Minutes of the Meeting dated 23.8.2019:

“17.3 Chief Engineer (PSPA-II), CEA stated that on this issue a meeting was held in CEA on 26.03.2019, wherein following were concluded:

.....

(b) There is no constraint in evacuation of power from U-4 in the planned arrangement i.e. with sectionaliser kept as open.

(c) OPGC U-4 is connected with ISTS and they may seek Long term/Short term open access in the ISTS for scheduling their power to Odisha, as per their PPA.

(d) OPGC may approach CERC, if desired, for resolution of above technical/commercial matters.

.....

17.8 Accordingly, the proposal of OPGC for closing the bus sectionaliser between Unit-3 (connected to STU) and Unit-4 (connected to ISTS) could not be agreed by the ERSCT.”

h) As unit-4 of the Petitioner's generation plant was nearing its commissioning, the Petitioner, without informing PGCIL and other appropriate authorities, requested ERLDC for issuance of charging code for closing the 400kV bus-sectionaliser for common bus mode of operation and further requested ERLDC to approve the withdrawal of unit 4 from regional entity status and SLDC, Odisha for scheduling and other activities. While doing so, the Petitioner completely by-passed the technical and commercial issues raised by PGCIL as well as other parties concerned in the aforesaid Meetings. In response thereto, ERLDC clarified that closing of bus-sectionalizer between units 3 and 4 could not be permitted in the absence of a decision on the same being communicated by the appropriate authority as per the observations made in the aforementioned meetings. Notwithstanding, the Petitioner unilaterally closed the bus sectionalizer between units 3 and 4 at 11:07 hrs and 11:17 hrs respectively on 27.8.2019. Thus, units 3 and 4 were connected with the ISTS without there being any existing open access in favor of the Petitioner.

i) In the wake of the aforesaid unilateral decision taken by the Petitioner, a special Meeting was convened by Respondent No.3-ERPC on 5.9.2019 wherein, it was observed that the action taken by the Petitioner in closing the bus sectionalizer is unilateral and is in violation of established norms, regulations etc.

j) In the meanwhile, ERLDC approached this Commission by filing Petition No.334/MP/2019, seeking directions for opening the bus sectionaliser breakers between unit 3 and unit 4 and a direction to SLDC, Odisha to stop scheduling power immediately.

k) Considering the submissions made by the parties, this Commission, vide Record of Proceedings (RoP) dated 17.10.2019, directed the Petitioner to open the bus sectionaliser breaker and make an application to ERLDC for seeking necessary permission as per applicable Regulations. Accordingly, an application was made by the Petitioner for obtaining necessary code from ERLDC. For making a decision on the said application, another meeting with the stakeholders was organized by ERLDC on issues related to closing of bus sectionaliser between units 3 and 4 on 29.10.2019, wherein PGCIL stated as under:

“Representative of CTU informed that there is no constraints in power evacuation with present split bus arrangement i.e. U-3 is connected to STU (at Lapanga) and U-4 is connected to ISTS (at Jharsuguda)..... CTU furthermore added that ISTS connectivity to OPGC was granted considering one unit i.e. Unit-4 only. For exchange of power with ISTS through OPGC-Jharsuguda line, as per CERC Regulations, OPGC needs to have access, as by closing the bus sectionaliser OPGC would be utilizing the ISTS system. Further, by closing the bus sectionaliser, Unit-3 of the station would also get connected to ISTS and simultaneously to STU (OPTCL). However, as per CERC Connectivity Regulations dual connectivity for same capacity is not allowed.”

However, notwithstanding the above submissions made by PGCIL as regards the commercial implications of actions of the Petitioner, it was agreed as under:

“After further deliberations, all members apart from CTU agreed that, with the availability of both 400kV OPGC-Lapanga and OPGC-Jharsuguda D/c lines with closed bus sectionalizer operation mode no technical constraint is envisaged in evacuating both units of OPGC. Members other than CTU present in the meeting, generally favoured to close 400kV Bus sectionaliser of OPGC as an interim measure till CERC issues a direction in this regard after hearing petitions 334/MP/2019 of ERLDC and 380/MP/2019 of OPGC.”

Thus, without addressing the issues raised by PGCIL, it was unanimously agreed by other members that till the issuance of a final direction by this Commission, the generating units could be operated on common bus mode with closed bus sectionaliser.

l) When the aforesaid Petitions were next listed for hearing on 31.10.2019, this Commission, vide Record of Proceedings dated 31.10.2019, directed for convening of a meeting of all concerned including CEA within two weeks to discuss and sort out the technical and the commercial issues involved and submit a report in this regard by 29.11.2019. Accordingly, another meeting was convened by the Petitioner on 20.11.2019 to resolve technical and commercial implications of the actions of the Petitioner, wherein as regards the technical constraints, PGCIL reiterated the concerns raised during the meeting held on 29.10.2019 at ERLDC, Kolkata regarding issues related to closing of bus sectionaliser between Unit-3(State) and Unit-4(ISTS) at OPGCL. It was unanimously agreed by all present (except CTU), that there is no technical constraint or concern in the current operation of OPGCL Units 3 &4 under closed bus mode. Rather, it makes the system more reliable.

m) The commercial issues pertaining to evacuation from Petitioner’s plant in closed bus mode were also discussed in the aforesaid meeting wherein GRIDCO proposed the OPGC-Jharsuguda 400 kV ISTS line to be treated as an inter-State tie line and the Petitioner’s generation switchyard as the inter-connection tie point of the State.

- n) PGCIL stated in the said meeting that:
- (i) Grant of access in line with the Connectivity Regulations was a pre-requisite for exchange of power with ISTS through OPGC-Jharsuguda 400kV D/c line, and by closing the bus sectionaliser, the Petitioner was to utilize the ISTS system which was also planned considering only one unit connected to ISTS network ;
 - (ii) Closing the bus sectionaliser implied connecting unit-3 of the Petitioner's generating plant with ISTS and simultaneously with OPTCL, which had been specifically prohibited under the Connectivity Regulations wherein additional connectivity for the same capacity was not allowed; and
 - (iii) Connectivity for quantum of 618 MW granted to unit 4 of the plant still subsisted despite relinquishment of LTA by the Petitioner, subject to payment of relinquishment charges. Thus, closing of bus sectionaliser by the Petitioner was to result in transfer of power through ISTS grid as well as State network and was to ensue unfair burden on other beneficiaries of the ISTS.
- o) The tie-lines are the lines connecting two control areas. However, in the present situation, the aforesaid line cannot be treated as a tie-line in view of a generating station acting as the connection point between the two areas. As such, the proposal of GRIDCO to treat the connectivity line from the Petitioner's project as a tie line is was not permissible and deserved to be rejected.
- p) By virtue of operation of Regulation 8(6) of the Connectivity Regulations, the Petitioner cannot be allowed to transfer power through OPGC-Jharsuguda 400kV D/c line without obtaining the requisite access into the ISTS subject to payment of applicable transmission charges;
- q) Evacuation of power in common bus mode without obtaining long-term access into the ISTS will entail undue burden on other beneficiaries in the Eastern Region, who are not even parties to the present Petition.

Reply of Respondent GRIDCO

8. GRIDCO in its reply vide Affidavit dated 2.1.2022 has mainly submitted as under:

- a) In view of specific contractual provisions between the two parties where all

power from the Unit No. 3 & 4 is to be scheduled to GRIDCO Ltd. through the STU (OPTCL) Network, it is necessary that the bus coupler is operated in a closed manner so that it secures the reliability aspect of the Grid.

b) As the LTA has already been relinquished by OPGCL with due approval of the CTU (PGCIL), relinquishment charge as may be decided by the Commission is to be paid by OPGCL in compliance to Regulation 18(1)(b) of CERC (Grant of Connectivity, Long-term Access and Medium-term Open Access in Inter-State Transmission and related matters) Regulations, 2009. Further, Transmission charge for the 400kV Ib-Jharsuguda (PGCIL) line shall be shared as per the CERC (Sharing of Inter-State Transmission Charges & Losses) Regulations, 2010 as amended from time to time.

c) In accordance with the directions issued by this Commission, vide its record of proceedings dated 31.10.2019, a meeting was convened by the Petitioner on 20.11.2019 where all the necessary parties and the stakeholders were present for the deliberation. However, no representative of the Central Electricity Authority, though notified and invited, was present. The salient feature of the conclusion arrived at in the aforesaid meeting were (a) Technical Issues: there is no technical constraint or concern in the current operation of OPGCL, Units 3 & 4 under closed bus mode; (b) Commercial Issues: The commercial issues, including relinquishment charges to be paid by OPGCL would be submitted to this Commission for its decision. All agreed that as an interim arrangement till final direction of this Commission, the bus sectionalizer will be kept closed and with the closed bus condition, OPGCL station could be considered as a state embedded entity and the part of Odisha State system for calculation of the drawl of State/ GRIDCO. However the CTU dissented to the above recommendation.

d) The operation of the power plant on a closed bus coupler mode is a good utility practice which is expected to accomplish the desired results with reliability, safety and expedition.

Petitioner's rejoinder to the reply filed by Respondent no. 8, OGPTL

9. The Petitioner in its rejoinder dated 29.11.2019 to the reply filed by Respondent No. 8 has submitted that the Commission has already reserved its order on 25.07.2019 in OPGCL's Petition No. 128/MP/2019 – challenging the levy of transmission charges for OGPTL's OPGC-Jharsuguda 400 kV D/C Transmission Line. Despite this, the OGPTL in the its instant reply has proceeded to oppose OPGCL's close bus proposal by re-agitating the non-payment of purported transmission charges.

Rejoinder to the reply filed by Respondent No. 7, PGCIL

10. The Petitioner in its rejoinder dated 10.01.2020 to the reply filed by PGCIL has mainly submitted as under:

a) Neither the Act, any of the regulations issued by this Commission nor any of Petitioner's contractual arrangements prohibit it from operating the sectionaliser breaker or bus coupler at its generation switchyard in closed condition for common bus mode operation of the Expansion Project. On the contrary, if instant proposal is denied, the Petitioner will effectively be denied the right to Open Access. Under Section 2(47) of the Act read with Section 42 thereof, every generator has a vested statutory right to seek Open Access, including to intra-state Open Access. In the State of Odisha, right to Open Access to STU's network is effectuated vide Regulation 4(1) of the Odisha Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005.

b) Further, Regulation 6.4.2(c)(iii) of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 ("IEGC") provides that a generating station connected to both CTU and STU will fall under SLDC's jurisdiction if more than 50% share belongs to the host State. Further,

Regulation 6.4.2(c)(iv) of the IEGC provides that transition of a generating station from an RLDC's jurisdiction to an SLDC's jurisdiction and *vice versa* must be done expeditiously, i.e., w.e.f. from the next billing period.

c) PGCIL and other statutory authorities kept insisting, without any basis in law or regulations, that OPGCL should utilize the OPGC-Jharsuguda 400 kV D/C Transmission Line by denying OPGCL's close bus sectionaliser proposal for evacuation through the STU network in place – in violation of OPGCL's right to Open Access.

d) PGCIL has contended that Clause 1.4 of the Detailed Procedure titled 'Procedure for making an application for grant of connectivity in ISTS' ("Detailed Procedure") prohibits dual connectivity. The Connectivity Regulations and Detailed Procedure manifestly concern the procedure for grant of connectivity to the ISTS (and not to the STU network). In the present case, after closing the bus coupler, Expansion Project enjoys STU connectivity for its entire installed capacity *via* the OPGC-Lapanga 400 kV D/C Transmission Line. No additional ISTS connectivity has been sought for Unit 4. Hence, Clause 1.4 of the Detailed Procedure is *prima facie* inapplicable to the present case.

e) Dedicated transmission lines are a species of "transmission lines". When such dedicated transmission line is built by a transmission licensee, the licensee is bound by duties of a transmission licensee under Section 40 of the Act. Among other things, Section 40 of the Act requires a transmission licensee to provide non-discriminatory "open access" to its transmission system for use by any generating station. Accordingly, same law and regulations are equally applicable to the grant of "open access" by any transmission licensee.

f) Further, Regulation 18 of the Connectivity Regulations concerns relinquishment of “long term access rights”. Since “open access” was sought and granted on a “dedicated transmission line”, it follows that relinquishment of “open access” involves relinquishment of the right to use “connectivity system”/ “dedicated transmission line”. Accordingly, OPGCL’s “connectivity” (and the associated transmission system) stands relinquished upon OPGC’s relinquishment of its LTA. Accordingly, Unit 4 does not have any ISTS connectivity at present to begin with and Clause 1.4 of the Detailed Procedure would be inapplicable on this account as well.

g) In the closed bus condition, GRIDCO (Odisha) will be evacuating all the power generated at OPGCL’s Expansion Project through STU’s network, *i.e.*, *via* the OPGC-Lapanga 400 kV D/C Line. The STU’s System Study has already concluded that the STU network is sufficient to evacuate the entire power (1320 MW) of the Expansion Project. Further, common bus mode operation increases the system’s reliability. On 20.11.2019, SLDC, ERLDC, ERPC and STU agreed that there is no technical constraint or concern in common bus operation of Expansion Project based on operational experience since 27.08.2019. Accordingly, the STU network is, in and of itself, is capable to evacuate the entire quantum of power tied up with GRIDCO at present.

h) In terms of Clause 3.2(a) OPGCL’s PPA 2, GRIDCO is liable to evacuate its share of power from OPGCL’s Expansion Project on an ex-bus basis. Evidently, GRIDCO is liable to pay for and ensure evacuation through the STU system from the generation bus bar of OPGCL’s Expansion Project. Accordingly, the injection and drawl points of power under PPA 2 takes place at the same point, *i.e.*, Expansion Project’s generation bus bar – within the State of Odisha. Thus, under the closed bus condition, neither any part of ISTS is being used for wheeling electricity from OPGCL nor can any ISTS transmission losses possibly be caused on account of wheeling of power through the STU

network. Therefore, the question of levy of ISTS transmission charges does not arise under the closed bus scenario.

i) In Petition No. 20/MP/2017, PGCIL has admitted that mere connectivity does not entail any liability for payment. The Commission, in Petition No. 20/MP/2017 concerning Muzaffarpur Thermal Power Station Stage-II, has accepted ERPC's proposal for non-levy of ISTS transmission charges against home state, Bihar's scheduled STU drawl. In the present case, since power is scheduled only on STU network and GRIDCO is already settling the corresponding transmission charges, any unscheduled/ unintended power flow in OPGC-Jharsuguda 400 kV D/C Transmission Line does not pave way for demand of ISTS transmission charges by PGCIL. On the contrary, once STU charges are already paid against the entire plant capacity of 1320 MW (net ex-bus injection approximately 1245 MW), the question of payment of ISTS transmission charges does not arise – especially when neither any part of ISTS system is being used for such evacuation, nor any actual ISTS transmission losses are caused on account of such evacuation. Dealing with a similar situation in Petition No. 189/MP/2012, this Commission has already held the provisions of the Central Electricity Regulatory Commission (Open Access in Interstate transmission) Regulations, 2008 ("**Open Access Regulations**") to be inapplicable. Open Access Regulations have been repealed and replaced by the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2010 ("**Sharing Regulations**"). Accordingly, Sharing Regulations are inapplicable after closure of bus coupler. Consequently, OPGCL need not apply for fresh LTA grant.

Hearing on 10.3.2022

11. During hearing on 10.3.2022, following has been recorded:

“.....

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.....”

Information sought by the Commission during the hearing and their replies

12. The Commission vide RoP dated 10.3.2022 directed the parties to file the following information :

a) **Short note on the judgment of APTEL dated 21.10.2020 and its implication on relinquishment charges** : Petitioner has replied as under :

i. On the transmission charges payable by the Petitioner for the OPGC-Jharsuguda 400 kV D/C Line, the APTEL has already accepted the Petitioner's primary contention that the OPGC-Jharsuguda Line is not a

dedicated line and is a part of the ISTS system in OPGC's Appeal No. 16 of 2020.

- ii. Consequently, the APTEL passed the following key directions :
 - For period between 30.08.2017 to 22.11.2017, Petitioner and PGCIL shall bear transmission charges for the OPGC-Jharsuguda Line in 50:50 ratio as both entities have caused delay in utilization of the Line.
 - For period between 23.11.2017 to 26.12.2018, Petitioner shall bear the entire transmission charges for the OPGC-Jharsuguda Line as OPGC had delayed the utilization of the Line during the said period.
 - For period after 26.12.2018, since the OPGC-Jharsuguda Line is an ISTS Line, it is to be serviced by the PoC pool for the periods after OPGC's Unit 4 was synchronized with the ISTS (*i.e.*, 26.12.2018 onwards)
- iii. In addition to the above, the Appellate Tribunal noted that Petitioner has already paid its entire liability of INR 14 Crores towards transmission charges for the OPGC-Jharsuguda Line between 30.08.2017 to 26.12.2018. The said payment of Rs 14 crore was made to Respondent No. 7, the PGCIL/CTU on 18.01.2020 and it included the entire Late Payment Surcharge liability (as on that date). No further transmission charges liability has been fastened on the Petitioner insofar as the OPGC-Jharsuguda Line is concerned.
- iv. OPGC's Appeal No. 322 of 2019 pending before the APTEL avers that the said Order dated 08.03.2019 in Petition No. 92/MP/2015.
- v. Subsequently, on 11.12.2019, this Commission passed another Order in Petition No. 252/MP/2019 directing the CTU to raise entity-specific intimations for relinquishment charges on LTA relinquishing entities, including the Petitioner. In line with the said Order dated 11.12.2019, the CTU sent letter dated 31.12.2019 to the Petitioner. CTU claimed alleged relinquishment charges of INR 112.88 Crores from the Petitioner for relinquishment of OPGC's LTA. Notably, the alleged Stranded Capacity determined by the CTU is equal to OPGC's entire LTA grant capacity of 600 MW.
- vi. Petitioner has filed Appeal No. 87 of 2021 before the Appellate Tribunal against the aforesaid Order dated 11.12.2019 and CTU's letter dated 31.12.2019. The Appeal is pending before and pleadings are complete in the matter.
- vii. Meanwhile, the Petitioner also sought certain details of calculation of alleged relinquishment charges from the CTU *vide* its letter dated

21.01.2020. In terms of the CTU letter dated 05.02.2020, the OPGC-Jharsuguda Line has also been considered as having 100% Stranded Capacity for the purpose of calculating Petitioner's alleged relinquishment charges of Rs 112.88 crore . The relinquishment charges sought by CTU for the OPGC-Jharsuguda Line evidently constitute a large portion of the entire alleged relinquishment charges claimed.

viii. According to the CTU, the Petitioner must pay 66% net present value or estimated transmission charges ('relinquishment charges') proportionate to the stranded capacity of the OPGC-Jharsuguda Line (which is considered 100% stranded) calculated upfront for a period of 12 years, while the CTU also collects the full transmission charges for the said Line for the entire life of the asset (*i.e.*, 35 years) from the PoC pool. This position is entirely untenable and cannot be countenanced in law. In this regard, the Commission's Order dated 08.03.2019 in Petition No. 92/MP/2015 states that once an alternative use for an ISTS element is found, the relinquishment charges on the exiting LTA user will not be applicable. In the present case, the alternative use for the OPGC-Jharsuguda Line is mandated post 26.12.2018 – in view of the APTEL's Judgment dated 21.10.2020. Thus, no relinquishment charges may be imposed on the Petitioner for the OPGC-Jharsuguda Line for the period beyond 26.12.2018. This date (26.12.2018) is much prior to the commissioning of the Petitioner's Plant and closure of bus coupler (in the second half of 2019). Further, transmission charges payable by the Petitioner up to 26.12.2018 (Rs14 crore) have already been paid. Thus, no further liability can be fastened on OPGC for the said Line.

b) **Details of payments made till date and payments that have not been made** : The Petitioner has replied as under:

Particulars	APTEL Proceedings	Amount	Status
Transmission charges for the OPGC-Jharsuguda Line	Appeal No. 16/2020	Rs 14 crore	Rs 14 Crores already paid. No further liability imposed in term of APTEL's Judgment dated 21.10.2020.
Relinquishment charges	Appeal No. 322/ 2019 <i>(challenge to methodology for calculation of</i>	Rs 112.88 crore	Payment not made yet in view of interim protection granted to the Petitioner <i>vide</i> APTEL's Judgment dated 21.10.2020 (para. 9.7); Orders

Particulars	APTEL Proceedings	Amount	Status
	<p><i>relinquishment charges as per this Commission's Order dated 08.03.2019 in Petition No. 92/MP/2015)</i></p> <p>Appeal No. 87/2021</p> <p><i>(challenge to calculation of alleged relinquishment charges of INR 112.88 Crores raised vide letter dated 31.12.2019 pursuant to this Commission's Order dated 11.12.2019 in Petition No. 252/MP/2019)</i></p>		<p>dated 08.10.2020 and 16.12.2020 (in Appeal No. 322/2019).</p> <p>Both appeals are pending before the APTEL. Pleadings are complete in both Appeals.</p>
<p>Transmission charges' invoices for PGCIL's 02 nos. 400 kV Line Bays at PGCIL's Jharsuguda Substation raised pursuant to this Hon'ble Commission's</p>	<p>Appeal No. 230/2019</p>	<p>Rs18.93 crore</p>	<p>Payment not made yet in view of interim protection granted to the Petitioner vide APTEL's Judgment dated 21.10.2020 (para. 9.7).</p> <p>Appeal is pending before the APTEL. Pleadings are</p>

Particulars	APTEL Proceedings	Amount	Status
Order dated 14.02.2019 in Petition No. 59/TT/2018			complete in the Appeal.

c) **Copy of documents stating that connectivity of 618 MW was sought for entire 2 x 660 MW plant.** : The Petitioner has stated that its connectivity application dated 22.12.2011 (CON-2) sought connectivity for 618 MW. Such 618 MW connectivity was granted for the entire 2 x 660 MW plant. Thus, CTU was aware all along that (a) the installed capacity of the entire plant was 1320 MW; and (b) the ISTS connectivity was sought for 618 MW only. Therefore, the ISTS connectivity granted to OPGC by the CTU was not Unit-specific, even though its quantum was 618 MW

13. The Commission directed CTUIL to clarify 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. In response to above query, CTUIL has submitted as follows :

a) CTU started raising the bills on Petitioner - OPGCL for the Asset: 400 kV OPGC-Jharsuguda transmission line w.e.f COD of the said line i.e., 30.08.2017 upon submission of request by OGPTL. Subsequently, as directed by CERC vide Order dated 26.12.2019 in Petition No. 128/MP/2019, the bills upto 31.12.2019 were modified and raised on OPGCL and thereafter the monthly bills were continued to be raised till the receipt of Appellate Tribunal final order dated 21.10.2020.

b) Appellate Tribunal vide Orders dated 18.6.2020 and 26.6.2020 in IA No. 183 of 2020, directed CTU to release an amount of Rs. 10 crore to OGPTL from the STOA Account towards transmission charges for the period from 26.12.2018 onwards. Accordingly, CTU had released the payment of Rs 10 Crores to OGPTL. Further, Appellate Tribunal passed the final order dated 21.10.2020 and directed that *the bills for the transmission charges for the period 30.08.2017 to 22.11.2017 shall be borne by the OPGCL and PGCIL in the ratio of 50:50. The Appellate Tribunal also held that as the OPGCL was drawing start up power and injecting infirm power through the said line, the transmission charges from 23.11.2017 to 26.12.2018 shall be borne by the OPGCL and therefore, the transmission charges for the reference transmission line for the period from 23.11.2017 to 26.12.2018 shall be borne by the OPGCL and thereafter the transmission charges shall be recovered under the POC mechanism.*

c) In line with the above, APTEL Order dated 21.10.2020, the transmission charges after 26.12.2018 (date of synchronization of generation) are being recovered under POC mechanism. Further OGPTL also returned the Rs 10 Crores given from STOA Pool amount which has been put back to pool account for disbursement. APTEL vide the said judgement has directed as follows:

“From 26.12.2018 onwards

9.4 As already stated hereinbefore, in terms of the TSA dated 20.11.2015, the Schedule 1 categorically provides that the transmission charges shall be recovered by the Respondent No. 3 as per the POC/ sharing mechanism. As per the 6th Amendment of the CERC Connectivity Regulations, after the aforementioned operationalization/ synchronization of LTA on 26.12.2018, the transmission charges for the subject transmission line built by the Respondent No. 3 is to be recovered as per the PoC mechanism provided under the Sharing Regulations. Therefore, from 26.12.2018 onwards, the recovery of transmission charges for the subject transmission line of the Respondent No. 3/ OGPTL are to be recovered under POC mechanism as per Schedule 1 of the TSA.

10.Summary of findings.

Based on our analysis and findings on the various issues raised in the Appeal, we summarise our findings as under:

.....

10.3 In line with the TSA, the transmission charges from 26.12.2018 onwards shall be payable to the transmission licensee (OGPTL) from the POC pool in accordance with sharing regulations notified by the Central Commission.”

14. The Commission vide ROP for hearing held on 10.3.2022 directed ERLDC to file certain information which has been filed by ERLDC. ERLDC has mainly submitted as follows:

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:** ERLDC has stated that the scheduling of Unit-4 of OPGCL is being carried out by State Load Despatch Centre Odisha w.e.f 30.10.2019. After closing of bus sectionaliser breaker between U-3 & U-4 of OPGCL w.e.f 29.10.2019 generation from U-4 is being evacuated through 400 KV-OPGC-Lapanga D/C line (STU) and 400 KV OPGC-Jharsuguda (PGCIL) D/C line. The 400 KV OPGC-Jharsuguda D/C Line is considered as Tie Line of Odisha. Further for computation of Odisha drawl, the Jharsuguda end of 400 kV OPGC -Jharsuguda line is considered as the metering point.

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:** Details of Power flow through OPGC-Jharsuguda 400 kV D/C transmission line has been provided and corresponding block wise schedule of OPGC generating station (OPGCL U-3 & U-4) since bus coupler was closed till date has also been provided. The block wise schedule data is collected from SLDC, Odisha website.

c) **Details of block-wise usage of ISTS by OPGCL and transmission charges paid for the same:** Block wise utilization of 400 KV OPGC-Jharsuguda

D/C Line by OPGC is computed and Block wise schedule of OPGC and power flow through 400 KV OPGC-Jharsuguda D/C has been provided. The data pertaining to transmission charges paid by OPGCL for 400 KV OPGC-Jharsuguda D/C lines is not available with ERLDC.

Hearing dated 12.4.2022

15. During the hearing held on 12.4.2022, following has been recorded:

“

2. *Learned counsel for OPGCL submitted that the Petition No. 380/MP/2019 has been filed inter alia seeking approval of the Commission to operate both the Units (Units 3 and 4 of 660 MW each) under a common bus arrangement mode by closing the bus coupler at its switchyard which is necessary in order to supply the entire power to the sole beneficiary, GRIDCO Ltd. through STU's network. The learned counsel mainly submitted the following:*

(a) In compliance with the directions of the Commission vide Record of Proceedings ('RoP') for the hearing dated 10.3.2022, the Petitioner has filed the additional details/information called for. Further, as per the direction of the Commission, CTUIL has filed re-computed relinquishment charges keeping in view the direction contained in the 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.

(b) As regards the transmission charges payable by the Petitioner for OPGC-Jharsuguda line, the APTEL in its judgment dated 21.10.2020 has held that for the period between 30.8.2017 to 22.11.2017, the Petitioner and PGCIL shall bear the transmission charges in 50:50 ratio as both the entities have caused delay in utilisation of the said line. Thereafter, for the period between 23.11.2017 to 26.12.2018, the entire transmission charges for the said line are to be borne by the Petitioner and after 26.12.2018, the OPGC-Jharsuguda line is to be treated as an ISTS line, which is to be serviced by PoC Pool.

(c) OPGCL has already paid its entire liability of Rs. 14 crore towards transmission charges of OPGC-Jharsuguda line for the period between 30.8.2017 to 26.12.2018 on 18.1.2020, which has also been recorded in the judgment of APTEL.

(d) In addition to the above, invoices for transmission charges have also been raised on OPGCL for PGCIL's 2 Nos. of 400 kV line bays at Jharsuguda sub-station pursuant to the Commission's order dated 14.2.2019 in Petition No. 59/TT/2018. While the original amount was Rs. 18.93 crore, the re-computed amount as indicated by CTUIL in its additional affidavit is Rs.10.65 crore. However, according to OPGCL, there is still an anomaly in the said amount as the relevant period has been considered from 23.11.2017 to 20.8.2019, whereas in terms of the judgment of APTEL dated 21.10.2021, transmission charges cannot be allocated to the Petitioner after 26.12.2018. According to OPGCL, the aforesaid amount would work out to approximately Rs.6 crore. While the

Commission's order dated 14.2.2019 in Petition No.59/TT/2018 has been challenged by OPGCL before the APTEL in Appeal No. 230 of 2019, in absence of any stay, OPGCL is ready to pay the aforesaid amount for PGCIL's line bays from 23.11.2017 to 26.12.2018 without prejudice and subject to the outcome of Appeal No. 230 of 2019.

(e) As regards relinquishment charges, CTUIL, in terms of direction of the Commission vide RoP for the hearing dated 10.3.2022, has now re-computed the amount as Rs. 15.44 crore (as against the claim of Rs. 112.88 crore). However, presently, in Appeal No. 322 of 2019 filed by OPGCL contesting the methodology for calculation of relinquishment charges as per the Commission's order dated 8.3.2019 in Petition No. 92/MP/2015, CTUIL has undertaken that it will not take any coercive action against OPGCL in view of the order of APTEL dated 8.10.2020 passed in Appeal No. 251 of 2019.

(f) OPGCL has furnished a bank guarantee of Rs. 30.90 crore with CTUIL which will cover the transmissions charges for the bays and the relinquishment charges.

(g) As regards the connectivity, OPGCL had sought for and accordingly, had been granted the connectivity for 618 MW for its entire 2x660 MW plant. The said connectivity was not unit-specific. Reliance was placed on its connectivity application dated 22.12.2011 (CON-2) and CON-5 issued by CTUIL.

3. The learned counsel for the Respondent, CTUIL submitted that CTUIL will look into its re-computed transmission charges for bays for any anomaly cited by OPGCL and will file the modified affidavit, if required. The learned counsel also informed that they are re-assessing the relinquishment charges further. The learned counsel submitted that CTUIL, in its reply, has already submitted that the OPGC-Jharsuguda line cannot be treated as tie line. The learned counsel further submitted that during the course of previous hearing, CTUIL had also pointed out that OPGCL ought to relinquish its connectivity to ISTS to which OPGCL had also agreed to the same.

4. In response, the learned counsel for OPGCL submitted that OPGC-Jharsuguda line is presently being used as a tie line for Odisha and it being an ISTS line, the transmission charges thereof are being recovered from the PoC Pool. Thus, the PoC

Pool and the ISTS grid are currently getting the benefit of the use of the OPGC-Jharsuguda line being treated as a tie line. The learned counsel added that as such OPGCL does not require the said line, however, upon its disconnection, the said line may become stranded asset. Therefore, the OPGC-Jharsuguda line may be treated as a tie-line.

5. *The learned counsel for the Respondent, GRIDCO submitted that GRIDCO has already filed its reply in the matter. The learned counsel further submitted that in terms of the contractual provisions and the notification of the Government of Odisha, the OPGCL, GRIDCO and OPTCL were required to ensure evacuation of the entire capacity of expansion project (Units 3 & 4) of OPGCL through STU-OPTCL network and for that purpose a system study was also conducted by OPTCL for Unit 3 & Unit 4 to be operated in bus coupler closed condition where upon it has been concluded that its network was adequate. The learned counsel further submitted that the affidavit filed by ERLDC dated 28.3.2022 also supports the above position.*

6. *The representative of ERLDC submitted that the Commission may issue an appropriate direction with regard to treatment of OPGCL, whether it shall be treated as regional entity or State entity, for the purpose of deviation settlement and charges for the period between 28.8.2019 to 29.10.2019. In response, the learned counsel for OPGCL submitted that the closure of bus coupler by OPGCL has been regularised subsequently.”*

16. The Commission reserved the matter for order.

Hearing dated 12.7.2022

17. The order in the present Petitions was reserved on 12.4.2022. However, the order could not be passed prior to the Chairperson Shri P. K. Pujari demitting the office. Accordingly, the matters was listed for hearing again.

18. CTUIL apprised the Commission that the Commission vide Record of Proceedings for the hearing dated 12.4.2022 had permitted CTUIL to file modified affidavit after re-assessing the relinquishment charges but the same could not be filed and sought permission to upload its additional affidavit indicating the relinquishment charges after re-assessment, which have already been posted on CTUIL's website.

The Commission directed CTUIL to file the same and OPGCL was permitted to file its response.

19. The Order was reserved.

Submissions of CTUIL

20. In compliance, CTUIL has filed the affidavit dated 21.7.2022 in Petition No. 380/MP/2019 and has submitted that the Commission vide RoP dated 10.03.2022 directed CTUIL to re-compute the relinquishment charges of OPGCL keeping in view the directions contained in the Order dated 08.03.2019 in Petition No. 92/MP/2015 and Appellate Tribunal judgment dated 21.10.2020 in Appeal No. 16 of 2020. Accordingly, the revised relinquishment charges were computed and uploaded on CTU website on 24.03.2022. Following was observed during re-assessment of relinquishment charges declared on 24.03.2022

a) The OPGC – Jharsuguda 400kV D/c (Triple Snowbird) line was provided in the LTA intimation dated 11.09.2013 of Odisha Phase-2 generation projects as a part of “Transmission system for Connectivity to Grid and Immediate Evacuation of the Generation Projects” for OPGCL generation project.

b) As per the Appellate Tribunal Order dated 21.10.2020, the said line is required to be treated as an ISTS line and not as a dedicated transmission line. As per Commission’s Order dated 08.03.2019 in Petition No. 92/MP/2015, the detailed methodology provided under Para 121 of the Order shall not be applicable for dedicated transmission line since the same is the liability of concerned generator to pay the transmission charges for such dedicated transmission line.

c) As such, in terms of the Appellate Tribunal Order dated 21.10.2020, the aforesaid OPGC – Jharsuguda 400kV D/c (Triple Snowbird) line is therefore required to be considered as ISTS line and accordingly the relinquishment charges for the same would need to be recomputed under the methodology prescribed in Para 121 of the Commission's Order dated 08.03.2019.

d) Subsequently, it was observed that the liability for the said OPGC – Jharsuguda 400kV D/c (Triple Snowbird) line could not be imposed upon Sterlite and GMR Kamalanga as the said line was implemented as an ISTS line only for connectivity of OPGCL generation project to the ISTS grid as its immediate evacuation system (as per CTU intimation dated 11.09.2013), and no power of any other generator (including Sterlite and GMR Kamalanga) would flow on this line. Accordingly, the relinquishment charges were required to be corrected and re-computed again with this consideration.

e) In the instant re-computation, the OPGC – Jharsuguda 400kV D/c (Triple Snowbird) line has been treated as an ISTS line, however, no liability of this line has been imposed on the other generators in the Odisha Phase-2 viz. GMR Kamalanga (Phase-II) and Sterlite.

f) Further, as per the methodology under Step-5 of Para 121 of 92/MP/2015 Commission's order dated 08-03-2019, the difference in transmission line flows between the Base case and the Relinquished scenario shall be treated as the stranded capacity of the line. In the instant case, with the relinquishment of 600MW by OPGCL, the power flow on OPGC – Jharsuguda 400kV D/c (Triple Snowbird) line has become zero and the stranded capacity works out to is computed as 600MW. Furthermore, as per Step 5, in the ordinary course, except for the case where the stranded capacity is to be considered as zero, the percentage capacity of a particular line stranded is to be determined by dividing the difference obtained above by the loadability of the line as provided

in the CERC Order dated 08.03.2019. However, in the present case, the percentage stranded capacity has been considered as 100% because after the aforementioned relinquishment by OPGCL, there would be no power flow on OPGC – Jharsuguda 400kV D/c (Triple Snowbird) line, thereby making it 100% stranded.

g) Accordingly, the revised relinquishment charges of OPGC, Sterlite and GMR Kamalanga (Phase-II) uploaded on CTUIL website on 24.03.2022 is being recalled. The revised relinquishment charges dated 10.05.2022) supersedes the earlier uploaded charges uploaded on CTU website and is as under :

S. No	Applicant	Region	LTA granted	LTA Relinquished (MW)	Date of relinquishment as per CERC order/Notice as per letter by Applicant	LTA effectiveness date	Date Considered for calculation of Stranded Capacity	Stranded Capacity among identified elements # (MW)	Stranded Capacity Charges # (in lakh)	Charges for Notice Period # (In lakh)	Total Compensation # (in lakh)
47	Sterlite Energy Ltd (Erstwhile Vedanta)	ER	1000	1000	09/09/13	31/03/19*	31/03/19*	133	1388	0	1388
48.	GMR Kamalanga Energy Ltd (Ph-II) (220 MW)	ER	220	220	19/10/15	31/03/19*	31/03/19*	29	305	0	305
49.	OPGC	ER	600	600	13/12/2018	31/03/19* 11288	31/03/19*	600	10276	1012	11288

Submissions of Petitioner

21. In response to CTUIL affidavit dated 21.7.2022, the Petitioner has filed its affidavit dated 28.7.2022 and has submitted as under :

a) The Appellate Tribunal in its Judgment dated 21.10.2020 has directed that the PoC pool would pay transmission charges for the OPGC-Jharsuguda Line from 26.12.2018 onwards. Therefore, no Relinquishment Charges can be levied on the Petitioner for the OPGC-Jharsuguda Line from 26.12.2018 onwards.

b) The re-computation had been undertaken by the CTU by “incorporating” the aforesaid Judgment dated 21.10.2020, wherein OPGC-Jharsuguda 400 kV D/C Line (“**OPGC-Jharsuguda Line**”) Line has been considered as an ISTS line and not as a dedicated transmission line. In terms of the said computation dated 24.03.2022, the CTU had notified INR 15.44 crore of Relinquishment Charges for the Petitioner.

c) CTU has now again notified an alleged Stranded Capacity of 600 MW, and alleged Relinquishment Charges of INR 112.88 Crores. Such retraction of a statement made on sworn affidavit is not permissible and entirely illegal, especially when there is no new development in the facts. In this regard, the revised Affidavit dated 21.07.2022 filed by the CTU should be disregarded *in toto*.

d) The comparison of the Relinquishment Charges and Stranded Capacity notified for the Petitioner, Sterlite Energy Limited and GMR Kamalanga Energy Limited (Phase-II), respectively, earlier (*i.e.*, on 24.03.2022) and subsequently (*i.e.*, 10.05.2022) is as under :

Relinquishing Entity	CTU's Notification Ref: C/CTU/E/04/LTA-REL/Odisha-II_Rev dated 24.03.2022	CTU's Notification Ref: C/CTU/E/04/LTA-
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	REL/Odisha-II_Rev-1 dated <u>10.05.2022</u>			
	Relinquishment Charges (in INR Crores)	Stranded Capacity	Relinquishment Charges (in INR Crores)	Stranded Capacity
Petitioner (OPGC)	15.44	198	102.76	600
Sterlite Energy Limited	23.43	330	13.88	133
GMR Kamalanga Energy Limited (Phase-II)	5.15	72	3.05	29
TOTAL	44.02	600	119.69	762

e) The Appellate Tribunal in its judgment dated 21.10.2020 has passed the following key directions:

- (i) period between 30.08.2017 to 22.11.2017: The Petitioner and PGCIL shall bear transmission charges for the OPGC-Jharsuguda Line in 50:50 ratio as both entities have caused delay in utilisation of the Line.
- (ii) period between 23.11.2017 to 26.12.2018: The Petitioner shall bear the entire transmission charges for the OPGC-Jharsuguda Line as OPGCL had delayed the utilisation of the Line during the said period.
- (iii) period after 26.12.2018: Since the OPGC-Jharsuguda Line is an ISTS Line, it is to be serviced by the PoC pool for the periods after OPGC's Unit 4 was synchronised with the ISTS (*i.e.*, 26.12.2018 onwards).

(iv) Since the OPGC-Jharsuguda Line is being serviced by PoC pool from 26.12.2018 onwards, there is no Stranded Capacity in the said Line. It is for this reason that no Relinquishment Charges for the said Line can be levied on the Petitioner for the period after 26.12.2018.

(v) In addition to the above, the Appellate Tribunal noted that Petitioner has already paid its entire liability of INR 14 Crores towards transmission charges for the OPGC-Jharsuguda Line between 30.08.2017 to 26.12.2018. The said payment of INR 14 crore was made to the CTU on 18.01.2020 and it included the entire Late Payment Surcharge liability (as on that date). No further transmission charges liability has been fastened on the Petitioner insofar as the OPGC-Jharsuguda Line is concerned.

f) The unequivocal import of the aforesaid findings is that from 26.12.2018 the PoC pool (and not OPGC) will pay Respondent No. 8, Odisha Generation Phase-II Transmission Limited (“**OGPTL**”) for the OPGC-Jharsuguda Line.

g) According to the CTU, the Petitioner must pay 66% net present value or estimated transmission charges (‘Relinquishment Charges’) proportionate to the stranded capacity of the OPGC-Jharsuguda Line (which is considered 100% stranded) calculated upfront for a period of 12 years, while the CTU also collects the full transmission charges for the said Line for the entire life of the asset (*i.e.*, 35 years) from the PoC pool. When the PoC pool is paying transmission charges for the OPGC-Jharsuguda Line, there is no Stranded Capacity to begin with and no Relinquishment Charges can be levied on the Petitioner for the time period after 26.12.2018. Thus, CTU’s position is entirely untenable and cannot be countenanced in law.

h) The Commission's Order dated 08.03.2019 provides that once an alternative use for an ISTS element is found, the Relinquishment Charges on the exiting LTA user will not be applicable. In the present case, the alternative use for the OPGC-Jharsuguda Line is mandated post 26.12.2018 – in view of the Appellate Tribunal Judgment dated 21.10.2020. Thus, no Relinquishment Charges may be imposed on the Petitioner for the OPGC-Jharsuguda Line for the period beyond 26.12.2018.

i) Thus, multiple orders of a higher court presently restrain all parties from pressing the recovery of Relinquishment Charges from the relinquishing entities (including the Petitioner). The Petitioner is also bound by the aforesaid Judgment/ Orders, including the obligation to keep the Bank Guarantee of Rs 30.9 Crores alive till the disposal of Appeal No. 322/2019. The said Bank Guarantee is alive and will be kept alive by the Petitioner till the disposal of Appeal No. 322/2019. Hence, any payment of the aforesaid charges is presently on hold during the pendency of various Appeals before the Appellate Tribunal.

j) Therefore, the question of levy of any Relinquishment Charges on the Petitioner is *sub judice* in multiple appeals before the Appellate Tribunal. Further, the determination of Relinquishment Charges is not an issue before this Hon'ble Commission in these proceedings. Therefore, no decision on the same ought to be passed by this Commission in the present proceedings.

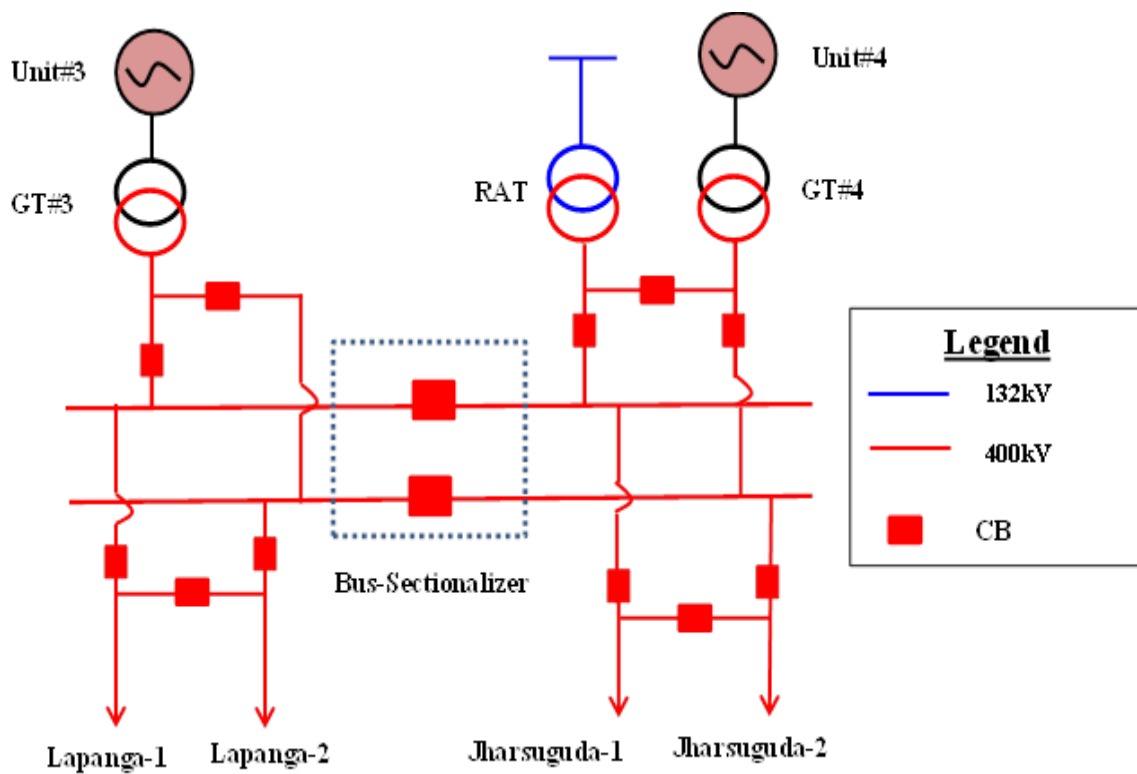
k) The Commission in its Order dated 25.07.2022 in Petition No. 630/MP/2020 (*Dhariwal Infrastructure Limited vs. PGCIL & Ors.*) allowed Dhariwal Infrastructure Limited's prayer for bus closure since no technical constraints were observed in carrying out closed bus operations. Even in the

present case, there are admittedly no technical constraints in continuance of the close bus operations of the Petitioner (OPGC). Therefore, OPGC's prayers may kindly be considered favourably along the same lines as Petition No. 630/MP/2020.

Pleadings in petition No. 334/MP/2019

22. Petitioner ERLDC has filed Petition No. 334/MP/2019 in which ERLDC has mainly submitted as follows:

- (a) Unit-4 of OPGCL is a regional entity registered as a User of the ERLDC w.e.f. 06.12.17 and connected to Jharsuguda 765/400 kV ISTS substation through 400 kV OPGC-Jharsuguda D/C ISTS line. The said unit of OPGCL had drawn start-up power w.e.f. 15.01.18, injected infirm power w.e.f. 23.01.19, performed its trial run operation from the period 01:00 hrs of 14.08.19 to 01:00 hrs of 17.08.19 and declared COD as a regional entity w.e.f. 21.08.19. The metering, accounting and settlement of power from Unit-4 of OPGCL are still being carried out at regional level and Deviation Settlement Mechanism (DSM) account is being issued by ERPC on weekly basis. All the above functions are being carried out with the bus sectionaliser open between Unit-3 and Unit-4 of the plant of OPGCL.
- (b) The power evacuation scheme (as shown below) of OPGCL was designed with split bus arrangement at OPGCL's 400 kV switchyard with one unit (Unit 3) to remain connected to STU system of OPTCL at 400/220 kV Lapanga substation through 400 kV OPGC-Lapanga D/C line and the other unit (Unit-4) to be connected to PGCIL's 765 kV/400 kV Jharsuguda substation through 400 kV OPGC-Jharsuguda D/C line. Both the units were connected to their respective 400 kV transmission systems with the sectionalizing Circuit Breakers (CB) at OPGC 400 kV switchyard kept open, till 11:17 hrs of 27-08-19.



(c) After declaring commercial operation of Unit-4 of the plant of OPGCL as a regional entity w.e.f. 21.08.19, the OPGCL synchronized its Unit-4 at 00:40 hrs. of 28.08.19 with the CTU system without having any schedule injection. Further on 27.08.19 without taking any code or approval from the ERLDC, the OPGCL synchronized the bus sections 1A & 1B and 2A & 2B (as shown in the figure 1) of its 400 kV switchyard at 11:07 hrs and 11:17 hrs respectively and thereby establishing a direct connection between Unit-3 (Connected to STU) and Unit-4 (Connected to CTU). Subsequently the ERLDC instructed OPGCL to open the bus sectionaliser breaker between bus-1A & 1B and bus 2A & 2B vide code ER/08/O/1002 and ER/08/O/1003 respectively at 00:40 hrs of 28.08.19. Also the ERLDC instructed OPGCL to open the bus sectionaliser breaker vide letter ref. no. ERLDC/MO/2019-20/2189 dated 29.08.19. However such instructions of opening bus sectionalizer were not complied by the OPGCL, in spite of repeated persuasion from the ERLDC.

- (d) SLDC Odisha through email dated 28.08.19 at 10:44 hrs conveyed that as per IEGC Regulation 6.4.2(iii), scheduling of #4 OPGC Stage-II has been done by SLDC and started scheduling of OPGC Unit 4 with effect from 28.08.19.
- (e) Subsequently the ERLDC instructed SLDC Odisha to stop scheduling of Unit-4 of the OPGCL immediately. However the SLDC, Odisha did not comply with this direction of the ERLDC and continued scheduling of Unit 4 of the OPGCL.
- (f) In view of the above circumstances, ERLDC has filed the instant Petition No. 334/MP/2019, seeking direction to Respondent No 1 and Respondent No 2 to comply with the directions issued by the Regional Load Despatch Centres under subsection (1) of section 29 of the Act and to initiate appropriate action against Respondent no 1 and Respondent no 2. for non-compliance of Section 29 of the Electricity Act, 2003 Regulations 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 Indian Electricity Grid Code, section 29(6) and section 142 of the Electricity Act,2003.

Reply of GRIDCO vide Affidavit dated 25.10.2019

23. Gridco vide Affidavit dated 25.10.2019 has mainly submitted as follows:

- (a) ERLDC has contravened the expressed provision of Clause 6.4(2)(c)(iii) of the Indian Electricity Grid Code Regulation, 2010 ("IEGC") as it has wrongly exercised jurisdiction over the generating station of OPGC particularly Unit #4 which is connected both to ISTS and the State network and where the scheduling and other functions performed by the system operator of the

control area is required to be done by the State Despatch Centre, i.e., Respondent No.2 and also when the State of Odisha has more than 50% of power.

- (b) OPGC and the GRIDCO, entered into a Power Purchase Agreement (PPA) dated 04.01.2011, inter-alia providing for GRIDCO's entitlement to 50% of the installed capacity of the 1320 MW gross (2x660 MW) Unit #3 & #4 of the Ib of the Thermal Power Station of Respondent No. 1 and District Jharsuguda, Odisha.
- (c) Subsequently, vide Government of Odisha, Department of Energy/Cabinet Notification No. 110061 dated 12.10.2019 read with Notification no. 1085 dated 20.12.2018, the entire capacity of Units 3 and 4 is to be evacuated and utilized by GRIDCO as per the Power Purchase Agreement/Contract between OPGC and GRIDCO. OPGC, GRIDCO and OPTCL are to evacuate the entire capacity of the expansion project of OPGC, i.e. 1320 MW Units 3 and 4 through STU (OPTCL) Network.
- (d) In terms of the above, State Cabinet Notification of Govt. of Odisha, Supplementary Power Purchase Agreement dated 24.01.2019 to the PPA dated 04.01.2011 was executed between OPTCL/GRIDCO, inter-alia, providing the following:
- “1) AGREEMENT REACHED BETWEEN THE PARTIES*
- a. The Contract Capacity from Units 3 & 4 shall be equal to 75% of the Installed Capacity from the Commercial Operation Date (COD) of the Power Station till 31st March 2023. Thereafter, from 1st April 2023 for a further period of 25 years therefrom, the Contracted Capacity shall be enhanced to 100% of the Installed Capacity. The Tariff Regulations as envisaged in PPA 2.*
- C. GRIDCO intends to schedule all power from OPGC expansion Project (Unit # 3 and #4) through the OPTCL (STU) network and all the applicable charges thereof. Payment liability of any potential Point of Connection (POC) charges and Losses associated with the usage of CTU network with respect to the additional power beyond 50% of*

station capacity if scheduled from Unit#4, will be mutually settled between GRIDCO & OPGC at a later stage.”

- (e) In view of the above, the contractual provisions entered into between OPGC and GRIDCO is based on State Government’s Notification expressly provide for “*evacuation of the entire capacity of expansion project of OPGC through STU (OPTCL) network in due course*”. The Supplementary PPA, inter-alia captures the intention between the parties “*to schedule on power from OPGC expansion project (Unit #3 & #4) through the OPTCL (STU) network*”.
- (f) ERLDC ought not to have misinterpreted the synchronization of Unit #4 of OPGC with the CTU system in order to derive any jurisdiction to instruct OPGC to open the bus sectionalizer/breaker between bus 1A and 1B and bus 2A and 2B. The ERLDC could not have issued such instructions to OPGC to open the bus sectionalizer in view of the following facts and implications:
- (i) When state of Odisha has more than 50% share of power, Clause 6.4 (2)(c)(iii) mandates that the role of concerned RLDC, in such a case, shall be limited to consideration of the schedule for inter-state exchange of power on account of this ISGS while determining the net drawal schedules of the respective states.
 - (ii) Synchronization of the Unit #4 with the CTU system is for stability and reliability and not for scheduling and evacuation of power;
 - (iii) The words “in accordance with the contract entered into with the licensees or the generating companies” mandated the RLDC to recognize that the contract i.e., the supplementary PPA expressly provided that evacuation of all power through the STU network;
 - (iv) Compelling OPGC to inject part of the power generation of Unit # 4 through the CTU network is firstly impracticable as well as against the mandate in the 2003 Act, i.e., “economic operation” of the grid as flow of electricity through the CTU network instead of STU network will expose GRIDCO to unnecessary point of connection (POC) charges, since power will be transported at a minimum cost;
 - (v) The metering, accounting and settlement of power of Unit #4 should not be carried out at a regional level as Unit #4 is a State Embedded Entity;
 - (vi) Respondent No. 1 OPGC relinquished the long term access in view of the specific contractual provision to sell the entire generated power to Respondent No. 4 GRIDCO. Accordingly, the metering and accounting at the regional level is redundant. In view of the above, the metering and

accounting of the power station ought to be at the state level within the scheduling and dispatch control of the SLDC. Even if OPGC has registered Unit # 4 as a regional entity that was done when the capacity tied up with GRIDCO was only 50%, however, subsequently as per the supplementary PPA dated 24.01.2019 between OPGC and GRIDCO 75% of the installed capacity will be sold to GRIDCO till the year 2023 thereafter 100% installed capacity shall be sold to GRIDCO. In view thereof Unit No. 4 being a regional entity has now become redundant and meaningless. The question of Unit No.4 being a regional entity in the circumstances does not arise.

- a. In view of the above provisions, the Petitioner ERLDC has wrongly exercised jurisdiction including taking the coercive measure of instructing the Respondent No.2 Odisha SLDC who stopped scheduling of Unit #4 of OPGC. In fact it was Odisha SLDC which has correctly undertaken scheduling of Unit No. 4 as per IEGC clause 6.4.2 (iii).

Joint reply dated 28.10.2019 of SLDC, Odisha and Odisha Power Transmission Corporation Limited in Petition No. 334/MP/2019

24. SLDC, Odisha in its reply has submitted as follows:

- a) Unit 3 and Unit 4 of OPGCL is connected to 400kV Lapanga sub-station of OPTCL and Jharsuguda PG through two nos. of 400kV lines each. As such, there are four nos. of 400kV lines to evacuate about 1250 MW of power in case of full generation of Unit #3 and Unit #4 of the Respondent-1 (OPGC). In view of the above, N-1 reliability condition is fully satisfied.
- b) OPTCL has conducted a System study with common bus mode for evacuation of power from Unit #3 and Unit #4 of the Respondent-1 (OPGC) and the parameters are found to be within permissible limits under different contingency conditions.
- c) SLDC/OPTCL was not aware about the closing of bus sectionalizing breaker between Unit # 3 & Unit # 4 of OPGC since OPGC had not applied for charging code through SLDC before closing.

d) OPGCL vide letter dated 26.08.2019 has intimated ERLDC regarding closing of bus sectionalizing breaker between Unit # 3 & Unit # 4 in their Switch yard for common bus mode of operation to comply the direction of Govt. of Odisha issued vide notification dated 20.12.2018 for supply of power to the State from their Unit # 3 & Unit # 4 through the STU network.

e) OPGCL vide letters dated 27.8.2019 intimated SLDC regarding closing of the bus sectionalizing breaker between Unit # 3 & Unit # 4 at 11:17 Hrs. It is learnt that the closing action had been intimated to ERLDC at 14:29 Hrs by OPGCL. ERLDC has not intimated SLDC about closing of bus sectionalizing breaker till such time. Subsequently on 28.08.2019 the Petitioner ERLDC instructed OPGCL through different e-mail correspondences for opening of the bus sectionalizing breaker with a copy marked to SLDC. In response, SLDC verbally reminded OPGCL to follow the instruction of ERLDC.

f) ERLDC's instruction of opening of bus sectionalizing breaker was communicated by SLDC to OPGCL.

g) After closing of the bus sectionalizing breaker between Unit # 3 and # 4, SLDC decided to take up the scheduling of the generating station of the OPGCL as per the provision under Regulation 6.4.2.c.iii of IEGC, since it is a fact that the Unit # 4 is connected to both STU and CTU with more than 50 % share for Odisha State, and intimated to ERLDC for their reference.

Submissions of OPGCL vide Affidavit dated 28.10.2019

25. OPGCL vide its affidavit dated 28.10.2019 has submitted as follows:

- (a) On 12.08.2019, OPGC had filed Petition No. 380/MP/2019 before this Commission inter alia seeking (a) approval for closing the bus coupler installed

between Unit 3 and Unit 4 of its Plant for evacuating power to Respondent No. 4, GRIDCO Limited using State Transmission Utility/ Odisha Power Transmission Corporation Limited's network; and (b) recognition of transfer of OPGC's Unit 4 from ERLDC's jurisdiction to SLDC's jurisdiction. Separately, OPGC filed I.A. No. 83/2019 seeking interim relief for closure of bus coupler.

- (b) Neither the Act, any of the regulations issued by this Commission nor any of OPGC's contractual arrangements prohibit OPGC from operating the sectionaliser breaker or bus coupler at its Plant in closed condition for common bus mode operation of the Power Station.
- (c) OPGC approached ERLDC for charging code to close the bus coupler on 22.08.2019. Separately, OPGC also requested ERLDC to procedurally facilitate OPGC's transition from ERLDC's jurisdiction to SLDC's jurisdiction. However, OPGC's requests for charging code and shift of jurisdiction were both denied to OPGC by ERLDC without citing any legally acceptable reasoning. On the other hand, ERLDC suggested OPGC to utilize OPGC-Jharsuguda 400 kV D/C Transmission Line by availing Open Access on CTU/PGCIL network.
- (d) To avoid stranding of power, OPGC closed the bus coupler on 27.08.2019 with due intimation to ERLDC & SLDC. In view of requisition from the sole beneficiary, GRIDCO, OPGC thereafter evacuated Unit 4 power via the STU's OPGC-Lapanga 400 kV D/C Transmission Line connected to the 400 kV bus section at OPGC switchyard directly connected to Unit 3. On 27.08.2019 and 29.08.2019, ERLDC directed OPGC to open the bus coupler between Units 3 and 4 of the Plant.
- (e) Regulation 6.4.2(c)(iii) of the IEGC provides that a generating station connected to both CTU and STU will fall under SLDC's jurisdiction if more than 50% share belongs to the host State. Further, Regulation 6.4.2(c)(iv) of the IEGC provides that transition of a generating station from an RLDC's jurisdiction to an SLDC's jurisdiction and vice versa must be done expeditiously, i.e., w.e.f. from the next billing period. Apart from this, here is no other legal/ regulatory requirement under the scheme of the Act or the regulations framed thereunder for

effectuating the transition of a generating station from an RLDC's jurisdiction to an SLDC's jurisdiction.

(f) Evidently, ERLDC's denial to procedurally facilitate the transition of OPGC Unit 4's jurisdiction from ERLDC's jurisdiction to SLDC's jurisdiction is beyond the terms of the Act and the IEGC.

(g) ERLDC has alleged that OPGC has violated Regulations 6(1) and 8(1) of the Central Electricity Authority (Grid Standards) Regulations, 2010. Closing of bus coupler does not amount to "introduce or take out an element of the grid". Neither a new element has been introduced by OPGC, nor has an existing element been removed by OPGC. Accordingly, Regulation 6(1) of the CEA Grid Standards is inapplicable in the present case.

(h) ERLDC has alleged that OPGC has violated following Clauses 5.1 and 5.2 of the Operating Procedures for Eastern Region:

"5.1. Coordination of switching operations in the grid is important for ensuring safety of personnel and equipment as well as for ensuring adequacy and security of the grid. Before any operation of important elements of the Eastern Regional Grid is carried out on a User/STU system, the Users, SLDC, STU, CTU, licensee shall inform ERLDC, in case the Eastern Regional grid may, or will experience an operational effect.

5.2 In line with Regulation 6 (1) of the Central Electricity Authority (Grid Standards) regulations 2010, no entity shall introduce an element in the ISTS of Eastern Grid without the concurrence of ERLDC in the form of an operation code. In case a new power system element in Eastern Regional grid is likely to be connected with the Inter-State Transmission System or is to be energized for the first time, from the ISTS, the applicant User/STU/CTU/licensee shall send a separate request in advance along (Annexure A1-A6 at least 10 days prior & Annexure B1-B5 at least 3 days prior) with the confirmation of the following:..."

26. Clause 5.1 of the Operating Procedures of the Eastern Region is prima facie inapplicable since OPGC's bus coupler is not a notified Important Element of the Eastern Region.

27. In the present case, ERLDC's various illegal actions were (a) clearly mala fide; and (b) undertaken with the express knowledge of irreparable financial losses accruing to OPGC on account of ERLDC's mala fide actions. Accordingly, ERLDC must compensate OPGCL in full for all losses accruing to OPGCL on account of ERLDC's illegal actions.

28. In view of the foregoing, ERLDC must indemnify OPGCL for the loss of tariff in the following durations:

a) Between 22.08.2019 to 27.08.2019, when OPGCL could not supply power to GRIDCO on account of ERLDC's illegal and *mala fide* denial to issue charging code for closure of bus coupler; and

b) The entirety of period when OPGCL is restrained from closing the bus coupler on account of ERLDC's denial to issue/ unjustified delay in issuance of charging code for closure of bus coupler based on OPGCL's application in line with this Commission's Order dated 22.10.2019. It is stated and submitted that on 23.10.2019, OPGCL complied with this Commission's interim direction and opened the bus coupler. In the same communication, OPGCL yet again sought charging code from ERLDC for closure of bus coupler.

29. **DSM:** As a consequence of the present dispute, a related dispute concerning DSM liability would arise in the future. In view of the aforesaid submissions, it is prayed that this Commission kindly declare the OPGC-Jharsuguda 400 kV D/C Line as the

inter-state tie line w.e.f. 27.08.2019, i.e., the date of closure of bus coupler. On 04.10.2019, the ERLDC wrote to ERPC requesting ERPC to issue the DSM account for Unit 4 from 26.08.2019 onwards by considering Unit 4 as a 'regional entity' to maintain status quo during the pendency of the captioned Petition. On the same day (i.e., 04.10.2019), ERPC wrote a letter to the Secretary of this Commission stating as follows (underlined for emphasis):

"6. While preparing the DSM Account for the week from 26.08.2019 to 01.09.2019, it was found that ERLDC has submitted the data considering injection schedule of U#4 of OPGC as "zero" whereas it has already been admitted by SLDC Odisha representative during the special meeting on 05.09.2019 that U#4 of OPGC is being scheduled by them. As a result, ERLDC is showing the entire injection by OPGC (U#4) as deviation. It was also found that ERLDC has considered Bus sectionalizer between U#3 & U#4 as tie line for determining the drawal of GRIDCO (Odisha).

7. If the DSM accounting is done based on the treatment being made by ERLDC w.r.t. OPGC generation, a serious flaw is emerging.

8. OPGC Ltd., who is considered a violator in this case, may end up getting significant amount from DSM pool of Eastern Region on account of over-injection against "ZERO" schedule (as treated by ERLDC). Further, OPGC would further recover tariff (Energy and fixed charges) for the power scheduled by SLDC Odisha from U#4 to the DISCOMs of Odisha, treating the U#4 of OPGC as an embedded entity of Odisha. Therefore OPGC gets doubly benefitted even when it is apparent that they had violated the norms.

9. On the other hand, if the drawal schedule of GRIDCO is not prepared considering its share in OPGC(U#4), the actual drawal of GRIDCO gets inflated to the extent of flow through the sectionalizer breaker between U#3 and U#4. Consequently GRIDCO may end up paying huge DSM penalty for no fault of theirs.

10. This would lead to serious distortion in DSM accounting.

11. Considering all these factors and taking into consideration that the ERLDC has already filed a petition in CERC regarding the issue of the closing of bus sectionalizer between U#3 and U#4 of OPGC, ERPC has held the DSM accounting of GRIDCO & OPGC in abeyance pending decision of CERC on ERLDC petition and/or direction from competent authority."

30. In view of the aforesaid submissions, it is submitted that the OPGC-Jharsuguda 400 kV D/C Line may be declared as the inter-state tie line w.e.f. the time of bus coupler's closure on 27.08.2019.

31. ERLDC Charges: On 01.10.2019, ERLDC raised a bill for a sum of INR 3,53,754/- on account of purported RLDC charges for September 2019. It is submitted that RLDC charges are payable only by 'regional entities'. Since OPGC moved to SLDC's jurisdiction w.e.f. 27.08.2019, it is prayed that the aforesaid charges not be levied on OPGC for September 2019 and the said bill dated 01.10.2019 be quashed and set aside.

Reply of OGPTL vide affidavit dated 15.11.2019

32. OGPTCL has mainly submitted arguments related payment of transmission charges by OPGCL which has already been decided in 128/MP/2019. OGPTL has submitted that OPGC, has filed Petition No. 380/MP/2019, for seeking reliefs, however, it has not made any payment of transmission charges to the OGPTL, who is a TBCB licensee, and the line built by OGPTL is a "ISTS transmission line". OPGCL has to make payment of transmission charges under non-POC mechanism, and thereafter the said transmission line may be included under the POC mechanism for recovery of transmission charges. Post relinquishment, the OPGCL is liable to make payment of relinquishment charges.

Reply of ERLDC vide affidavit dated 28.3.2022

33. ERLDC has submitted its reply in compliance of RoP dated 10.03.2022 which is similar to its reply in Petition 380/MP/2018 noted at Para 14 above.

34. The present petition was heard on 12.4.2022 where Commission had reserved the Order. However as the Petition could not be disposed of, prior to the then Chairperson demitting office, the petition was reheard on 12.7.2022. During the course of hearing, the learned counsel for the parties submitted that the matter has already argued at length and prayed to pass order based on documents available on record and the Commission reserved the Order.

Analysis and Decision

35. The Petitioner in Petition No. 380/MP/2019 OPGCIL, has established a Thermal Power Plant in the Jharsuguda District of Odisha ("Plant"). Units 1 and 2 of the Plant, with a capacity of 210 MW each, have been in operation since the year 1994. In 2019, OPGC commissioned Units 3 and 4 of the Plant, each with a capacity of 660 MW each ("Expansion Project"). The entire quantum of electricity generated at Units 1 and 2 of the Plant is sold to GRID Corporation of Odisha Limited ("GRIDCO"), the exclusive procurer of power for the distribution companies of the State of Odisha, under the terms of the Bulk Power Supply Agreement dated 13.08.1996, as amended by the Supplementary Agreement dated 19.12.2012.

36. Petitioner OPGCL has filed instant Petition No. 380/MP/2019 *inter-alia* seeking approval of the Commission to operate both the Units (Unit 3 and Unit 4 of 660 MW each) under a common bus arrangement mode by closing bus coupler at its switchyard 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. The Petitioner also sought a declaration that Unit 4 of its project be declared as a State entity under the jurisdiction of State Load Despatch Centre.

37. Petitioner has submitted that initially, 50% of power to be generated at OGPC's expansion project (Unit 3 & Unity 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.

38. Petitioner has further submitted that, 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. 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.

39. Petitioner has stated that due to the turn of events beyond its control, OPGCL was 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. Further 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.

40. Petitioner has submitted that a meeting was held on 20.11.2019 to discuss the commercial and operational issues involved in operating the bus coupler in closed position. 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. 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.

41. Petitioner has submitted that 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.

42. Petitioner has submitted that as regards the relinquishment charges, OPGCL 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.

43. ERLDC has filed Petition No. 334/MP/2019 seeking direction to the OPGCL to open the bus sectionaliser breakers between Unit-3 (connected to STU) and Unit-4 (connected to CTU) which has been closed without any concurrences/switching-in code from the ERLDC and by scheduling of the power of Unit- 4 to the State of Odisha, OPGCL and SLDC, Odisha have violated the Regulations 6 and 8 of the Central Electricity Authority (Grid Standards) Regulations, 2010, Sections 29 (2) and 29(5) of the Electricity Act, 2003 and Regulations 2.3.1 (5), 2.3.1(6) and 2.3.1(7) of the IEGC.

44. OPGCL as a respondent in Petition No.334/MP/2019 has submitted that it 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, 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.

45. Respondent No. 5, Gridco Limited has submitted that GRIDCO supports the case of OPGCL. Commercial objections such as the payment of relinquishment charges cannot come in a way of considering the closing of bus coupler.

46. Respondent No. 5, Gridco Limited has further submitted that 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.

47. Respondent CTUIL has submitted that 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 that since OPGC-Jharusguda line had not been planned as tie-line, the same cannot be considered as tie-line.

48. Petitioner has submitted that once OPGC-Jharsuguda line is considered an ISTS line , POC pool has to pay transmission charges to OPGC transmission company and when the PoC pool is paying transmission charges for the OPGC-Jharsuguda Line, there is no Stranded Capacity to begin with and no Relinquishment Charges can be levied on the Petitioner for the time period after 26.12.2018.

49. After considering the submissions of the parties and perusal of documents available on record, following are the issues which arises for our consideration:

Issue No. 1: Whether Petitioner can be allowed to close the Bus Coupler between Unit # 3 and Unit # 4 and run in common bus operation mode?

Issue No. 2: Whether OPGCL shall be under control area of State or RLDC after closure of bus coupler?

Issue No. 3: Whether closing of the Bus Coupler amounts to dual Connectivity for the same capacity?

Issue No. 4: What are the other commercial issues in operating in common bus operation mode and what shall be treatment of such issues? What shall be treatment of OPGC-Jharsuguda D/C line constructed as ISTS? Whether it can be treated as tie line of Orissa?

Issue No. 5: Whether OPGCL violated the Grid Code by closing the bus coupler without seeking code from ERLDC or SLDC?

Issue No. 6: What shall be the treatment of DSM for period between 28.8.2019 to 29.10.2019?

The issues are dealt with in subsequent paragraphs.

Issue No. 1: Whether Petitioner can be allowed to close the Bus Coupler between Unit # 3 and Unit # 4 and run in common bus operation mode?

50. Petitioner OPGCL has sought closing of bus sectionaliser between Unit # 3 and Unit # 4 and deliver power to Respondent No. 5, GRIDCO Limited through Respondent No. 6's STU network.

51. We have considered the submissions of Petitioner and Respondents. The issue of closing the bus sectionaliser has been discussed at various meetings which have been perused. Further the evacuation system for petitioner OPGCL has been planned and discussed by CTU in 2013. We have perused the matter starting from approval of evacuation system for petitioner as follows:

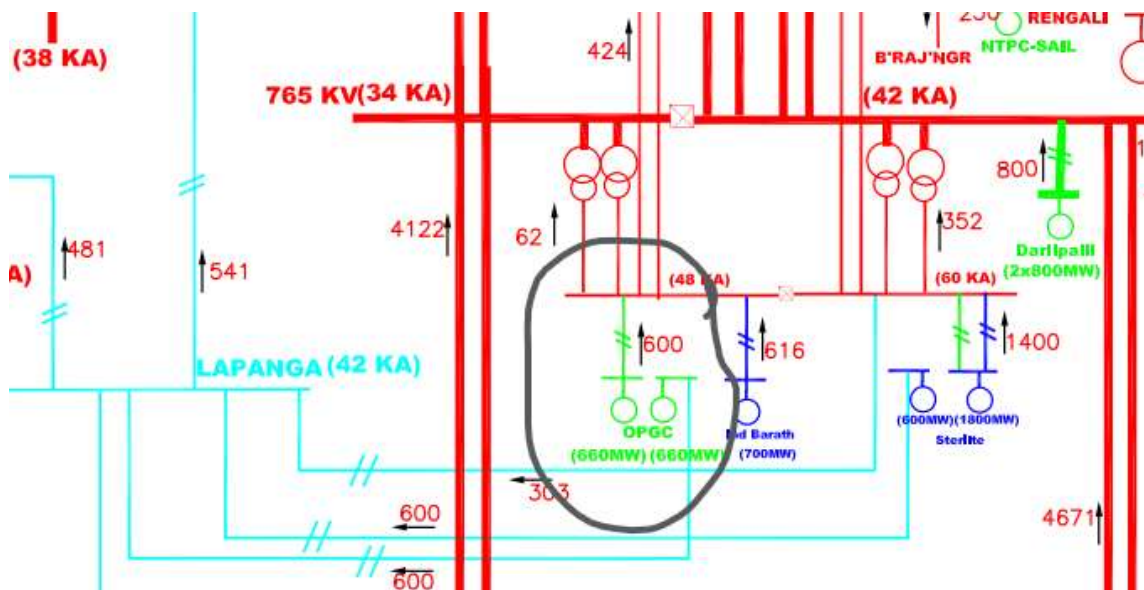
(a) LTA/Connectivity meeting for Eastern Region held on 5.1.2013

Minutes provides as follows:

“• OPGC (Connectivity : 618 MW, LTA : 600 MW)

The generation developer informed that the proposed plant will be constructed within the existing boundary of Ib Thermal Power Station and 100% Land is already in possession with OPGC. For fuel, OPGC has already been allocated two captive coal mines by MoC at Manoharpur & Dip-side Manoharpur, Sundergarh, Odisha. MoEF has already given in principle clearance on 4th - Feb-2010. Forest clearance is already obtained. Loan has been sanctioned from PFC & REC and financial closure is expected in Q2-2013. PPA has been signed with GRIDCO for sale of 50% power. Balance power is to be sold through combination of long term (Case-I bidding) and short term contracts. The expected commissioning schedule is Q2-2016. It was decided to approve the proposal for grant of connectivity & LTA to OPGC. POWERGRID informed OPGC that the transmission line form the generation project to Jharsuguda sub-station would be implemented through Tariff Based Competitive Bidding (TBCB).”

From above it is clear that Connectivity to ISTS was sought for 618 MW only. Further the Agenda dated 26.12.2012 for the said meeting provided system study as follows:



From above it can be concluded that system studies considered while granting the Connectivity and LTA were considering one unit connected to Orissa system, one unit to ISTS without any connection between the two units. This fact has been submitted by CTU also in its various submissions.

(b) Petitioner OPGC has filed a System study (Planning), for synchronizing 3rd & 4th Units of 660 MW each of IB TPS with OPTCL system at Lapanga 400 kV and CTU system at Jharsuguda , conducted by OPTCL and furnished to OPGC vide letter dated 4.1.2019 which provides as follows:

“SYSTEM STUDY

(A)Power Flow Study (Ref page 1-10)

For power evacuation, the future network of Orissa Grid in 2018-19 has been considered.

SYSTEM			LINE LOADING (%)
Generation (MW)	Load (MW)	% Loss	lb-Lapanga
31280	29599	2.628	32.9

(B)Short Circuit Study

The fault level (phase) of 400 kV bus at IB(M/S OPGC), for the aforesaid types of fault is tabulated below:

Type of Fault: 3 phase to ground			Type of Fault: Single line to ground	
Fault MVA (Phase)	Fault Current (KA)		Fault MVA (Phase)	Fault Current (KA)
21547	31.101		17429	25.157

(C) CONCLUSION

The network is adequate (for connecting 3rd & 4 th Units of IB TPS of 660 MW each with OPTCL system in the Bus coupler closed condition at IB)

The voltage at different grid Substations are within permissible limits .

❖ In case of alteration of power, system study needs to be conducted afresh on the changed scenario, on payment of requisite fee by the firm.”

As per above studies by OPTCL, it has concluded that OPTCL system is adequate if Unit # 3 and Unit # 4 are connected with bus coupler closed. The study has assumed OPGC-Jharsuguda line connected at OPGCL.

(c) 153rd Meeting of the ERPC OCC held on 21.01.2019:

“Item No. B.6: Evacuation of Power from OPGC expansion project-modification of network configuration--GRIDCO

Two units of Odisha Power Generation Corporation (OPGC) with 660 MW capacity each are going to be commissioned shortly. Both the generating units are under advanced commissioning stage and most likely attain COD within April-2019. Entire capacity (2 x 660 MW) is meant for the State of Odisha as per the Government of Odisha notification. OPGC & GRIDCO are in the process of executing the PPA for entire capacity. Under such arrangement OPGC Station shall become State embedded unit.

Power evacuation scheme has been proposed with SPLIT BUS arrangement at IbTPS (OPGC) switchyard with one unit (Unit # 3) connected to STU system at Lapanga Sub-station through 400 kV D/C line and the other unit (Unit # 4) shall be connected to 765 kV / 400 kV Jharsuguda PG through 400 kV D/C line.

Presently, both transmission systems are already charged under SPLIT BUS condition.”

In view of the above, it is felt necessary to operate both units (2 x 660 MW) in COMMON BUS mode having connectivity with both STU & CTU system for a reliable, efficient, secured & stable grid.

In the above common bus arrangement as proposed the 400 kV IbTPS-Jharsuguda PG D/C line needs to be declared as the interstate tie lines of Odisha.

OPTCL has conducted the System Study (Short Circuit & Load Flow Analysis) under COMMON BUS mode and found technically suitable within permissible limits.

The Committee may deliberate and finalize the common bus arrangement for evacuation of power from OPGC (2 x 660 MW) new plant.

GRIDCO may explain.

Deliberation in the meeting

OCC advised GRIDCO to submit the proposal to CEA for detailed discussion in Standing Committee.”

As per above, Gridco proposed seeking permission to close the bus coupler between Unit # 3 and 4 in pursuance to Petitioner’s plan to operate the bus coupler between Units 3 and 4 in closed condition for common bus mode operation. OCC advised GRIDCO to submit the proposal to CEA for detailed discussion in Standing Committee.

(d) Meeting convened by CEA on 26.3.2019 records as follows:

2. Chief Engineer (PSP&A-II) CEA informed that Odisha Power Generation Corporation (OPGC) is constructing power project of 2x660MW (Ib Valley U-3 & 4), out of which Unit-3 would be connected to STU system through OPGC- Lapanga 400kV D/c line (with twin moose conductor of 85 deg. C rating) and Unit-4 would be connected to ISTS through OPGC-Sundargarh 400kV D/c ISTS line (with triple snowbird conductor, under TBCB route). **As the connectivities are separate for the two units, i.e. U-3 with STU and U-4 with ISTS, the system has been planned with a bus sectionaliser in generation switchyard, which would be normally kept open.**
3. Representative of OPGC informed that Unit 3 and Unit 4 would be commissioned by the end of April, 2019 and May, 2019 respectively. He said that OPGC had taken connectivity and LTA for 660 MW (Unit-4) based on target region (200 MW for Northern Region, 200 MW for Western Region and 200 MW for Southern region). Subsequently, the coal linkage was cancelled due to coal blocks deallocation. Therefore, OPGC was compelled to purchase the coal from the state owned mining company (OCPL- Odisha Coal Private Limited). Odisha government while providing coal linkage from OCPL, allocated total power of Unit 3 & 4 (1320MW) to GRIDCO, Odisha for a period of 25 years. As per PPA, OPGC has to deliver this power to GRIDCO at their switchyard, therefore, they have requested CEA to approve the proposal of operating the system under common bus mode i.e. by closing the bus sectionaliser between Unit-3 (connected to STU) and Unit-4 (connected to ISTS).
4. Chief Engineer (PSPA-II) stated that in the PPA, if delivery point is OPGC switchyard, the requisite transmission access and charges are to be arranged/paid by GRIDCO. And under the present configuration, there is no constraint in transmitting power to Odisha as per the PPA. However, OPGC has voluntarily relinquished the LTA granted to them but connectivity agreement with CTU still exists. OPGC would need transmission access to ISTS for scheduling & dispatch of their power from U-4. For this, one of the options is that OPGC may again apply for LTA, or alternatively, OPGC may seek Short Term Open Access (STOA). As complete transmission system has already been built as per request of OPGC's LTA application, any constraint in scheduling of power even under STOA, is unlikely.
5. Member Secretary, ERPC stated that, after closing the bus sectionaliser, the scheduling of the Unit 4 would come under jurisdiction of SLDC, Odisha.
6. **Representative of GRIDCO, Odisha, stated that GRIDCO wanted to evacuate the entire power through their STU network and requested to examine the technical feasibility of the system under common bus mode. This way, they can also avoid any transmission charges (and losses) of the ISTS for drawing power from U-4 of OPGC. GRIDCO, however, would abide by all the commercial terms and conditions, as per CERC regulations/order.**
7. Representative of CTU stated that by closing the bus sectionaliser, the entire power (1320 MW) may not flow towards Odisha system through the STU network (OPGC-Lapanga 400 kV D/c line), as some power would also flow **through the ISTS network (OPGC-Sundargarh 400kV D/c line). Also, if there is N-1 contingency on OPGC-Lapanga 400kV D/c line, the power flow on the other circuit may be on the higher side (near thermal limits) in some conditions. However, in case of outage, of both circuits of OPGC-Lapanga (twin moose) line, entire power will have to be**

evacuated through OPGC- Sundargarh ISTS line, which is of higher capacity (triple snowbird).

8. **Chief Engineer (PSPA-II) added that under separate bus mode, the reliability is better than that under common bus mode due to insufficient transmission capacity of the OPGC-Lapanga 400kV D/c line under N-1 conditions.**
9. *Representative of CTU further stated that OPGC-Sundargarh 400kV D/c ISTS line has been built under TBCB and executed by Odisha Generation Power Transmission Company Ltd (OGPTL, a subsidiary of Sterlite). The line has been exclusively built for evacuation of power from OPGC (Ib Valley) U 4 (660 MW) power. As the LTA has been relinquished, the additional burden of OPGC-Sundargarh ISTS line would lie on all the other DICs/states. Therefore OPGC may consider sharing the entire transmission charges of the OPGC- Sundargarh ISTS line as it would be used primarily by them.*
10. *Regarding avoidance of ISTS charges (and losses), Chief Engineer (PSP&A- II) said that investment in the ISTS for evacuation of power from OPGC has already been carried out. If sectionaliser is closed, these assets would be used by OPGC but the charges for the same would not be shared by them. Such scenario would be unfair to other states/DICs. He opined that, the other states may also follow example of OPGC/GRIDCO and also take cue from some of the CERC orders (e.g. dated 09.03.2018 on Petition No. 20/MP/2017 and dated 04.05.2018 on Petition No. 126/MP/2017).*
11. *Representative of the BSPTCL stated that the matter would be examined in detail and their opinion would be conveyed in due course.*
12. *In view the above, the following was concluded:*
 - a. *The proposal of OPGC/GRIDCO regarding closing of bus sectionaliser between U-3 (connected to STU) and U-4 (connected to ISTS) is feasible, but with compromise in N-1 reliability, as explained in above discussion.*
 - b. *There is no constraint in evacuation of power from U-4 in the planned arrangement i.e. with sectionaliser kept as open.*
 - c. *OPGC U-4 is connected with ISTS and they may seek Long term/Short term open access in the ISTS for scheduling their power to Odisha, as per their PPA. "*
 - d. *OPGC may approach CERC, if desired, for resolution of above technical/commercial matters."*

As per the above meeting, it is observed that both CTU and CEA opined that OPGC-Lapanga line of STU is insufficient to cater to N-1 conditions under closed bus coupler operation. Hence, they did not recommend the closed bus coupler operation.

(e) 156th ER OCC Meeting held on 25.4.2019 wherein following is recorded:

“Item No. B.7: Connectivity/Evacuation system for OPGC IBTPS thermal power project in Odisha---GRIDCO

*The agenda received from GRIDCO is enclosed at Annexure-B7.
Members may discuss.*

Deliberation in the meeting

OCC advised OPGC to approach CERC as per the decision taken in the meeting held at CEA on 26.03.2019. In view of commissioning of unit #4 by May 2019 and immediate connectivity with the grid, OPGC was advised to approach CEA for necessary connectivity arrangement and mode of operation.

ERLDC informed that unit #4 of OPGC is still registered as a central sector unit.

OCC suggested OPGC to interact with appropriate authority to review the status of unit #4 of OPGC as state sector unit”

(f) Minutes of the Meeting dated 23.8.2019 for 2nd Eastern Region Standing Committee on Transmission (ERSCT) held on 5.7.2019 wherein the following was recorded:

“17.3 Chief Engineer (PSPA-II), CEA stated that on this issue a meeting was held in CEA on 26.03.2019, wherein following were concluded:

.....

(b) There is no constraint in evacuation of power from U-4 in the planned arrangement i.e. with sectionaliser kept as open.

(c) OPGC U-4 is connected with ISTS and they may seek Long term/Short term open access in the ISTS for scheduling their power to Odisha, as per their PPA.

(d) OPGC may approach CERC, if desired, for resolution of above technical/commercial matters.

.....

17.8 Accordingly, the proposal of OPGC for closing the bus sectionaliser between Unit-3 (connected to STU) and Unit-4 (connected to ISTS) could not be agreed by the ERSCT.”

(g) Ministry of Power, Government of India also convened a joint discussion of all the concerned parties on 30.7.2019 as regards operation of the Petitioner's generation plant in common bus operation mode where in following is observed:

"2. Representative of Odisha stated that the COD of Unit 4 of the 1b Thermal Power Plant is scheduled within the next few days and due to changes in circumstances, the State Govt. of Odisha has decided to take the entire power from OPGC for the State. As OPGC is a State Generating Company and the power is to be consumed within the State, the State Govt. has viewed that the power be evacuated through the state transmission network in order to optimize the transmission cost. Accordingly OPGC has relinquished the LTOA and relinquishment charges have been imposed on OPGC as per CERC Regulations. OPGC, therefore have requested for the closing of the concerned bus coupler (otherwise meant for split bus operation) for the evacuation of power through STU network.

3. Representative of CEA stated that though OPGC has relinquished the LTA but connectivity agreement with CTU still exists and there is no provision for relinquishment of connectivity. It was further stated that as already discussed in the meeting held under Chairperson CEA on 26.03.2019, it was intimated to OPGC that though their proposal for closing of the bus coupler is feasible but this would compromise on the N-1 reliability and would also have commercial implications. Further he stated that in the meeting it was decided that OPGC may approach CERC for desired resolution of the technical/commercial matters.

4. Representative of CTU stated that the said line has been built under ISTS and there is no constraint in evacuation of power with the bus coupler kept as open, as originally planned. However, since Odisha has decided to relinquish the LTA and decided to evacuate power from existing STU line the same may have to be strengthened for evacuation of power. CTU also opined the loss of N-1 reliability in the proposal of OPGC.

5. Representative of CEA stated that other members in the Eastern Region i.e. Bihar State Power Transmission Company Ltd. have conveyed in reference to the proposals of OPGC, that in case of any change in scheme is adopted there should not be any extra financial burden on them.

6. Representative of CERC stated that they can always approach CERC which will take a considered decision keeping in view all the facts. Further, in case of urgency, Odisha can also pray for an interim order which can be granted on merit.

7. CE (Trans) stated that the proposal of OPGC has technical as well commercial implications, and referring to the decisions of meeting held in CEA on 26.03.2019 as above, CE (Trans). MoP asked that Odisha to approach the CERC for resolution of technical/commercial matters."

As per above CTU reiterated its concern on loss of N-1 reliability in closed bus coupler operation.

(h) Meeting conducted by ERLDC on issues related to closing of bus sectionaliser between units 3 and 4 on 29.10.2019, records as follows:

- i. *ED ERLDC welcomed the participants. He informed that ERLDC has filed a petition (334/MP/2019 before CERC regarding other regulations of CERC while closing the bus sectionaliser breaker between Unit-3 & Unit-4 of OPGC. The petition was heard by CERC on 17.10.2019 Subsequently CERC issued Records of the Proceeding. Vide Para (5) of ROP of the same petition, Hon'ble Commission directed OPGC to open the bus sectionaliser breaker between Unit-3 and Unit-4 and make an application to ERLDC for necessary permission for closing bus sectionaliser as per applicable Regulations. The Commission also directed ERLDC to decide upon the application of OPGC within seven days.*
- ii. *As a follow up of the above, in compliance to the CERC direction in ROP dated 22.10.2019, OPGC has opened the bus sectionaliser breakers between Unit-3 & Unit-4 of OPGC on 23.10.2019 at 23:46hrs respectively after giving due intimation to ERLDC and obtaining necessary code from ERLDC, OPGC has also requested ERLDC to issue necessary code from closing of the bus sectionaliser.*
- iii. *In view of the above, ERLDC has convened a meeting involving all stakeholders, i.e. ERPC, ERLDC, CEA, CTU, OPGC, SLDC Odisha, GRIDCO & OPTCL at ERLDC Kolkata to discuss the issues related to closing of bus sectionaliser between U-3 (connected to STU) and U-4 (connected to ISTS) of OPGC. Representative of CEA was not present in the meeting.*
- iv. *Member Secretary, ERPC requested ERLDC and SLDC, Odisha to share the operational experience including the reliability and security aspect of the grid during the period from 27.08.2019 to 23.10.2019 when the bus sectionaliser between Unit#3 and Unit#4 of OPGC was in closed condition. Both SLDC and ERLDC expressed that there was no issue related to operational security or reliability. However, ERLDC added that, during this period, both Unit-3 & Unit-4 simultaneously operated at full load only for a very short period of time during which there was no abnormality observed in the system.*
- v. *Representative of CTU informed that there is no constraints in power evacuation with present bus split arrangement i.e. U-3 is connected to STU (at Lapanga) and U-4 is connected to ISTS (at Jharsuguda). **Further, if bus sectionaliser is closed, as per the system study the power flow tendency would be more towards Lapanga than towards Jharsuguda. Hence, if one circuit of OPGC-Lapanga D/C line trips then loading on other circuit may***

become critical and this may affect system security. CTU furthermore added that ISTS connectivity to OPGC was granted considering one unit i.e. Unit-4 only. For exchange of power with ISTS through OPGC – Jharsuguda line, as per CERC Regulations OPGC needs to have access, as by closing the bus sectionaliser OPGC would be utilising the ISTS system. Further, by closing the bus sectionaliser, Unit-3 of the station would also get connected to ISTS and simultaneously to STU (OPTCL). **However, as per CERC Connectivity Regulations dual connectivity for same capacity is not allowed.**

- vi. *Further, the proposal regarding closing of bus sectionaliser was also discussed in the 2nd meeting of Eastern Region Standing Committee on Transmission (ERSCT) held on 05.07.2019, wherein constituents raised concerns regarding commercial implications to them as a result of closing of bus sectionaliser by OPGC. Accordingly, the proposal for closing of bus sectionaliser was not agreed in the 2nd meeting of ERSCT. Hence the matter should be referred to CERC as already decided in the meetings held at MoP, CEA, and ERSCT.*
- vii. **ERLDC as well as OPTCL/SLDC Oddisa informed that, as per operational studies with both 400kV OPGC-Jharsuguda D/C line & 400 kV OPGC-Lapanga D/C Line available, no evacuation constraint is envisaged even under N-1 contingency.** GRIDCO/OPTCL/OPTCL/SLDC viewed that OPGC Generating station (Unit-3 & 4) should be considered as a State embedded entity.
- viii. *Member Secretary explained that by closing of bus sectionaliser to OPGC, Unit-3 will not be connected in an isolated manner to the ISTS but the entire STU system comprising Unit-3 together with 400 kV OPGC-Lapanga D/C STU Line will be connected to the ISTS. CTU opined that it may not be treated as ISTS and STU interconnection as the interconnecting switchyard of both U-3 and U-4 belongs to OPGC, not under STU (OPTC).*
- ix. **After Further deliberation, all members agreed that, will the availability of both 400kV OPGC – Lapanga and OPGC – Jharsuguda D/C line with closed bus sectionalizer operation mode no technical constraint is envisaged in evacuating both units of OPGC. Members other than CTU present in the meeting, generally favoured to close 400 kV Bus sectionalizer of OPGC as an interim measure till CERC issues a direction in this regard after hearing petitions 334/MP/2019 of ERLDC and 380/MP/2019 of OPGC.**
- x. *During this interim period, the control area jurisdiction of OPGC would be governed by Regulation 6.4.2.c.iii of IEGC.*
- xi. *OPGC/GRIDCO agreed to bear all applicable commercial liabilities/charges, if any, arising out of the closing of bus sectionaliser breaker between Unit#3 and Unit#4 of OPGC as per regulations/directions by CERC.”*

We observe that as per above meeting, ERLDC and OPTCL/SLDC Orissa did not envisage any evacuation constraint under N-1 contingency. However, CTU raised its concerns on flow towards Orissa system in case of outage of OPGC- Lapanga STU line.

52. Keeping in view discussions in meetings as quoted above, we observe that technically ERLDC and OPTCL did not envisage any issues, however CEA and CTU has raised concerns on 'N-1' contingency. Further other states of Eastern region have raised concerns on commercial liability may shift to them and concerns of double Connectivity for same capacity by CTU. Both these issues have been dealt with in Issue No.#3 and Issue No.#4 subsequently.

53. We observe that bus coupler has been allowed to be closed by ERLDC as decided in meeting dated 29.10.2019 and is in closed condition till date. ERLDC or CTU or any other stakeholder has not raised any technical issue in their submissions post the closing of bus coupler in 2019. However, Petitioner has submitted that appropriate System Protection Schemes ("SPS") can be implemented in the power station on the advice of SLDC Odisha/ ERPC. We have taken note of no objections of ERLDC and OPTCL and accordingly allow the bus coupler to be closed subject to our directions on commercial concerns raised in various meetings as decided in Issue No. #3 here. Further to alleviate concerns of CTU, we direct ERPC to discuss the matter of 'N-1' contingency for OPGC- Lapanga line and

requirement of suitable SPS, if any, or any other strengthening as may be decided at ERPC, with participation of OPGC, OPTCL and CTU.

54. It is pertinent to mention the following points raised by petitioner:

(a) In the closed bus condition, GRIDCO (Odisha) will be evacuating all the power generated at OPGCL's Expansion Project through STU's network, *i.e.*, *via* the OPGC-Lapanga 400 kV D/C Line. The STU's System Study has already concluded that the STU network is sufficient to evacuate the entire power (1320 MW) of the Expansion Project Further, common bus mode operation increases the system's reliability. On 20.11.2019, SLDC, ERLDC, ERPC and STU agreed that there is no technical constraint or concern in common bus operation of Expansion Project based on operational experience since 27.08.2019. Accordingly, the STU network is, in and of itself, is capable to evacuate the entire quantum of power tied up with GRIDCO at present.

(b) Under the closed bus condition, neither any part of ISTS is being used for wheeling electricity from OPGCL nor can any ISTS transmission losses possibly be caused on account of wheeling of power through the STU network.

55. Since we have allowed the bus coupler to be closed, it becomes important to clarify that all the system studies including the one done by OPTCL which have been referred to by Petitioner have been conducted considering OPGC-Jharsuguda line connected at OPGCL and carrying power of OPGCL under closed bus condition. The contention of Petitioner that STU network is sufficient and not using ISTS network to carry entire power of OPGCL is not correct and there is nothing on record to prove the same. As per the system study results filed by the petitioner, with U-3 & U-4 in

operation with closed bus, OPGC- Lapanga 400 kV line loading is only about 33%, which means balance power is being evacuated through OPGC- Jharsuguda line (through ISTS). Therefore, its not true that OPGCL is not using any ISTS network . The factual data on record submitted by ERLDC proves otherwise and the same has been dealt with while dealing IssueNo.4.

Issue No. 2: Whether OPGCL shall be under control area of State or RLDC after closure of bus coupler?

56. OPGCL has prayed to declare Unit #4 of the OPGCL's generating station as a State Entity and that the jurisdiction over the Unit # 4 for purposes of scheduling, despatch, metering, energy accounting and all other incidental matters lies with SLDC Odisha.

57. We have perused Regulation 6.4.2(c) of the IEGC as quoted below:

“(c) In other cases, the control area shall be decided on the following criteria:

- (i) If a generating station is connected only to the ISTS, RLDC shall coordinate the scheduling, except for Central Generating Stations where full Share is allocated to one State.*
- (ii) If a generating station is connected only to the State transmission network, the SLDC shall coordinate scheduling, except for the case as at (a) above.*
- (iii) If a generating station is connected both to ISTS and the State network, scheduling and other functions performed by the system operator of a control area will be done by SLDC,, only .if state has more than 50% Share of power, The role of concerned RLDC, in such a case, shall be limited to consideration of the schedule for inter state exchange of power on account of this ISGS while determining the net drawal schedules of the respective states. If the State has a Share of 50% or less, the scheduling and other functions shall be performed by RLDC.*
- (iv) In case commissioning of a plant is done in stages the decision regarding scheduling*

and other functions performed by the system operator of a control area would be taken on the basis of above criteria depending on generating capacity put into commercial operation at that point of time. Therefore it could happen that the plant may be in one control area (i.e. SLDC) at one point of time and another control area (i.e. RLDC) at another point of time. The switch over of control area would be done expeditiously after the change, w.e.f. the next billing period.”

58. We observe that as per clause (iii) of Regulation 6.4.2 (c) of the IEGC, if a generating station connected to both ISTS and State network and the State has more than 50% share of power, such generating station shall come under control area of SLDC. In the instant case, generating station of OPGCL is connected to both STU and ISTS with bus coupler in closed condition. Further as per Supplementary PPA signed on 24.1.2019 for sale of power from Unit # 4 to GRIDCO, approximately 75% power is for sale to GRIDCO till the year 2023, thereafter 100% installed capacity shall be sold to GRIDCO.

59. Accordingly, OPGCL shall be under control area of SLDC for its Unit # 3 and Unit # 4 under regulation 6.4.2 (c) (iii) of IEGC.

Issue No. 3: Whether closing of the Bus Coupler amounts to dual Connectivity for the same capacity?

60. CTU has contended that by closing the bus sectionaliser, Unit-3 of the station would also get connected to ISTS and simultaneously to STU (OPTCL). However, as per the CERC Connectivity Regulations, dual connectivity for same capacity is not allowed.

61. Petitioner has contended that in the present case, after closing the bus coupler, Expansion Project enjoys STU connectivity for its entire installed capacity *via* the

OPGC-Lapanga 400 kV D/C Transmission Line and no additional ISTS connectivity has been sought for Unit 4.

62. We have perused the 'Procedure for making an application for grant of connectivity in ISTS' dated 31st December, 2009 which provides following:

"1.4 The applicant (Generator/bulk consumer) already connected to grid (regional or state grid) or for which connectivity is already granted under the present arrangement, shall not be allowed to apply for additional connectivity for the same capacity. In case of extension of capacity of generator or bulk consumer, however, it shall be required to make application for connectivity as per the provisions of these procedures."

63. We observe that clause 1.4 of the Detailed Procedure prohibits, an entity already connected to regional or state grid, from seeking additional connectivity from ISTS for the same capacity.

2. However, we observe that even after closing the bus coupler, Unit # 3 has been granted connectivity to STU system and Unit # 4 to the CTU system, and once bus coupler is closed the power may flow either through STU system or ISTS or both STU system and ISTS depending on load generation balance. CTU and RLDC need to ensure that there is no operational constraint, and SPS etc, if required based on the system study which we have directed to be conducted by ERPC in Issue No. 1 at paragraph 52, is planned and implemented.

Issue No. 4: What are the other commercial issues in operating in common bus operation mode and what shall be treatment of such issues? What shall be

treatment of OPGC-Jharsuguda D/C line constructed as ISTS? Whether it can be treated as tie line of Orissa?

64. CTU has submitted with regard to closing of bus sectionaliser, that OPGC-Jharsuguda 400kV D/c ISTS line has been built under TBCB and executed by Odisha Generation Power Transmission Company Limited (OGPTL, a subsidiary of Sterlite). CTU has further stated that the line has been exclusively built for evacuation of power from OPGCL Unit 4 (660MW) power, and as the LTA has been relinquished, the additional burden of OPGC-Jharsuguda ISTS line would lie on all other DICs/states. CTU has suggested that OPGCL may consider sharing the entire transmission charges of the OPGC- Jharsuguda ISTS line as it would be used primarily by them.

65. Petitioner has submitted that Regulation 18 of the Connectivity Regulations concerns relinquishment of “long term access rights”. Since “open access” was sought and granted on a “dedicated transmission line”, it follows that relinquishment of “open access” involves relinquishment of the right to use “connectivity system”/ “dedicated transmission line”. Accordingly, OPGCL’s “connectivity” (and the associated transmission system) stands relinquished upon OPGCL’s relinquishment of its LTA. Petitioner has also referred to APTEL judgement dated 21.10.2020, where the OPGC-Jharsuguda D/C line has been directed to be recovered under POC.

66. GRIDCO has proposed to treat the OPGC-Jharsuguda line as a tie line of Orissa. However, the CTU has opposed the same and has submitted that the tie-lines are the lines connecting two control areas and in the present situation, the aforesaid

line cannot be treated as a tie-line in view of a generating station acting as the connection point between the two areas. CTU has further stated that as such, the proposal of GRIDCO to treat the connectivity line from the Petitioner's project as a tie line is not permissible and deserves to be rejected.

67. Respondent OGPTCL has submitted that from bare reading of LTAA and TA, it is evident that the Petitioner itself agreed to make payment of the transmission charges from the date of commissioning by executing aforesaid covenants with the Respondent No.7/ PGCIL. The Petitioner relinquished its LTA in December, 2018, which makes the Petitioner liable to pay relinquishment charges for surrendering the LTA dated 11.09.2013 granted to it by Respondent No.7/ PGCIL. However, relinquishment of LTA by the Petitioner does not absolve the Petitioner from making payment of transmission charges in respect of 400kV D/C OPGC-Jharsuguda line as the said line is being utilized by the Petitioner.

68. CTU has submitted that Connectivity for quantum of 618 MW granted to unit # 4 of the plant still subsisted despite relinquishment of LTA by the Petitioner, subject to payment of relinquishment charges. Thus, closing of bus sectionaliser by the Petitioner would result in transfer of power through ISTS grid as well as State network and was to ensue unfair burden on other beneficiaries of the ISTS.

69. CTU/PGCIL has raised following issues:

- (i) The tie-lines are the lines connecting two control areas. However, in the present situation, the aforesaid line cannot be treated as a tie-line in view of a generating station acting as the connection point between the two areas. As such, the proposal of GRIDCO to treat the connectivity line from the Petitioner's project as a tie line is was not permissible and deserved to be rejected.
- (ii) By virtue of operation of Regulation 8(6) of the Connectivity Regulations, the Petitioner cannot be allowed to transfer power through OPGC-Jharsuguda 400kV D/c line without obtaining the requisite access into the ISTS subject to payment of applicable transmission charges;
- (iii) Evacuation of power in common bus mode without obtaining long-term access into the ISTS will entail undue burden on other beneficiaries in the Eastern Region, who are not even parties to the present Petition.

70. Petitioner OPGCL submitted during hearing on 10.3.2022 that OPGC-Jharsuguda line is presently being used as a tie line for Odisha and it being an ISTS line, the transmission charges thereof are being recovered from the PoC Pool. Thus, the PoC Pool and the ISTS grid are currently getting the benefit of the use of the OPGC-Jharsuguda line being treated as a tie line. It further submitted that as such OPGCL does not require the said line, however, upon its disconnection, the said line may become stranded asset. Therefore, the OPGC-Jharsuguda line may be treated as a tie-line.

71. We have considered the submissions of Petitioner and Respondents. CEA in its meeting held on 26.3.2019 has recorded as follows:

“4. Chief Engineer (PSPA-II) stated that in the PPA, if delivery point is OPGC switchyard, the requisite transmission access and charges are to be arranged/paid by GRIDCO. And under the present configuration, there is no constraint in transmitting power to Odisha as per the PPA. However, OPGC has voluntarily relinquished the LTA granted to them but connectivity agreement with CTU still exists. OPGC would need transmission access to ISTS for scheduling & dispatch of their power from U-4. For this, one of the options is that OPGC may again apply for LTA, or alternatively, OPGC may seek Short Term Open Access (STOA). As complete transmission system has already been built as per request of OPGC’s LTA application, any constraint in scheduling of power even under STOA is unlikely.

.....

9. Regarding avoidance of ISTS charges (and losses), Chief Engineer (PSP&A-II) said that investment in the ISTS for evacuation of power from OPGC has already been carried out. If sectionaliser is closed, these assets would be used by OPGC but the charges for the same would not be shared by them. Such scenario would be unfair to other states/DICs. He opined that, the other states may also follow example of OPGC/GRIDCO and also take cue from some of the CERC orders (eg. dated 09.03.2018 on Petition No.20/MP/2017 and dated 04.05.2018 on Petition No. 126/MP/2017)..

...

(b)OPGC U-4 is connected with ISTS and they may seek Long term/Short term open access in the ISTS for scheduling their power to Odisha, as per their PPA.

..”

72. As per above CEA has raised concerns that after the investment in the ISTS for evacuation of power from OPGCL has been carried out, if sectionaliser is closed, these assets would be used by OPGC but the charges for the same would not be shared by them which would be unfair to other states/DICs. It was further concluded that OPGCL may seek Long term/Short term open access in the ISTS for scheduling their power to Odisha, as per their PPA since Unit # 4 is connected to ISTS.

73. Ministry of Power, Government of India also convened a joint discussion of all the concerned parties on 30.7.2019 where CEA stated that other members in the Eastern Region i.e. Bihar State Power Transmission Company Ltd. have conveyed in

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reference to the proposals of OPGCL, that in case of any change in scheme is adopted, there should not be any extra financial burden on them.

74. We observe that the CEA, CTU and other beneficiaries of Eastern region did not agree to closing of bus coupler due to commercial issues. They have raised concerns that Petitioner after having got constructed the ISTS system under its Connectivity and LTA, relinquished the LTA, is using the ISTS system but not paying the charges, consequently the same falling on other beneficiaries. Petitioner has stated that it is not using any ISTS.

75. We have perused the data submitted by ERLDC in compliance of RoP of hearing dated 10.3.2022, where in the year 2021, on average 200 MW is injected in the ISTS through the OPGC-Jharsuguda 400 kV Line; maximum injection is recorded 688 MW. Snapshots in view of usage of ISTS by OPGCL is below:

DATE	TIME	400 KV OPGC-Jharsuguda Line-1 &2 (MW)	OPGC Ex Bus Actual Generation(MW)	OPGC Total Schedule (MW)
13-Jan-21	13.45	667.93	843.93	850
13-Jan-21	14	678.69	845.49	850
13-Jan-21	14.15	672.59	852.58	850
13-Jan-21	14.3	688.87	843.67	850
5-Apr-21	19.45	-566.99	264.62	260
5-Apr-21	20	-556.22	263.78	260
5-Apr-21	20.15	-554.19	261.42	260
5-Apr-21	20.3	-545.16	269.64	260
5-Apr-21	20.45	-495.12	268.07	260

76. From the blockwise data it is observed that OPGC-Jharsuguda line is used significantly in evacuating power from OPGC station and also for drawing from grid when generation is low in OPGCL station..

77. The regulatory position with respect to transmission line OPGC-Jharsuguda is detailed as follows:

(a) Section 2(16) of Act provides as follows:

“(16) "Dedicated Transmission Lines " means any electric supply line for point to point transmission which are required for the purpose of connecting electric lines or electric plants of a captive generating plant referred to in section 9 or generating station referred to in section 10 to any transmission lines or sub-stations or generating stations or the load centre, as the case may be;”

The said OPGC -Jharsuguda line is for point to point transmission from OPGCL generating station to Jharsuguda.

(b) Further Section 10 of the Act provides duties of generating companies as follows:

“10. (1) Subject to the provisions of this Act, the duties of a generating company shall be to establish, operate and maintain generating stations, tie-lines, sub-stations and dedicated transmission lines connected therewith in accordance with the provisions of this Act or the rules or regulations made thereunder.”

Hence, it was duty of generating company to construct the said transmission line.

However we observe that CTU vide the intimation of Connectivity included the transmission line from OPGC-Jharsuguda “to be implemented by transmission

licensee". Hence, the said line has not been constructed by the generating company under Section 10 of the Act.

(c) The 2009 Connectivity Regulations as in vogue in 2013 when Connectivity to OPGCL was granted, provided for regulation 8(8), which reads as follows:

“(8) An applicant may be required by the Central Transmission Utility to construct a dedicated line to the point of connection to enable connectivity to the grid:

Provided that a thermal generating station of 500 MW and above and a hydro generating station of 250 MW and above, other than a captive generating plant, shall not be required to construct a dedicated line to the point of connection and such stations shall be taken into account for coordinated transmission planning by the Central Transmission Utility and Central Electricity Authority.”

Hence, as per above, for a thermal generating station of 500 MW above, there was an express provision that a dedicated line to the point of connection for such stations shall be taken into account for coordinated transmission planning by the Central Transmission Utility and Central Electricity Authority. Accordingly, CTU was taking such transmission lines under coordinated planning as ISTS. OPGC-Jharsuguda is one such line and there have been other transmission lines also taken up by CTU as ISTS which have been constructed for Connectivity of generating stations.

(d) Further, the above said provision was amended vide the Second Amendment to 2009 Connectivity Regulations dated 21.3.2012 which provided that the transmission charges for dedicated transmission line shall be payable by the generator even if the generation project gets delayed or is abandoned. The relevant portion of the said amendment is as follows:

“(2) The following two provisos shall be added after the proviso to clause (8) of Regulation 8 of the Principal Regulations, namely:

Provided further that the construction of such dedicated transmission line may be taken up by the CTU or the transmission licensee in phases corresponding to the capacity which is likely to be commissioned in a given time frame after ensuring that the generating company has already made the advance payment for the main plant packages i.e. Turbine island and steam generator island or the EPC contract in case of thermal generating station and major civil work packages or the EPC contract in case of hydro generating stations for the corresponding capacity of the phase or the phases to be commissioned, subject to a minimum of 10% of the sum of such contract values:

Provided also that the transmission charges for such dedicated transmission line shall be payable by the generator even if the generation project gets delayed or is abandoned.”

- (e) Commission amended the said Regulation 8(8) vide sixth amendment to 2009 Connectivity Regulations notified on 17.2.2017 which provided as follows:

“(8) The dedicated transmission line from generating station of the generating company to the pooling station of the transmission licensee (including deemed transmission licensee) shall be developed, owned and operated by the applicant generating Company. The specifications for dedicated transmission lines may be indicated by CTU while granting Connectivity or Long term Access or Medium term Open Access:

Provided that in case of a thermal generating station of 500 MW and above and a hydro generating station or a generating station using renewable sources of energy of capacity of 250 MW and above, CTU shall plan the system such that maximum length of dedicated transmission line shall not exceed 100 km from switchyard of the generating station till the nearest pooling substation of transmission licensee:

Provided that where the dedicated transmission lines have already been constructed/are under construction by CTU under coordinated transmission planning, the following shall apply:

(a) The transmission charges for such dedicated transmission lines shall be payable by the concerned generating company to the transmission licensee (including deemed transmission licensee) from the date of COD of the dedicated line till operationalisation of LTA of the generating station of the generating company:

(b) After operationalisation of the LTA, the dedicated transmission line shall be included in the POC pool and payment of transmission charges for the said dedicated transmission line shall be governed as per the CERC (Sharing of inter-state transmission charges and losses) Regulations, 2010 as amended from time to time.”

78. While making the provision that dedicated transmission line from generating station of the generating company to the pooling station of the transmission licensee (including deemed transmission licensee) shall be developed, owned and operated by the applicant generating Company, the treatment of such dedicated lines already constructed or under construction, was also included in the said amendment.

79. The genesis of the said transmission line from OPGC -Jharsuguda have been perused as follows.

(a) OPGCL applied for Connectivity of its Unit # 4 to ISTS which was granted by CTU vide its letter dated 8.4.2013 and modified vide letter dated 11.9.2013. The intimation letter dated 11.9.2013 provides as follows:

“

CON-3

Intimation for Grant of Connectivity

1	<i>Intimation No.</i>	<i>C/CTU/TA/C/E/13/02-Rev1</i>
	<i>Date :</i>	<i>11-09-2013</i>
2	<i>Ref. Application No. & Date</i>	<i>Vide letter dated 22-11 -2011 & 30-05-2013</i>
3	<i>Name of the Applicant</i>	<i>Odisha Power Generation Corporation Ltd.</i>
4	<i>Address for Correspondence</i>	<i>Shri Ritwik Mishra DGM(Commercial) Odisha Power Generation Corporation Ltd. Zone-A, 7th Floor, Fortune Towers Chandrasekharpur, Bhubaneswar - 751023 Ph : 0674-2303765, 9937022477 Fax: 0674-2303755 Mail: ritwik.mishrai@QJaes.com</i>
5.	<i>Nature of the Applicant</i>	
	<i>Generator (other than captive)</i>	<i>Generator</i>
	<i>Captive Generator</i>	
	<i>Bulk Consumer</i>	
6.	<i>Details for Connectivity</i>	

6a	Capacity(MW) for which connectivity is granted	618 MW
6b	Point at which Connectivity is granted	Jharsuguda (Sundargarh) 765/400kV substation of POWERGRID (under implementation)
6c	Date from which connectivity is granted	July-2017
6d	Transmission System Required for Connectivity	OPGC (IB TPS) - Jharsuguda (Sundargarh) 400kV D/c line with Triple Snowbird Conductor (to be implemented through Tariff based Competitive Bidding Route)
6e	Implementing Agency for transmission system required for connectivity	Transmission Licensee [to be selected through Tariff based Competitive Bidding (TBCB) route]
6t	Agencies between which agreement is to be signed for implementation of transmission system required for connectivity	Applicant & CTU/Transmission Licensee
7	Transmission Charges Applicable for the transmission System	As per CERC regulations

Annexure-2

Transmission system for immediate evacuation of the generation projects

1.	Sterlite (IC-2400MW, LTA-1000MW)
	• Sterlite - Jharsuguda (Sundargarh) 400kV D/c line (2nd line) alongwith associated line bays at both ends : to be implemented by the generation developer
2.	GMR Energy Limited (Phase-II) (IC-350MW, LTA-220MW)
	• GMR-Angul 400kV D/c line with quad Moose conductor with associated line bays at both ends (already under implementation by generation developer with Phase-I Project)
3	OPGC (IC-1320MW, LTA-600MW) (ISTS System)
	<ul style="list-style-type: none"> • OPGC - Jharsuguda (Sundargarh) 400kV D/c line (Triple Snowbird Conductor) : through Tariff Based Competitive Bidding (TBCB) • 2 nos. 400 kV line bays at generation switchyard : under scope of generation developer • 2 nos. 400 kV line bays at Jharsuguda (Sundargarh): under scope of POWERGRID

(b) CTU entered into Transmission Agreement with OPGCL dated 11.9.2013 which provides as follows:

B) AND WHEREAS "OPGC" is desirous to avail connectivity to ISTS in accordance with Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 hereinafter referred to as "Connectivity Regulations", and Procedures stipulated thereof for transmission of power as per their application.

*C) AND WHEREAS Connectivity to be availed by "OPGC" is as per the dates, period and other conditions related to grant of connectivity contained in **Annexure 1**.*

*D) AND WHEREAS the dedicated transmission line required for direct injection/drawl of power from premises of "OPGC" to the suitable points of ISTS has been finalized in accordance with the provisions of the Electricity Act, 2003 and is to be built, owned, operated & maintained by ISTS Licensee as indicated at **Annexure2**.*

.....

E) AND WHEREAS the implementation of transmission system to be built, owned, operated and maintained by the ISTS licensee(s) who would be finalized through tariff based competitive bidding shall be in accordance with the directives of Empowered Committee constituted for identification of transmission projects.

I) AND WHEREAS "OPGC" has to share and pay all the applicable transmission charges of the total transmission system as indicated at Annexure 2 from the date of connectivity as mentioned at Annexure-1 or actual commissioning of the system, whichever is later, in accordance with the sharing mechanism as decided / notified / determined / adopted by CERC from time to time."

(c) It is clear from above that the genesis of OPGC-Jharsuguda line was for generating station OPGCL pursuant to its Connectivity. If OPGCL would have not been there or have not applied for Connectivity to ISTS, the said transmission line would not have been required.

80. APTEL vide Order dated 21.10.2020 in Appeal No. 16 of 2020 has held that in line with the TSA, the transmission charges from 26.12.2018 onwards shall be payable to the transmission licensee (OGPTL) from the POC pool in accordance with sharing regulations notified by the Central Commission. CERC notified CERC (Sharing of Order in Petitions No. 380/MP/2019 and 334/MP/2019

inter-State transmission charges and losses Regulations), 2020 ('the 2020 Sharing Regulations') on 4.5.2020 where the treatment of such dedicated lines constructed as ISTS was included at Regulation 13(9). The draft Regulations in this regard namely Draft Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2019 was notified 31.10.2019 along with detailed Explanatory Memorandum. After following due process of stakeholders consultation, the Regulations were finalized and notified on 4.5.2020 along with detailed Statement of Reasons. In fact, the Petitioner did not furnish any comment on the said provision related to payment of charges of dedicated line by the generating station. The 2020 Sharing Regulations became effective from 1.11.2020 has provided in Regulation 13(9) as follows:

“(9)Where a dedicated transmission line has already been constructed or is under construction by an inter-State transmission licensee under coordinated transmission planning of the Central Transmission Utility, the Yearly Transmission Charges for such dedicated transmission line shall be payable by the concerned generating station to the inter-State transmission licensee (including deemed inter-State transmission licensee) from the COD of the dedicated transmission line till operationalization of Long Term Access of the generating station. After operationalization of Long Term Access, Yearly Transmission Charge for the dedicated transmission line proportionate to the quantum of Long Term Access operationalized qua the quantum of Connectivity for the dedicated transmission line shall be considered in accordance with Regulations 5 to 8 of these regulations and the balance transmission charges shall continue to be paid by the generating station.”

The instant transmission line OPGC-Jharsuguda planned and developed for point to point connection of OPGCL generating company to Jharsuguda has been constructed pursuant to Connectivity granted to OPGCL and satisfies all aspects of dedicated line under the Act but only that it has not been constructed by the generating company as provided under Section 10 of the Act. We are of the view that OPGC-Jharsuguda line cannot be considered as a tie line of GRIDCO since

the said line has been constructed solely to cater to Connectivity of OPGCL and was not planned for drawl or injection by GRIDCO. We have also taken note of the concerns raised by other beneficiaries of Eastern Region regarding liability of the transmission system constructed for evacuation of OPGCL power coming on them.

81. We have already observed that said line was not required if the generating company was not there. The said OPGC-Jharsuguda D/C line is covered under the above quoted Regulation 13(9) of the 2020 Sharing regulations. We observe that OPGCL has relinquished the entire LTA from 1.1.2019. However, it is still connected to Jharsuguda through the said line and has Connectivity for 618 MW to ISTS. We also observe that TSA for OPGC-Jharsuguda transmission line has been signed between OGPTL and distribution licensees of Eastern region and APTEL vide Order dated 21.10.2020 in Appeal No. 16 of 2020 has directed that *“In line with the TSA, the transmission charges from 26.12.2018 onwards shall be payable to the transmission licensee (OGPTL) from the POC pool in accordance with sharing regulations notified by the Central Commission.”* Therefore, in accordance with APTEL Order dated 21.10.2020 in Appeal No. 16 of 2020, OGPTL shall be continued to be paid transmission charges for OPGC-Jharsuguda transmission line from the POC pool. However, considering that OPGCL has relinquished entire LTA but still has Connectivity for 618 MW and OPGC-Jharsuguda transmission line is of dedicated nature (constructed under coordinated planning of ISTS in accordance the then prevailing 2009 Connectivity regulations), we are of the view that in

accordance with regulation 13(9) of the 2020 Sharing regulations, w.e.f. 1.11.2020 OPGCL is liable to pay entire transmission charges for the OPGC-Jharsuguda transmission line. Accordingly, w.e.f. 1.11.2020 bills shall also be raised on OPGCL by CTUIL in accordance with the 2020 Sharing regulations and the amount received from OPGCL shall be adjusted in monthly transmission charges under the 2020 Sharing Regulations.

Relinquishment of OPGC-Jharsuguda line

82. As per CTU's submissions, it has not billed the instant transmission line from 1.11.2020 as required under regulation 13(9) of the 2020 Sharing regulations. CTU has considered the instant OPGC-Jharsuguda line as relinquishment of LTA. Let us examine if such a line constructed under Regulation 8(8) of 2009 Connectivity Regulations as it prevailed in 2013-14 when the instant line was awarded under TBCB to be developed by ISTS licensee qualifies for relinquishment.

83. Regulation 18 of 2009 Connectivity regulation provides as follows:

18. Relinquishment of access rights (1) A long-term customer may relinquish the long-term access rights fully or partly before the expiry of the full term of long-term access, by making payment of compensation for stranded capacity as follows:-

We observe that the 2009 Connectivity regulations provides for relinquishment of LTA. There is no provision of relinquishment of Connectivity. Petitioner OPGCL has contended that since it has relinquished entire LTA, its Connectivity stands relinquished. We are of the view that relinquishment of LTA does not mean

relinquishment of Connectivity. There is no provision where relinquishment of LTA means relinquishment of Connectivity since the generating station is still connected to and is using ISTS by way of injecting power into ISTS. The Petitioner cannot keep connected to ISTS, use the ISTS and contend that it is having no Connectivity.

84. We observe that CTU vide its methodology dated 9.8.2021 has uploaded calculations of relinquishment charges for dedicated lines under ISTS, as per which 66% of NPV for transmission charges for dedicated transmission line constructed as ISTS has been provided for. We observe that such dedicated transmission line constructed as ISTS pursuant to Connectivity granted to an applicant which is a point to point connection of generating company to ISTS is solely for purpose of such applicant and of no use if such generating station is not there. Keeping this in view, post sixth amendment to 2009 Connectivity regulations, such line has to be constructed by generating station itself. We have also perused Order dated 8.3.2019 in 92/MP/2015 where methodology for calculation of relinquishment have been directed. The following is noted:

“123. The methodology shall be applicable for the cases where the LTAs have been granted with identified system augmentation and generation projects have sought full or part relinquishment. The methodology shall not be applicable for dedicated transmission lines since it is the liability of the concerned generator to pay the transmission charges for such dedicated transmission line. ..

124.....

Step 3- The transmission lines/substations covered under the system augmentation in terms of the respective BPTA/LTA agreements of generators which have relinquished the capacity or abandoned the project shall be segregated and separately listed for use in Step 4 below.

Step 4-Flow in Step 1 (Base case), Step 2 (Relinquished scenario) and Step 3, i.e., in the transmission lines covered under BPTA/LTA agreements of generators who have relinquished the capacity or abandoned their projects shall be captured.”

The above clearly provides that methodology is only for transmission lines covered under BPTA/LTA Agreement. The LTA Intimation for OPGCL provides as follows:

		LTA -5
<i>Intimation for Grant of Long-Term Access (LTA)</i>		
1	Intimation No.	C/CTU/TA/L7E/13/01
	Date :	08-04-2013
2	Ref. Application No. & Date	1. Sterlite Energy Ltd. vide ref no. NIL dated 08-11-2010 2. GMR Kamalanga Energy Ltd. vide ref no. GKEL/PG:dated 10-08-2010 3. OPGC Vide dated 22-12-2011
3	Name of the Applicant	1, Sterlite Energy Ltd. 2 GMR Kamalanga Energy Ltd. 3. Orissa Power Generation Corporation Ltd.

5	Nature of the Applicant	
	<i>Generator (other than captive)</i>	Generator
	<i>Captive Generator</i>	-
	<i>Bulk Consumer</i>	-
	<i>Electricity Trader</i>	-
	<i>Distribution Licensee</i>	-
	<i>Others</i>	-
6	Details for Long Term Access (LTA)	
6a	Quantum (MW) for which LTA is granted	As per Annexure-1
7	Injection of Power (more than one only in case of single Drawal)	
	<i>Entity</i>	
	<i>State/Region</i>	As per Annexure-1
	<i>Quantum-1</i>	
	<i>Connectivity with the Grid</i>	As per Annexure-2
8	Drawal of Power (more than one only in case of single Injection)	As per Annexure-1
	<i>Entity</i>	
	<i>State/Region</i>	
	<i>Quantum-1</i>	

	Connectivity with the Grid	As per Annexure-2
9	<u>Transmission System for LTA</u>	<u>As per Annexure-3</u>
9a	Date from which LTA is granted	As per Annexure-1
9b		
	Date upto which LTA is granted	As per Annexure-1
9c	Implementing Agency for transmission system required for LTA	As per Annexure-3
9d	Agencies between which agreement is to be signed for implementation of transmission system	Applicant & POWERGRID and/or ISTS Licensee.
9e	Amount (in Rupees) for which Bank Guarantee is to be provided by the applicant (Construction BG)	5 Lakh/MW for LTA quantum as mentioned at Annexure-1. BG is to be furnished within 3months of signing of LTA agreement
10	Transmission Charges Applicable	As per CERC Regulations
11	Amount (in Rupees) for which Bank guarantee is to be provided by the applicant for Transmission Charges	Bank Guarantee is not required. Letter of Credit is to be furnished.

.....

.Annexure-3

Common Transmission System for Phase-II Generation Projects in Odisha

1. Being Implemented by POWERGRID

- Angul - Jharsuguda (Sundargarh) - Dharamjaygarh 765 kV D/c line.
This line is being implemented by POWERGRID as a part of evacuation system from generation projects in Srikulam area of Andhra Pradesh in Southern region. The same would also be utilized for evacuation of power phase-II generation projects in Odisha.

2. To be implemented by Powergrid

- Additional of 2x1500MVA, 765/400 kV ICTat Jharsuguda (Sundargarh).
- Additional of 2x1500MVA, 765/400 kV ICTat Angul
- Split bus arrangement at 400 kV and 765 kV bays in both Angul and Jharsududa (Sundargarh)Substations.

3. To be implemented through Tariff based Competitive Bidding (TBCB) Route

- Jharsuguda (Sundargarh) - Raipur Pool 765 kV D/c line.

- *LILO of both circuits of Rourkela - Raigarh 400 kV D/c (2nd line) at Jharsuguda (Sundargarh).*

The transmission system identified under LTA is as quoted as per Annexure-3. OPGC-Jharsuguda line is not covered under system identified under LTA and hence the methodology doesn't apply on the said transmission line constructed under Connectivity intimation.

85. We have already observed that there is no provision of relinquishment of Connectivity. A transmission line constructed pursuant to Connectivity cannot be treated as relinquished on relinquishment of LTA. The 2009 Connectivity regulations inter alia provides two products Connectivity and LTA. A number of generating companies have only obtained Connectivity and no or part LTA. The dedicated lines have been constructed under regulation 8(8) of the 2009 Connectivity regulations as it prevailed prior to Sixth amendment. It cannot be construed that with relinquishment of LTA, connectivity is also relinquished, since there is no provision for relinquishment of connectivity in the 2009 connectivity Regulation. Further, once the transmission line has been constructed under ISTS pursuant to Connectivity for a generating company, it cannot be treated as relinquished under LTA. The relinquishment of Connectivity (if such a provision was there) would have meant disconnection from Grid. We have already directed that OPGC-Jharsuguda D/C line shall be billed to such generating company under Regulation 13(9) of the 2020 Sharing regulations. Hence, we direct CTU to recalculate the relinquishment charges excluding the OPGC-Jharsuguda line.

86. We also direct that if the petitioner OPGCL wishes to relinquish its entire Connectivity with ISTS, it shall pay the entire charges of OPGC-Jharsuguda D/C line to CTU which shall be calculated as NPV of transmission charges quoted by the TBCB licensee for balance years discounted at a discount rate considered in bidding documents for such line. Thereafter OPGCL shall be disconnected from ISTS and charges recovered from OPGCL shall be adjusted in Monthly transmission charges under 2020 Sharing Regulations.

ERLDC has submitted that it has been considering Jharsuguda point as Gridco drawl point. We observe that OPGC-Jharsuguda line constructed as ISTS, pursuant to Connectivity of OPGC.

Issue No. 5: Whether OPGC violated the Grid Code by closing the bus coupler without seeking code from ERLDC or SLDC?

87. ERLDC filed Petition No. 334/MP/2019 seeking direction to the OPGCL to open the bus sectionaliser breakers between Unit # 3 and Unit # 4 and direction to SLDC, Odisha to stop scheduling of Unit-4 immediately. ERLDC submitted that by closing the bus sectionaliser breaker between Unit-3 and Unit-4 without any concurrences/switching-in code from the Petitioner and by scheduling of the power of Unit- 4 to the State of Odisha, OPGCL and SLDC, Odisha have violated the Regulations 6 and 8 of the Central Electricity Authority (Grid Standards) Regulations, 2010, Sections 29 (2) and 29(5) of the Electricity Act, 2003 and Regulations 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. ERLDC has prayed to initiate appropriate penal action against OPGCL and SLDC as per section 29(6) of the Electricity Act 2003 for failing to comply with direction of ERLDC. ERLDC has also stated that OPGCL has violated Clauses 5.1 and 5.2 of the Operating Procedures for Eastern Region.

88. OPGCL has stated that neither the Act, any of the regulations issued by this Commission nor any of OPGC's contractual arrangements prohibit OPGC from operating the sectionaliser breaker or bus coupler at its Plant in closed condition for common bus mode operation of the Power Station. OPGC approached ERLDC for charging code to close the bus coupler on 22.08.2019. Separately, OPGC also requested ERLDC to procedurally facilitate OPGCL's transition from ERLDC's jurisdiction to SLDC's jurisdiction. However, OPGCL's requests for charging code and shift of jurisdiction were both denied to OPGCL by ERLDC without citing any legally acceptable reasoning. To avoid stranding of power, OPGCL closed the bus coupler on 27.08.2019 with due intimation to ERLDC & SLDC.

89. OPGCL has further stated that ERLDC was under a legal obligation to facilitate OPGCL Unit 4's transition to SLDC's jurisdiction expeditiously. If ERLDC's actions are not scrutinized and declared illegal, RLDCs would have effectively have complete impunity to illegally take away a generator's right to Open Access under the garb of unquestionable technical gatekeeping autonomy. Closing of bus coupler does not amount to "introduce or take out an element of the grid". Neither a new element has

been introduced by OPGCL, nor has an existing element been removed by OPGCL. Accordingly, Regulation 6(1) of the CEA Grid Standards is inapplicable in the present case.

90. OPGCL has also claimed that ERLDC must indemnify OPGCL for the loss of tariff for periods when OPGCL could not supply power to GRIDCO on account of ERLDC's denial to issue charging code for closure of bus coupler.

91. SLDC, Odisha has submitted as under SLDC/OPTCL was not aware about the closing of bus sectionalizing breaker between Unit # 3 & Unit # 4 of OPGCL since OPGCL had not applied for charging code through SLDC before closing.

92. We have considered the submissions of Petitioner and Respondents. Regulations 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 provides for:

“2.3 Role of RLDC

2.3.1 According to sections 28 and 29 of Electricity Act, 2003, the functions of RLDCs are as follows:

(5) Every licensee, generating company, generating station, substation and any other person connected with the operation of the power system shall comply with the directions issued by the Regional Load Despatch Centers.

(6) All directions issued by the Regional Load Despatch Centers to any transmission licensee of State transmission lines or any other licensee of the State or generating company (other than those connected to inter-State transmission system) or substation in the State shall be issued through the State Load Despatch Centre and the State Load Despatch Centers shall ensure that such directions are duly complied with by the licensee or generating company or sub-station.

(7) If any dispute arises with reference to the quality of electricity or safe, secure and integrated operation of the regional grid or in relation to any direction given by the Regional Load Despatch Centre, it shall be referred to Central Commission for decision.

However, pending the decision of the Central Commission, the directions of the Regional Load Despatch Centre shall be complied with by the State Load Despatch Centre or the licensee or the generating company, as the case may be.”

93. Sections 29 (2) and 29(5) of the Electricity Act, 2003 provides for:

“Section 29. (Compliance of directions): ---

(2) Every licensee, generating company, generating station, sub-station and any other person connected with the operation of the power system shall comply with the directions issued by the Regional Load Despatch Centres under subsection (1).

.
.

(5) If any dispute arises with reference to the quality of electricity or safe, secure and integrated operation of the regional grid or in relation to any direction given under subsection (1), it shall be referred to the Central Commission for decision:

Provided that pending the decision of the Central Commission, the directions of the Regional Load Despatch Centre shall be complied with by the State Load Despatch Centre or the licensee or the generating company, as the case may be.”

94. Further Regulations 6 and 8 of the Central Electricity Authority (Grid Standards) Regulations, 2010 provides for:

“6. Coordination in Operations. - (1)

No Entity shall introduce or take out the element of the grid without the concurrence of the Appropriate Load Despatch Centre except *in case of imminent risk of safety of plant and personnel in which case it must intimate Appropriate Load Despatch Centre giving reasons therefore*

.....

*8. Instructions by Regional Load Despatch Centres and State Load Despatch Centres to be recorded.- (1) All operational instructions given by Regional Load Despatch Centres and State Load Despatch Centres through telephone, Fax, e-mail, etc shall be given **a unique operating code number** and every Regional Load Despatch Centre and State Load Despatch Centre shall maintain a voice recorder for recording and reproduction of conversation with time tag or stamp.”*

95. The relevant extracts of the Eastern Regional Operating Procedure developed in consultation with the regional constituents of Eastern Regions as mandated in IEGC (Indian Electricity Grid Code) clause no 5.1(f) is as below:

“5.1. Coordination of switching operations in the grid is important for ensuring safety of personnel and equipment as well as for ensuring adequacy and security of the grid. Before any operation of important elements of the Eastern Regional Grid is carried out on a User/STU system, the Users, SLDC, STU, CTU, licensee shall inform ERLDC, in case the Eastern Regional grid may, or will experience an operational effect.

5.2 In line with Regulation 6 (1) of the Central Electricity Authority (Grid Standards) regulations 2010, no entity shall introduce an element in the ISTS of Eastern Grid without the concurrence of ERLDC in the form of an operation code. In case a new power system element in Eastern Regional grid is likely to be connected with the Inter-State Transmission System or is to be energized for the first time, from the ISTS, the applicant User/STU/CTU/licensee shall send a separate request in advance along (Annexure A1-A6 at least 10 days prior & Annexure B1-B5 at least 3 days prior) with the confirmation of the following:”

96. We observe that OPGCL's Unit # 4 was connected to ISTS. OPGC was a registered user and it had also sought permission of ERLDC for drawal of start-up power which was availed by OPGCL after grant of same by ERLDC. We observe that OPGCL approached different for as requesting to allow it to close the bus coupler which was not allowed pending commercial issues to be taken up at the Commission level. Further, CTU had also raised concerns regarding 'N-1' contingency with closure of bus coupler also in the meetings.

97. Oblivious of technical issues and without giving any heed to threat to grid security, Petitioner OPGCL unilaterally closed its bus coupler without permission of ERLDC or even SLDC. We observe that 'bus coupler' very much qualifies as an element under the Grid Code and the Central Electricity Authority (Grid Standards) Regulations, 2010. When Petitioner could not get permissions as desired by it, it unilaterally took actions in violation Regulations and CEA Standards. We observe that the actions of petitioner were in utter violation of the Act under Section 29 where it is

specifically provided that in case of disputes with RLDC, pending the decision of the Central Commission, the directions of the Regional Load Despatch Centre shall be complied with by the State Load Despatch Centre or the licensee or the generating company, as the case may be.

98. The petitioner did not have visibility of the grid conditions which only a system operator can have. Accordingly, the Act has provided role to every entity including generating stations. Petitioner in hearing dated 10.3.2022 submitted that OPGCL tenders an unconditional apology for its action of closing the bus coupler and requested that the prayer regarding initiation of proceedings against the Petitioner under Section 142 of the Electricity Act, 2003 may be closed.

99. We have already observed that OPGCL violated the requirements of the Act, the Grid Code and the CEA Grid Standards. Keeping in view unconditional apology given by OPGCL, we are not inclined to initiate action under Section 142 of the Act. However, we warn the petitioner OPGCL against such action taken by OPGCL in violation of the Act and direct that it must ensure strict compliance to the Act and regulations issued thereunder.

Issue No.6: What shall be the treatment of DSM for period between 28.8.2019 to 29.10.2019?

100. In hearing dated 12.4.2022, ERLDC submitted that the Commission may issue an appropriate direction with regard to treatment of OPGCL, whether it shall be treated

as regional entity or State entity, for the purpose of deviation settlement and charges for the period between 28.8.2019 to 29.10.2019.

101. Petitioner has stated that on 04.10.2019, the ERLDC wrote to ERPC requesting ERPC to issue the DSM account for Unit # 4 from 26.08.2019 onwards by considering Unit # 4 as a 'regional entity' to maintain status quo during the pendency of the captioned Petition. On the same day (i.e., 04.10.2019), ERPC wrote a letter to the Secretary of this Commission stating as follows:

"6. While preparing the DSM Account for the week from 26.08.2019 to 01.09.2019, it was found that ERLDC has submitted the data considering injection schedule of U#4 of OPGC as "zero" whereas it has already been admitted by SLDC Odisha representative during the special meeting on 05.09.2019 that U#4 of OPGC is being scheduled by them. As a result, ERLDC is showing the entire injection by OPGC (U#4) as deviation. It was also found that ERLDC has considered Bus sectionalizer between U#3 & U#4 as tie line for determining the drawal of GRIDCO (Odisha).

7. If the DSM accounting is done based on the treatment being made by ERLDC w.r.t. OPGC generation, a serious flaw is emerging.

8. OPGC Ltd., who is considered a violator in this case, may end up getting significant amount from DSM pool of Eastern Region on account of over-injection against "ZERO" schedule (as treated by ERLDC). Further, OPGC would further recover tariff (Energy and fixed charges) for the power scheduled by SLDC Odisha from U#4 to the DISCOMs of Odisha, treating the U#4 of OPGC as an embedded entity of Odisha. Therefore OPGC gets doubly benefitted even when it is apparent that they had violated the norms.

9. On the other hand, if the drawal schedule of GRIDCO is not prepared considering its share in OPGC(U#4), the actual drawal of GRIDCO gets inflated to the extent of flow through the sectionalizer breaker between U#3 and U#4. Consequently GRIDCO may end up paying huge DSM penalty for no fault of theirs.

10. This would lead to serious distortion in DSM accounting.

11. Considering all these factors and taking into consideration that the ERLDC has already filed a petition in CERC regarding the issue of the closing of bus sectionalizer between U#3 and U#4 of OPGC, ERPC has held the DSM accounting of GRIDCO & OPGC in abeyance pending decision of CERC on ERLDC petition and/or direction from competent authority."

102. Petitioner has further submitted that OPGC-Jharsuguda 400 kV D/C Line may be declared as the inter-state tie line w.e.f. the time of bus coupler's closure on 27.08.2019 and that since OPGCL moved to SLDC's jurisdiction w.e.f. 27.08.2019, the ERLDC charges should not be levied on OPGCL for September 2019.

103. We have considered the submissions of ERLDC, OPGCL and ERPC. We observe that SLDC has been scheduling the OPGCL Unit # 3 and Unit # 4 from 27.8.2019. OPGCL generating station is connected both to ISTS and STU network on closure of bus coupler. Therefore, the energy deviations between 27.8.2019 to 29.10.2019 shall be calculated considering OPGCL as embedded entity of State and DSM for GRIDCO shall be calculated accordingly for the period 27.8.2019 to 29.10.2019. There shall be no separate deviation accounting by ERLDC for OPGCL under the CERC DSM regulations for such period. Since OPGCL was registered as a regional entity in September 2019, it shall be liable for ERLDC charges till 29.10.2019 as it continued to be registered as a regional entity.

Summary of Decisions

104. Based on the above discussions and findings, the summary of our decisions is as follows :

- a) The Bus Coupler between Unit # 3 and Unit # 4 is allowed to be closed and run in common bus operation mode.

- b) ERPC to address the issue of 'N-1' contingency for OPGC- Lapanga line and requirement of suitable SPS, if any, or any other strengthening, with participation of OPGCL, OPTCL and CTU.

- c) OPGCL for its Unit # 3 and unit # 4 shall be under control area of SLDC.
- d) OPGC-Jharsuguda line falls within the ambit of the Regulation 13(9) of the 2020 Sharing Regulations.
- e) In accordance with the Appellate Tribunal Order dated 21.10.2020 in Appeal No. 16 of 2020, OGPTL shall be continued to be paid transmission charges for OPGC-Jharsuguda transmission line from the POC pool. However, in accordance with Regulation 13(9) of the 2020 Sharing Regulations, w.e.f 1.11.2020 OPGCL is liable to pay entire transmission charges for the OPGC-Jharsuguda transmission line. Accordingly, w.e.f. 1.11.2020 bills shall also be raised on OPGCL by CTUIL in accordance with the 2020 Sharing regulations and the amount received from OPGCL shall be adjusted in monthly transmission charges under the 2020 Sharing Regulations.
- f) CTU shall recalculate the relinquishment charges excluding the OPGC-Jharsuguda line.
- g) In case, OPGCL wishes to relinquish its entire Connectivity with ISTS, it shall pay the entire charges of OPGC-Jharsuguda D/C line to CTU which shall be calculated as NPV of transmission charges quoted by the TBCB licensee for balance years discounted at a discount rate considered in bidding documents for such line. Thereafter OPGCL shall be disconnected from ISTS and charges recovered from OPGCL shall be adjusted in Monthly transmission charges under the 2020 Sharing Regulations.
- h) OPGCL has violated the Grid Code by closing the bus coupler without seeking permission from ERLDC or SLDC. However, keeping in view unconditional apology rendered by OPGCL, action under Section 142 of the Act is not being initiated. However, OPGCL is warned against such action taken by

OPGCL in violation of the Act and it must ensure strict compliance to the Act and regulations issued thereunder.

i) The energy deviations for the period between 27.8.2019 to 29.10.2019 shall be calculated treating OPGCL as State embedded entity and DSM for GRIDCO shall be calculated accordingly for the period 27.8.2019 to 29.10.2019.

105. The Petition No. 380/MP/2019 and 334/MP/2019 are disposed of in terms of the above.

Sd/
(P. K. Singh)

Member

Sd/
(Arun Goyal)

Member

Sd/
(I. S. Jha)

Member