

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 462/MP/2014

Coram:

**Shri Gireesh B. Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member**

**Date of Hearing: 05.5.2015
Date of Order : 19.2.2016**

In the matter of

Petition under Section 79 (1) (f) of the Electricity Act, 2003 read with Chapter III of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 for recovery of Unscheduled Interchange Charges (UI Charges) in respect of Bhilai Expansion Power Plant (2x250 MW) for the period from 22.4.2009 to 31.7.2011.

And

In the matter of

NTPC- SAIL Power Company Private Limited
4th Floor, NBCC Tower,
15 Bhikaji Cama Place,
New Delhi - 110066

....Petitioner

Vs

Chhattisgarh State Load Despatch Centre
Vidyut Sewa Bhawan, Nagar-Parisar
Dargania, P.O. Sunder Nagar
Raipur, Chhattisgarh- 492013

....Respondent

Following were present:

Shri M.G. Ramachandran, Advocate, NTPC
Ms. Poorva Saigal, Advocate, NTPC
Ms. Ranjitha Ramachandran Advocate, NTPC
Shri D.G. Salpekar, NSPCL
Shri Abhinav Jindal, NSPCL
Shri G. Gupta, CSPTCL

ORDER

The petitioner, NTPC-SAIL Power Company Ltd. (NSPCL) has filed the present petition seeking clarification on the Commission's order dated 1.10.2014 in Petition No. 53/MP/2012 with regard to payment of UI Charges alleging that the respondent, Chhattisgarh State Load Despatch Centre(CSLDC) is misinterpreting the said order wrongly for calculating the UI charges.

Background of the case:

2. The petitioner had filed the Petition No. 53/MP/2012 seeking direction to Chhattisgarh State Power Transmission Company Limited to adopt the UI accounting methodology in respect of Bhilai Expansion Power Plant (2x250 MW) of NSPCL for the period from 22.4.2009 to 31.7.2011 in terms of the Central Electricity Regulatory Commission (Unscheduled Interchange charges and related matters) (Amendment) Regulations, 2010. After considering the submissions of the parties, the Commission vide order dated 1.10.2014 in Petition No. 53/MP/2012 observed that the UI accounting in respect of 170 MW of power from 22.4.2009 till 31.7.2011 shall be governed in accordance with the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2004 and the Central Electricity Regulatory Commission (Unscheduled Interchange charges and other matters) (Amendment) Regulations, 2010. The Commission directed the respondent to calculate the UI liability of the petitioner accordingly and adjust the same while settling the UI accounts with the petitioner.

3. Gist of the submission of the petitioner is as under:

(a) The petitioner had filed the Petition No. 53/MP/2012 in the context of the Chhattisgarh State Power Transmission Company Ltd. and State Load Centre treating the generation of the petitioner's 2x250 MW Bhilai Expansion power plant

as an intra-State generating station and to determine the applicable UI charges for the period from 22.4.2009 till 31.7.2011 under Regulation 35 (5) of the Central Electricity Regulatory Commission (Connectivity, Long Term Access, Medium Term Open Access and related matters) Regulations, 2009 (Connectivity Regulations) instead of determining the UI charges under the basic UI Regulations, namely the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (2009 Tariff Regulations).

(b) As per Regulation 30 (5) of the Connectivity Regulations, the Unscheduled Interchanges rate for intra-State entity shall be 105% (for overdrawals or under generation) and 95% (for under-drawals or over generation) of the Unscheduled Interchanges rate at the periphery of the regional entity. In the case of applicability of 2009 Tariff Regulations, the UI Charges are calculated at 100% without the above variation of 105% or 95%. The Commission in order dated 1.10.2014 decided that the petitioner's generating station is an inter-State generating station having connectivity to Central Transmission Network with regard to 170 MW of power and not intra State entity as claimed by the respondent. Such direct connectivity to the Central Transmission Utility is not restricted to 170 MW but extended to 255-267 MW during relevant period.

(c) As per the LTA application submitted by CSPDCL to CTU, the establishment of a dedicated line from NSPCL for utilization of power under LTOA by CSPDCL has been specifically mentioned. However, during the 58th CCM of WRPC, CSPDCL requested that since the Bhilai Steel Plant (BSP) is an embedded customer of CSPDCL, it may be allowed to draw power from 220 kV BSP dedicated lines connected from NSPCL Bhilai (2X250 MW), which was agreed upon. It is

noted that CSPDCL utilized BSP dedicated lines for drawal of power from NSPCL Bhilai (2X250 MW) to Chhattisgarh along with BSP. These lines belong to BSP and not to STU system.

(d) Chhattisgarh State Power Transmission Company Limited and the Chhattisgarh State Load Despatch Centre are misinterpreting the Commission's order dated 1.10.2014 and wrongly calculating the UI charges on the wrong assumption that the UI charges under the 2009 Tariff Regulations for the relevant period is to be applied only to 170 MW.

(e) The Chhattisgarh State Power Transmission Company Limited vide its letter dated 13.11.2014 has claimed ₹ 81,26,476 which is contrary to the said order dated 1.10.2014. The Chhattisgarh State Power Transmission Company Limited has been adopting dilatory tactics in the settlement of UI charges of ₹ 1,40,38,899/- payable to the petitioner and is rather wrongly demanding money from the petitioner.

3. Against the above background, the petitioner has made the following prayers:

“(a) Admit the present application and clarification the implications of the order dated 1.10.2014 on the payment of UI charges;

(b) Declare that the claim made by the Chhattisgarh State Power Transmission Company Limited in its letter dated 13.11.2014 is wrong and is contrary to the applicable Regulations; and

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

4. The petition was admitted on 26.2.2015 and notice was issued to the respondent to file reply to the petition.

5. The respondent in its reply dated 2.5.2015 has submitted that it is not correct to say that the UI charges are calculated at 100% without the variations of 105% or 95% in case of applicability of the 2009 Tariff Regulations. Regulation 24 of the 2009 Tariff Regulations provides for UI charges shall be governed by the relevant regulations specified by the Commission from time to time. The Commission in the said order dated 1.10.2014 had clearly observed that Regulation 30(5) of the Connectivity Regulations would not be applicable for the period from 1.1.2010 to 31.7.2011 since the 170 MW is being transferred to the ISTS directly and no STU network is involved in the transfer. The Commission further directed that the UI liability of the petitioner in respect of 170 MW of power from 22.4.2009 till 31.7.2011 be calculated as per the 2004 Open Access Regulations. Accordingly, CSPTCL claimed ₹ 81,26,476/- as per the Commission's directions.

Analysis and Decision:

6. We have considered the submissions of the petitioner and the respondent. The Commission, vide its order dated 1.10.2014, had observed and directed as under:

"16. It is noted that the period in dispute is from 22.4.2009 to 31.7.2011. The Connectivity Regulations came into force with effect from 1.1.2010 and therefore the period from 1.1.2010 till 31.7.2011 is regulated by the provisions of Connectivity Regulations. Prior to 1.1.2010, the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2004 (2004 Open Access Regulations) was governing the long-term and short term open access. Regulation 21 of the 2004 Open Access Regulations provides as under: "21. (i) The mismatch between the scheduled and the actual drawal at drawal point(s) and scheduled and the actual injection at injection point(s) shall be met from the grid and shall be governed by UI pricing mechanism applicable to the inter-state transactions. (ii) A separate bill for UI charges shall be issued to the direct customers and in case of the embedded customers, a composite UI bill for the State as a whole shall be issued, the segregation for which shall be done at the State level.

17. The above regulation provides that the mismatch between the schedule and the actual drawal at the point and schedule and actual injection at the injection point shall be met from the grid and shall be governed by UI pricing mechanism applicable to the inter-State transactions. Since the UI Regulations came into force with effect from 1.4.2009, the UI charges for deviation during the period from 22.4.2009 till 31.12.2009 shall be governed by the provisions of Regulation 21 of the 2004 Open Access Regulations read with the relevant provisions of UI Regulations. Regulation 21 of 2014 Open Access Regulations provides for separate bill for direct customer and a

composite bill for embedded customers for which segregation shall be made at the State level. Direct customer has been defined in Regulation 2 (d) "as a person directly connected to the system owned or operated by the Central Transmission Utility". Embedded customer has been defined in Regulation 2(e) "as a person who is not a direct customer". In the present case, the petitioner is directly connected to the network of CTU for 170 MW. Therefore, the billing should be directly done to the petitioner for such 170 MW.

18. Further the station is directly connected to the ISTS for transfer of 170 MW and STU network is not being used. The application of UI Charges @105% and 95% of UI charges under Regulation 30 (5) of the Connectivity Regulations in case of intra-State entity was provided to account for losses in the STU network, if used by the intra-State entity embedded in the State. Since 170 MW is being transferred through ISTS directly, there should not be any question of taking losses into account. Therefore, for the period from 1.1.2010 till 31.7.2011, the petitioner shall be governed by the provisions applicable under UI Regulations. Regulation 30 (5) of the Connectivity Regulations which prescribes the UI rates applicable to intra-State entities would not be applicable in this case. It is pertinent to mention that though the Grid Code came into force on 3.5.2010, shifting of responsibility to WRLDC was delayed as the modalities of transfer were being discussed in various meetings of WRPC. Therefore, the delay is said to be procedural and by operation of law, control area jurisdiction stood vested in WRLDC with effect from 3.5.2010, through the actual transfer took place on 1.8.2011. CSERC has also clarified to the respondent that the petitioner is an inter-State entity in its letter dated 5.11.2011.

20. In the light of the above, we are of the view that the UI accounting in respect of 170 MW of power from 22.4.2009 till 31.7.2011 shall be governed in accordance with 2004 Open Access Regulations and the UI Regulations. The respondent is directed to calculate the UI liability of the petitioner accordingly. Since, the petitioner has written to the respondent to adjust the SLDC operating charges and Registration Charges against the UI charges payable, the respondent is directed to adjust the same while settling the UI accounts with the petitioner. "

9. In the said order, the Commission clearly indicated that the petitioner is directly connected to the network of CTU. Therefore, the billing should be directly done to the petitioner. Therefore, we are of the view that Bhilai Expansion Power Plant (2x250 MW) is an inter-State generating station having direct connectivity to inter State transmission system of CTU. This connectivity is not restricted to 170 MW only and the generating station can inject power in excess of 170 MW as well. The generating station is directly connected to ISTS for fulfilling its PPA's obligation of supply of power of 170 MW to the Goa, Daman and Diu. Extending our argument in 53/MP/2012 that 95% & 105% of UI charges was provided to account for losses in State network, we direct that the entire

injection from the petitioner shall not be considered under Regulation 30(5) of the Connectivity Regulations.

10. The representative of the respondent during the hearing on 5.5.2015 submitted that CSPTCL has no problem in the implementation of the Commission`s order and agreed that the direct connectivity to the Central Transmission Utility is not restricted to 170 MW but apply to all ISTS power during period from 22.4.2009 to 31.7.2011 when the scheduling of station was done by CSLDC.

11. Taking note of the submission of the representative of the respondent, we direct CSLDC to revise UI accounting for the period 22.9.2009 to 31.7.2011 without applying limitation of 170 MW.

12. The petition is disposed of with the above direction.

Sd/-
(A.S.Bakshi)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson