

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 187/MP/2022 along with 70/IA/2022

Coram:

**Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member**

Date of Order: 8th May 2025

In the matter of

Petition under Section 79 of the Electricity Act, 2003, along with the statutory framework and the Transmission Service Agreement dated 23.10.2019, executed between Jam Khambaliya Transco Ltd. and Powerica Limited, and the Long-Term Access Agreement dated 17.10.2019, executed between Power Grid Corporation of India Ltd. and Powerica Ltd., seeking directions to JKTL/ CTU/ PGCIL not to raise invoices for transmission charges till the SCOD of the Petitioner's Project.

And

In the matter of

Powerica Limited,
9th Floor, C Wing; Godrej Coliseum,
Sion-Trombay Road, Sion, Mumbai
Maharashtra-400022

.....Petitioner

Vs.

- 1)** Central Transmission Utility of India Limited,
1st Floor, Saudamini, Plot No.2, Sector-29
Near IFFCO Chowk Metro Station
Gurgaon, Haryana-122001
- 2)** Jam Khambhaliya Transco Limited,
Adani Corporate House, Adani Shantigram
S.G. Highway, Ahmedabad, Gujarat-382421
- 3)** Solar Energy Corporation of India Limited,
6th Floor, Plate-B, NBCC Office Block Tower-2,
East Kidwai Nagar, New Delhi-110023
- 4)** Western Regional Load Despatch Centre,
Central Road, MIDC Area, Marol,
Andheri (East), Mumbai, Maharashtra-400093



- 5) Western Regional Power Committee,
F-3, MIDC Area, Andheri (East),
Mumbai, Maharashtra-400093
- 6) WRSS XXI(A) Transco Limited
Adani Corporate House
Shantigram, Near Vaishnodevi Circle
SG Highway, Ahmedabad-382421, Gujrat

.....Respondent(s)

Parties Present: Shri Venkatesh, Advocate, Powerica
Shri Bharat Gangadharan, Advocate, Powerica
Shri Ashutosh Srivastava, Advocate, Powerica
Shri Nihal Bhardwaj, Advocate, Powerica
Ms. Suparna Srivastava, Advocate, CTUIL
Ms. Divya Sharma, Advocate, CTUIL
Shri Arshia, Advocate, CTUIL
Shri Ranjeet Rajput, CTUIL
Ms. Priyanshi Jadia, CTUIL
Shri Gajendra Sinh, WRLDC
Shri Alok Mishra, WRLDC

ORDER

Powerica Limited (hereinafter to be referred as 'Petitioner'), has filed the present Petition under Section 79(1)(c) and (f) of the Electricity Act, 2003 ('the Act') read with the Transmission Service Agreement dated 23.10.2019 executed between Jam Khambaliya Transco Limited (hereinafter referred to as 'JKTL') and the Petitioner, and the Long-Term Access Agreement dated 17.10.2019 executed between Power Grid Corporation of India Ltd. (hereinafter referred to as 'PGCIL'). The Petitioner has made the following prayers:

- (a) Quash the Bilateral Bill dated 02.06.2022 raised by CTU/Power Grid as being illegal and unlawful and declare that the Petitioner is not liable to pay the transmission charges/losses contained in the Bilateral Bill dated 02.06.2022;
- (b) Declare that the Petitioner is not liable to pay transmission charges/losses until the extended SCOD and in any event, not prior to the start date of the LTA or until all elements in the TSA are operationalized, whichever is later;
- (c) Set aside the deemed COD declared by JKTL in its letter dated 20.04.2022;
- (d) Direct CTU/JKTL to grant extension in the timelines under the TSA and the LTA Agreement in alignment with the period of extension granted by SECI for commissioning of the Project;
- (e) Direct JKTL to pay Rs. 1.48 Crores for the generation losses suffered by the Petitioner due to unscheduled outage of 400kV JKTL-Bhachau line by JKTL from 17.05.2022 to 31.05.2022.;
- (f) As an interim measure, direct CTU/JKTL to not take any coercive and precipitative action against the Petitioner including new bills being issued by them for the period of May and onwards along with applicability of any penalties, interests etc. under the TSA and the LTA Agreement; including but not limited to encashment of any letter of credit and/or payment security; and



(g) Pass such further order or orders as this Hon'ble Commission may deem just and proper in the circumstances of the case.

2. The Petitioner has also filed an IA No 70/2022 seeking a stay on the invoices raised by CTU and restraining the CTU and POSOCO from taking any coercive actions against the Petitioner. The Petitioner has made the following prayers:

(a) Grant an ex-parte ad-interim stay on the invoices raised by CTU/Respondent No. 1 and letters issued by CTU/Respondent No. 1 and POSOCO under the LPS Rules; Restrain the CTU/Respondent No. 1 and POSOCO from taking any coercive actions against the Applicant, including but not limited regulation and/or reduction of LTA granted to it;

(b) Direct CTU/Respondent No. 1 and POSOCO to remove the name of the Applicant from the list of payment defaulters, including but not limited to, removal of name from all the "Statement of Trigger" list as well as from any other record, whether maintained online or otherwise; AND/OR

(c) Pass any other/further direction(s)/order(s) in the interest of justice and equity

Submissions of the Petitioner:

3. The Petitioner has made the following submissions:

(a) On 21.12.2018, SECI issued RfS for setting up of 1200 MW ISTS connected Wind Power Projects (Tranche-VI) on 'Build Own Operate' basis. The Petitioner submitted the bid for the Wind Power Project of 50.6 MW to be developed in Dwarka, Gujarat.

(b) On 16.04.2019, a Transmission Agreement for the Connectivity was signed between the Petitioner and CTU/PGCIL to connect the Petitioner's Wind Project to the ISTS.

(c) On 17.06.2019, SECI issued a Letter of Award (LOA) to the Petitioner for setting up the Wind Project in Dwarka, Gujarat.

(d) On 17.10.2019, the LTA Agreement was executed between the CTU/PGCIL and the Petitioner for the long-term access to the ISTS for injection and drawl of 50.6 MW power from the Wind Farm in Devbhumi Dwarka, Gujarat.

(e) On 17.10.2019, a Power Purchase Agreement (PPA) was executed between SECI and the Petitioner for the procurement of 50.6 MW wind power on a long-term basis, where SECI would purchase power from the Petitioner as an Intermediary Procurer and sell it to UPPCL on a back-to-back basis.

- (f) On 23.10.2019, the TSA was executed between the Petitioner and JKTL for procurement of transmission services for Transmission System of Jam Khambaliya Pooling Station and interconnection of Jam Khambaliya Pooling Station for providing connectivity to RE projects (1500 MW) in Dwarka (Gujarat) and installation of 400/220kV ICT along with associated bays at M/s CGPL Switchyard.
- (g) As per the provision of Article 6.2.1 of TSA, an element shall be declared to have achieved COD only after all the Element(s), if any, which are pre-required to have achieved COD as defined in Schedule 3 of the Agreement have been declared to have achieved their respective COD. However, JKTL has erroneously declared deemed COD of the elements of the Transmission System without completing the LILO of the Bachau-EGEPL 400KV D/C (triple) line at Lakadia. Therefore, without completing the said element, JKTL cannot declare deemed COD for its transmission system, as this would violate the terms of the proviso of Article 6.2.1 of TSA.
- (h) On 12.03.2020, JKTL issued a notice to Petitioner intimating the force majeure under Article 11 of TSA on the account of disruption in the supply chain due to the outbreak of COVID-19 and the resultant lockdown. In the said letter, JKTL failed to provide the estimated time of delay or the effects of force majeure events on the entire schedule, which is a prerequisite under Article 11.5.1 of TSA.
- (i) On 23.03.2020 and 15.04.2020, JKTL, vide its letter to the Petitioner, extended the force majeure notice issued to the Petitioner on 12.03.2020 in view of the lockdown imposed by the Central Government and the Government of Gujarat (GoG).
- (j) On 12.05.2020, in response to the letters dated 12.03.2020, 23.03.2020, and 15.04.2020 issued by JKTL for the invocation of force majeure event on the account of outbreak of COVID-19 and subsequent lockdown, Petitioner granted time extension up to 30.09.2021 to achieve the completion of the Transmission System as per Article 4.4 of the TSA.
- (k) Further, on 12.05.2020, SECI extended the Scheduled Commercial Operation Date (SCOD) of the Wind Project of the Petitioner for thirty (30) days by considering lockdown due to COVID-19 as a force majeure event.

- (l) JKTL, vide its letters dated 20.08.2020 and 14.09.2020 to the Petitioner, extended the force majeure notice on the ground of continuation of the lockdown.
- (m) On 08.12.2020, the Petitioner issued a Notice under Article 11 of the TSA to JKTL notifying the continuation of the following force majeure events:
- i. Force majeure due to Developer Permission ("DP") pending with Gujarat Energy Development Agency ("GEDA") for the last 10 months.
 - ii. Force majeure on the account of the COVID-19 pandemic, which has led to disruptions in the supply chain.
- (n) The Petitioner, vide its letters dated 13.01.2021, 02.03.2021, and 30.03.2021 informed JKTL about the continuation of force majeure events. On 14.04.2021, the Petitioner issued another letter to JKTL, intimating new force majeure events under Article 11 of the TSA. The new set of force majeure events has emerged due to the fresh surge in COVID-19 cases in the country.
- (o) On 28.06.2021, JKTL issued a letter to the Petitioner, CTU/PGCIL, and WRLDC, intimating the readiness of charging/commissioning of the project as per Article 6.1.1 of TSA. As per Article 6.1.1 of TSA, JKTL was obliged to issue to CTU/PGCIL WRLDC and the Petitioner a 60-day advance written notice from the date on which it intends to connect the element of the Transmission System. It was stated that JKTL was anticipating completion/commissioning of its transmission system by 31.08.2021.
- (p) JKTL issued another force majeure notice under Article 11 of TSA on the ground that JKTL is facing Right of Way ("RoW") issues in the construction of the following transmission lines:
- i. Extension of Essar-Lakadia/Bhachau 400kV D/C (triple snowbird) line up to Jam Khambhaliya PS-18.6 KM
 - ii. 400/220kV GIS at Jam Khambhaliya.
- (q) CTU/PGCIL revised the SCOD of the Transmission System of JKTL to 30.11.2021 on the ground that MoP vide letter dated 12.06.2021 has directed to extend the SCOD of all ISTS projects by 3 months.
- (r) On 12.08.2021, CTU/PGCIL issued a letter to the Petitioner stating that, based on the meeting dated 02.07.2021 with respect to the MoP letter dated 12.06.2021,

the start date of the LTA granted for the Petitioner's Wind Project is amended to 01.11.2021 or the availability of the Transmission System, whichever is later.

- (s) On 15.09.2021, SECI issued a letter to the Petitioner and informed that on the account of delay in issuance of DP by GEDA and frequent changes in land policy by GoG, the SCOD of the project has been revised from 22.07.2020 to 05.09.2022.
- (t) On 20.04.2022, JKTL issued a letter to the Petitioner, CTU/PGCIL, WRLDC, and Power System Operation Corporation Ltd. (POSOCO) declaring 12.04.2022 as deemed COD of Parts A and B of its Transmission System in terms of Article 6.2.1 of TSA. In the letter, JKTL further mentioned that it will be entitled for the payment of the monthly transmission charges to the extent of 91.55% as per Schedule 3 of TSA with effect from 12.04.2022 as in terms of Article No. 6.2.2 of the TSA, JKTL shall be deemed to have Availability equal to Target Availability with effect from 12.04.2022 and therefore shall be entitled to Tariff as mentioned in Schedule 6 of the TSA.
- (u) On 21.04.2022, the Petitioner, vide an e-mail to CTU/PGCIL and JKTL, requested modification of the LTA operationalization schedule due to certain *force majeure* issues in charging of the dedicated lines.
- (v) On 29.04.2022, the 6th CMETS-WR meeting was held through Video Conference, wherein it was agreed to operationalize part LTA of 24.3 MW out of 50.6 MW w.e.f. 07.05.2022 subject to commissioning of the following part transmission system identified for the LTA:
 - i. Establishment of 4x500MVA, 400/220kV Jam Khambhaliya PS (GIS)
 - ii. Extension of Essar–Lakadia/ Bhachau 400kV D/c (triple snowbird) line up to Jam Khambhaliya PS
- (w) Accordingly, on 05.05.2022, vide CTU/PGCIL letter to POSOCO, WRLDC and Northern Regional Load Dispatch Centre ("NRLDC"), LTA to the Petitioner for 24.3 MW out of 50.6 MW made effective from 07.05.2022. The LTA was operationalized from 07.05.2022 on the basis of an agreement reached in the 6th CMETS-WR meeting held on 29.04.2022, wherein it was agreed to operationalize part LTA of 24.3 MW out of 50.6 MW w.e.f. 07.05.2022, subject to the commissioning of the part transmission system identified for the LTA.

- (x) On 17.05.2022, JKTL, without any prior intimation, had shut down its Transmission System for a period of 15 days, i.e., till 31.05.2022. This clearly shows that the Transmission System of JKTL was not ready.
- (y) On 02.06.2022, SECI issued a Commissioning cum COD certificate certifying that the Petitioner has successfully commissioned 24.3 MW ISTS-connected Wind project, under the RfS for Setting up of 1200 MW ISTS connected Wind Power Projects (Tranche-VI) issued by SECI. It was further certified that the COD of 24.3 MW ISTS Connected Wind Project is to be considered from 00:00 hrs. of 03.06.2022.
- (z) On 02.06.2022, based on the RTA and RTDA issued by the WRPC, CTU/PGCIL issued a bill of supply amounting to Rs. 2.10 Crore to the Petitioner for Bilateral Bill for the billing month of June 2022 (billing period of April 2022) on behalf of JKTL. CTU/JKTL has levied the transmission charges for the entire 1500 MW transmission system on the Petitioner instead of charging for the part commissioned project, i.e., 24.3 MW, or at maximum for the allocated capacity of 50.6 MW as per the LTA.
- (aa) JKTL has requested CTU/PGCIL to encash the Letter of Credit of the Petitioner to recover bilateral Invoices of CTU on behalf of JKTL, in case payment of bilateral bills is not made by the Petitioner as stipulated in the 2020 Sharing Regulations and TSA. JKTL has abdicated from its responsibilities under TSA by stating that LILO of the Bhachau-EPGL 400 kV D/c (triple) line at Lakadia PS is not under the scope of JKTL.
- (bb) JKTL has sought to levy transmission charges on the ground that the exemption from the levy of transmission charges is only applicable if the generating company is able to commission its Project within the SCOD. However, the above position taken by JKTL is highly misconceived, as the delay in commissioning of the Petitioner's Project was on account of the force majeure events which were entirely beyond the control of the Petitioner.
- (i) On 27.11.2019, the Government of Gujarat (GoG) decided not to allot government land to wind Projects awarded by SECI under Wind Tranche V - VIII.
- (ii) GoG later had a High-Power Committee meeting under the chairmanship of the Chief Minister of Gujarat on 28.11.2020, 09.03.2021, and 3.06.2021. In the High-Power Committee meeting on 03.06.2021, it was decided to grant

In-principle approval (Developer Permission(DP)) to the following Projects:

Tranche	WPD Name	Project Capacity (MW)
V	M/s Torrent Power Limited (executed through SPV named M/s Torrent Solargen Limited)	115
V	M/s Sitac Kabini Renewable Private Ltd.	300
VI	M/s Powerica Limited	50.6
VII	M/s Ostro Energy Private Limited	50

- (cc) The above delay in issuance of DP by GEDA/frequent change in land policy was recognized by the implementing authority, i.e., SECI. Accordingly, SECI, vide its letter dated 15.09.2021, extended the date to achieve 'Conditions subsequent and Financial Closure' from 15.04.2020 to 05.10.2021 and SCOD from 22.07.2020 to 05.09.2022.
- (dd) Petitioner was severely affected by the timely completion of its Project due to reasons that were beyond its control. Accordingly, the Petitioner vide its letter dated 08.12.2020 and subsequent letters dated 13.01.2021, 02.03.2021, and 30.03.2021 notified the occurrence and continuation of a force majeure event to JKTL in terms of Article 11.5.1 of the TSA.
- (ee) In terms of the TSA, the Petitioner is entitled to claim the relief envisaged under Article 11.7 of the TSA, and JKTL cannot levy transmission charges on the Petitioner before 05.09.2022. Further, as per Regulation 13(1)(c) of the 2020 Sharing Regulations, Wind Power Projects awarded through a competitive bidding process, having commercial operation declared during the period 13.02.2018 to 31.12.2022, are not liable to pay transmission charges and losses. Further, in terms of Regulation 13(3) onwards, the liability of a generating station to pay transmission charges arises only if there is a delay in commissioning by COD.
- (ff) MoP vide Order dated 23.11.2021 has stated that for wind Projects commissioned up to 30.06.2025, the waiver of inter-state transmission charges would be applicable (Clause 3.1. (i)).
- (gg) Since the SCOD of the Project has been revised by SECI to 05.09.2022, the time period to complete the dedicated transmission line and for commencement of LTA ought to be extended to correspond with the new generation schedule.

- (hh) In the 7th CMETS-WR held on 31.05.2022, it was agreed that the early operationalization for balance 26.3 MW of the Petitioner's Wind Project can be confirmed only after CTU's communication of readiness of the VNLT system. This shows that the Transmission System, as declared to be commissioned, was not even ready to take the load of 50.6 MW of Power.
- (ii) The transmission system of JKTL was under shut down for a period of 15 days from 17.05.2022 to 31.05.2022 without any intimation to the Petitioner. On account of the above unscheduled outage, the Petitioner has suffered huge economic losses amounting to approximately Rs. 1.48 crores (calculated at the PPA rate of Rs 2.82/kWh) in the critical high wind season.
- (jj) Rs. 2.1 Crores billed for the month of April 2022 is erroneous and is not proportionate to the LTA of 50.6 MW granted to the Petitioner. The CTU/JKTL has raised the bill for transmission charges of the entire 1500 MW instead of the allocated capacity of 50.6 MW of the Petitioner, and/or to the extent of part commissioned capacity equivalent to 24.3 MW.
- (kk) CTUIL, on behalf of JKTL, cannot be allowed to levy transmission charges on the Petitioner in view of the force majeure events which delayed the commissioning of the Petitioner's Project.

Hearing dated 5.7.2022:

4. The Commission admitted the petition and directed the Petitioner to implead WRSS XXI(A) Transco Limited as a party to the Petition and also directed the Petitioner, CTUIL, and JKTL to furnish the following information:

Petitioner

- (i) The status of the balance part capacity of the Project to be commissioned.

CTUIL

- (i) Status of LILO of Bachau- EPGCL at Lakadia and its relation with regard to the LTA of the Petitioner.
- (ii) Details of bills raised on the Petitioner and the details of ATS for which such bills have been raised to the Petitioner.
- (iii) Schematic diagram of the transmission system through which LTA has been operationalized.

JKTL

- (i) The schematic diagram of the transmission system clearly indicates the element-wise CoD/deemed CoD certificate of its instant transmission system along with all necessary documents thereof
5. The Petitioner vide affidavit dated 13.07.2022, impleaded the WRSS XXI(A) Transco Limited as a party to the Petition and filed a revised memo of parties.

Submissions of the Petitioner:

6. The Petitioner, vide affidavit dated 23.7.2022, submitted that the balance plant capacity of the Project, i.e., 26.3 MW (out of total 50.6 MW), is likely to get commissioned by 16.8.2022.

Reply by JKTL:

7. JKTL, in its reply vide affidavit dated 9.8.2022, has mainly submitted as under:
- (a) JKTL rightly declared COD of the Transmission in terms of the TSA, as against the allegation levelled by the Petitioner, JKTL had duly completed the concerned elements of the Transmission System, which were required by the Petitioner to evacuate its power.
 - (b) Pursuant to a request made by the Petitioner to CTUL for operationalization of its 50.6 MW LTA with effect from 30.3.2022 and the Petitioner's letter dated 04.02.2022 for keeping the Transmission System ready to connect with interconnection facility, JKTL energized the elements of its transmission system and declared COD on 12.04.2022 in compliance with Article 6.2. of the TSA.
 - (c) The Petitioner had itself agreed, as recorded in the MOM dated 16.12.2020 circulated by CTUIL for the meeting held on 7.12.2020, that in case of mismatch in commissioning of the Petitioner's Generation Plant and JKTL Transmission System wherein the generation is delayed, the Petitioner would be liable to be billed bilaterally for the associated Transmission System w.r.t the LTA in line with 2020 Sharing Regulations.
 - (d) Petitioner's Generating Plant and JKTL's transmission System operate under different agreements, i.e., the Power Purchase Agreement dated 17.10.2019 executed with Solar Energy Corporation of India Limited and the TSA executed

with JKTL, respectively. In terms of settled law, JKTL is entitled under Regulation 13(12) of 2020 Sharing Regulations and the TSA to levy transmission charges bilaterally on Powerica for delayed commissioning by Powerica. JKTL cannot be deprived of its statutory and contractual entitlement.

- (e) Further, the Petitioner was informed in the 31st to 35th JCC meetings held between March 2021 and March 2022 that the Petitioner shall be liable for payment of applicable transmission charges. Further, the Petitioner, *vide* its letters dated 7.12.2020, 13.1.2021, and 2.3.2021, made several attempts to convince JKTL to delay commissioning so that it does not have to bear the said liability on account of the delayed commissioning of its Generating Plant.
- (f) The waiver on transmission charges for the transmission projects under the MoP Orders is applicable when electricity is generated from solar and wind sources. Accordingly, the Petitioner shall be eligible to claim a waiver in terms of MOP Orders once power generation commences from the Power plant of the Petitioner.
- (g) As per the 2020 Sharing Regulations, transmission charges are levied as per the project's allocated capacity only after commissioning of the generating project and not prior to commissioning. The transmission charges have been levied before the commissioning of the Petitioner's generating project, and hence, the Bilateral Bill has been correctly issued for the overall capacity of 1500 MW.
- (h) The Petitioner is making unsubstantiated allegations with respect to generation loss during the shutdown from 17.05.2022 to 31.05.2022. During this period, JKTL's transmission System was admittedly shut down under the instructions of Western Regional Load Dispatch Centre (hereinafter referred to as 'WRLDC') issued *vide* email dated 17.05.2022. The Petitioner cannot make allegations against JKTL for complying with the instructions of WRLDC, a statutory authority. In any case, as on 17.05.2022 (i.e., commencement of shutdown period), the Petitioner was not ready for commissioning.

Reply by CTUIL:

8. CTUIL, in its reply vide affidavit dated 5.12.2022, has mainly submitted as under:

- (a) The waiver on transmission charges for the Transmission projects under the MoP Orders is applicable when electricity is generated from solar and wind sources. Accordingly, the Petitioner shall be eligible to claim a waiver in terms of MOP



Orders once power generation commences from the Power plant of the Petitioner after the COD.

- (b) The liability of the Petitioner towards transmission charges flows from the TSA executed between the Petitioner and JKTL and Regulation 13(12)(b) of the 2020 Sharing Regulations. Regulation 13(12)(b) of the 2020 Sharing Regulations provides that in case deemed COD has been declared under the TSA but the Generator's generating station is delayed, the liability to pay transmission charges shall be upon the Generator.
- (c) The extension of SCOD of a Generator's project has no bearing on bilateral billing for transmission charges arising due to mismatch. The consideration for bilateral billing for transmission charges under the 2020 Sharing Regulations is the delay in readiness of the generation system despite the availability of the transmission system.
- (d) The Petitioner, *vide* its email dated 21.04.2022, itself had requested CTUIL for operationalization of LTA in part. Further, it was upon the request of the Petitioner for part-operationalisation of its LTA made in the 6th Consultation Meeting for Evolving Transmission Schemes in Western Region held on 29.04.2022 that the part LTA of 24.3MW was operationalized w.e.f. 07.05.2022. Therefore, the Petitioner cannot make this submission before this Commission to direct CTUIL to extend the LTA commencement date.

Rejoinder by the Petitioner:

- 9. The Petitioner, in its rejoinders dated 29.11.2022 and 10.02.2023 to the replies of JKTL and CTUIL, respectively, has mainly submitted as under:
 - (a) In terms of the MoP Orders dated 15.01.2021, 23.11.2021, and 30.11.2021, the Petitioner is entitled to a waiver of transmission charges and alignment of the operationalisation of the LTA date with revised/extended SCOD of the Project as granted by the competent authority (i.e., SECI in the present case).
 - (b) CTUIL was bound to act in accordance with the MoP Orders since they have been passed pursuant to the National Tariff Policy 2016 and have the force of law. In terms of Section 61(i) and 79(4) of the Act, CTUIL was statutorily obligated to give effect to MoP's Orders.

- (c) By way of the Section 107 directions dated 15.01.2021, MoP acknowledged that the 2020 Sharing Regulations do not recognize events of *force majeure* which may delay commissioning of a transmission element or generating station, and accordingly directed that the LTA operationalization date would stand extended.
- (d) The reliance placed by JKTL on the CERC's Order in Petition No. 525/MP/2020 is misplaced since the factual matrix of the Order is different from the present case. In the Sprng Case, this Commission held that Sprng Energy (generator) has not invoked the provisions of force majeure and thus Sprng Energy has not claimed any relief on account of force majeure; however, in the present case, the Petitioner has duly issued the force majeure Notices to JKTL under Article 11 of the TSA Agreement.
- (e) The bilateral bill raised by CTU is illegal and stands invalid in terms of the LTA Agreement dated 17.10.2019 executed between CTU and the Petitioner. As per Sl. No. 6 of Notes to the Intimation for grant of LTA, the liability to pay the transmission charges arises from the commencement date of LTA as requested by the Petitioner or from the date of the commissioning of part/full transmission system by JKTL, whichever is later. In terms of the clear and unambiguous provisions of the LTA Agreement, liability to pay transmission charges cannot arise for the billing period for April 2022.
- (f) The Petitioner has suffered gross injustice as the Petitioner cannot be made liable for the transmission charges for the whole 1500 MW capacity. Further, there is no mention in the TSA, LTA Agreement, or the MoP Orders that the transmission charges for the whole project can be levied upon a single transmission consumer irrespective of the allocated project capacity.
- (g) The Petitioner has been imposed with a bilateral billing based on the MoM dated 16.12.2020 and not on the basis of the 2020 Sharing Regulations or any prior Agreements (TSA) entered into between the Petitioner and JKTL. The Petitioner had raised an objection as well vide its letter dated 21.12.2020 to CTUIL that the Petitioner has never agreed to the imposition of a bilateral bill and the same is being imposed without any concurrence of the Petitioner.
- (h) The issues impeding the Petitioner from timely achievement of COD have been intimated by the Petitioner to JKTL through various force majeure Notices issued under Article 11 of the TSA. JKTL, at no point in time, refuted or denied the

occurrence of a force majeure event intimated by the Petitioner. Therefore, JKTL cannot raise this contention that force majeure Notices issued by the Petitioner hold no relevance.

- (i) JKTL has incorrectly declared deemed COD of parts A and B of its Transmission System on 20.04.2022, as JKTL under Article 6.1.1 of TSA was obliged to issue to CTUIL, WRLDC, and the Petitioner, a 60-day advance written notice from the date which it intends to connect the element of the Transmission System. JKTL had given an advance Notice under Article 6.1.1 of the TSA on 28.06.2021 that it would commission its partial Transmission System (parts A and B of Schedule III of the TSA) by 31.08.2021.
- (j) Therefore, JKTL, on one hand, was invoking force majeure provisions of TSA to protect itself from the contractual obligations; however, on the other hand, it is intimating its readiness to claim transmission charges from the Petitioner. Moreover, on 20.07.2021, CTU responded to the letter dated 28.06.2021 issued by JKTL (intimation Notice) and revised the SCOD of the transmission system of JKTL to 30.11.2021 on the ground that MoP vide letter dated 12.06.2021 has directed that the SCOD of all ISTS projects be extended by 3 months. At the end, the transmission system was commissioned on 20.4.2022, 10 months after the date of the intimation Notice, i.e., 28.6.2021, without any notice of cessation of the relevant force majeure event, in terms of Article 11.5.2 of the TSA.
- (k) It is also pertinent to highlight that the entire transmission system was not ready, as JKTL's in its own letter dated 03.10.2022, had informed the Petitioner, CTU, and WRLDC that one of the elements of the transmission system, i.e., 1 X 500 MVA, 400/220 ICT at CGPL Mundra switchyard, would be commissioned only by 30.11.2022. JKTL till date has not commissioned the entire 1500 MW capacity and still has wrongly and illegally levied the entire charges for the uncommissioned 1500 MW capacity.
- (l) CTUIL, for the reasons best known to itself, has also failed to make any observation on the losses suffered to the tune of Rs. 1.48 Crores by the Petitioner due to unscheduled outage of the transmission system of JKTL.

Submissions of Petitioner in 70/IA/2022:



10. The Petitioner filed an Interim Application (I.A.) No. 70 of 2022 on 2.12.2022 seeking an ex-parte ad-interim stay on the invoices and letters issued by CTUIL and Power System Operation Corporation Limited (POSOCO) under the LPS Rules. The Petitioner in the IA has mainly submitted as under:

- (a) The Commission, at the hearing dated 5.7.2022, was to take on record the undertaking of CTUIL that it would not encash the Bank Guarantee for recovery of the transmission charges from the Petitioner. Even though CTUIL has not taken any steps to encash the Bank Guarantee for the recovery of the said invoices, CTUIL has been providing information to POSOCO regarding the outstanding invoices. On account of the same, the Petitioner is being shown as a defaulter in the PRAAPTI Portal of POSOCO.
- (b) POSOCO has indicated that the penal consequences in terms of Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 shall trigger, including but not limited to, the LTA of the Petitioner will be regulated and shall be reduced by 10% on a monthly basis.
- (c) The said protection should be granted as the matter is pending adjudication before the Commission, and any precipitative action at this stage would be unjust.
- (d) The Applicant has approached this Commission seeking appropriate direction of an interim stay on the invoices raised by CTU and all the above letters issued by CTU and POSOCO in relation to the LPS Rules, including any consequences under LPS Rules, till the disposal of the present Petition, as otherwise, CTU/POSOCO would regulate the LTA of the Applicant, causing irretrievable loss and injury to the Applicant.

Hearing dated 6.12.2022 on I.A. No. 70 of 2022:

11. The matter was mentioned on 6.12.2022. Learned counsel for CTUIL submitted that CTUIL is required to report the outstanding dues of a generating company to the PRAAPTI portal of the POSOCO, which thereafter takes the appropriate actions as per the LPS Rules in the event the outstanding dues are not cleared by such generating company. In the present case, the power from the generating station of the Petitioner is already being evacuated under the LTA. The Commission may consider extending the protection against the regulation of LTA capacity.



12. Learned Counsel for JKTL submitted that the outstanding dues under the bilateral bills, as raised by CTUIL for the period from 12.4.2022 to 3.6.2022, to the tune of approximately Rs. 10.28 crore, are owed to JKTL, and till date, no payment has been received from the Petitioner against such dues. Learned Counsel added that the Petitioner ought to be directed to make the payment 'under protest'.
13. After hearing the learned counsel for the parties, the Commission directed the Respondents, CTUIL and WRLDC/POSOCO, not to take any coercive measures against the Petitioner in terms of LPS Rules till the next date of hearing.

Hearing dated 14.2.2023:

14. During the course of the hearing on the request of the learned counsel for the Petitioner, the matter was adjourned. The Commission directed CTUIL to furnish its response on the following aspects:
- (a) Whether the entire Associated Transmission System w.r.t LTA granted to the Petitioner was ready on the date of deemed COD declaration by JKTL?
- (b) Can the transmission charges for the entire transmission system of JKTL be loaded onto the Petitioner in terms of the Sharing Regulations, 2020?
15. The Commission also directed JKTL to furnish a trial-run certificate of RLDC on affidavit. Further, the Commission directed that the interim relief allowed *vide* RoP for the hearing dated 6.12.2022 will continue till the next date of hearing.

Submissions of JKTL in compliance with ROP for the hearing dated 14.2.2023:

16. On 12.4.2022, JKTL had already energized Parts A and B (except 63 MVA line reactors) of the Transmission System and declared deemed COD as per Article 6.2.1 of the TSA. All elements of Parts A and B of the Transmission System were duly inspected by the Chief Electrical Inspector on 30.8.2021, 8.2.2022, and 5.4.2022, and approval for energization was granted by the CEA vide letter dated 08.10.2021, 12.02.2022, and 19.04.2022.
17. The details of the trial run certificates granted by WRLDC are as under: -

SR. NO.	ELEMENT		DATE AND TIME OF TRIAL OPERATION	
			COMMENCEMENT	COMPLETION
1.	Part A	4x500 MVA, 400/220 kV Jam Khambhaliya PS (GIS).	01.06.2022 18:00 Hrs.	02.06.2022



SR. NO.	ELEMENT		DATE AND TIME OF TRIAL OPERATION	
			COMMENCEMENT	COMPLETION
				18:00 Hrs.
2.	Part A	125MVAR, 420kV Bus reactor at Jam Khambhaliya	01.06.2022 18:00 Hrs.	02.06.2022 18:00 Hrs.
3.	Part B	Extension of Essar-Lakadia/Bhachau 400 kV D/C (triple snowbird) line up to Jam Khambhaliya PS.	01.06.2022 18:00 Hrs.	02.06.2022 18:00 Hrs.
4.		400 kV line bays at Jam Khambhaliya	01.06.2022 18:00 Hrs.	02.06.2022 18:00 Hrs.
5.		63MVAR switchable Line Reactor (Line 1 and Line 2) at Jam Khambhaliya	01.06.2022 18:00 Hrs.	02.06.2022 18:00 Hrs.
6.		63MVAR switchable Line-1 Reactor at Lakadia	28.09.2022 13:12 Hrs.	29.09.2022 13:12 Hrs.
7.		63MVAR switchable Line-2 Reactor at Lakadia	01.10.2022 19:38 Hrs.	02.10.2022 19:38 Hrs.

18. By virtue of declaring deemed COD on 12.4.2022, JKTL has become eligible to receive transmission charges for Parts A and B up to the extent of 91.55% as per Schedule 3 of the TSA with effect from 12.4.2022. Accordingly, the Petitioner is liable to pay the transmission charges to JKTL under Regulation 13(12) of the Sharing Regulations.

Submissions of CTUIL in compliance with the ROP of the hearing dated 14.2.2023:

19. CTUIL, in its additional affidavit dated 10.4.2023, mainly submitted that:

(a) 50.6MW LTA was granted to the Petitioner from 01.11.2021 or the availability of the following transmission system for LTA, whichever is later:

A. Connectivity System for RE projects (1500 MW) in Dwarka (Gujarat)

1. Establishment of 4x500MVA, 400/220kV Jam Khambhaliya PS (GIS)
2. Extension of the Essar–Lakadia/ Bhachau 400kV D/c (triple snowbird) line up to Jam Khambhaliya PS

B. Common Strengthening Scheme required for LTA

3. Establishment of 2x1500MVA, 765/400kV Lakadia PS

4. LILO of the Bhachau – EPGL 400kV D/c (triple) line at Lakadia PS

5. Lakadia – Vadodara 765kV D/c line

OR

LILO of the second circuit of the Zerda –Ranchodpura 400 kV D/c line at Banaskantha (PG) PS, along with either of:

- Bhuj PS – Lakadia PS 765kV D/c line

OR

- Lakadia – Banaskantha 765kV D/c line

(b) The above Transmission system mentioned at S. No.: A (1) and A (2) was planned based on RE potential identified by MNRE/SECI for the evacuation of 1500MW RE power from the Dwarka area, including 50.6 MW from the generation project of the Petitioner. Subsequently, LTA has also been granted to Apraava Energy Private Limited (250.8 MW) and Torrent Power Limited (115 MW) at Jam-Khambaliya PS.

(c) Keeping in view the above, LTA to the Petitioner was granted with ATS and common system, and the transmission elements given under ATS may be considered for the determination of transmission charges for a delayed period of the Petitioner, which is summarized below:

Bifurcation of Transmission system for LTA as ATS and Common System for POWERICA (50.6MW):

A. Dedicated ATS:

220kV line bay- 1 No. for the termination of the dedicated Line at Jam-Khambaliya PS

B. Shared ATS for 1500MW generation (Jam Khambhaliya PS has been planned for evacuation of 1500MW power from generation projects from the Dwarka area):

4x500MVA, 400/220kV ICTs at Jam Khambhaliya PS (GIS) along with associated bays

[The above transformation capacity shall cater to the evacuation of 1500MW RE power from Jam-Khambaliya PS. Accordingly, billing of the above system in proportion to the LTA quantum of 50.6MW may be done for the instant case. The following methodology is specifically proposed to be adopted for the calculation of transmission charges for the delayed period of generation projects at Jam-Khambaliya:

Per MW charges to be calculated for the ICT and Transmission charges may be calculated corresponding to the delayed quantum for the delayed period.

Charges for the delayed period = Cost in Rs/MW/day x Delayed Quantum x Delayed period =

$$\left(\frac{4 \times 500 \text{MVA ICTs per day Cost}}{(1500 \text{MW})} \times \text{Delayed quantum} \times \text{Delayed period in days} \right)$$

+ Charges for 220kV unutilized bay (1 No.)]

C. Common Strengthening Scheme required for LTA

1. Establishment of Jam-Khamabaliya PS along with Extension of Essar–Lakadia/ Bhachau 400kV D/c (triple snowbird) line up to Jam Khambhaliya PS
2. Establishment of 2x1500MVA, 765/400kV Lakadia PS
3. LILO of the Bhachau – EPGL 400kV D/c (triple) line at Lakadia PS
4. Lakadia – Vadodara 765kV D/c line

OR

LILO of the second circuit of the Zerda –Ranchodpura 400 kV D/c line at Banaskantha (PG) PS, along with either of:

- Bhuj PS – Lakadia PS 765kV D/c line

OR

- Lakadia – Banaskantha 765kV D/c line

(d) The following assets were declared deemed COD w.e.f. 12.04.2022 in terms of Transmission Service Agreement under Tariff based Competitive Bidding by Jam Khambhaliya Transco Limited (JKTL):

1. Establishment of 4x500MVA, 400/220kV Jam Khambhaliya PS (GIS)
2. 1x125MVA, 420kV Bus reactor at Jam Khambhaliya PS, along with the reactor bay
3. Extension of Essar–Lakadia/ Bhachau 400kV D/c (triple snowbird) line up to Jam Khambhaliya PS
4. 2 nos. of 400kV line bays at Jam Khambhaliya PS for termination of Jam Khambhaliya PS-Lakadia 400kV D/C (triple) line

5. 63 MVA_r switchable Line Reactor at both ends of Lakadia - Jam Khambhaliya 400 kV D/c line, along with 500 Ohms NGR on both circuits and at both ends of Lakadia – Jam Khambhaliya 400 kV D/c line

The above assets are the sub-elements of the transmission system indicated in the LTA granted to POWERICA. Further, a TSA has been signed between JKTL and POWERICA, indicating the above assets for the evacuation of power from the generator. Accordingly, upon declaring deemed COD w.e.f. 12.04.2022 for the aforesaid assets, JKTL informed NLDC to include in the billing for the above-mentioned assets on the petitioner. Accordingly, the bilateral billing was included in the RTA by the NLDC/ Western Regional Load Despatch Centre in line with Regulation 13 (12) (b) and 13(3) of the CERC Sharing Regulations, 2020.

- (e) The entire ATS as mentioned above was ready on the date of deemed COD declaration by JKTL, i.e., on 12.04.2022.
- (f) The present status of billing on the Petitioner is as follows:

Bill No.	Document Date	Posting Date	Amount (in Rs.)
94400616	02-06-2022	02-06-2022	2,10,08,742.00
94400674	01-07-2022	01-07-2022	3,42,77,422.00
94400716	01-08-2022	01-08-2022	1,83,03,435.00
94400763	01-09-2022	01-09-2022	1,89,13,550.00
94400810	03-10-2022	03-10-2022	1,03,44,850.00
	TOTAL		10,28,47,999.00

Hearing dated 11.4.2023:

20. Learned counsel for the Petitioner submitted that, as per the methodology proposed by CTUIL, while working out the charges for the delayed period, CTUIL has utilized the per day cost of 4x500 MVA ICTs at Jam-Khambaliya S/s. However, the said S/s of JKTL having been set up under the tariff-based competitive route, the Petitioner is unable to ascertain such cost and the charges for the delayed period as per the methodology proposed by CTUIL. The Petitioner can also not be held liable for payment of transmission charges for the period between 17.5.2022



and 31.5.2022, as the Petitioner was ready to charge its WTGs on 17.5.2022. JKTL took an uninformed shutdown, due to which telemetry data for WTGs could not be received.

21. Learned counsel for CTUIL submitted that the Petitioner's generating station was not operationalized on the date JKTL declared its deemed COD, and thus, there was a mismatch between the Petitioner's and JKTL's CODs, with the delay being there on the part of the Petitioner in achieving the COD of its generating station. Learned Counsel further submitted that the liability of the Petitioner towards the transmission charges also arises out of its obligations under its TSA with JKTL.

22. Learned Counsel for the Respondent, JKTL, pointed out that JKTL has not received any payment due against the outstanding bilateral bills.

23. After hearing the Learned Counsel for the parties, the Commission, while directing that the interim relief allowed *vide* RoP for the hearing dated 6.12.2022 will continue till the next date of hearing ordered as under:

(a) WRLDC was directed to submit the reason for the outage of the 400 kV JKTL - Bhachau line during the period 17.5.2022 to 31.5.2022, along with clarification as to whether this outage was a scheduled outage/unscheduled outage on affidavit within two weeks.

(b) CTUIL was directed to submit the following on affidavit within two weeks:

(i) Date of readiness of all the elements of transmission systems which were required for LTA as per Annexure-I of the LTA grant, on affidavit.

i. Connectivity System for RE Projects (1500 MW) in Dwarka (Gujarat)

ii. Common strengthening scheme required for LTA.

(ii) Response to the Petitioner's contention that it cannot be made liable to pay transmission charges and also entitled to compensation on account of generation loss suffered by it during the period from 17.5.2022 to 31.5.2022 due to the outage of the 400 kV JKTL-Bhachau line.

24. The Commission directed that the interim relief allowed *vide* Record of Proceedings for the hearing dated 6.12.2022 will continue till the next date of hearing



Submissions of WRLDC in compliance with the ROP of the hearing dated

11.4.2023:

25. WRLDC, in its submissions dated 27.4.2023, has mainly submitted as under:

- (a) A planned outage on the 400 kV Bachau - Vadinar D/C line, (owned by POWERGRID) from 2.5.2022 to 12.5.2022 was approved in the 554th OCC meeting of WRPC held on 22.4.2022, wherein the reason for the outage was mentioned as *“Outage requested by ATL_WRSS for stringing/tapping work of 400 kV D/C (Triple) EPGL- Bhachau LILO Line at Lakadia PS (of WRSS XXI (A) Transco Ltd.) in the state of Gujarat. (Reach: LILO 1/0 & LILO 2/0)”*.
- (b) As per the approved outage procedure in Western Region, such planned outages are proposed by the indenting agency (viz. Adani Transmission Ltd. (ATL_WRSS) in the instant case) through the owner of the asset (viz. POWERGRID in the instant case) to WRPC one month in advance. Subsequently, the outage plan is deliberated in the monthly OCC meeting in the presence of all stakeholders, and then it gets approved and published by WRPC along with the OCC minutes.
- (c) After the approval in the OCC meeting, based on the readiness given by the site personnel (through their respective coordinators) on a D-3 basis (3 days in advance), WRLDC reviews all outages on a D-2 basis after taking care of the prevailing system conditions. Then the final outage list is published with reliability suggestions from WRLDC Reliability Coordinator on a D-2 basis, and any subsequent revisions are informed one day ahead of the scheduled outage date (i.e., on a D-1 basis).
- (d) In the instant case, the indenting agency (ATL-WRSS) did not confirm the readiness for availing the above OCC-approved outage on a D-3 basis to WRLDC. Accordingly, as per the procedure, the approved outage was deemed to be deferred for the OCC-approved period, i.e., from 2.5.2022 to 12.5.2022.
- (e) In line with the outage procedure, the indenting agency can request rescheduling of the deferred outage to future dates within the same calendar month. Accordingly, ATL_WRSS (through POWERGRID) placed a request before WRLDC on a (D-3) basis for rescheduling of the outage to the period 17.5.2022 to 31.5.2022. In line with the outage procedure, WRLDC approved the rescheduling request for the said outage from 17.5.2022 to 27.5.2022.



- (f) Subsequently, the outage on the said line was availed of by ATL-WRSS on 17.5.2022, and with the outage of the 400 kV Bhachau-Vadinar-D/c line, the extended section from 400kV Vadinar S/s to 400kV Jam Khambaliya S/s also went out of service.
- (g) Further, ATL_WRSS *vide* its e-mails dated 27.5.2022, 28.5.2022, and 30.5.2022, extended the ongoing outage on the said line from 27.5.2022 to 31.5.2022, stating RoW issues which hampered the planned execution of works at the site. Subsequently, on 31.05.2022, the outage on the 400 kV Bhachau-Vadinar D/c line (extended up to Jam Khambaliya s/s) got normalised, and the said lines were taken back into service on 31.5.2022.

Rejoinder of the Petitioner to the submissions by the CTUIL:

26. The Petitioner, in its Counter Affidavit dated 22.5.2023, reiterated its position and mainly submitted as follows:

- (a) The JKTL has communicated deemed COD intimation on 20.4.2022, which is after the CEA approval dated 19.4.2022, and hence, since the approval itself was given on 19.4.2022, there is no question of any charges being levied prior to this period.
- (b) No charges should be levied for the period prior to the grant of LTA operationalisation, i.e., up to 7.5.2022.
- (c) All the elements were charged, and the Petitioner was ready for commissioning on 17.5.2022; however, an uninformed shutdown was taken by JKTL from the period 17.5.2022 to 31.5.2022. The Petitioner, being a stakeholder in the Project, was never informed of such a shutdown by JKTL.
- (d) With the outage of the 400 kV Bhachau-Vadinar D/c line, the extended section from 400kV Vadinar S/s to 400kV Jam Khambaliya S/s also went out of service. For the outage of 400kV Vadinar S/s to 400kV Jam Khambaliya S/s, no request was made by any party.
- (e) The outage from 27.5.2022 to 30.5.2022 was not confirmed in any of the OCC Meetings.

- (f) No transmission charges shall be leviable towards 220 kV Bay up to 2.6.2022, as the trial run of the same was completed on 2.6.2022 as per the POSOCO Certificate dated 11.7.2022.

Submissions by WRSS XXI (A) TRANSCO LIMITED:

27. WRSS XXI (A) Transco Ltd. in its affidavit dated 22.5.2023, has mainly submitted as under:

- (a) In the concerned region, there were existing transmission lines, including *inter alia*, the Essar-Lakadia/Bhachau 400 kV D/C (triple snowbird) line, which is owned by Powergrid. This transmission line was sought to be connected with WRSS's Transmission Project through the LILO of the Bhachau-EPGL 400 kV D/C (triple) line at Lakadia PS as per the project scheme.
- (b) The Transmission System developed by JKTL also *inter alia* interconnects with the Bhachau – Essar (EPGL) line through the extension of the Bhachau–Essar (EPGL) line up to Jam Khambhaliya GIS developed by JKTL.
- (c) The Bachau–EPGL Line was already in operation. The extension of the Bhachau–EPGL line was completed by JKTL in April 2022, pursuant to which the Bhachau S/s was connected directly with Jam Khambhaliya GIS. The LILO on the Bhachau-EPGL line was required to be installed by WRSS XXI (A) on this extended transmission line.
- (d) WRSS XXI (A) was granted a planned outage from 17.05.2022 to 27.05.2022, subsequently extended till 31.05.2022 by WRLDC for dismantling the existing towers and installing the new towers at Tapping Points X and Y for the LILO. WRSS obtained the required planned outage through the due process and accordingly carried out the work on the Bhachau – EGPL Line.
- (e) WRSS has completed the task in 15 days, which would ordinarily take at least 45 days to complete. In fact, subsequently WRSS completed the LILO in Hotline, i.e., there was no shutdown availed during installation of the LILO. WRSS completed the LILO work in Ckt-1 while power was flowing in Ckt-2 and worked on Ckt-2 while power was flowing in Ckt-1.

- (f) All concerned stakeholders were informed and consulted by WRLDC prior to approving WRSS's request for shutdown. Hence, the planned outage for 15 days sought by WRSS XXI (A) did not cause any loss to any associated party.

Submissions of CTUIL in compliance with the ROP of the hearing dated

11.4.2023:

28. CTUIL, vide its submissions dated 24.5.2023, has mainly submitted that:

- (a) WRSS XXI(A) Transco Ltd. was responsible for the establishment of 2x1500MVA, 765/400kV Lakadia PS, LILO of Bhachau – EPGL 400kV D/c (triple) line at Lakadia PS and Bhuj PS – Lakadia PS 765kV D/c line. The Commercial Operation Date (“COD”) for the above assets was declared w.e.f. 17.10.2022 in terms of TSA under TBCB by WRSS XXI(A).
- (b) The deemed COD of Lakadia – Banaskantha 765kV D/c line was declared w.e.f. 01.09.2022 in terms of TSA under TBCB by Lakadia - Banaskantha Transco Ltd. The COD of LILO of the second circuit of Zerda – Ranchodpura 400 kV D/c line at Banaskantha (PG) PS was declared w.e.f. 03.07.2022 in terms of TSA under TBCB by Mumbai Urja Marg Ltd. The COD of Lakadia – Vadodara 765kV D/c line was declared w.e.f. 28.01.2023 in terms of TSA under TBCB by WRSS XXI(B) Transco Ltd.
- (c) The entire transmission system for LTA was commissioned by 17.10.2022.
- (d) POWERICA vide e-mails dated 17.03.2022 and 25.03.2022 had requested to operationalize their entire LTA from 15.04.2022. Subsequently, in the 5th Consultation Meeting for Evolving Transmission Schemes in Western Region held on 30.03.2022, POWERICA requested for operationalizing their LTA w.e.f. 25.04.2022. In view of the same, it was decided to operationalize the entire LTA of POWERICA w.e.f. 25.04.2022, subject to the commissioning of the part transmission system identified for their LTA. Subsequently, Powerica vide e-mail dated 21.04.2022, requested to further modify their LTA operationalization schedule due to certain issues in charging of their dedicated line and requested to only operationalize part capacity of 24.3 MW under LTA from 07.05.2022.
- (e) In the 8th Consultation Meeting for Evolving Transmission Schemes in Western Region held on 30.06.2022, it was decided that the balance part of 26.3MW LTA



of POWERICA may be operationalized based upon their request. Subsequently, POWERICA vide e-mail dated 17.08.2022 requested the early operationalization of an additional 26.3MW LTA, and the same was made effective w.e.f. 20.08.2022.

- (f) There is no provision in the CERC Sharing Regulations, 2020, or the TSA regarding compensation on account of generation loss, if any.
- (g) The methodology proposed to be adopted for the calculation of transmission charges for the delayed period of generation projects at Jam-Khambaliya is being clarified hereinbelow (specifically in respect of Charges for 1 No. of dedicated 220kV line bay), in order to avoid diverse interpretations of the methodology in arriving at the amount of transmission charges payable (the clarification is with respect to the methodology for Charges for 1 No. of a dedicated 220kV line bay and is in line with Regulation 13(3) of the Sharing Regulations, 2020, and this Commission's order dated 11.06.2022 in Petition No. 9/TT/2021 (*Power Grid Corporation of India Limited v. Rajasthan Rajya Vidyut Prasaran Nigam Limited & Ors.*)

Total Charges for the delayed period = (Cost in Rs/MW/day x Delayed Quantum x Delayed period) + Charges for 1 No. of dedicated 220kV line bay =

$$\left(\frac{4 \times 500 \text{ MVA, 400/220kV ICTs alongwith associated bays per day Cost}}{(1500 \text{ MW})} \times \text{Delayed quantum} \times \text{Delayed period in days} \right) + \left(\frac{\text{Charges for 1 No. of 220kV line bay per day Cost}}{(\text{LTA quantum})} \times \text{Delayed quantum} \times \text{Delayed period in days} \right)$$

- (h) The balance transmission charges for the subject transmission system (excluding the bilateral charges for the delayed period, determined as per the methodology submitted earlier, and clarified as above) are proposed to be recovered from the PoC pool.

Hearing dated 25.5.2023:

29. During the course of hearing, the learned counsel for CTUIL submitted that there was no power flow from the Petitioner's project prior to 17.5.2022. Learned counsel for the Petitioner submitted that the CTUIL may be directed to indicate the amount of transmission charges for the delayed period that may be arrived at on the basis of the methodology proposed by it vide affidavit dated 10.4.2023. In response, learned counsel for CTUIL submitted that if the Commission so directs, CTUIL will



indicate the amount of transmission charges based on the proposed methodology. Learned counsel for the Respondent, JKTL, submitted that the Respondent, WRLDC, in its affidavit dated 27.4.2023, has clearly indicated that the 400 kV JKTL – Bhachau transmission line was taken under outage as per the instruction issued by WRLDC itself. Learned counsel further submitted that a substantial amount of Rs. 10.29 crore is outstanding under the bilateral bills, and the Petitioner's entitlement towards such charges is clearly established as per the 2020 Sharing Regulations, and therefore, as an interim measure, a direction may be issued for at least part payment of the aforesaid outstanding charges.

Submissions of the CTUIL in compliance with the RoP dated 25.05.2023:

30. CTUIL, vide Affidavit dated 25.7.2023, reiterated its earlier submissions, and has mainly submitted as under:

- (a) JKTL is entitled to receive the monthly transmission charges ("MTC") equal to the Target Availability from the deemed COD of 12.04.2022 till the charging of the element, in line with the provisions of TSA.
- (b) Since the Petitioner commissioned and declared COD of its part generation on 3.6.2022 facilitating the power flow in the 400kV Jam Khambhaliya-Bhachau transmission line of JKTL, the Petitioner is liable to pay transmission charges for the assets of JKTL till the COD of its generation i.e., 3.6.2022 as per the provisions of Regulation 13(12)(b) of the CERC 2020 Sharing Regulations.
- (c) The Petitioner is also liable to pay the transmission charges from 3.6.2022 till the COD of its balance generation of 26.3 MW out of 50.6 MW, i.e., 19.8.2022, in line with Regulation 13(3) of the CERC 2020 Sharing Regulations.
- (d) As informed by WRLDC, the Petitioner's part generation of 24.3 MW was not ready till 17.5.2022. Further, there was no prior intimation from the Petitioner to WRLDC regarding the commissioning of their generation. WRLDC went ahead with granting the outage of the 400kV Jam khambhaliya-Bhachau line from 17.5.2022 at the request of WRSS XXI (A) Transco Ltd. for LILO works (incidentally the outage was deferred and availed from 17.5.2022 to 31.5.2022, which was allowed as per the outage coordination procedure) as per the approval accorded in the 554th OCC meeting as mentioned above.

- (e) The same outage was considered to be deemed available for JKTL for the period from 17.05.2022 to 31.05.2022 as the said line outage was availed by WRSS XXI (A) Transco Ltd for the construction of their new element in line with TSA/ the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 and JKTL is entitled to receive the transmission charges for the period 17.5.2022 to 31.5.2022 from POWERICA, as per the CERC 2020 Sharing Regulations.
- (f) In line with Provision 8.1 of TSA, the calculation of availability shall be as per Appendix II of CERC Tariff Regulations, 2019, where the provision is available for the construction of a new element.
- (g) In view of the above, the Petitioner is liable to pay the transmission charges for the 400kV Jamkhambhaliya-Bachau line from 12.04.2022 (deemed COD of line) till 03.06.2022 (COD of part generation) and thereafter proportionate transmission charges for its un-commissioned generation till declaration of COD i.e., 18.08.2022, as per the applicable regulations.
- (h) As per the methodology proposed by CTUIL for the calculation of transmission charges by the Petitioner for the mismatch period from 12.4.2022 to 18.8.2022, the transmission charges payable by the Petitioner work out to approx. Rs 0.31 Cr., by considering the Yearly Transmission Charges of ICTs and bays based on indicative capital cost, as separate tariffs for ICTs and bays are not available in the TSA/adoption order of JKTL.

Counter submissions by the Petitioner:

31. The Petitioner in its submissions dated 10.8.2023, in response to the Additional submissions of CTUIL dated 25.07.2023, reiterated its earlier submissions and has mainly submitted that:

- (a) JKTL has declared a deemed COD without issuing a 60-day advance notice as prescribed under Article 6.1.1 of TSA. A 60 day advance notice has been consciously incorporated in the TSA by the parties, i.e., in order to enable the Petitioner to ready its Project, within a reasonable time, for connecting to the Transmission system. However, JKTL, by directly declaring the deemed COD on 12.04.2022, has rendered Article 6.1.1 of TSA an empty formality. As the Petitioner was not even able to predict the availability of the Transmission system

which the Petitioner was not able to correctly assess and request operationalization of LTA by CTU.

- (b) Deemed COD has been declared without any notice of cessation of the relevant force majeure event, which is in teeth of Article 11.5.2 of TSA.
- (c) CTUIL has also not considered the fact that CEA approvals for the energization of all the elements of the Transmission System of JKTL have been granted only on 19.04.2022. Therefore, they could not have declared deemed commissioning on 12.04.2022 (one week before the CEA approval).
- (d) All the elements were charged, and the Petitioner was ready for commissioning on 17.5.2022; however, once all the elements were charged by 13.5.2022, an uninformed shutdown was taken by JKTL from the period 17.5.2022 to 31.5.2022.
- (e) Notably, had the OCC approved period not been deferred to 12.5.2022, the Petitioner could have commissioned its Generating Station on 17.5.2022, avoiding the generation loss.
- (f) In any case, the shutdown was not taken by the Petitioner. Therefore, the transmission charges for the said period, i.e., from 17.05.2022 to 31.05.2022, should not be made applicable to the Petitioner as the system was in a blackout mode and was not operating at all.

Hearing dated 16.8.2023:

32. During the course of the hearing dated 16.8.2023, learned Counsels for the Petitioner and CTUIL made their respective submissions in the matter. Considering the submissions made by the learned counsel for the parties, the Commission permitted the Respondent, CTUIL, and the Petitioner to file their respective affidavits and/or notes of argument. Subject to the filing of the documents, the Commission reserved the matter for Order.

Written Submissions filed by the Petitioner:

33. The Petitioner, in its written submissions dated 21.08.2023, reiterated its earlier submissions and has mainly stated that:



- (a) For the period from 12.4.2022 to 7.5.2022, the Petitioner is not liable to pay any transmission as S.I. No.6 of the LTA Agreement stated that the liability to pay the transmission charges arises from the commencement date of LTA or from the date of the commissioning of part/full transmission system, whichever is later.
- (b) Further, CEA approvals for the energization of all the elements of the Transmission System of JKTL have been granted only on 19.4.2022. Therefore, they could not have declared deemed commissioning on 12.4.2022 (one week before the CEA approval).
- (c) For the period 8.5.2022 to 17.5.2022, the Petitioner is not liable to pay any transmission charges as the Petitioner was not able to operationalize its LTA on 7.5.2022 due to certain issues being faced in SAS integration at JKTL's end and the necessary stabilization required for the WTGs. By 13.05.2022, First-Time Charging of elements at Powerica-Manza S/s and all 220 kV and 33 kV elements were completed. Further, during the period from 14.5.2022 to 16.5.2022, the Petitioner was carrying out the stabilization of the WTGs, and as per Meter reading/operational data of the Petitioner's WTGs of 16.5.2022, the WTGs were ready to be charged on 16.5.2022 as the energy was flowing through the WTGs. Accordingly, on 17.5.2022, System stabilization was completed, and the Petitioner was ready for charging its WTGs on 17.5.2022, JKTL. On 17.5.2022, an uninformed shutdown took place, due to which telemetry data for WTGs was not received.
- (d) As per CTUIL, the transmissions system required for the LTA was commissioned only on 17.10.2022, and the wind farm of the Petitioner was commissioned on 18.8.2022, therefore the Petitioner cannot be made liable to pay the transmission charges for the entire capacity of 50.6 MW and is liable to pay only for the part capacity of 24.3 MW operationalized on 07.05.2022.
- (e) On 29.04.2022, the 6th CMETS- WR was held, wherein it was agreed to operationalize part LTA of 24.3 MW out of 50.6 MW w.e.f. 7.5.2022 subject to commissioning of part A of the transmission system identified for the LTA, i.e., Connectivity System for RE projects. Therefore, the Petitioner has to bear only the part of the liabilities corresponding to the LTA operationalized.
- (f) On 5.5.2022, CTUIL granted LTA to the Petitioner for 24.3 MW out of 50.6 MW, effective from 7.5.2022, wherein it was specifically mentioned that the Petitioner

would be liable to bear all commercial and operational liabilities corresponding to the quantum of LTA operationalized with effect from the date of operationalization of LTA.

- (g) The Petitioner vide e-mail dated 17.08.2022 requested early operationalization and accordingly, balance 26.3 MW was made effective with effect from 19.8.2022. Accordingly, the Petitioner is liable to pay the transmission charges from 03.06.2022 till the COD of its balance generation of 26.3 MW out of 50.6 MW, i.e., 19.8.2022.

Written Submissions of CTUIL:

34. The CTUIL, vide affidavit dated 6.9.2023, mainly stated that:

- (a) The entire 50.6 MW LTA of the Petitioner was agreed to be operationalized subject to commissioning of the JKTL system without the requirement of the Common Strengthening Scheme required for LTA.
- (b) On 17.8.2022, the Petitioner vide e-mail requested the early operationalization of an additional 26.3MW LTA, and the same was made effective w.e.f. 20.08.2022, which was well after the commissioning of the VNLT system, indicating that their generation project was not yet ready.
- (c) The Petitioner is liable to pay transmission charges for the assets of JKTL till commissioning of its generation, i.e., 3.6.2022, as per the provisions of Regulation 13(12)(b) of the Central Electricity Regulatory Commission CERC Sharing Regulations, 2020.
- (d) The Petitioner is also liable to pay the transmission charges from 3.6.2022 till commissioning of its balance generation of 26.3 MW out of 50.6 MW, i.e., 19.8.2022, in line with Regulation 13(3) of the Sharing Regulations, 2020.

Written Submissions of JKTL:

35. The JKTL filed its written submissions dated 13.9.2023 and has mainly stated as under:

- (a) During various meetings held amongst inter alia Powerica, JKTL, CTU, etc, Powerica had agreed to pay bilateral charges in case of mismatch of COD. At the meeting held on 07.12.2020 and attended by the Ministry of New and Renewable



Energy, Central Electricity Authority, CTU, Solar Energy Corporation of India Limited, Powerica, and JKTL, Powerica had agreed that in the event of a mismatch between the COD of the Generating Plant and the Transmission System, Powerica shall be liable to be billed bilaterally in line with the CERC 2020 Sharing Regulations.

- (b) Even in the absence of the LILO of Bhachau-EPGL, the extension of the Essar-Bhachau line was complete, and JKTL's Transmission System was complete and ready for the evacuation of power from Powerica's Generating Plant through Jam Khambhaliya PS directly to Bhachau SS. Hence, Powerica's objection that until the LILO of Bhachau-EPGL is complete, the extension of the Essar-Lakadia/Bhachau line is not possible is incorrect and erroneous.
- (c) Article 6.2.2 of the LTA categorically states that upon commissioning of an element of the Transmission System, JKTL will be eligible for payment of the monthly transmission charges applicable for such element.
- (d) On 17.05.2022, JKTL was directed by WRLDC to shut down the 400kV D/C Bhachau- EPGL line. In any event, Powerica's Generating Plant was still not ready for commission as on 17.05.2022, and Powerica had not issued any prior notice or intimation to JKTL to keep the system available for power flow on 17.05.2022.
- (e) WRLDC has verified to CTU that Powerica was not ready for charging till 17.05.2022. Thus, WRLDC could not have deferred/cancelled the outage proposal in anticipation of likely charging/synchronization of Powerica's generation, especially when there was no representation from Powerica in the 554th OCC meeting.

Hearing dated 18.03.2024 and 26.09.2024:

36. The Commission noted that since the order in the matter was reserved on 16.08.2023 and 18.3.2024 respectively, it could not be issued prior to the Members of the Commission, who formed part of Coram, demitting office, the matter has been re-listed for the hearing. Learned counsel for the Petitioner and the Respondent, CTUIL, submitted that the Pleadings are already completed in the matter, and the parties have also made their detailed submissions, which may be considered, and the matter may be reserved for the order. Considering the above, the Commission reserved the matter for order.

Analysis and decision:



37. Considering the submissions of Petitioner and Respondents, the issues which arise for our consideration are as follows:

Issue No. 1: Whether the deemed COD declared by JKTL in its letter dated 20.04.2022 is required to be set aside?

Issue No. 2: Whether the Petitioner is not liable to pay transmission charges (a) until the extended SCOD; (b) prior to the start date of the LTA; (c) until all elements in the TSA are operationalized? Whether any direction is required for CTU/JKTL to grant extension in the timelines under the TSA and the LTA Agreement in alignment with the period of extension granted by SECI for commissioning of the Project?

Issue No. 3: What should be the amount of transmission charges to be levied on the 50.6 MW generation capacity of the Petitioner?

Issue No. 4: Whether the Petitioner is entitled to compensation on account of generation loss for the outage of the 400kV JKTL-Bhachau line for the period from 17.5.2022 to 31.5.2022 from JKTL?

Issue No. 5: Whether the Bill dated 02.06.2022 is required to be quashed?

32. Now we proceed to discuss the above issues.

Issue No. 1: Whether the deemed COD declared by JKTL in its letter dated 20.04.2022 is required to be set aside?

38. The Petitioner has stated that JKTL has erroneously declared deemed COD of Parts A and B of its Transmission System on 12.04.2022 vide letter dated 20.04.2022. The CEA approvals for the energization of all the elements of the Transmission System of JKTL have been granted only on 19.04.2022. Therefore, they could not have declared deemed commissioning on 12.04.2022 (one week before the CEA approval). JKTL could not have declared a deemed COD without completing the LILO of Bachau-EGPL 400KV D/C (triple) line at Lakadia. Further, on 17.05.2022, JKTL, without any prior intimation, shut down its Transmission System for a period of 15 days, i.e., till 31.05.2022, which clearly shows that the Transmission System of JKTL was not ready.

39. The Petitioner has further submitted that JKTL has declared deemed COD without issuing a 60-day advance notice as prescribed under Article 6.1.1 of TSA, without any notice of cessation of the relevant force majeure event, in terms of Article 11.5.2 of the TSA. JKTL, by directly declaring the deemed COD on 12.04.2022, has rendered Article 6.1.1 of TSA an empty formality. As the Petitioner was not

able to predict the availability of the Transmission system, it was not able to correctly assess and request operationalization of LTA by CTU.

40. Respondent JKTL has submitted that it had rightly declared COD of the Transmission in terms of the TSA. JKTL had duly completed the concerned elements of the Transmission System, which were required by the Petitioner to evacuate its power. On 12.4.2022, JKTL had already energized Parts A and B (except 63 MVar line reactors) of the Transmission System and declared deemed COD as per Article 6.2.1 of the TSA. All elements of Parts A and B of the Transmission System were duly inspected by the Chief Electrical Inspector on 30.8.2021, 8.2.2022, and 5.4.2022, and approval for energization was granted by the CEA vide letter dated 08.10.2021, 12.02.2022, and 19.04.2022. JKTL has further submitted that even in the absence of the LILO of the Bhachau-EPGL line, JKTL's Transmission System was complete and ready for evacuation of power from Powerica's Generating Plant through Jam Khambhaliya PS directly to Bachau SS. Further, the JKTL Transmission System was under shut down under the instructions of WRLDC issued vide email dated 17.05.2022.
41. Respondent WRSS XXI (A) Transco Limited has stated that the Bhachau – EPGL Line was already in operation. The extension of the Bhachau – EPGL line was completed by JKTL in April 2022, pursuant to which the Bhachau S/s was connected directly with Jam Khambhaliya GIS. The LILO on the Bhachau-EPGL line was required to be installed by WRSS XXI (A) on this extended transmission line and was granted a planned outage through due process from 17.05.2022 to 27.05.2022, subsequently extended till 31.05.2022 by WRLDC for dismantling the existing towers and installing the new towers for the LILO.
42. CTUIL has submitted that WRSS XXI(A) was responsible for the establishment of 2x1500MVA, 765/400kV Lakadia PS, LILO of the Bhachau – EPGL 400kV D/c (triple) line at Lakadia PS and Bhuj PS – Lakadia PS 765kV D/c line. Further, the LTA to the Petitioner was granted with ATS and common system, and the entire ATS was ready on the date of deemed COD declaration by JKTL, i.e., 12.04.2022.
43. We have considered the submissions of the Petitioner and Respondents. We note that the JKTL vide letter dated 20.04.2022 declared the deemed COD of Parts A and B of its Transmission system w.e.f. 12.04.2022. The relevant extract of the JKTL letter dated 20.04.2022 is as under:

“Subject: Declaration of Commercial Operation Date in line with Article 6.2.1 of TSA

Ref.: 1. Transmission Service Agreement dated 23-10-2019

2. JKTL letter 28-06-2021 regarding intimation as per Article 6.1.1 of TSA Dear Sir,

Dear Sir,

Jam Khambaliya Transco Ltd (“JKTL”) hereby declares 12th April 2022 as Deemed Commercial Operational Date (“CoD”) of Part A and B of its Transmission System under Article 6.2.1 of TSA which reads as under.

“An Element of the Project shall be declared to have achieved COD seventy-two (72) hours following the connection of the Element with the Interconnection Facilities or seven (7) days after the date on which it is declared by the TSP to be ready for charging but is not able to be charged for reasons not attributable to the TSP” (Emphasis provided)

JKTL has completed its scope of work for Part A and B, as defined in Schedule 2 of the TSA and is ready for charging. The Chief Electrical Inspector to Government of India has issued Approval for energization, details of Certification are as under.

Sr. No.	Name of Element as per TSA	Date of Inspection
A	Jam Khambhaliya Pooling Station for providing connectivity to RE Projects (1500 MW) in Dwarka (Gujarat)	
1	Establishment of 4 X 500MVA, 400/220kV Jam Khambhaliya PS (GIS)	30-08-2021
2	1 x 125 MVAR, 420kV Bus reactor at Jam Khambhaliya PS along with reactor bay	30-08-2021
B	Interconnection of Jam Khambhaliya Pooling Station for providing connectivity to RE Projects (1500 MW) in Dwarka (Gujarat)	
1	Extension of Essar Lakadia Bhachau 400kV Dlc (triple snowbird) line upto Jam Khambhaliya PS	08-02-2022
2	2 nos. of 400kV line bays at Jam Khambhaliya PS for termination of Jam Khambhaliya PS - Lakadia 400kV D/C (triple) line	30-08-2021
3	63 MVAR switchable Line Reactor at both ends of Lakadia - Jam Khambhaliya 400kV D/c line along with 500 Ohms NGR on both circuits & at both ends of Lakadia - Jam Khambhaliya 400 kV D/c line	Jam Khambhaliya end: 30-08-2021 Lakadia end: 05-04-2022

Copy of Certificate granting approval for Energization issued by Chief Electrical Inspector to the Government of India is marked and enclosed as Annexure – 1. JKTL has obtained charging approval dated 31.03.2022 from WRLDC which is attached as Annexure – 2. Subsequently, JKTL has charged all elements of 400/220 kV Jam Khambhaliya PS GIS including 125 MVAR Bus Reactor, 63 MVAR line Reactors, 4 X500 MVA ICTs and associated transmission line duly obtaining charging code from WRLDC. Details of charging codes is tabulated as Annexure – 3.

In view of the above, JKTL declares 12-04-2022 (7 days from date of latest element inspection), as deemed CoD in terms of Article 6.2.1 of TSA. Please note that in terms of Article No. 6.2.2 of the TSA reproduced herein below, JKTL shall be deemed to have Availability equal to Target Availability with effect from 12-04-2022 and therefore shall be entitled to Tariff as mentioned in Schedule 6 of the TSA.



6.2.2 Once any Element of the Project has been declared to have achieved deemed COD as per Article 6.2.1 above, such Element of the Project shall be deemed to have Availability equal to the Target Availability till the actual charging of the Element and to this extent shall be eligible for payment of the Monthly Transmission Charges applicable for such Element.

Accordingly, JKTL respectfully submits that it will be entitled to payment of the monthly transmission charges to the extent of 91.55 % as per Schedule 3 of TSA with effect from 12-04-2022. This letter is without prejudice to the rights available to JKTL under TSA and other applicable laws."

As per the above, the JKTL had declared the deemed COD of Parts A and B of its transmission system on 12.04.2022.

44. Article 6 of the TSA signed between JKTL and Petitioner provides as under:

"6. CONNECTION AND COMMISSIONING OF THE PROJECT

6.2 Commercial Operation:

6.2.1 An element of the Project shall be declared to have achieved COD seventy two (72) hours following the connection of the Element with the Interconnection Facilities or seven (7) days after the date on which it is declared by the TSP to be ready for charging but is not able to be charged for reasons not attributable to the TSP or seven (7) days after the date of deferment, if any; pursuant to Article 6.1.2.

Provided that an Element shall be declared to have achieved COD only after all the Element(s), if any, which are pre-required to have achieved COD as defined in Schedule 3 of this Agreement, have been declared to have achieved their respective COD.

6.2.2 Once an Element of the Project has been declared to have achieved deemed COD as per Article 6.2.1 above, such Element of the Project shall be deemed to have availability equal to the Target Availability till the actual charging of the Element and to this extent, shall be eligible for payment of the Monthly Transmission Charges applicable for such Element."

As per the above, an element of the Project can be declared to have achieved COD seventy-two hours following the connection of the element with the Interconnection Facilities or seven days after the date on which it is declared by the TSP to be ready for charging but is not able to be charged for reasons not attributable to the TSP. However, any of the elements can be declared to have achieved COD only after all the elements (s), if any, which are pre-required to have achieved COD as defined in Schedule 3 of TSA, have been declared to have achieved their respective COD.

45. Now let us peruse whether the JKTL followed the abovesaid clauses of the TSA while declaring deemed COD of Parts A and B of its transmission system. In this regard, we have perused the CEA energization certificates for all the elements of the JKTL transmission system. All elements of Parts A and B of the Transmission System were inspected by the Chief Electrical Inspector on 30.08.2021,

08.02.2022, and 05.04.2022, and approval for energization by the CEA was granted as under:

- (a) Approval dated 08.10.2021 for energization of 4X500MVA, 400/220kV Jam Khambhaliya PS GIS, including 125 MVAR Bus Reactor, 63 MVAR line reactors (Jam Khambhaliya end), and other associated equipment of Jam Khambhaliya.
- (b) Approval dated 12.02.2022 for energization of Extension of Essar Lakadia-Bhachau 400KV DC (Triple snowbird) line up to Jam Khambhaliya PS and
- (c) Approval dated 19.04.2022 for energization of 2x63 MVAR Switchable Line Reactor along with 500 ohm NGR at Lakadia SS.

As per above, the complete approval for energization for all the elements of Parts A and B of the JKTL's Transmission System by CEA was received on 19.04.2022.

46. It is also relevant to refer to the prerequisites for the declaration of the COD of the respective elements in the scope of JKTL. The relevant extract of Schedule 3 of the TSA is as under:

*"Schedule: 3
Scheduled COD*

Sr. No.	Name of the Transmission Element	Scheduled COD in months from Effective Date	Percentage of Quoted Transmission Charges recoverable on the Scheduled COD of the Element of the Project	Element (s) that are pre-required for declaring the commercial operation (COD) of the respective Element
A.	Jam Khambhaliya Pooling Station for providing connectivity to RE projects (1500 MW) in Dwarka (Gujarat)			
1.	Establishment of 4x500 MVA, 400/220 kV Jam Khambhaliya PS (GIS)	17 months# (March' 21)	54.19%	Elements marked at Sl. Nos. 1&2 are required to be commissioned simultaneously as their utilization is dependent on the commissioning of each other.
2.	1x125 MVAR, 420 kV Bus reactor at Jam Khambhaliya PS, along with the reactor bay		5.55%	

				RE projects (1500 MW) in Dwarka (Gujarat).
B.	Interconnection of Jam Khambhaliya Pooling Station for providing connectivity to RE projects (1500 MW) in Dwarka (Gujarat)			
1.	Extension of Essar-Lakadia/ Bhachau 400 kV D/c (triple snowbird) line upto Jam Khambhaliya PS	17 months# (March'21)	14.42%	<ul style="list-style-type: none">Elements marked at Sl. Nos. 1,2 & 3 are required to be commissioned simultaneously as their utilization is dependent on the commissioning of each other.Availability of transmission scheme being implemented under Part (A)-Jam Khambhaliya Pooling Station for providing connectivity to RE projects (1500 MW) in Dwarka (Gujrat).
2.	2 nos. of 400 kV line bays at Jam Khambhaliya PS for termination of Jam Khambhaliya PS-Lakadia 400 kV D/c (triple) line		6.67%	
3.	63 MVAR switchable Line Reactor at both ends of Lakadia-Jam Khambhaliya 400 kV D/c line along with 500 Ohms NGR on both circuits & at both ends of Lakadia-Jam Khambhaliya 400 kV D/c line		10.72%	
C	Installation of 400/220 kV ICT along with associated bays at M/s CGPL Switchyard			
	1x500 MVA, 400/220 ICT at CGPL Mundra switchyard	17 months# (March'21)		

As per the above provisions of the TSA, Parts A and Part B were prerequisites to each other, and accordingly, the COD/ deemed COD of all the transmission elements in Parts A and B were to be declared together after the readiness/ availability of all the elements.

47. With regard to the Petitioner's contention regarding the declaration of deemed COD by the JKTL without completion of the LILO of the Bhachau-EPGL 400kV D/c (triple) line at Lakadia PS, it is observed that the LILO was not a prerequisite element under the TSA of JKTL. LILO of the Bhachau – EPGL 400kV D/c (triple) line at Lakadia PS was in the scope of the WRSS XXI(A) Transco Ltd. Accordingly, the Petitioner's contention that M/s JKTL declared the deemed COD of its

Transmission System without the readiness of LILO of the Bhachau – EPGL 400kV D/c (triple) line at Lakadia PS does not hold water.

48. JKTL has declared the deemed COD on 12.04.2022, considering the same as 7 days after inspection by the Chief Electrical Inspector on 5.04.2022. However, the approval was accorded by CEA vide letter dated 19.04.2022. In our view, until the approval letter from CEA was received as on 19.04.2022, the Petitioner could not have considered the inspection date as the date of approval of CEA. As the approval of energization from CEA in respect of all the elements covered under Part As and B was granted only on 19.4.2022, in terms of the 6.2.1 of the TSA, the JKTL transmission system could be considered as ready for energization only on 19.04.2022 and, accordingly, JKTL was entitled to declare the deemed COD of its Parts A and B of the transmission system after the 7 days from the date of approval for energization by the CEA, which works out as 27.04.2022. **Therefore, the JKTL letter dated 20.04.2022 declaring the deemed COD of Parts A and B of its transmission system as 12.04.2022 is set aside.**

49. Article 6.1.1 of TSA provides as under:

“6.1.1. The TSP shall give the RLDC(s), CTU/STU, as the case may be, the Long Term Transmission Customers and any other agencies as required at least sixty (60) days advance written notice of the date on which it intends to connect an Element of the Project, which date shall not be earlier than its Scheduled COD or Scheduled COD extended as per Article 4.4.1 of this Agreement, unless the Lead Long Term Transmission Customer otherwise agrees.”

As per above, M/s JKTL was obliged to issue to CTUIL, WRLDC, and the Petitioner, at least a 60-day advance written notice of the date on which it intends to connect the element of the Project.

50. We observe that in the present case, the advance notice was given by JKTL under Article 6.1.1 of the TSA on 28.6.2021, wherein it was stated that JKTL is anticipating commissioning of parts A and B of Schedule III of the TSA by 31.8.2021. However, on 10.7.2021, JKTL issued a force majeure notice under Article 11 of TSA on the ground that JKTL is facing RoW issues in the construction of the transmission lines and claimed the period of delay in getting RoW as a claim for relief due to the force majeure conditions under the provisions of the TSA. Petitioner, vide their letter dated 04.02.2022 to the JKTL, stated that they intend to avail Interconnection facility by 25th February 2022 and requested the elements of the interconnection facility be made available on or before 25th February 2022 for

charging their 220KV Pooling Substation. In response, JKTL vide letter dated 17.02.2022 intimated to the Petitioner that JKTL has already provided the intimation of readiness for Charging/ Commissioning of the Project as per Article 6.1.1 of TSA, vide letter dated 28.06.2021. The relevant extract of the JKTL letter dated 17.02.2022 is as under:

“JKTL would like to submit that it has completed its scope of work with respect to Establishment of 4X500 MVA, 400/220 kV Jam Khambaliya PS (GIS) pursuant to that the Chief Electrical Inspector, Central Electricity Authority (CEA) by its letter dated 08.10.2021 has granted its approval for energization of 4X500MVA. 400/220kV Jam Khambaliya PS GIS including 125 MVar Bus Reactor, 63 MVar line reactors and other associated equipments. Copy of approval for energization issued by CEA is attached and marked as Annexure-2

Central Electricity Authority granted its approval for energization of Extension Bhachau 400 KV DC (Triple snowbird) line upto Jam Khambaliya (length of the Line -18.618 KM) by its letter dated 12.02.2022. Copy of CEA letter granting approval for energization is marked and attached as Annexure-3.

In view of above, JKTL would like to confirm that Interconnection facility required by Powerica is available.”

Further, the relevant extract of the JKTL email dated 05.04.2022 addressed to CTUIL and the Petitioner is as under:

“We would like to inform that following elements of Jam Khambaliya Transco Limited (JKTL) have been charges successfully charges on 02.04.2022:

- 1. 4x500 MVA, 400/220 kV Jam Khambaliya (GIS) PS along with 1x125 MVar, 420 kV Bus Reactor.*
- 2. Extension of Essar Lakadia/Bhachau 400 kV D/c (triple snowbird) line up to Jam Khambaliya (GIS) PS along with 2x63 MVAR switchable line reactor at Jam Khambaliya (GIS) PS end.*

Please find attached a screenshot of the SCADA, which is also enclosed for your reference.”

As per above, the Petitioner was duly informed by the JKTL about the readiness of the inter-connection facility at Jam Khambaliya PS.

51. In view of the above discussions, we are of the view that the Petitioner was well aware of the readiness of the JKTL transmission system in February 2022, which was 60 days prior to the declaration of deemed COD in April 2022. Accordingly, the requirement of Notice under TSA has been satisfied.

52. Further, with regard to the contention of the Petitioner that no notice for cessation of force majeure events was served by the JKTL before the declaration of the COD, we observe that the issue of Force Majeure notice is under adjudication in Petition No. 225/MP/2023 which is pending before the Commission and shall be decided

in the aforesaid Petition . In any case, the issuance of cessation of Force Majeure has no bearing on the declaration of deemed COD by the transmission licensee. .

53. We are of the view, considering the above discussions, that the COD of the JKTL system is approved as of 27.04.2022 in terms of TSA. The issue is addressed accordingly.

Issue No. 2: Whether the Petitioner is not liable to pay transmission charges (a) until the extended SCOD; (b) prior to the start date of the LTA; (c) until all elements in the TSA are operationalized? Whether any direction is required for CTU/JKTL to grant extension in the timelines under the TSA and the LTA Agreement in alignment with the period of extension granted by SECI for commissioning of the Project?

54. The Petitioner has submitted that the LTA Agreement was executed between CTUIL and the Petitioner on 17.10.2019 for the injection and drawal of 50.6 MW power from the Petitioner's project. The complete transmission system required for the LTA was commissioned only on 17.10.2022, and the complete wind farm of the Petitioner was commissioned much before, i.e., on 18.8.2022. Further, as per the discussion in the 6th CMETS-WR held on 29.4.2022, it was agreed for operationalization of part LTA of 24.3 MW out of 50.6 MW w.e.f. 7.5.2022, subject to the commissioning of the part transmission system identified for the LTA. Accordingly, the CTUIL operationalized the part LTA for 24.3 MW out of 50.6 MW from 7.5.2022. As per the discussion held in the 8th CMETS-WR meeting on 30.06.2022, the balance part 26.3 MW LTA of the Petitioner was operationalized early with effect from 20.08.2022 on request of the Petitioner vide e-mail dated 17.8.2022.

55. The Petitioner has further stated that it is not liable to pay any transmission charges on account of the following:

- (a) Liability to pay the transmission charges arises from the commencement date of LTA. The Petitioner is not liable to pay any transmission charges for the period from 12.4.2022 to 7.5.2022.
- (b) For the period from 8.5.2022 to 17.5.2022, the Petitioner is not liable to pay any transmission charges as the Petitioner was not able to operationalize its LTA on 7.5.2022 due to certain issues being faced in SAS integration at JKTL's end and the necessary stabilization required for the WTG.

(c) The shutdown period from 17.5.2022 to 31.5.2022, which was due to the outage of the 400 kV JKTL-Bachau line, was not attributable to the Petitioner and therefore no transmission charges should be levied.

(d) SECI extended SCOD for the petitioner's project from time to time, and vide letter dated 15.09.2021, SECI revised SCOD from 22.07.2020 to 05.09.2022.

56. The Petitioner is only liable to pay the transmission charges from 03.06.2022 till the COD (on 19.8.2022) of its balance generation of 26.3 MW out of 50.6 MW.

57. CTUIL has submitted that the liability of the Petitioner towards transmission charges flows from the TSA executed between the Petitioner and JKTL and Regulation 13(12)(b) of the 2020 Sharing Regulations and the extension of SCOD of a Generator's project has no bearing on bilateral billing for transmission charges arising due to mismatch. The consideration for bilateral billing for transmission charges under the 2020 Sharing Regulations is the delay in readiness of the generation station despite of availability of the transmission system.

58. The JKTL has submitted that it had declared deemed COD for the elements of the Transmission System in terms of Article 6 of the TSA. Therefore, JKTL is entitled in law to be paid the transmission charges bilaterally on account of delayed commissioning of Petitioner's Generating Plant from the date of JKTL's deemed COD till the date of the Petitioner's COD i.e., from 12.4.2022 to 2.6.2022 under Regulation 13 (12) of CERC Sharing Regulations and in terms of the TSA.

59. We have considered the submissions of the Petitioner and Respondents. We observe that the Petitioner entered into a TSA with JKTL for the implementation of the transmission system of JKTL. The relevant extract of the TSA signed between the Petitioner and JKTL with respect to the eligibility for the payment of the transmission charges is as under:

"6.2.2 Once any element of the Project has been declared to have achieved deemed COD as per Article 6.2.1 above, such Element of the Project shall be deemed to have Availability equal to the Target Availability till the actual charging of the Element and to this extent, shall be eligible for payment of the monthly Transmission Charges applicable for such Element."

60. We have perused the provisions of the 2020 Sharing Regulations with regard to the liability of transmission charges in case of delay of the generating station as follows:



"13. Treatment of transmission charges and losses in specific cases

...

(12) In case of a transmission system where COD has been approved in terms of proviso (ii) of Clause (3) of Regulation 4 of the Tariff Regulations, 2014 or Clause (2) of Regulation 5 of the Tariff Regulations, 2019 or where deemed COD has been declared in terms of Transmission Service Agreement under Tariff based Competitive Bidding, the Yearly Transmission Charges for the transmission system shall be:

(a) paid by the inter-State transmission licensee whose transmission system is delayed till its transmission system achieves COD, or

(b) paid by the generating company whose generating station or unit(s) thereof is delayed, till the generating station or unit thereof, achieves COD.

(c) shared in the manner as decided by the Commission on case to case basis, where more than one inter-State transmission licensee is involved or both transmission system and generating station are delayed."

As per the above, in case the deemed COD has been declared in terms of the TSA, but the generating station is delayed, the liability to pay transmission charges shall be upon the generating company whose generating station is delayed, till the generating station or unit thereof achieves COD.

61. We have perused the Transmission Agreement dated 27.05.2019 between CTU and the Petitioner, which provides as follows:

B) WHEREAS "PL" has applied for grant of connectivity for 50.6MW to ISTS in accordance with Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 hereinafter referred to as "Connectivity Regulations", and Procedures stipulated thereof for transmission of power as per their application.

C) AND WHEREAS CERC has notified "Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010 hereinafter called "Sharing Regulations, which allocates the applicable transmission charges and losses and other charges which shall also bind the "PL"

Intimation for Grant of Stage-II Connectivity

- | | | | |
|----|---|---|--|
| 1. | Intimation No | : | C/CTU/W/05/Con St-II/1200001924 |
| | Date | : | 03/05/2019 |
| 2. | Ref. Application No. | : | 1200001924 |
| | Date | : | 27/02/2019 |
| 3. | Name of the Applicant | : | Powerica Limited |
| 4. | Address for Correspondence | : | 9th Floor, Godrej Coliseum,
C Wing, Sion-Trombay Road,
Sion (East), Mumbai - 400022 |
| 5. | Location of the Generating Station | : | Devbhumi Dwarka, Gujarat |
| | Latitude | : | 22° 14' 36.99" N |
| | Longitude | : | 69° 27' 54.54" E |
| 6. | Nature of the Applicant | : | Generator (Wind) |
| 7. | Details for Stage-II Connectivity granted | | |
| 7a | Capacity (MW) for which connectivity is granted | : | 50.6 MW |
| 7b | ISTS sub-station and bay at which Connectivity is granted | : | Jam Khambhaliya PS (GIS)
1 no. 220kV bay (Bay no. shall be intimated upon finalization of S/s layout/GA diagram) |
| 7c | Connectivity Transmission System | : | <ul style="list-style-type: none"> • POWERICA Ltd. – Jam Khambhaliya PS 220kV S/c along with associated line bays at generation end (under the scope of applicant) • Bays at ISTS substation end shall be under the scope of Transmission licensee owning the ISTS substation subject to compliance of relevant provisions of the tariff policy <p>Additional transmission system under ISTS:</p> <ul style="list-style-type: none"> • Establishment of Jam Khambhaliya 400/220kV PS (GIS) along with 1x500 MVA, 400/220kV ICT • Extension of Bhachau/Lakadia – Essar 400kV D/c (triple) line upto Jam Khambhaliya PS |
| 7d | Date from which Connectivity is granted | : | 30/09/2020 or availability of above transmission system for connectivity whichever is later |

As per above, the Stage-II Connectivity was granted under the 2009 Connectivity Regulations with the transmission system under ISTS identified as Jam Khambhaliya substation and extension of the Bachau -Essar line up to Jam Khambhaliya. Petitioner also bound itself as per liabilities under the 2020 Sharing Regulations under the Transmission Agreement.

62. We note that Petitioner was granted Connectivity under 2009 Connectivity Regulations wherein, the ISTS required to grant such Connectivity is identified in the intimation of Connectivity. Further once LTA is granted additional ISTS is identified under the LTA grant.

63. We are of the considered view that since the JKTL system was not able to achieve COD with power flow and was declared deemed COD due to delay in COD of generating station of the Petitioner and that JKTL system was identified as

Connectivity system for the Petitioner, liability to pay transmission charges by the Petitioner arises under Regulation 13(12)(b) of the 2020 Sharing Regulations from date of deemed COD of JKTL, i.e., 27.04.2022 till the generating station achieves COD. The same has no bearing on LTA operationalization as contended by the Petitioner.

64. It is clarified that the concept of ATS as defined in the 2020 Sharing Regulations applicable during the period of dispute is as under:

‘Associated Transmission System’ or ‘ATS’ means the transmission system identified for a generating station by the Central Transmission Utility in the Long Term Access grant;

As per above, ATS is the system identified under LTA. Further Regulation 13(3) of the 2020 Sharing Regulations (applicable during the disputed period) provides as follows:

“13. Treatment of transmission charges and losses in specific cases

[...]

(3) Where COD of a generating station or unit(s) thereof is delayed and the Associated Transmission System has achieved COD, which is not earlier than its SCOD, the generating station shall pay Yearly Transmission Charges for the Associated Transmission System corresponding to Long Term Access granted for the generating station or unit(s) thereof, which have not achieved COD:

Provided that Yearly Transmission Charges in respect of Associated Transmission System shall be included for determination of transmission charges of DICs in accordance with Regulations 5 to 8 of these regulations upon the generating station or unit(s) thereof achieving COD.”

As per above, transmission charges for ATS are to be levied where ATS has achieved COD, but the generating station is delayed, corresponding to the Long-term Access.

65. We note that the Petitioner has been billed for the Connectivity transmission system, due to which JKTL had to declare deemed COD, which is governed under Regulation 13(12)(b) of the 2020 Sharing Regulations. Accordingly, the contention of the Petitioner about LTA operationalization or any arguments with respect to LTA are not applicable and hence not dealt with.

66. The other issues raised by the Petitioner about issues being faced in SAS integration at JKTL's end and the necessary stabilization required for the WTG, extension of SCOD by SECI, no bearing on liabilities being accrued under

Regulation 13(12)(b) of the 2020 Sharing Regulations. Further, the issue of shutdown by JKTL from 17.05.2022 to 31.05.2022 has been dealt with in Issue no 4 herein.

67. Petitioner declared COD for the part capacity of 24.3 MW with effect from 03.06.2022, vide SECI certificate dated 02.06.2022. Further COD for the balance capacity of the Petitioner's project was declared with effect from 19.08.2022, vide SECI certificate dated 18.08.2022.

68. We are of the view that since the Petitioner achieved COD of part capacity on 03.06.2022, it shall be liable for transmission charges under Regulation 13(12)(b) of the 2020 Sharing regulations from 27.04.2022 till 02.06.2022.

69. Petitioner has admitted that it is liable to pay the transmission charges from 03.06.2022 till the COD (on 19.8.2022) of its balance generation of 26.3 MW out of 50.6 MW. Hence, there is no principal dispute regarding payment of mismatch charges for the period from 03.6.2022 till 18.8.2022, other than the quantum of payment, which has been dealt with in Issue No.3 .

70. In view of the above discussions, we are of the view that the Petitioner shall be liable to pay the transmission charges for the mismatch period for its delayed capacity of 50.6 MW w.e.f. 27.04.2022 till 02.06.2022 and for the part capacity of 26.3 MW from 03.06.2022 to 18.08.2022 in terms of the 2020 Sharing Regulations.

71. The issue is answered accordingly.

Issue No. 3: What should be the amount of transmission charges to be levied on the 50.6 MW generation capacity of the Petitioner?

72. The Petitioner has submitted that the CTUIL has levied the transmission charges for the entire JKTL transmission system of 1500 MW capacity on the Petitioner, which is impermissible in terms of the Regulation 13 (3) of the 2020 Sharing Regulations, which specifically mention that transmission charges can only be levied corresponding to the LTA granted to the Petitioner, which is 50.6 MW in the present case. Further, the TSA executed between the Petitioner and JKTL specifically provides that the Petitioner is only liable to pay the transmission charges proportionate to its allocated capacity (i.e., 50.6 MW as per Schedule 1 and Clause 1.1 (b) of Schedule 5 of the TSA).

73.The Petitioner has also stated that the Intimation for grant of LTA specifically provides that the liability to pay the transmission charges arises from the commencement date of LTA or from the date of the commissioning of part/full transmission system, whichever is later.

74.CTUIL has submitted during course of pleadings that the transmission charges for the entire 1500 MW transmission system of JKTL should not be loaded on the Petitioner and only the transmission elements given under Associated Transmission System should be considered for determination of transmission charges to be levied onto the petitioner and, accordingly, proposed a methodology for sharing of transmission charges by the Petitioner. CTUIL has submitted that the following transmission elements form part of the Associated Transmission System for the Petitioner:

i. Dedicated ATS:

220kV line bay- 1 No. for the termination of the dedicated Line at Jam-Khambaliya PS

ii. Shared ATS for 1500MW generation (Jam Khambhaliya PS has been planned for evacuation of 1500MW power from generation projects from the Dwarka area):

4x500MVA, 400/220kV ICTs at Jam Khambhaliya PS (GIS) along with associated bays

Total Charges for the delayed period = (Cost in Rs/MW/day x Delayed Quantum x Delayed period) + Charges for 1 No. of dedicated 220kV line bay =

$$\left(\frac{4 \times 500 \text{MVA, 400/220kV ICTs alongwith associated bays per day Cost}}{(1500 \text{MW})} \times \text{Delayed quantum} \times \text{Delayed period in days} \right) + \left(\frac{\text{Charges for 1 No. of 220kV line bay per day Cost}}{(\text{LTA quantum})} \times \text{Delayed quantum} \times \text{Delayed period in days} \right)$$

75.Based on the above formula, CTUIL has computed that Transmission charges payable by the Petitioner for the complete period, i.e., from 12.4.2022 to 18.8.2022 to be approx. Rs 0.31 Cr., by considering the Yearly Transmission Charges of ICTs and bays based on indicative capital cost, as separate tariff for ICTs and bays is not available in the TSA/adoption order of JKTL.

76.We have considered the submissions of the Petitioner and Respondents. We have already noted in Issue No.2 that the Petitioner is liable to pay transmission charges

under Regulation 13(12)(b) of the 2020 Sharing Regulations. We have perused Schedule 3 of the TSA signed between the Petitioner and JKTL quoted as under:

“Schedule: 3

Scheduled COD

.....

Sr. No.	Name of the Transmission Element	Scheduled COD in months from Effective Date	Percentage of Quoted Transmission Charges recoverable on the Scheduled COD of the Element of the Project	Element (s) that are pre-required for declaring the commercial operation (COD) of the respective Element
A.	Jam Khambhaliya Pooling Station for providing connectivity to RE projects (1500 MW) in Dwarka (Gujarat)			
1.	Establishment of 4x500 MVA, 400/220 kV Jam Khambhaliya PS (GIS)	17 months# (March' 21)	54.19%	Elements marked at Sl. Nos. 1&2 are required to be commissioned simultaneously as their utilization is dependent on the commissioning of each other • Availability of transmission scheme being implemented under Part (B)-Interconnection of Jam Khambhaliya Pooling Station for providing connectivity to RE projects (1500 MW) in Dwarka (Gujarat).
2.	1x125 MVAR, 420 kV Bus reactor at Jam Khambhaliya PS along with reactor bay		5.55%	
B.	Interconnection of Jam Khambhaliya Pooling Station for providing connectivity to RE projects (1500 MW) in Dwarka (Gujarat)			
1.	Extension of Essar-Lakadia/ Bhachau 400 kV D/c (triple snowbird) line		14.42%	

	upto Jam Khambhaliya PS			
2.	2 nos. of 400 kV line bays at Jam Khambhaliya PS for termination of Jam Khambhaliya PS-Lakadia 400 kV D/c (triple) line	17 months# (March'21)	6.67%	<ul style="list-style-type: none"> Elements marked at Sl. Nos. 1,2 & 3 are required to be commissioned simultaneously as their utilization is dependent on the commissioning of each other.
3.	63 MVA switchable Line Reactor at both ends of Lakadia- Jam Khambhaliya 400 kV D/c line along with 500 Ohms NGR on both circuits & at both ends of Lakadia-Jam Khambhaliya 400 kV D/c line		10.72%	<ul style="list-style-type: none"> Availability of transmission scheme being implemented under Part (A)-Jam Khambhaliya Pooling Station for providing connectivity to RE projects (1500 MW) in Dwarka (Gujrat).
C	Installation of 400/220 kV ICT along with associated bays at M/s CGPL Switchyard			
	1x500 MVA, 400/220 ICT at CGPL Mundra switchyard	17 months# (March'21)		

“

As per the above TSA, elements under Parts A and B form part of the Connectivity transmission system. An issue that arises for our consideration is that the Petitioner is a generating station with a capacity of 50.6 MW, while the Connectivity transmission system has been developed for generating stations of 1500 MW; should the Petitioner be levied the entire transmission charges for the 1500 MW system. We have perused submissions of the CTUIL and it is our considered view that the Petitioner shall be liable to pay the transmission charges for the Connectivity transmission system (Parts A and B under TSA of JKTL) proportionate to the capacity of the generating station or unit thereof that was delayed. Accordingly, we direct that Petitioner shall be liable to pay transmission charges

for 50.6 MW capacity from 27.04.2022 till 02.06.2022 and for 26.3 MW capacity from 03.06.2022 till 18.08.2022.

For example, if the Monthly transmission charges for Part A and Part B of the JKTL system are Rs 10 Crore for 1500 MW, the Petitioner shall pay, for the delay of 50.6 MW capacity, monthly transmission charges = $(50.6/1500) \times 10$ Crore to be calculated for the period of delay and capacity delayed.

Accordingly, the CTUIL is directed to recalculate the transmission charges payable by the Petitioner for the mismatch period and raise the revised bills to the Petitioner within a period of one month of issuance of this order.

77. Since the Petitioner has been levied proportionate transmission charges for a transmission system under deemed COD, the recovery of the balance transmission charges of JKTL till it is included in the transmission charges pool is required to be specified. We are of the considered view that the balance transmission charges for the JKTL system shall be recovered from charges collected under Regulation 11 and Regulation 12 of the 2020 Sharing Regulations till the JKTL system is included under Regulations 5 to 8 of the Sharing Regulations.

Issue No. 4: Whether the Petitioner is entitled to the compensation on account of generation loss for the outage of 400kV JKTL-Bachau line for the period from 17.5.2022 to 31.5.2022?

78. The Petitioner has submitted that on 17.05.2022, the Petitioner had completed all work and was ready to verify the SCADA signal, however, the officials of the Petitioner at Manza Pooling Sub-Station received a telephone call from JKTL regarding outage of 400kV JKTL-Bachau line and to utter surprise to the Petitioner, JKTL tripped 400kV line before the Petitioner could have any confirmation/communication with WRLDC. As the Manza Pooling Sub-Station has single source connectivity through the JKTL SS Grid only, the Manza Pooling Sub-Station went dark/de-energised at 10:58 AM on 17.05.2022 with the shutdown of the 400 kV line. Petitioner wrote an email to JKTL explaining the difficulty and asked them to specify the mechanism/guidelines being relied on by JKTL for such an unscheduled outage. On the same day, 17.05.2022, JKTL responded to the Petitioner's email and, entirely dismissing the Petitioner's concerns, directed the Petitioner to contact WRLDC for the outage of the line by claiming that the outage of the transmission line was based on the direction of WRLDC. On account of the

above unscheduled outage, the Petitioner has suffered huge economic losses amounting to approximately Rs 1.48 crores.

79. The Petitioner has further submitted that WRLDC in its affidavit has mentioned that such outage plan was deliberated upon in the monthly OCC meeting in the presence of all stakeholders, and only then it gets approved. However, the Petitioner, being a stakeholder in the Project, was never informed of such shutdown by JKTL/WRSS XXI (A) Transco Limited, which was planned and revised by JKTL/WRSS XXI (A) Transco Limited prior to taking the shutdown.

80. JKTL in its response submitted that JKTL's Transmission System was under shutdown for the period 17.5.2022 to 31.5.2022 under the instructions of WRLDC issued *vide* email dated 17.5.2022. Therefore, the Petitioner cannot levy allegations against JKTL for complying with the instructions of WRLDC.

81. The CTUIL, relying on the e-mail dated 13.7.2023 of WRLDC, stated that the Petitioner's part generation of 24.3 MW was not ready till 17.5.2022. Further, there was no prior intimation from the Petitioner to WRLDC regarding the commissioning of their generation. WRLDC went ahead with granting the outage of the 400kV Jam Khambhaliya-Bhachau line from 17.5.2022 at the request of WRSS XXI (A) Transco Ltd. for LILO works (incidentally the outage was deferred and availed from 17.5.2022 to 31.5.2022, which was allowed as per the outage coordination procedure) as per the approval accorded in the 554th OCC meeting as mentioned above. The same outage was considered to be deemed available for JKTL for the period from 17.5.2022 to 31.5.2022, as the said line outage was availed by WRSS XXI (A) Transco Ltd for the construction of their new element in line with TSA.

82. We have considered the submissions of the Petitioner and Respondents. We note that the outage of the 400 kV Bachau-Vadinar D/c line was approved from 05.05.2022 to 12.05.2022 in the 554th OCC meeting of WRPC held on 22nd April 2022. WRLDC has also submitted that as per the approved procedure in the Western Region, such planned outages are proposed by the intending agency to WRPC one month in advance, which is subsequently deliberated upon in the monthly OCC meeting in the presence of all stakeholders, and only then it is approved. Further, in line with the approved procedure ATL_ WRSS placed a request before WRLDC on (D-3) basis for rescheduling of the above-mentioned OCC approved outage to the period 17th May 2022 to 27th May 2022 and with the

outage of 400 kV Bhachua-Vadinar-D/c, the extended section from 400kV Vadinar S/s to 400kV Jam Khambaliya S/s also went out of service.

83. The relevant snapshot of the minutes of the 554th OCC meeting of WRPC held on 22.04.2022 is as under:

Annex-

Sr. No	Request Type	OCC Number	Name of Requesting Agency	Line / Element	D	reason	From	time	to	Time
1	PLANNED	OCC_554	MSETCL	400KV-ICT-2 AND NEW KOYNA - 400KV - BUS 1 @NEW KOYNA - 400KV at NEW KOYNA - 400KV	Continu us	C.B. Overhauling work Shifting on TBC	27/Apr/22	08:00	3/May/22	18:00
2	PLANNED	OCC_554	SUGEN	400KV-SUGEN-UNOSUGEN-1	Continu us	PSD Installation & Commissioning work at Unosugen end & Off line washing of Gantry Tower at Sugem and Unosugen both end.	30/Apr/22	8:00	5/May/22	18:00
3	PLANNED	OCC_554	NTPC Lara	400KV-JPL EXTN-TAMNAR-3 (400 KV Quad moose Ckt-3 JPL-POCIL bhendra JPL line)	Continu us	1. 03 nos 400 KV JPL (Jindal Power Ltd) Lines are crossing NTPC MGR Rail route from NTPC Lara to NTPC Talaipalli coal mines. 2. Out of the 03 - 400 KV JPL lines , diversion	1/May/22	8:00	9/May/22	18:00
102	PLANNED	OCC_553	ATL WRSS	400KV-VADINAR-BACHAU-1	Continu s	Outage required for stringing/tapping work of 400 kV D/C (Triple) EPGL-Bhachau LILO Line at Lakadia PS (WRSS XXI (A) Transco Ltd.) in state of Gujarat. (Reach: LILO 1/0 & LILO 2/0)	2/May/22	8:00	*****	20:00
103	PLANNED	OCC_553	ATL WRSS	400KV-VADINAR-BACHAU-2	Continu s	Outage required for stringing/tapping work of 400 kV D/C (Triple) EPGL-Bhachau LILO Line at Lakadia PS (WRSS XXI (A) Transco Ltd.) in state of Gujarat. (Reach: LILO 1/0 & LILO 2/0)	2/May/22	8:00	*****	20:00

As per the above, we observe that the outage on 400 kV Vadinar (JKTL)-Bhachau Line was requested by ATL_WRSS and not by JKTL. Further, it was a planned outage which was approved in the 554th OCC meeting of WRPC held on 22.04.2022 and was availed of by the ATL_WRSS for stringing/ tapping work of 400 kV D/c (Triple) EPGL-Bhachau LILO line at Lakadia PS.

84. We take a note of clarifications given by the WRLDC in its communication with CTUIL that the first-time charging (FTC) of elements at Powerica-Manza S/s (220 kV and 33 kV) was completed on 11.05.2022 and 13.05.2022, therefore Petitioner had ample time (from 13.05.22 till 17.05.22) to charge its first phase of wind turbines (~24.3 MW). In addition to this, no communication/intimation was made by the Petitioner to WRLDC on their plan for WTG charging, despite the readiness/availability of the network up to 33kV Manza bus (on 13.05.2022). Thus, it could be established that the Powerica WTGs were not ready for charging from 13.05.2022 to 17.05.2022.

85. We have also perused the PPA dated 17.10.2019 between the Petitioner and SECI quoted as under:

“ARTICLE 5: SYNCHRONISATION, COMMISSIONING AND COMMERCIAL OPERATION

5.1 Synchronization, Commissioning and Commercial Operation

5.1.1 The WPD shall give the concerned RLDC/SLDC and Buyer at least sixty (60) days advanced preliminary written notice and at least thirty (30) days advanced final written notice, of the date on which it intends to synchronize the Power Project to the Grid System.

5.1.2 Subject to Article 5.1.1, the Power Project may be synchronized by the WPD to the Grid System when it meets all the connection conditions prescribed in applicable Grid Code then in effect and otherwise meets all other Indian legal requirements for synchronization to the Grid System.”

As per above, the Petitioner was required to give a sixty (60) days advance notice and 30 days advance final written notice to the WRLDC and the buyer i.e. SECI regarding the date on which it intends to synchronise its power project; however, the Petitioner has not produced any such communication made with the WRLDC. Even the WRLDC in its clarifications to the CTUIL vide e-mail dated 19.06.2023 confirmed that no communication on readiness of Powerica Generation was received by WRLDC on or before the day of the 554th OCC (22.04.2022), and they never expressed any readiness to charge their WTGs from 13.05.2022 onwards till 17.05.2022 when the transmission network till 33 kV Manza bus was first time charged and was made ready for synchronising any WTG at Powerica's end.

86. In view of the above, we are of the view that the Shutdown of the 400 kV JKTL-Bhachau Line was availed by WRSS-XXI A Transco Ltd. by following the due procedure.

87. Further, since no communication/ advance notice to the WRLDC was issued by the Petitioner regarding its plan for charging wind turbines, the contention of the Petitioner that it was ready for the charging of their wind turbines on 17.05.2022 is also devoid of merit. In view of the above discussions, we are of the view that the Petitioner is not entitled to any claim of compensation for the generation loss as the Petitioner's plant was not commissioned as on 17.5.2022 at the time of the outage, which was availed by ATL_WRSS. Accordingly, the prayer of the Petitioner for direction to JKTL to pay Rs. 1.48 Crores for the generation losses suffered by the Petitioner also becomes infructuous.

Issue No.5: Whether the Bill dated 02.06.2022 is required to be quashed?

88. Petitioner has prayed to quash the bill dated 02.06.2022 raised by CTUIL in light of various arguments raised by the Petitioner under the instant Petition.



89. Bill dated 02.06.2022 is quoted as follows:

Central Transmission Utility of India Limited
Plot No.2, Sector-29, Gurgaon, Haryana-122001.

Central Transmission Utility of India Limited
Plot No.2, Sector-29, Gurgaon, Haryana-122001.
Tel : Fax : Email :

CIN NO: U40100HR2020GOI091857

Ref No: CTUIL/BCD/Serial No:94400616

Date: 02 JUN 2022

To,
Powerica Limited
9th Floor Godrej coliseum , C Wing, Sion-Tromby Road, Sion East
Mumbai , 400022
Maharashtra

DIC PAN :

Subject: Bill of Supply for Bilateral Bill for Billing month of Jun'22 on behalf of JAM KHAMBALIYA TRANSCO LIMITED

Please find enclosed the Bill of Supply for Bilateral Bill for Billing month Jun'22 on behalf of JAM KHAMBALIYA TRANSCO LIMITED as per sharing Regulation 2020.

1. Bill of Supply No :MI6003220135 Dated : 02 JUN 2022

2. Amount : Rs.21,008,742.00

(In words: Rupees Two Crore Ten Lakh Eight Thousand Seven Hundred Forty Two Only)

The Bill has been raised as per CERC (Sharing of Inter-State transmission charges & losses) Regulation 2020.

Thanking You,

Encl: a/a

Yours Faithfully,



Authorized signatory
For & On Behalf of
Central Transmission Utility of India Ltd

As per the above, a bill for ~Rs 2.1 crore has been raised for the billing month of June 2022.

90. CTU has submitted details of bills raised on the Petitioner as follows:

Bill No.	Bill Date	Amount (in Rs.)
94400616	02-06-2022	2,10,08,742.00



94400674	01-07-2022	3,42,77,422.00
94400716	01-08-2022	1,83,03,435.00
94400763	01-09-2022	1,89,13,550.00
94400810	03-10-2022	1,03,44,850.00
	TOTAL	10,28,47,999.00

91. We also note that, vide hearing held on 6.12.2022 in 70/IA/2022, the Commission directed the Respondents, CTUIL and WRLDC/POSOCO not to take any coercive measures against the Petitioner in terms of LPS Rules till the next date of hearing which was extended in subsequent hearings till hearing held on 11.4.2023.

92. Respondent JKTL has submitted that a substantial amount of Rs. 10.29 crore is outstanding under the bilateral bills, and the Petitioner's entitlement towards such charges is clearly established as per the Sharing Regulations, 2020

93. In light of the approval of deemed COD of the JKTL system from 27.04.2022 under Issue No. 1 and methodology for billing of transmission charges under Issue No.3, we direct that the bills raised by CTUIL are required to be revised based on the amount calculated as per directions in this Order. Accordingly, we quash the bill dated 2.06.2022 and subsequent bills as noted in Paragraph 90 of this Order. CTUIL is directed to issue a revised bill in accordance with the directions contained in the instant Order within a period of one month from the issue of this Order.

94. Petition No. 187/MP/2022, along with 70/IA/2022, is disposed of in terms of the above.

Sd/
(Harish Dudani)
Member

Sd/
(Ramesh Babu V.)
Member

Sd/
(Jishnu Barua)
Chairperson