

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 16/MP/2023

Coram:

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

Date of Order: 3rd May 2024

In the matter of:

Petition under Section 79 (1) (c), (d) and (f) of the Electricity Act, 2003 read with Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 and Regulation 111 and 114 of CERC (Conduct of Business) Regulations, 1999 for redetermination of Slab Rates for the period January 2020 to March 2020 i.e., Quarter 4 of F.Y. 2019-20 determined vide CERC Order No. L-1/44/2010-CERC dated 04.02.2020.

And

In the matter of:

GRIDCO Limited,
Janpath, Bhubaneswar-751022.

.....**Petitioner**

Versus

1. Central Transmission Utility of India Limited (CTUIL),
Saudamini, Plot No.2, Sector 29, Gargaon-122001 (Haryana)
2. Power Grid Corporation of India Limited,
Saudamini, Plot No.2, Sector 29, Gargaon-122001 (Haryana)
3. National Load Despatch Centre,
Power System Operation Corporation Ltd. (POSOCO),
B-9, Qutub Institutional Area, Katwara Sarai, New Delhi -110016
4. Eastern Regional Power Committee,



14, Golf Club Road, Tollygunge, Kolkata-700033

5. Eastern Regional Load Despatch Centre,
14, Golf Club Road, Tollygunge, Kolkata-700033

.....Respondents

Parties Present:

Shri R. K. Mehta, Advocate, GRIDCO
Ms. Himanshi Andley, Advocate, GRIDCO
Shri S. K. Maharana, GRIDCO
Shri Ranjeet S. Rajput, CTUIL
Shri Swapnil Verma, CTUIL
Shri Sanny Machal, NLDC and ERLDC
Shri Alok Mishra, NLDC and ERLDC

ORDER

GRIDCO Limited has filed the instant Petition under Section 79 (1) (c), (d) and (f) of the Electricity Act, 2003, read with Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 and Regulation 111 and 114 of CERC (Conduct of Business) Regulations, 1999 for redetermination of Slab Rates for the period January 2020 to March 2020, i.e., Quarter 4 of F.Y. 2019-20 determined vide CERC Order No. L-1/44/2010-CERC dated 04.02.2020.

2. The Petitioner has made the following prayers:

- i. Direct NLDC, the Implementing Agency to compute PoC Rates for the month of January to March 2020 considering the LTA of Odisha for the Quarter 4 of F.Y. 2019-20 as 1384.93 MW instead of 1234.65 MW;*
- ii. Revise the PoC Slab Rates for the period January 2020 to March 2020 basing on the correct LTA of Odisha i.e. 1384.93 MW;*
- iii. Direct the respective Regional Power Committees (RPCs) to revise the RTAs for the months of January 2020 to March 2020 basing on the revised PoC Rates determined by the Commission;*
- iv. Direct CTUIL/PGCIL to revise the PoC Bill #1 for the Months of January 2020 to March 2020 as per revised RTAs, as soon as the Regional Power Committee (RPCs) publishes the same;*
- v. Pass such other order (s) as the Commission deem fit and proper in the facts and circumstance of the case.*



Submission of Petitioner

3. Petitioner has made the following submissions:
- a) GRIDCO is a “Deemed Intra-State Trading Licensee” under the 1st and 5th Proviso to Section 14 of the Electricity Act, 2003 and is engaged in the Bulk Supply of Power to the four Distribution Licensees in the State of Odisha pursuant to the Transfer Notification dated 09.06.2005.
 - b) Petitioner seeks re-determination of Slab Rates for the period January, 2020 to March, 2020 i.e. Quarter 4 of F.Y. 2019-20 determined vide CERC Order dated 04.02.2020. The PoC Slab rates were calculated by NLDC based on the methodology prescribed in the CERC (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010 (hereinafter referred as “Sharing Regulations, 2010”) in force.
 - c) In line with the Sharing Regulations, 2010, the required PoC Data was collected from respective entities and the same was validated in the PoC Validation Committee Meeting held on 19.12.2019. In the said MoM under Item 6.2 (iv) (e) it has been stated that “Generation from Darlipalli STPS St-1 was taken as 0 MW instead of 524 MW as it is not commissioned yet.”
 - d) Considering the PoC Input Data and the mechanism prescribed in the Sharing Regulations 2010, PoC Slab rates were determined and published by CERC vide order dated 04.02.2020. In the said order, the quantum of LTA considered for the Computation of PoC Rates of Odisha was 1223.69 MW, and the PoC Slab Rate of Odisha has been determined to be 4,49,682 Rs./MW/Month, and it remained valid for the months January 2020 to March 2020. Based on the PoC Slab Rates, ERPC notifies the Regional Transmission Accounts (RTAs) on a monthly basis, wherein the PoC Charges of different constituents of the Eastern Region are specified. Accordingly, the PoC Charges of Odisha were Rs. 55.52 Crore each for the months of January 2020 and February 2020.
 - e) Consequent upon CoD of 800 MW Unit -1 of Darlipali Generating Station of NTPC on 01.03.2020, the LTA of Odisha was increased from 1234.65 MW to 1675.80 MW, due to the addition of 441.15 MW of LTA on account of Darlipali CGS. As a result, the PoC Charges of Odisha (PoC Charges = LTA X PoC Rate) increased to Rs. 75.36 Crore, as per the RTA published by ERPC.

- f) The LTA considered for the determination of PoC Slab Rates from January 2020 to March 2020 is 1223.69 MW, whereas the LTA considered for March 2020 was 1675.80 MW. This mismatch has resulted in an increase in PoC charges of Odisha by an amount of Rs. 20 Crore approximately.
- g) The quantum of LTA considered for determination of PoC Slab rate for the Quarter 2019-20 Q4 is shown below:

| Month and year | LTA considered for Odisha for determination of PoC Slab Rates (MW) | PoC Slab Rates of Odisha (Rs/MW/Month) | LTA considered for Odisha in RTA published by ERPC (MW) | PoC Charges of Odisha as per RTA published by ERPC (Crore) |
|----------------|--|--|---|--|
| January 2020 | 1223.69 | 4,49,682 /- | 1234.65 | 55.52 |
| February 2020 | | | 1234.65 | 55.52 |
| March 2020 | | | 1675.80 | 75.36 |

- h) The issue was brought to the notice of PGCIL / NLDC / ERPC / CERC, vide GRIDCO letter dated 20.04.2020, followed by reminders dated 29.05.2020 and 29.10.2020. However, no response has been received by GRIDCO to date.
- i) The 'Zonal Summary Cost Q4 2019-20 LTA' file uploaded by POSOCO on their Website for the Application period 2019-20 (Q4) indicates that the LTA of Odisha is 1223.69 MW and the Total Cost Share is about Rs. 57.80 Crore. Since this is applicable for the whole application period, the PoC Charge of Odisha should have been Rs. 57.80 Crore prior to Slab Fixation. However, Odisha was asked to pay PoC Charges amounting to Rs. 75.36 Crore. The matter was discussed as an Agenda in the 46th Commercial Sub-Committee (CCM) meeting held on 06.07.2022. After detailed deliberations, the Committee advised GRIDCO to file a Petition before the Commission to resolve the issue.
- j) LTA quantum is the basis for the determination of PoC Slab Rates of the DICs. The more the quantum of LTA, the less would be the PoC Slab Rates of the DIC. In the present case, the LTA of Darlipalli was not considered by the Validation Committing meeting held on 19.12.2019. When Darlipalli was commissioned on 01.03.2020, the LTAs of the respective beneficiaries of the said Generating Station were considered in the RTA of March 2020 only, but there was no re-determination of PoC Slab Rates.

- k) Since LTA for Odisha has increased in the month of March 2020 due to the COD of Darlipalli Generating Station of NTPC, GRIDCO has re-calculated the PoC Slab Rate and PoC Charges month-wise, considering the weighted average of the LTAs for all the Beneficiaries of Darlipalli Generating Station for the months of January, February, and March 2020. Accordingly, the Slab Rate of Odisha comes to Rs 393303 /MW/Month, and the PoC Charges for the entire quarter come to Rs. 163.03 Crore approximately.
- l) Since the burden of the Transmission Charges has to be ultimately passed on to the Consumers of the State, it is in the larger public interest that the order dated 04.02.2020 be appropriately corrected.
- m) It has been held by the Supreme Court in the Case of All India Power Engineer Federation Vs. Sasan Power Ltd., (2017) 1 SCC 487 as under:
- “26. On the facts of this case, it is clear that the moment electricity tariff gets affected, the consumer interest comes in and public interest gets affected. This is in fact statutorily recognised by the Electricity Act in Sections 61 to 63 thereof. Under Section 61, the appropriate Commission, when it specifies terms and conditions for determination of tariff, is to be guided inter alia by the safeguarding of the consumer interest and the recovery of the cost of electricity in a reasonable manner. For this purpose, factors that encourage competition, efficiency and good performance are also to be heeded. Under Section 62 of the Act, the appropriate Commission is to determine such tariff in accordance with the principles contained in Section 61
.....”*
- n) Since the mistake in the determination of the Slab Rate for the Quarter January 2020 to March 2020 (Q4) occurred on account of the wrong projection of LTA by CTUIL/PGCIL, it is expedient in the interest of justice that the PoC Slab Rates for the period January 2020 to March 2020 are revised based on the weighted average LTA of Odisha, i.e., 1384.93 MW (as per the calculation of GRIDCO). In the past also on the application of GRIDCO, the Commission had revised the Slab Rates vide Order No. L-1/44/2010-CERC dated 04.02.2019.

Hearing on 12.07.2023

4. The Petition was admitted by the Commission on 12.07.2022.

Submission of Respondent No. 3 NLDC and Respondent No. 5 ERLDC

5. NLDC and ERLDC vide a common affidavit dated 04.08.2023 submitted as follows:



- a) As per Regulation 2(1)(b) and Regulation 5(1) of the Sharing Regulations 2010, applicable slab rates for PoC charges, Reliability Support Charges, and HVDC charges are to be computed in advance on a quarterly basis. Computations of slab rates for PoC charges, Reliability Support Charge rate, and HVDC Charges rate for the application period from January 2020 to March 2020 were carried out in the month of December 2019, following which the study results were shared with CERC vide letter dated 3.01.2020 and 23.01.2020. Subsequently, slab rates for PoC charges, Reliability Support Charge rate, and HVDC Charges rate for the application period were approved by CERC on 04.02.2020. Details of LTA/MTOA for the period from January 2020 to March 2020 as furnished by CTU and weighted average allocation from ISGS for the month of November 2019 as furnished by respective RPCs had been considered to work out the reference LTA capacity.
- b) Weighted average allocation from ISGS considered for computation for applicable slab rates may change during an application period of three months, depending upon commissioning and subsequent commencement of scheduling from a new ISGS. Regional Transmission Accounts (RTA) for a particular month of an application period are prepared post facto, based on the operationalised LTA/MTOA and weighted average allocation from ISGS, which may be different from that considered in the computation of applicable slab rates that were computed ex-ante. Even when a generator is anticipated to come in the middle of an application period, it is considered by the Validation Committee for the next application period only based on the actual date of its commissioning.
- c) Therefore, the LTA Capacity considered for computation of the Slab rates for PoC charges, Reliability Support charges, and HVDC charges for an application period of three months and the LTA Capacity for RTA of a particular month need not be the same. This process has been followed since the inception of the Sharing Regulation 2010. Odisha has been a member of the Validation Committee since 2011, so it is already aware of the above process.
- d) The RTA for March 2020 was prepared based on the details of LTA/MTOA as furnished by CTU and weighted average allocation as furnished by respective RPCs for the month of March 2020. As Darlipalli Unit-1 of 800 MW was commissioned on 01.03.2020, its ISGS allocation quantum was captured in weighted average allocation data as furnished by ERPC for the month of March 2020.

- e) Petitioner has assumed that LTA/MTOA and ISGS allocation capacity, considered for computation of slab rates of PoC charges for an application period of three months and LTA/MTOA and ISGS allocation capacity for RTA, needs to be the same. Therefore, the Petitioner's request for redetermination of Slab Rates for the period January 2020 to March 2020 does not even arise.
- f) If the proposition of GRIDCO is considered, then other DICs in the country will be affected due to changes in transmission charges.

Submission of Petitioner:

- 6. Petitioner vide affidavit dated 31.08.2023 filed a Rejoinder to the submissions of NLDC and ERLDC, as follows:
 - a) Consequent upon CoD of 800 MW Unit #1 of Darlipali Generating Station of NTPC on 01.03.2020, LTA of Odisha was increased from 1234.65 MW to 1675.80 MW on account of the addition of 441.15 MW of LTA of Darlipali CGS.
 - b) The Slab Rate of Odisha for March 2020 was kept unaltered without considering 441.15 MW of LTA on account of Darlipali CGS. However, the Transmission Charge (RTA) for March 2020 included the LTA of Darlipali CGS. The Slab Rate of Odisha for March 2020 ought to have been redetermined considering the additional LTA quantum of 441.15 MW on account of Darlipali CGS.
 - c) The Slab Rate for March 2020 was computed considering 1234.65 MW LTA. Transmission Charges for the said Month were calculated considering 1675.80 MW LTA (including the additional 441.15 MW LTA of Darlipali).
 - d) On several occasions, the Commission has redetermined PoC Slab Rates published earlier.
 - e) The Proviso to Clause 2.1 (b) of Sharing Regulations, 2010, provides that in exceptional circumstances Commission may curtail or extend the application period. The present case is of exceptional nature since additional LTA has a major impact on the Transmission Charges due to the charging of Darlipali Generating Station, and the Commission has the power to curtail the application period to 2 months, i.e., January 2020 to February 2020 and compute March 2020 as a single Month or consider the weighted average LTA by considering the LTA on account of Darlipali STPS.

- f) The SOR to the Third Amendment to CERC Sharing Regulations, 2015 it was stated as under in Clause 3.3.1:

“xxxxxx it is clarified that any load flow study is a sample or representative scenario of forecasted or expected load generation balance. As the purpose of the load flow study in present case is allocation of transmission charges, it can only be done at fixed intervals for representative scenarios. APP's proposal to make Application Period as one month would require twelve computations per year. In view of long process involved in data collection, data validation and tariff determination of expected transmission assets, it may not be possible to do this exercise on monthly basis. Since it is only a representative scenario of load or injection of all DICs varying over the year, it is expected to capture seasonal variation with fair degree of accuracy. The difference between actual and forecasted scenarios for many DICs get evened out over a period of time and method/periodicity by design does not give advantage or disadvantage to any DIC. To capture monthly, daily and 15 minute block wise variation in injection and drawal is neither practical nor desirable. However as average of maximum injection or maximum withdrawal is being taken to prepare base case, it addresses the concern of APP to large extent”.

- g) The Commission had amended the above Regulation on the premise that the difference between 'actual' and 'forecasted' scenarios for DICs gets evened out over a period of time. However, in the present case, the impact of an additional 441.15 MW of LTA due to Darlipali is a sizable quantum of around 36% of the existing quantum, which has resulted in an increase in the Transmission Charges Bill (POC Bill #1) of Odisha by Rs. 20 Crores approximately, which cannot be adjusted or evened out over a period of time.
- h) As per the above SOR, the Load Flow Study is a sample or representative scenario of load or injection of all DICs varying over the year and is expected to capture seasonal variation with a fair degree of accuracy. The whole purpose of the Load Flow Study was to capture 'load variations' due to seasonal effects.
- i) When the actual Scenario is available, the question of considering the representative Scenario does not arise. The fact is that Darlipali Generating Station was charged on 01.03.2020, and PoC Slab Rates of Odisha have been determined excluding the 441.15 MW LTA of Darlipali STPS, while RTA of Odisha has been calculated considering the same.
- j) In the Validation Committee Meeting held in December 2019, the Validation Committee did not consider the Generation from Darlipalli Generating Station of NTPC even though it was reflected in the projected Generation on the ground that Darlipalli CGS had not been commissioned.

- k) The submission of Respondents that the same process has been followed since the inception of CERC Sharing Regulations, 2010, is untenable. The factum of an erroneous process being followed for a long time does not ipso facto lead to a presumption of its correctness/accuracy/validity.

Submission of Respondents

7. NLDC and ERLDC vide a common affidavit dated 30.11.2023 submitted as follows:
- a) As per the standard practice, the Validation Committee used to consider the generation in the Point of Connection (PoC) charge computation that was either already commissioned or likely to be commissioned before the commencement of the application period (Quarter). Even when a generator was anticipated to come in the middle of an application period, it was considered by the Validation Committee for the next application period only based on the actual date of its commissioning. The approach taken by the validation committee has always been consistent in this regard.
- b) It is evident that generators that were not commissioned or not likely to be commissioned before the commencement of the application period were not considered in the PoC calculation for the relevant application period as an established practice. This process has been followed since the inception of the Sharing Regulations, 2010, and it has been uniform for all stakeholders. Moreover, Odisha, being a member of the Validation Committee since 2011, is fully aware of the above process.
- c) 800 MW Unit-1 of Darlipali was commissioned only on 1.03.2020 (the last month of the application period/quarter). Even if the generation of Darlipali was considered by the validation committee (deviating from the standard practice) that would have led to the wrong computation of POC charges for the first two months of the application period.
- d) In all the validation committee meetings, GRIDCO and OPTCL were present as members of the committee. The practice is uniform in all the cases, and it was followed with the consent of the validation committee members only. The decisions of the validation committee are collective in nature, with the participation of all the stakeholders. The slab rates considered in the case of Odisha are in accordance

with the standard practice, and there is no error in the computation of Odisha's LTA and the slab rate.

Submission of Petitioner

8. Petitioner vide affidavit dated 18.12.2023 has filed a Rejoinder to the submissions of NLDC and ERLDC as follows:
- a) In the second Validation Committee Meeting for the application period from 01.07.2015 to 30.09.2015, the Committee considered the Generation of 800 MW from Koldam HEP while determining PoC Charges. The Date of Commercial Operation of Koldam HEP was 18.07.2015, which falls within the application period. It is thus, in view of the submissions of NLDC and ERLDC, the Validation Committee ought to have considered the Generation that had already been Commissioned or was likely to be Commissioned before the commencement of the Application Period (Quarter) in the Point of Connection (PoC) Charge Computation.
- b) For the Computation of PoC Charges on a number of occasions, the Validation Committee has considered Generations from Generating Units, which were commissioned much later. Some of the Cases are tabulated below:

| S. No. | Validation Committee Meeting and Application Period. | Validation Committee Decisions. |
|---------------|---|---|
| 1. | 1 st Meeting of Validation Committee for the year 2013 – 2014 (1st Quarter, April - June 2013) and 3 rd Meeting of Validation Committee for the year 2013 – 2014 (3rd Quarter, October - December 2013) | 1. Generation from Neyveli TPS-II and Meenakshi was considered for the period October 2012 to March 2013). It was not considered during first Quarter (April 2013- June 2013) since it was not Commissioned. 2. Generation from Kudankulam Nuclear Plant was considered for computation of PoC charges for the period from October 2012 to March 2013 and also for the period from April 2013-June 2013 (First quarter) and July 2013-September 2013 (second quarter). It was not considered in Q3 due to Non commissioning. |
| 2. | second Meeting of Validation Committee for the year 2013 - 2014 (second Quarter, July - Sep 2013) | Generation from Unit- 1 and 2 of Parbati III of NHPC was considered during First Quarter (April 2013- June 2013). It was not considered in the second Quarter due to Non-Commissioning. |
| 1. | 3 rd Meeting of Validation Committee for the year 2014-15 (3 rd quarter of the October -December, 2014) | BALCO Unit-2 was being considered for PoC computation since 1 st Quarter of 2013 (April-June 2013). However, the same was Not Considered for PoC computation in the 3 rd quarter of 2014-15 |

- c) For a long time, the Validation Committee has considered Generations from many Units in spite of such Units not being declared under Commercial Operation. There cannot, therefore, be a valid justification for the Committee not to consider the

Generation from NTPC Darlipalli Unit-2 for PoC calculation pertaining to the period from January 2020 to March 2020 in spite of the fact that the Unit was declared under COD within the Application Period of January 2020 to March 2020.

- d) With regard to the submission of NLDC / ERLDC that the GRIDCO was present in the Validation Committee Meeting, it is submitted that Commissioning Status pertaining to the NTPC Generating Stations are available with NTPC or RLDCs. Beneficiaries like GRIDCO generally do not have accurate information concerning the Commissioning Status of NTPC Generating Stations. It is, therefore, the responsibility of the Generating Stations to accurately forecast the COD Dates of their Units as the same ultimately has financial implications for the Beneficiaries.
- e) Regulation 114 of the (Conduct of Business) Regulations, 1999:

“(i) Empowers the Commission to amend any defect or error in any proceeding and;

(ii) Commission shall make all necessary amendments for the purpose of determining the real question or issue arising in the proceedings.”

Regulation 114 thus mandates that all amendments necessary to decide the real question must be carried out. Moreover, the Regulatory Powers of the Commission under Section 79 (1) (c), (d), and (f) of the Electricity Act, 2003 are also very wide.

Hearing on 24.01.2024

9. On 24.01.2024, the Commission reserved the matter for order.

Analysis and Decision

10. We have considered the submissions of the Petitioner and Respondents and perused them with all relevant documents on record.
11. Petitioner has submitted that based on the PoC input Data and the mechanism prescribed in the Sharing Regulations 2010, PoC Slab Rates were determined for the months January 2020 to March 2020 and published by CERC, vide order dated 04.02.2020, wherein the quantum of LTA considered for Computation of PoC Rates of Odisha was 1223.69 MW and the PoC Slab Rate of Odisha has been determined to be Rs.4,49,682 /MW/Month. Accordingly, the PoC Charges of Odisha, as per the RTA published by ERPC, were Rs. 55.52 Crore each for the months of January 2020 and February 2020. Consequent upon the CoD of 800 MW Unit -1 of Darlipali

Generating Station of NTPC on 01.03.2020, the LTA of Odisha was increased from 1234.65 MW to 1675.80 MW. As a result, the PoC Charges of Odisha increased to Rs. 75.36 Crore.

12. Petitioner submitted that the LTA of Darlipalli Generating Station of NTPC, which was commissioned on 01.03.2020, was not considered by the Validation Committee meeting held on 19.12.2019. The Petitioner further submitted that after the commissioning of the Darlipalli on 01.03.2020, the LTAs of the respective beneficiaries of the said Generating Station were considered in the RTA of March 2020 only, but there was no re-determination of PoC Slab Rates.
13. The Petitioner submitted that the mistake in the determination of the Slab Rate for the Quarter January 2020 to March 2020 (Q4) occurred on account of the wrong projection of LTA by CTUIL/PGCIL. Therefore, the Petitioner seeks re-determination of Slab Rates for the period January 2020 to March 2020.
14. NLDC and ERLDC have submitted that as per Regulation 2(1)(b) and Regulation 5(1) of the Sharing Regulations 2010, applicable slab rates for PoC charges, Reliability Support Charges, and HVDC charges are to be computed in advance on a quarterly basis. NLDC and ERLDC have also submitted that RTA for a particular month of an application period is prepared post facto, based on the operationalised LTA/MTOA and weighted average allocation from ISGS, which may be different from that considered in the computation of applicable slab rates that was computed ex-ante. NLDC and ERLDC have further submitted that this process has been followed since the inception of the Sharing Regulation 2010 and Odisha, being a member of the Validation Committee since 2011, already aware of the above process.
15. We have considered the submission of the Petitioner and Respondents and perused the facts on record. The following issues arise for our consideration:

Issue No. 1 – Whether Petitioner’s prayer for re-determination of PoC Slab rates for the period January 2020 to March 2020 considering the LTA of Odisha as 1384.93 MW instead of 1234.65 MW due to commissioning of Darlipali unit-1 on 01.03.2020, is admissible? Whether any consequential

directions are required to be issued to NLDC, CTU, or ERPC to revise the accounts?

Issue No.2 – Whether there is a need to invoke Clause (b) of Regulation 2.1 of the Sharing Regulations, 2010, in the present case?

The issue shall be dealt with in subsequent paragraphs.

Issue No. 1 – Whether Petitioner’s prayer for re-determination of PoC Slab rates for the period January 2020 to March 2020 considering the LTA of Odisha as 1384.93 MW instead of 1234.65 MW due to commissioning of Darlipali unit-1 on 01.03.2020, is admissible? Whether any consequential directions are required to be issued to NLDC, CTU, or ERPC to revise the accounts?

16. Petitioner submitted that consequent upon CoD of 800 MW Unit -1 of Darlipali Generating Station of NTPC on 01.03.2020, the LTA of Odisha was increased from 1234.65 MW to 1675.80 MW, and as a result, the PoC Charges of Odisha got increased to Rs. 75.36 Crore. Petitioner submitted that the LTA of Darlipalli Generating Station of NTPC, which was commissioned on 01.03.2020, was not considered by the Validation Committee meeting held on 19.12.2019 and further after commissioning of the Darlipalli Unit -1 on 01.03.2020, the LTAs of the respective beneficiaries of the said Generating Station were considered in the RTA of March 2020 only but there was no re-determination of PoC Slab Rates.
17. Petitioner submitted that the matter was discussed as an Agenda in the 46th Commercial Sub-Committee (CCM) meeting held on 06.07.2022, and after detailed deliberations, the Committee advised GRIDCO to file Petition before the Commission to resolve the issue. Petitioner has submitted that on several occasions, the Commission has redetermined PoC Slab rates published earlier. Petitioner has further submitted that the present case is of exceptional nature since additional LTA has a major impact on the Transmission Charges due to charging of Darlipalli Generating Station, and the Commission has the power under Clause 2.1 (b) of the Sharing Regulations, 2010 to curtail the application period to 2 months, i.e., January 2020 to February 2020 and compute March 2020 as a single Month or

consider the weighted average LTA by considering the LTA on account of Darlipalli STPS.

18. NLDC and ERLDC have submitted that RTA for the month of March 2020 had been prepared based on the details of LTA/MTOA, and as the Darlipalli Unit-1 of 800 MW was commissioned on 01.03.2020, its ISGS allocation quantum got captured in weighted average allocation data as furnished by ERPC for the month of March 2020. NLDC and ERLDC have submitted that if the proposition of GRIDCO is considered, then other DICs in the country will be affected due to changes in transmission charges. NLDC and ERLDC have submitted that as per the standard and consistent practice, the Validation Committee used to consider the generation in the PoC charge computation that was either already commissioned or likely to be commissioned before the commencement of the application period (Quarter) and further even when a generator was anticipated to come in the middle of an application period it was considered by the Validation Committee for the next application period only based on the actual date of its commissioning. NLDC and ERLDC have further submitted that the practice is uniform in all the cases, which was followed with the consent of the validation committee members only, and also, the GRIDCO and OPTCL were present as members of the committee in all the validation committee meetings.
19. NLDC and ERLDC have submitted that if the Validation Committee had considered the generation of Darlipalli it would have led to the wrong computation of POC charges for the first two months of the application period, as the 800 MW Unit-1 of Darlipalli was commissioned only on 1.03.2020.
20. Petitioner has submitted that for Computation of PoC Charges, on a number of occasions, the Validation Committee has considered a Generator in spite of not being under Commercial Operation for PoC Calculation. However, subsequently, the Generation from the same Unit was not considered since the Unit did not achieve COD. Petitioner has further submitted that though the GRIDCO was present in the Validation Committee Meeting, the commissioning Status pertaining to the NTPC Generating Stations was only available with NTPC or RLDCs, and beneficiaries like GRIDCO generally do not have accurate information on the Commissioning Status of NTPC Generating Stations.

21. We have considered the submission of the Petitioner and respondents. We have perused the Sharing Regulations, 2010, which provides as under:

"A. Regulation 2.1:

"(b) 'Application Period' means the period of application of the charges determined as per these regulations and shall be of 3 (three) months duration i.e. April to June, July to September, October to December, and January to March in a financial year:

Provided that in exceptional circumstances, the Commission may extend or curtail the duration of the application period for the reasons to be recorded in writing."

(c) 'Approved Injection' means the injection in MW computed by the Implementing Agency for each Application Period on the basis of maximum injection made during the corresponding Application Periods of last three (3) years and validated by the Validation Committee for the DICs at the ex-bus of the generators or any other injection point of the DICs into the ISTS, and taking into account the generation data submitted by the DICs incorporating total injection into the grid:

Provided that the overload capability of a generating unit shall not be used for calculating the approved injection:

Provided further that where long term access (LTA) has been granted by the CTU, the LTA quantum, and where long term access has not been granted by the CTU, the installed capacity of the generating unit excluding the auxiliary power consumption, shall be considered for the purpose of computation of approved injection.

...

(u-i) 'Validation Committee' means the committee appointed by the Commission comprising officers from the Commission, the Implementing Agency, each of the RPC s, CTU, CEA, STUs for the purpose of discharging various functions vested under these regulations, and the meetings of the committee shall be chaired by a nominee of the Commission."

B. Regulation 7:

7. Process to determine Point of Connection Transmission Charges and Losses allocations.

(1) The process to determine the allocation of transmission charges and losses shall be as under, and as per timelines set out subsequently in Chapter 7 of these regulations:

(a) The Implementing Agency shall collect the Basic Network data pertaining to the network elements and the generation and load at the various network nodes from all concerned entities including Designated ISTS Customers, transmission licensees, NLDC, RLDCs, SLDCs, RPCs;

(b) The Basic Network shall not contain any electricity system, electrical plant or line below 132 kV except where generators are connected to the grid at 110 kV. Power flow into a lower voltage system from the voltage levels indicated in the definition of the Basic Network shall be considered as load at that substation. Power flow from a lower voltage system into the electricity systems at the voltage levels shall be considered as generation at that substation;

....

(d) Nodal generation information shall be based on the forecast data provided by the DICs. Such forecast data shall incorporate estimate of total maximum injection into the grid, considering the injection under long term access, medium term open access and short term open access during an Application Period. The forecast data submitted by the DICs shall be vetted by the Implementing Agency based on historical maximum generation levels

obtained from the NLDC/RLDCs/SLDCs. Any variation in the forecast generation shall be communicated to the concerned DIC by the Implementing Agency.

The forecast generation in respect of each DIC shall be normalized with respect to forecast All India Peak Demand met to create base case for load generation balance to arrive at the approved injection.

Approved injection figures so arrived shall be validated by the Validation Committee based on the injection data submitted by the DICs. In case data submitted by any DIC is different from the data computed on the basis of last three years" actual data, requisite justification by the concerned DIC shall be submitted for considering its data.

The generating station for which three years" data are not available, forecast shall be prepared based on available data and the data submitted by the concerned generating station. In case no data is submitted by the generating station, estimated injection as prepared by the Implementing Agency shall be considered as approved injection.

In case of DICs which are injecting into the grid for the first time, approved injection based on norms formulated by the Validation Committee for generation based on different types of stations shall be considered.

All withdrawal DICs shall also submit estimated maximum generation from their own generating stations during the Application Period to the Implementing Agency to prepare the Base Case for load generation balance.

The data as validated by the Validation Committee shall be final.

....

(f) Implementing Agency shall prepare detailed procedures and formats for collection of the generation and demand data from each Designated ISTS Customer and the data pertaining to the Basic Network within 30 days of the notification of these regulations;

(g) In the event of difference of opinion between any DIC and the Implementing Agency with regard to the revised generation and demand data so obtained, the Validation Committee shall take final decision after considering the point of view of the concerned DIC and the Implementing Agency.

(h) The Implementing Agency shall run AC load flows using the Basic Network, nodal generation and nodal demand. To ensure Load Generation balance adjustment may be required to be made on the vetted generation and demand data.

(i) Basic Network along with the converged load flow results for the injection and withdrawal data as per sub-clauses (d) and (e) of clause (1) of this Regulation shall be validated by the Validation Committee. The Basic Network, nodal generation, nodal demand and the load flow results for each Application Period shall be validated by the Validation Committee not later than 15 days prior to the commencement of each Application Period. The approved Basic Network, nodal generation, nodal demand along with the load flow results shall be made available on the websites of the Commission and the Implementing Agency immediately after its approval by the Validation Committee.

Provided that non-submission of data in time for computation of transmission charges shall be treated as non-compliance of the regulations and action as considered appropriate shall be taken by the Commission after giving an opportunity of hearing to the defaulting DIC.

(j) Approved Basic Network, nodal generation and nodal demand data shall form the base for computation of Marginal Participation factors and loss allocation factors.

(k) Consequent to development of load flows on the Basic Network, the Hybrid Methodology shall be applied by the Implementing Agency on the Basic Network to determine the

transmission charges and loss allocation factors attributable to each node in the power system.

.....”

As per the above, it is provided that the POC charges shall be determined for each “Application Period,” where the Application period is a quarter of the year. The PoC charges are to be determined based on forecasted generation and demand of DICs in advance. A validation Committee has to be appointed by the Commission, which shall finalize the Forecasted generation/ demand. The data, as validated by the Validation Committee, shall be final.

22. We observe from the above that under the 2010 Sharing Regulations the charges were determined on the basis of forecasted data, including forecasted generation and demand. The actual generation and demand are bound to vary from forecasted generation and demand, where the demand varies every second, and forecasted generation either may go under shutdown due to forced outage or may generate more as per demand. The principle of sharing of charges under the 2010 Sharing Regulations is that the POC rate was determined for the entire quarter based on one representative data of forecasted generation and demand. Since the data was forecasted and not actual, there was a need for a Validation committee to validate such forecasted data. There is nothing in the 2010 Sharing regulations, that requires redetermination of POC charges based on actual data of demand and generation, which varies every second.
23. The issue in the instant case has been raised by GRIDCO consequent to the actual commissioning of Darlipalli generation in March 2020, and GRIDCO seeks to re-determine the POC rates based on the actual commissioning of a generating station in the third month of the quarter. The 2010 Sharing Regulations do not provide for the revision of the POC rates based on actual data. Such revision would lead to a situation where POC rates would have to be determined for every deviation of actual demand and generation from the forecasted generation and demand for the application period, which is not provided in the Regulations.
24. We have perused the minutes of the 46th Commercial Sub-Committee (CCM) meeting held on 06.07.2022, which noted as follows:

Deliberation in the meeting

“GRIDCO representative submitted that the CoD of Darlipalli unit-1 was not anticipated in the validation committee meeting and based on which the PoC charges of Odisha for the month of January 2020 & February 2020 were calculated considering the LTA to be 1234.65 MW. Upon CoD of the unit from 1st March 2020, LTA of 1675.80 MW was considered for calculation of PoC charges which was not justified.

NLDC representative submitted that since Darlipalli Unit-1 was commissioned on 1st March 2020, the deemed LTA corresponding to the share of Odisha had to be taken into account while calculating the PoC charges for Odisha.

ERPC secretariat highlighted that there could always be variation in the anticipated and actual scenarios as far as load and generation is concerned. This may occur due to change in share allocation or commissioning of any new units in the intervening period and the PoC charges calculated for the month of March 2020 were as per the prevailing CERC regulations.

The Commercial Sub-Committee finds that the PoC rate calculation and RTA account were issued as per prevailing CERC regulations. GRIDCO may approach CERC through petition.”

As per the above, the ERPC secretariat also noted during the above-mentioned meeting that there could always be variation in the anticipated and actual scenarios as far as load and generation are concerned. This may occur due to changes in share allocation or the commissioning of any new units in the intervening period. The PoC charges calculated for the month of March 2020 were as per the prevailing CERC regulations.

25. Let us peruse the minutes of the Validation Committee, where the data for generation and demand was validated and finalized.

Minutes of the 4th Meeting of Validation Committee for the Application Period from 1st January 2020 to 31st March, 2020 held on 02.12.2019:

“6.2 Eastern Region: (i) Projected generation by IA for Bihar was 199 MW. During the meeting, Bihar submitted its generation as 200 MW.

(ii) Projected generation by IA for Jharkhand was 346 MW. During the meeting, representative of Jharkhand suggested that generation may be taken as 405 MW.

(iii) Projected generation by IA for Odisha was 3782 MW. Prior to meeting Representative of Odisha submitted generation as 3908 MW. During the meeting, It was decided to consider generation from Odisha as 3000 MW based on its historical ISTS drawl.

(iv) Member present at ERLDC suggested following changes:

(a) Generation from Adhunik Power may be taken as 450 MW instead of 356 MW.

(b) Generation from JITPL may be taken as 550 MW instead of 724 MW as one unit is running.

(c) Generation from Bhutan may be taken as 578 MW instead of 848 MW

(d) Generation from Teesta-III may be taken as 1189 MW instead of 1232 MW.

(e) Generation from Darlipalli STPS ST-I may be taken as 0 MW instead of 524 MW as it is not Commissioned yet.

The Generation figures as suggested above were agreed upon.



Annexure-II.

Demand Generation Projection

- Demand and Generation Projection
 - Based on Last 3 years data.
- Generation Projection
 - Average of monthly maximum injection in the last three years.
 - Based on actual metered data available with RLDCs.
 - Increasing Trend : Last Year Average figure considered
 - In other cases : Average of last three years
 - For State's generation, maximum injection data for last 3 yrs and projected generation to be provided by state SLDC.

4

Demand Generation Projection

- For State's generation, in case of non-submission of data by the DICs, the maximum injection of the concerned State is taken as the difference between peak met and withdrawal from ISTS based on actual metered data (for the time block corresponding to the block in which peak met occurred).
- New Generation: DOCO by 31th Dec, 2019.

5

List of Participants in the 4th meeting for 2019-20 of the Validation Committee held on 02nd December, 2019 at New Delhi.

.....
GRIDCO

40. Shri S.K.Maharana, AGM (Electrical)

41. Shri. H. Bahra, AGM (Elel.)

NTPC

42. Shri P.B. Venkatesh, AGM (Comm)

43. Shri Vikram Singh, Sr.Manager

.....

As per the above, it was agreed to consider Generation from Darlipalli STPS ST-I as 0 MW instead of 524 MW for the ensuing Quarter, January 2020 to March 2020,

as the same was not Commissioned at that time. Presentation attached in Annexure-II of the minutes of said Validation meeting demonstrates the principles considered by the Validation Committee while validating the data, whereby a new generation has to be considered whose DOCO is by 31.12.2019. Since DOCO of Darlipalli was not by 31.12.2019, it was not considered as per accepted principles by the Validation Committee. GRIDCO was also present in the meeting as a participant, and nothing has been provided on record by GRIDCO that it opposed the said principle of the Validation Committee and sought any correction to the principle. It is only after the bills were raised to GRIDCO that it sought redetermination based on actual commissioning, which is neither provided in the principles adopted by the Validation Committee nor provided in the Sharing Regulations, 2010.

26. We have also perused the minutes of some of the quarterly Validation Committee meetings prior to the alleged meeting and after that and found the same principle of DOCO by the end of the month prior to the start of the application period was considered for new generation. We have also perused Regulation 7 of Sharing Regulations, 2010, which specifically provides that “In case of DICs which are injecting into the grid for the first time, approved injection based on norms formulated by the Validation Committee for generation based on different types of stations shall be considered” and that data validated by the Validation Committee shall be final.

27. The reference made by Petitioner to earlier Validation Committee meetings during 2013-15 alleging that on a number of occasions, the Validation Committee had considered Generations from Generating Units, which were commissioned much later. In this regard, we have perused the minutes of the earlier Validation Committee meetings also and found that the same principle of expected commissioning till the end of the month prior to the start of the Application Period was only considered. For instance, Kudankualm, which was expected to be commissioned by March 2013, was considered for the Application period starting April 2013. However, it is a possibility that such a generation, expected to be commissioned by March 2013, will not get commissioned by March 2013 on being

delayed. There was no revision of POC rates for such cases also, as per the Regulations. Hence, the Petitioner's reliance on the past record that the Validation Committee had earlier considered generation, which was not commissioned, is not found to be correct. The Petitioner being part of the Validation Committee never challenged the principles being followed at the Validation Committee but wishes to get POC re-determined for a month based on actual data, which is not permitted under the Regulations.

28. Petitioner has prayed to consider the LTA of Odisha as 1384.93 MW instead of 1234.65 MW for the period January 2020 to March 2020, considering the generation of Darlipalli. In this regard, we observe that in the case of the generating station of Darlipalli, the deemed LTA was considered from the date of COD of the generating station. NLDC representative had submitted during the 46th CCM, as quoted above, that since Darlipalli Unit-1 was commissioned on 1st March 2020, the deemed LTA corresponding to the share of Odisha had to be taken into account while calculating the PoC charges for Odisha.
29. In light of the provisions of the 2010 Sharing Regulations and the validation of data by the Validation Committee according to principles followed by the Validation Committee, we do not find any infirmity in the POC rates determined for the Quarter of January 2020 to March 2020. Accordingly, we are of the considered view that the Petitioner's prayer for re-determination of PoC Slab rates for the period January 2020 to March 2020, considering the commissioning of Darlipali Unit-1 on 01.03.2020, is not admissible. Therefore, no consequential directions are required to be issued to NLDC, CTU, or ERPC to revise the accounts.
30. Issue No. 1 is answered accordingly.

Issue No.2 – Whether there is a need to invoke Clause (b) of Regulation 2.1 of the Sharing Regulations, 2010, in the present case?

31. Petitioner has submitted that the present case is of an exceptional nature, and Clause (b) of Regulation 2.1 of the Sharing Regulations, 2010 provides that in exceptional circumstances, the Commission may curtail or extend the application period. We observe that PoC Slab Rates have been determined for the period of January to March 2020 by the implementing agency and published by CERC vide order dated 04.02.2020. We have already concluded that there was no infirmity in the calculation of POC rates for the said quarter. Considering the above, we do not

agree with the Petitioner's submission that the present case of Petitioner is of an exceptional nature for which power under Clause (b) of Regulation 2.1 of the Sharing Regulations, 2010 is required to be exercised by the Commission.

32. Accordingly, all the prayers of the Petitioner are rejected.

33. Petition No. 16/MP/2023 is disposed of in terms of the above.

Sd/
(P. K. Singh)
Member

Sd/
(Arun Goyal)
Member

Sd/
(Jishnu Barua)
Chairperson