

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.111/MP/2024**

Subject : Petition under Section 79 of the Electricity Act, 2003 challenging the Bills of Supply for Bilateral Charges raised by Central Transmission Utility of India Ltd. being contrary to the CERC (Sharing of Inter-State Transmission Charges and losses) Regulations, 2020 and CERC (Connectivity and General Network Access to the Inter-State Transmission System) Regulations, 2022

Petitioner : ReNew Solar Power Pvt. Ltd. & Anr.

Respondents : Central Transmission Utility of India Ltd & Anr.

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Petitioner : ReNew Surya Ojas Pvt. Ltd.

Respondents : Central Transmission Utility of India Ltd & Anr.

Date of Hearing : **18.3.2024**

Coram : Shri Jishnu Barua, Chairperson  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member

Parties Present : Shri Vishrov Mukerjee, Advocate, RSPPL & RSOPL  
Shri Girik Bhalla, Advocate, RSPPL & RSOPL  
Ms Anamika Rana, Advocate, RSPPL & RSOPL  
Ms. Suparna Srivastava, Advocate, CTUIL  
Ms. Divya Sharma, Advocate, CTUIL  
Shri Tushar Mathur, Advocate, CTUIL  
Shri Lashit Sharma, CTUIL

**Record of Proceedings**

At the outset, the learned counsel for the Petitioner submitted that the present Petitions have been filed *inter alia* challenging the Invoices / Bills of Supply dated 4.1.2024 and 1.2.2024 ('Impugned Invoices') for an amount of Rs. 1,09,66,099/- and 41,99,455/- respectively regarding the Stage -II connectivity and LTA to ReNew Solar Power Pvt. Ltd. (RSPPL) for 300 MW wind generation project

('Project-I') and Invoices / Bills of Supply dated 4.1.2024 and 1.2.2024 ('Impugned Invoices') for an amount of 1,30,63,356/- and Rs. 1,34,98,801/- respectively regarding the Stage -II connectivity for 300 MW Hybrid project (300MW Wind, 75 MW Solar) ('Project-I') at Koppal Karnataka raised on the Petitioners by the CTUIL being contrary to Regulation 13(3) of the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and losses) Regulations, 2020 ( the Sharing Regulations, 2020) as the connectivity has been granted to the Petitioners on Common Transmission System without Associated Transmission System (ATS). Learned counsel in Petition No.112/MP/2024 mainly submitted as under:

(a) On 21.6.2020, CTUIL had granted Stage-II connectivity to the Petitioner, Renew Surya Ojas Pvt. Ltd. (RSOPL) for the 300 MW hybrid (Wind 300 MW & Solar 75 MW) in Koppal Karnataka ('Project'). The ISTS Sub-Station and Bay were identified at the Koppal Pooling Station. On 7.5.2021, CTUIL intimated grant of the LTA for the 300 MW proposed hybrid generation project to NR (100 MW), WR (100 MW) and ER (100 MW). On 28.4.2022, CTUIL informed the RSOPL to revise the details of the Stage-II connectivity granted earlier vide letters dated 21.6.2020, 9.7.2020 and 23.12.2020 for the Project. The Petitioner, RSOPL and Solar Energy Corporation of India Ltd. ('SECI') executed a Power Purchase Agreement ('PPA'). In terms of the PPA, the Schedules Date of Commissioning ('SCOD') of the Project was 29.2.2024.

(b) On 21.9.2023, RSOPL was granted deemed GNA under Regulation 27.3 of the GNA Regulations, 2022. Thereafter, on 4.1.2024, CTUIL raised Bill of Supply for Bilateral Charges on RSOPL for January 2024 for Rs. 1,30,63,356/-. Further, on 1.2.2024, CTUIL raised a Bill of Supply for Bilateral Charges on RSOPL for February 2024 for Rs. 1,34,98,801/-. On 23.2.2024, SECI extended the SCOD of the 300 MW ISTS by 286 days and revised the SCOD from 29.2.2024 to 11.12.2024 on account of the delay in the adoption of the tariff. The 226 MW of wind energy is under trial and likely to be commissioned in April, 2024, and Solar capacity is also in trial run.

(c) In the present case, since no ATS has been identified for RSOPL, there is no question of payment of the transmission charges. The purpose of Regulations 6.1, 6.2 and 7.2 of the CERC GNA Regulations 2022 is that ATS had to be intimated to the connectivity grantee. However, in the present case, at the time of grant of the connectivity, no such intimation was given to RSOPL. Since grant of the Stage II connectivity dated 21.6.2020 for RSOPL did not specify any ATS, it is deemed that there was no ATS required for the evacuation of power from the Petitioner's project. The GNA Regulations, 2022 put the onus on CTUIL to mention / identify the ATS, if any, for a Connectivity Applicant.

(d) Even at the time when RSOPL transitioned its erstwhile connectivity under the GNA Regime in terms of Regulation 37.3 of the GNA Regulations, CTUIL failed to specify/ identify any ATS for the connectivity deemed to have been granted under GNA Regulations. In the absence of express indication of the ATS, it is presumed that there was no ATS for RSOPL's connectivity. Therefore, the Impugned Invoices issued by CTUIL are liable to be set aside since they have been issued in contravention of the amended Regulation 13(3) of the Sharing Regulations, 2020. Regulation 13(3) is triggered only if the ATS has achieved COD and the Project of the Connectivity Grantee has

not achieved COD. Since there is no ATS, there is no question of the ATS having achieved COD. The Impugned Invoices fail to take into consideration the amended Regulation 13(3) as amended by the first and second amendment to the Sharing Regulations, 2020. The Impugned Invoices have been raised starting from 4.1.2024 whereas the amendment to the Sharing Regulations 2020 came into force from 1.10.2023. Therefore, it was incumbent upon CTUIL to issue invoices in accordance with law applicable as on the date of issuance of the invoice.

(e) If transmission charges are to be levied on the Petitioner, the same can only be done under Regulation 13(7) of the CERC Sharing Regulations, 2020 and not under Regulation 13(3) since there is no ATS identified for the Petitioner. Accordingly, the transmission charges ought to be computed in terms of Regulation 13(7) of the Sharing Regulations, 2020 which provides that the connectivity grantee shall corresponding to the delayed capacity pay transmission charges from the start date of connectivity at the rate of Rs. 3000/MW/month.

(f) CTUIL vide its email dated 6.3.2024 had intimated that cut-off date will occur on 20.3.2024 post which, in case of non-payment of the Impugned Invoices, power from the Petitioner's project may be curtailed. The Commission may grant interim stay with respect to the payment of the Impugned Invoices since CTUIL has erroneously raised the Impugned Invoices on RSOPL.

2. Learned counsel for the Respondent, CTUIL, opposed the grant of interim relief as prayed by the learned counsel for the Petitioners and mainly submitted as under:

(a) In terms of the LTA granted vide letter dated 3.8.2021 (in Petition No. 111/MP/2024), the transmission system for LTA was under 2 parts i.e., Dedicated Connectivity Transmission System and Common Transmission System for Connectivity under ISTS. Pertinently, LTA was granted in terms of the Common Transmission System. CTUIL, vide its letter dated 28.4.2022, in furtherance of the grant of the LTA dated 3.8.2021, provided details regarding bays. Regulation 2 (b) of the Sharing Regulations, 2020, provides that ATS means the transmission system identified for a generating station by the CTUIL in the LTA grant. Therefore, whatever transmission system was identified under the LTA grant became the ATS for the Petitioners under the present Petitions.

(b) In the 21<sup>st</sup> Consultation Meeting for Evolving Transmission Scheme in Southern Region held on 18.8.2023. which was also attended by the Petitioners herein, transition cases under Regulation 37.3 of GNA Regulations, including that of the Petitioners were discussed. The LTA had been granted with system strengthening which was the ATS as defined under the Sharing Regulations, 2020. When RSOPL was declared a deemed GNA grantee in terms of Regulation 37.3 of the GNA Regulations, 2022, that was also with system augmentation agreed upon by the Petitioners. The definition of ATS under Sharing Regulations, 2020 does not differentiate between a common transmission system or system strengthening and only provides that the transmission system as identified by CTUIL during the grant of the LTA

shall be the ATS. Therefore, Petitioners' claim that there was no ATS is incorrect. Subsequently, when the transition took place under the GNA Regulations, 2022 with system augmentation, Regulation 13(3) of the Sharing Regulations, 2020 became applicable. Furthermore, the Petitioners executed the Transmission Agreement dated 20.8.2021 with CTUIL (in Petition No. 111/MP/2024) since they agreed to pay transmission charges. If there was no ATS, the Petitioners would not have executed the Transmission Agreement.

(c) As per Rule 5 (12) of the Ministry of Power's Transmission Planning Rules, 2021, the Central Government is required to provide a waiver from the payment of transmission charges and not for any extension/alignment of the LTA date with the SCOD. MOP issued the Order dated 23.11.2021 in terms of the Tariff Policy 2016 and the Transmission Planning Rules 2021. The Order dated 30.11.2021 was passed by MoP in an addendum to the Order dated 26.11.2021 regarding the waiver of the transmission charges. Therefore, the supersession is only of the order issued by MoP regarding the waiver of transmission charges under the Tariff Policy 2016 and not of the order issued by MoP regarding the waiver of transmission charges under the Transmission Planning Rules, 2021. Accordingly, reliance placed by the Petitioners on MoP Orders dated 23.11.2021 and 30.11.2021 is misplaced.

(d) With respect to the Petition No. 111/MP/2024, only 256.41 MW capacity has been commissioned and with respect to Petition No. 112/MP/2024, no capacity been commissioned so far. Therefore, the Impugned Invoices raised by CTUIL have been raised in accordance with Regulation 13 (3) of the Sharing Regulations, 2020.

(e) CTUIL issued a letter dated 8.3.2024 informing the Petitioners that no change in the start date or transmission system requirements from the earlier granted LTA was stipulated in the GNA Regulations, 2022. Since the transmission system was planned for the evacuation of power from Koppal PS for the generators, including the Petitioners, the Petitioners are liable to pay the transmission charges for the transmission system for the mismatch period between the COD of the generating station and the COD of the transmission system in line with the Sharing Regulations, 2020.

3. In rebuttal, the learned counsel for the Petitioners submitted as under:

(a) Reliance placed by CTUIL on the definition of the ATS provided under the principle CERC Sharing Regulations, 2020 is erroneous since the same has been amended by the definition as provided under the first amendment to the Sharing Regulations 2020 which provides that ATS shall have the same meaning as defined under the GNA Regulations, 2022. GNA Regulations 2022 evidently provides that ATS is the transmission system specifically identified for the generator. Further, Regulation 6 of the GNA Regulations, 2022, provides that the augmentation required for the immediate evacuation of power of the connectivity applicant (excluding terminal bay) shall be considered as the ATS.

(b) The transmission system, in the present case, was being set up for the renewable energy developers who were coming up in the region, as admitted by the CTUIL. Therefore, the same cannot be considered as ATS. As per the

amended Regulation 13(3) of the Sharing Regulations, 2020, two requirements were to be met before imposing transmission charges, i.e., ATS having been identified for a connectivity grantee and then the subsequent inability of the grantee to attain COD before the start date of connectivity, in case the ATS achieves COD.

(c) Regulation 13(3) of the Sharing Regulations, 2020 is a penal provision and, therefore, has to be construed strictly. CTUIL has not denied that the transmission system was a common transmission system for all the generators in the region and that the regional strengthening scheme was for the region as a whole.

(d) Orders dated 23.11.2021 and 30.11.2023 have been issued by MoP under the Transmission Planning Rules 2021, which provides for the extension of commencement and period of the LTA in case the extension in SCOD is granted to the renewable energy generator. Therefore, an extension of commencement and period of LTA has to be aligned with the extension in the SCOD of the Petitioner's project. Accordingly, the Impugned Invoices issued by CTUIL are contrary to the Sharing Regulations, 2020 and GNA Regulations, 2022.

3. After hearing the learned counsels for the parties, the Commission observed that CTUIL has raised the bills under Regulation 13(3), and the Petitioners are willing to pay some amount towards transmission charges. Accordingly, the Petitioners are directed to pay 50% of the bills raised by the CTUIL, where due date has expired, as on the date of issuance of this ROP, within the next 15 days. Accordingly, the Commission directed the CTUIL not to take any coercive action against the Petitioners till the next date of the hearing. In case Petitioners fail to pay 50% of transmission charges as directed above, CTUIL shall be at liberty to act in accordance with law. The Commission further directed as under:

(a) Admit. Issue notice to the Respondents.

(b) The Petitioner to implead the transmission licensee implementing the transmission system for the Petitioner, as party to the Petition and to file a revised memo of parties immediately.

(c) The Petitioner to serve a copy of the Petition on the Respondents, including transmission licensee and Respondents, to file their replies to the Petitions, if any, within two weeks of serving a copy of the same to the Petitioners, who may file their rejoinders within two weeks thereafter.

(d) Respondent, CTUIL to provide the following information in both Petitions on an affidavit within two weeks:

(i) Confirm whether connectivity granted to the Petitioner is with ATS or without ATS? If the same is "with ATS", the details of the elements of ATS to be provided.

(ii) Under which provision of the Sharing Regulations, 2020 and for what quantum of the GNA, the bills for transmission charges have been raised on the Petitioner.

(e) The Petitioner to provide the status of the commissioning of the projects.

5. The Petitions will be listed for hearing on **8.5.2024**.

**By order of the Commission**

**Sd/-**

**(T.D. Pant)**

**Joint Chief (Law)**