

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 243/MP/2024 along with IA No.58/2024

- Subject : Petition under Section 79 of the Electricity Act, 2003 seeking for quashing / setting – aside of the bill/ invoice dated 12.3.2024 issued by the Central Transmission Utility of India Limited (CTUIL) for alleged relinquishment compensation upon the Petitioner i.e. Adani Wind Energy Kutch One Limited, amongst other reliefs.
- Petitioner : Adani Wind Energy Kutchh One Limited (AWEKOL)
- Respondent : Central Transmission Utility of India Limited (CTUIL)
- Date of Hearing : **9.9.2024**
- Coram : Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member
- Parties Present : Shri Sanjay Sen, Sr. Advocate, AWEKOL
Shri Hemant Singh, Advocate, AWEKOL
Shri Lakshyajit Singh, Advocate, AWEKOL
Shri Harshit Singh, Advocate, AWEKOL
Shri Sandeep Kumar, Advocate, AWEKOL
Shri Ramesh Kumar, Advocate, AWEKOL
Shri Shailendra Singh, Advocate, AWEKOL
Shri Rohit Raj, Advocate, AWEKOL
Shri Arun Lal, Advocate, AWEKOL
Shri Syed Fazal, Advocate, AWEKOL
Shri Nishant Kumar, Advocate, AWEKOL
Ms. Suparna Srivastava, Advocate, CTUIL
Ms. Divya Sharma, Advocate, CTUIL
Shri Swapnil Verma, CTUIL
Ms. Kavya Bhardwaj, CTUIL

Record of Proceedings

Learned senior counsel for the Petitioner submitted that the present Petition has been filed *inter alia* seeking quashing/setting – aside of the invoice/bill dated 12.3.2024 ('Impugned Bill') issued by the Respondent, CTUIL whereby it has sought to impose the alleged relinquishment compensation upon the Petitioner to the tune of Rs. 14 crores. Learned senior counsel mainly submitted as under:

- (a) The Petitioner relinquished its Long-term Access of 250 MW on 31.7.2020 and 300 MW on 29.12.2020. Whereas, the Impugned Bill has been issued by CTUIL only on 12.3.2024, i.e., after a lapse of 3 years of limitation from the dates of relinquishment. Hence, the Impugned Bill issued by the CTUIL is barred by limitation.
- (b) The Impugned Bill has been issued by CTUIL by relying upon the Commission's order dated 8.3.2019 passed in Petition No. 92/MP/2015. However, the said order has been challenged before the APTEL in Appeal Nos. 251 of 2019 and batch, and CTUIL has been restrained from raising any invoices towards relinquishment charges

on the appellants/generators therein. Although the Petitioner has not challenged the said order so far, the Petitioner is entitled to seek parity with the generators/appellants therein. When the methodology devised vide order dated 8.3.2019 is a pending challenge in appeals with the recovery in terms thereof being stayed, Impugned Bill issued on the basis of very same order ought not to be enforced *qua* the Petitioner.

(c) While determining the stranded capacity and relinquishment charges in its communication dated 24.12.2021, CTUIL has considered the LTA effectiveness date and the date for calculation of stranded capacity as 31.3.2022, i.e., the expected date of commissioning of the last element of ATS, i.e., Lakadia-Vadodara 765 kV line. However, the letter of Lakadia-Vadodara Transmission Project Limited dated 28.1.2023 itself indicates that the Lakadia-Vadodara 765 kV line came into operation only in January 2023. Thus, the determination of stranded capacity and the relinquishment charges by CTUIL also do not appear to be correct.

(d) CTUIL, by its email dated 28.8.2024 to all the DICs, including the Petitioner herein, has intimated that the trigger date for the Impugned Bill is 12.9.2024, meaning thereby that if the payment is not made by the aforesaid date, then the power of the Petitioner will be regulated/curtailed. However, as per the Petitioner, CTUIL is wrongly considering the trigger date as 12.9.2024. As per the Electricity (Late Payment Surcharge) Rules, 2022 ('LPS Rules, 2022'), the default trigger date would be a month after the due date of payment.

(e) The Petitioner has also moved IA (Diary) No.576/2024 *inter alia* seeking an interim direction to CTUIL not to take any coercive actions, including any regulation/curtailment of power supply of the projects of the Petitioner in terms of Impugned Bill till the pendency of the subject Petition. As stated above, the Petitioner has a strong *prima facie* case and the balance of convenience in its favour, and accordingly, CTUIL ought to be restrained from taking any coercive actions.

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

(a) The limitation is a mixed question of facts and law. CTUIL will place on record the relevant developments/sequence of events to establish that the Impugned Bill is not barred by limitation at the time of hearing the matter on merits.

(b) The interim stay granted by the APTEL in Appeal No.251 of 2019 and batch operates *qua* the appellants/generators therein only. The benefit of the said interim stay does not extend to the other generators/ the Petitioner herein.

(c) The default trigger date, as prescribed in the LPS Rules, 2022, is in the context of monthly bills, which become due after forty-five days from the date of presentation. In the present case, the Commission, in the order dated 8.3.2019 in Petition No.92/MP/2015, has already allowed the period of six months from the raising of the invoice by CTUIL to pay the relinquishment charges. Hence, the averment regarding the trigger date being one month after the due date is misplaced.

(d) CTUIL, by its communication dated 24.12.2021, has provided the details of the determination of stranded capacity and the relinquishment charges in accordance with the directions under the order dated 8.3.2019 in Petition No.92/MP/2015.

(e) Insofar as the rationale for considering the expected date of commissioning of Lakadia- Vadodara 765 kV line, i.e., 31.3.2022 as the date of calculation of stranded capacity, she may be permitted to take necessary instruction on the above aspect.

3. In response, learned senior counsel again urged that till the time CTUIL provides the necessary clarification on the above aspect and/or rectifies the determination of stranded capacity and relinquishment charges, it ought not be permitted to take any coercive actions in connection to the Impugned Bill.

4. Considering the submissions made by the learned senior counsel for the Petitioner and the learned counsel for the Respondent, CTUIL, the Commission directed as under:

(a) Admit, subject to all exceptions;

(b) The Respondent, CTUIL to file its reply to the Petition, if any, within two weeks with a copy to the Petitioner, who may file its rejoinder, within two weeks thereafter; and

(c) Along with its reply, CTUIL to submit reasons for raising the invoices, vide letter dated 12.3.2024, when the calculations were carried out in December 2021.

(d) In the meantime, CTUIL to clarify the rationale for taking 31.3.2022 as the date for determination of stranded capacity and relinquishment charges, as noted above, on or before the next date hearing, and till such time, no coercive steps will be taken against the Petitioner in connection with the Impugned Bill.

5. The matter will be listed for the hearing on **17.9.2024**.

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