

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 281/MP/2023

Coram:

Shri Jishnu Barua, Chairperson

Shri Arun Goyal, Member

Shri P. K. Singh, Member

Date of Order: 12th May 2024

In the matter of:

Petition under Section 79 of the Electricity Act, 2003 seeking a declaration that the Petitioner is liable towards payment of transmission charges corresponding to the LTA quantum of 1495 MW only and for quashing of the invoice dated 01.08.2023 issued by the Central Transmission Utility of India Limited.

And in the matter of:

Adani Power Limited (APL),
Adani Corporate House, Shantigram,
Near Vaishno Devi Circle, S.G Highway, Khodiyar,
Ahmedabad-382421, Gujarat

.....Petitioner

Versus

- 1. Central Transmission Utility of India Limited (CTUIL),**
B-9, Qutub Institutional Area, Katwaria Sarai, New Delhi- 110016
- 2. National Load Despatch Centre (NLDC),**
B-9 (1st Floor), Qutab Institutional Area, Katwaria Sarai, New Delhi -110016
- 3. Power Grid Corporation of India Limited (PGCIL),**
B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi-110016
- 4. Adani Transmission India Ltd.,**
3rd Floor, South Wing, Adani Corporate House,
Shantigram, Vaishnodevi Circle,
Ahmedabad - 382 421

.....Respondent(s)

Parties Present: Shri Hemant Singh, Advocate, APL
Shri Lakshyajit Singh, Advocate, APL
Ms. Lavanya Panwar, Advocate, APL
Shri Gajendra Singh, NLDC
Shri Debajyoti Majumdar, NLDC



Shri Alok Mishra, NLDC
Shri Yogeshwar, CTUIL
Shri Siddharth Sharma, CTUIL
Shri Chitikena Abhijith, CTUIL
Shri Swapnil Verma, CTUIL

ORDER

The present petition has been filed by Adani Power Limited (APL) (hereinafter to be referred to as 'Petitioner') under Section 79 of the Electricity Act, 2003, seeking a declaration that the Petitioner is liable towards payment of transmission charges corresponding to the LTA quantum of 1495 MW only and for quashing of the invoice dated 01.08.2023 issued by the Central Transmission Utility of India Limited. The Petitioner has made the following prayers:

- (a) *Declare that the Petitioner is liable towards payment of transmission charges corresponding to the total Long-Term Access (LTA) quantum of 1495 MW only, in terms as stated in the present petition;*
- (b) *Consequently, quash and set aside the Invoice No. CTUIL/BCD/Serial No:94103374 dated 01.08.2023 raised by the Central Transmission Utility of India Limited, in terms as stated in the present petition; and*
- (c) *Pass such other order(s) and/or direction(s) as this Hon'ble Commission may deem just and proper in the facts and circumstances of the case.*

2. The petitioner had also filed an interlocutory application bearing No. 71/IA/2023 seeking a stay on the impugned invoices issued by the CTUIL and also the interim directions upon CTUIL to not take any coercive action against the Petitioner and restraining CTUIL from raising any further bills with respect to 235 MW of power which is beyond 1495 MW LTA capacity. The Petitioner made the following prayers in 71/IA/2023:

- (a) *Stay the operation of the impugned bill dated 01.08.2023 issued by CTUIL till the pendency of the present petition;*
- (b) *Direct the Respondents not to take any coercive actions, in any manner whatsoever, including under the Electricity (Late Payment Surcharge Rules) 2022, till the pendency of the present petition;*
- (c) *Pass an ex-parte ad-interim order, thereby directing the Respondents not to issue any further bills towards 235 MW of power, which is beyond 1495 MW LTA capacity, till the pendency of the present petition; and*

(d) *Pass any other or further orders as this Hon'ble Commission may deem fit in the present facts and circumstances of the case and in the interest of justice.*

3. The above IA was disposed of vide RoP for a hearing dated 11.10.2023, with a direction that the Respondents will not take any coercive actions against the Petitioner in respect of the Invoice dated 1.8.2023, as issued by CTUIL, till the next date of the hearing.

Submissions of the Petitioner:

4. The petitioner has mainly submitted as follows:

(a) The Petitioner is a generating company with a total capacity of 4620 MW at Mundra in the State of Gujarat and has executed two PPAs dated 07.08.2008 with the Haryana Discoms (UHBVNL and DHBVNL) for the supply of 1424 MW power at Haryana Periphery.

(b) For evacuation of power under the aforesaid PPAs, the Petitioner implemented the dedicated transmission system of ± 500 kV Mundra - Mohindergarh HVDC bi-pole transmission line, including associated 400 kV transmission lines (Mundra – Mohindergarh line).

(c) Since the above line could cater to a total of 2500 MW quantum, there was a certain surplus capacity left after catering to 1495MW quantum under the PPAs. Accordingly, the Petitioner filed a petition under Sections 14 and 15 of the EA, 2003, Petition No. 44/TL/2012, seeking the grant of an Inter-State Transmission License so that the entire line can be part of the Inter-State Transmission System.

(d) The Commission, vide an Order dated 29.07.2013 in Petition No. 44/TL/2012, granted an inter-state transmission license to the Petitioner for the above Transmission Line. In the said order, the Commission recorded that the Petitioner shall be a deemed LTA customer qua the PPA capacity only.

(e) Accordingly, the Petitioner applied with CTUIL (erstwhile PGCIL) for the grant of LTA, which was granted to the Petitioner vide the LTA grant letter dated 27.09.2013, for a total quantum of 1495 MW (which was inclusive of losses for drawl of 1424 MW power at Haryana periphery). Subsequently, the above LTA grant was fructified by way of an LTA Agreement dated 30.09.2013 executed between the Petitioner and CTUIL.

(f) While granting the transmission licence to the Petitioner, this Commission vide order dated 29.07.2013 directed the Petitioner to form a separate company incorporated



under the Companies Act, 1956 to function as the transmission licensee in accordance with the provisions of the Act. In compliance with the directions of the Commission, the Petitioner created a separate company through the process of the demerger and approached the Commission in Petition No 421/MP/2014 for inter-alia, assignment of transmission licence in favour of Adani Transmission (India) Ltd. (ATIL). This Commission, in its order dated 08.01.2015, allowed the assignment of a licence in favour of ATIL. Consequently, all rights and obligations of the Petitioner with respect to the transmission business were vested in ATIL in terms of the assignment of transmission licence.

- (g) The Petitioner was consistently making the payment of LTA/ Transmission Charges corresponding to the said LTA quantum of 1495 MW, and CTUIL was also raising transmission charges upon the Petitioner to the extent of aforesaid quantum only.
- (h) On 28.02.2023, the Petitioner executed Supplementary PPAs with the Haryana Discoms, by way of which the original contracted capacity of 1424 MW was revised to 1200 MW. On account of such revision, the Petitioner issued a letter to CTUIL on 26.05.2023, requesting for bifurcation of the LTA quantum of 1495 MW in the following manner:
- i. 1260 MW towards firm up beneficiary (Haryana); and
 - ii. Balance 235 MW without firm up beneficiary (untied LTA).
- (i) The above request was 'accepted' and 'acknowledged' by CTUIL vide its letter dated 16.06.2023 and it proceeded to revise the quantum of LTA..
- (j) CTUIL, in the month of August 2023 raised the two invoices upon the Petitioner i.e., Invoice dated 01.08.2023 for an amount of Rs. 7,82,51,799/-, towards the LTA quantum of 235 MW (untied LTA capacity) and Invoice dated 02.08.2023 for Rs. 25,27,97,147/-, towards the total LTA quantum of 1495 MW.
- (k) The Petitioner vide letter dated 17.08.2023 raised the issue with CTUIL and stated that, from the revision in the LTA grant, it is clear that there is no change/ addition in the LTA capacity; rather, the only change is pertaining to the tied-up and untied quantum. As there is no LTA agreement/ arrangement for the additional 235 MW (which is beyond the LTA quantum of 1495 MW), APL fails to understand how and why an amount of Rs. 7.82 Crores towards 235 MW LTA is being raised additionally,

i.e., over, and above 1495 MW. Accordingly, Petitioner requested CTUIL to withdraw the invoice dated 01.08.2023.

- (l) However, CTUIL, in response to the above letter, issued a letter dated 18.08.2023 mentioning that "Bills raised by CTUIL are strictly as per the RTA's for August 2023 Billing Month issued by NRPC and WRPC on 31.07.2023 which are based on the notification issued by Implementing Agency on 25.07.2023 for August 2023 Billing month. Further, the petitioner was requested to clear the Bills raised by CTUIL with in due date so as to avoid any regulatory action as per the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022.

Hearing dated 11.10.2023:

5. During the hearing, the representative of the CTUIL submitted that the billing for the Petitioner is being done as per the provisions of the Sharing Regulations. However, the Petitioner has been loaded with double transmission charges for 235 MW. He also added that, in respect of certain difficulties peculiar to the Petitioner, CTUIL has also addressed a letter to the Office of the Commission. Considering the submissions made by the learned counsel for the Petitioner and the representative of CTUIL, the Commission admitted the Petition and also directed that the Respondents will not take any coercive actions against the Petitioner in respect of the Invoice dated 1.8.2023, as issued by CTUIL, till the next date of the hearing and accordingly, the Commission disposed of IA No. 71/2023.

Reply of NLDC:

6. NLDC, in its reply vide affidavit dated 31.10.2023, has mainly submitted as follows:
- (a) In terms of Regulation 5.3 (c) of Sharing Regulation, 2020, the National Component – HVDC shall comprise the following: Yearly Transmission Charges (YTC) of Mundra– Mohindergarh HVDC transmission system (2500 MW). It further provides that the YTC corresponding to 1495 MW for the said transmission system shall be borne by M/s Adani Power (Mundra) Limited or its successor company and corresponding to 1005 MW capacity will be recovered through transmission charge recovery pool.
- (b) Out of the 1495 MW, LTA of 235 MW has been untied from Haryana Discoms and revised as target region basis to NR w.e.f. 18.06.2023 vide CTU letter dated 16.06.2023. However, while computing the transmission charges, if the demerging of



235 MW as provided by CTU from tied to untied capacity would have been considered, it would have been a violation of Regulation 5.3 (c) of Sharing Regulation, 2020. NLDC has computed the charges in compliance with the Sharing Regulation, 2020.

- (c) As per Regulations 5, 6, and 8 of Sharing Regulation 2020, transmission charges under National Component (NC), Regional Component (RC), and AC System Component (ACC) are to be borne by all drawee DICs and injecting DICs with untied LTA in proportion to their quantum of LTA plus MTOA and untied LTA respectively. Accordingly, transmission charges as per Regulations 5, 6, and 8 of Sharing Regulation 2020 have been computed for the quantum of untied LTA of 235 MW to M/s Adani Power (Mundra) Limited.
- (d) The Commission, vide notification dated 07.06.2022, notified the CERC (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022. As per Explanations provided in Annexure-I of the aforesaid Regulations, the GNA quantum of Haryana has been reduced by 1495 MW considering the supply to Haryana through HVDC Mundra-Mohindergarh. In view of the above, the GNA quantum for billing transmission charge and calculation of RTDA of Haryana may be reviewed.

Rejoinder of the petitioner to the reply of NLDC:

- 7. The petitioner, in its rejoinder vide affidavit dated 02.12.2023 to the reply filed by NLDC, has mainly submitted as follows:
 - (a) There cannot be a position wherein an entity recovers tariff twice. Therefore, applying the same principle in the present case, CTUIL/NLDC or even the PoC pool participants for that matter, cannot at all be subjected to unjust enrichment, at the instance of the open access consumer, by imposing additional transmission charges qua 235 MW quantum.
 - (b) NLDC is trying to take shelter under Regulation 5.3(c) of CERC Sharing Regulations 2020. NLDC is aware that the total LTA of the Petitioner is only 1495 MW, and therefore, it could have flagged the issue of double charging in advance and prevented wrong billing.
 - (c) NLDC has failed to take into consideration that the transmission charges raised upon APL are always in correspondence with the Open Access availed of by it. APL is an

LTTTC corresponding to an LTA quantum of 1495 MW only (1260 MW tied + 235 MW untied). Thus, when an additional invoice qua 235 MW is raised, the same becomes illegal as there is no 'open access' qua the aforesaid additional quantum of 235 MW. In this regard, reference is again made to an order dated 29.11.2019 passed by this Commission in Petition No. 265/MP/2018, wherein it was laid down that an entity cannot be held liable for payment of transmission charges for which it does not have/availed long-term open access. In fact, the said finding also stands upheld in terms of a judgment dated 17.02.2022 passed by the APTEL in Appeal No. 06 of 2020, titled *M/s Greenko Budhil Hydro Power Private Limited v. Central Electricity Regulatory Commission Ors.*

- (d) Another important aspect that needs consideration by this Commission is that even assuming that NLDC acted in accordance with the Regulations, then surely, there cannot be a scenario where APL is being illegally burdened with transmission charges twice for the same quantum, as the same is also bad in law. Therefore, this Commission is required to invoke its regulatory powers in order to avoid such a position. To this extent, regulatory powers or powers under the Sharing Regulations ought to be used, including for relaxing Regulation 5.3(c), so as to protect the Petitioner from double levy of transmission charges.

Reply of CTUIL:

8. CTUIL, in its reply vide affidavit dated 23.01.2024, has mainly submitted as follows:

- (a) The NLDC, vide their notification from August 2023 billing month, has included the following two types of transmission charges on APL:
- i. One billing corresponding to 1495 MW for Mundra–Mohindergarh 2500 MW HVDC transmission system in line with Regulation 5(3)(C) Proviso of CERC the 2020 Sharing Regulations.
 - ii. The second billing towards Untied LTA of 235 MW in accordance with Regulations 5 to 8 of the 2020 Sharing Regulations.
- (b) In line with the RTAs issued by WRPC and NRPC, CTU is raising two monthly bills on Adani Power Ltd w.e.f. August 2023 billing month onwards.
- (c) Though the billing for APL is being done as per the provisions of the 2020 Sharing Regulations, it may be seen that APL is loaded with double transmission charges for

235 MW, which is included under 1495 MW (National Component) and 235 MW Untied LTA (to NR).

- (d) Further, w.e.f. 01.10.2023 (i.e., Dec' 2023 Billing month) onwards, the CERC (Sharing of Inter-State Transmission Charges and Losses) (First Amendment) Regulations, 2023 has become effective, and accordingly, only one bill corresponding to 1495 MW is being raised on Adani Power Limited (APL) as per NLDC notification and RTAs issued by RPCs.
- (e) The Petitioner has been making payments regularly for the bills raised against 1495 MW within the due date, whereas they have not made any payment for the bills raised against 235 MW untied LTA for the billing months of August 2023 to November 2023.

Rejoinder of the petitioner to the reply filed by respondent CTUIL

9. The petitioner, in its rejoinder vide affidavit dated 13.02.2024 to the reply filed by CTUIL, has mainly submitted as follows:

- (a) The CTUIL has admitted that the Petitioner is burdened with double transmission charges. This admission is sufficient for this Commission to allow the Petitioner's petition, thereby granting the reliefs sought in the petition.
- (b) The CTUIL has also raised invoices dated 01.09.2023, 03.10.2023, 01.11.2023, and 15.01.2024 towards Inter State Transmission System Charges for 235 MW untied LTA for the billing period July 2023, August 2023, and September 2023. The Petitioner has taken a consistent stand and has not paid any amount towards the above-mentioned claims as it amounts to loading the Petitioner with double transmission charges for 235 MW, which is included in 1495 MW (National Component) as well as 235 MW untied LTA.
- (c) Furthermore, CTUIL has also raised invoices dated 20.11.2023, 29.12.2023, and 25.01.2024 seeking recovery of Surcharge towards non-payment of disputed bills pertaining to transmission charges for the 235 MW untied LTA for the billing period June 2023, July 2023, August 2023, and September 2023. In response to the above-said invoice, the Petitioner vide letter dated 05.01.2024 and 27.01.2024 submitted that since the principal claim towards transmission charges for 235 MW untied LTA is disputed, the Petitioner is not liable to pay the Surcharge on the same and therefore has rejected the claim towards surcharge.



Hearing dated 19.02.2024

10. During the hearing, the learned counsel for the Petitioner and representative of the Respondents, CTUIL and NLDC, made their respective submissions, and considering their submissions, the Commission reserved the matter for order.

11. The Petitioner has also filed its Written Submissions on 14.03.2024 vide which the Petitioner has reiterated its earlier submissions.

Analysis and decision

12. We have considered the rival submissions.

13. The Petitioner has submitted that it had entered into two PPAs with the Haryana Discoms for the supply of 1424 MW of power at the Haryana periphery, and for the purpose of supplying power, the Petitioner implemented a dedicated transmission system of + 500 kV Mundra- Mohindergarh HVDC bi-pole transmission lines including associated 400 kV transmission lines. The Commission, vide its order dated 29.7.2013 in Petition No. 44/TL/2012, granted an inter-State transmission licence to the Petitioner qua above the transmission line. Accordingly, the Petitioner was granted the LTA for 1495 MW (including transmission losses) by CTUIL on 27.9.2013. Subsequently, on 28.2.2023, the Petitioner entered into the Supplementary PPAs with the Haryana Discoms, whereby the original contracted capacity of 1424 MW was revised to 1200 MW, and on account of such revision, the Petitioner requested CTUIL for the bifurcation of the LTA quantum of 1495 MW in two parts i.e., i) 1260 MW towards the firm-up beneficiary (Haryana), and (ii) 235 MW without the firm-up beneficiary (untied LTA) and CTUIL revised the LTA quantum as requested by the Petitioner. CTUIL raised two invoices upon the Petitioner, one towards the LTA quantum of 235 MW (i.e. equivalent to untied LTA capacity) and another for an amount towards the total LTA quantum of 1495 MW. Accordingly, the Petitioner has contended that such billing amounts to a double recovery of money by CTUIL towards the 235 MW quantum for which the Petitioner already has the LTA and is paying the transmission charges (Invoices for 1495 MW) when the total quantum of LTA remains unchanged at 1495 MW only.

14. The Respondent, NLDC, submitted in its response that the Petitioner's transmission charges had been calculated in accordance with Regulation 5.3(c) of the 2020 Sharing Regulations.

15. The Respondent, CTUIL, has submitted that though the billing for Petitioner is being done as per the provisions of the 2020 Sharing Regulations, it may be seen that APL is loaded with double transmission charges for 235 MW, which is included under 1495 MW (National Component) as well as 235 MW Untied LTA (to NR). CTUIL has also submitted that it has raised bills for 235 MW under Untied LTA only for the billing period June 2023, July 2023, August 2023, and September 2023 post which only one bill for 1495 MW is raised on Petitioner as per the 2020 Sharing Regulations.

16. Considering the submissions of the Petitioner and Respondents, the issue which arises for our consideration is as follows:

What is the liability of the Petitioner towards transmission charges for 1495 MW under Sharing Regulations 2020?

Whether the invoices raised by the CTUIL for the untied LTA quantum of 235 MW are liable to be set aside?

17. Now, we proceed to analyse the above issues.

18. We observe that the Petitioner had implemented a dedicated transmission system of + 500 kV Mundra- Mohindergarh HVDC bi-pole transmission lines, including associated 400 kV transmission lines, to supply power to Haryana under PPA. Since there was a certain surplus capacity left after catering of 1495MW quantum (1424 MW PPA quantum plus losses) under the PPAs, the Petitioner filed a petition No. 44/TL/2012, seeking for grant of an Inter-State Transmission License, so that the entire line can be a part of the Inter-State Transmission System. The Commission, vide Order dated 29.07.2013, granted a transmission license to the Petitioner. The relevant extract of the said order is as under: -

"11. As regards prayer (e), the petitioner has requested to be considered as deemed LTA customer for 1424 MW for supply to Haryana Utilities. In their affidavit dated 22.7.2013, Haryana Utilities have submitted that the petitioner should take LTA for the contracted capacity of 1424 MW as a condition for grant of licence. We have considered the issue. After the transmission system has been converted into ISTS by granting licence to the petitioner, it follows that access for the use of the transmission system shall be governed by the Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access



*in inter-State Transmission and related matters) Regulations, 2009 as amended from time to time (hereinafter "Connectivity Regulations") for grant of connectivity and long term access and medium term open access and by the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008 for short term open access. The petitioner as generating company has admitted to bear the transmission charges for 1424 MW capacity which is covered under the PPA dated 7.8.2008 with Haryana Utilities. **As the subject transmission system developed by the petitioner is already being used as per the PPA dated 7.8.2008 for supply of power to UHBVNL and DHBVNL for a quantum of 712 MW each, the petitioner shall be deemed to be long term access customer for 1424 MW capacity. However, the petitioner shall comply with all technical and commercial requirements under the Connectivity Regulations.***

12. The petitioner has already obtained long term access from CTU for 342 MW with the delivery point at Mohindergarh. After the transmission licence is granted, the petitioner shall have to seek LTA for 342 MW from CTU with injection point at Mundra. The petitioner shall also have to enter into the necessary Connection Agreement and Transmission Service Agreement with CTU.

13. As regards prayer at (d) for consideration for inclusion in the PoC charges, it is clarified that the transmission lines on being treated as part of ISTS after grant of transmission licence shall be included in the basic network for computation of PoC charges. The tariff of the transmission system shall be determined by this Commission for which the transmission licensee is directed to file the petition in accordance with provisions of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009. After determination of the transmission charges of the transmission system, the transmission licensee shall be entitled to payment of transmission charges under the PoC method of computation. **It is clarified that the transmission licensee shall bear the transmission charges corresponding to 1424 MW in terms of the PPA dated 7.8.2008 with the Haryana Utilities."**

As per the above, in light of the ISTS licence being issued for the said transmission system, using which Petitioner was supplying power to Haryana, the access for the said transmission system was to be governed in terms of Connectivity Regulations and Open Access Regulations, the Commission held that the Petitioner **should be deemed to be a long term customer for 1424 MW capacity** and it was also clarified that the Petitioner should bear the transmission charges corresponding to the 1424 MW quantum in terms of PPA with Haryana Utilities.

19. We observe that pursuant to this Commission Order dated 29.07.2013 in Petition No. 44/TL/2012, CTUIL issued an LTA grant of 1495 MW to the Petitioner vide letter dated 27.09.2013. The relevant extract of the CTUIL letter dated 27.09.2013 and the snapshot of the relevant portion of the LTA grant are as under:

*"This is with reference CERC order dated 29th July 2013, in petition no./ 44/TL/2012 regarding grant of transmission license to Adani Power Limited, Minutes of the meeting taken by Chairperson on 05/09/2013 and discussions held during the 32nd Standing Committee Meeting of power system Planning for Northern Region. As per CERC order dated 29/07/2013, M/s Adani Power Ltd., **deemed to be a long term customer for***

delivery if 1424 MW power to Haryana. Subsequently, during the meeting taken by Chairperson CEA to finalize the operational arrangements it was discussed and agreed that the 1424 MW at Haryana periphery would have to be scaled up to work out the LTA value ex-APL Mundra. Accordingly, 1424 MW would be enhanced to 1495 MW, considering the 4.76% transmission losses as per simulation studies. It was also agreed that CTU would formally approve this 1495 MW LTA ex-APL Mundra to Haryana in terms of CERC order dated 29/07/2013. For APL Mundra TPS stage#3 to Haryana LTA, the APL would pay for the LTA of 1495 MW at both Mundra TPS stage#3 Injection POC rate as well as Haryana with drawl POC rates. A copy of the above referred Minutes of Meeting is enclosed at Annexure-I. Accordingly the present Intimation is being issued considering 1495 MW injection at APL Mundra Stage#3.

Here it is to mention here that M/s Adani Power Limited vide letter dated 13/09/2013 have requested for reconsideration of quantum of losses to be considered for LTA. Keeping this in view, in case a new value of losses is jointly decided by CEA, CTU and POSOCO in line with the CERC regulations and CERC order dated 29/07/2013, the same would be considered for calculating the LTA value.

It is to inform that the intimation for long term access is hereby granted subject to the signing of the requisite agreements for sharing the regional transmission charges. CERC order (s) in this regard and other conditions as mentioned in the intimation **format enclosed at Format-LTA-5"**

		FORMAT-LTA-5
		Intimation for Grant of Long -Term Access (LTA)
1	Intimation No. Date :	C/SEF/TA/C/N/13/02 27-09-2013
2	Ref. Application No. Date :	No application. In Accordance to CERC order in petition no. 44/TL/2012 29/07/2013
3	Name of the Applicant	M/s Adani Power limited
4	Address for Correspondence	Shri Kardarp Patel Sr. Vice President, Achalraj, Opp. Mayor's Bungalow, Law Garden Ahmedabad-380006
5	Nature of the Applicant	Generator (other than captive) Generator Captive Generator - Bulk Consumer - Electricity Trader - Distribution Licensee -
6	Details for Long Term Access (LTA)	
6a	Quantum (MW) for which LTA is granted	1495 MW including losses for drawl of 1424MW at Haryana Periphery **
7	Injection of Power (more than one only in case of single Drawl)	Entity-1 M/s Adani generation Ltd State/Region Gujarat/Western Region Quantum-1 1495 MW including losses For drawl of 1424MW at Haryana Periphery**
8	Drawl of Power (more than one only in case of single Injection)	Connectivity with the Grid APL Mundra Stage#3 generation switchyard Entity-1 M/s Adani generation Ltd State/Region Haryana, Northern Region Quantum-1 1495 MW including losses ** Connectivity with the Grid Mohindergarh-Dhanoda 400kV D/c
9	Transmission System for LTA	Conversion of M/s Adani dedicated into ISTS in line with CERC order in 44/TL/2012 dated 29/07/2013, (Mundra – Sami – Dehgam 400 kV D/c, Mundra – Mohindergarh 2:00 MW HVDC bipole, Mohindergarh – Dhanonda 400

		kV D/c, Mohindergarh -- Bhiwani 400 kV D/c, electrode lines and other associated works)
9a	Date from which LTA is granted	01/10/2013 (Date of operation of system as ISTS was agreed during the meeting held on 05/09/2013). In case date of operation of system as ISTS gets extended, the same shall be considered the date of start of LTA.
9b	Date up to which LTA is granted	07/02/2038
9c	Implementing Agency for transmission system required for LTA	No new system envisaged. Existing Transmission system of M/s Aclani Power Limited to be used for LTA.
9d	Agencies between which agreement is to be signed for implementation of transmission system	The system is already existing
9e	Amount (in Rupees) for which Bank Guarantee is to be provided by the applicant	NIL
10	Transmission Charges Applicable	As per CERC regulations

As per the above, the Petitioner was granted LTA for 1495 MW (including losses) for drawl of 1424 MW at Haryana Periphery as a deemed long-term customer for delivery of 1424 MW power (1495 MW including losses) to Haryana pursuant to Order dated 29.07.2013 in Petition No. 44/TL/2012.

20. We observe that Petitioner had not applied for LTA of 1495 MW; however, in accordance with Order dated 29.07.2013 in Petition No. 44/TL/2012, deemed LTA was issued to the Petitioner for 1495 MW by CTUIL, vide letter dated 27.09.2013, where 1424 MW at Haryana bus was scaled up by losses at generator ex-bus as 1495 MW. The reason for considering deemed LTA for the said transaction was noted in Order dated 29.07.2013 in Petition No. 44/TL/2012 as “*After the transmission system has been converted into ISTS by granting licence to the petitioner, it follows that access for the use of the transmission system shall be governed by the Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009*”. The said Order also directed that the Petitioner shall bear transmission charges for same, as per PPA entered into with Haryana. This has been incorporated in the 2020 Sharing Regulations, quoted as follows:

21. Regulation 5 of the 2020 Sharing Regulations provides as follows:



“5. Components and sharing of National Component (NC)

....
(3) National Component-HVDC shall comprise of the following:
.....

(c) Yearly Transmission Charges of Mundra–Mohindergarh 2500 MW HVDC transmission system corresponding to 1005 MW capacity:

*Provided that Yearly Transmission Charges corresponding to 1495 MW for the said transmission system shall be borne by M/s Adani Power (Mundra) Limited or its successor company; and
..”*

As per the above, M/s Adani (Mundra) Limited or its successor company is liable to bear transmission charges corresponding to 1495 MW of Yearly Transmission Charges of the Mundra–Mohindergarh 2500 MW HVDC transmission system.

22. The issue in the instant case arose due to modification of the LTA grant by CTUIL vide its letter dated 16.06.2023, consequent to the letter dated 26.05.2023 of the Petitioner requesting for bifurcation of the LTA quantum of 1495 MW as 1260 MW towards firm up beneficiary (Haryana) and balance 235 MW without firm up beneficiary (untied LTA) since Petitioner and Haryana Discoms entered into supplementary PPAs on 28.02.2023 revising the Contracted Capacity at Haryana Periphery from 1424 MW to 1200 MW. The snapshot of the relevant portion of the CTUIL letter dated 16.06.2023 is as under:

		Existing	Revised
8	Drawl of power (more than one only in case of single injection)		
	Entity-1:	Adani Generation Limited	HPPC
	State / Region:	Haryana/ NR	Haryana/ NR
	Quantum-1:	1495MW	1260MW
	Connectivity with the grid:	Mohindergarh-Dhanoda 400kV D/c line	Mohindergarh-Dhanoda 400kV D/c line

	Existing	Revised
Entity-2: -----		Target Region
State / Region:		NR
Quantum-2:		235MW
Connectivity with the grid:		Interconnection with STU network
Total	1495MW*	1495MW*

* Including losses

The above conversion of 235MW LTA from firm beneficiary to Target Region basis (NR) is hereby made effective from 00:00 Hrs of 18/06/2023 and this letter shall form an integral part of the earlier LTA intimation dated 27/09/2013 [Ref.1]. All other terms and conditions of the earlier communications [Ref. 1-3] shall remain same. This letter is being issued only for the purpose of modification in scheduling/allied activities involving change in beneficiaries for the subject LTA.

As per the above, the LTA of 235 MW from the firm beneficiary (Haryana) was changed to the Target Region (NR), and the same was made effective w.e.f. 18.06.2023.

23. We have perused the 2020 Sharing Regulations, which provide as follows:

“5. Components and sharing of National Component (NC)

(1) National Component shall be sum of the following components:

- (a) National Component-Renewable Energy (NC-RE); and
- (b) National Component-HVDC (NC-HVDC).

(2) National Component-Renewable Energy shall comprise of the Yearly Transmission Charges for transmission systems developed for renewable energy projects as identified by the Central Transmission Utility.

(3) National Component-HVDC shall comprise of the following:

.....

(c) Yearly Transmission Charges of Mundra–Mohindergarh 2500 MW HVDC transmission system corresponding to 1005 MW capacity:

Provided that Yearly Transmission Charges corresponding to 1495 MW for the said transmission system shall be borne by M/s Adani Power (Mundra) Limited or its successor company; and

.....

(4) The Yearly Transmission Charges for the National Component shall be shared by all drawee DICs and injecting DICs with untied LTA in proportion to their quantum of Long Term Access plus Medium Term Open Access and untied LTA respectively.”

6. Components and sharing of Regional Component (RC)

....

(2) Yearly Transmission Charges covered under sub-clause (a) of Clause (1) of this Regulation shall be shared by drawee DICs of the receiving region and injecting DICs with

untied LTA in the receiving region, in proportion to their quantum of Long Term Access plus Medium Term Open Access and untied LTA, respectively.

(3) Yearly Transmission Charges covered under sub-clause (b) of Clause (1) of this Regulation shall be shared by drawee DICs of the region and injecting DICs (with untied LTA) of the same region, in proportion to their quantum of Long Term Access plus Medium Term Open Access and untied LTA, respectively.

.....
8. Components and sharing of AC System Component (ACC)

.....
(5) Transmission charges under AC-BC shall be shared by all drawee DICs and injecting DICs with untied LTA in proportion to their quantum of Long Term Access plus Medium Term Open Access and untied LTA respectively.”

24. As per the above, in terms of Regulations 5(3)(c) of the 2020 Sharing Regulations, the Petitioner is liable to bear the Yearly Transmission Charges of the specified transmission system corresponding to 1495 MW. Any injecting entity with untied LTA is required to pay charges under the above-quoted Regulations 5,6 and 7 in proportion to untied LTA.

25. We observe that after the revision of the LTA, NLDC has included the following two types of transmission charges on the Petitioner:

- (a) One corresponds to 1495 MW in line with Regulation 5.3(c) of the 2020 Sharing Regulations.
- (b) Second towards untied LTA of 235 MW in accordance with Regulations 5 to 8 of the 2020 Sharing Regulations.

26. We also observe that, w.e.f. 01.10.2023 onwards, the CERC (Sharing of Inter-State Transmission Charges and Losses (First Amendment) Regulations, 2023 has become effective, and accordingly, only one bill corresponding to 1495 MW is being raised on the Petitioner. **Accordingly, the dispute in the present Petition is only limited to the billing period of 18.06.2023 to 30.09.2023.**

27. We have taken note of submissions of CTUIL that APL is loaded with double transmission charges for 235 MW, which is included under 1495 MW (National Component) as well as 235 MW Untied LTA (to NR).

28. We are of the view that Petitioner had been issued a deemed LTA for 1495 MW consequent to Order dated 29.07.2013 in Petition No. 44/TL/2012, with the identified beneficiary as Haryana and the condition that the Petitioner shall bear transmission charges for 1495 MW which has been incorporated in the 2020 Sharing Regulations. Such deemed LTA was issued to the Petitioner under specific circumstances where

the dedicated line was converted into an ISTS licensed line; thereby, the access on such line came to be under the provisions of the 2009 Connectivity Regulations. The treatment of instant deemed LTA has been included in Regulation 5.3(c) of the 2020 Sharing Regulations. Once the transmission charges for 1495 MW have been built into the 2020 Sharing Regulations, there cannot be any other treatment than that provided in the Regulations.

29. We also observe that the Petitioner has been billed for 1495 MW for the specified system. Further, out of 1495 MW, 235 MW has been again billed under untied LTA. Thus, the Petitioner has been billed for a total of 1730 MW. Therefore, keeping in view the Order dated 29.07.2013 in Petition No. 44/TL/2012 and regulation 5.3 (c) of the 2020 Sharing Regulations, the double billing of 235 MW is not correct..

30. Accordingly, we are of the considered view that the Petitioner shall be liable to pay the transmission charges corresponding to the 1495 MW capacity only (which includes the untied LTA quantum of 235 MW) under Clause 5.3(c) of the Sharing Regulations 2020. Therefore, we are inclined to set aside the invoice dated 01.08.2023 and other subsequent invoices raised by the CTUIL to the Petitioner corresponding to the untied LTA quantum of 235 MW. Since Petitioner and CTUIL have submitted that Petitioner has not made any payment with respect to the disputed bills, no direction is required with regard to the refund of any payment. NLDC is directed to revise the calculations under the 2020 Sharing Regulations, for the disputed period in terms of directions under the instant Order.

31. Accordingly, the prayer (a) and (b) of the Petitioner is allowed.

32. We note that Regulation 11 of the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulation, 2020, applicable during the disputed period, provides as under:

“(11) Transmission charges for Short Term Open Access

.....

(4) Transmission charges for Short Term Open Access, paid by a DIC with untied LTA shall be offset against the transmission charges payable by the said DIC for untied LTA in the following billing month.”

As per the above provisions of the 2020 Sharing Regulations, the transmission charges for the Short-Term Open Access paid by a DIC having untied LTA shall be offset against the transmission charges payable by the DIC for the untied LTA in the following billing month. We observe that Petitioner was granted a deemed LTA of 1495 MW Under the peculiar circumstances where it was liable to bear transmission charges for 1495 MW, which have been incorporated in the 2020 Sharing Regulations. In view of the above, we observe that since the Petitioner is not liable to pay transmission charges under Regulations 5 to 8 of the Sharing Regulations as applicable to injecting DICs with untied LTA, any offset against STOA cannot be extended to the Petitioner. CTUIL is directed to adjust the offset against the STOA, if any, provided to the Petitioner against LTA charges billed for alleged untied LTA for 235 MW, which has been set aside under the instant Order.

33. Petition No. 281/MP/2023 is disposed of in terms of the above.

**Sd/
(P. K. Singh)
Member**

**Sd/
(Arun Goyal)
Member**

**Sd/
(Jishnu Barua)
Chairperson**