

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 97/MP/2022 along with IA Nos.15/2022 & 68/2024**

- Subject : Petition under Section 79(1)(c), 79(1)(f) and 79(1)(k) of the Electricity Act, 2003 *inter alia* challenging firstly, the computation of relinquishment charges determined by Central Transmission Utility; and secondly, the methodology published by CTU for determining relinquishment charges pursuant to order dated 8.2.2019 in 92/MP/2015.
- Date of Hearing : **29.8.2024**
- Coram : Shri Jishnu Barua, Chairperson  
Shri Ramesh Babu V., Member  
Shri Harish Dudani, Member
- Petitioner : AD Hydro Power Limited (ADHPL)
- Respondents : Central Transmission Utility of India Limited (CTUIL) and Ors.
- Parties Present : Shri Basava Prabhu Patil, Sr. Advocate, ADHPL  
Shri Geet Ahuja, Advocate, ADHPL  
Shri Sumit Garg, ADHPL  
Shri Sanjay Jana, ADHPL  
Ms. Suparna Srivastava, Advocate, CTUIL  
Ms. Astha Jain, Advocate, CTUIL  
Ms. Arshiya, Advocate, CTUIL  
Shri Siddharth Sharma, CTUIL

**Record of Proceedings**

The learned senior counsel for the Petitioner submitted that the present Petition has been filed, *inter alia*, challenging the computation of the relinquishment charges determined by the Respondent No.1, CTUIL, and the methodology published by CTUIL for determining the relinquishment charges pursuant to the order dated 8.2.2019 in Petition No. 92/MP/2015. The learned senior counsel mainly submitted as under:

- a) The Petitioner's hydro generating station is connected to the then unified PGCIL's Nalagarh through a 220 kV D/C dedicated transmission line constructed by the Petitioner along with the 2 Nos. of 220 kV sub-station bays at the switchyard of Nalagarh.
- b) The Petitioner was granted the Long-Term Access (LTA) of 168.96 MW, which was operationalised from 16.9.2010. Pertinently, the said LTA was granted on existing system margins with the 'Northern Region' as the target region with no identified beneficiary.
- c) As the Petitioner had been selling the power at power exchanges and under short-term bilateral contracts by availing the Short-Term Open Access, the LTA did not serve any purpose, and accordingly, on 23.8.2021, the Petitioner sent a notice to CTUIL relinquishing the entire LTA of 168.96 MW with immediate effect which was accepted

by CTUIL vide letter dated 27.8.2021 subject to the payment of the relinquishment charges in terms of the Commission's order dated 8.3.2019 in Petition No. 92/MP/2015.

d) Finally, vide letter dated 24.12.2021, CTUIL conveyed the computation of the relinquishment charges of Rs. 58.33 crores *qua* the Petitioner.

e) Firstly, since LTA in the Petitioner's case was granted on an existing system, not planned for the Petitioner, the exit of the Petitioner cannot cause any stranding in such system as held by the Commission in an order dated 21.2.2014 in Petition No. 63/MP/2013 (Lanco Kondapalli Power Ltd. v. PGCIL). Hence, no relinquishment charges could be levied upon the Petitioner without the determination of stranded capacity.

f) Without prejudice to the above primary submission, the regulatory framework governing the methodology for the determination of relinquishment charges is the Commission's order dated 8.3.2019 read with Regulation 18 of the Connectivity Regulations, 2009. However, the aforesaid determination of relinquishment charges by CTUIL is completely contrary to the Commission's order dated 8.3.2019. As per the said order, CTUIL was required to apply the "All India Minimum POC Rates" for calculating the relinquishment charges payable in cases where the LTA was granted on the unidentified existing system. Whereas, CTUIL has proceeded to determine the relinquishment charges by applying the "All India Minimum Transmission Charges" under the Sharing Regulations, 2020.

g) If at all CTUIL was of the view that there was some regulatory gap in the methodology of determining the relinquishment charges after the issuance of the Sharing Regulations, 2020, it ought to have approached the Commission for necessary regulatory approval instead of arbitrarily applying some methodology contrary to the order dated 8.3.2019 in Petition No. 92/MP/2015.

h) Owing to the wrongful and arbitrary application of "All India Minimum Transmission Charges" by CTUIL, there has been a substantial increase in liability of the relinquishment charges upon the Petitioner. If the last available "All India Minimum POC Rates" for the month of November 2020 is applied for the computation, the total liability of the Petitioner, including the notice period charges, would work out to Rs.15.44 crores as against Rs.58.33 crores in terms of the invoice dated 12.3.2024.

i) During the pendency of the present Petition, CTUIL has issued the invoice dated 12.3.2024 on the Petitioner basis of the computation vide letter dated 24.12.2021. As per the order dated 8.9.2019, the period of six months to honour the invoice expires on 12.9.2024, and accordingly, the Petitioner has also moved IA No. 68/2024 to bring on record the invoice dated 12.3.2024 and seeking an interim stay of operation of the said invoice.

j) Pertinently, the Commission's order dated 8.9.2019 in Petition No.92/MP/2015 has been assailed before the Appellate Tribunal for Electricity (APTEL) in several appeals, including in Appeal No. 251/2019 wherein vide order dated 8.10.2020, the APTEL has restrained the CTUIL from raising any invoices towards the relinquishment charges. In such circumstances, it would not be fair to require the Petitioner to pay the invoice dated 12.3.2024 even though the Petitioner is not a party to the said appeals.

k) The Petitioner is also disputing the charges for the Notice period as levied by the CTUIL since the Petitioner relinquished the LTA in the 11<sup>th</sup> year. As per the Petitioner, the scheme of Regulation 18 of the Connectivity Regulations is such that relinquishment charges are payable until the 12<sup>th</sup> year and not beyond. Since the

Petitioner was only left with one year until completion of 12 years, it ought not to be held liable to pay notice period charges as it would lead to payment for two years beyond the 11<sup>th</sup> year, while the relinquishment charges are not payable beyond the 12<sup>th</sup> year.

2. In response, the learned counsel for the Respondent, CTUIL, mainly submitted as under:

a) The interim stay granted by the APTEL operates *qua* the appellants/generators therein only. After having received the requisite clarity on the aspect of the applicability of GST, CTUIL has been raising the invoice for the relinquishment charges on all the other generators including the Petitioner herein. The benefit of the interim stay of the APTEL as such does not extend to the other generators/the Petitioner herein.

b) Insofar as the liability of relinquishment charges is concerned, the order dated 8.9.2019 categorically provides that whether the LTA is granted with the existing system or with system augmentation, in both cases, the relinquishment charges are payable under Regulation 18 of the Connectivity Regulations when the LTA rights are relinquished.

c) In the said order, the Commission also made it clear that relinquishment compensation is payable in the form of transmission charges. Since at the time of passing of the said order, the Sharing Regulations, 2010 were in force, and the relinquishment of open access had also been considered as having taken place during that period, it follows that the relinquishment compensation would be computed as per the methodology prescribed in the Sharing Regulations, 2010 i.e., at 'All India Minimum PoC rates'.

d) However, subsequent to the passing of the order dated 8.3.2019, this Commission has notified the Sharing Regulations, 2020, wherein the process of computation of PoC slab rates has been done away with a new methodology for computation of the transmission charges has been prescribed. Hence, it follows that when any LTA is relinquished during the period the Sharing Regulations 2020 are in force, the relinquishment compensation is also to be computed based on all the components prescribed therein. Accordingly, the relinquishment charges of the Petitioner have been calculated for August 2021 timeframe considering the All India Minimum transmission charges as published on the NLDC website, which is in consonance with the directions under the order dated 8.3.2019 for the relinquished LTAs granted on existing margins.

e) There ought not to be any stay on the invoice dated 12.3.2024.

3. In rebuttal, the learned senior counsel for the Petitioner submitted that the scope of "All India Minimum Transmission Charges" under the Sharing Regulations, 2020, including the components included therein, is entirely different from that of "All India Minimum PoC Rates" under the Sharing Regulations, 2010, CTUIL ought not to have applied the former, on its own, for the computation of relinquishment charges. Learned senior counsel further submitted that without prejudice, even if the Sharing Regulations 2020 are to be applied, it is only the AC-UBC component determined for the Petitioner that could have been applied for computation of relinquishment charges since it is the only component which is calculated on the basis of the usage of the system by the Petitioner and the computation of relinquishment charges, on this basis, would work out to approximately Rs. 2.49 crores only. Learned senior counsel, accordingly, urged that till the time Commission adjudicates upon the above aspects as raised in the instant case, the Petitioner ought not to insist on making the payment against the impugned invoice

dated 12.3.2024. Learned senior counsel added that vide Record of Proceedings for hearing dated 1.5.2024, CTUIL was directed to furnish certain pertinent information. However, no such information has been filed by the CTUIL so far.

4. The learned counsel for the Respondent, CTUIL, submitted that CTUIL is yet to file the details/information as called for by the Record of Proceedings for the hearing dated 1.5.2024 and further sought liberty to file such details/information. Learned counsel, however, hasten to add that the absence of such details/information as such cannot inure to the benefit of the Petitioner in seeking the stay of the impugned invoice.

5. Considering the submissions of the learned senior counsel and learned counsel for the parties, the Commission, in view of the facts & circumstances involved in the instant case, directed as under:

a) Since as per the Petitioner's own submission and computation, albeit without prejudice to its other submissions, the liability of relinquishment charges, including the notice period charges, based on the "All India Minimum POC Rates" of last available month, i.e., November 2020, would work out to Rs. 15.44 crores, the Commission deemed it appropriate to direct the Respondent, CTUIL not to take any coercive/precipitative action against the Petitioner in respect of the Invoice dated 12.3.2024 provided the Petitioner deposit such amount within four weeks from the issuance of the ROP. Needless to add, such payment shall be subject to the final outcome of the present case and without prejudice to the various contentions raised by the Petitioner.

b) The Respondent, CTUIL to file the information as directed vide Record of Proceedings for the hearing dated 1.5.2024 within two weeks.

6. The Petition, along with IAs, will be listed for further hearing on **15.10.2024**.

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