

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No. 583/MP/2020
along with IA Nos. 68/2021 and 76/2021**

Subject : Petition under Section 79(1)(b), Section 79(1)(c) and Section 79(1)(f) of the Electricity Act, 2003 and the other applicable permissions, approval and legal and regulatory provisions.

Date of Hearing : 28.6.2022

Coram : Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Petitioner : Saurya Urja Company of Rajasthan Limited (SUCL)

Respondents : Powergrid Corporation of India Limited (PGCIL) and 4 Ors.

Parties Present : Shri Arijit Maitra, Advocate, SUCL
Ms. Suparna Srivastava, Advocate, PGCIL/CTUIL
Shri Tushar Mathur, Advocate, PGCIL/CTUIL
Ms. Soumya Singh, Advocate, PGCIL/CTUIL
Shri Aniket Prasoon, Advocate, CSPBPL
Ms. Shweta Vashist, Advocate, CSPBPL
Shri Md. Aman Sheikh, Advocate, CSPBPL
Shri V. Srinivas, CTUIL
Shri Kashish Bhambhani, CTUIL
Shri Yatin Sharma, CTUIL
Shri Swapnil Verma, CTUIL
Shri Siddharth Sharma, CTUIL
Shri Ranjeet Singh Rajput, CTUIL
Shri Akshay Kislay, CTUIL
Shri Servesh Kumar Singh, CSPBPL

Record of Proceedings

The order in the present petition was reserved on 12.4.2022. However, the order could not be issued prior to the Chairperson Shri P. K. Pujari demitting the office. Accordingly, the matter is listed for hearing today through video conferencing.

2. During the course of hearing, learned counsel for the Petitioner sought liberty to make certain additional submissions in view of the subsequent developments which was permitted by the Commission. Learned counsel for the Petitioner mainly submitted the following:

(a) The Commission vide its order dated 11.6.2022 in Petition No. 9/TT/2021 filed by the Respondent No.1, PGCIL in the matter of determination of tariff for transmission system for Solar Power Park at Bhadla has, *inter alia*, fastened and the liability of the payment of transmission charges for certain period on the Petitioner.



(b) However, in the said order, the Commission has not examined the legal and factual issues raised by the Petitioner in the present matter and the Petitioner argued that it being a solar park developer is not obligated to, contractually and under law, pay the transmission charges to PGCIL. Therefore, the doctrine of *res judicata* does not apply in the present case. In this regard, reliance was placed on the judgment of Hon'ble Supreme Court in the case of Gulam Abbas and Ors. v. State of UP [1982 1 (SCC) 71].

(c) In the tariff matters, the principles of *res judicata* do not apply as has been already held by the Hon'ble Supreme Court in the case of UPPCL v. NTPC [2009 6 (SCC) 235].

(d) Recently, the Commission in order dated 8.6.2022 in Petition No. 103/MP/2021 & batch matter and order dated 23.5.2022 in Petition No. 525/MP/2020 has held that the renewable generating companies are liable to pay the transmission charges from the date of operationalisation of long-term access in the event of delay in commercial operation of the generating stations. Similarly, in the present case also, the Respondent No.3 is liable to pay the transmission charges for delay in commissioning of its 300 MW solar generating capacity. In the above context, reliance was placed on the judgment of Hon'ble Supreme Court in the case of PGCIL v. PSPCL & Ors., [(2016) 4 SCC 797].

3. After hearing the learned counsel for the Petitioner, the Commission directed the Petitioner to file additional submissions in view of the subsequent developments within a week after serving copy of the same to the Respondents, who may file their response thereon, if any, within a week thereafter.

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

By order of the Commission

**Sd/-
(T.D. Pant)
Joint Chief (Law)**