

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Diary (Petition) No.68/2023 & Diary (IA) No. 69/2023**

Subject : Petition under Section 79 of the Electricity Act, 2003 seeking for quashing/ setting aside of the invoice dated 27.4.2022 issued by the Central Transmission Utility of India Limited and the consequent e-mail dated 21.1.2023 & letter dated 17.2.2023 issued by the Grid India Controller of India Limited.

Date of Hearing : 22.2.2023

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

Petitioners : SEI Sunshine Power Pvt. Ltd. and Ors.

Respondents : Central Transmission Utility of India Limited and Ors.

Parties Present : Shri Buddy Ranganadhan, Advocate, SEI Sunshine  
Ms. Suparna Srivastava, Advocate, CTUIL

**Record of Proceedings**

Learned counsel for the Petitioners mentioned these matters during the course of hearing citing urgency therein. Learned counsel submitted that instant Petition has been filed by the Petitioners, *inter-alia*, seeking quashing/setting aside of the invoice dated 27.4.2022 issued by the Respondent No.1, CTUIL and the consequent email dated 21.1.2023 & letter dated 17.2.2023 issued by the Respondent No.2, Grid Controller of India Ltd. (GCIL) and presently, the Petitioners are urging for ad-interim directions to the Respondents not to curtail/regulate the Long-Term Access of the Petitioner No.1 as communicated by GCIL vide letter dated 17.2.2023 till the pendency of the Petition as prayed in IA. Learned counsel for the Petitioners mainly submitted as under:

- (a) CTUIL vide invoice dated 27.4.2022 has proceeded to raise a demand of Rs. 18.24 crore towards the transmission charges allegedly payable by the Petitioner No.1 for the period commencing from April, 2020 to October, 2020. Also, the said invoice was delivered to the earlier/old address of the Petitioner's No. 1's office.
- (b) On account of non-payment of the above impugned invoice, GCIL vide email dated 21.1.2023 intimated the trigger date as 21.1.2023 for taking the coercive actions against the Petitioners in terms of the Electricity (Late Payment Surcharge and related matter) Rules, 2022 ('LPS Rules'). Further, vide letter dated 17.2.2023, GCIL intimated curtail/ regulate 10% of total Long-Term Access of the Petitioner No. 1 w.e.f. 20.2.2023 in terms of Rules 7(2) of the LPS Rules.
- (c) According to the Petitioners, the impugned invoice and the subsequent communications of the Respondents are completely contrary to the statutory scheme and framework of the Act. In the main Petition, the Petitioners have raised an issue as whether the Petitioner No. 1 can be held liable to pay the transmission charges for the period when it was originally mandated that the

concerned system will commission at the time of planned commissioning of renewable energy generation by the Petitioners and commissioning of such generation was never delayed by the Petitioners in view of the MNRE Notifications and regulatory order passed by Delhi Electricity Regulatory Commission.

(d) Any regulation/curtailment of the LTA of the Petitioners would lead to loss of renewable generation as the Petitioners' Renewable Projects have already achieved the commercial operation.

(e) Similar interim relief has been allowed by the Commission vide Record of Proceedings for the hearing dated 16.2.2023 in IA No. 14/2023 in Petition No. 332/MP/2020 (Ostro Kutch Wind Pvt. Ltd. v. GCIL). The Petitioners' case stands on equal footing with aforesaid case and hence, the Petitioners too, ought to be allowed similar interim reliefs/protection.

(f) In the present case also, the LTA to the Petitioner No.1 was granted on an existing system and all the concerns of CTUIL including the Commission having taken a view on the matters relating to alignment of start date of LTA in earlier orders were considered in the Record of Proceedings for the hearing dated 16.2.2023 while allowing the interim protection/relief therein.

2. Learned counsel for the Respondent No.1, CTUIL strongly opposed the grant of any interim protection in favour of the Petitioners and mainly submitted as under:

(a) The invoice which the Petitioners have now sought to challenge and pray for interim relief/protection was raised on them way back on 27.4.2022.

(b) Similarly, GCIL's had also issued an e-mail intimating the Petitioners about outstanding dues and consequent actions under LPS Rules back in January, 2023 itself. However, the Petitioners did not give any heed to the above communications until now and chose to file this Petition and IA seeking interim protection only at fag end when GCIL vide e-mail dated 17.2.2023 intimated the curtailment/regulation of the Petitioners' 10% LTA.

(c) The above conduct of the Petitioners itself distinguish the present case from that of Ostro Kutch as relied upon by the Petitioners. Also, in that case as noted by the Commission in Record of Proceedings, the Petitioner, pending the adjudication, had paid the 10% of transmission charges bills as per the Sharing Regulations, 2020

(d) CTUIL having already communicated the outstanding dues of the Petitioners to GCIL, the regulation/curtailment of LTA under the LPS Rules is now under the purview GCIL.

(e) In any case, the Commission ought not to consider grant of any interim relief/protection in the favour of the Petitioners prior to requiring the Petitioners to pay at least 50% of the total outstanding dues of Rs. 18.24 crore.

3. Considering the submissions made by the learned counsel for the parties, the Commission ordered as under:

(a) The attempts of the Petitioners to draw the parity with the case of the Ostro Kutch in Petition No. 332/MP/2020, *prima-facie*, may not be entirely accurate.

(b) The Respondents 1 & 2, CTUIL and GCIL will not take any coercive actions against the Petitioners till the next date of hearing subject to condition that the Petitioners deposit 50% of the total outstanding transmission charges i.e. Rs. 9.12 crore to CTUIL within one week.

(c) In the event, the Petitioners fails to comply with the above directions & deposit the above-mentioned amount, the Respondents shall be at liberty to take all the appropriate steps available under the LPS Rules and available regulatory framework.

4. The Petition along with IA, after their registration, shall be listed for hearing on 11.5.2023.

**By order of the Commission**

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