

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 699/MP/2020

Coram:

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

Date of Order: 05.01.2026

In the matter of:

Petition under Section 79(1)(c) & (f) of the Electricity Act, 2003, read 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, seeking directions in respect of alleged LTOA of 144 MW granted to PTC India Limited in respect of 'Free Power' Share of Government of Sikkim from 1200 MW Teesta-III Hydroelectric Project in terms thereof.

And in the matter of:

PTC India Limited,
2nd Floor, NBCC Tower,
15, Bhikaji Cama Place,
New Delhi-110066.

....Petitioner

Versus

1. Power Grid Corporation of India Limited,
Saudamini, Plot No.2, Sector 29,
Gurgaon-122001.
2. Teesta Urja Limited,
2nd Floor, Vijaya Building,
17, Barakhamba Road,
New Delhi-110001.
3. Government of Sikkim,
Energy and Power Department,
Kazi Road, Gangtok,
East Sikkim-737101.
4. Central Transmission Utility of India Limited,
Saudamini, Plot No.2, Sector 29,
Gurgaon-122001 (Haryana).

...Respondent(s)

Parties Present: Shri Ravi Kishore, Advocate, PTC
Shri Keshav Singh, Advocate, PTC
Shri Basava Prabhu Patil, Sr. Advocate, Govt. of Sikkim
Shri Sameer Abhyankar, Advocate, Govt. of Sikkim



Shri Sarthak Dora, Advocate, Govt. of Sikkim
Ms. Suparna Srivastava, Advocate, CTUIL
Ms. Arshiya, Advocate, CTUIL
Shri Shaswat Dubey, Advocate, CTUIL
Ms. Kavya Bhardwaj, CTUIL
Shri Lashit Sharma, CTUIL
Shri Vidhan Vyas, Advocate, SUL

ORDER

PTC India Limited has filed the instant petition under Section 79(1)(f) of the Electricity Act, 2003 (hereinafter referred to as the “Act”) read 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 the “2009 Connectivity Regulations”) seeking for an order that no LTOA was granted to PTC in respect of the 144 MW free power share of Government of Sikkim from Teesta-III Hydro Electric Project (hereinafter referred to as the “THEP”) and to set aside CTUIL’s demand for relinquishment charges in respect of the 144 MW free power share of Government of Sikkim.

2. The Petitioner is an inter-State trading licensee. Power Grid Corporation of India Limited (hereinafter referred to as “PGCIL”), Respondent No.1, is a state-owned electricity utility company in the business of transmission of power and was also performing the functions of the CTU till CTUIL was notified by the Ministry of Power, Government of India. Teesta Urja Limited (hereinafter referred to as “TUL”), Respondent No.2, is a generating company which owns and operates a 1200 MW (2X600MW) HEP located on the Teesta River in the North District of Sikkim. Government of Sikkim, Respondent No.3, is the State where the THEP is located and is entitled for 12% free power for the first 15 years and 15% free power from the 16th to 35th year of THEP. Central Transmission Utility of India Limited (hereinafter referred to as the “CTUIL”), Respondent No.4, is the Central Transmission Utility (hereinafter referred to as the “CTU”), as defined in Section 38 of the Act.



3. The PGCIL was performing the functions of the CTU when the instant petition was filed by PGCIL. However, during the proceedings in the matter, the Ministry of Power, Government of India, on 9.3.2021, notified the CTUIL, a Government Company, as the Central Transmission Utility. Therefore, CTUIL has been impleaded as Respondent No.4 in the matter.

4. The Petitioner has made the following prayers:

- “a) Pass an Order that the LTOA was neither granted nor applicable to the Petitioner in respect of 144 MW free power share of State of Sikkim from Teesta-III HEP;*
- b) Pass an Order setting aside the demand of the RESPONDENT NO.1 towards relinquishment charges in respect of the 144 MW free power share of Government of Sikkim;*
- c) Pending disposal of the present Petition pass an ad-interim Order restraining the RESPONDENT NO.1 from taking any coercive action in this regard; and*
- d) Pass such other and further Order(s) as this Hon'ble Commission may deem fit and proper under the facts and circumstances of the present case and in the interest of justice.”*

5. The Petition was admitted on 28.5.2021, and notice was issued to the parties. TUL filed its reply to the petition vide affidavit dated 23.6.2021. PGCIL/ CTU filed its reply to the petition vide affidavit dated 10.9.2021, and rejoinder to the PGCIL/ CTU's reply was filed by the Petitioner vide affidavit dated 11.1.2022. The Department of Power Sikkim, filed its reply dated 15.6.2023 to the petition. The Petitioner and PGCIL/ CTU were directed to file certain information vide the RoP dated 29.5.2023. The Petitioner filed the information sought vide affidavit dated 4.7.2023 and PGCIL/ CTU vide affidavit dated 9.8.2023. The Petitioner filed written submissions and additional written submissions dated 27.3.2024 and 21.11.2024. The PGCIL/ CTU filed its written submissions dated 16.4.2024.

6. The gist of the submissions made by the Petitioner is as follows:

- a. The Petitioner and TUL entered into a Power Purchase Agreement (PPA) on 28.7.2006 for the sale of the entire saleable capacity and electricity generated from THEP, excluding the auxiliary consumption, free power, transmission and transformation losses up to the Delivery Point for a period of 35 years from COD of the project. As per the PPA, the Petitioner was to tie up 70% of the Contracted

Capacity on a long-term basis through Power Sale Agreements (PSAs) and the balance 30% of the Contracted Capacity was to be traded by PTC on a short-term basis, i.e. Merchant Trading.

- b. The Petitioner entered into back-to-back PSAs with State Utilities of Punjab (340 MW), Haryana (200 MW), Uttar Pradesh (200 MW) and Rajasthan (100 MW), whereby 70% of the Contracted Capacity of the Project was tied-up on a long-term basis in September 2006.
- c. The Petitioner on 10.11.2006 made an application to PGCIL/ CTU for LTOA for 35 years for 1032 MW for the first 15 years and 996 MW for the 16th to 35th years. The LTOA quantum of 1032 MW excludes the 2% auxiliary consumption and 12% (144 MW) of the free power share of the State of Sikkim, as detailed below:

Peak Load to be Transferred	Year 1-15 1032 MW (after considering 12% free power to Sikkim and 2% for Auxiliary Consumption & Tie Line Losses)	Year 16 -35 996 MW (after considering 15% free power to Sikkim and 2% for Auxiliary Consumption & Tie Line Losses)
Name(s) of drawee utility	1. PSEB – 340 MW 2. HPGCL – 200 MW 3. UPPCL – 200 MW 4. Rajasthan Discoms – 100 MW 5. Balance for Merchant Trading in NR & WR.	

- d. PGCIL/ CTU on 2.1.2007 informed the Petitioner that the quantum of power to be transmitted has been indicated as 1032 MW. However, as the full power would be injected into the grid for onward transmission, the transmission line capacity should be planned to cater to 1200 MW of power from THEP. Therefore, PGCIL/ CTU is going ahead with processing the application for long-term open access for the transfer of 1200 MW to the beneficiaries specified in the application.
- e. The Petitioner, vide letter dated 25.1.2007, confirmed that PGCIL/ CTU may take up detailed studies for identifying the strengthening of the transmission system for the transfer of power from the Project to Punjab, Haryana, Uttar Pradesh and Rajasthan Discoms in the Northern Region.
- f. The PGCIL/ CTU on 26.5.2009 issued a letter providing LTOA for 25 years to the Petitioner and nine other Open Access Applicants for generation projects located in Sikkim.
- g. The Petitioner, vide letter dated 30.10.2009, informed PGCIL/ CTU that the beneficiaries have been finalised in the Northern Region and agreements have been signed for 840 MW power, and the balance power would be sold on a

- merchant basis in NR and WR. The details of the drawee utilities were furnished in the LTOA application dated 10.11.2006.
- h. The Government of Sikkim, on 19.2.2010, wrote to PGCIL/ CTU stating that after commissioning of the THEP, it is entitled to avail 12% of free power for the first 15 years and 15% free power from the 16th year till the 35th year. It also stated that the Government of Sikkim proposes to export free power from THEP to other regions of the country through PGCIL's transmission network \. The Government of Sikkim further stated that it is prepared to enter into a Supplementary Agreement with PGCIL for transmission of free power from THEP and also requested that a copy of the draft Supplementary Agreement be provided for execution on a date convenient to PGCIL.
 - i. In response, PGCIL/ CTU, on 5.3.2010, sent the draft Agreement to the Government of Sikkim for execution.
 - j. PGCIL/ CTU, the Petitioner and the six LTOA applicants of the Sikkim generation projects entered into a BPTA on 24.2.2010, wherein it was stated that of 1200 MW, the Petitioner has signed a PPA with State utilities for 840 MW. A separate BPTA is signed by PGCIL/CTU, and the concerned State utilities and Sikkim will sign a separate BPTA with PGCIL/CTU for 144 MW. Thus, it was clear to PGCIL/CTU that it was to sign a separate BPTA with Sikkim for 144 MW of free power.
 - k. The PGCIL/ CTU, Department of Power of Sikkim and the Petitioner signed a BPTA on 27.4.2010, wherein the Department of Power of Sikkim agreed to share and pay the transmission charges directly to PGCIL/ CTU in proportion to their allocation from THEP and also agreed to provide L/C to PGCIL/ CTU.
 - l. The Commission, in an order dated 8.2.2016 in Petition No.292/TT/2013, observed that PGCIL, on affidavit, has stated that the LTOA quantum for THEP is 840 MW.
 - m. PGCIL/ CTU in its agenda for 12th Connectivity and LTA Meeting of ER dated 21.07.2017 stated that the LTOA quantum for Teesta-III project is 1200 MW. The Petitioner vide letter dated 28.7.2017, while explaining the sequence of events in detail, requested PGCIL/ CTU to correct the LTOA quantum for THEP in the agenda items to 840 MW instead of 1200 MW. In response, PGCIL/CTU, vide letter dated 6.4.2018, reiterated that the LTOA granted to the Petitioner is 1200 MW and upon completion and operationalisation of the associated transmission system, the Petitioner is liable to pay the applicable transmission charges.
 - n. The Petitioner on 10.10.2018 wrote to the Department of Power of Sikkim with a copy to PGCIL/ CTU stating that the Teesta-III - Kishanganj 400 kV D/C (Quad)

line is expected to be commissioned by 30.11.2018, and with commissioning of this line, the LTA of various beneficiaries of THEP, including Department of Power of Sikkim will be made effective from 1.12.2018 as per applicable Regulations. The PGCIL/ CTU was also requested to directly communicate with Sikkim in terms of the BPTA dated 27.4.2010. On 10.10.2018, PGCIL/CTU wrote to the Petitioner, with a copy to Sikkim, stating that Sikkim is required to open a confirmed, irrevocable, unconditional and revolving L/C amounting to ₹148 lakh towards a payment security mechanism in respect of the 144 MW LTA granted by THEP for the transfer of power to Sikkim.

- o. The Petitioner on 25.10.2018 wrote to PGCIL/ CTU, with a copy to Sikkim, that in terms of BPTA dated 27.4.2010, PGCIL/ CTU is required to directly communicate with Sikkim for fulfilling the requirements of LC, etc. The Petitioner further requested PGCIL/ CTU to take up the matter with Sikkim, as Sikkim is liable to open the LC and make all payments towards transmission charges for free power directly to PGCIL/CTU, and PTC has no obligation towards the same. Thereafter, PGCIL/ CTU on 12.12.2018 wrote to Sikkim to open a confirmed, irrevocable, unconditional and revolving LC amounting to ₹148 lakh towards payment security mechanism in respect of 144 MW of LTA granted from THEP for transfer of power to Sikkim and also informed that the LTA is likely to be made effective from 1.1.2019 upon commissioning of Teesta-III-Kishanganj 400 KV D/C (Quad) line.
- p. PGCIL/ CTU on 21.2.2019 wrote to Petitioner with a copy to Sikkim that with the commissioning of the Teesta-III- Rangpo - Kishanganj line, the entire LTA, including 144 MW LTA allocated to Sikkim, will be operationalised from 23.2.2019. The Petitioner, on 21.2.2019, wrote to PGCIL/ CTU with a copy to Sikkim, stating that in relation to 144 MW LTA for Sikkim, PGCIL/ CTU is already aware that the corresponding LTA is for Sikkim's share of free power for which Sikkim has signed the BPTA with PGCIL. Hence, PTC has no role in the 144 MW LTA in terms of the BPTA signed with Sikkim. However, as an abundant precaution and without prejudice to its rights and contention, the Petitioner requested the release of the unutilized transmission corridor from its side.
- q. The PGCIL/ CTU on 6.3.2019 informed PTC that at the request of PTC, the LTOA grantee, the LTOA of 383 MW, which includes 144 MW of Sikkim, is relinquished and PTC shall be liable for the payment of relinquishment charges. It further stated that the Commission, in an order dated 8.3.2019 in Petition No. 92/MP/2015, while determining the stranded capacity and relinquishment charges, held that the

relinquishment charges are in the nature of transmission charges. As per the directions given in order dated 8.3.2019, PGCIL/ CTU on 20.5.2019 published the details of the stranded capacity and relinquishment charges for various projects, wherein the relinquishment charges in respect of 144 MW LTA allocated to Sikkim has been shown in the name of PTC and a compensation amounting to ₹33.04 crore (part of ₹87.88 crore for 383 MW relinquished capacity) has been shown in the name of PTC.

- r. On 30.05.2019, the Petitioner informed Sikkim about the relinquishment charges of ₹33.04 crore corresponding to the 144 MW LTA allocated to Sikkim and its obligation to pay the relinquishment charges to PGCIL/ CTU. PGCIL/ CTU informed the Petitioner on 27.12.2019 that the Petitioner is liable to pay an amount of ₹209.39 crore towards relinquishment charges for THEP and Budhil HEP.
- s. The Petitioner, on 15.1.2020, wrote to PGCIL/ CTU refusing their claim and reiterated that PTC has no right or obligation over 144 MW of Sikkim's share of free power, as it never applied for the LTA of this free power. PGCIL/ CTU, through its letter dated 12.3.2020, informed that the demand notice dated 27.12.2019 is in accordance with the Commission's orders dated 8.3.2019 in Petition No. 92/MP/2015 and 11.12.2019 in Petition No. 252/MP/2019. However, PGCIL/ CTU did not respond or refute the factual position that the Petitioner never applied for the LTA Sikkim's free power share of Sikkim and the Petitioner does not have any right or obligation over the 144 MW of Sikkim's share of free power.
- t. The LTOA was neither granted nor applicable to the Petitioner in respect of the 144 MW, which was a free power share of Sikkim. Further, the demand of PGCIL/ CTU for relinquishment charges raised vide notice dated 27.12.2019 is totally arbitrary and illegal.

7. The TUL in its reply stated that the Petitioner entered into a PPA dated 28.7.2006 with TUL for the purchase of the entire 1200 MW saleable power from THEP for its further sale, after adjusting for auxiliary consumption and free power share of Sikkim. In terms of Clause 4.2(ix) of the PPA, the Petitioner has undertaken to enter into Long Term Power Supply Agreements for at least 70% of the contracted capacity. Further, Clause 4.2(x) of the PPA provides that the Petitioner may enter into Long Term or Short-Term Power Sale Agreements for the balance of the Contracted Capacity. As per the PPA, it is the obligation

of PTC to obtain the requisite open access from the 'Delivery Point' for supply of the saleable power to the beneficiaries.

8. The gist of the submissions made by PGCIL/ CTU in its reply is as follows:
- a. To evacuate power from the generation projects planned in Sikkim, a comprehensive transmission system of 2162 MW to the Northern Region and Western Region was planned. The THEP was one of the generation projects implemented by TUL under the aforementioned scheme, for which TUL entered into an Agreement with the Government of Sikkim on 18.7.2005, agreeing to supply a specified percentage of power to the Government of Sikkim.
 - b. The Government of Sikkim was responsible for the evacuation of power from the generating station to the point of consumption as agreed in clause 3.9 read with clause 4.18 of the above Agreement and to make necessary arrangements. The evacuation arrangement was permitted on the basis of direct connectivity of the generating station to the nearest grid sub-station in the State for the supply of free power from the project to the Government of Sikkim. However, such a system was never put in place, and the entire power from the project was injected into PGCIL's system.
 - c. Sale of power to be generated from the project was decided to be undertaken through an intermediate trading licensee, i.e. the Petitioner. Accordingly, the Petitioner entered into a PPA dated 28.7.2006 with TUL wherein, it was agreed to purchase at the 'delivery point', the entire electricity generated from the THEP excluding the auxiliary consumption, free power transmission and transmission losses incurred upto the delivery point i.e. the point of inter-connection with Government of Sikkim from where open access into the inter-State transmission system (ISTS) was available as per applicable Regulations.
 - d. The Petitioner, as a power trader, was to purchase the entire billable power generated from THEP for onward sale to other entities, which power was to be delivered at the interconnection point of PGCIL or a transmission licensee and from there, it was to be carried by the Petitioner or its purchasers through the use of ISTS.
 - e. Accordingly, the Petitioner on 10.11.2006, approached PGCIL/ CTU for grant of LTOA into the ISTS for a period of 35 years from the date of commencement of open access in accordance with the then prevailing Open Access Regulations, i.e. the Central Electricity Regulatory Commission (Open Access in Inter-state Transmission) Regulations, 2004 (hereinafter referred to as the "2004 Open Access

Regulations”]. As per the application, the quantum of power to be transmitted during the entire LTOA period was bifurcated into 2 parts i.e. 1032 MW (for year 1-15 after considering 12% free power to Sikkim and 2% for auxiliary consumption and tie line losses) and 996 MW (for year 16-35 after considering 15% free power to Sikkim and 2% for auxiliary consumption and tie line losses). The power was to be injected into the pooling station of PGCIL at Rangpo/Kishanganj through an integrated transmission system and was to be drawn by the following utilities in the following ratio:

- (i) Punjab State Electricity Board – 340 MW
- (ii) Haryana Power Generation Corporation Ltd. – 200 MW
- (iii) Uttar Pradesh Power Corporation Ltd. – 200 MW
- (iv) Rajasthan Discoms – 100 MW
- (v) balance power for merchant trading in the Northern Region and the Western Region.

- f. The Petitioner also entered into back-to-back PSAs with the drawee utilities. The 2004 Open Access Regulations neither stipulated any provision nor placed any embargo on the grant of LTOA to a trading licensee on a merchant basis. Fully aware of this regulatory position, the Petitioner had applied for LTA by including the power to transact on a merchant basis.
- g. PGCIL/ CTU reviewed the Petitioner’s LTOA application and informed that though the application specified 1032 MW and 996 MW for different periods, the transmission system has to be planned for the full 1200 MW capacity from THEP and that the existing grid infrastructure was insufficient and requested confirmation from the Petitioner to proceed with detailed studies for necessary transmission system upgrades. After this, the Petitioner confirmed the need for such studies and paid the required fees. On the basis of the Petitioner’s unequivocal confirmation, the PGCIL/ CTU conducted detailed system studies and held several meetings confirming that the system would support the entire 1200 MW. The confirmation is a clear acknowledgement on the part of the Petitioner that though the LTOA applied for is 1032MW/996MW, LTOA was required to be granted for the entire 1200 MW.
- h. The PGCIL/ CTU on 26.5.2009 granted LTOA to the Petitioner and other LTOA applicant generators and requested them to give an undertaking to sign the requisite BPTA for sharing of transmission charges corresponding to their share of power transfer at the earliest. The LTOA grant clearly stipulated that the LTOA granted to the Petitioner was for 1200 MW, which included 840 MW for power transfer to the identified beneficiaries. The transmission system strengthening to be undertaken as

the dedicated part by generation developers and the common system strengthening by PGCIL/ CTU was also recorded in the intimation dated 26.5.2009.

- i. The LTOA grantees are liable to pay transmission charges and the relinquishment charges, if any, in accordance with the Regulations. The Petitioner, being the LTOA grantee for 1200 MW, is responsible for paying all applicable charges, including the relinquishment charges, and the Petitioner cannot be permitted to resile from the same.
- j. The TUL and the Government of Sikkim agreed that on commissioning of the THEP, the Government of Sikkim would be entitled to avail free power of 144 MW for the first 15 years and 180 MW from the 16th to 35th years. The Government of Sikkim proposed to export the said free power to other regions of the country through the transmission network of PGCIL and stated that the required transmission charges as approved by the Commission, and for which it agreed to execute a Supplementary Agreement with PGCIL/ CTU. PGCIL/ CTU, vide letter dated 5.3.2020, confirmed the signing of a Supplementary Agreement for payment of transmission charges for export of free power from THEP to other regions through the use of the PGCIL's transmission network.
- k. After grant of LTOA to the Petitioner, PGCIL entered into a BPTA with the Petitioner and six other generators in Sikkim on 24.2.2010, wherein PGCIL/ CTU agreed to provide open access for a period of 25 years on payment of transmission charges. The Note in Annexure-1 specifically stated that the total quantum of LTOA granted to Petitioner was 1200 MW, and out of this 1200 MW, a quantum of 840 MW corresponded to the tentative beneficiaries with whom the Petitioner had signed PPAs and that a separate BPTA for 144 MW (out of the 1200MW) was being signed with the Government of Sikkim.
- l. There was thus a categorical contractual recording in the 24.2.2010 BPTA that the Petitioner was required to pay transmission charges for the LTA quantum of 1200 MW till the said charges are directly paid by the concerned beneficiaries to PGCIL/ CTU. Thus, the Petitioner, being the LTOA grantee, is responsible for paying the transmission charges, and the said responsibility also extends to payment of relinquishment charges in accordance with clause 5 of the BPTA. The Agreements signed by project beneficiaries are to be seen in the context of the above unequivocal provisions in clause 2, whereunder the Petitioner continues to be liable to discharge all payment obligations under the BPTA till the charges are paid by the beneficiaries. The relinquishment charges are payable by the LTOA grantee, i.e., the Petitioner

and the transmission charges in case of identified beneficiaries who had signed BPTAs with PGCIL/ CTU are payable by the said beneficiaries.

- m. The clause 10.0 read with clause 2.0(a) of the BPTA only recorded a mechanism adopted for ease of payment of transmission charges, where power sale was taking place through a power trader like the Petitioner, who had also obtained open access into the ISTS. The liability to pay transmission charges to PGCIL/ CTU continued to be the Petitioner's as the LTOA grantee, and when the beneficiaries sign the BPTAs with PGCIL/ CTU, the said liability became joint and several, with the primary liability continuing to be that of the Petitioner as the LTOA grantee. As such, when the LTOA rights were relinquished, and there was no longer any onward power sale to take place, the provisions of clause 5.0 became applicable, and the Petitioner/the LTOA grantee is required to pay relinquishment charges to PGCIL/ CTU. The Petitioner is therefore wrong in contending that not only the transmission charges but also the relinquishment charges are payable only by the beneficiaries of the project of Respondent No.2 and not by the Petitioner.
- n. A BPTA was entered into between the PGCIL/ CTU, the Discoms and the Petitioner on 4.6.2010 with respect to the transmission charges for the tied-up power of 840 MW and the balance power of 360MW. The Petitioner agreed to pay the transmission charges for the balance 360 MW as per the terms and conditions stipulated in the separate agreement entered/ to be entered into along with other developers in Sikkim.
- o. Another BPTA was entered into between the Petitioner, PGCIL/ CTU and the Department of Power of Sikkim on 27.4.2010 for transmission of free power from THEP. The said BPTA specifically recorded the details of LTOA granted to the Petitioner as 1200 MW, and the quantum of open access to be utilised by each beneficiary was mentioned.
- p. Like the BPTA signed with the firm beneficiaries, the tripartite BPTA dated 27.4.2010 with the Department of Power of Sikkim also specified a mechanism for payment of transmission charges directly to PGCIL/ CTU instead of routing the same through the Petitioner. The LTOA grantee remained the Petitioner, carrying with it the primary liability to pay transmission charges and/or relinquishment charges. The Petitioner also agreed to pay transmission charges for the "balance power as indicated above for the above Open Access", thereby reiterating contractually that it had been granted open access of 1200 MW [and not 840 MW as wrongly contended by the

Petitioner] and for which it was bound to discharge all statutory/ contractual liabilities towards PGCIL/ CTU.

- q. PGCIL/ CTU clarified that the Petitioner received LTOA for 1200 MW under the 2004 Open Access Regulations, of which 984 MW was assigned to firm beneficiaries and 216 MW was on a target basis. The Petitioner, however, continued to insist that its LTOA entitlement was only 840 MW, referencing more recent regulatory frameworks. Despite these disputes, PGCIL/ CTU maintained that the Petitioner was responsible for paying transmission charges once the system became operational. As the transmission system was nearing completion, PGCIL/ CTU directed both the Petitioner and the Department of Power, Sikkim, to arrange a Letter of Credit (LC) for the 144 MW allocation. The Petitioner contested its responsibility for the LC, and requested that PGCIL/CTU work directly with the Department of Power, Sikkim. PGCIL/CTU subsequently asked the Department of Power, Sikkim, to meet the LC requirement to operationalise the LTOA as planned.
- r. At the time of processing the LTOA application of the Petitioner, PGCIL/ CTU had clearly brought to the knowledge of the Petitioner that since the entire power of 1200 MW was to be injected into the grid, its application was being processed for 1200 MW and not for 1032 MW as requested by the Petitioner. The Petitioner did not object to the same and rather deposited ₹2 lakh with PGCIL/ CTU for conducting the detailed studies required to strengthen the transmission system to accommodate the LTOA quantum of 1200 MW. PGCIL/ CTU granted this LTOA of 1200 MW vide its letter dated 26.5.2009, only after the Petitioner had agreed to it.
- s. PGCIL/ CTU entered into BPTAs dated 24.2.2010, 27.4.2010 and 4.6.2010 with the Petitioner, which specifically recorded that the Petitioner was the long-term transmission customer/open-access applicant and further recorded that 1200 MW of LTOA was granted to the Petitioner.
- t. The Petitioner was granted LTOA in May 2009 (before the notification of the 2009 Connectivity Regulations) under the 2004 Open Access Regulations, which envisaged the grant of LTOA, as opposed to the grant of long-term access and connectivity as separate products under the 2009 Connectivity Regulations. Further, the BPTAs signed by the Petitioner were also in furtherance of the 2004 Open Access Regulations and under both the 2009 Connectivity Regulations as well as the BPTAs, it was provided that a long-term open access customer, i.e. the Petitioner, could relinquish or transfer its rights subject to payment of compensation. As such, being the open access grantee, the Petitioner's relinquishment of LTOA

was bound to attract the applicable relinquishment charges, which were a species of transmission charges as held by this Commission. The Petitioner is obliged to pay the relinquishment charges in terms of the Commission's order dated 8.3.2019 in Petition No.92/MP/2015. The Petitioner, in all its commercial wisdom, had undertaken the liability to obtain and maintain the open access. Therefore, the Petitioner cannot be permitted now to renege on its commitment under the BPTAs signed by it.

9. The Petitioner, in its rejoinder to the reply filed by PGCIL/ CTU, while reiterating the submissions made in the petition, made the following submissions as:

- a. The Petitioner entered into a PPA with TUL on 28.7.2006 for the purchase of the entire saleable capacity and electricity generated, excluding the auxiliary consumption, free power and transmission and transformation losses.
- b. The PGCIL/ CTU's contention that the Petitioner, as a power trader, has to purchase entire billable power generated from THEP is not correct and the Petitioner is obliged to sell 70% of the power on a long term basis and balance on short term basis, excluding auxiliary consumption, free power and transmission and transformation losses. Further, the Billable Power is defined as the power output at the Delivery Point supplied to the Petitioner, less the free power during the relevant settlement period.
- c. In Annexure-I to the BPTA dated 24.2.2010 between the Petitioner, PGCIL/ CTU and the six LTTCs, it is stated that the LTA granted to the Petitioner is 840 MW, though it was stated that the LTOA applied was 1200 MW. Therefore, the Petitioner was granted LTA for only 840 MW. The BPTA further states that Sikkim signed a separate BPTA with PGCIL/ CTU for 144 MW. Clause 10 of the BPTA states that upon finalisation of the beneficiaries by the developers, the applicable transmission charges and other charges will be payable by the concerned beneficiary.
- d. The Petitioner never agreed to pay the transmission charges for 360 MW for which no LTA was granted; the BPTA only states that the Petitioner shall pay the transmission charges as per the conditions stipulated in the separate agreement entered/to be entered into along with the developers in Sikkim.
- e. As per the BPTA between the PGCIL/ CTU, Department of Power of Sikkim and the Petitioner on 27.4.2010, Department of Power of Sikkim is liable to pay the transmission charges for free power. The Petitioner is only a signatory to the said BPTA, but the liability for the transmission charges for 144 MW of free power rests

with the Department of Power of Sikkim, and these charges are to be directly paid to PGCIL/ CTU.

- f. The Department of Power, Sikkim vide letter dated 19.2.2010 informed PGCIL/ CTU that it would pay the transmission charges as determined by the Commission for the 144 MW of free power. Thus, PGCIL/ CTU was aware from the beginning that the Department of Power of Sikkim is liable to bear the transmission charges for 144 MW of free power.
- g. As per the 2009 Connectivity Regulations, no LTA can be granted to a trading licensee in the absence of an identified drawee and where no PSA has been entered into by the trading licensee. The issue of the alleged grant of LTA in respect of 216 MW of merchant power is the subject matter of another petition before the Commission.
- h. The Petitioner, as a matter of abundant caution, without prejudice to its rights, requested PGCIL/ CTU vide letter dated 21.12.2019 to release the 144 MW of LTOA in respect of free power from its side and reiterated that all obligations, including the payment of relinquishment rests with the Department of Power of Sikkim.
- i. PGCIL/ CTU has illegally levied the relinquishment charges for 383 MW, which includes 144 MW of free power for Sikkim, amounting to ₹87.88 crore.
- j. The BPTAs dated 24.2.2010, 4.6.2010 and 27.4.2010 state that the LTA granted to the Petitioner is 840 MW. The BPTAs state that the transmission charges (including the relinquishment charges as per the order dated 8.3.2019 in Petition No.92/MP/2015) are to be paid by the beneficiaries.
- k. The letter dated 16.10.2009 from PGCIL/ CTU only refers to the capacity/power to be transferred and the expected commissioning schedule of the Transmission Line, without mentioning the grant of LTA of 1200 MW to the Petitioner. Upon receiving this letter, the Petitioner promptly informed PGCIL/CTU, in its letter dated 30.10.2009, of the details of the drawee utilities and the finalised beneficiaries in the Northern Region, with agreements signed for 840 MW. It reiterated that the balance power would be sold on a merchant basis.
- l. The BPTA dated 27.4.2010 clearly stipulates that while the Petitioner was a signatory to the agreement, the sole responsibility for paying the transmission charges related to the free power share rested with the Department of Power, Sikkim. According to the terms of the agreement, these applicable transmission charges were to be paid directly by the Department of Power to PGCIL/CTU. Thus, there is no provision in the

BPTA indicating that the Petitioner will bear any responsibility for paying transmission charges associated with the free power share of the Department of Power, Sikkim.

- m. The Petitioner reiterated its denial of the contents of PGCIL/ CTU's letter dated 18.10.2017 through its letter dated 5.12.2017, denying the assertion that an LTA of 1200 MW was granted to the Petitioner. The Petitioner reaffirmed that only an LTA of 840 MW was granted to the four firm beneficiaries of the Northern Region, namely PSEB, HPGCCL/HPCC, UPPCL, and Rajasthan DISCOMs.
- n. Due to PGCIL/ CTU's persistent assertion of the purported grant of LTA to the Petitioner, contrary to the Petitioner's legal contentions, and as a precautionary measure without prejudice to its rights, the Petitioner, vide letter dated 21.12.2019, requested PGCIL/ CTU to release the 144 MW of LTOA from its end on the transmission corridor. The Petitioner reiterated that all obligations, including the payment of relinquishment charges, rested with the respective beneficiaries, including the free power share of the Department of Power, Sikkim.
- o. The Petitioner is not liable to pay the amount of ₹209.39 crore, which PGCIL/ CTU has unlawfully imposed. In a letter dated 15.1.2020, the Petitioner reiterated to PGCIL/ CTU that it has no obligation towards the alleged 144 MW LTA for the free power share of the Department of Power, as the Petitioner never applied for an LTA for free power. The 144 MW constituted the Department of Power, Sikkim's share of free power, to which the Petitioner had no entitlement. Moreover, the Petitioner had clearly confirmed to PGCIL/ CTU vide letter dated 25.1.2007 that detailed studies were to be conducted to identify and strengthen the transmission system for transferring power from THEP to Punjab, Haryana, Uttar Pradesh, and Rajasthan in the Northern Region. The total power allocated to these four beneficiaries amounted to only 840 MW. Additionally, the letter dated 26.5.2009 from PGCIL/ CTU outlined the details of these beneficiaries.
- p. The BPTAs dated 24.2.2010, 4.6.2010, 27.4.2010 mention the granted LTA as 840 MW and explicitly state that transmission charges are payable by the beneficiaries. As the Commission, in an order dated 8.3.2019 in Petition No.92/MP/2015, held that the relinquishment charges are in the nature of transmission charges, the beneficiaries are responsible for paying them.
- q. The approval for the HPCTC-III by the Commission does not impact the LTA grant. It emphasises the legal framework dictating payment responsibilities, highlighting that the transmission charges, including relinquishment charges, fall under the purview of the beneficiaries as per regulatory guidelines and judicial rulings. Moreover, it

reaffirms that the alleged LTA for 1200 MW was not granted to the Petitioner, and the 144 MW constituted the free power share of the Department of Power Sikkim.

10. The Government of Sikkim, Energy and Power Department, Respondent No.3, in its reply, vide affidavit dated 15.6.2023, has submitted that it is not liable to pay the relinquishment as it neither applied for nor was granted LTOA. Without an LTOA application, no such access can be granted. The terms and conditions outlined in the BPTA dated 27.4.2010 cannot be invoked against it as it has not applied for the grant of LTOA. The 2009 Connectivity Regulations became effective on 1.1.2010. and thereafter, it issued a letter dated 19.2.2010 consenting to enter into a Supplementary Agreement with PGCIL/CTU for the transmission of free power from THEP. Subsequently, a BPTA dated 27.4.2010 was executed. The letter dated 19.2.2010 and the BPTA dated 27.4.2010 were implemented after the enactment of the 2009 Connectivity Regulations. Therefore, the 2009 Connectivity Regulations would apply to it, which stipulate that no LTOA could have been granted without disclosing, in the LTOA application, the entity to whom the electricity was to be supplied. Sikkim bears no financial responsibility for the grant or the relinquishment of LTOA, as it has neither applied for LTOA nor relinquished any LTOA.

11. The Commission vide RoP dated 29.5.2023 directed the Petitioner and CTUIL to submit the following information:

- “(a) Details of the quantum of capacity for which the Petitioner has applied for a grant of LTA and quantum of LTA granted by CTUIL.*
- (b) As per the Petitioner, LTA for 144 MW capacity pertaining to free power in Sikkim State was never granted to the Petitioner, the Petitioner to clarify how he has relinquished LTA of 144 MW.*
- (c) According to CTUIL, 1200 MW LTA was issued to the Petitioner, the CTUIL to clarify how the part quantum of LTOA, for which the beneficiaries was not identified, was issued to the Petitioner.”*

12. In response, the Petitioner vide affidavit dated 4.7.2023 has made the following submissions:

- a. The Petitioner on 10.11.2016 applied for the grant of LTOA for a period of 35 years, 1032 MW for the first 15 years and 996 MW for the years 16 to 35. As per the BPTA

between PGCIL/ CTU, seven LTTCs dated 24.2.2010, the LTOA applied for is stated as 1200 MW, and the LTA granted is specified as 840 MW. The note under the table further specified that Sikkim will sign a BPTA with PGCIL/CTU for 144 MW.

b. The Government of Sikkim, through its letter dated 16.2.2010 to PGCIL/ CTU, acknowledged its intention to export free power from THEP to other regions of the country using PGCIL's transmission network and consented to pay the transmission charges approved by the Commission for this purpose. The Government of Sikkim also expressed its readiness to sign a Supplementary Agreement with PGCIL/ CTU with respect to the free power from THEP and requested a draft Supplementary Agreement for execution.

c. A BPTA was executed on 27.4.2010 between PGCIL/ CTU, Sikkim and the Petitioner. As per the terms of the BPTA, Sikkim is the beneficiary of free power and is responsible for directly settling the transmission charges with PGCIL/ CTU. The agreement clearly states that Open Access was granted to Sikkim for 144 MW and that Sikkim is obliged to pay the associated charges. The Petitioner neither applied for nor was granted Open Access to Sikkim's free power share.

d. Sikkim was not responding to PGCIL/ CTU's communication. Further, due to the coercive action of PGCIL/CTU, the Petitioner requested that PGCIL/CTU release the unutilized transmission corridor on its side without prejudice. The Petitioner also informed PGCIL/ CTU that it was not liable to open the Letter of Credit or to pay the transmission charges.

13. In response to the queries raised in the RoP dated 29.5.2023, CTUIL, Respondent No.4, vide affidavit dated 9.8.2023, has made the following submissions:

a. There is no embargo under the 2004 Open Access Regulations for granting LTOA to a trading licensee on a merchant basis. The Petitioner was aware of this aspect and accordingly applied for LTA, including the power it proposed to transact on a merchant basis.

b. As per the BPTA dated 24.2.2010 between the PGCIL/ CTU, the Petitioner, and six generators in Sikkim, open access was granted for a period of 25 years to the Petitioner for 1400 MW, out of which 840 MW was allocated to tentative beneficiaries in the NR contingent upon payment of transmission charges starting from the

scheduled date of open access for individual LTOA grantees. Further, a separate BPTA was signed between the Department of Power, Sikkim and PGCIL/ CTU for 144 MW, out of the total 1200 MW.

c. During several Eastern Region - Joint Coordination Committee Meetings convened over time (prior to the relinquishment of the relevant LTOA by the Petitioner on February 21, 2019), the quantum of the Petitioner's LTOA consistently remained designated as 1200 MW. This designation remained uncontested both by the Petitioner and TUL.

d. The issue of quantum of LTOA granted was subsequently settled by the Commission in order dated 5.4.2022 in Petition No. 394/MP/2018 in PTC India Ltd. vs. Power Grid Corporation of India Ltd. & Anr., wherein the Commission determined that the LTOA quantum applied for and granted to the Petitioner is 1200 MW, which includes 216 MW of merchant power and 144 MW of free power to Sikkim.

14. The Petitioner filed a written submission dated 27.3.2024 reiterating the submissions made earlier. The gist of the submissions made by the Petitioner in the written submissions is as follows:

- a. The Petitioner had neither applied for LTOA in respect of free power share of Sikkim nor had PGCIL/ CTU granted LTOA for free power. The Petitioner and THEP entered into a PPA on 28.7.2006 for the sale of the entire saleable capacity and electricity generated from THEP, excluding auxiliary, consumption, free power, transmission and transformation losses up to the delivery point. The BPTA between PGCIL/ CTU, Sikkim and the Petitioner on 27.4.2010 clearly specified that Sikkim is the beneficiary of free power and shall pay the transmission charges directly to PGCIL/ CTU.
- b. The Petitioner never relinquished the LTOA in respect of 144 MW of free power of Sikkim. As Sikkim was not responding to communications from PGCIL/ CTU, the Petitioner simply requested that PGCIL/ CTU release the corridor from its side. And it was made without prejudice to its rights. Further, the Petitioner informed PGCIL/ CTU that it was not liable to open the Letter of Credit (LC) or to bear transmission charges, etc.

- c. The LTOA cannot be granted for the quantum not applied for by an applicant. The Commission, in orders dated 16.10.2025 in Petition No.210/MP/2014, 23.3.2017 in Petition No.76/MP/2014, held that LTOA cannot be in excess of the applied quantum.
 - d. The PGCIL/ CTU has contended that the Commission, in an order dated 5.4.2022 in Petition No.394/MP/2018, has already held that the LTOA was granted for PTC for 1200 MW. However, the Commission, in an order dated 5.4.2022, observed that the LTOA was granted for 1200 MW, and that this was not a finding of the Commission. Further, the Commission in the same order held that the LTOA was sought for 1032 MW for the first 15 years and 996 MW for the period from the 16th to the 30th year, and that the Petitioner did not apply for auxiliary consumption, tie line loss or free power to Sikkim. The quantum of LTOA sought by the Petitioner is beyond the 840 MW and not limited to the tied-up capacities under the PSAs. Thus, the PGCIL/ CTU's contention that the Petitioner applied for 1200 MW is misconceived.
15. CTUIL, Respondent No.4, in its written submissions dated 16.4.2024, reiterated its earlier submissions. The gist of the submissions made by CTUIL is as follows:
- a. PGCIL/ CTU informed the Petitioner that since the entire power generated from THEP was intended to be injected into the grid for onward transmission, the transmission line's capacity should be 1200 MW. Detailed studies were conducted to identify the necessary strengthening of the transmission system, and the Petitioner was requested to confirm the result of these studies. This communication clarified to the Petitioner that the LTOA would be granted based on system planning for 1200 MW, inclusive of the free power allocated to the Government of Sikkim via the ISTS pooling station, rather than through any direct evacuation arrangement within the state.
 - b. The Petitioner consented to PGCIL/ CTU conducting detailed studies to reinforce the transmission system for the transfer of power from the THEP to beneficiaries in the Northern Region. This consent served as the basis for PGCIL/ CTU to proceed with the necessary system studies to facilitate power transmission from THEP. By providing this confirmation, the Petitioner acknowledged that the entirety of the power generated by the project, including the free share allocated to Sikkim, would be injected into the ISTS grid. Consequently, the Petitioner recognised the need for the LTOA to cover the entire 1200 MW, necessitating the strengthening of the existing

transmission infrastructure. In line with this acknowledgement, the Petitioner also deposited ₹2 lakh with PGCIL/ CTU to support the conduct of these system studies.

- c. Discussions regarding the transmission system for evacuating power from the Teesta-III HEP were held during various Meetings of Long-Term Open Access of the Eastern Region on 5.11.2007, 11.2.2008, and 22.4.2009. The minutes of these meetings clearly indicated that the system was being planned to accommodate the onward transmission of 1200 MW of power, corresponding to the LTOA granted to the Petitioner. Specifically, the Minutes of the Meeting dated 5.11.2007, in which the Petitioner participated, explicitly recorded that the capacity of power to be transferred corresponding to the LTOA applicant, i.e., the Petitioner, was 1200 MW.
- d. When the transmission system was nearing completion, PGCIL/ CTU sent a letter dated 3.10.2018 to the Petitioner, indicating that the LTOA was likely to become effective from 1.12.2018 with the prospective commissioning of the Teesta III-Kishanganj 400 kV D/C (Quad) line. The Petitioner, in turn, informed Sikkim of this development by a letter dated 10.10.2018. PGCIL/ CTU, through a letter dated 10.10.2018, reminded the Petitioner of the requirement for Sikkim to open an LC amounting to ₹148 lakh for the 144 MW LTOA, as per the terms of the LTOA grant and the BPTAs. Failure to comply would result in regulatory action in accordance with the Commission's Regulations. In response, the Petitioner, through a letter dated 25.10.2018, requested PGCIL/CTU to directly communicate with Sikkim to fulfil the LC requirement, stating that PTC was not under any obligation in this regard. Subsequently, PGCIL/CTU requested Sikkim, vide letter dated 12.12.2018, to open the necessary LC in favour of PGCIL/CTU, in accordance with the terms of the BPTA dated 27.4.2010, signed with the Petitioner. It was clarified that Sikkim's obligation to furnish the LC pertained to its liability under the BPTA to pay transmission charges and did not affect the Petitioner's status as the LTA grantee.
- e. Subsequently, PGCIL/ CTU issued a letter on 21.2.2019, informing the Petitioner that the existing LTOA, including the 144MW free power, would be effective from 23.2.2019, following the complete implementation of HCPTC-III. This was duly operationalised on the said date. In response, the Petitioner, vide its letter dated 21.2.2019, emphasised that as per the BPTAs signed by the Petitioner, all obligations pertaining to the LTOA, including the opening of LC, payment of transmission charges, and relinquishment charges, were the responsibility of the respective beneficiaries. Regarding the LTOA of 144 MW, the Petitioner clarified that this

quantum corresponded to Sikkim's share of free power. As per the BPTA signed with Sikkim, the Petitioner asserted it had no obligation towards this allocation. Despite being the LTOA grantee, the Petitioner sought to completely distance itself from this LTOA grant, avoiding any associated liabilities, including relinquishment charges.

- f. The Petitioner requested PGCIL/ CTU vide a letter dated 21.2.2019 to release 144 MW of LTOA from its side on the transmission corridor, placing the entire responsibility for the payment of relinquishment charges on Sikkim. Thus, the Petitioner denied primary responsibility for fulfilling all obligations under the LTOA and simultaneously designated Sikkim as the beneficiary of 144 MW under the LTOA. This request clearly acknowledged that the Petitioner, as the LTOA grantee for the 144 MW free share power of Sikkim, was relinquishing the same.
- g. PGCIL/ CTU informed the Petitioner vide its letter dated 6.3.2019 that the request for relinquishment of LTOA made by the Petitioner itself validated and confirmed the fact that the quantum of LTOA being disputed by the Petitioner was, in fact, granted to the Petitioner. Further, any relinquishment thereof was necessarily to be in accordance with the provisions of the Connectivity Regulations, with the attendant consequence of payment of relinquishment charges.
- h. The Commission, in order dated 5.4.2022 in Petition No.394/MP/2018, has examined the liability to pay the transmission charges in respect of LTOA of 216 MW granted to the Petitioner for merchant trading of power from the 1200 MW LTOA for THEP.
- i. It becomes evident that the Commission, having thoroughly reviewed all pertinent documents and considering the very arguments presented by the Petitioner concerning the LTOA quantum, has determined that the LTOA quantum applied for and granted to the Petitioner is 1200 MW, inclusive of the allocated free power to Sikkim amounting to 144 MW. Consequently, the Commission has ruled that the Petitioner bears liability for all obligations arising from the entire 1200 MW of power. The 144 MW LTOA granted to the Petitioner has remained in effect in its favour from the date of the grant until its relinquishment. Therefore, the Petitioner is obliged to pay relinquishment charges for the surrendered quantum of 144 MW LTOA, as computed to be ₹33.04 Crore as per the order dated 8.3.2019 in Petition No.92/MP/2015.

16. The Petitioner also filed an additional written submission dated 21.11.2024. The gist of the same is as follows:

- a. The meetings held on 8.1.2008, 4.2.2008, and 1.5.2009, involving the Petitioner, Government of Sikkim, PGCIL/ CTU, THEP and other generating stations, focused solely on planning transmission systems for projects in Sikkim. The grant of LTOA for 1200 MW was neither discussed nor mentioned. PGCIL/ CTU's claim that the Petitioner's presence indicated acceptance of 1200 MW LTOA is unfounded and unsupported by any statutory regulations.
- b. The Commission's order in Petition No. 76/MP/2014 clarified that the 2004 Open Access Regulations do not mandate customers to accept LTOA beyond their applied quantum. PGCIL/ CTU has not provided any document confirming the grant of 1200 MW of LTOA.
- c. The LTOA was never granted for the Petitioner by PGCIL/ CTU for Sikkim's free power share from the THEP. The Department of Power of Sikkim has been selling its free power share through Sikkim Urja Limited via short-term open access (STOA), paying the necessary transmission charges. From 2019-20 to 2022-23, 2902 MUs of free power were generated, and it is estimated that CTUIL has already recovered around ₹100 crore in STOA charges, far exceeding the claimed relinquishment charges of ₹33.04 crore.
- d. Any additional recovery of relinquishment charges would result in double charging, leading to unjust enrichment, as these charges are akin to accelerated transmission charges, a matter currently under challenge before the APTEL.

Analysis and Decision:

17. We have considered the submissions made by the Petitioner and the Respondents and perused the documents on record. The basic contention of the Petitioner is that the Petitioner neither sought nor was granted LTOA with respect to 144 MW of free power of Sikkim; therefore, PGCIL/ CTU's demand for relinquishment charges in respect of 144 MW of free power of Sikkim from the Petitioner is arbitrary and illegal and should be set aside.

18. The Petitioner approached PGCIL/ CTU on 9/10.11.2006 for grant of LTOA for 35 years for 1032 MW for first 15 years (considering 12% free power to Sikkim and 2% for Auxiliary Consumption & Tie Line Losses) and 996 MW for the 16th to the 35th year (considering 15% free power to Sikkim and 2% for Auxiliary Consumption & Tie Line Losses) in accordance with the 2004 Open Access Regulations for sale of power to PSEB- 340 MW, HPGCL-200 MW, UPPCL-200 MW, Rajasthan Discoms-100 MW and balance power for merchant trading in NR and WR. The relevant portion of the Petitioner's application is as follows:

“

4.	Details of power transfer equipment			
	i)	Quantum of power to be transmitted (MW)	Year 1-15	Year 16-35
			1032 MW (after considering 12% free power to Sikkim and 2% for Auxiliary Consumption & Tie Line Losses)	996 MW (after considering 5% free power to Sikkim and 2% for Auxiliary Consumption & Tie Line Losses)
	ii)	Peak load to be transferred	1032 MW	996 MW
	iii)	Average load to be transferred		
	iv)	Name(s) of the injecting utility	Teesta Urja Limited (TUL)	
	a)	Point(s) of injection of power	Powergrid Pooling Station at Siliguri	
			through an integrated transmission system (SLD of proposed integrated system enclosed for reference)	
	b)	Its Quantum	1032MW (Year 1-15)	996MW (Year 16-35)
	c)	Voltage level of the EHV Substation (Nearest EHV substations and ownership of EHV Substations)	400 KV Interconnection/pooling point of POWERGRID at Siliguri	
	d)	Name(s) of concerned SLDC	Sikkim SLDC	
	e)	Name(s) of drawee utility	1) Punjab State Electricity Board - 340MW 2) Haryana Power Generation Corporation Limited- 200 MW 3) Uttar Pradesh Power Corporation Ltd.-200 MW 4) Rajasthan Discoms -100 MW 5) Balance Power for Merchant Trading in NR & WR	
	a.	Point(s) of drawl of power	Nearest ISTS connection Point for Drawee Utility	
	b.	Its quantum	Year 1-15	Year 16-35

			1032 MW (after considering 12% free power to Sikkim and 2% for Auxiliary Consumption & Tie Line losses)	996 MW (after considering 15% free power to Sikkim and 2% for Auxiliary Consumption & Tie Line Losses)
	c.	Voltage level of the EHV substation (Nearest EHV Substation and ownership of EHV Substations)	400 KV sub-station of POWERGRID for all drawee utilities.	
	d.	all drawee utilities.	SLDCs of Punjab, Haryana, Uttar Pradesh and Rajasthan	
NOTE		in case of mismatch between quantum of power injected and drawal then details of balance power to other beneficiaries should be furnished		
	vi	Electrical connectivity diagram of the EHV Substation where the Power is to be injected or drawal if it is not a POWERGRID substation.	N.A	
5.		Expected date of commencement of Transmission Open Access	From expected commissioning of the project progressively from November 2011 onwards.	

”

19. PGCIL/ CTU informed the Petitioner, vide its letter dated 2.1.2007, that although the quantum of power to be transmitted has been indicated as 1032 MW for the 1st to the 15th year and 996 MW for the 16th to the 35th year, as the full power from THEP would be injected into the grid for onward transmission, the capacity of transmission line should be planned for 1200 MW. PGCIL/ CTU also informed the Petitioner that the planned transmission system would not be able to transfer 1200 MW of power from THEP and Punjab, Haryana, Uttar Pradesh and Rajasthan and therefore, detailed studies have to be carried out to identify the strengthening of the transmission system. PGCIL/ CTU also informed that it is proceeding with processing the Petitioner's application for LTOA of 1200 MW and requested the Petitioner to confirm the terms and conditions for carrying out the studies so that further action could be taken. PGCIL/ CTU also requested a deposit of ₹2 lakh plus 12.24% Service Tax for carrying out the system studies. In response, the Petitioner, vide letter dated 25.1.2007, confirmed that “POWERGRID may take up detailed studies for identifying the strengthening of transmission system for transfer of power from the Project to the States of Punjab, Haryana, Uttar Pradesh and Rajasthan Discoms in Northern Region”.

20. PGCIL/ CTU, vide intimation dated 26.5.2009, granted LTOA to the Petitioner and eight other generation project developers, wherein it was stated that the Capacity/Power to be transferred in the case of the Petitioner was 1200 MW. The intimation further indicated the tentative beneficiaries in NR. PGCIL/ CTU also requested the generation project developers to provide an undertaking to sign the requisite BPTA for the sharing of transmission charges corresponding to their share of power transfer. The relevant portion of the intimation is as follows:

“Sub: Long Term Open Access for generation projects in Sikkim in advanced stage of commissioning.

....This is with reference to applications for grant of Long Term Open Access for evacuation of power from following project developers in Sikkim:

1. PTC India Limited for Teesta Urja Ltd. (LTOA applicant of Teesta III HEP)

.....

The intimation letter for providing Long Term Open Access is enclosed. It is requested that the respective generation project developers may provide the undertaking to sign the requisite BPTA for sharing of transmission charges corresponding to their share of power transfer at the earliest but not later than the date stipulated in the intimation letter.

....

(c) Quantum of transmission capacity permitted: As per detailed indicated at Annexure – 2.

.....

*(h) Due date to provide undertaking to sign BPTA: on or before 10-06-2009.
(along with the undertaking, applicant shall have to sign the requisite BPTA for sharing of transmission charge as mentioned above.)*

.....

Annexure -2

Sr. No.	Name of the Developer/ Open Access Applicant	Name of generation plant	Capacity/ Power to be transferred	Tentative Beneficiaries	Generation expected to commence from
1	Teesta Urja Ltd./PTC	Teesta-III	200×6=1200 MW	PSEB-340 MW, HPGCL-200MW, UPPCL-200 MW, Rajasthan Discom-100 MW	August, 2011

”

21. Later, PGCIL/ CTU vide letter dated 16.10.2009, requested the Petitioner and the LTOA allottees to finalise the beneficiaries and their quantum of allocation at the earliest, wherein it was stated that the capacity to be transferred as “200x6=1200 MW. The relevant portion of the letter dated 16.10.2009 is as follows:

“ We desire to invite your kind attention to our letter of even no. dated 01.10.2009 on the above subject. You may kindly recall that the provision of Long term Open Access granted for following IPPs in Sikkim.

Sr. No.	Name of the Developer/ Open Access Applicant	Name of the Generation Plan	Capacity/ Power to be transferred	Expected Commissioning schedule
1	Gati Infrastructure Ltd.	Chuzachen	49.5x2=99 MW	March, 2010
2	Teesta Urja Ltd./ PTC	Teesta-III	200x6 =1200 MW	Aug., 2011
3	Lanco Energy Pvt. Ltd.	Teesta-VI	125x4=500 MW	Nov, 2012
4	DANS Energy Pvt. Ltd.	Jorethang	48x2= 96 MW	Dec., 2011
5	JAL Power Corporation	Rangit IV	40x3=120 MW	June,2013
6	Shiga Energy Pvt. Ltd.	Tashiding	48.5x2 =97 MW	June, 2012
7	TT Energy Pvt. Ltd.	Tingting	49.5x2=99 MW	March, 2012
8	Madhya Bharat Power Corporation Ltd.	Rongnichu	48x2=96 MW	March, 2012
9	Gati Infrastructure Bhasmey Power Pvt. Ltd.	Bhasme	25.5x2 = 51 MW	March, 2012
Total			2358 MW	

It may kindly be recalled that in absence of specific beneficiaries i.e. drawee utilities, the Long term open access for utilization of ISTS was granted for target regions viz. Northern, Western & Eastern regions. Based on the above, the initial activities for the implementation of the evacuation system have already commenced. In this regard, it is once again requested to finalize the beneficiaries and their quantum of allocation at the earliest, failing which we may not be able to proceed with implementation activities.

Further, it is to emphasize that as per clause 6(a) of the initialed BPTA, the requisite Bank Guarantee at the rate of Rs.6 lakhs per MW is required to be furnished by all the developers at the earliest.”

22. In response, the Petitioner vide letter dated 30.10.2009 informed PGCIL/ CTU that the beneficiaries have been finalised in the Northern Region and agreements have been signed for 840 MW power, and the balance power would be sold on a merchant basis in NR and WR. The Petitioner also submitted that the details of drawee utilities were furnished in the LTOA application dated 10.11.2006.

23. A BPTA was entered into by the PGCIL/CTU and seven LTTCs, including the Petitioner, on 24.2.2010. The BPTA states that the Petitioner applied for a grant of LTOA of 1200 MW and was granted 840 MW for NR. It is also stated that every LTTC shall share and bear the applicable transmission charges as decided by the Central Electricity Regulatory Commission for the total transmission scheme. The relevant portions of the BPTA are extracted hereunder:

“E) Each of the project developers i.e. the Long term transmission customer has agreed to share and bear the applicable transmission charges as decided by Central Electricity Regulatory Commission of the total transmission scheme as per Annexure-3 from the scheduled date of commissioning of respective generating units, corresponding to the capacity of power contracted from the said generation project through open access as indicated at Annexure- I irrespective of their actual date of commissioning.

xxx

2.0 ... (c) Each Long term transmission customer (including its successor/assignee) shall pay the applicable transmission charges from the date of commissioning of the respective transmission system which would not be prior to the scheduled commissioning date of generating units as indicated by the respective developer as per Annexure-1. The commissioning of transmission system would be preponed only if the same is agreed mutually by concerned parties.

xxx

Annexure-I

List of Phase-1 Gen Projects and their beneficiaries

Applicant	Generation Project Capacity (MW)	LTOA Applied for (MW)	Location	Time Frame (Unit wise)	Long Term Access granted (MW)				Period of Long Term Access
					WR	SR	NR	ER	
PTC India Limited	1200	200x6 = 1200 MW*	Teesta-III	August, 2011			840		25 Years

* Out of 1200 MW, PTC has signed PPA with state utilities; Total: 840 MW viz PSEB (340 MW), HPGCL (200 MW), UPPCL (200 MW) and Rajasthan DISCOMS (100 MW). Separate BPTA is being signed by POWERGRID and concerned state utility(ies). Further, Sikkim will sign BTPA with POWERGRID for 144 MW.”

24. The BPTA dated 4.6.2010 between PGCIL/ CTU, the beneficiary Discoms (PSEB, HPPCL, Rajasthan Discoms and UPPCL), and PTC also states that the capacity is for 1200 MW and gives the details of the beneficiaries from NR (840 MW), Sikkim (144 MW) and the Petitioner (216 MW). The relevant extract of the BPTA is as follows:

“And whereas PTC is a licensee and is desirous to avail Long Term Open Access in accordance with CERC (Open Access in Inter-State Transmission) Regulation, 2004 dated 30.1.2004 and Electricity Act 2003 to the transmission system of POWERGRID as per the following details:

Name of the Generating Station: Teesta III (Teesta Urja Ltd.) in Sikkim

Capacity: 1200 MW

Beneficiaries: PSEB (340 MW), HPPCL (200 MW), UPPCL (200 MW), Rajasthan DISCOMS (100 MW), SIKKIM (144 MW), Balance (216 MW) – PTC

Open Access is granted for a period of 25 years.”

25. A BPTA was entered into between the PGCIL/ CTU, the Department of Power of Sikkim and the Petitioner on 27.4.2010, and it provides as follows:

"Name of the Generating Station: Teesta III (Teesta Urja Ltd.) in Sikkim
Capacity : 1200 MW
Beneficiaries : - PSEB (340 MW)
- HPPC (200 MW)
- UPPCL (200 MW)
- Rajasthan DISCOMS (100 MW)
- SIKKIM - 144 MW (12% free power) for the first 15
years and 180 MW (15% free power) from the 16th
year onwards.
- PTC (Balance 216 MW for the first 15 years and
180 MW from the 16th year onwards)"

26. The PGCIL/ CTU has contended that the Petitioner was aware since 2007 that the Petitioner was granted LTOA for 1200 MW and has not contested the same, and for the first time in 2017, vide letter dated 28.7.2017, contended that the Petitioner was granted LTOA only for 840 MW. PGCIL/ CTU has further contended that the Petitioner, vide its letter dated 21.2.2019, relinquished the LTOA in respect of the free power granted to Sikkim; therefore, the Petitioner is liable to pay the relinquishment charges. Per contra, the Petitioner has contended that it cannot be granted LTOA for a quantum which was not applied for by the Petitioner. In this regard, the Petitioner has placed reliance on the Commission's orders dated 16.10.2015 in Petition No.210/MP/2014, 20.11.2019 in Petition No. 265/MP/2018 and 23.3.2017 in Petition No.76/MP/2014.

27. PGCIL/ CTU has contended that the Petitioner has relinquished the LTOA of 144 MW of free power to Sikkim and therefore is liable to pay the relinquishment charges. In response, the Petitioner has submitted that in view of the PGCIL/ CTU's persistent assertion regarding the grant of LTOA to the Petitioner and as a precautionary measure, it requested PGCIL/ CTU to release the 144 MW LTOA from its end on the transmission corridor. The Petitioner further submitted that this does not mean that the Petitioner is liable to bear the transmission charges for the said quantum of LTOA.

28. CTUIL has also submitted that the Commission, in an order dated 5.4.2022 in Petition No.394/MP/2018, has already held that the Petitioner was granted 1200 MW of LTA, which includes 216 MW of merchant power and 144 MW of free power to Sikkim. The Petitioner has submitted that there was no such clear finding in the order dated 5.4.2022.

29. We have considered the submissions made by the Petitioner and PGCIL/ CTU and perused the order dated 5.4.2022 in Petition No.394/MP/2018. The Commission, in order dated 5.4.2022, while dealing with the issue of whether the Petitioner was granted LTOA for the balance quantum of 216 MW, taking into consideration the sequence of events and the various BPTAs entered into by the Petitioner and the PGCIL/ CTU, held that the Petitioner applied for LTOA for 1200 MW, which included the free power to Sikkim for which a separate BPTA was signed on 27.4.2010. The relevant portions of the Commission's order dated 5.4.2022 are as follows:

"41. Perusal of above BPTA dated 24.2.2010 reveals that the Petitioner had applied LTOA for 1200 MW and PPAs signed by PTC with state utilities were for 840 MW for which separate BPTAs were to be signed by PSEB, HPGCL, UPPCL, Rajasthan Discoms and Sikkim."

42. BPTA dated 4.6.2010 signed by the Petitioner with the CTUIL and the beneficiaries (PSEB, HPPCL, Rajasthan Discoms and UPPCL) provides as under:

"And whereas PTC is a licensee and is desirous to avail Long Term Open Access in accordance with CERC (Open Access in Inter-State Transmission) Regulation, 2004 dated 30.1.2004 and Electricity Act 2003 to the transmission system of POWERGRID as per the following details:

Name of the Generating Station: Teesta III (Teesta Urja Ltd.) in Sikkim

Capacity: 1200 MW

*Beneficiaries: PSEB (340 MW), HPPC (200 MW), UPPCL (200 MW),
Rajasthan DISCOMS (100 MW), SIKKIM (144 MW), **Balance**
(216 MW) – PTC*

Open Access is granted for a period of 25 years."

43. Further, a separate BPTA was signed between the Petitioner, CTUIL and Power Department of Sikkim on 27.4.2010. The relevant extract of the said BPTA dated 27.04.2010 is as under:

"Name of the Generating Station: Teesta III (Teesta Urja Ltd.) in Sikkim

Capacity: 1200 MW

Beneficiaries: - PSEB (340 MW)

- HPPC (200 MW)

- UPPCL (200 MW)

- Rajasthan DISCOMS (100 MW)

*- SIKKIM - 144 MW (12% free power) for the first 15 years and
180 MW (15% free power) from 16th year onwards.*

*- **PTC (Balance 216 MW for the first 15 year and 180 MW for
16th year onwards)***

Open Access is granted for a period of 25 years."

44. We observe that in the above mentioned LTOA grant and the BPTAs signed, the

LTOA granted was for 1200 MW, which also included free power to Sikkim for which separate BPTA was signed on 27.04.2010.”

30. In view of the above finding in the order dated 5.4.2022, we hold that the Petitioner applied for 1200 MW and was allotted LTOA for 1200 MW, including 144 MW of the free power allotted to Sikkim.

31. The Department of Power of Sikkim has submitted that the 2009 Connectivity Regulations are applicable in its case, according to which no LTOA could be granted without disclosing information in the LTOA application regarding the entity to whom the electricity was to be supplied under the 2009 Connectivity Regulations. It has been further submitted that Sikkim bears no financial responsibility for the grant or the relinquishment of LTOA, as it has neither applied for LTOA nor relinquished any LTOA.

32. We have considered the submissions of the Department of Power, Sikkim. The Commission, in an order dated 5.4.2022 in Petition No.394/MP/2018, held that the Petitioner was granted LTOA under the 2004 Open Access Regulations. Therefore, Sikkim's contention that the Petitioner was granted open access under the 2009 Connectivity Regulations is not correct. The relevant portion of the order dated 5.4.2022 is as follows:

“51. It is evident from the Clause 22.3 of the Detailed Procedure that the said provision is applicable to the new applications being made under the Connectivity Regulations on or after the same has come into force and is not applicable to petitioner who was granted LTOA under 2004 Open Access Regulations.”

33. As regards the transmission charges and relinquishment charges in respect of the free power allotted to Sikkim, the Department of Power of Sikkim, the Government of Sikkim on 19.2.2010 wrote to PGCIL/ CTU stating that after commissioning of the THEP, it is entitled to avail 12% of free power for first 15 years and 15% free power from the 16th year till the 35th year and it proposes to export the free power from THEP to other regions of the country through the transmission network of PGCIL. The Government of Sikkim further stated that it is prepared to enter into a Supplementary Agreement with PGCIL for

the transmission of free power from THEP and also requested that it provide the draft Supplementary Agreement for execution. The relevant portion of the letter dated 19.2.2010 is as follows:

“As you are kindly aware, the Government of Sikkim had signed a Memorandum of Agreement with M/s Teesta Urja Limited on 18th July, 2005 for development of 1200 MW Teesta-III Hydro-electric Project (HEP) in Joint Venture with the State Government. After commissioning of the Project, the Government of Sikkim is entitled to avail 12% free power for the first 15 years and 15% free power from the 16th to 35th year envisaged to be generated from the Project.

As informed by the Project developer, the 1200 MW Teesta-III HEP is scheduled to be commissioned by August, 2011. The developer has already entered into a Power Purchase Agreement (PPA) with PTC India Ltd which in turn has signed Long-term Agreement with four States, viz Punjab (340 MW), Haryana (200 MW), Rajasthan (100 MW) and Uttar Pradesh (200 MW). The Government of Sikkim's share of free power comes out to be 144 MW for the first 15 years (12% of free power) and 180 MW from 16th year to 35th year (15% free power).

Power grid Corporation of India Limited (PGCIL) may kindly be aware that the State of the Eastern region, including Sikkim, have already entered into Transmission Agreements for evacuation/transmission of power from the projects in the Eastern Region. As Government of Sikkim proposes to export the free power from Teesta III HEP to other regions of the country through the transmission network of PGCIL, for which the required transmission charges would be paid as approved by Central Electricity Regulatory Commission (CERC) Regulations from time to time. For this the State Government is prepared to enter into a Supplementary Agreement with Power Grid transmission of free power from Teesta III HEP.

It is requested that a copy of the draft Supplementary Agreement may kindly be made available to us so that the same can be executed on a date and time convenient to PGCIL.”

34. Further, PGCIL/ CTU, Department of Power of Sikkim and the Petitioner signed a BPTA on 27.4.2010, wherein the Department of Power, Sikkim, agreed to share and pay the transmission charges directly to PGCIL/ CTU in proportion to their allocation from THEP and also agreed to provide L/C to PGCIL/ CTU. The relevant portion of the BPTA dated 27.4.2010 is as follows:

“And whereas, the beneficiary (i.e. SIKKIM) now having firm allocation (free power) from Teesta-III generating project have agreed to pay the transmission charges of POWERGRID applicable for above Open Access directly to POWERGRID in proportion to their allocation from Teesta-III project as indicated above.

And whereas, the beneficiary (i.e. SIKKIM) is desirous and have agreed to pay the applicable transmission charges on the same terms and conditions contained in the BPTA signed by them for Eastern Region dated 16.09.2004 as enclosed at Annexure-A.

Now, therefore, in consideration' of 'the premises and mutual agreement, covenant and conditions set forth herein under and in the Agreements contained in the Annexure-A attached hereto which shall form an integral part of this Agreement, it is hereby agreed by and between the parties as follows:

1. (a) SIKKIM shall share and pay the transmission charges including FERV, incentive, taxes ULDC/NLDC charges including charges for interregional links (if any) etc. of the system strengthening scheme (indicated at Encl. 2) for above Open Access in proportion to their allocation from Teesta-III Project from its date of commercial operation in accordance with the norms/notifications/terms and conditions issued by CERC from time to time.
(b) SIKKIM shall also share and pay the applicable regional transmission charges of concerned region(s) including Inter-regional links if any, for above Open Access in proportion to their allocation from Teesta-III Project.”

35. It is clear on perusal of the Government of Sikkim’s letter dated 19.2.2010 and the subsequent BPTA between the Department of Power, Sikkim, the Petitioner and PGCIL/CTU dated 27.4.2010, that Sikkim has unequivocally consented to bear the transmission charges, including FERV, incentive, taxes, ULDC/ NLDC charges in respect of the open access in proportion to the free power allocation to it from THEP from the date of commercial operation of the transmission system, directly to PGCIL/ CTU in accordance with the Commission’s orders.

36. The Commission, in an order dated 8.3.2019 in Petition No.92/MP/2015, held that the relinquishment charges are in the nature of transmission charges. The relevant portion of the order dated 8.3.2019 is as follows:

“84. Regulation 15 provides that the grantee of the long term access would be required to sign a long term access agreement with the CTU if LTA is granted by CTU. A tripartite long term access agreement is required to be signed with the CTU and inter-State transmission licensee where the long term access to the transmission system of the inter-State licensee is involved. Regulation 9 (2) provides that the medium term open access shall be granted if the resultant power flow can be accommodated in the existing transmission system or the transmission system under execution. Regulation 26 of the Connectivity Regulations provides that the transmission charges for the use of the inter-State transmission system shall be recovered from the long term customers and medium term customers in accordance with the terms and conditions of the tariff specified by the Commission from time to time. It is evident from the above that on receipt of the application for long term access, CTU is required to carry out a system study to ascertain the requirement for system augmentation. The long term access can be granted to the applicant either with the available transmission system or with such addition to the existing transmission system as is required. Further, the applicant who is granted long term access is required to pay the transmission charges for the use of the ISTS throughout the term of the long term access as either the existing transmission capacity is earmarked or the new capacity is augmented for the applicant. Whenever a long term transmission customer relinquishes the long term access rights and obligations, it ceases to pay the transmission charges for the use of the ISTS. Therefore, Regulation 18 requires that upon such relinquishment, the transmission charges at the specified rates are payable for servicing of the transmission assets. Relinquishment charges are therefore, in the nature of transmission charges which the relinquishing long term customer would have paid had it continued as long term customer of ISTS under the access rights availed by it. The relinquishment charges in effect is an accelerated payment of the share of the transmission charges by the relinquishing long term customers to service the transmission

assets of the ISTS. Therefore, Regulation 18 is inconformity with the provisions of Section 38 (2) (d) (i) and Section 40 (c) of the Act which categorically provides for non-discriminatory open access to the transmission system of CTU and other inter-State transmission licensees on payment of transmission charges. The contention of some of the respondents that Regulation 18 of the Connectivity Regulations is de-hors the provisions of Section 38 (2) (d) (i) and Section 40 (c) of the Act is clearly misplaced and is liable to be rejected.”

37. In view of the above discussion, we are of the view that the Energy and Power Department, Government of Sikkim, is liable to pay the relinquishment charges, which are akin to transmission charges, with respect to the open access for free power allocated to Sikkim from THEP to PGCIL/ CTU. However, the Commission has already held that the LTA of 1200 MW was allotted to the Petitioner. Therefore, the Petitioner is liable to pay the relinquishment charges in respect of 144 MW free power share of the Government of Sikkim to CTU, and the same will be reimbursed by the Energy and Power Department, Government of Sikkim, to PTC. The Commission has approved a similar procedure for the payment of relinquishment charges, initially by PTC and subsequently reimbursed by Haryana Discoms (one of the beneficiaries of THEP), as per the order dated 22.11.2022 in Petition No. 110/MP/2019. The relevant portion of the order dated 22.11.2022 is as follows:

“Issue No.(C): Whether the Petitioner PTC is liable for payment of all charges including relinquishment charges to Respondent PGCIL?”

xxxx

57. The Petitioner, PTC has relied upon the above clauses to contend that the beneficiaries are liable to pay the transmission charges etc., directly to PGCIL in proportion to their allocation. This has been objected to by the Respondent PGCIL stating that the Petitioner PTC, as LTA grantee, on behalf of the Respondent Haryana Utilities, is primarily responsible for the payment of transmission/ relinquishment charges. It is noticed that in the present case, the Respondent PGCIL, based on the application of the Petitioner PTC, had granted LTA on 26.5.2009, with a request to sign the BPTA for sharing of transmission charges corresponding to their share of power. Though, in terms of the BPTA dated 4.6.2010, the beneficiaries had undertaken to open LC and also pay the transmission charges etc., is noticed that the Petitioner PTC, vide its letter dated 22.2.2019 sought to relinquish the subject LTA and the same was accepted by the Respondent PGCIL vide its letter dated 6.3.2019, with accompanied liability towards the payment of relinquishment charges. In this background and keeping in view that the Petitioner PTC, as an LTA grantee has relinquished the subject LTA, we hold that the Petitioner, PTC is liable to pay the relinquishment charges to the Respondent PGCIL for the subject LTA for 200 MW.

58.It is pertinent to mention that the Commission vide its order dated 8.3.2019 in Petition No. 92/MP/2015 had held that the relinquishing long-term customers are liable to pay

compensation (relinquishment charges) as per methodology specified in the said order. The relevant portion of the said order is extracted below:

“160. The relinquishing LTA customers are directed to deposit the relinquishment charges calculated and billed by CTU, within a period of three months of raising the bill by CTU. CTU is directed to calculate the stranded capacity and the compensation (relinquishment charges) payable by each relinquishing long-term customer as per methodology specified in this Order respectively within one month of date of issue of this Order and publish the same on its website.”

59. The Commission in the said order had clarified that the relinquishment charges are in the nature of transmission charges. Therefore, the Petitioner cannot absolve itself of its liability to pay the relinquishment charges. Having said so, we notice that Clause 9.1.1 (iv) of the PSA, as quoted below, provides that the Purchasers shall pay to Petitioner PTC, amounts, amongst others, transmission charges, RLDC/SLDC charges or other applicable charges that may be payable by PTC for use of the transmission system from the Delivery Point to the Purchasers point of drawl for selling purchaser Contracted Power to the Purchaser.

“9.1 GENERAL

9.1.1 The Purchasers shall pay to PTC, the payments comprising: xxxxx (ii) Xxxxx; and (iii) Any transmission open access charges pursuant to CERC inter-state transmission Regulations viz., transmission charges, RLDC/SLDC charges or other applicable charges that may be payable by PTC for use of the transmission system from the Delivery Point to the Purchasers point of drawl for selling purchaser Contracted Power to the Purchaser.

Xxxxx “

60. Similarly, Clause 4.2 (iii) of the PSA (as stated in para 35 above) obligates the Purchasers to pay the amounts for obtaining and maintaining long term open access for the transmission of power. On a harmonious reading of the provisions of the PPA /PSA and the orders of this Commission, it is evident that the responsibility of making payment of the transmission charges, including relinquishment charges to the Respondent PGCIL, in respect of the subject LTA, is with the Petitioner PTC. Needless to say, the charges paid by the Petitioner PTC, shall however be reimbursable by the Respondent Haryana Utilities, as the subject LTA obtained by the Petitioner PTC, is on behalf of the Purchaser(s). We direct accordingly. Issue (C) is disposed of accordingly.”

38. Accordingly, the Petitioner's prayer for setting aside PGCIL/ CTU's demand for relinquishment charges in respect of the 144 MW free power share of the Energy and Power Department, Government of Sikkim, is rejected. PTC shall pay the relinquishment charges as worked out by PGCIL in accordance with the methodology specified by the Commission in the order dated 8.3.2019 in Petition No.92/MP/2015 to PGCIL, and the same shall be reimbursed by the Energy and Power Department, Government of Sikkim, to PTC.

39. Accordingly, Petition No. 699/MP/2020 is disposed of in terms of the above.

sd/-
(Harish Dudani)
Member

sd/-
(Ramesh Babu V)
Member

sd/-
(Jishnu Barua)
Chairperson