

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**I.A. Nos. 18&65/2022 and 51/2023 in
Petition No. 332/MP/2020**

Subject : Petition under Section 79(1)(c) and (f) of the Electricity Act, 2003 for adjudication of dispute arising out of the action of Power Grid Corporation of India in seeking opening of a Letter of Credit in favour of PGCIL towards PoC charges for the unutilized Long-Term Access for 50MW capacity.

Date of hearing : 16.2.2023

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

Petitioner : Ostro Kutch Wind Private Limited (OKWPL)

Respondents : Power Grid Corporation of India Limited (PGCIL)

Parties present : Shri Sanjay Sen, Senior Advocate, OKWPL
Ms. Mazang, Advocate, OKWPL
Ms. Tajali, Advocate, OKWPL
Ms. Suparna Srivastava, Advocate, CTUIL
Shri. Tushar Mathur, Advocate, CTUIL
Shri. Lalit Sharma, CTUIL

Record of Proceedings

Learned senior counsel for the Petitioner submitted that the Petitioner has filed Interlocutory Application (IA) No. 14/2023 seeking stay on levy and recovery of the transmission charges raised by the Respondent, CTUIL and issuance of appropriate direction to CTUIL not to take any coercive steps against the Petitioner during the pendency of the present Petition. Learned senior counsel mainly submitted as under:

(a) Ministry of Power (MoP) directions dated 15.1.2021 issued under Section 107 of the Electricity Act, 2003 ('the Act') along with MoP Orders dated 15.1.2021, 23.11.2021 and 30.11.2021 provide that where COD of a Project has been extended by the Competent Authority, the commencement period of LTA shall also get extended accordingly and it would be deemed that the period of ISTS waiver is extended.

(b) In the present case, Solar Energy Corporation of India Ltd. (SECI) had extended SCOD of the Project up to 5.12.2022. Therefore, in terms of the



Sharing Regulations 2020 read with the Section 107 of the Act directions issued by MoP, no transmission charges can be levied for the period prior to 5.12.2022.

(c) Even if the transmission charges are payable, the same ought to be computed in terms of Regulation 13(7) of the Sharing Regulations 2020 i.e., at the rate of 10% of the transmission charges since LTA had been granted on 'existing transmission system' already under implementation as part of different schemes for development of the Green Energy Corridor without any system strengthening. The transmission charges for the same have since been included in the POC pool.

(d) Since its LTA was granted on an existing transmission system, in terms of Commission's Order dated 23.5.2022 in Petition No. 525/MP/2020, CTUIL must identify the associated transmission elements for the Petitioner's LTA for determination of appropriate transmission charges for delay.

(e) Considering the above, issue of levy of transmission charges and the Petitioner's liability to pay the same, requires determination by the Commission. The Petitioner cannot be compelled to pay transmission charges levied by CTUIL during the pendency of the captioned Petition.

(f) The Petitioner has paid 10% of the transmission charges liability (Rs. 3 crore approximately) as per the Sharing Regulations, 2020.

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

(a) The Commission has already taken a view on the matters concerning the alignment of start date of LTA as well as the applicability of the Sharing Regulation 2020 in its earlier orders.

(b) The Petitioner's LTA has been granted on an existing common transmission system and its associated transmission elements have not been identified.

(c) Raising of invoices by CTUIL cannot be seen as a coercive step rather it is the statutory duty of CTUIL to raise the said invoices.

(d) Billing has been undertaken upon the Petitioner for approximately Rs. 30 crore under the LTA grant of 50 MW. The LTA for 50 MW had been operationalized w.e.f 14.4.2019.

3. After hearing the learned senior counsel and learned counsel for the parties, the Commission directed as under:

(a) CTUIL to file data on affidavit within two weeks relating to the associated transmission elements of the Petitioner to determine the transmission charges payable by the Petitioner; and



(b) CTUIL shall not take any coercive measure till the next date of hearing. Accordingly, the IA No. 14/2023 was disposed of.

4. The Petition shall be listed for hearing on 11.4.2023.

By order of the Commission

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

