

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 97/MP/2022

Coram:

Shri Jishnu Barua, Chairperson

Shri Ramesh Babu V, Member

Shri Harish Dudani, Member

Date of Order: 29.12.2025

In the matter of:

Petition under Section 79(1)(c), 79(1) (f) and 79(1)(k) of the Electricity Act, 2003 *inter alia* challenging firstly, the computation of relinquishment charges determined by Central Transmission Utility; and secondly, the methodology published by CTU for determining relinquishment charges pursuant to order dated 8.2.2019 in 92/MP/2015.

And in the matter of:

AD Hydro Power Limited

Bhilwara Towers, A-12, Sector-1, Noida-201301

.....Petitioner

Versus

1. Central Transmission Utility of India Limited

Plot No.2, Sector-29, Near IFCO Chowk, Gurgaon-122001

.....Respondent No. 1

2. National Load Dispatch Center

B-9 (First floor), Qutab Institutional Area, Katwaria Sarai, New Delhi-110 016

.....Respondent No. 2

3. Power Grid Corporation of India Limited

Plot No.2, Sector-29, Near IFCO Chowk, Gurgaon-122001

.....Respondent No. 3

4. Himachal Pradesh State Electricity Board Limited

Vidyut Bhawan, Kumar House Shimla, Himachal Pradesh - 171 004

.....Respondent No. 4

5. Tata Power Delhi Distribution Limited

(Erstwhile North Delhi Power Limited)

33 kV Grid Substation Building, Hudson Lines, Kingsway Camp

New Delhi - 110 009

.....Respondent No. 5



6. BSES Rajdhani Power Limited

PMG Office, 2nd Floor, B-Block, BSES Bhawan, Nehru Place
New Delhi -110 019

.....Respondent No. 6

7. BSES Yamuna Power Limited

2nd Floor, A- Block
Shakti Kiran Building, Karkardooma, Delhi – 110 092

.....Respondent No. 7

8. New Delhi Municipal Corporation

Palika Kendra, Parliament Street, New Delhi – 110 001

.....Respondent No. 8

9. Haryana Power Purchase Centre

Shakti Bhawan, Sector-6, Panchkula – 134109, Haryana

.....Respondent No. 9

10. Punjab State Power Corporation Limited

The Mall, Near Kali Badi Mandir, Patiala-147001

.....Respondent No. 10

11. Uttarakhand Power Corporation Limited

Victoria Cross, Vijeyta Gabar Singh, Urja Bhawan, Kanwali Road
Balliwala Chowk, Dehradun – 248 001, Uttarakhand

.....Respondent No. 11

12. Uttar Pradesh Power Corporation Limited

10th Floor, Shakti Bhawan Extension
14, Ashok Marg, Lucknow - 226 001

.....Respondent No. 12

13. Engineering Department

1st Floor, UT Chandigarh, Sector 9D, Chandigarh - 160 009

.....Respondent No. 13

14. Power Development Department, Jammu & Kashmir

5, Prithvi Raj Road, New Delhi 110 003

.....Respondent No. 14

Parties Present: Shri Basava Prabhu Patil, Sr. Advocate, ADPL
Shri Geet Ahuja, Advocate, ADPL
Shri Sumit Garg, ADPL
Shri Sanjay Jana, ADPL
Ms. Suparna Sriavastava, Advocate, CTUIL
Ms. Divya Sharma, Advocate, CTUIL
Ms. Arshiya, Advocate, CTUIL

Shri Ranjeet Rajput, CTUIL
Ms. Kavya Bhardwaj, CTUIL

ORDER

The instant petition has been filed by the Petitioner, AD Hydro Power Limited under Section 79(1)(c), 79(1) (f) and 79(1)(k) of the Electricity Act, 2003 *inter alia* challenging firstly, the computation of relinquishment charges determined by Central Transmission Utility; and secondly, the methodology published by CTU for determining relinquishment charges pursuant to order dated 8.3.2019 in 92/MP/2015.

The Petitioner has made the following prayers:

- (a) Allow the present Petition;*
- (b) Set aside the determination of relinquishment charges by Respondent no.1 vide its letter dated 24.12.2021 and the notification dated 22.12.2021;*
- (c) Hold that the petitioner is not liable to pay relinquishment charges;*
- (d) In the event of rejection of prayer (c), hold that the petitioner is liable to pay relinquishment charge on the basis of the All India Minimum POC rate under the CERC Sharing Regulations, 2010 or the AC-UBC component determined under the CERC Sharing Regulations, 2020 as applicable to the petitioner and by considering maximum stranding at 56 MW;*
- (e) Hold that the petitioner is not liable to pay notice period charges;*
- (f) Pass such other/further Order(s)/directions(s) as this Hon'ble Commission may deem fit in the facts and circumstances in the present case.*

The Petitioner has made following prayers in 15/IA/2022:

- (a) Stay the operation of the impugned letter dated 24.8.2021;*
- (b) Direct respondent no.1 not to precipitate the matter or in any manner coerce the petitioner for making payment towards the impugned demand; and/or*
- (c) Pass any other order(s) in the interest of justice as this Hon'ble Commission deems fit in the facts of the case.*

The Petitioner has made following prayers in 68/IA/2024:

- (a) Stay the operation of bill of supply for relinquishment charges dated 12.3.2024 issued by CTUIL until final adjudication;*
- (b) Direct respondent no.1 not to precipitate the matter or in any manner coerce the petitioner for making payment towards the impugned demand; and/or*
- (c) Pass any other order(s) in the interest of justice as this Hon'ble Commission deems fit in the facts of the case.*

Submissions of the Petitioner:

2. The Petitioner has mainly submitted as follows:

- (a) On 22.02.2001, an Implementation Agreement was signed between the Government of Himachal Pradesh and Rajasthan Spinning & Weaving Mills Limited for the development and operation of a 192 MW Allain Duhangan Hydro Electric Project in Prini, Manali, District Kullu, HP for a period of 40 years (later transferred to AD Hydro Power Limited vide Quadripartite Agreement dated 05.11.2005, a SPV for the Project) on BOOT basis.
- (b) On 20.8.2002, Central Electricity Authority (CEA) accorded Techno-Economic Clearance for setting up a Hydro Electric Project in Prini, District-Kullu (Himachal Pradesh), along with a dedicated double circuit line for evacuation of power generated by the petitioner up to Nalagarh (ISTS pooling station) for further transmission.
- (c) On 18.07.2005, Petitioner made an application to PGCIL, seeking long-term open access as per the then prevailing CERC Regulations, 2004, for the injection of power at Panarasa/ Nalagarh.
- (d) Between 18.07.2005 and the first quarter of 2007, there were various deliberations and discussions between Petitioner, CTU, PGCIL and CEA, etc., regarding the most suitable evacuation arrangement for the Petitioner's project. It was finally decided that the Petitioner's project shall be connected to the Nalagarh sub-station of CTU through its 220-kV double-circuit dedicated transmission line and 2 nos. of 220 kV base at the Nalagarh sub-station.
- (e) On 26.04.2007, PGCIL granted long term open access (LTOA) to the Petitioner at Nalagarh Sub-station of PGCIL, subject to the signing of BPTA.
- (f) On 11.09.2009, a Bulk Power Transmission Agreement [BPTA] was signed between the Petitioner and PGCIL.
- (g) On 16.09.2010, the Petitioner's project, along with its Dedicated Transmission Line up to Nalagarh, was commissioned. On 16.04.2011, a Connection Agreement in terms of the CERC (connectivity) Regulations, 2009, was executed between PGCIL

and the Petitioner. On 03.08.2011, a Transmission Service Agreement (TSA) was executed between PGCIL and the Petitioner in terms of the CERC Sharing Regulations 2010.

- (h) This Commission has been approving the transmission charges and losses applicable to each region and the slab rate applicable to entities operating in these regions. However, until 14.07.2015, when this Commission determined POC charges, reliability support charges and HVDC Charges for May-June 2015, the Petitioner's charges were not determined. Thus, though NLDC was required to compute POC charges for the Petitioner and seek approval from the commission thereupon, it was done for the first time only vide order dated 14.07.2015. It is also worth noting that POC charges, HVDC charges and reliability support charges have been determined separately, as they are different components of transmission charges.
- (i) On 08.03.2019, this Commission, taking note of the difficulties faced in implementing Regulation 18 of the CERC Connectivity Regulation 2009, laid down a detailed procedure for computing stranded capacity and relinquishment charges. It was held that though determination of stranded capacity is a sine qua non for applying relinquishment charges, the same cannot be determined in cases where LTA has been granted on existing system margins. Therefore, this Commission deemed it just and proper to hold that in cases where LTA has been granted on an existing system, only the 'All India Minimum POC rate' shall be applied instead of the total transmission charges applicable to such relinquishing entity. It is relevant to note that the POC charge is one out of the three components of transmission charges and is distinct from the reliability support charge and HVDC charge, which form the other two components.
- (j) Even with respect to the relinquishment of LTAs, which were granted upon system augmentation, it is only 66% of the NPV of the transmission charges of such augmented lines/substation, which is payable. If such an augmented system/specified system under the relinquished LTA includes an HVDC asset, only in such a case, the transmission charge towards such HVDC asset will be included while calculating relinquishment charges.

- (k) The aforesaid order dated 08.03.2019, passed in 92/MP/2015, has been assailed by several entities before the APTEL in several appeals amongst Appeal No.(s) 171, 250 and 251 of 2019. Amongst others, one of the issues pending adjudication before APTEL is whether there could be any stranding in the system due to relinquishment of LTA by those entities that were granted LTA on existing system margins.
- (l) In the Appeal No. 251/2019 titled SKS Power Generation (Chhattisgarh) Limited vs. CERC and Ors, APTEL vide its order dated 08.10.2020, was pleased to restrain the PGCIL from issuing any invoice towards relinquishment charges during the pendency of appeals before the APTEL.
- (m) On 11.12.2019, this Commission vide its order in 252/MP/2019 directed CTU to ensure that all the data which was relied upon to calculate relinquishment charges must necessarily be furnished to the relinquishing entity.
- (n) CTU thereafter published on its website a detailed procedure for determining relinquishment charges. The procedure notified on 20.5.2019 did not deal with the relinquishment of the LTA granted on existing margins; however, the procedure dated 9.8.2021 provides for the same. The said procedure dated 9.8.2021, applies not only to All India Minimum POC charges but also reliability support charges in case of relinquishment by DICs who have been granted LTA on the existing system, i.e. without any system augmentation.
- (o) On 4.5.2020, this Commission issued the CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020. The said regulation superseded the CERC Sharing Regulations, 2010, and laid down an altogether new methodology for determining the transmission charges. The new sharing regulation came into effect from 1.11.2020; however, in terms of the 'transition provision' under the Sharing Regulation 2020, the transmission charges for November and December 2020 are required to be determined under the CERC Sharing Regulation, 2010. The CERC Sharing Regulation, 2020 has done away with the POC methodology, but it has saved all acts done under the earlier regulations. The CERC Sharing Regulations, 2020 provides for the following four components of transmission charges:
- i. National component

- ii. Regional component
 - iii. Transformer Component
 - iv. AC system Component
- (p) On 21.2.2021, this Commission approved the transmission charges and losses for the month of October-November, 2020, based on the CERC Sharing Regulations, 2010. It was also held that the transmission charges and losses payable from January 2021 onwards shall be in terms of the CERC Sharing Regulations, 2020.
- (q) In September 2020, Power Research and Development Consultants Pvt. Ltd., being the consultant appointed by the petitioner before the relinquishment of LTA, submitted a report to the Petitioner on the future load flow study in the system due to the relinquishment of the petitioner's LTA. The said report concludes that the maximum reduction in load flow on all ISTS lines directly connecting Nalagarh sub-station and other sub-stations in the northern region is only 56 MW, and that too in the off-peak season.
- (r) On 23.08.2021, the Petitioner sent a notice to CTU, thereby relinquishing the entire LTA with immediate effect, as the Petitioner had been and is continuing to sell power in the inter-state on a short-term basis to the power exchange.
- (s) On 27.08.2021, the CTU accepted the request for relinquishment of the entire LTA of 168.96 MW w.e.f. 24.8.2021. Further, the CTU made it clear that the relinquishment is subject to payment of transmission charges as per the order dated 8.3.2019 passed in 92/MP/2015. CTU did not state in the aforesaid letter that the relinquishment is subject to payment of All India minimum transmission charges under the CERC Sharing Regulation 2020.
- (t) On 24.12.2021, the CTU vide its letter to the Petitioner stated that the relinquishment charges towards Petitioner's relinquishment are calculated at Rs. 58.33 crores under CTU's notification dated 22.12.2021. In the aforesaid notification, CTU has calculated relinquishment charges on the entire LTA capacity of 168.96 MW. Instead of applying 'all India minimum POC charges' as per order dated 8.3.2019, it had erroneously and arbitrarily applied 'All India minimum transmission charges' purportedly published on the NLDC website.

- (u) On 06.01.2022, the Petitioner addressed a letter to CTU, disputing the calculation stated in the letter dated 24.12.2021. The Petitioner requested CTU to withdraw the letter dated 24.12.2021, which was not in terms of the order dated 8.3.2019 and also requested CTU to refer the matter to CERC instead of demanding self-imposed and arbitrary charges. The said letter has not been replied by CTU.
- (v) As on the date of the relinquishment, the petitioner has paid total LTOA charges of Rs. 385.92 crores approximately.
- (w) In the case of the relinquishment of LTAs granted on the existing system, and that too without having any identified beneficiary, there could be no stranding in the system. The entire sale of power by the Petitioner, being on a short-term basis through bilateral/ IEX, is always subject to the lowest priority compared to any other long-term or medium-term customers having tied up power with an identified beneficiary. The Petitioner was granted LTA only on the existing margin, and in the event of a system constraint, the Petitioner's power will carry the least priority amongst the LTA holders having tied-up PPAs. Thus, the Petitioner has used the spare system margins at all times. In other words, the 'right' of open access granted to the Petitioner was restricted and conditional upon the availability of spare margin in the system. Thus, it is submitted that in such circumstances, it cannot be said that the Petitioner's relinquishment of LTA causes any stranding in the system. This aspect was not considered by this Commission while rendering the decision in 92/MP/2015.
- (x) In the case of DICs, which have been granted LTA on an existing system, the system already had a spare margin, and the existing DICs were already paying for such a system, including the spare margin, before the LTA was granted. By granting the LTA on such a spare margin, the new DIC contributes to the system, thereby lowering the burden on existing DICs. Thus, if such DIC (like the Petitioner) relinquishes the LTA later, it cannot be said to cause any stranding in the system or create any burden on the other DICs. The Petitioner herein was also granted LTA on the system already existing in the region, the cost of which was borne by the existing DICs. In fact, the Petitioner had to carry out an uphill task to connect its station to the PGCIL's Nalagarh station by drawing a dedicated line in one of the most difficult terrains. No system strengthening was carried out by PGCIL for the Petitioner's

power, and hence, there could be no stranding in the system for the reason explained above.

- (y) This issue is presently pending consideration before APTEL in appeals filed against the order dated 8.3.2019 in 92/MP/2015. Thus, all grounds urged in the present appeal are without prejudice to this primary submission.
- (z) The current regulatory framework governing the methodology for determination of relinquishment charges is the order dated 8.3.2019, read with regulation 18 of the CERC Connectivity Regulations, 2009. In the absence of any amendment in the aforesaid regulatory framework, CTU ought to have applied the same. Even if the CTU was of the view that there is some regulatory gap on the methodology of determining relinquishment charges after the issuance of CERC Sharing Regulations, 2020, the CTU, being a statutory body, ought to have approached this Commission for necessary clarity instead of arbitrarily applying some charge contrary to the order dated 8.3.2019 in petition 92/MP/2015.
- (aa) Without prejudice and assuming that the CERC Sharing Regulation, 2020 is applicable to relinquishment under Regulation 18, it is submitted that only the AC-UBC component as applicable to the petitioner ought to be applied. Under the order dated 8.3.2019 in 92/MP/2015, this commission, by applying the minimum POC charge (being the charge for the usage of the system), excluded the assets not in use thereby excluding the other two components under the CERC Sharing Regulations, 2010, viz. HVDC Charge and Reliability support charge. Thus, it has been this commission's intent that the HVDC charge must not be applied in case of relinquishment of the LTA where no system augmentation/strengthening has taken place. The same intent must also carry forward while deciding the applicability under the CERC Sharing Regulations, 2020. In view thereof, the national component and the regional component, which includes the cost towards HVDC assets and reliability support assets largely, ought not to be considered while determining relinquishment charges.
- (bb) Ideally, the relinquishment charge is based on 66% of the transmission charges payable for the relinquished asset multiplied by the stranded capacity. Thus, the relinquishing entity has to pay the transmission charges for the system for which it

was granted an LTA. However, in the case of LTAs granted on the existing system, no specific system in use by the DIC is identified, and thus, it is difficult to ascertain which system the DIC should pay for in case of relinquishment. Thus, this Commission applied the 'All India minimum POC Charge' to overcome such shortcomings. The POC charge under the 2010 regulations was based on usage and was sensitive to distance, direction and quantum of power. Under the CERC Sharing Regulations, 2020, the AC-UBC component determines charges based on the usage of the AC System by each entity, thereby making it a usage-based charge. Under the CERC Sharing regulations, 2020, the AC-UBC charge is most reflective of distance, direction and quantum of flow. The AC-UBC determined by NLDC for the petitioner reflects the transmission charges towards the AC system actually used by the petitioner for the sale of power under the LTA granted to it for the Target Region (Northern Region). Thus, in the event of the relinquishment of LTA, only the AC-UBC charge could have been applied to the petitioner.

- (cc) This Commission, in the statement of reasons issued for CERC Sharing Regulations, 2020, expressly made it clear that the said regulation does not apply to relinquishment charges. Such being the legislative intent, clearly expressed in the statement of reasons, the CTU ought not to have acted contrary to it.
- (dd) Assuming that there is stranding in the system due to relinquishment of the LTA granted on the existing system, such stranding ought to be determined by comparing the system margin as it existed before the grant of LTA versus the system margins post relinquishment of LTA. The changes in load flow in the ISTS lines connected to the ISTS Sub-station, where the petitioner is connected, would demonstrate the real stranding in the system. It is submitted that the load flow study report prepared by the petitioner's consultant, analyzed the load flow in all the ISTS lines directly connected to Nalagarh sub-station and other sub-station in northern region (Patiala and Mohali) and concluded that the maximum decrease in load flow is 56 MW by way of line loading and that too in the lines from Nalagarh to Mohali and Nalagarh to Patiala during off-peak season.
- (ee) In the absence of an amendment to the order dated 8.3.2019 and Regulation 18 of the CERC Connectivity regulations, 2009, the NLDC, being the implementing agency, should have continued to calculate the POC charges for the purpose of

applying the said charges to the relinquishing DICs who have been granted LTA on the existing system.

(ff) The Petitioner has submitted that it is not allowed to sell power in the State of Himachal Pradesh where its plant is located for its entire O&M period therefore, it continues to avail and pay for short-term open access in inter-state on the same injecting point and the same target region as the LTA. Thus, to the extent the Petitioner is paying the STOA charges in the system, the same are utilised to reduce the LTOA charges, thereby reducing the overall impact on the other DICs. This charge must therefore be accounted for while calculating the liability towards relinquishment charges. It is submitted that the Petitioner transmits around 550 million units annually through the ISTS system (excluding free power component and transmission losses). As of today, the prevailing STOA charge is Rs. 0.51 / unit, which, if paid for the period falling short of 12 years, comes to about Rs. 28 crores. If the same charge is paid for the remaining 29 years, the same comes to about 812 crores. Thus, to this extent, the Petitioner will continue to serve the system, thereby reducing stranding due to relinquishment.

(gg) The 'notice period charge' must not be applied to the Petitioner since the Petitioner has relinquished its LTA in the 11th year. The scheme of Regulation 18 is such that relinquishment charges are payable until the 12th year and not beyond. Thus, the Petitioner herein was only left with one year until completion of 12 years, and hence it must not be liable to pay notice period charges in the given facts of the case, as it would lead to payment for two years beyond the 11th year, while relinquishment charges are not payable beyond the 12th year. It would, in effect, be tantamount to charging for 13 years, which is not the scheme envisaged under Regulation 18 of the CERC Connectivity Regulations, 2009.

(hh) This Commission, in an order dated 8.3.2019, passed in 92/MP/2015, expressed its intention to provide an incentive for LTA customers to relinquish LTAs, if required, before the expiry of the full term. The application of 'all India Minimum transmission charges' on the petitioner completely takes away such an incentive and makes relinquishment burdensome and unreasonable.

- (ii) CTU has taken a completely inconsistent stand in relation to the applicability of the order dated 8.3.2019, passed in petition no. 92/MP/2015. The CTU, vide its letter dated 28.8.2021, whereby it accepted the request for relinquishment stated in clear terms that the relinquishment charge shall be calculated in accordance with the methodology specified in the order dated 8.3.2019 passed in 92/MP/2015. Also, in its letter dated 24.12.2021, the CTU has again relied upon the order dated 8.3.2019 in petition 92/MP/2015. However, in its notification dated 22.12.2021, the CTU has ignored the order dated 8.3.2019 on the pretext that 'after the effectiveness of CERC Sharing Regulations, 2020, slabs for POC rates are not available'. Petitioner cannot be made liable to pay relinquishment charges in excess of the All India Minimum POC rate.

Submissions of the Petitioner in I.A. No. 15/2022:

3. The Petitioner in IA No. 15/2022 has prayed for a stay on the operation of the impugned letter dated 24.8.2021 and also sought a direction to the Respondent, CTUIL, not to precipitate the matter or in any manner coerce the Petitioner to make payment towards the impugned demand.

Hearing dated 05.08.2022

4. The Learned counsel for the Respondent, CTUIL, accepted the notice and sought time to file a reply to the Petition. Learned counsel further referred to the CTUIL's communication dated 22.12.2021 and submitted that, as per the Commission's order dated 8.3.2019, in case of LTA on the existing system, calculation of relinquishment charges shall be at the All India Minimum POC rate. However, after the effectiveness of the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2020 ('Sharing Regulations, 2020'), the slab of POC rates is not available. Learned counsel submitted that as per the Sharing Regulations, 2020, YTC of all components of transmission charges except transformer component and bilateral charges is to be paid by the Petitioner and accordingly, the relinquishment charges of the Petitioner have been calculated for August, 2021 time frame considering the All India minimum transmission charges as published by NLDC, which worked out to Rs. 58.33 crore. Learned counsel added that there is no infirmity in the aforesaid demand of relinquishment charges raised by CTUIL.

5. In rebuttal, learned counsel for the Petitioner, while contesting the application of the Sharing Regulations, 2020 by CTUIL in computing the relinquishment charges, submitted that neither the Commission's order dated 8.3.2019 nor Regulation 18 of the Connectivity Regulations has been amended or superseded by the Sharing Regulations, 2020. Learned counsel pointed out that the Commission at paragraph 52.3.2 of the Statement of Reasons to Sharing Regulations, 2020 has expressly made it clear that the relinquishment charges are not the subject matter of the said regulations. Learned counsel also submitted that in specifying the computation of relinquishment charges by considering the "All India Minimum POC rate", the Commission specifically did not include the "cost of HVDC assets" and "reliability support charges" therein. However, under the framework of the Sharing Regulations, 2020, the 'national' and 'regional' components specified therein include the HVDC and reliability support charges as provided under the Sharing Regulations, 2010.
6. In response to the specific query of the Commission regarding beneficiaries of the Petitioner's Project, learned counsel for the Petitioner submitted that the power of the Petitioner's generating station has not been tied up with any beneficiaries, and the Petitioner is selling the power on power exchanges. Learned counsel for CTUIL clarified that the LTA was granted to the Petitioner for the Northern Region as the target region.
7. After hearing the learned counsel for the parties, the Commission ordered as under:
 - (a) The Petitioner to implead all the distribution licensees of the Northern Region and file a revised memo of parties within a week.
 - (b) Admit. Issue notice to the Respondents, including distribution licensees of the Northern Region.
8. The Petitioner, in Compliance with the RoP for the hearing dated 05.08.2022, has impleaded all the distribution licensees of the Northern Region and has filed a revised memo of parties on 12.08.2022.

Reply by Respondent, CTUIL

9. The Respondent, CTUIL vide affidavit dated 05.11.2022 in its reply has mainly submitted as under:

- (a) Petitioner applied to CTUIL/ PGCIL vide application dated 18.7.2005 for the grant of LTOA for 192 MW with Northern Region as the target region. After discussions in a Meeting held on 25.4.2007, the said access was granted to the Petitioner vide intimation dated 26.4.2007, subject to signing of the requisite BPTA for sharing the applicable transmission charges. The open access was granted from June 2010 (in a phased manner) or from the actual CoD of the project, whichever was earlier and was to be valid for a period of 40 years. The quantum of LTOA was subsequently revised to 168.96 MW vide intimation dated 20.11.2015 in line with Order dated 16.10.2015 passed by this Commission in Petition No. 210/MP/2014.
- (b) At the time when the BPTA was executed by the Petitioner, the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2004 ["Open Access Regulations, 2004"] were in force. It may be mentioned here that under the Open Access Regulations, 2004, there was no linkage of relinquishment compensation and any stranded capacity in ISTS, as was introduced in subsequent Regulations of this Commission.
- (c) Under the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010, all entities that were physically connected with the ISTS were required to share YTC, which was to be computed in advance and was payable monthly, recovered fully and exactly.
- (d) The LTOA granted to the Petitioner was operationalised on 16.09.2010. Accordingly, the transmission charges invoices were raised against the Petitioner in accordance with the Sharing Regulations, 2010.
- (e) This Commission held in order of Petition No. 92/MP/2015 that when LTOAs/LTAs granted on existing margins were relinquished, there could be no load flow study carried out and consequently, no stranded capacity could be determined. In these circumstances, this Commission considered it appropriate to provide for the computation of relinquishment charges by applying the All India Minimum PoC Rate. The Petitioner is therefore wrong in contending that there can be no levy of relinquishment charges when LTA is granted (on target region) with existing system

margins. The Petitioner is also wrong in contending that Respondent No.1 ought to have examined the aspect of stranded capacity while computing relinquishment charges for its relinquished LTOA.

- (f) From the Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009, it follows that for any relinquishment which was not accompanied by the prescribed notice period, charges for the deficient period were to be computed and added to the charges for relinquished LTA.
- (g) For computation of transmission charges, YTC of all the components of transmission charges except Transformer Component and bilateral charges are to be paid by the Petitioner, as an LTA customer on target region and a DIC as per the Sharing Regulations, 2020. In furtherance of the provisions of the said Sharing Regulations and the All-India minimum transmission charges published by NLDC on its website, the relinquishment charges of the Petitioner have been calculated by CTUIL.

Petitioner's Rejoinder in response to CTUIL's Reply

10. The Petitioner, in its rejoinder vide affidavit dated 05.01.2023 in response to CTUIL's Reply, has mainly submitted as under:

- (a) The relinquishment charges are payable to cover the shortfall in payment of transmission charges occasioned by the exit of the relinquishing entity. This being the objective as per CTUIL, even if it is assumed that the petitioner is liable to pay relinquishment charges, the STOA charges paid by the petitioners must be set off against the relinquishment charges, as the STOA charges serve the system to that extent and reduce the overall stranding. This aspect of the matter was not considered by this Commission in its order dated 8.3.2019 on 92/MP/2015.
- (b) Regulation 18 of the CERC Connectivity Regulation, 2009 explicitly provides for 'stranding' which was otherwise already implicit within the CERC open access Regulations, 2004 and the BPTA. Compensation under common law, as also under the Indian Contract Act, 1972, has to be 'reasonable'. It requires no further elaboration that compensation is not in the form of a penalty for one and a bounty for another. Occurrence of 'loss' or 'damage' is sine quo non for payment of

compensation, as is well settled in a plethora of decisions. Hence, whether or not the concept of 'stranding' was incorporated in the CERC Open Access Regulations, 2004, or the BPTA is insignificant inasmuch as, while determining 'reasonable compensation', the factor of stranding would be one of the most relevant considerations.

- (c) CTUIL has not controverted the specific contention of the petitioner that 'POC rate' under the CERC sharing Regulation, 2010 and 'transmission charge' under the Sharing Regulation, 2020 are incomparable. The petitioner has specifically contended that the transmission charges towards 'HVDC assets', 'RE Assets' and 'Reliability support' charge never formed part of the POC charge, which forms a substantial part of the 'Transmission charges' determined under the CERC Sharing Regulations, 2020.
- (d) Even assuming that the CERC Sharing Regulations, 2020 has to apply to relinquishment by the petitioner, only the AC-UBC charge applicable to the petitioner could have been applied as contended in detail in the main petition. The respondent no.1 has not controverted the petitioner's contention that the AC-UBC charge is the most comparable charge to the minimum POC, as it is based on actual usage.

Hearing dated 01.05.2024

11. Learned counsel for the Petitioner and CTUIL made detailed submissions regarding the method of calculation of the relinquishment charges. After hearing the rival arguments, the Commission directed the Petitioner to submit a copy of CTUIL's letter dated 12.3.2024. The Commission also directed the CTUIL to submit the following information:

- (a) Basis of consideration of 'All India minimum transmission charges' for calculation of relinquishment charges in case of the Petitioner and its response to the Petitioner's contention that for the calculation of relinquishment charges of the Petitioner, only AC-UBC charges under the 2020 Sharing Regulations should be considered.
- (b) Basis of consideration of stranded capacity for calculation of relinquishment charges of the Petitioner
- (c) Whether the calculation of relinquishment charges of the Petitioner will undergo any

change subsequent to the treatment of the dedicated transmission line constructed by the Petitioner as deemed an ISTS line as per APTEL order dated 31.10.2022.

Petitioner's Submissions in 68/IA/2024:

12. The Petitioner has reiterated its submissions and mainly submitted as under:

- (a) Notably, as no invoice was issued by CTUIL till 12.3.2024, there was no urgent cause for the petitioner to press the interlocutory application filed with the instant appeal, especially when the main petition itself was being listed for final hearing. Pending final hearing in the main petition, the CTUIL has issued an invoice dated 12.3.2024. As per directions in the order 8.3.2019 passed in 92/MP/2015, the relinquishing entity is granted 6 months to clear the invoice.
- (b) The order dated 8.3.2019 in 92/MP/2015 has been challenged by similarly placed generators before the APTEL. Therein, among other grounds, one of the grounds for challenge is that there can never be any stranding in the system upon relinquishment of the LTA granted on existing system margins. The petitioner did not challenge the order dated 8.3.2019 passed in 92/MP/2015, as there was no cause for the petitioner to challenge the same at that stage, since the petitioner relinquished its LTA much later. Since the entire methodology devised vide order dated 8.3.2019 is pending challenge before APTEL, it restrained CTUIL from raising any invoice. The petitioner cannot be discriminated against merely because the petitioner is not a party before APTEL.
- (c) The impugned demand is about 4 times the amount which would have been levied, had CTUIL applied the 'ALL India Minimum POC Rate'. If 'All India Minimum POC rate is applied', the total maximum demand would be Rs. 15.44 Cr. as opposed to the impugned demand of Rs. 58.33 cr.
- (d) From the date of relinquishment till September 2022 (being the completion of a 12-year period of LTOA), the petitioner paid an amount of Rs. 10.75 cr. as STOA charges and thus has contributed to the system to that extent, thereby reducing the loss cause, if any, to other LTOA customers. Hence, these charges ought to be reduced to arrive at the final compensation.

13. The Petitioner in its notes of arguments dated 27.08.2024 & CTUIL in its written

submission dated 28.08.2024 have mainly re-iterated the points which are already covered in the submissions made before this Commission.

CTUIL's Compliance with the RoP

14. The Respondent, CTUIL vide affidavit dated 04.09.2024 in compliance with the RoP for the hearing dated 01.05.2024 has mainly submitted as under:

Basis of consideration of 'All India minimum transmission charges' for calculation of relinquishment charges in case of the Petitioner, and response to the Petitioner's contention that for the calculation of relinquishment charges of the Petitioner, only AC-UBC charges under the 2020 Sharing Regulations should be considered.

- (a) As per Commission order dated 08.03.2019 in Petition No. 92/MP/2015 (Power Grid Corporation of India Limited v. KSEB and Ors.), in case of LTA on the existing system, calculation of relinquishment charges shall be at the All India Minimum PoC rate. AD Hydro was granted LTA for the existing transmission system; accordingly, the All India Minimum PoC rate was to be applied in calculating the relinquishment charges for the petitioner. However, after the effectiveness of the Sharing Regulations, 2020, the slab for POC rates is not available. Further, the Commission, vide order dated 21.02.2021, while determining PoC rates for the period from Oct'20 to Nov'20, has also stated that transmission charges for the period from 1.11.2020 shall be in accordance with the CERC (Sharing of inter-state transmission charges and losses) Regulations, 2020.
- (b) As per the Sharing Regulations, 2020, YTC of all the components of transmission charges except the Transformer Component and Bilateral Charges is to be paid by Petitioner. Accordingly, the relinquishment charges for M/s ADHPL have been calculated for the August 21 timeframe, based on the All India minimum transmission charges published on the NLDC website.

Basis of consideration of stranded capacity for calculation of relinquishment charges of the Petitioner

- (c) The petitioner was granted LTA on the existing transmission system, i.e. based on margins available in the existing systems. No specific lines are indicated while granting access to the existing transmission system. Accordingly, relinquishment

charges for the petitioner were calculated as per this Commission order dated 08.03.2019 in Petition No. 92/MP/2015.

Whether the calculation of relinquishment charges of the Petitioner will undergo any change subsequent to the treatment of the dedicated transmission line constructed by the Petitioner as deemed an ISTS line as per the APTEL order dated 31.10.2022

(d) The Petitioner was granted LTA on the existing transmission system beyond Nalagarh Sub-station, and the BPTA/LTA Agreement was signed for the existing transmission system. AD Hydro – Nalagarh 220kV D/c line was not included in the agreement, as it was a dedicated line in nature.

(e) As per this Commission's order dated 08.03.2019 in Petition No. 92/MP/2015, transmission lines covered under BPTA/ LTA agreements of generators who have relinquished the capacity or abandoned their projects shall only be captured. However, in case the 220kV AD Hydro – Nalagarh D/c line is considered as part of M/S AD Hydro LTA, it shall be treated as system augmentation, which will lead to a revision in the calculation of relinquishment of charges, with the methodology stipulated in the Commission order dated 08.03.2019.

Hearing dated 18.10.2024

15. During the course of the hearing, the learned senior counsel for the Petitioner and the learned counsel for the Respondent, CTUIL, made their respective submissions and concluded their arguments.

16. Further, keeping in view that the Petitioner has already deposited the amount as directed vide Record of Proceedings for hearing dated 29.8.2024, interim protection operating in the favour of the Petitioner will continue until the outcome of the matter.

17. Subject to the above, the Commission reserved the matter for order.

Petitioner's Written Submission dated 07.11.2024

18. The Petitioner vide its written submission dated 07.11.2024, apart from the submissions covered, has mainly submitted as under:

(a) The last determined All India Minimum POC rate was for the month of November

2020, as per which the All India Minimum POC rate is Rs.58,219/MW. Applying the said rate, even if the petitioner is held liable to pay notice period charges, the total liability would be Rs. 15,44,77,601.

- (b) The regulatory intent as per the Sharing Regulation 2020 is explicit inasmuch as it fixed liability at 10% of the total state charges in cases where LTA is granted on the existing system, as no investment is made for the LTA grantee. The intent behind Reg. 13(7) is also to provide for compensation mechanism in which the generator compensates the other DICs for the mismatch period. The same methodology should also apply to the relinquishment of the LTA granted on the existing system, as the intent of levying relinquishment charges is also compensatory.
- (c) In the event the CERC Sharing Regulations, 2020 are applied, it is only the AC-UBC component determined for the petitioner which could be applied, since the said component is the only component that is calculated on the basis of the usage of the system by the Petitioner. Application of the AC-UBC component satisfies the object of the order dated 08.03.2019 in 92/MP/2015 of ensuring that the stranding and relinquishment charges should, as nearly as possible, be determined for the system put in use by the relinquishing DIC. Also, the AC-UBC component does not include any asset, not in use by the Petitioner, including HVDC assets, reliability assets, and/or any assets built specifically for RE projects.
- (d) On the issue of the impact of the declaration of the ADHPL-NALAGARH 220 kV DC Line as deemed ISTS by APTEL, the petitioner submits that APTEL vide decision dated 31.10.2022, passed in Appeal no. 450/2019, much after relinquishment of the LTOA by the petitioner, declared the dedicated asset as deemed ISTS. APTEL held that the asset is deemed ISTS only from the date EPPL connected to the asset, not from its inception. Thus, the nature of the line continued to remain dedicated, except when it is utilised by other entities. Hon'ble APTEL further held that the asset would revert back as dedicated asset when other entities disconnect from it. LTOA was never granted on the 220 kV DC line, but only on the Nalagarh s/s of PGCIL with the northern region as the target region. The LTOA grant remains unaltered even after the decision of the Hon'ble Tribunal. Hence, the declaration of a dedicated line as deemed to be an ISTS by the Hon'ble Tribunal has no impact on the determination of relinquishment charges.

Analysis and Decision:

- 19.** Petitioner has submitted that it applied LTOA for its 192 MW project on 18.07.2005 as per the then prevailing CERC Regulations, 2004, for the injection of power at Panarasa/ Nalagarh. On 26.04.2007, PGCIL granted long term open access (LTOA) to the Petitioner at Nalagarh Sub-station of PGCIL, and the Petitioner signed BPTA with PGCIL on 11.09.2009. The Petitioner commissioned its project, including its Dedicated Transmission Line up to Nalagarh, on 16.09.2010.
- 20.** The Petitioner has submitted that it has sent a notice to CTU on 23.08.2021, thereby relinquishing the entire LTA with immediate effect, as the Petitioner had been and is continuing to sell power in the inter-state on a short-term basis to the power exchange. On 27.08.2021, the CTU accepted the request for relinquishment of the entire LTA of 168.96 MW w.e.f. 24.8.2021. The CTU vide its letter dated 24.12.2021 stated that the relinquishment charges towards Petitioner's relinquishment are calculated at Rs. 58.33 crores under CTU's notification dated 22.12.2021. It is the Petitioner's contention that instead of applying 'all India minimum POC charges' as per the order dated 8.3.2019, it had erroneously and arbitrarily applied 'All India minimum transmission charges' purportedly published on the NLDC website.
- 21.** The Petitioner has submitted that in the case of the relinquishment of LTAs granted on the existing system, and that too without having any identified beneficiary, there could be no stranding in the system. The entire sale of power by the Petitioner, being on a short-term basis through bilateral/ IEX, is always subject to the lowest priority as compared to any other long-term or medium-term customers having tied up power with an identified beneficiary. Therefore, it is submitted that in such circumstances, it cannot be said that the Petitioner's relinquishment of LTA causes any stranding in the system. This aspect was not considered by this Commission while rendering the decision in 92/MP/2015. Assuming that there is stranding in the system due to relinquishment of the LTA granted on the existing system, it is Petitioner's submission that such stranding ought to be determined by comparing the system margin as it existed before the grant of LTA versus the system margins post relinquishment of LTA. It is submitted by the Petitioner that the load flow study report prepared by Petitioner's consultant, analyzed the load flow in all the ISTS lines directly connected to Nalagarh sub-station and other sub-station in northern region (Patiala and Mohali) and concluded that the maximum

decrease in load flow is 56 MW by way of line loading and that too in the lines from Nalagarh to Mohali and Nalagarh to Patiala during off-peak season.

22. Further, the Petitioner has submitted that it is not allowed to sell the power in the State of Himachal Pradesh, where its plant is located, for its entire O&M period; it continues to avail and pay for short-term open access (STOA) in inter-state on the same injecting point and the same target region as the LTA. Thus, to the extent the Petitioner is paying the STOA charges in the system, the same are utilised to reduce the LTOA charges, thereby reducing the overall impact on the other DICs. This charge must therefore be accounted for while calculating the liability towards relinquishment charges. Further, it is Petitioner's contention that the 'notice period charge' must not be applied to the Petitioner since the Petitioner has relinquished its LTA in the 11th year. The scheme of Regulation 18 is such that relinquishment charges are payable until the 12th year and not beyond.

23. The Petitioner has further submitted that, without prejudice and assuming that the CERC Sharing Regulation, 2020 is applicable to relinquishment under Regulation 18, it is only the AC-UBC component as applicable to the petitioner ought to be applied. Under the order dated 8.3.2019 in 92/MP/2015, this commission, by applying the minimum POC charge (being the charge for the usage of the system), excluded assets not in use, thereby excluding the other two components under the CERC Sharing Regulations, 2010, viz. HVDC Charge and Reliability support charge. Thus, it was this commission's intent that the HVDC charge must not be applied in the case of relinquishment of LTA where no system augmentation/ strengthening has taken place. The same intent must also carry forward while deciding the applicability under the CERC Sharing Regulations, 2020. In view thereof, the national component and the regional component, which includes the cost towards HVDC assets and reliability support assets largely, ought not to be considered while determining relinquishment charges.

24. The Respondent, CTUIL, in the instant petition, has submitted that at the time when the BPTA was executed by the Petitioner, the CERC (Open Access in inter-State Transmission) Regulations, 2004, were in force. The said Regulations contemplated [in Regulation 9] grant of LTOA with the existing system or with system strengthening wherever required. A long-term customer may relinquish its rights and obligations

specified in the BPTA upon payment of compensation as determined by this Commission. The regulatory scheme clearly provided that relinquishment or exiting from the ISTS was to come with an attached liability of paying compensation. Further, the Petitioner has submitted that this Commission, in order of Petition No. 92/MP/2015, held that when LTOAs/LTAs granted on existing margins were relinquished, no load flow study could be carried out, and, consequently, no stranded capacity could be determined. In these circumstances, this Commission considered it appropriate to provide for the computation of relinquishment charges by applying the All India Minimum PoC Rate. The Petitioner is therefore wrong in contending that there can be no levy of relinquishment charges when LTA is granted (on target region) with existing system margins.

25. The Respondent, CTUIL, has further submitted that for any relinquishment which was not accompanied by the prescribed notice period, charges for the deficient period were to be computed and added to the charges for relinquished LTA. It is submitted that for the computation of transmission charges, YTC of all the components of transmission charges except the Transformer Component and bilateral charges are to be paid by the Petitioner as an LTA customer in the target region and a DIC as per the Sharing Regulations, 2020. In furtherance of the provisions of the said Sharing Regulations and the All-India minimum transmission charges published by NLDC on its website, the relinquishment charges of the Petitioner have been calculated by CTUIL.

26. The Respondent, CTUIL, has further submitted that, as per the Commission order dated 08.03.2019 in Petition No. 92/MP/2015, in case of LTA on the existing system, calculation of relinquishment charges shall be at the All India Minimum PoC rate. As AD Hydro was granted LTA on the existing transmission system, accordingly, the All India Minimum PoC rate was to be applied while calculating the relinquishment charges. However, after the effectiveness of the Sharing Regulations, 2020, the slab for POC rates is not available. Further, the Commission, vide order dated 21.02.2021, while determining PoC rates for the period from October 2020 to November 2020, has also stated that transmission charges for the period from 1.11.2020 shall be in accordance with CERC (Sharing of inter-state transmission charges and losses) Regulations 2020. Therefore, as per the Sharing Regulations, 2020, YTC for all components of transmission charges, except the Transformer Component and Bilateral Charges, is to be paid by the Petitioner. Accordingly, relinquishment charges for M/S ADHPL have

been calculated for the August 2021 timeframe based on the All India minimum transmission charges published on the NLDC website.

27.Based on the submission made by the Petitioner and the Respondents, the following issues arise for our consideration:

Issue No. 1: Is the determination of relinquishment charges by Respondent no.1 vide its letter dated 24.12.2021 and the notification dated 22.12.2021 required to be set aside? What shall be the methodology for the determination of relinquishment charges, including rates to be levied for such relinquishment?

Issue No. 2: Whether notice period charges shall be applicable to the Petitioner?

Issue No. 1: Is the determination of relinquishment charges by Respondent no.1 vide its letter dated 24.12.2021 and the notification dated 22.12.2021 required to be set aside? What shall be the methodology for the determination of relinquishment charges, including rates to be levied for such relinquishment?

28.The Petitioner has submitted that it has developed the 192 MW Allain Duhangan Hydro Electric Project in Himachal Pradesh for which the Petitioner had Long Term Open Access (LTOA) of 168.96 MW at Nalagarh Sub-station of PGCIL. Petitioner has sent a notice to CTU on 23.08.2021, relinquishing the entire LTA with immediate effect, as the Petitioner had been selling power in the inter-state on a short-term basis to the power exchange. On 27.08.2021, the CTU accepted the request for relinquishment of the entire LTA of 168.96 MW w.e.f. 24.8.2021.

29.Petitioner has submitted that it is not liable to pay the relinquishment charges since, in the case of the relinquishment of LTAs granted on the existing system, there could be no stranding in the system. Further, assuming there is stranding in the system due to the relinquishment of the LTA granted on the existing system, such stranding ought to be determined by comparing the system margin as it existed before the grant of the LTA versus the system margins post relinquishment of the LTA. Petitioner has stated that only the AC-UBC component applicable to the petitioner ought to be applied.

30.Respondent, CTUIL, has submitted that a long-term customer could relinquish its rights and obligations specified in the BPTA upon payment of compensation as determined by this Commission. The regulatory scheme clearly provided that relinquishment or exit from the ISTS was to be accompanied by a liability to pay compensation. Commission

held in order of Petition No. 92/MP/2015 that when LTOAs/LTAs granted on existing margins were relinquished, there could be no load flow study carried out and consequently, no stranded capacity could be determined, and hence the computation of relinquishment charges is by applying the All India Minimum PoC Rate. Since the effectiveness of the Sharing Regulations, 2020, slab for POC rates was not available, the relinquishment charges of M/S ADHPL have been calculated for the August 21 timeframe, based on the All India minimum transmission charges published on the NLDC website.

31. We have considered the submissions of Petitioner and Respondents.

32. We have perused the CTUIL letter dated 24.12.2021 vide which relinquishment charges were informed to the Petitioner quoted as under:

To,
Chief Executive Officer
AD Hydro Power Ltd
Bhilwara Tower, A-12, Sector-I
Noida-201301

Sub: Relinquishment Charges payable by M/s AD Hydro Power Ltd as per CERC Orders dated 11th Dec' 2019 in petition No 252/MP/2019 and Order dtd 08.03.2019 in Petition No. 92/MP/2015.

Ref : 1.0 Long Term Access Agreement dated 11.09.2009

As you are aware that CERC vide order dated 11th Dec'2019 in Petition No. 252/MP/2019 issued direction to take action as per para 161(h) of the Commission's Order dated 08.03.2019 in Petition No. 92/MP/2015 in respect of relinquishment charges.

By way of the Notification Ref C/CTU/N/04/AD Hydro-REL dated 22.12.2021 (**Annexure--A**), M/s Central Transmission Utility of India Limited (CTUIL), as per CERC Order dated 08.03.2019 in petition no 92/MP/2015 has notified the calculation of stranded capacity and the relinquishment charges payable by M/s AD Hydro Power Ltd. towards the relinquishment of LTA, on CTU -website on 22.12.2021.

As per the said notification, M/s AD Hydro Power Ltd. is liable to pay an amount of Rs. 5833 Lakhs/- (Rupees Five Thousand Eight Hundred Thirty Three Lakhs only) towards relinquishment charges.

Thanking you,

सेंट्रल ट्रांसमिशन यूटिलिटी ऑफ इंडिया लिमिटेड

संदर्भ: C/CTU/N/04/AD Hydro-REL

दिनांक: 22-12-2021

विषय: Determination of Relinquishment Charges of M/s AD Hydro Power Ltd. (ADHPL) in accordance with the directions under petition no. 92/MP/2015 vide order dated 08/03/2019

1. CERC vide order dated 08.03.2019 in Petition No. 92/MP/2015 has established methodology for calculation of compensation (relinquishment charges) payable by each relinquishing long term customer.
2. M/s ADHPL was granted 168.96MW LTA on Target Region (NR) basis vide letter dated 17.07.2009 & 20.11.2015 w.e.f. April, 2010 for 40 years, (168.96MW for first 12 years & 157.44MW for next 28 years). The LTA was granted with existing ISTS. The LTA was operationalized w.e.f. 16.09.2010.
3. M/s ADHPL vide letter dated 23.08.2021, requested to relinquish LTA quantum of above LTA with immediate effect, accordingly, same was relinquished w.e.f. 24.08.2021 vide CTU letter dated 27.08.2021.
4. As per CERC order dated 08.03.2019, in case of LTA on existing system, calculation of relinquishment charges shall be at All India Minimum PoC rate. However, after effectiveness of CERC Sharing Regulations, 2020, slab for POC rates are not available. CERC vide order dated 21.02.2021 while determining PoC rates for period from Oct'20 to Nov'20 has also stated that transmission charges for period from 1.11.2020 shall be in accordance with CERC (Sharing of inter-state transmission charges and losses) Regulations 2020.
5. As per CERC Sharing Regulations, 2020, YTC of all the components of transmission charges except Transformer Component and Bilateral Charges is to be paid by M/s AD Hydro. Accordingly, relinquishment charges of M/s ADHPL have been calculated for Aug'21 timeframe considering All India minimum transmission charges as published on NLDC website and same are tabulated as below:

Sl.No.	Applicant	Region	LTA Granted (MW)	LTA Relinquished (MW)	LTA effectiveness date	Notice for Relinquishment	Relinquishment date	Stranded Capacity Charges (in Lacs)	Charges for Notice Period (in Lacs)	Total Compensation (in Lacs)
1	AD Hydro Power Ltd.	NR	168.96	168.96	16/09/10	23/08/21	24/08/21	3028	2805	5833

33. We have perused the LTA granted to the Petitioner by PGCIL on 26.04.2007, quoted as under:

ANNEXURE-1

**POWER GRID CORPORATION OF INDIA LTD.
Long Term Open Access - Intimation**

Reference No. C/ENG/SEF/N/ADHYDRO

Dated: 26th April, 2007

Ref: Application No.: Nil

Dated: 18th July, 2005

1. Name of the Customer : AD Hydro Power Ltd.
2. Address for correspondence : Bhilwara Towers, A-12, Sector -1, Noida – 201 301
3. The long term open access is hereby PERMITTED as per the details given below:

(a) Name(s) of the injecting utility : - Point(s) of injection of power (Nearest EHV Substations and Ownership of EHV substations) - Quantum of power injection into Inter-state Tr. network	i) AD Hydro Power Ltd. 220 kV bus of Nallagarh station of POWERGRID 192 MW
(b) Name of drawee utility : - Point(s) of drawl of power (Nearest EHV Substations and Ownership of EHV substations) - Name(s) of concerned SLDC	i) Haryana Power Generation Company Ltd. 400/220 kV substations of POWERGRID in the state of Haryana - Haryana SLDC - NRLDC
(c) Quantum of transmission capacity permitted :	192 MW
(d) Transmission requirement:	i) Allain Dhungan HEP – Nallagarh 220 kV D/c alongwith the 220 kV bays at both ends All the costs for implementation and O&M of above works to be carried out by AD hydro Ltd. ii) Power would be injected into 220 kV bus of Nallagarh station (220 kV Bus) of POWERGRID and onwards power transfer would be through Northern regional transmission system
(e) Date of commencement of open access :	April, 2008 / From the date of commissioning of Allain HEP, subject to the availability of Tr. system indicated at para (d) above by M/s AD Hydro and signing of requisite tariff agreements, whichever is later.
(f) Period for which the Open access is permitted :	40 years from the date of commencement of open access

As per above, the transmission requirement has been indicated as “Allain Dhungan HEP – Nalagarh 220 kV D/C Transmission Line, along with the associated 220 kV bays at the Nalagarh Sub-station” which is indicated as “all the costs and O&M were to be carried out by AD Hydro Ltd”. There is no other identified ISTS transmission system vide the abovesaid grant of LTOA.

34. The main issue involved in the instant Petition is the calculation of relinquishment charges as per Order dated 8.3.2019 in Petition No. 92/MP/2015. Relevant extract of said Order is quoted as under:

“121. The Commission after due consideration of the provisions of the Connectivity Regulations and IEGC, the submission of the parties and need for assessment of the stranded transmission capacity through load flow studies has devised a methodology to be followed for determination of stranded transmission capacity. The methodology for determination of stranded capacity is as under:

Step 1 (Base case)- An All India base case is required to be prepared based on the actual peak load for the month in which completion of all transmission lines/substations in each of the High Capacity Power Transmission Corridor or identified augmentation has been completed in the month in which commissioning of the last transmission line or substation element in the identified augmentation occurred. CTU shall identify the month as above and POSOCO shall provide the base case for this month based on peak load scenario used for TTC computation by POSOCO. Such base case file should include all the identified transmission system as above. On the base case file provided by POSOCO, CTU shall also include all generators who have either relinquished or abandoned in the concerned HCPTC corridor/augmentation. The injection of the generators who have relinquished the LTA or abandoned the project shall be considered as equal to the LTAs granted to the generators. For Long Term Customers who have relinquished after the above identified month, the base case scenario shall be considered based on actual peak load for the month in which relinquishment is effective. For load generation balance, generation from other existing generators in the same region, shall be reduced on pro-rata basis.

Step 2(Relinquished scenario)- The generators in each of the High Capacity Power Transmission Corridor/identified augmentation of transmission systems who have relinquished/abandoned shall be removed from the above base case or their injection shall be reduced by their relinquished quantum resulting into revised power flow under relinquished scenario. The generation from other existing generators in the same region shall be correspondingly increased.

Step 3- The transmission lines/substations covered under the system augmentation in terms of the respective BPTA/LTA agreements of generators which have relinquished the capacity or abandoned the project shall be segregated and separately listed for use in Step 4 below.

Step 4-Flow in Step 1 (Base case), Step 2 (Relinquished scenario) and Step 3, i.e., in the transmission lines covered under BPTA/LTA agreements of generators who have relinquished the capacity or abandoned their projects shall be captured.

Step 5-In case there is reduction in the flow, the difference in the transmission line flows between the Base case and the Relinquished scenario shall be treated as the stranded capacity of the line. In cases where there is increase in flow, the stranded capacity shall be considered as zero. Except for the cases where the stranded capacity is to be considered as zero, the percentage capacity of a particular line stranded is to be determined by dividing the difference obtained above by the loadability of the line as explained herewith. If the difference in two cases (Base case vis-à-vis Relinquished scenario) for individual lines is more than maximum quantum relinquished for the entire corridor/identified augmentation, the difference between the line flows shall be capped upto relinquished quantum for the corridor/ identified augmentation. The loadability of the line shall be considered as per loadability indicated by CTU on its website for ATC/TTC for the relevant period.

Step 6- Steps 1 to 5 shall be repeated for all the corridors based on the date of commissioning of the last transmission line/substation in that corridor. In case the transmission system planned under a particular corridor is under execution (i.e. the corridor is yet to be commissioned), the base case shall be prepared on the present peak load considering such elements as commissioned in the base case.

Step 7-The base case should be N-1 and N-1-1 compliant as per CEA Transmission Planning Criterion, 2013, Where the base case is not compliant with CEA Transmission Planning Criterion, 2013, the generation of the generating projects who have relinquished or abandoned the project shall be reduced on pro-rata basis to make the system N-1 and N-1-1 compliant. The quantum of such reduced generation is to be recorded separately as this quantum will not attract any charges towards stranded capacity.

.....

123. The methodology shall be applicable for the cases where the LTAs have been granted with identified system augmentation and generation projects have sought full or part relinquishment. The methodology shall not be applicable for dedicated transmission lines since it is the liability of the concerned generator to pay the transmission charges for such dedicated transmission line. Where long term customers have been granted LTA with such identified augmentation which was originally planned for some other LTA customers, such long term customers shall also be liable to pay relinquishment charges as per methodology specified above. The methodology of load flow as specified above shall not be applicable in case of HVDC. However, where the LTA has been granted with identified HVDC, the stranded capacity shall be identified based on capacity allocated to the long term customers on that HVDC line.

.....

132. CTU shall assess the stranded transmission capacity as above and calculate the charges payable towards relinquishment as follows in continuation to steps as detailed at para 121 above:

Step-8: As regards cost-plus projects, the Yearly Transmission Charge (YTC) for the identified transmission lines and substations shall be considered as per Commission's orders on determination of tariff of such lines. This would be based on quoted tariff in case of transmission system executed through Tariff Based Competitive Bidding (TBCB). The transmission charge for the substation shall be apportioned among the transmission lines on pro-rata basis emanating from that substation. The transmission charges shall be considered as on the date of the completion of all transmission lines/substations in each of the High Capacity Power Transmission Corridor i.e. the date of commissioning of the last transmission line/substation in the concerned corridor.

Step-9: For relinquishment charges, 66% of NPV for the transmission charges for stranded capacity for 12 years shall be calculated. The discount rate applicable for computing the net present value shall be the discount rate to be used for bid evaluation in the Commission's Notification issued from time to time in accordance with the Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees issued by the Ministry of Power in accordance with Regulation 18 (2) of the Connectivity Regulations. The relinquishment charges shall be apportioned amongst the LTA customers in the ratio of relinquishment sought by them after taking into account Step 7 at para 121 of this Order.

.....

Treatment of cases where LTA has been granted without system augmentation

.....

146. We have considered submissions of Petitioner and Respondents. The question is to assess stranded transmission capacity, if any, in the existing system, which was allocated to Long Term customers and the said Long Term customers have relinquished the access rights. We have directed CTU to assess the stranded capacity based on load flow studies for cases where new lines have been specifically planned and executed for grant of LTA to Applicants. However, where LTA is granted on existing system, it is granted considering the entire existing system without assigning any specific lines. In the LTA grant on the basis of margins available in the existing systems, CTU does not indicate the specific lines. Therefore, in the absence

of identification of ISTS lines, calculation of reduction in flow on account of relinquishment by Long Term customer cannot be made. In such cases, relinquishment charges shall be at All India Minimum PoC rate.

..

Summary of Decisions

161. The summary of our decisions is as under:

(a) The transmission capacity which is likely to be stranded due to relinquishment of LTA shall be assessed based on load flow studies with clearly laid out assumptions. 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. The compensation shall be payable for the years of stranded capacity falling short of 12 years, subject to (g) below.

(b) Notice period for relinquishment shall be considered from the date the application was made to CTU for relinquishment and if no application was made, the date from which the Commission directs the CTU to accept the relinquishment.

(c) Compensation payable under alternative scenarios of LTA relinquished prior to the date of start of LTA or after the date of start of LTA shall be as per Para 139 of this Order.

(d) No compensation for change in Target Region shall be payable by the relinquishing LTA holders, if the effective date of start of LTA in the changed region is same as date of relinquishment in original region and the change in region is sought for entire capacity relinquished. If there is a gap between effective date of LTA as per fresh application for new region and relinquishment in previous region, transmission charges for stranded capacity shall be levied for such interim period and for such capacity for which LTA to changed region has not been effective.

(e) For cases where no identified system augmentation was carried out to grant LTA, relinquishment charges shall be calculated at All India Minimum PoC rate.

(f) Relinquishment on account of auxiliary consumption and overload capacity shall be allowed without any liability to pay the relinquishment charges.

(g) In case there are applicants for LTA for the same corridor as being relinquished, the relinquishment charges shall be calculated for the number of years (period) till the effective date of LTA of incoming customer.

(h) Relinquishing LTA customers shall deposit the charges calculated and billed by CTU as relinquishment charges, within a period of six months of raising the bill by CTU.”

As per the above, a clear methodology has been provided for the relinquishment of LTA/LTOA where LTA/LTOA was granted with system augmentation, and the cases where no identified system augmentation was carried out to grant LTA.

35. CTUIL vide letter dated 24.12.2021 has carried out the calculation of relinquishment charges, considering no system augmentation for the Petitioner, considering the Allain-Dhuhangan-Nallagarh line as a dedicated line. Petitioner has disputed the methodology followed by CTUIL for such cases where LTA is “with no augmentation”. However, the issue is whether the Petitioner’s case is LTA/LTOA with no augmentation or it is a case of LTA/LTOA with augmentation.

36. We have already noted above vide the LTOA grant that the Allain-Dhuhangan-Nallagarh line was identified as “Transmission System required” for the said LTOA.

37. We note that APTEL vide order in Appeal No. 450 of 2019 & IA No. 2146 of 2019 and IA No. 14 of 2020 dated 31.10.2022 directed as under:

“

77. After careful examining the documents and hearing the arguments from the Appellant and the Respondents, three main issues which emerge out for our consideration are as follows:

I. Whether the 220 kV D/c Transmission line constructed by ADHPL is a part of the Inter-State Transmission System (ISTS) or is Dedicated Transmission Line or both?

II. Whether, the charges for the same are recoverable in terms of the CERC Sharing Regulations, 2010?

III. Whether ADHPL is required to obtain a Transmission licence for the 220 kV D/C transmission line constructed by it?

...

81. It is important to note here the various approvals granted for the commissioning of the subject Line, which are as follows:

(a) Application dated 25.06.2007 submitted by ADHPL to the Ministry of Power, Government of India seeking clearance of the subject AD Line under Section 68 of the Electricity Act, 2003.

(b) Letter dated 31.07.2007 of CEA advising MoP to grant approval to the AD line.

(c) MoP letter dated 21.08.2007 granting approval under Section 68 of the Electricity Act, 2003 for construction of AD Line.

(d) Minutes of Meeting dated 19.11.2008 held by Chief Secretary, Government of Himachal Pradesh.

82. We have perused the aforesaid documents/ letters/ minutes. As per the said documents, it is quite clear that the subject Line i.e. 220 kV D/C transmission line constructed by ADHPL was granted an approval for construction, based on the condition that the same would be used by other generators/ beneficiaries in the region, which would be using the said line for the purpose of evacuation and withdrawal of power, and it was never intended to be solely used by ADHPL for evacuation of the power, from its power plant only. This is quite clear from a reading of the letter dated 31.07.2007 of CEA issued to the Ministry of Power, reproduced as under:

“Sub:- Prior approval of the Government under section 68 of the Electricity Act. 2003

MoP vide letter no. 611/4/2007-PG dated 26th June 2006 have submitted the proposal by ADHPL for the requisite approval under section 68 of Electricity Act, 2003 for 220kV D/C line from Attain Duhangan to Nalagarh as a part of associated transmission system for evacuation of power from ADHEP (2x96 for comments of CEA.

The proposal has been examined and this office do not have objection for approval of the line under section 68 of the Electricity Act 2003. However, ADHPL should ensure the following:

i) While finalizing the corridor of the proposed Allain Duhangen - Nefagarh 220 kV D/C line, ADHPL should ensure that their corridor is appropriately coordinated with respect to the

corridor identified by POWERGRID for the 400kV transmission lines in the area planned for the evacuation of power from Parbati II, Parbati III and Koldam HEPs,

ii) Out of the total 400 MW transmission capacity of the 220kV D/C line, ADHPL would utilize 192 MW for evacuation of ADHPL power and the balance spare transmission capacity of the line would be made available for evacuation of power from other projects in the Parbati/Beas valley viz, Malana-II (100 MW) and Sarni (100MW)”

83. Also, the approval accorded under section 68 of the Act, the said Line was granted approval to be an —Associated Transmission System //, as seen from the letter dated 25.06.2007 submitted by ADHPL to MoP, Government of India and the MoP letter dated 21.08.2007, quoted as under:

LETTER DATED 25.06.2007:

“Sub: 220 kV D/C Allain Duhangan- Nalagarh Transmission Line as Associated Transmission System(ATS) of 2x96 MW Allain Duhangan HER in Himachal Pradesh

Dear Sir,

M/s AD Hydro Power Ltd. is a joint venture company of M/s Rajasthan Spinning and Weaving Mills Ltd., and M/s SN Power Norway & International Finance Corporation (IFC), a subsidiary of the World Bank.

M/s AD Hydro Power Ltd. is executing a large Hydroelectric Power Project (192 MW) in Distt. Kullu, HP.

The implementation agreement of this project was executed with Govt. of Himachal Pradesh on 22.02.2001 (attached as Ann. I).

Subsequently, Central Electricity Authority granted Techno Commercial Clearance (TEC) for this Project, vide Ref. No. Ref. No. 2/HP/18/96-PAC/8108-39 dated 20.08.2002 (enclosed as Ann. II)

As per this TEC, by CEA, the terminating station for Transmission Line has been mentioned as Nalagarh in Himachal Pradesh.

CEA vide letter No. 8/10/06-SP&PA/428-30 dated 12.10.2006 (attached as Ann. III) had conveyed its recommendation to PGCIL for permitting AD Hydro Power Ltd. to construct its 220 kV Transmission Line from Project to Nalagarh.

The Central Transmission Utility (PGCIL) vide letter No. C/ENG/SEF/00/LTOA dated 26.04.2007 (attached as Ann. IV) has granted Open Access to ADHEP beyond the power delivery point i.e. 400/220 kV Sub-stn, Nalagarh.

In view of above, it is requested that permission under Section 68, The Electricity Act, 2003, may please be granted to install & keep installed above ground level 220 kV D/C Overhead Transmission Line from Allain Duhangan Project at Prini, Manali to Nalagarh, Distt. Satana, as ATS of 2x96 MW Allain Duhangan HEP in Himachal Pradesh.”

LETTER DATED 21.08.2007 OF THE MINISTRY OF POWER:

“Sub : Prior approval of the Government under Section 68 of the Electricity Act, 2003 220 kV D/C Allain Duhangan -Nalagarh Transmission Line as Associated Transmission System(ATS) of 2x96 MW Allain Duhangan HEP in Himachal Pradesh.

Sir,

I am directed to refer to AD Hydro Power Limited letter no.P-104/OG--2061 dated 25th June, 07 on the above subject and to convey prior approval of the Central Government under sub-section (1) of Section 68 of the Electricity Act, 2003 for 220 kV D/C Allain Duhangan - Nalagarh Transmission Line as Associated Transmission System (ATS) of 2x96 MW Allain Duhangan HEP in Himachal Pradesh.

The approval is subject to compliance of (a) the requirement of the relevant provisions of the Electricity Act, 2003, as amended from time to time and the rules and regulations framed there under and (b) the rules governing the overhead lines as specified in the Indian Electricity Rules, 1956 till they are substituted by corresponding rules framed under the Electricity Act, 2003.

This approval is also subject to the following conditions:

1. The implementing agency will commence construction of the project within 3 years, unless this term is extended by the Ministry of Power.
2. Ministry of Power may withdraw the approval before the expiry of the period of 3 years after giving a one-month notice.
3. The implementing agency shall also abide by the provisions of Electricity Act, 2003 concerning electricity trade."

84. We could not find any fact which indicates that subject Line is a dedicated transmission line except that it is an —Associated Transmission System which can either be a —dedicated transmission line or a transmission line in accordance with the nature of the line and also on the basis of its purpose of evacuation and withdrawal of power of other generators/beneficiaries in the region, therefore, we are of the view that the 220 kV D/C transmission line constructed by ADHPL was never accorded the status of a dedicated transmission line except that it was built by the ADHPL without obtaining the Transmission Licence and therefore considered as deemed transmission line.

..

87. This Tribunal vide its judgment dated 02.01.2013 in the Appeal filed by the ADHPL assailing the aforesaid order of CERC, has held as under:

"31. Now let us examine the nature of transmission of power on Allain Duhangan – Nalagarh line after loop-in loop-out of one circuit at Chhaur.

32. The dedicated transmission line of the Appellant before interconnection with the dedicated transmission of Malana II at 132/220 kV Chhaur sub-station of the Respondent no.1 comprised point to point connection from the generating station of the Appellant with the substation of Power Grid at Nalagarh. However, loop-in loop out of one of the circuits of Allain Duhangan - Nalagarh line at Chhaur has resulted in dividing that circuit into two line segments viz. 220 kV Allain Duhangan – Chhaur line and 220 kV Chhaur – Nalagarh line. In normal operating conditions, the entire power output of Malana II will be evacuated through 220 kV Chhaur – Nalagarh line. Thus, with change in the configuration of the circuit, the 220 kV Chhaur – Nalagarh line does not remain the point to point transmission system for Allain Duhangan as it carries the power of both Allain Duhangan and Malana II and emanates from Chhaur and not Allain Duhangan. The transmission system beyond Nalagarh is the inter-State transmission system which is used for inter-State transmission of power from Malana II to Punjab as the Respondent no.1 has tied up for supply of its power to Punjab State Electricity Board besides some percentage of free power committed to be supplied to Himachal Pradesh and has obtained open access for the inter-State transmission system for its power injected at Nalagarh. Thus, under normal operating conditions, the line section of Allain Duhangan - Nalagarh circuit between Chhaur and Nalagarh is used for conveyance of electricity across the territory of the State/within the State which is incidental to inter-State transmission of electricity from Malana II.

33. Under condition of outage of Chhaur - Nalagarh circuit, the output of Malana-II would be evacuated through 220 kV Chhaur – Allain Duhangan and Allain Duhangan – Nalagarh direct circuit. Thus, under such outage condition also Chhaur - Allain Duhangan - Nalagarh section is used for conveyance of electricity incidental to inter-State transmission of electricity of Malana II. Similarly, under outage condition of Allain Duhangan – Chhaur section of line, the output of Allain Duhangan – Nalagarh direct circuit would transmit the

output of Allain Duhangan HEP and Chhaur – Nalagarh section would evacuate the power output of Malana-II. Thus, one circuit of Allain Duhangan line would carry exclusive power of Allain Duhangan and the other circuit would carry output of only Malana II. Under such outage condition also Chhaur - Nalagarh circuit even though a part of the dedicated transmission system of the Appellant is used for conveyance of electricity across the territory/within the State which is incidental to inter State transmission of electricity from Malana II.

34. Thus, it is clear that even though Allain Duhangan – Nalagarh line was a dedicated line of the Appellant some part of the line after loop-in loop-out of one circuit at Chhaur sub-station of the Respondent no. 1 is used as a system incidental to inter-State transmission of electricity from the power plant of the Respondent no.1.

35. The definition of the inter-state transmission system under Section 2(36)(ii) includes the conveyance of electricity across the territory of an intervening State as well as within the State which is incidental to such inter State transmission of electricity. In the present case as discussed in the previous paragraphs, Allain Duhangan – Nalagarh line after loop-in-loop-out at Chhaur substation of the Respondent no.1 becomes the system incidental to inter-State transmission of electricity from Malana II station of the Respondent no.1. Therefore, the Central Commission shall have jurisdiction to regulate the transmission of electricity on Allain Duhangan – Nalagarh line after loop-in-loop-out of one of the circuits at Chhaur sub-station.

88. From the above, it is clear that this Tribunal while deciding the nature of the subject Line, has decided that after the configuration of the Loop In Loop Out (LILO) of one circuit at Chhaur sub-station of EPPL, the said line fails in the configuration of a point-to-point connection. The reference of point-to-point connection is mentioned under Section 2(16) of the Electricity Act, 2003, which is reproduced below:

“Section 2. (Definitions): --- In this Act, unless the context otherwise requires, --

(16) “dedicated transmission lines” means any electric supply-line for point to point transmission which are required for the purpose of connecting electric lines or electric plants of a captive generating plant referred to in section 9 or generating station referred to in section 10 to any transmission lines or sub-stations or generating stations, or the load centre, as the case may be;”

....

91. As already noted in the foregoing paragraphs, it is quite clear that the Hon'ble Supreme Court upheld the findings of this Tribunal to the effect that the subject Line is part of ISTS and once the Hon'ble Supreme Court has upheld the said status, we find no merit in the contentions of the ADHPL as the issue cannot be re-opened.

...

94. From the above, there cannot be any other interpretation made except that the Hon'ble Supreme Court has categorically recorded that there is no error apparent in its order dated 26.04.2017 and therefore, when there is no error apparent in the findings, it means that the previous order stands, and thus the same would be legal and binding and as such, the findings of the Hon'ble Supreme Court in para 5 of its order dated 26.04.2017 that —In view of the concurrent finding of fact taking into account Section 2(36)(ii), we find no reason to interfere with the judgment of the Appellate Tribunal and hence the same is upheld, makes it clear that the subject Line is a part of ISTS.

95. It is again to direct that this Tribunal judgment dated 02.01.2013 decided two issues, one is regarding the nature of the subject Line that it is an ISTS, which stands settled now and the issue is on the merits of the case pertaining to determination of tariff of said subject Line and other procedural aspects, which are recorded in para 51 read with para 53 & 54 of the judgment

dated 02.01.2013, on which, the Hon'ble Supreme Court directed the Central Commission that such findings on merits may not be taken into consideration during determination of tariff and also the requirement of obtaining a transmission license.

96. In view of the above, we are of the firm opinion that it is the aforesaid observations made in paragraphs 53 and 54 on merits in the earlier judgment of this tribunal, which were to be considered afresh, therefore, we do not find any merit in the reliance and interpretation made by ADHPL on the aforementioned review order of the Hon'ble Supreme Court.

97. We, therefore, declare that the subject Line is part of ISTS as recorded in the findings of this Tribunal judgment dated 02.01.2013 and upheld by the Hon'ble Supreme Court.

98. As concluded above, the submission of the ADHPL that the order of the Hon'ble Supreme Court was only limited to the finding that Central Commission under Sec 79(1)(c) will have the jurisdiction, but the line is dedicated, and not ISTS is rejected as is devoid of any merit.

....

100. We, therefore, decline to accept the argument of the ADHPL that even though jurisdiction was vested with the Central Commission, the subject Line continues to be a dedicated line.

.....

104. Therefore, once a Transmission Line asset becomes a part of ISTS, then the same cannot be treated as dedicated, as in the present case, the subject Line has been declared to be a part of ISTS in terms of Section 2 (36)(ii) of the Electricity Act, 2003 by this Tribunal which is also upheld by Hon'ble Supreme Court, it shall hold the status of that of an ISTS and cannot be termed as dedicated anymore.

105. In view of the conclusions made above, it is directed the subject Line is a part of ISTS, which cannot be simultaneously termed as —dedicated transmission line.”

As per the above, APTEL has directed and declared, as per the above Order, that the Allain Dhungan HEP – Nalagarh 220 kV D/C Transmission Line is part of ISTS and cannot be simultaneously termed dedicated transmission lines. APTEL has referred to its previous Order of 2013 and the Supreme Court Orders while concluding the same.

38. We are of the considered view that once APTEL vide its order in Appeal No. 450 of 2019 & IA No. 2146 of 2019 and IA No. 14 of 2020 dated 31.10.2022 has clearly declared the subject line as ISTS and that it cannot be termed as a dedicated line, the contention of Petitioner that the subject line is dedicated line does not hold water.

39. CERC vide Order dated 19.1.2024 in Petition No. 209/MP/2017 consequent to the above-said APTEL Order directed as under:

“

(A) For the period from 1.8.2011 to 31.10.2020

...

Thus, the arrears from the concerned DICs towards the reimbursement of transmission charges of the 220 KV ADHPL-Nalagarh line as per POC mechanism for the period from

1.8.2011 to 31.10.2020 shall be computed as per Clause 6 of Regulation 11 of Sharing Regulations, 2010 and shall be recovered by CTU under Bill-2 as per provisions of Regulation 15(2)(b) of the Sharing Regulations, 2020 in proportion to the first bill in the month in which the arrears shall be calculated and recovered in accordance with this order.

..

(B) For the period from 1.11.2020 to 23.8.2021

51. We have considered the submissions of the parties. The Commission is not inclined to direct for retrospective revision of the entire PoC charges for the past period in order to find out the revised PoC rates of all DICs on account of the inclusion of the annual transmission charges of 220 kV ADHPL-Nalagarh transmission line for the reasons recorded in para 48 of this order. As suggested by NLDC, the transmission charges of 220 kV ADHPL-Nalagarh transmission line as determined by the Commission from 1.11.2020 to 23.8.2021 shall be recovered by CTU under Bill-2 as per provisions of Regulation 15(2)(b) of the Sharing Regulations, 2020 in proportion to the first bill in the month in which the arrears shall be calculated and recovered in accordance with this order.

(C) For the period from 24.8.2021 onwards:

52. NLDC has submitted that as there is no LTA customer of the 220kV ADHPL-Nalagarh transmission line with effect from 24.8.2021 onwards and the nature of the said transmission line being “connectivity line” as per the provisions of the Sharing Regulations, 2020, the billing on the ADHPL would be done as per the provisions of Clause 13(9) of the Sharing Regulations, 2020 and the transmission charges of the said transmission line would not be part of Pool billing as per the Regulations, 2020. The Petitioner has submitted that the proposal of NLDC for a change of status of 220 KV D/C ADHPL-Nalagarh transmission line by applying Regulation 13(9) of the Sharing Regulations, 2020 is a clear departure from the directions and findings of APTEL in its judgement dated 31.12.2022 in Appeal No.450/2019. The Petitioner has further submitted that as per the judgement of APTEL, the transmission system of the Petitioner is to be treated as part of the ISTS network from the date of connectivity given to EPPL or any other generator or STU. KPCPL has submitted that NLDC cannot rely on Regulation 13(9) of Sharing Regulations, 2020, as the 220 KV D/C ADHPL-Nalagarh transmission line is part of ISTS in terms of Section 2(36) of the Act since EPPL started using the transmission line and not a dedicated transmission line as per the judgement of APTEL. KPCPL has further submitted that the absence of LTA customers 220 KV D/C ADHPL-Nalagarh transmission line is of no relevance since APTEL, in its judgement dated 31.10.2022, has held the transmission line to be a deemed ISTS licensee.

53. We have considered the submission of the parties. Regulation 13(9) of the Sharing Regulations, 2020 provides as under:

“(9) Where a dedicated transmission line has already been constructed or is under construction by an inter-State transmission licensee under coordinated transmission planning of the Central Transmission Utility, the Yearly Transmission Charges for such dedicated transmission line shall be payable by the concerned generating station to the inter-State transmission licensee (including deemed inter-State transmission licensee) from the COD of the dedicated transmission line till operationalization of Long Term Access of the generating station. After operationalization of Long Term Access, Yearly Transmission Charge for the dedicated transmission line proportionate to the quantum of Long Term Access operationalized qua the quantum of Connectivity for the dedicated transmission line

shall be considered in accordance with Regulations 5 to 8 of these regulations and the balance transmission charges shall continue to be paid by the generating station.”

Regulation 13(9) of Sharing Regulations, 2020 was substituted through the Central Electricity Regulatory Commission (Sharing of Transmission Charges and Losses) (First Amendment) Regulations, 2023, which came into force with effect from 1.10.2023:

“(9) Where a dedicated transmission line has already been constructed or is under construction by an inter-State transmission licensee under coordinated transmission planning of the Central Transmission Utility, and the Connectivity grantee has not achieved COD on or before COD of the dedicated transmission line, the Yearly Transmission Charges for such dedicated transmission line shall be payable by the concerned Connectivity grantee to the inter-State transmission licensee from the COD of the dedicated transmission line till COD of such Connectivity grantee and after which Yearly Transmission Charge for the dedicated transmission line shall be considered in accordance with Regulations 5 to 8 of these regulations.”

54. The above provisions provide the sharing of the tariff of a dedicated transmission line executed under coordinated transmission planning of CTU. Even though the transmission line is executed under the coordinated transmission planning by a deemed transmission licensee or transmission licensee, the nature of such transmission line remains unchanged i.e. it is a transmission line having point to point connection between the generating station and ISTS sub-station, and there is no user other than the generating station for this line. The present case is distinguishable from the cases covered under Regulation 13(9) of the Sharing Regulations, 2020, since it is connected to the system of HPPTCL and the transmission line is being used by AD Hydro generating station, HPSEB, KPCPL and other generating stations linked to the systems of HPSEBL. Further, APTEL in para 104 of the judgement dated 31.10.2022 in Appeal No. 450 of 2019 has observed as under:

“104. Therefore, once a Transmission Line asset becomes a part of ISTS, then the same cannot be treated as dedicated, as in the present case, the subject line has been declared to be part of ISTS in terms of Section 2(36)(ii) of the Electricity Act, 2003 by this Tribunal which is also upheld by Hon’ble Supreme Court, it shall hold the status of that of an ISTS and cannot be termed as dedicated anymore.”

The APTEL, in its judgment dated 2.1.2013 in Appeal No.81 of 2011, has held that 220 KV D/C ADHPL-Nalagarh transmission line is an ISTS in terms of Section 2(36)(ii) of the Act in the following terms:

“35. The definition of the inter-state transmission system under Section 2(36)(ii) includes the conveyance of electricity across the territory of an intervening State as well as within the State which is incidental to such inter-State transmission of electricity. In the present case as discussed in the previous paragraphs, Allain Duhangan- Nalagarh line after loop-in-loop- out at Chhuar sub-station of the Respondent no.1 becomes the system incidental to inter-State transmission of electricity from Malana II station of the Respondent no.1. Therefore, the Central Commission shall have jurisdiction to regulate the transmission of electricity on Allain Duhangan – Nalagarh line after loop-in-loop-out of one of the circuits at Chhaur sub-station.”

The APTEL has held that 220 KV D/C ADHPL-Nalagarh transmission line after loop in and loop out at Chhuar sub-station of EPPL becomes the system incidental to inter-State transmission of electricity and is accordingly incidental to the inter-State transmission of

Electricity. EPPL has been disconnected subsequent to its shifting to the system of HPPTCL with effect from 3.12.2019. However, KPCPL is evacuating its power through the Phozal sub-station of HPPTCL, which is further connected to the 220 kV Allan Duhangan -Nalagarh D/c Transmission line by way of a Loop-In-Loop-Out (LILO) circuit w.e.f. 5.6.2016. HPSEBL and other Small HEPs connected with the 33 kV system of HPSEBL are also evacuating their power through the 220 kV Allan Duhangan - Nalagarh D/c Transmission line via Phozal sub-station of HPPTCL. Thus, even after disconnection of Malana II HEP of EPPL, 220 KV D/C ADHPL-Nalagarh transmission line continues to be used as an ISTS being incidental to inter-State transmission of electricity in terms of Section 2(36)(ii) of the Act. Therefore, Regulation 13(9) of the Sharing Regulations is not applicable in the present case since the status of 220 KV D/C ADHPL-Nalagarh transmission line is not a dedicated transmission line but an ISTS line at present. Accordingly, its transmission charges from 24.8.2021 onwards shall be recovered by CTU under Bill-2 as per provisions of Regulation 15(2)(b) of the Sharing Regulations, 2020, in proportion to their first bill in the relevant billing month.

...

68. In terms of Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2008, as amended and Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2012, deemed transmission licensees are liable to pay the licence fees and petition filing fees. Since 220 kV ADHPL-Nalagarh transmission line has been declared as a deemed ISTS and AD Hydro is a deemed ISTS licensee, it shall be liable to pay the licence fees and petition filing fees as per the said regulations from 1.8.2011 onwards. Accordingly, the Petitioner shall calculate the licence fees and filing fees and deposit the same to the Commission within a period of three months from the date of issue of this order.”

As per the above, we note that transmission charges for the subject line are being recovered through DICs in accordance with the Sharing Regulations, starting from August 2011, and the Petitioner has also been directed to deposit ISTS license fees. As on the date of relinquishment of LTOA by Petitioner and till date, the said line is under ISTS as per the APTEL Order, and the charges for the same are recovered by Petitioner from the drawee DICs in terms of the Sharing Regulations.

- 40.** Keeping in view the above-said discussions and the fact that Allain-Duhangan D/C line continues to be treated as ISTS since August 2011, in terms of the quoted APTEL Order, we are of the considered view that Allain-Duhangan D/C line has to be considered as “augmentation under ISTS” while calculating the relinquishment charges for Petitioner. On a specific query vide ROP for hearing dated 1.05.2024, “*Whether the calculation of relinquishment charges of the Petitioner will undergo any change subsequent to treatment of dedicated transmission line constructed by Petitioner as deemed ISTS line as per APTEL order dated 31.10.2022*”, CTUIL has submitted that in case, 220kV AD Hydro – Nalagarh D/c line is considered as part of M/s AD Hydro LTA, it shall have to be treated as system augmentation, which will lead to revision in

calculation of relinquishment of charges with methodology stipulated in Commission order dated 08.03.2019.

41. Petitioner has submitted that the nature of line continued to remain dedicated, except when it is utilised by other entities, LTOA was never granted on 220 kV DC line but only on Nalagarh s/s of PGCIL with northern region as target region, LTOA grant remain unaltered even after the decision of the Hon'ble Tribunal hence, the declaration of dedicated line as deemed ISTS by the Hon'ble Tribunal has no impact on the determination of relinquishment charges.
42. In light of the discussions above, we are not inclined to accept the contention of Petitioner that the line continues as a dedicated line since there is a clear direction of APTEL and the fact that Petitioner continues to recover transmission charges of the said line under ISTS from all India drawee DICs. We note that the subject line was part of the LTOA grant. The Petitioner relinquished LTOA in August 2021 when the said line was under the ISTS pool under deemed ISTS. Accordingly, we are of the considered view that Allain-Duhangan D/C line, which is treated as deemed ISTS, shall be considered as "augmentation under ISTS" while calculating the relinquishment charges for Petitioner. Therefore, CTUIL is directed to carry out the relinquishment charges for the Petitioner as per the Order dated 08.03.2019 No. 92/MP/2015, considering the Allain Duhangan HEP – Nalagarh 220 kV D/C Transmission Line identified under the LTOA grant as deemed ISTS as of August 2021. Accordingly, we do not find any need to decide on a minimum POC rate for "no augmentation" cases post notification of the 2020 Sharing regulations for the instant matter. CTUIL is directed to carry out the revised calculation for relinquishment charges and raise bills to the Petitioner within a period of one month from the issue of this Order. Petitioner shall pay the relinquishment charges raised by CTUIL as per the timeline specified in the Order dated 8.3.2019 in Petition No. 92/MP/2015.

43. Issue No.1 is answered accordingly.

Issue No. 2: Whether notice period charges shall be applicable to the Petitioner?

44. Petitioner has submitted that the 'notice period charge' should not be applied to the Petitioner since the Petitioner has relinquished its LTA in the 11th year. The scheme of Regulation 18 is such that relinquishment charges are payable until the 12th year and

not beyond. Thus, the Petitioner herein was only left with one year until completion of 12 years, and hence it must not be liable to pay notice period charges in the given facts of the case, as it would lead to payment for two years beyond the 11th year, while relinquishment charges are not payable beyond the 12th year. It would, in effect, be tantamount to charging for 13 years, which is not the scheme envisaged under Regulation 18 of the CERC Connectivity Regulations, 2009.

45. We note that the LTOA granted to the Petitioner was operationalised on 16.09.2010. Petitioner issued notice of relinquishment to CTUIL on 23.8.2021 with relinquishment from immediate effect. CTUIL accepted relinquishment of LTOA w.e.f 24.8.2021. This implies that Petitioner did not give advance notice of its relinquishment, where the relinquishment was sought with immediate effect.

46. We have perused the relevant provision of the 2009 Connectivity Regulations quoted as under:

“18. Relinquishment of access rights

(1) A long-term customer may relinquish the long-term access rights fully or partly before the expiry of the full term of long-term access, by making payment of compensation for stranded capacity as follows:-

(a) Long-term customer who has availed access rights for at least 12 years

(i) Notice of one (1) year – If such a customer submits an application to the Central Transmission Utility at least 1 (one) year prior to the date from which such customer desires to relinquish the access rights, there shall be no charges.

(ii) Notice of less than one (1) year – If such a customer submits an application to the Central Transmission Utility at any time lesser than a period of 1 (one) year prior to the date from which such customer desires to relinquish the access rights, such customer shall pay an amount equal to 66% of the estimated transmission charges (net present value) for the stranded transmission capacity for the period falling short of a notice period of one (1) year.

(b) Long-term customer who has not availed access rights for at least 12 (twelve) years – such customer shall pay an amount equal to 66% of the estimated transmission charges (net present value) for the stranded transmission capacity for the period falling short of 12 (twelve) years of access rights:

Provided that such a customer shall submit an application to the Central Transmission Utility at least 1 (one) year prior to the date from which such customer desires to relinquish the access rights;

Provided further that in case a customer submits an application for relinquishment of long-term access rights at any time at a notice period of less than one year, then such customer shall pay an amount equal to 66% of the estimated transmission charges (net present value) for the period falling short of a notice period of one (1) year, in addition to 66% of the estimated

transmission charges (net present value) for the stranded transmission capacity for the period falling short of 12 (twelve) years of access rights.”

As per above, Long-term customer who has not availed access rights for at least 12 (twelve) years falls under Regulation 18(1)(b), which provides that an amount equal to 66% of the estimated transmission charges (net present value) for the period falling short of a notice period of one (1) year shall be paid in addition to 66% of the estimated transmission charges (net present value) for the stranded transmission capacity for the period falling short of 12 (twelve) years of access rights.

47. We note that Petitioner has availed Long term access from 16.09.2010 to 23.8.2021, which comes out as approximately eleven years. Hence, the Petitioner's case is covered under Regulation 18(1)(b) of the 2009 Connectivity regulations. Since the Petitioner did not serve any notice period, notice period charges shall be applicable as per the express provisions of the above-said Regulations. We are not inclined to accept the contention of the Petitioner that it should not be made liable for payment of notice period charges, as it was left with only one year to complete 12 years.

48. The issue is answered accordingly.

49. Accordingly, the Petition No. 97/MP/2022 is disposed of in terms of the above.

**Sd/
(Harish Dudani)
Member**

**Sd/
(Ramesh Babu V)
Member**

**Sd/
(Jishnu Barua)
Chairperson**