

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 361/MP/2022

Coram:

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

Date of Order: 16th December, 2022

In the matter of

Petition under Section 79 (1) (c) read with Section 79 (1) (f), Section 79 (1) (k) of the Electricity Act, 2003 and Regulation 32 of the Central Electricity Regulatory Commission (Grant of Connectivity, Long-Term Access and Medium Terms Open Access in inter-State transmission and related matters) Regulations, 2009

And

In the matter of

Sprng Agnitra Private Limited,
Sri Sathya Sai, Plot No. A2,
Anantapuramu Ultramega Solar Park,
Andhra Pradesh

Vs.

1. Central Transmission Utility of India Limited (CTUIL),
Plot No. 2, Sector 29,
Gurgaon- 12200, Haryana

2. Power Grid Corporation of India Limited (PGCIL),
Saudamini, Plot No 2, Sector 29
Near IFFCO Chowk
Gurgaon-122001, Haryana

3. Andhra Pradesh Solar Power Corporation Limited (APSPCL),
3rd Floor,, Vidyut Soudha,
Gunadala, Vijayawada-520 004
Krishna District, Andhra Pradesh

4. NTPC Limited,
SCOPE Ccomplex, Jawaharlal, Nehru Stadium,
Pragati Vihar, New Delhi – 110003

...Respondents

Parties present:

Shri Basava Prabhu Patil, Senior Advocate, SAPL

Mis. Molshree Bhatnagar, Advocate, SAPL
Mis Surabhi Pandey, Advocate, SAPL
Shri N.K.Jha, Advocate, SAPL
Shri Sidhant Kumar, Advocate, APSPCPL
Mis. M. Chondok, Advocate, APSPCPL
Shri S. Rao, Advocate, APSPCPL
Shri Swapnil Verma, CTUIL
Shri Sidharth Sharma, CTUIL
Mis Kavya Bhardwaj, CTUIL

ORDER

The Petitioner, Sprng Agnitra Private Limited, has filed the present Petition with the following prayers:

“(a) Allow the present Petition;

(b) Hold and declare that for default or non-compliance of this Hon’ble Commission’s Order dated 18.07.2022 in Petition No. 171/TT/2019 by APSPCL, Power Grid Corporation of India Limited / Central Transmission Utility Corporation of India Limited, is not entitled to take any steps or precipitative measures which impacts the Petitioner herein;

(c) Issue appropriate direction(s) / order(s) to Power Grid Corporation of India Limited /Central Transmission Utility Corporation of India Limited to recover INR 4,35,29,915 (along with applicable interest if any) raised vide Bilateral Bill issued pursuant to orders in Petition No. 171/TT/2019, from Andhra Pradesh Solar Power Corporation Limited;

(d) Issue appropriate direction(s) / order(s), including those under Section 142 of the Electricity Act, 2003, to Andhra Pradesh Solar Power Corporation Limited to immediately, without any further delay, comply with the direction(s) of this Commission vide Order dated 18.07.2022 in Petition No. 171/TT/2019;

(e) Pass such other and further order(s) that this Hon’ble Commission may deem fit in the interest of justice, equity and circumstances of the present case.

2. The matter was heard on 12.12.2022. During the course of hearing, learned senior counsel for the Petitioner submitted that the present Petition has been filed *inter alia* seeking direction(s) against the Respondent(s) and restrain their action(s) threatening regulation of power supply from the power project established by the Petitioner along with seeking compliance of specific directions of this Commission vide order dated 18.7.2022 in Petition No. 171/TT/2019. Learned senior counsel submitted

that despite specific direction of this Commission against Andhra Pradesh Solar Power Corporation Limited, to bear the transmission charges for the period of mismatch between the date of COD of the transmission assets created by Power Grid Corporation of India Limited and the date on which these transmission assets stand utilized, due to failure of APSPCL to make payments as required, the Petitioner's power is being threatened to be regulated. Learned senior counsel submitted that despite several letters written by the Petitioner to APSPCL to ensure that the supply of power is not regulated by PGCIL / CTUIL, APSPCL is arbitrarily making claims for transmission charges from the Petitioner and forcing it to bear the liability where none exists in law or otherwise. It is understood, that if the transmission charges imposed vide the Commission's order dated 18.7.2022 in Petition No. 171/TT/2019 are not promptly paid by APSPCL, PGCIL / CTUIL shall proceed with regulation of power and thereby stopping open access for supply of power by the Petitioner. Since the liability is clearly, to be borne by APSPCL, its non-performance is leading to curtailment of Petitioner's right, which cannot be countenanced in law. Learned senior counsel submitted that since APSPCL has not filed appeal against the Commission's order dated 18.7.2022 in Petition No. 171/TT/2019, the above order has attained finality against the Petitioner.

3. The representative of CTUIL submitted that CTUIL raises two kinds of bills as per the provisions of the Regulations, firstly, the ISTS/PoC bills for the recovery of transmission charges of all ISTS and secondly, the bilateral bills of individual transmission licensees upon the concerned entities. In the present case, the bilateral bill of PGCIL as per tariff order in Petition No. 171/TT/2019 has been raised by CTUIL on APSPCL which is the LTA grantee. As per the LPS Rules issued by the Ministry of Power, Government of India and the NLDC Procedure notified thereunder, CTUIL has

an obligation to submit the details of outstanding dues to Power Finance Corporation/PRAAPTI Portal. RLDC is the administrative authority which undertakes the implementation of regulation of power supply under the LPS Rules. CTUIL has no discretion in the communication of outstanding billing to PRAAPTI Portal under the aforesaid Rules & Procedure. Therefore, the prayers made in the instant Petition are not maintainable against the CTUIL.

4. The learned counsel for APSPCL informed that there are three generation projects which have been commissioned in the Solar Power Park and are having outstanding liability towards payment of transmission charges. The learned counsel submitted that one other commissioned generation project is paying the outstanding transmission charges and the Petitioner is the third one.

5. The learned senior counsel for the Petitioner pointed out that Hon`ble High Court of Andhra Pradesh at Amaravati vide order dated 9.12.2022 in IA No. 1 of 2022 in WP No. 39872 of 2022 has granted interim protection to one of the Project developers, namely, Ayana Anthanpuramu Solar Private Limited against the letter of SLRDC dated 6.12.2022 regarding regulation of power supply. The learned senior counsel for the Petitioner sought permission to withdraw the present Petition to approach the Hon`ble High court of Andhra Pradesh at Amaravati.

6. Noting the submission of the learned senior counsel of the Petitioner, the Petition is disposed of as withdrawn.

7. Accordingly, the Petition No. 361/MP/2022 is disposed of in terms of the above.

**Sd/-
(P.K.Singh)
Member**

**sd/-
(Arun Goyal)
Member**

**sd/-
(I.S.Jha)
Member**