

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.315/MP/2022

- Subject : Petition under Section 38 read with Section 79(1)(c), Section 79(1)(f), Section 79(1)(k) of the Electricity Act, 2003 read with Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010, Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020 and Clause 10.3 (g) of the Billing, Collection and Disbursement Procedure issued by CTUIL under CERC Sharing Regulations 2020 dated 01.01.2021 for recovery of interest from Central Transmission Utility of India on delay in reimbursement of excess Transmission Charges paid by Sembcorp Energy India Limited towards Bill of Supply for PoC Bill-1 for the month of October 2020 and November 2020 raised by CTUIL.
- Date of Hearing : **11.10.2023**
- Coram : Shri Jishnu Barua, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : Sembcorp Energy India Limited (SEIL).
- Respondents : Central Transmission Utility of India Limited (CTUIL).
- Parties Present : Shri Vishrov Mukerjee, Advocate, SEIL
Shri Yashaswi Kant, Advocate, SEIL
Ms. Priyanka Vyas, Advocate, SEIL
Shri Shubham Arya, Advocate, CTUIL
Shri Ravi Nair, Advocate, CTUIL
Ms. Reeha Singh, Advocate, CTUIL
Shri Chitiken Abhijith, CTUIL
Shri G. Vijay, CTUIL

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Petition has been filed, *inter-alia*, seeking recovery of Rs. 2.26 crore as interest from the Respondent, CTUIL, on account of a delay of 252 days by CTUIL in reimbursement of excess transmission charges paid by the Petitioner towards the Bill of Supply for PoC Bill-1 for the months of October 2020 and November 2020. Learned counsel mainly submitted as under:

- (a) CTUIL in terms of the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 ('Sharing Regulations 2010') raised PoC Bill-1 on the Petitioner, for the months of October 2020 and November 2020 on 5.11.2020 and 7.12.2020, respectively. The Petitioner paid the transmission charges to CTUIL on 18.12.2020 towards

POC Bill-1 for October 2020 and 19.2.2021 towards POC Bill-1 for the month of November 2020.

(b) On 21.2.2021, this Commission, vide Order No. L-1/44/2010-CERC issued the revised transmission charges (revised PoC rates) for the period from the months of October 2020 to November 2020.

(c) On 23.2.2021, the Southern Regional Power Committee ('SRPC'), under the Central Electricity Authority ('CEA'), issued the revised RTA for the months of October 2020 (issued vide SRPC Letter dated 4.11.2020), and November 2020 (issued vide SRPC letter dated 4.12.2020), and therefore, revised PoC rates notified by this Commission in an order dated 21.2.2021.

(d) On 4.5.2020, this Commission notified the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020 ('Sharing Regulations 2020') which came into effect on 1.11.2020. Under the Sharing Regulations 2020, the reduction in transmission charges for the months of October and November 2020 had to be done by the CTUIL in terms of Bill- 2 on a quarterly basis.

(e) However, in violation of the Sharing Regulations 2020 and order dated 21.2.2021, CTUIL, while raising Bill-2 on 31.5.2021 did not reimburse Rs. 19.40 crore, i.e. excess transmission charges paid by the Petitioner to the CTUIL, which was to be reimbursed by the CTUIL in Bill-2 which should have been raised by April 2021 on account of a reduction in the transmission charges due to revisions in the RTA.

(f) Subsequently, on 2.12.2021, CTUIL raised three Supplementary Bills to Bill-2 for the billing period of April 2021 to June 2021 on the Petitioner towards tied-up capacity (1070 MW) under the Sharing Regulations 2020, whereby Rs. 19.40 crore was shown as due to the Petitioner.

(g) On 3.1.2022 and 4.1.2022, CTUIL raised Bill-1 and Bilateral Bill, respectively for the Petitioner under the Sharing Regulations 2020 for both Projects of the Petitioner for the Billing Month of January 2022. Vide e-mail dated 7.1.2022, the Petitioner proposed that the outstanding amount of Rs. 19.40 crore be adjusted by the Petitioner towards Bill-1 and Bilateral Bill for the month of January 2022 raised by the CTUIL.

(h) Only on 10.1.2022, CTUIL permitted the Petitioner to adjust the outstanding amount of Rs. 19.40 crore, and accordingly, the Petitioner adjusted the entire outstanding amount in tranches, with the last tranche on 8.2.2022.

(i) Thus, there has been a delay of 252 days in the adjustment of the revised transmission charges from 1.6.2021 to 8.2.2022 for which the Petitioner needs to be compensated. Pertinently, as per Regulation 15(2) of the Sharing Regulations 2020, CTUIL was obligated to raise the Second Bill on a quarterly basis to adjust variations on account of any revision in transmission charges allowed by this Commission.

(j) CTUIL, in complete disregard for the Sharing Regulations 2020 and despite several reminders and requests by SEIL, wilfully defaulted in crediting the amount of Rs.19.40 crore, which remained unpaid/ unadjusted till 8.2.2022. CTUIL is, therefore, liable to pay interest on the delayed reimbursement of the excess transmission charges paid by SEIL, amounting to Rs. 2.26 crore

(computed till 8.2.2022) along with the interest from 9.2.2022 including interest *pendent lite*, till actual payment of the aforesaid interest amount.

2. Learned counsel for the Respondent, CTUIL mainly submitted as under:

(a) Immediately after passing the revised PoC rates vide order dated 21.2.2021, CTUIL by its letter dated 22.2.2021 requested all Regional Power Committees ('RPCs') to issue a revision of the Regional Transmission Accounts ('RTA') for the months of October 2020 and November 2020 as per the PoC rates issued for the months of October 2020 & November 2020.

(b) However, SRPC issued the revised RTA for the above months on the basis of PoC rates issued by the Commission in an order dated 21.2.2021 only on 23.2.2021. Whereas ERCP issued the revised RTA for the above months on 24.2.2021, NERPC issued the revised RTA on 25.2.2021, NRPC issued the revised RTA on 2.7.2021, and finally, WRPC issued the revised RTA for the above months only on 1.10.2021

(c) Thus, the last RTA was published by WRPC only on 1.10.2021, and it is only after 1.10.2021, that CTUIL could have issued the adjustment with reference to the revised RTAs.

(d) As per the scheme of billing, collection, & disbursement procedures issued under the Sharing Regulations, Yearly Transmission Charges of ISTS licensees are fully and exactly recovered, and any delay or shortfall in payment of ISTS charges results in a *pro-rata* reduction in pay-outs to ISTS licensees and other non-ISTS licensees whose assets have been certified as being used for inter-State transmission by RPCs. The Sharing Regulations have thus crystallised a 'pooled' system in the entire meshed network of ISTS across all regions where the rights & liabilities of all DICs in the PoC pool and those of ISTS licensees are inter-linked with one another. The rights of ISTs transmission licensees to receive transmission charges from DICs have a direct nexus with the obligations of DICs to pay such transmission charges to the ISTS transmission licensees.

(e) Each RPC Secretariat issues RTA on a monthly basis, where transmission charges for DICs under their region are published using the PoC Slab rates approved by the Commission. As such, revision of PoC charges for an individual entity for a particular month would lead to a mismatch in the recovery of charges by the ISTS licensees.

(f) Differential amounts due to revisions in transmission charges during a billing period ought to be billed by the CTUIL to DICs in proportion to their first bill of the relevant month. However, the first bill itself is getting revised as per the revised RTAs issued by the respective RPCs, and thus, in order to take into account the impact of revised transmission charges, the revised first bill of all DICs is needed, which can only be achieved after the receipt of all the revised RTAs.

(g) As WRPC issued its revised RTA only on 1.10.2021, the differential billing of all regions has been calculated and billed in the immediate second bill, i.e. second bill for April 2021 to June 2021, raised in December 2021 as per Regulation 15 of the Sharing Regulations.

(h) CTUIL has a revenue neutral role and has not made any defaults in fulfilling its statutory responsibilities in terms of the Sharing Regulations. Therefore, CTUIL cannot be saddled with any liability for the payment of interest.

3. After hearing the learned counsel for the Petitioner and the Respondent CTUIL, the Commission deemed it appropriate to take into account the views of RPCs, particularly NRPC and WRPC, in the context of delay on their part in issuing the revised RTAs for the months of October & November, 2020. Accordingly, the Commission ordered as under:

(a) The Petitioner to implead WRPC, NRPC, SRPC, NERPC, and ERPC to the Petition and file a revised memo of parties within a week; and

(b) The Petitioner to also serve a copy of the Petition to the above RPCs, who shall file their replies/comments, specifically on the aspect of delay in issuance of revised RTAs for the months of October & November 2020, after the issuance of the revised PoC rates by the Commission by order dated 21.2.2021, within three weeks after serving copy of the same to the Petitioner, who may file its rejoinder within three weeks thereafter.

4. The matter remained part-heard and will be listed for hearing on **20.1.2024**.

By order of the Commission
Sd/-
(T.D. Pant)
Joint Chief (Law)