

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.90/MP/2020 along with IA (Diary) Nos. 237/2023 & 255/2023**

- Subject : Petition under Sections 63 and 79 (1)(f) of the Electricity Act, 2003 read with statutory framework and Article 11 and Article 12 of the Transmission Service Agreement dated 4.3.2016 executed between Gurgaon Palwal Transmission Limited and its Long-Term Transmission Customers for compensation due to Change in Law and seeking extension to the Scheduled Commissioning Date of the relevant elements of the Project on account of Force Majeure events.
- Date of Hearing : **28.6.2023**
- Coram : Shri Jishnu Barua, Chairperson  
Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member
- Petitioner : Gurgaon Palwal Transmission Limited (GPTL)
- Respondents : UTC, Chandigarh and Ors.
- Parties Present : Shri Sanjay Sen, Sr. Advocate, GPTL  
Shri Deep Rao, Advocate, GPTL  
Ms. Harneet Kaur, Advocate, GPTL  
Ms. Ruth Elwin, Advocate, GPTL  
Shri Prateek Rai, GPTLr  
Shri Saurav Jha, GPTL  
Shri G. Sai Kumar, Advocate, HVPNL  
Shri Raheel Kohli, Advocate, HVPNL  
Shri Anand Ganesan, Advocate, PSPCL  
Shri Amal Nair, Advocate, PSPCL  
Ms. Kritika Khanna, Advocate, PSPCL  
Ms. Shivani Verma, Advocate, PSCPL  
Ms. Suparna Srivastava, Advocate, CTUIL  
Shri Tushar Mathur, Advocate, CTUIL  
Ms. Divya Sharma, Advocate, CTUIL  
Shri Ranjeet Rajput, CTUIL  
Shri Lashit Sharma, CTUIL  
Shri Hari, CTUIL  
Shri Akshat Jain, Advocate, UPPCL  
Shri Avdesh Mandloi, Advocate, UPPCL  
Ms. Poorva Saigal, Advocate, PGCIL  
Shri Shubham Arya, Advocate, PGCIL  
Ms. Anumeha Smiti, Advocate, PGCIL

**Record of Proceedings**

Learned senior counsel for the Petitioner submitted that the present Petition has been filed, *inter-alia*, seeking (i) extension in the Scheduled Commercial Operation



Date of certain elements due to the occurrence of Force Majeure events, and (ii) compensation for additional expenditure incurred by the Petitioner on account of Change in Law events. Learned senior counsel further submitted as under:

(a) Vide Record of Proceedings for the hearing dated 11.4.2023, the Commission had directed the Petitioner, NLDC and CTUIL to clarify the basis for the inclusion of certain elements of the Petitioner's Project in the PoC Pool prior to their date of on-load charging. While the Petitioner has already filed its affidavit on 23.6.2023, no response has been filed by CTUIL and NLDC.

(b) However, pursuant to the above, CTUIL has unilaterally withheld the further disbursement of the transmission charges to the Petitioner. Upon the Petitioner having raised the query in this regard, CTUIL vide e-mail dated 12.6.2023, *inter alia*, stated that during the proceedings of the present Petition, it has been observed that although the billing & disbursement for the Petitioner's assets had started from November, 2019 from PoC Pool, the power flow, in the system commenced w.e.f. 21.3.2020, and keeping the excess payment disbursed to the Petitioner from PoC Pool for the period prior to 21.3.2020 and towards recovery of the same, disbursement to the Petitioner is being withheld w.e.f. 29.5.2023.

(c) CTUIL's action of withholding transmission charges legitimately due to the Petitioner is unlawful, discriminatory, and unfounded and is severely impacting the Petitioner's cash flow including meeting its debt obligations. Accordingly, the Petitioner has filed IA (Diary) No.255/2023 praying, *inter alia*, quashing of CTUIL's email dated 12.6.2023 and the issuance of directions to CTUIL to release all withheld payments due to the Petitioner, to maintain the status quo, and to refrain from taking any coercive action against the Petitioner pending the disposal of the present Petition.

(d) Pertinently, the elements of the Petitioner's Project were included in the PoC Pool only based on the decision taken in the 3<sup>rd</sup> and 4<sup>th</sup> Meetings of Validation Committee, which consisted of members of the Commission, CEA, CTUIL/PGCIL, POSOCO, RPCs and certain SLDCs.

(e) Irrespective of the readiness of the inter-connection transmission elements and the status of intended utilization of the Petitioner's elements, the Petitioner is entitled to receive the transmission charges from the date of commissioning of its elements as per Article 6.2.2 read with Article 10.1 of the TSA. To date, no objection or dispute has been raised by any of the stakeholders/beneficiaries regarding the date of commissioning of the elements of the Petitioner's Project.

(f) Without prejudice, even if the Commission comes to the view that the source of recovery of transmission charges for the Petitioner, until the time concerned elements were not put to intended use, was not the PoC Pool, the provisions of the TSA cannot be overridden to re-open the concluded invoices, and the way forward would be to direct the CTUIL to recover such transmission charges for the PoC Pool from the defaulting entities because of whom the Petitioner's subject elements could not be put to their intended use.

2. Learned counsel for CTUIL submitted that the concerned elements of the Petitioner's Project were included in the PoC Pool based on the decision taken by the Validation Committee. Learned counsel further referred to the minutes of the 3<sup>rd</sup> and 4<sup>th</sup> Meetings of the Validation Committee for the application periods from 1.10.2019 to 31.12.2019 and from 1.1.2020 to 31.3.2020, respectively. Learned counsel also

submitted that, keeping in view the observation of the Commission vide Record of Proceedings for the hearing dated 11.4.2023, the provisions of the Sharing Regulations, and the relevant orders of the Commission on the subject matter of mismatch in commissioning & the liability of transmission charges thereof, CTUIL withheld the payment of transmission charges to the Petitioner from the PoC Pool owing to the excess payment already disbursed to the Petitioner from the PoC Pool for the period prior to 21.3.2020.

3. Learned counsel for Power Grid Corporation of India Limited (PGCIL) submitted that PGCIL has moved IA (Diary) No.237/2023 seeking its impleadment as a party to the Petition. Accordingly, PGCIL may be impleaded as a party to the Petition and be permitted to file its reply. In response, learned senior counsel for the Petitioner submitted that, as such, the Petitioner has no objection to the impleadment of PGCIL.

4. Learned counsel for the Respondent, UPPCL submitted that in compliance with the directive of the Commission, vide Record of Proceedings for the hearing dated 11.4.2023, UPPCL has filed an affidavit dated 24.4.2023 submitting the status of the Contract Performance Guarantee (CPG) submitted by the Petitioner. Learned counsel submitted that the said CPG has been kept alive by the Petitioner.

5. Leaned counsel appearing on behalf of the Respondent, NDMC submitted that the Respondent has not been mapped on the e-filing portal of the Commission, and the Petitioner may thus be directed to map NDMC as Respondent on the e-filing portal of the Commission.

6. Learned counsel for the Respondent, HVNPL, sought liberty to file an additional affidavit in the matter.

7. None was present on behalf of NLDC/POSOCO, despite notice.

8. After hearing the learned senior counsel and learned counsels for the parties, the Commission observed that since the clarification on the aspect of declaration of COD and inclusion of certain elements of the Petitioner's Project in the PoC Pool prior to their on-load charging has already been called for and the Commission being seized of this aspect, it would not be appropriate to withhold the disbursement of transmission charges to the Petitioner at this stage. Accordingly, the Commission directed the CTUIL to maintain status quo as on 28.5.2023, until further order. Accordingly, IA (Diary) No.255/2023 was disposed of.

9. The Commission further ordered as under:

(a) CTUIL and NLDC to file their responses to the queries raised by the Commission vide Record of Proceedings for the hearing dated 11.4.2023 within three weeks;

(b) CTUIL and NLDC to depute senior technical personnel fully conversant with the matter/aspect involved during the next date of hearing to assist the Commission in the matter;

(c) The Petitioner to implead PGCIL as a party to the Petition and file a revised memo of parties within a week. Accordingly, IA (Diary) No.237/2023 is disposed of;

(d) The Petitioner to clarify how it has declared the CoD of the LILO of Gurgaon- Manesar transmission line on 13.3.2020 without the COD of the 400/220 kV Sohna Road S/S which was a prerequisite for the LILO of Gurgaon-Manesar transmission line as per TSA;

(e) NLDC to clarify the procedure followed by it to include a transmission element under POC during the period;

(f) CTUIL/PGCIL to clarify the procedure followed by them to disburse the transmission charges to a transmission licensee, which was considered under the anticipated COD basis for next quarter (In the instant case, disbursement was started w.e.f. 1.11.2019). Further to clarify as to whether the 72 hours of trial run in case of actual COD and 7 days after completion as per TSA was checked before raising bilateral bills or including transmission line under POC;

(g) The Respondent, NDMC, to register itself on the e-filing portal of the Commission, pursuant to which the Petitioner shall map NDMC as Respondent on the e-filing portal;

(h) PGCIL and NDMC may file their respective replies to the Petition, if any, within three weeks with a copy to the Petitioner;

(i) HVNPL may also file an additional affidavit, incorporating therein the status of the 220-kV downstream system for evacuating power from the Kadarpur sub-station within two weeks; and

(j) The Petitioner may file its rejoinder/ response to the above, if any, within three weeks thereafter.

10. The Petition shall be listed for hearing on 15.9.2023.

**By order of the Commission**

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