

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.319/MP/2023

Subject : Petition under Section 79 (1)(a), (c) & (f) of the Electricity Act, 2003 read with Regulation 13(8) of the CERC (Sharing of inter- State Transmission Charges and Losses) Regulations, 2020 and Regulation 11 of the Central Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2022.

Petitioner : NTPC Green Energy Limited (NGEL)

Respondents : Powergrid Corporation of India Limited (PGCIL) and Ors.

Date of Hearing : **10.12.2024**

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

Parties Present : Shri Venkatesh, Advocate, NGEL
Shri Sanjay Sen, Sr. Advocate, PNTL, PBTL & PASTL
Shri Shubham Arya, Advocate, PGCIL, PNTL, PBTL & PASTL
Ms. Reeha Singh, Advocate, PGCIL, PNTL, PBTL & PASTL
Ms. Shirin Gupta, Advocate, PGCIL, PNTL, PBTL & PASTL
Shri D. Abhinav Rao, Advocate, Telangana Discoms
Shri Rahul Jajoo, Advocate, Telangana Discoms
Shri Raghav Bherwani, Advocate, Telangan Discoms
Shri V. C. Sekhar, PNTL, PBTL & PASTL
Shri Prashant Kumar, PNTL, PBTL & PASTL
Shri Amit Kumar, PNTL, PBTL & PASTL
Shri Akshayvat Kislay, CTUIL
Shri Ranjeet Rajput, CTUIL

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Petition had been filed *inter alia* seeking directions upon Respondent Nos.1 and/or 6 to 8 to pay the applicable Yearly Transmission Charges to the Petitioner as per Regulation 13(8) of the Sharing Regulations, 2020, and also the compensation towards financial loss due to curtailment and DSM penalties being imposed on the Petitioner till the time the connectivity under the GNA for its Projects is operationalised. Learned counsel mainly submitted as under:

(a) The Petitioner is implementing the 1692 MW Solar PV Projects under the CPSU Scheme Phase II - Tranche I & II. Out of these 1692 MW Solar PV Projects and 1090 MW Solar PV Projects ('the Projects') are being developed in Rajasthan, and for the said capacity, the Petitioner has entered into the Power Usage Agreements (PUAs) dated 30.12.2019 with Respondent Nos. 3 & 4, i.e. Telangana Discoms.

(b) For the purpose of evacuation of the power from the above Projects, the Telangana Discoms, as per the PUAs, had applied for the LTAs. These LTAs were

granted with the start dates in the period of between December 2021 and July 2022 or the commissioning of the ISTS, whichever is later.

(c) The Petitioner's Projects have achieved commercial operation (except for 18.32 MW), in parts, between 6.8.2022 and 31.10.2024. However, to date the LTA/GNA is yet to be operationalised/made effective, and the power is being evacuated under the T-GNA. As a result, the Petitioner is facing frequent curtailments due to the non-availability of the confirmed corridor for the evacuation of its renewable power. Till April 2023, the Petitioner has already faced the curtailment to the tune of 10.3485 MUs.

(d) Respondents 6 to 8, in their replies, have primarily attributed the delay in readiness of their transmission systems/elements due to delay in the award of the Projects, force majeure events, etc. However, the Petitioner, having taken all the necessary steps to commission its Projects, cannot be made to suffer for the delay on account of the transmission assets of the Respondents resulting in the non-operationalisation of the LTA/GNA. As per the CTUIL's affidavit, the transmission elements of Respondent, PNTL, are expected to be ready only by March 2025.

2. Learned senior counsel for Respondent Nos. 6 to 8 mainly submitted as under:

(a) Intimation for grant of the LTAs to Telangana Discoms clearly reveals that the transmission systems/elements being developed by the Respondents are part of the Common Transmission System (CTS) and not the Associated Transmission System (ATS). CTUIL, in its affidavit dated 26.4.2024, has also clearly demarcated the ATS and CTS for the LTA grants, and as can be seen, the transmission systems/elements being developed by the Respondents are CTS and not ATS.

(b) As per Regulation 13(8) of the Sharing Regulations, the liability of payment of the Yearly Transmission Charges corresponding to the quantum of LTA/connectivity for the period for which the Transmission System has been delayed, is only in respect of the ATS and not for the CTS.

(c) The LTA timelines sought by Telangana Discoms were progressively from December 2021 till July 2022. However, the bidding process for the PBTL and PASTL itself took almost 1.5 years to conclude, and the said SPVs came to be acquired by PGCIL only in the month of June 2021. Whereas, in the case of PNTL, the bidding process took almost 2.5 years to conclude, and the said SPV came to be acquired by PGCIL only in May, 2022.

(d) Scheduled Commercial Operate Date (SCOD) in case of PBTL and PASTL could not be achieved as per the TSA as there was a delay in the grant of the transmission licence at the relevant time and was deferred due to approval of the GIB Committee. The Commission itself, thereafter, has recognized that PBTL and PASTL cannot be made to suffer on account of the above. SCOD of the Respondents' transmission system was independent of the timelines sought for the operationalisation of the LTA by Telangana Discoms, and there was a mismatch in the LTA dates and SCOD of the transmission system from the planning stage itself.

(e) In the above circumstances, the Respondents cannot be held liable for the transmission charges, DSM charges, or any other charges as contended by the Petitioner.

3. Learned counsel for the Respondent, PGCIL submitted that insofar as the elements to be implemented by PGCIL associated with the Petitioner's Projects are concerned, the majority of these elements were commissioned prior to the Petitioner's

Projects, and there was no constraint for evacuation of the Petitioner's power as far as ATS implemented by PGCIL is concerned.

4. In response to the specific query of the Commission to CTUIL regarding its reply in the matter, the representative of CTUIL submitted that since the Petitioner has not sought any relief(s) against CTUIL, CTUIL has not filed a reply in the matter. However, CTUIL has furnished the information as called for by the Commission. The representative further added that the transmission systems/elements identified for the grant of the LTAs to Telangana Discoms consisted of ATS as well as CTS, and for the effectiveness of the LTA, the complete transmission system, i.e., ATS as well as CTS is required. Since the complete transmission system required for the above LTAs is yet to be commissioned, the LTA/ deemed GNA is not yet operationalised/made effective. The representative of CTUIL pointed out that only in the GNA Regulations has been clearly defined what constitutes ATS and CTS.

5. In response to the specific query of the Commission as to why no bills/invoices for the Yearly Transmission Charges have been raised upon Respondents 6 to 8 for at least the delayed period (i.e., for a period beyond their SCODs as per TSA), the representative of CTUIL cited the lack of clear provisions in the Sharing Regulations to this effect and sought liberty to file a reply in the matter.

6. Considering the submissions made by the learned senior counsel and learned counsel for the parties, the Commission directed the Respondent, CTUIL, to file its reply on an affidavit within three weeks, also covering the aspect regarding the reasons for not raising the bilateral bills on the entities, whose transmission system is delayed.

7. The Petitioner was permitted to file its rejoinder, if any, within a week thereafter.

8. The Petition will be listed for hearing on **11.2.2025**.

By order of the Commission
Sd/-
(T.D. Pant)
Joint Chief (Law)