

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.265/MP/2018

- Subject : Petition under Section 79 (1)(f) read with Section 142 of the Electricity Act, 2003 for issuance of direction for quashing of the letter dated 2.8.2018 issued by Power Grid Corporation of India Limited whereby, PGCIL has wrongful and arbitrarily proceeded to impose transmission charges to the tune of Rs. 6.41 crore upon the Petitioner towards Long Term Access capacity 8.4 MW and also, through a subsequent letter dated 14.8.2018 threatened curtailment of Short Term Open Access with effect from 23.8.2018, which is in direct contravention of the final Order dated 31.5.2018 passed by the Commission in Petition No. 190/MP/2016.
- Date of Hearing : **10.8.2023**
- Coram : Shri Jishnu Barua, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : Greenko Budhil Hydro Power Pvt. Ltd. (GBHPPL)
- Respondents : Central Transmission Utility of India Limited (CTUIL) and 4 Ors.
- Parties Present : Shri Sanjay Sen, Sr. Advocate, GBHPPL
Shri Hemant Singh, Advocate, GBHPPL
Shri Lakshyajit Singh Bagdwal, Advocate, GBHPPL
Ms. Alchi Thapliyal, Advocate, GBHPPL
Ms. Roberta Ruth Elwin, Advocate, GBHPPL
Ms. Suparna Srivastava, Advocate, CTUIL
Shri Tushar Mathur, Advocate, CTUIL
Shri Chitikena Abhijit, CTUIL
Shri Amal Nair, Advocate, HPSEB
Ms. Shivani Verma, Advocate, HPSEB

Record of Proceedings

Learned senior counsel for the Petitioner submitted that pursuant to the liberty granted by the Commission vide Record of Proceedings for the hearing dated 20.4.2023, Energy Department, Govt. of Himachal Pradesh (GoHP) has filed its reply in the matter. Learned senior counsel submitted that in the said reply, GoHP has indicated that as per the IA, the Petitioner is supplying GoHP the free power at Chamera Pooling Station of PGCIL and GoHP is selling its power including free power from the Petitioner in Short-Term market by paying the Short-Term Open Access Charges as per applicable regulations and that GoHP never asked the Petitioner to enter into the Bulk Power Transmission Agreement (BPTA) / or apply for Long Term Access (LTA) for GoHP's free power and therefore, there is no question of paying the LTA charges. Learned senior counsel further referred to the

Commission's order dated 20.11.2019 and submitted that in the said order, particularly, at paragraphs 35 & 43, this Commission has specifically held that under the BPTA, the Petitioner cannot be saddled with the transmission charges for free power when it neither applied for nor been granted the LTA. Learned senior counsel pointed out that said findings of the Commission (paras 41 to 43 & 46) have not been disturbed by the Appellate Tribunal for Electricity (APTEL) in order dated 17.2.2022 in Appeal No. 6 of 2020. Learned senior counsel submitted that in the said order, the APTEL has noted that rejection of the demands (onto the Petitioner) being bad in law and contractual arrangement has not been questioned or challenged by PGCIL/CTUIL by any independent appeal and consequently, the APTEL has remanded the matter back to the Commission only for the short issue of the liability to pay the transmission charges for the period anterior to the filing of this petition and the identity of the party which must bear such charges for the said period. Learned senior counsel emphasized that once the Petitioner is found not liable to pay the transmission charges, there cannot be any distinction in its liability in terms of date of filing of the Petition. Learned senior counsel sought liberty to upload the Petitioner's rejoinder on the e-filing portal of the Commission.

2. Learned counsel for the Respondent, HPSEB submitted that the Commission's order dated 20.11.2019 inadvertently records that HPSEB has been availing the STOA and has been paying the STOA charges for availing the free power from the Petitioner and such observations, being factually inaccurate, may be expunged.

3. In response to the specific query of the Commission regarding the evacuation scheme of the Petitioner's Project, learned counsel for CTUIL referred to the Minutes of the Meeting held on 25.4.2012 at CEA in the matter of commissioning of the Budhil HEP. Learned counsel pointed out that Budhil HEP is directly connected to ISTS network at Chamera-III through single circuit dedicated line. Learned counsel submitted that originally this arrangement was supposed to be an interim arrangement as HPPTCL were to string 2nd circuit as well as re-string the existing dedicated line of the Budhil HEP, which, however, did not fructify.

4. Considering the submissions made by the learned senior counsel and learned counsel for the parties, the Commission permitted the Petitioner to upload its rejoinder on the e-filing portal within a week.

5. Subject to the above, the Commission reserved the matter for order.

By order of the Commission

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