

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 372/MP/2022 along with IA No. 71/2024

- Subject : Petition under Section 79(1)(c) & section 79(1)(f) of the Electricity Act, 2003 read with Regulation 32 of Central Electricity Regulatory Commission (Grant Of Connectivity, Long Term And Medium Term Open Access in Inter State Transmission and Related Matters) Regulations, 2009 along with Regulation 24 and 111 of the Central Electricity Regulatory Commission (Conduct Of Business) Regulations, 1999 challenging the levy of relinquishment charges by Power Grid Corporation of India Limited along with return of construction phase bank guarantee.
- Petitioner : Srijan Energy Systems Private Limited (SESPL)
- Respondents : Central Transmission Utility of India Limited (CTUIL) and Anr.
- Date of Hearing : **5.9.2024**
- Coram : Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member
- Parties Present : Shri Basava Prabhu Patil, Sr. Advocate, SESPL
Shri Sumant Nayak, Advocate, SESPL
Shri Tushar Srivastava, Advocate, SESPL
Shri Rohit Subramaniam, Advocate, SESPL
Ms. Suparna Srivastava, Advocate, CTUIL
Ms. Arsiya, Advocate, CTUIL
Shri Ranjeet Rajput, CTUIL
Shri Akshayvat Kislay, CTUIL
Shri Lashit Sharma, CTUIL

Record of Proceedings

Learned senior counsel for the Petitioner submitted that the present Petition has been filed challenging the levy of relinquishment charges by the Respondent No.1, CTUIL vide letter dated 24.12.2021 ("Impugned Letter") as being illegal and in complete contravention of the principles laid down by the Commission in the order dated 8.3.2019 in Petition No. 92/MP/ 2015. During the course of the hearing, learned senior counsel further made detailed submissions in the matter and *inter-alia* submitted as follows:

- (a) The Petitioner made an application for the grant of 300 MW LTA on 27.4.2016, which was granted by CTUIL vide intimation dated 31.3.2017 ('Original LTA'). The Original LTA was obtained by the Petitioner, basis the target region, as the Petitioner was in the process of firming up the beneficiary. However, after the execution of the PPAs with SECI and NTPC, when the Petitioner requested CTUIL

to revise the Original LTA in view of the changed target region, the said request was not approved by the CTUIL citing the last proviso to Regulation 12(1) of the Connectivity Regulations, 2009 as the quantum was more than 100 MW.

(b) Consequently, the Petitioner was required to relinquish the Original LTA on 26.8.2019. By Impugned Letter, CTUIL is claiming the relinquishment charges for this Original LTA.

(c) Thereafter, on 30.8.2019, the Petitioner applied afresh for the grant of three LTAs for 125 MW (WR), 125 MW (SR), and 50 MW (NR) (totalling to 300 MW) respectively ('Revised LTA'), which were granted by CTUIL on 29.11.2019. Subsequently, out of this Revised LTA, LTA for 125 MW (WR) was revoked due to non-fulfilment of the regulatory requirement, and the balance of 125 MW and 50 MW were also relinquished on 30.3.2021 and 22.5.2020, respectively. However, keeping in view that the Petitioner's sister concern then applied for and was granted an LTA for the 140 MW, CTUIL, by Impugned Letter, is also claiming the relinquishment charges for the balance 35 MW (175 MW – 140 MW) in connection to the Revised LTA.

(d) The Petitioner applied for the Revised LTA only for seeking the change in the target region and was also for the same quantum as that of the Original LTA. Therefore, the levy of relinquishment charges by CTUIL on the Original LTA is in the teeth of the Commission's order dated 8.3.2019 passed in Petition No. 92/MP/2015. In this regard, reliance was placed on the paragraphs 141 – 143 of the said order.

(e) Also, as held by the Commission in paragraph 99 of the order dated 8.3.2019, the relinquishment charges are in the form of compensation, i.e., payable by the LTA consumer for the LTA capacity remaining 'stranded.' In the instant case, the Revised LTA was granted to the Petitioner on a different transmission system than that of the Original LTA due to the non-availability of capacity in the transmission system on which the Original LTA was granted. The Minutes of various Meetings placed on record by the Petitioner indicate that no margins were available in the transmission systems (thus, no stranded capacity) on which the Original LTA was granted, and therefore, imposition of the relinquishment charges for the Original LTA is unlawful and arbitrary.

(f) Similarly, the levy of the relinquishment charges for the net 35 MW of the Revised LTA is also illegal and arbitrary. Pertinently, at the time when the Petitioner relinquished the Revised LTA, the transmission system on which the said LTA was granted was not complete, and as a result, the said LTA was also not operationalised. Also, the Minutes of Meetings placed on record by the Petitioner indicate that there is no stranded capacity in the said transmission system.

(g) In furtherance to the Impugned Letter, CTUIL has also proceeded to issue two bills dated 12.3.2024 for relinquishment charges for an amount of Rs. 42.62 crores towards relinquishment of 300 MW LTA and 35 MW of LTA. The due date of payment under the said bills is 12.9.2024, and the Petitioner also apprehends the coercive/precipitative action(s) by CTUIL

2. Learned counsel for the Respondent, CTUIL, also made detailed submissions in the matter. Learned counsel *inter alia* submitted as under:

(a) The rejection of the Petitioner's request to revise the Original LTA in view of the changed target region by CTUIL was in line with the Connectivity Regulations, 2009, under which no change of region (being for more than 100 MW) under the existing LTA was permissible. In this context, the Petitioner had also preferred Petition No. 7/MP/2019 before the Commission, which was rejected by the Commission.

(b) Subsequent grants of the LTAs for 125 MW, 125 MW, and 50 MW were the fresh LTAs without there being any element of 'change in region,' and as such, there is no question of any exemption from payment of the relinquishment charges for the Original LTA. The reliance placed on the order dated 8.3.2019 in Petition No. 92/MP/2015 is misplaced.

(c) Also, the Original LTA and subsequent LTAs (Revised LTA) were granted on two different corridors, and the stranded capacities of the above relinquishment by the Petitioner have been determined accordingly. Also, in paragraph 106 of the order dated 8.3.2019, the Commission has *inter alia* observed that the stranded transmission capacity shall have to be determined on the date of the relinquishment of access right, and the relinquishment charges shall be determined on the basis of net present value for the period of stranded capacity falling short of 12 years and notice period falling short of 1 year.

(d) By its letter dated 29.4.2024, CTUIL had provided the Petitioner a detailed information/clarification regarding computation along with element-wise stranded capacity attributable to the Petitioner in terms of surrendered of the above LTAs in respect of identified transmission systems for LTA.

3. Considering the submissions made by the learned senior counsel and learned counsel for the parties, the Commission observed that keeping in view that the invoices raised by CTUIL towards the relinquishment charges dated 12.3.2024 are approaching their due date and the Petitioner apprehends the coercive/precipitative actions by CTUIL thereafter, the Commission, for balancing the interest of both the sides, deemed it appropriate to direct that CTUIL shall not proceed to take any such coercive/precipitative action against the Petitioner in connection to the said invoices, provided the Petitioner deposit 25% of the amount within two weeks from the date of issuance of the ROP. Needless, to add, such payment by the Petitioner shall be subject to the order of the Commission in the matter.

4. The Commission directed CTUIL to file the following information called for vide RoP for the hearing dated 28.8.2024, on an affidavit, within a week:

(a) CTUIL, vide a notification dated 24.12.2021, determined the relinquishment charges in respect of the Petitioner. However, the Bills have been raised by the CTUIL vide letter dated 12.03.2024. Clarify the specific reasons for the delay in raising the relinquishment charges bills to the Petitioner and

(b) The basis of calculation of relinquishment charges for 35 MW against the relinquished quantum of 175 MW LTA. On what basis the LTA quantum of M/s CTN has been considered for calculation of the “net relinquishment” of the Petitioner. Clarify the term “net relinquishment”.

5. Subject to the above, the Commission reserved the order in the Petition.

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