

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 257/MP/2019

Coram:

Shri I. S. Jha, Member

Shri Arun Goyal, Member

Shri P. K. Singh, Member

Date of Order: 20th January, 2024

In the matter of:

A petition under Sections 79(1)(c), 79(1)(f) and 79(1)(k) of the Electricity Act, 2003, challenging the unlawful conduct of Power Grid Corporation of India Limited, inter-alia, wrongfully raising and recovering transmission charges through impermissible and inapplicable invoices being contra /against and unsustainable to the terms of the Transmission Service Agreement dated 18.10.2012 and the Long Term Access Agreement dated 04.06.2015, provisions of the Electricity Act, 2003 and the Regulations framed thereunder.

And in the matter of:

1. MB Power (Madhya Pradesh) Limited
239, Okhla Industrial Estate,
Phase III, New Delhi- 110 020

.....**Petitioner**

Versus

2. Power Grid Corporation of India Limited
Saudamini, Plot No.2, Sector-29
Near IFFCO Chowk, Gurgaon-122 001

.....**Respondent No. 1**

3. Central Transmission Utility of India Limited
First Floor, Saudamini, Plot No.– 2, Sector– 29
Near IFFCO Chowk Metro Station
Gurgaon – 122 001, Harayana

.....**Respondent No. 2**

Parties Present:

Shri Hemant Sahai, Advocate, MBPMPL,
Ms. Molshree Bhatnagar, Advocate, MBPMPL
Ms. Parichita Chowdhury, Advocate, MBPMPL,
Shri Abhishek Gupta, MBPMPL
Ms. Suparna Srivastava, Advocate, CTUIL
Shri Tushar Mathur, Advocate, CTUIL
Ms. Astha Jain, Advocate, CTUIL
Ms. Divya Sharma, CTUIL
Shri Bhasker Wagh, CTUI



ORDER

MB Power (Madhya Pradesh) Limited (hereinafter to be referred as 'Petitioner'), has filed the present Petition seeking declaration that the operationalization of the Long-term Access of 144 MW from 2.5.2018 by the Power Grid Corporation of India Limited (PGCIL) as null and void in absence of entire end to end identified Transmission System and invoices raised by PGCIL towards the transmission charges for the said LTA are illegal and non-est in law. The Petitioner has made following prayers:

- (a) Allow the present Petition;*
- (b) Hold and declare the alleged operationalization of the said Long-Term Access of 144 MW from 02.05.2018 by Power Grid Corporation of India Limited as null and void in absence of entire end to end identified Transmission System (including Up-gradation of \pm 800kV, 3000 MW HVDC bipole between Champa PS - Kurukshetra (NR) to 6000MW) and in terms of the facts and circumstances stated in the present Petition;*
- (c) Hold and declare that invoices raised by Power Grid Corporation of India Limited including invoices raised subsequently to filing of the present Petition by Power Grid Corporation of India Limited towards the transmission charges for the subject LTA of 144 MW are illegal and non-est in law;*
- (d) Quash the above-mention invoices raised Power Grid Corporation of India Limited;*
- (e) Direct Power Grid Corporation of India Limited to refund the amounts paid to it by the Petitioner against the above-mentioned invoices along with the carrying cost computed at the prevailing bank rate and/or any other similar mechanism as deemed appropriate by this Hon'ble Commission for the said period to restore the Petitioner to the same economic condition;*
- (f) Pass appropriate directions restraining Power Grid Corporation of India Limited from taking any coercive steps pursuant to the transmission charges raised by it towards the subject LTA of 144 MW from time to time;*
- (g) Allow Petitioner to add/alter or amend any of the grounds herein at a subsequent stage, if necessary;*

(h) Grant such order, further relief(s) in the facts and circumstances of the case as this Hon'ble Commission may deem just and equitable in favour of the Petitioner.

2. The Petitioner has also made following Interim prayers:

- (a) Direct Power Grid Corporation of India Limited to not raise any invoices towards the Long-Term Access of 144 MW in absence of availability of the entire end-to-end identified Transmission System (including Up-gradation of $\pm 800\text{kV}$, 3000 MW HVDC bipole between Champa PS - Kurukshetra (NR) to 6000MW) till the adjudication of the present Petition for it being unlawful and unjustifiable;
- (b) Pass appropriate directions restraining Power Grid Corporation of India Limited from taking any coercive steps pursuant to the transmission charges towards the subject LTA of 144 MW raised by it from time to time;
- (c) Pass such other order(s) and grant relief(s) that this Hon'ble Commission deems fit in the interest of justice and equity.

3. Petitioner while filing the petition in 2019, has made PGCIL as sole Respondent. However, vide affidavit dated 24.11.2022, petitioner has filed an amended memo of parties and has made CTUIL as the Respondent No. 2, consequent to separation of CTUIL from PGCIL as per direction of MoP. Accordingly, submissions made by PGCIL, wherever referred to in the petition, shall be construed as that of CTUIL.

Submissions of the Petitioner:

4. The Petitioner has mainly submitted as follows:

- (a) Petitioner has set up 1200 MW (2X600 MW) Thermal Power Project in District Anuppur of Madhya Pradesh. The Petitioner vide Application dated 28.11.2014, applied for LTA for 144 MW on target region basis (being Northern Region) in accordance with the provisions of the Connectivity Regulations, 2009.
- (b) The subject LTA of 144 MW was granted by PGCIL by its letter dated 07.05.2015. PGCIL while granting the LTA to the Petitioner identified the end-to-end Transmission System for the subject LTA of 144 MW as "Indore – Chittorgarh 765 KV D/c Line" and further intimated that the date from which

the LTA is granted from the availability of this entire end-to-end identified Transmission System i.e. “Indore – Chittorgarh 765 KV D/c Line”.

- (c) Petitioner and PGCIL entered into an LTA Agreement on 04.06.2015. The TSA had been executed between the Petitioner and PGCIL on 18.10.2012.
- (d) In terms of LTA Agreement, Petitioner is required to pay applicable transmission charges of the total transmission system (i.e. entire end-to-end identified Transmission System from which the subject LTA was granted to the Petitioner i.e. “Indore – Chittorgarh 765 KV D/c Line”) from the date of commissioning/ availability.
- (e) As per TSA and LTA Agreement, PGCIL was responsible for development of the entire end-to-end identified Transmission System from which the specified LTA was granted to the Petitioner.
- (f) Further, PGCIL vide letter dated 29.07.2016, modified the identified Transmission System required for the subject LTA of 144 MW from the earlier “Indore – Chittorgarh 765 KV D/c Line” to the following identified Transmission System as part of the Inter- State Transmission System:

“...Inter-Regional System Strengthening Scheme in WR and NR (Part-B)

- *Jabalpur PS-Orai 765kV D/C line*
- *Orai-Aligarh 765kV D/C line*
- *Orai-Orai 400kV D/C (Quad) line*
- *LILO of one ckt of Satna-Gwalior 765kV 2xS/C line at Orai*
- *LILO of Agra -Meerut 765kV S/C at Aligarh*
- *LILO of Kanpur-Jhatikara 765kV S/C at Aligarh*

Transmission System Strengthening in WR-NR Transmission Corridor for IPPs in Chattisgarh

- *Up-gradation of \pm 800kV, 3000 MW HVDC bipole between Champa PS- Kurukshetra (NR) to 6000MW*
- *Kurukshetra (NR)- Jind 400kV D/c (Quad)...*

- (g) On 28.03.2018, PGCIL issued a letter to the Petitioner stating that Jabalpur-Orai 765 kV Corridor (which was one of the elements of the end-to-end

identified Transmission System on which the subject LTA of 144 MW was granted by PGCIL to the Petitioner) has been charged and its Date of Commercial Operation (DOCO) is expected by 31.03.2018 and said LTA of 144 MW granted to the Petitioner would be operationalised with effect from 01.04.2018 as per applicable CERC regulations and directions.

- (h) On 29.03.2018, PGCIL issued another letter to the Petitioner, requesting the Petitioner to open a confirmed, irrevocable, unconditional and revolving Letter of Credit (LC) for Rs.11.88 Crores towards payment security mechanism as per the CERC regulations and procedures. This letter further stated that failure to open the LC would constitute an event of default by the Petitioner in terms of the TSA, which would lead to termination of the TSA. The Petitioner was thus instructed to open the LC by 16.04.2018 failing which PGCIL would initiate regulatory actions for regulation of the power supply including but not limited to curtailment of the ongoing Medium Term Open Access / Short Term Open Access.
- (i) Above mentioned letters issued by PGCIL came as a surprise to the Petitioner, who was suddenly informed that Jabalpur-Orai 765 kV corridor has been charged and that PGCIL would be ready to transfer 144 MW power under the said LTA from 01.04.2018 as a result of which the Petitioner was required to submit the LC.
- (j) Petitioner also raised concern that it was not invited to participate in the Joint Co-ordination Committee (JCC) for over a period of 2 years including its proposal to address the issue at hands.
- (k) The LTA of 144 MW was not operationalised with effect from 01.04.2018 by PGCIL due to non-commissioning of the end-to-end identified Transmission System.
- (l) On 28.08.2018, the Petitioner revised its existing LC to include the LC quantum for the said 144 MW LTA.
- (m) On 18.09.2018, PGCIL again informed the Petitioner that the ATC between WR-NR corridor has been enhanced with retrospective effect from 02.05.2018 upon commissioning of the Inter-Regional System Strengthening Scheme in

WR and NR which inter alia includes Jabalpur-Orai 765 kV corridor. As a system planner and implementer, PGCIL was required to inform the Petitioner, a firm date of operationalization of the subject LTA of 144 MW well in advance. However, PGCIL was itself not certain about the actual commissioning date of the said Jabalpur-Orai 765kV corridor and there existed an uncertainty in the actual date of operationalization of the subject LTA of 144 MW as the same was made contingent upon commissioning of the Jabalpur-Orai 765kV corridor by PGCIL.

- (n) Resultantly, the Petitioner has been burdened with the transmission charges for the lapses on behalf of PGCIL. The above facts, clearly establishes that PGCIL despite being fully aware that the said Jabalpur-Orai 765kV corridor was in fact not commissioned on 01.04.2018 has selectively and arbitrarily claimed and imposed such commissioning on the Petitioner.
- (o) Clause 3.0 of the LTA Agreement dated 04.06.2015 mandated PGCIL to provide timely updates regarding the progress of the end-to-end Transmission System identified for the subject LTA of 144 MW granted to the Petitioner, to enable the Petitioner to make the necessary arrangements for operationalization of the said LTA of 144 MW in terms of power tie-up and scheduling.
- (p) However, PGCIL did not invite the Petitioner to the JCCs meetings held post 12th JCC of WR (10.06.2016) to apprise the Petitioner about the progress of the end-to-end Transmission System identified for the subject LTA of 144 MW. During the period from 10.06.2016 to 02.05.2018 (alleged date of operationalization of the subject LTA of 144 MW granted to the Petitioner), 6 (six) JCC meetings of the Western Region had taken place and for which no information/ invitation was provided to the Petitioner.
- (q) Despite, informing that the LTA of 144 MW would be operationalised with effect from 01.04.2018, PGCIL, till 18.09.2018, never informed the Petitioner that the subject LTA of 144 MW was operationalized and did not raise any invoice towards the transmission charges corresponding to the subject LTA of 144 MW on the Petitioner till October 2018.

- (r) Vide letter dated 18.09.2018, PGCIL, informed about retrospective operationalization of LTA of 144 MW (with effect from 02.05.2018) and raised invoice dated 06.11.2018.
- (s) PGCIL's letter dated 29.07.2016 modifying the end-to-end identified Transmission System for the subject LTA of 144 MW, clearly indicates that the subject LTA of 144 MW was contingent upon commissioning of all the following transmission elements/ schemes by PGCIL:
- (i) Jabalpur PS-Orai 765kV D/C line
 - (ii) Orai-Aligarh 765kV D/C line
 - (iii) Orai-Orai 400kV D/C (Quad) line
 - (iv) LILO of one ckt of Satna-Gwalior 765kV 2xS/C line at Orai
 - (v) LILO of Agra -Meerut 765kV S/C at Aligarh
 - (vi) LILO of Kanpur-Jhatikara 765kV S/C at Aligarh
 - (vii) Up-gradation of \pm 800kV, 3000 MW HVDC bipole between Champa PS- Kurukshetra (NR) to 6000MW
 - (viii) Kurukshetra (NR)- Jind 400kV D/c (Quad)
- (t) However, CEA Report (Monthly Progress Report of Cross border/Inter-Regional/Inter-State Transmission Schemes as on 30.06.2019), clearly indicates that upgradation of \pm 800kV HVDC Converter station 3000MW to 6000MW at Champa station and upgradation of \pm 800kV HVDC Converter station 3000 MW to 6000 MW at Kurukshetra station are incomplete as on date of filing this Petition. The above-mentioned elements are targeted to be commissioned by PGCIL by December 2019.
- (u) In absence of availability of the end-to-end identified Transmission System, PGCIL's alleged operationalization of the LTA of 144 MW with effect from 02.05.2018 is factually incorrect and legally unsustainable. PGCIL has no right to claim transmission charges corresponding to the subject LTA of 144 MW.
- (v) PGCIL started issuing invoices with effect from 06.11.2018 and Petitioner has been duly making payments against these invoices. PGCIL raised invoices aggregating to almost Rs. 24 Crores to the detriment of the Petitioner so far.
- (w) Petitioner is seeking refund of the monies paid by the Petitioner to PGCIL against such invoices by PGCIL as Transmission Charges, along with the

carrying cost computed at the prevailing bank rate and/or any other similar mechanism as deemed appropriate by this Commission for the said period to restore the Petitioner to the same economic condition.

- (x) Petitioner placed reliance on judgment of this Commission vide Order dated 09.04.2019 in Petition No. 318/MP/2018 (M/s SEI Sunshine Power Private Limited vs Power Grid Corporation of India Limited), wherein the Commission has observed that the decision of PGCIL to operationalize the LTA without commissioning the entire Transmission System from which the LTA had been granted is impermissible.
- (y) The inter se obligation of the Petitioner to bear and pay transmission charges towards the subject LTA of 144 MW triggers only after when PGCIL completes its obligation of commissioning the entire end-to-end Transmission System identified by PGCIL for the subject LTA of 144 MW as per PGCIL's letter dated 29.07.2016 and not otherwise.
- (z) On 18.06.2019, the Petitioner raised a bill dispute notice against the invoices raised by PGCIL since May 2018 onwards and claimed that the amounts unlawfully recovered by PGCIL from the Petitioner in terms of transmission charges corresponding to the subject LTA of 144 MW, be immediately refunded. However, no response from PGCIL has been received by the Petitioner till the filing of the present Petition.
- (aa) It is the Petitioner's understanding, that PGCIL is relying on Regulation 8(5) of the Sharing Regulations to reject the lawful claims of the Petitioner conveyed by its letter dated 10.06.2019.
- (bb) Situation arises in the instant case, i.e. the Transmission System as identified by PGCIL for the subject LTA of 144 MW has not been developed, rather the capacity was created due to relinquishment of other LTA customers, has been not envisaged in the Sharing Regulations.
- (cc) PGCIL could only operationalise the subject LTA of 144 MW granted to the Petitioner on paper, since there was relinquishment of LTA in the existing network. Therefore, even under the meaning of Regulation 8(5) of the Sharing Regulations, PGCIL could not have sought any exemption as rightly

determined by this Commission vide its Order dated 09.04.2019 in Petition No. 318/MP/2018.

5. The LTA of 144 MW granted to the Petitioner from 2.5.2018 by the Respondent, is null and void and also that invoices raised by the Respondent towards the transmission charges for the said LTA are also illegal; and refund transmission charges already paid by the Petitioner to the Respondent for the above said transmission system along with the carrying cost.

Hearing dated 12.12.2019:

6. The learned counsel for the Petitioner submitted that the present Petition has been filed, seeking declaration that the operationalization of the Long-term Access of 144 MW from 2.5.2018 by the PGCIL as null and void in absence of entire end to end identified Transmission System [including up-gradation of + 800kV, 3000 MW HVDC bipole between Champa PS- Kurukshetra (NR) to 6000 MW] and invoices raised by PGCIL towards the transmission charges for the said LTA are illegal and non-est in law. Considering the submissions made by the learned counsel for the Petitioner, the Commission admitted the Petition.

Reply of PGCIL:

7. PGCIL in its reply vide affidavit dated 21.03.2020 submitted as under:

- (a) The transmission charges bills have been raised on the Petitioner w.e.f. 2.05.2018. The Petitioner has never issued any bill dispute notice till June, 2019 with respect to the said bills. Petitioner has decided, as an afterthought, to challenge the transmission charges after this Commission passed an Order dated 9.4.2019 in Petition No.318/MP/2018.
- (b) The LTA of 144 MW was granted on 'target region basis' to the Northern Region vide letter dated 7.5.2015 with identified transmission system as 'Indore-Chittorgarh 765kV D/C Line'. The LTA was to be made operational subject to the availability of the identified transmission system.
- (c) In the 23rd Meeting of the Western Region constituents for connectivity and LTA held on 1.6.2016, it was decided to grant LTA to the pending LTA applicants with commissioning of Jabalpur PS-Orai 765 kV corridor and Champa –Kurukshetra HVDC Phase-II, based on priority of new LTA

applications. With subsequent developments i.e. request of Noida Power Company Ltd. and Satviki Energy for keeping their LTA applications in abeyance, the LTA applicants that can be accommodated in the capacity made available due to relinquishment is as given below:

Sl. No.	Name of the Applicant	Injecting Region	Quantum of LTA sought for NR (MW)	Application month	LTA sought from
1.	MB Power (Madhya Pradesh) Limited	WR	169	11-Feb-2014	1-Jun-2015
2.	MB Power (Madhya Pradesh) Limited	WR	31	11-Feb-2014	1-Jun-2015
3.	KSK Mahanadi Power Company Ltd	WR	1000	27-Feb-2014	30-Oct-2016
4.	MB Power (Madhya Pradesh) Limited	WR	144	29-Dec-2014	1-Aug-2015
5.	Suzlon Power Infrastructure Ltd.	SR	40	30-Apr-2015	1-Apr-2018
6.	Suzlon Power Infrastructure Ltd.	SR	40	30-Apr-2015	1-Oct-2018
7.	Suzlon Power Infrastructure Ltd.	SR	40	30-Apr-2015	1-Apr-2019
8.	SEI Sunshine Power Pvt. Ltd.	WR	180	31-Jul-2015	30-Sep-2016
9.	TRN Energy Ltd.	WR	240	27-Aug-2015	30-Oct-2016
			1884 MW		

- (d) During the said meeting it was also decided that grant of LTA to above applicants would be subject to commissioning of Jabalpur-Orai 765 kV corridor under implementation as “Inter-Regional System Strengthening Scheme in WR and NR Part-B” and Champa – Kurukshetra HVDC Phase II under implementation as “Transmission System Strengthening in WR-NR Transmission Corridor For IPPs in Chhattisgarh”. Details of both the schemes are as given below:

Inter-Regional System Strengthening Scheme in WR and NR Part-B

- *Jabalpur PS -Orai 765kV D/C line*
- *Orai -Aligarh 765kV D/C line*
- *Orai -Orai 400kV D/C (Quad) line*
- *LILO of one ckt of Satna -Gwalior 765kV 2xS/C line at Orai*
- *LILO of Agra -Meerut 765kV S/C at Aligarh*

- LILO of Kanpur -Jhatikara 765kV S/C at Aligarh

Transmission System Strengthening in WR-NR Transmission Corridor for IPPs in Chhattisgarh

- Up-gradation of $\pm 800\text{kV}$, 3000MW HVDC bipole between Champa PS –Kurukshetra (NR) to 6000MW
- Kurukshetra (NR) –Jind 400kV D/c (Quad)”

- (e) As decided in the said Meeting, vide letter dated 29.7.2016, a revised LTA grant to the Petitioner was issued with the above said identified transmission system; all other terms of the grant remained the same.
- (f) A combined reading of the third proviso to Regulation 8 clause 5 of the Sharing Regulations and the Order dated 16.2.2015 passed in Petition No.92/MP/2014 by this Commission shows that if the implementation of identified transmission system has reached a stage where the LTA quantum (from a unit or a generating station) can be evacuated through it, then the LTA is to be operationalized by the Respondent as per the mandate of the applicable CERC Regulations/Procedures.
- (g) It may also be pertinent to peruse the legislative and regulatory intent (Statement of Reasons) behind the above provision under Regulation 8(5) of the CERC (Sharing of Inter State Transmission Charges and Losses) (Third Amendment) Regulations, 2015:

“32. Clause (5) of Regulation 8

...

32.20 We have also noted that the substantial part of the system required for LTA gets commissioned but the LTA does not get operationalized on the ground that the full system identified for grant of LTA has not been commissioned. It is possible that substantial changes happen in the load-generation balance and commissioning of some of the transmission lines gets affected. Hence, CTU should inform generator, the quantum of power that can be evacuated on the scheduled date of commencement of LTA. If the system is ready to evacuate full LTA quantum, the generator shall have to pay the transmission charges corresponding to the full quantum w.e.f. commencement date of LTA. However, when some of the required transmission system considered for full LTA are not available by the scheduled date and full LTA cannot be operationalized, part operationalisation of LTA shall be done after the scheduled date of operationalization. In case of generating station with multiple units, LTA shall be operationalised if the transmission systems are available for evacuation of entire contracted power from a particular unit.”

- (h) In the present Petition as well, the same regulatory scheme was applicable and the LTA was to be operationalized as soon as such of the elements of the identified transmission system as were capable of carrying the LTA quantum of 144 MW, were commissioned. This was more so when the generation units of the Petitioner's power project had been commissioned in May, 2015 and March, 2016 respectively. This aspect regarding LTA operationalization has been completely lost sight of by the Petitioner while wrongly pleading that the LTA could be operationalized only when all the elements in the so called 'end-to-end identified transmission line' were commissioned.
- (i) The nomenclature of 'end-to-end identified transmission system' given by the Petitioner and on which its entire case rests, is no-where found or recognized in the Regulations framed by this Commission. The only requirement for LTA operationalization is the availability of "identified" transmission system which, as per Regulation 8(5) of the Sharing Regulations means such of the transmission system enumerated in the LTA grant and specified in the LTA Agreement as is capable of evacuating power to the extent of the LTA granted.
- (j) The unequivocal direction of this Commission in Petition No.92/MP/2014 is that once such system is available, then the LTA must be operationalized by the Respondent. As such, no LTA grantee can insist on LTA operationalization only when all the elements comprised in the identified transmission system are commissioned.
- (k) LTA Agreement dated 4.6.2015, executed between Petitioner and Respondent, recognized that the grant/ operationalization of the LTA was to be from the date of availability of such identified transmission system and upon such operationalization.
- (l) As per the LTA Agreement itself, even if a part of the identified transmission system had been declared to be commercially operational post the scheduled commissioning date of the generating station, the liability of transmission charges was to ensue on to the Petitioner from the said date of such commissioning and commercial operation of Transmission System. If the

commissioned system was sufficient for operationalizing the LTA, the said LTA was also bound to be operationalized by the Respondent.

- (m) As both the units of the Petitioner's project were commissioned in May, 2015 and March, 2016 respectively and thus, no further coordination with respect to commissioning schedules was required on part of the Respondent and as a consequence, there was no requirement for the Petitioner to attend any subsequent JCCs with other long term constituents whose projects were yet to be commissioned.
- (n) Further, contention of the Petitioner is equally misplaced that the said JCCs were conducted to review the progress of power tie-ups of the Petitioner vis-à-vis the commissioning schedules of the transmission system since clause 3.0 clearly provided the reason for conducting JCC as to monitor/review the progress of "work under the scope of LTC".
- (o) Petitioner, vide its letter dated 28.3.2018, was duly intimated that upon commissioning of the Jabalpur-Orai-Aligarh 765kV corridor, expected to be by 31.3.2018, the LTA would also be made operational w.e.f 1.4.2018. It was clearly stated that the operationalization of LTA would still be dependent upon the commissioning of the Jabalpur-Orai-Aligarh 765kV corridor.
- (p) By operation of 2nd proviso to Regulation 8(5) of the Sharing Regulation. The LTA of the Petitioner was to be operationalized as soon as such elements of the identified transmission system were capable of carrying the LTA quantum of 144 MW, were commissioned.
- (q) As regards the contention of the Petitioner that the Respondent could not have operationalized its LTA retrospectively, this Commission, in Petition Nos.10/SM/2014 and 103/MP/2017, has dealt with the similar issue.
- (r) Thus, even in case of the Petitioner, the LTA was made operational from the date of ATC enhancement in the Jabalpur-Orai-Aligarh 765 kV Corridor i.e. 2.5.2018. The contention of the Petitioner that the said principle would not apply onto it since the capacity addition in the Jabalpur-Orai-Aligarh 765 kV corridor is not due to commissioning of any line but is rather due to relinquishment of LTAs by other DICs is erroneous since the liability to pay

for transmission charges is clearly contingent upon the availability of transmission system inter-alia including the commissioning of 765 kV Jabalpur-Orai line based on which the LTA was operationalized and not on reason for such availability being relinquishment of LTAs by other DICs. The petitioner is merely trying to mis-interpret the settled regulatory provision in order to avoid its liability to pay transmission charges.

- (s) The BCD Procedure, clearly provides that in case any party has any dispute regarding any bill, the said party is required to serve a 'bill dispute notice' to the issuing party within 30 days of receiving it and in case no such 'bill dispute' notice is received, it would be presumed that the said bill is correct and accepted by the party receiving it. In the case of the Petitioner as well, despite issuance of bills from 6.11.2018, the Petitioner never raised any bill dispute notice within the prescribed time of 30 days.
- (t) In the case of SEI Sunshine Power Private Limited, the LTA of SEI Sunshine had been made operational from the date of commissioning of a part of the identified transmission system; however, on such date, its generating station had not become commercially operational. Being a renewable power developer and exempted from payment of transmission upon its commissioning as per the Regulations framed by this Commission. SEI Sunshine sought exemption from payment of transmission charges for the intervening period from the date of operationalization of its LTA till the date of commissioning of its generating station.
- (u) However, in the present case, the generating station of the Petitioner had been commissioned way back in May, 2015 and March, 2016 respectively and the Petitioner had also been evacuating power through short term open access (STOA). Petitioner herein is a conventional coal based thermal power plant which enjoys no such exemption and is liable to pay transmission charges as per the Sharing Regulations and the LTA Agreement. The case of the Petitioner and the case of SEI Sunshine being completely different and distinguished, the Petitioner cannot be allowed to take shelter being the Order dated 19.4.2019 passed by this Commission to evade its liability of payment of transmission charges.

- (v) Petitioner did not raise any objection either to the operationalization or towards the bills till June, 2019 when they issued bill dispute notice dated 18.6.2019 for the first time as an afterthought after the Commissions' order dated 9.4.2018 in SEI Sunshine matter. In fact, the Petitioner duly paid the said bills amounting to more than Rs.70 crores till June, 2019 without any protest or demur and without even raising any 'bill dispute notice'.
- (w) After more than one year of its LTA operationalization, the Petitioner sought to raise adversarial claims and issued a highly belated 'bill dispute notice' under the BCD Procedure and sought refund of the amounts already paid to the Respondent. The reason ostensibly given by the Petitioner for issuance of the said 'bill dispute notice' was that upon perusal of CEA Report dated 28.2.2019, it came to the knowledge of the Petitioner that one of the elements being "Up-gradation of \pm 800kV, 3000MW HVDC bipole between Champa PS –Kurukshetra (NR) to 6000MW" was yet to be commissioned and thus the LTA operationalization, in the absence of the commissioning of the said elements, was against the LTA Agreement and the Regulations.
- (x) Objections raised by the Petitioner that in absence commissioning of the above said element being "Up-gradation of \pm 800kV, 3000MW HVDC bipole between Champa PS –Kurukshetra (NR) to 6000MW", its LTA could not be operationalised is completely misplaced on account of the fact that even in absence of said element, there were no transmission constraints qua the evacuation of 144 MW power through the LTA of the Petitioner.
- (y) Petitioner, out of its own volition, opted to evacuate power through STOA and not using the LTA due to lack of long-term power tie-ups. Thus, the Petitioner cannot be allowed to dispute its LTA operationalization, when admittedly there are no transmission constraints in the system and the Petitioner is itself choosing not to use its LTA.

Petitioner's rejoinder to the CTUIL reply:

8. Petitioner in his rejoinder vide affidavit dated 09.07.2020 submitted as under:

- (a) Petitioner had diligently took-up its concerns with PGCIL from time to time through various letters and Bill Dispute Notice(s) under BCD Procedure and in

absence of any response from PGCIL, the Petitioner approached this Commission at the first instance, once it came to its knowledge that PGCIL has illegally operationalised the LTA of 144 MW. The claim made by the Petitioner is not time barred and therefore, legally and contractually enforceable by the Petitioner.

- (b) There is nothing in contract or otherwise that suggests that PGCIL will be absolved from its obligation to invite an LTA Applicant for JCC Meetings and keep him duly informed about the commissioning progress of this identified transmission system and the likely date of LTA operationalization, if the generating station is already commissioned.
- (c) By way of such untenable arguments, PGCIL admitted to have resorted to a discriminatory approach between the LTA Applicants whose generating stations are commissioned and the LTA Applicants having operational generating station, in terms of dissemination of information with regard to commissioning progress of the identified transmission system and likely date of operationalization of the LTA. Such discriminatory approach by PGCIL amounts to breach of its statutory responsibility of providing non-discriminatory Open Access under Section-38 of the Electricity Act 2003.
- (d) Petitioner in terms of Recital I of this LTA Agreement dated 04.06.2015, is required to pay applicable transmission charges of the total transmission system (i.e. all the elements/ schemes of such designated transmission system identified for grant of the subject 144 MW LTA to the Petitioner) from the date of commissioning/ availability of the Transmission System identified for LTA as duly mentioned under Item Nos. # 9 and 9a of the Annexure-1 of the subject LTA Agreement dated 04.06.2015 duly modified by PGCIL vide its letter dated 29.07.2016.
- (e) It is important to point out that "Availability" is used as a pre-fix to the Transmission System identified for the LTA i.e. the eight (8) elements/ schemes enumerated at Annexure-I of the LTA. At no point, "Availability" under the LTA Agreement means or is recognized as the ATC i.e. the Available Transfer Capability that has been enhanced either due to commissioning of certain (and not all) elements/ schemes of the designated

transmission system identified for grant of the subject 144 MW LTA to the Petitioner or due to relinquishment of LTA by other developers or otherwise.

- (f) As clearly evident, contractually, grant of the subject 144 MW LTA by PGCIL to the Petitioner was contingent upon augmentation in entirety of the complete designated transmission system identified for grant of such LTA and in no way was LTA grant/ operationalization was linked to enhancement of ATC. As such, contractually, PGCIL cannot claim to have operationalised the subject 144MW LTA by virtue of ATC enhancement on the existing network, without commissioning all the eight (8) elements/ schemes.
- (g) PGCIL has itself accepted that during the 23rd Meeting of the Western Region constituents for connectivity and LTA held by PGCIL on 01.06.2016, the grant of LTA to the host of applicants (including the Petitioner herein for the subject 144 MW LTA and also the Petitioner under the Petition 318/MP/2018) shall be subjected to inter-alia commissioning of Champa-Kurukshetra HVDC Phase II.
- (h) PGCIL in its Reply has taken a stand that the contractual and regulatory framework permits PGCIL to operationalize the subject 144 MW LTA even in the absence of commissioning/availability of all the above mentioned eight (8) schemes/ elements of the designated transmission identified for grant of this 144 MW LTA to the Petitioner. The provisions of the LTA Agreement duly modified by PGCIL vide its letter dated 29.07.2016 clearly stipulate the pre-requisites for operationalization of the subject 144 MW LTA by PGCIL and levy of transmission charges thereof on the Petitioner:
- (i) The contractual pre-requisites for recovering transmission charges from the Petitioner, i.e. "Availability of the entire Transmission System as recognised under Annexure-I of the LTA Agreement", have not been achieved by PGCIL. The Petitioner is liable to bear the transmission charges under the LTA Agreement only when the "identified Transmission System" is commissioned in its entirety and not otherwise.
- (j) PGCIL never discharged its contractual, regulatory and statutory obligation of informing the Petitioner about the commissioning /availability status of the various schemes/ elements forming a part of the entire designated

transmission system identified for grant of subject 144 MW to the Petitioner. In absence of dissemination of such vital information, Petitioner was absolutely unaware of the subject 144 MW LTA has been operationalized by PGCIL without even commissioning one of the key elements i.e. “Up-gradation of $\pm 800\text{kV}$, 3000 MW HVDC bipole between Champa PS- Kurukshetra (NR) to 6000MW” of the designated transmission system identified for grant of the subject 144 MW LTA. Further, since this subject 144 MW was granted and operationalized by PGCIL on “Target-Region” basis, hence in absence of a beneficiary, even after operationalization of this subject 144 MW LTA, there was no actual flow of power. As such, operationalization of the subject LTA by PGCIL was only on paper and in absence of any power flow under the subject LTA, there was no way to establish if such phony and illegal operationalization of the subject 144 MW LTA by PGCIL was even able to effect actual transmission of power in absence of commissioning one of the key elements i.e. “Up-gradation of $\pm 800\text{kV}$, 3000 MW HVDC bipole between Champa PS- Kurukshetra (NR) to 6000MW”.

- (k) The said illegal operationalization of subject 144 MW LTA by PGCIL came to the knowledge of the Petitioner as late as in April 2019 when the Commission issued its Order in the Petition No. 318/MP/2018 where in this Commission has clearly observed that that the decision of PGCIL to operationalize the LTA without commissioning the entire Transmission System from which the LTA had been granted is impermissible and bad in law. Accordingly, there was no occasion for PGCIL to wrongfully bill and collect transmission charges from the Petitioner since May 2018.
- (l) It is in the instant case, the alleged “no transmission constraints qua the evacuation of 144MW of power under the subject LTA” was not due to the fact that the designated transmission system identified for grant of the subject 144 MW to the Petitioner was ready/ available for evacuation for the subject 144 MW, but it was because of the capacity created in the WR-NR transmission system due to relinquishment of substantial LTA capacities by other LTA customers. As such, the contention of PGCIL is completely outrageous, wrong and unsustainable in law.

- (m) The term transmission has been defined in in Section 2 (74) of the Electricity Act 2003, which means conveyance of electricity through transmission lines, whereas ‘transmission lines’ has been defined in Section 2 (72). A combined reading of both the above provisions explains that the transmission line/system can be considered ready for transmitting electricity (operationalized), only when all the associated elements/ schemes of such transmission system are commissioned/ available.
- (n) The findings and directions of this Commission in its Order dated 09.04.2019 in Petition No. 318/MP/2018 are squarely applicable in the present matter and Regulation 8(5) of the CERC Sharing Regulations and Order dated 16.2.2015 passed by this Commission in Petition No. 92/MP/2014 have no application in relation to the facts and circumstances.
- (o) Definitions of “Applicant” and “Long-Term Customer” under Regulation 2 of Connectivity Regulations do not create any discrimination between any LTA applicants/ customers based on the nature of their respective generating stations (Renewable Power/ Conventional Power) and all these LTA Applicants warrant a uniform and non-discriminatory consideration by PGCIL for grant and operationalization of LTA and recovery of transmission charges thereof.
- (p) PGCIL has further alleged that the Order in Petition No. 318/MP/2018 was with respect to a generating station which was not commissioned at the time of operationalization of LTA vis-à-vis the present Petition wherein the generating station of the Petitioner had already been commissioned at the time of operationalization of the subject LTA of 144 MW by PGCIL. However such an argument of PGCIL is contradictory to its long-taken stand that operationalization of LTA by PGCIL is not contingent upon commissioning of the associated generating project by a LTA Applicant.
- (q) PGCIL seems to have failed to comprehend and appreciate that the commissioning of the transmission system and generating station are two mutually exclusive activities and in no way can commissioning of the designated transmission system identified for grant off LTA by PGCIL be made contingent upon commissioning of the associated generating station.

- (r) This Commission under Paras 19 and 20 of its said Order in the Petition 318/MP/2018 has categorically held that operationalization of LTA by PGCIL without commissioning the entire designated transmission system identified for grant of LTA was in violation of the LTA Agreement and hence the same is not in order.
- (s) Case of Petitioner herein, material facts of the case, contentions of the Petitioner and PGCIL herein are exactly identical to the case of Petitioner in the referred Petition 318/MP/2018 and there is absolutely no incongruence between the both these cases.

Hearing dated 23.3.2023:

9. The matter was heard on 23.3.2023. The Commission further directed the parties to file their written submissions and CTUIL to explain in its written submission as to why it initially by its communication dated 28.3.2018 had indicated the operationalization of LTA with effect from 1.4.2018, which ultimately came to be operationalized only w.e.f 2.5.2018 and the Commission reserved the matter for order.

Submission of PGCIL:

10. PGCIL vide in its submissions dated 11.4.2023 re-iterated its earlier submissions and mainly submitted as under:

- (a) In the 23rd Meeting of WR constituents regarding connectivity and LTA held on 1.6.2016, Respondent informed the participants (which also included the present Petitioner) that the following major inter-regional links between Western Region and Northern Region were in pipeline for commissioning:
- Champa-Kurukshetra Phase-I: expected by November, 2016;
 - Champa-Kurukshetra Phase-II: expected by March, 2018;
 - Jabalpur-Orai 765 kV D/c line: expected by April' 2018;
- (b) Further, it also was proposed to grant LTA to the pending LTA applicants with (subject to) commissioning of the Jabalpur-Orai 765 kV corridor and Champa-Kurukshetra HVDC Phase-II based on priority of new LTA

applications. Amongst the LTA applicants who could be accommodated in the capacity made available due to relinquishment, was the present Petitioner.

- (c) The Petitioner, as a participant in the said Meeting, agreed for “upgradation” of its LTA for its operationalization with the commissioning of the Jabalpur-Orai 765 kV corridor and Champa-Kurukshetra HVDC Phase-II systems. Accordingly, a revised LTA intimation dated 29.7.2016 was issued to the Petitioner. The date from which the LTA was granted was stated as from “Availability of Transmission system for LTA”.
- (d) As per Regulation 8 clause (5) of the Sharing Regulations, 2010, if some of the commissioned elements forming part of the transmission system under an LTA grant were having sufficient capacity for operationalizing the LTA, then the said LTA could be operationalized with the said commissioned elements notwithstanding that all the elements under the identified transmission system were yet to be commissioned. In such a situation, the LTA grantee was liable to pay transmission charges “for LTA operationalized corresponding to the transmission system commissioned”.
- (e) This Commission in its Order dated 16.2.2015 passed in Petition No.92/MP/2014 had held that if implementation of the identified transmission system had reached a stage where the LTA quantum (from the unit or a generating station) could be evacuated through it, then the LTA was to be operationalized by the Respondent.
- (f) The generation units of the Petitioner’s project had already been commissioned in May, 2015 and March, 2016 and as such, operationalization of LTA as soon as capacity under the identified transmission system was available, became imminent. That being so, the Petitioner could not be heard to plead that its LTA could be operationalized only when all the elements under the identified transmission system were commissioned.
- (g) Under the regulatory prescriptions, there was no concept of “end-to-end transmission system” under an LTA grant. The only requirement for LTA operationalization was the availability of identified transmission system viz. as per Regulation 8(5) of the Sharing Regulations, 2010.

Written Submission by Petitioner:

11. The Petitioner in its submissions vide affidavit dated 16.04.2023 re-iterated its earlier submissions and mainly submitted as under:

- (a) Upon becoming aware of the above finding of this Commission in Order dated 09.04.2019 passed in Petition No. 318/MP/2018, MBPMPL vide its letter dated 18.06.2019 has disputed the issuance of such POC Bills by CTUIL.
- (b) Action of CTUIL to retrospectively operationalise the LTA from 02.05.2018 is arbitrary and against the express provision of the LTAA which required the commissioning of the entire identified transmission system for operationalisation of the LTA.
- (c) Even if the un-commissioned Element was not a necessary prerequisite technically, as per the express contractual provisions, the same was necessarily required to be commissioned for operationalisation of the LTA.
- (d) CTUIL's letter dated 28.03.2018, whereby it had intimated the operationalisation of the LTA from 01.04.2018 cannot be considered as a prior intimation. This LTA was not operationalised with effect from 01.04.2018 by CTUIL. From 28.03.2018 till 18.09.2018 no information/ clarity was provided by CTUIL to the Petitioner about the status of operationalization of this 144 MW LTA and no invoices towards the transmission charges thereof were raised by PGCIL on the Petitioner. CTUIL operationalised the LTA from 02.05.2018 and notified the same to MBPMPL retrospectively only by way of its letter dated 18.09.2018 (almost after 4 months) of operationalisation of the LTA.
- (e) The contractual pre-requisites for recovering transmission charges from the Petitioner, i.e., "Availability of the entire Transmission System as recognised under Annexure-I of the LTA Agreement", have not been achieved by CTUIL.
- (f) In regards to CTUIL's contention was that MBPMPL has filed the present petition as an afterthought, since it did not dispute the levy of POC Charges by way of POC Bills and / or operationalisation of the LTA when CTUIL had

intimated the same to MBPMPL. It is submitted that there is no legal bar on MBPMPL from raising such disputes, since MBPMPL only became aware of CTUIL's act being wrongful when this Commission rendered its decision in the Sunshine Order.

- (g) CTUIL has also relied on the Order dated 16.02.2015 passed in Petition No. 92/MP/2014 to justify its incorrect action. It is submitted that the said reliance has been dealt with and held to be incorrect by this Commission in the Sunshine Order.
- (h) With respect to CTUIL's reliance on the Order issued by this Commission in Petition No. 92/MP/2014, it is submitted that CTUIL has relied on Para 129 of the said Order to state that the LTA can be operationalised without the entire designated transmission system being commissioned. This Commission has categorically held that only in cases of reasons beyond control, if required transmission system for full LTA are not available, for generating station of multiple units, then the LTA shall be operationalized if transmission system is available for evacuation of the entire contracted power from a particular unit. The findings of this Commission in the above Order, will apply to a situation where the LTA applicant is seeking LTA operationalization in absence of commissioning of the entire identified system (i.e., Transmission System identified by CTUIL which was under augmentation/ proposed to be augmented at the time of grant of LTA, but has been delayed). The exception envisaged in the Order dated 16.02.2015 is only applicable to the cases where:
 - (i) The entire transmission capacity to cater the aggregate LTA quantum spanning across multiple generating stations/ units is not ready and only a part thereof is available and;
 - (ii) For the reasons beyond control (*Force Majeure*) there has been a delay in commissioning of the entire identified Transmission System by PGCIL vis-à-vis the Schedule date of LTA operationalization and LTA applicant is seeking LTA/ part LTA operationalization to supply power under PPA i.e., only for those cases where LTA has been firmed up under an

associated PPA thereby necessitating actual flow/ transmission of power.

- (i) The case of Petitioner herein, material facts of the case, contentions of the Petitioner herein and contention of CTUIL in the present Petition are exactly identical to the case set out in the Sunshine Order and there is absolutely no incongruence between both these cases. Therefore, the findings and directions of this Commission in the Sunshine Order are squarely applicable in the present Petition.

Analysis and decision:

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

13. The Petitioner has submitted that it is seeking the declaration of the operationalisation of its LTA of 144 MW from 02.05.2018 as null and void in absence of entire end to end identified Transmission System and refund of the transmission charges already paid by the Petitioner to the Respondent along with the carrying cost. Petitioner has placed reliance on judgment of this Commission vide Order dated 09.04.2019 in Petition No. 318/MP/2018 (M/s SEI Sunshine Power Private Limited vs Power Grid Corporation of India Limited), wherein the Commission has observed that the decision of PGCIL to operationalize the LTA without commissioning the entire Transmission System on which the LTA had been granted is impermissible. Petitioner has also opposed retrospective operationalisation of LTA from 2.5.2018 by CTU vide letter dated 18.09.2018. Petitioner has stated that CTUIL's letter dated 28.03.2018, intimating the operationalization of the LTA from 01.04.2018 cannot be considered as a prior intimation since the LTA was not operationalised with effect from 01.04.2018 by CTUIL. From 28.03.2018 till 18.09.2018 no information/ clarity was provided by CTUIL to the Petitioner about the status of operationalization of this 144 MW LTA and no invoices towards the transmission charges thereof were raised by PGCIL on the Petitioner.

14. The PGCIL in its reply has contended that the un-commissioned Element was not necessary for operationalisation of the 144 MW LTA of Petitioner. The

date from which the LTA was granted was stated as from “*Availability of Transmission system for LTA*”. Further, as per clause (5) of Regulation 8 of the Sharing Regulation, 2010 if some of the commissioned elements forming part of the transmission system under an LTA grant were having sufficient capacity for operationalizing the LTA, then the said LTA could be operationalized with the said commissioned elements. In such a situation, the LTA grantee was liable to pay transmission charges “for LTA operationalized corresponding to the transmission system commissioned”. The Petitioner did not raise any objection either to the operationalization or towards the bills till June, 2019 when they issued bill dispute notice dated 18.6.2019 for the first time as an afterthought after the Commission order dated 9.4.2018 in SEI Sunshine matter. In fact, the Petitioner duly paid the said bills amounting to more than Rs.70 crores till June, 2019 without any protest and without even raising any ‘bill dispute notice’. Further, the objections raised by the Petitioner that in absence commissioning of the above said element, its LTA could not be operationalised is completely misplaced on account of the fact that even in absence of said element, there were no transmission constraints qua the evacuation of 144 MW power through the LTA of the Petitioner.

15. Considering the submissions of Petitioner and Respondent, the following issues arise for our consideration:

Issue No. 1: Whether PGCIL has rightly operationalized the Petitioner’s LTA of 144 MW in absence of entire end to end identified Transmission System?

Issue No. 2: Whether PGCIL has rightly operationalized the Petitioner’s LTA of 144 MW With effect from 02.05.2018, retrospectively vide letter dated 18.09.2018? Whether the Petitioner is entitled for any refund of transmission charges which has already been paid by the Petitioner against the LTA quantum of 144 MW?

16. The above issues have been dealt with in succeeding paragraphs.

Issue No. 1: Whether PGCIL has rightly operationalized the Petitioner’s LTA of 144 MW in absence of entire end to end identified Transmission System?

17. We note that the Petitioner vide its application dated 28.11.2014 applied for LTA of 144 MW from 01.08.2015 till 31.07.2040. The snapshot of Petitioner’s LTA application dated 28.11.2014 is as under:



FORWARDED

Application for Grant of Long-term Access (LTA)

- 1 Name the Applicant** : MB Power (Madhya Pradesh) Limited
- 2 Address for Correspondence** : 239, Okhla Industrial Estate,
Phase III New Delhi-110020
- 3 Contact Details**
- Prime contact person : Mr. Abhishek Gupta
Designation : Assistant General Manager
Phone No (Landline) : 011 – 47624 231
Phone No (Mobile) : 9818218078
Fax : 011 – 47624229
E mail : abhishekgupta@hpppl.in
- Alternate contact person : Mr. Vijendra Mittal
Designation : Advisor
Phone No (Landline) : 011 – 47624 128
Phone No (Mobile) : 9818716669
Fax : 011 – 47624229
E mail : vijendra.mittal@hpppl.in
- 4 Nature of the Applicant**
- Generator (other than captive) : Generator
(Phase-1, 1200 MW (2X600 MW), Anuppur
Thermal Power Project in Madhya Pradesh)
- Captive Generator : NOT APPLICABLE
Bulk Consumer : NOT APPLICABLE
Electricity Trader : NOT APPLICABLE
Distribution Licensee : NOT APPLICABLE
- 5 Details for Long Term Access (LTA)**
- 5a Quantum (MW) for which LTA required** : 144 MW
- 5b Date from which LTA required** : 01-08-2015



- 5c Date upto which LTA required** : till 25 Yrs from the date of Grant of LTA
(12 years to 25 years from the date i.e. till 31-07-2040
from which LTA is required)
- 5d Injection of Power (more than one only in case of single Drawl)** : NOT APPLICABLE
- 5e Drawal of Power (more than one only in case of single Injection)**
- Entity-1** : Targeted Beneficiaries
State/Region : Northern Region
Quantum-1 : 144 MW
Connectivity with the Grid : 765/400 kV Jabalpur Pooling Sub-station of PGCIL thru' under construction Anuppur-Jabalpur 400 kV D/C (Triple) transmission line.

18. The LTA of 144 MW was granted to the Petitioner by PGCIL vide letter dated 07.05.2015 which is quoted as follows:

- 3 Name of the Applicant** M/s. MB Power (Madhya Pradesh) Ltd
- 4 Address for Correspondence** 239, "Okhla Industrial Estate,
Phase III New Delhi-110020
- 5 Nature of the Applicant**
Normal Generator (other than captive) : Generator (Phase-I, 1200 MW
(2X600MW), Annupur Thermal Power
Proect in MP
Captive Generator
Bulk Consumer
Electricity Trader
Distribution Licensee
Others
- 6 Details for Long Term Access (LTA)**
6a Quantum (MW) for which LTA is granted 144 MW
- 7 Injection of Power (more than one only in case of single Drawl)**
Entity-1 MB Power (Madhya Pradesh) Ltd.
State/Region Anuppur, M.P.
Quantum-1 144 MW
Connectivity with the Grid MBPMPL TPS-Jabalpur PS 400 kV D/c
(Triple)
- 8 Drawl of Power (more than one only in case of single Injection)**
Entity-1 Targeted Beneficiaries
State/Region Northern Region
Quantum-1 144 MW
- 9 Transmission System for LTA** Indore – Chittorgarh 765kV D/c line
- 9a Date from which LTA is granted** Availability of Transmission system

As per above, the LTA was granted with transmission system “Indore-Chittorgarh 765 kV D/C line” from date of “Availability of transmission system”.

19. We also note that grant of LTA to the Petitioner was modified, as decided in 23rd Meeting of WR Constituents for Connectivity and LTA applications held on 01.06.2016, attended by the Petitioner. The relevant extract of the minutes of said meeting is as under:

“3. AGENDA FOR INTER - REGIONAL (IR) LTA APPLICATIONS SEEKING POWER TRANSFER FROM WR TO NR

3.1. CTU informed that LTA to various customers with generation projects located in WR / ER / SR having beneficiaries in NR had been granted with different transmission corridors which are under various stages of implementation and slated for commissioning progressively.

Presently following major inter-regional links between WR & NR are in pipeline for commissioning:

Table-1

Sl. No.	Name of the link	Expected time frame
1	Champa – Kurukshetra phase – I	November, 2016
2	Champa – Kurukshetra phase – II	March, 2018
3	Jabalpur – Orai 765 kV D/c line	April, 2018

3.2. CTU further stated that corresponding to time frame of April, 2018, LTAs have been granted for transfer of about 17500 MW from generation projects in WR, ER & SR to NR through WR-NR Corridors and the anticipated ATC with above links is of the same order.

3.3. It was also informed that recently, there have been number of cases where LTA customers have approached CERC for relinquishment of LTA on account of various reasons including alleged force majeure events. The quantum proposed to be relinquished in WR-NR corridor is about 1900 MW. The Hon'ble CERC has observed that pending decision on the various issues involved, the relinquished LTA quantum can be utilised for grant of LTA to other eligible LTA applications. Accordingly, an exercise has been carried out to re-allocate the transmission capacity relinquished in WR-NR corridor by LTA customers to applications under process seeking power transfer through WR-NR. Details of such applications is given at Table-2 below:

Table-2

Sl. No.	Name of the Applicant	Injecting Region	Quantum of LTA sought for NR (MW)	Application month	LTA sought from
1	Satviki Energy Pvt. Ltd	SR	75	29-Noc-2013	Apr-2015
2	Noida Power Co. Ltd.*	WR	400	10-Dec-2013	1-Dec-2017
3	MB Power	WR	169	11-Feb-2014	1-Jun-2015

	(Madhya Pradesh) Limited				
4	MB Power (Madhya Pradesh) Limited	WR	31	11-Feb-2014	1-Jun-2015
5	KSK Mahanadi Power Company Ltd	WR	1000	27-Feb-2014	30-Oct-2016
6	MB Power (Madhya Pradesh) Limited	WR	144	29-Dec-2014	1-Aug-2015
7	NTPC Ltd. - Barethi STPS	WR	870.87	2—Jan-2015	1-Jul-2021
8	Suzlon Power Infrastructure Ltd.	SR	40	30-Apr-2015	1-Apr-2018
9	Suzlon Power Infrastructure Ltd.	SR	40	30-Apr-2015	1-Oct-2018
10	Suzlon Power Infrastructure Ltd.	SR	40	30-Apr-2015	1-Apr-2019
11	SEI Sunshine Power Pvt. Ltd.	WR	180	31-Jul-2015	30-Sep-2016
12	TRN Energy Ltd.	WR	240	27-Aug-2015**	30-Oct-2016
13	DB Power Chhattisgarh Ltd.	WR	75	20-Oct-2015	30-Nov-16
14	Rewa Ultra Mega Solar Ltd.	WR	300	6-Nov-2015	30-Jun-2017
15	Maruti Clean Coal & Power Ltd	WR	205	1-Mar-2016	30-Nov-2016
16	Srijan Energy System Private Limited	WR	150	6-May-2016	31-03-2016
			3959.87 MW		

.....

3.4. CTU stated that above mentioned relinquished capacity of about 1900MW may be allocated to LTA applications as per their priority of the month in which applications were received and summary of deliberations is given below :

.....

3.5. As per the agenda it was proposed to grant LTA to the pending LTA applicants with commissioning of Jabalpur PS-Orai 765 kV corridor and Champa – Kurukshetra HVDC Phase-II, based on priority of new LTA applications. With subsequent developments i.e. request of Noida Power Company Ltd. and Satviki Energy for keeping their LTA applications in abeyance, the LTA applicants that can be accommodated in the capacity made available due to relinquishment is as given below:

Table-3

Sl. No.	Name of the Applicant	Injecting Region	Quantum of LTA sought for NR (MW)	Application month	LTA sought from
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1	MB Power (Madhya Pradesh) Limited	WR	169	11-Feb-2014	1-Jun-2015
2	MB Power (Madhya Pradesh) Limited	WR	31	11-Feb-2014	1-Jun-2015
3	KSK Mahanadi Power Company Ltd	WR	1000	27-Feb-2014	30-Oct-2016
4	MB Power (Madhya Pradesh) Limited	WR	144	29-Dec-2014	1-Aug-2015
5	Suzlon Power Infrastructure Ltd.	SR	40	30-Apr-2015	1-Apr-2018
6	Suzlon Power Infrastructure Ltd.	SR	40	30-Apr-2015	1-Oct-2018
6	Suzlon Power Infrastructure Ltd.	SR	40	30-Apr-2015	1-Apr-2019
7	SEI Sunshine Power Pvt. Ltd.	WR	180	31-Jul-2015	30-Sep-2016
8	TRN Energy Ltd.	WR	240	27-Aug-2015	30-Oct-2016
			1884 MW		

Grant of LTA to above applicants shall be subject to commissioning of Jabalpur-Orai 765 kV corridor under implementation as “Inter-Regional System Strengthening Scheme in WR and NR Part-B” and Champa – Kurukshetra HVDC Phase II under implementation as “Transmission System Strengthening in WR-NR Transmission Corridor For IPPs in Chhattisgarh”. Details of both the schemes are as given below:

Inter-Regional System Strengthening Scheme in WR and NR (Part-B)

- Jabalpur PS-Orai 765kV D/C line
- Orai-Aligarh 765kV D/C line
- Orai-Orai 400kV D/C (Quad) line
- LILO of one ckt of Satna-Gwalior 765kV 2xS/C line at Orai
- LILO of Agra -Meerut 765kV S/C at Aligarh
- LILO of Kanpur-Jhatikara 765kV S/C at Aligarh

Transmission System Strengthening in WR-NR Transmission Corridor for IPPs in Chattisgarh

- Up-gradation of \pm 800kV, 3000 MW HVDC bipole between Champa PS-Kurukshetra (NR) to 6000MW
- Kurukshetra (NR)- Jind 400kV D/c (Quad)

.....

Members agreed with the above grant of LTA.”

We observe that above said meeting was attended by representative of Petitioner and there was no objection to the proposed modification in the transmission system for the LTA for the Petitioner.

20. Subsequent to 23rd Meeting of WR Constituents for Connectivity and LTA applications held on 01.06.2016, PGCIL vide its letter dated 29.7.2016, issued a modification to earlier LTA grant quoted as under:

Subject : Modification to the earlier Granted LTA to M/s MB Power (Madhya Pradesh) Ltd. (MBPMPL), for transfer of 144 MW of power to Northern Region

Dear Sir,

We write with reference to our intimation for Grant of Long Term Access C/CTU-Plg/LTA/W/2015/6/MBPMPL dated 07.05.2016 for transfer of 144 MW of power from Anuppur Thermal Power Project in Madhya Pradesh to Northern Region and Minutes of the 23rd Meeting of WR Constituents for Connectivity & LTA applications held on 01.06.2016.

In this regard, pursuant to the change in transmission system required for LTA as decided during the above referred LTA meeting, the LTA granted vide intimation C/CTU-Plg/LTA/W/2015/6/MBPMPL dated 07.05.2015 is modified per following in line with the decision during the LTA Meeting:

Sl. No. 9 of above referred intimation may be read as below:

9.	Transmission System for LTA	As per Annexure - I
9a	Date from which LTA is granted	Availability of Transmission system for LTA
9b	Date upto which LTA is granted	31.07.2040
9c	Implementing Agency for transmission system required for LTA	POWERGRID
9d	Agencies between which agreement is to be signed for implementation of transmission system	CTU (i.e. POWERGRID) & MB Power (Madhya Pradesh) Ltd

All other terms and conditions of the above referred LTA intimation C/CTU-Plg/LTA/W/2015/6/MBPMPL dated 07.05.2015 shall remain the same.

You are requested to sign amendment to the already signed LTA Agreement; Transmission Service Agreement for sharing of transmission charges, as and when applicable under

As per above, the date of operationalisation of LTA was indicated as “availability of transmission system for LTA” and the transmission system for LTA was included in Annexure-I quoted as follows:

“Transmission system required for LTA for transfer of 144 MW power from MBPMPL Anuppur TPP in Madhya Pradesh to Northern Region - which is under implementations as part of different schemes

Inter-Regional System Strengthening Scheme in WR and NR (Part-B)

- Jabalpur PS-Orai 765kV D/C line
- Orai-Aligarh 765kV D/C line
- Orai-Orai 400kV D/C (Quad) line
- LILO of one ckt of Satna-Gwalior 765kV 2xS/C line at Orai
- LILO of Agra -Meerut 765kV S/C at Aligarh
- LILO of Kanpur-Jhatikara 765kV S/C at Aligarh

Transmission System Strengthening in WR-NR Transmission Corridor for IPPs in Chattisgarh

- Up-gradation of ± 800 kV, 3000 MW HVDC bipole between Champa PS- Kurukshetra (NR) to 6000MW
- Kurukshetra (NR)- Jind 400kV D/c (Quad)..."

21. Petitioner has submitted that when its LTA was operationalized on 2.5.2018, the Up-gradation of ± 800 kV, 3000 MW HVDC bipole between Champa PS- Kurukshetra (NR) to 6000MW was not commissioned, hence LTA could not have been operationalized by PGCIL.

22. In this regard we have perused Clause (5) of Regulation 8 of the Sharing Regulation 2010 which provides as under:

"(5) Where the Approved Withdrawal or Approved Injection in case of a DIC is not materializing either partly or fully for any reason whatsoever, the concerned DIC shall be obliged to pay the transmission charges allocated under these regulations: Provided that in case the commissioning of a generating station or unit thereof is delayed, the generator shall be liable to pay Withdrawal Charges corresponding to its Long term Access from the date the Long Term Access granted by CTU becomes effective. The Withdrawal Charges shall be at the average withdrawal rate of the target region;

Provided that in case the commissioning of a generating station or unit thereof is delayed, the generator shall be liable to pay Withdrawal Charges corresponding to its Long term Access from the date the Long Term Access granted by CTU becomes effective. The Withdrawal Charges shall be at the average withdrawal rate of the target region;

Provided further that where the operationalization of LTA is contingent upon commissioning of several transmission lines or elements and only some of the transmission lines or elements have been declared commercial, the generator shall pay the transmission charges for LTA operationalised corresponding to the transmission system commissioned.

....."

As per the second proviso quoted above, provides that where the operationalization of LTA is dependent upon commissioning of several transmission lines or elements and only some of the transmission lines or

elements have been declared commercial operation, the obligations of the generator to pay the transmission charges is to the extent of LTA operationalised corresponding to the transmission system commissioned. Therefore, the aforesaid provision talks about the part operationalization of the LTA on commissioning of the some of the transmission elements identified for the LTA. Here it is also relevant to refer the Statement of Reasons with regard to the above provision under Regulation 8(5) of the CERC (Sharing of Inter State Transmission Charges and Losses) (Third Amendment) Regulations, 2015 which provides as under:

“32. Clause (5) of Regulation 8

...

*32.20 We have also noted that the substantial part of the system required for LTA gets commissioned but the LTA does not get operationalized on the ground that the full system identified for grant of LTA has not been commissioned. It is possible that substantial changes happen in the load-generation balance and commissioning of some of the transmission lines gets affected. **Hence, CTU should inform generator, the quantum of power that can be evacuated on the scheduled date of commencement of LTA. If the system is ready to evacuate full LTA quantum, the generator shall have to pay the transmission charges corresponding to the full quantum w.e.f. commencement date of LTA.** However, when some of the required transmission system considered for full LTA are not available by the scheduled date and full LTA cannot be operationalized, part operationalisation of LTA shall be done after the scheduled date of operationalization. In case of generating station with multiple units, LTA shall be operationalised if the transmission systems are available for evacuation of entire contracted power from a particular unit.”*

A plain reading of clause (5) of Regulation 8 of the Sharing Regulation 2010 and the Statement of Reasons it emerges that in some cases the LTA could not get operationalized on the ground that the full system identified for grant of LTA has not been commissioned. However, if the system is ready to evacuate full LTA quantum, the generator shall have to pay the transmission charges corresponding to the full quantum w.e.f. commencement date of LTA. Therefore, as per Regulations, the part operationalization of the LTA is allowed corresponding to the transmission capacity that is commissioned/ ready.

23. We observe that the Unit I of the Petitioner's project was already commissioned on 20.05.2015 and Unit II was commissioned on 07.04.2016. Petitioner had sought LTA from 1.08.2015. However, CTU operationalized LTA only from 2.05.2018 when the transmission system became available. Petitioner has placed reliance on Commission's Order dated Order dated 09.04.2019 in Petition No. 318/MP/2018 (M/s SEI Sunshine Power Private Limited vs Power Grid Corporation of India Limited), quoted as under:

“17. It may be observed that the above provision addresses two situations- firstly, circumstances where the generator has delayed and the transmission system is ready and secondly, circumstances where operationalization of part LTA where the some of the transmission system is ready. In the instant case, the transmission system as envisaged in the LTAA is not developed, rather the capacity was created due to relinquishment of other LTA customers. This situation has been not envisaged in the abovesaid Regulations. Thus, the contention of PGCIL that LTA of the petitioner may be operationalised upon the completion of part transmission system, even if, generating station is not ready does not fall under provisions of Regulation 8 of the Sharing Regulation. There being no specific provision in the Regulations, the issue has to be considered under provisions of LTAA, if any.

18. PGCIL has also relied upon following para of the order dated 16.2.2015 passed by the Commission in Petition No.92/MP/2014.

“129. In case of generation station with multiple units, LTA shall be operationalized if the transmission system are available for evacuation of entire contracted power from a particular unit.”

PGCIL has contended that if the implementation of identified transmission system reached a stage where the LTA quantum (from a unit or a generating station) could be evacuated through it, then the LTA has to be operationalized. Thus, the PGCIL has argued that the LTA has to be operationalized either after 30.9.2016 or from the date when the elements of the identified transmission system are capable of carrying the LTA quantum of 180 MW. We have gone through the above Order. It is observed that the said order nowhere requires the CTU to operationalise the LTA with the part transmission system in the event of non-commissioning of the generating station.

..
20. In the light of the above discussion, we are of the view that the decision of the PGCIL to operationalise the LTA without commissioning the entire transmission system is not as per the LTA agreement dated 26.8.2016. Further, PGCIL’s decision to invoke the second proviso to clause (5) of Regulation 8 of the Sharing Regulation is not applicable in the present case. Therefore, letter dated 28.3.2018 issued by PGCIL to the Petitioner declaring operationalization of the LTA is not in order.”

On perusal of the above referred order, we are of the view that the case of the Petitioner and the case of SEI Sunshine are completely different. The main argument in the above quoted Order was that the generating station was not commissioned. However, in the present case, the Petitioner’s Project was already commissioned as on the date of operationalization of its LTA. A generating station while seeking LTA doesnot specify as to on which transmission system it is seeking LTA rather only seeks LTA from a specific date. As per the Act, it is the responsibility of the CTU to provide non-discriminatory open access to the transmission system. Hence it is the endeavour of CTU to grant LTA from the date of LTA sought and in case the capacity is not available in existing system, LTA is

granted from date when the transmission system is likely to be available, at the earliest possible date. The Petitioner who had already declared COD way back in 2016, cannot contend that the LTA it sought from 2015 could not be operationalised in 2018 even when the transmission system became available. We have enunciated this principle in various Orders such as Order dated 06.07.2017 in Petition No. 103/MP/2017, Order dated 8.3.2018 in 229/RC/2015.

24. In the present case, PGCIL vide letter dated 28.03.2018 intimated to the Petitioner that that Jabalpur-Orai-Aligarh 765 kV Corridor has been charged and its DOCO is expected by 31.03.2018 and with its commissioning, margin shall be available to transfer 144 MW to NR and accordingly LTA of 144 MW granted to the Petitioner shall be operationalized with effect from 01.04.2018. PGCIL vide letter dated 18.09.2018 operationalized the LTA from 2.5.2018 quoted as under:

“This has reference to our letter dated 28.03.2018 [at Sl. No. 3] regarding operationalization of 144 MW quantum of Long Term Access (LTA) granted to M/s MB Power (Madhya Pradesh) Ltd. with the commissioning of Jabalpur-Orai-Aligarh 765 kV corridor.

In this regard, it is to inform that ATC between WR-NR corridor has been enhanced w.e.f. 02.05.18 upon commissioning of Inter-Regional System Strengthening Scheme in WR and NR (Part-B) which inter-alia includes Jabalpur-Orai-Aligarh 765 kV D/c corridor. Accordingly, 144 MW LTA from MBPMPL generation plant in WR to target beneficiaries in NR is effective from 02.05.18.

As per above, on enhancement of ATC between WR-NR corridor and availability of the sufficient margin for the evacuation of power from the Petitioner's plant, the LTA of the Petitioner for 144 MW was operationalized.

25. In light of above discussions, we do not find any merit in the contentions of the Petitioner that its LTA could not be operationalized when the entire system identified in revised LTA Grant was not commissioned. Accordingly, the prayers (b) to (g) are rejected.

Issue No. 2: Whether PGCIL has rightly operationalized the Petitioner's LTA of 144 MW with effect from 02.05.2018, retrospectively vide letter dated 18.09.2018 and whether the Petitioner is entitled for any refund of transmission charges which has already been paid by the Petitioner against the LTA quantum of 144 MW?

26. Petitioner has submitted that the PGCIL had operationalised the LTA from 02.05.2018 and notified the same to Petitioner retrospectively only by way of its letter dated 18.09.2018 (almost after 4 months).

27. We have perused PGCIL's letter dated 29.03.2018 regarding the opening of the LC quoted as under:

"....This is with reference to CTU letter no. C/CTU-Plg/LTA/MBPMPL-Op dated 28.03.2018 regarding operationalisation of 144 MW LTA (w.e.f. 01.04.2018) granted to M/s MB Power (Madhya Pradesh) Ltd (MBPMPL) for transfer Power from its generation plant at Anuppur in MP-WR to NR (target).

Further, as per the terms of grant of LTA and LTA Agreement signed on 04.06.2015, MBPMPL is required to open a confirmed irrevocable, unconditional and revolving Letter of Credit for Rs. 1188.0 Lakhs (calculation as below; on the basis of Jan'18 to March/18 PoC rates, as approved by CERC) in favour of POWERGRID towards payment security mechanism as per CERC Regulations and procedures;

.....

Opening of the LC is a statutory requirement in terms of Regulation 12(8) of Sharing Regulations, clause 3.6 of the BCD Procedure and Transmission Service Agreement. Failure to open the LCs constitute an event of default by DIC in terms of Article 16.2 of the TSA leading to termination of TSA under Article 16.4 of the TSA. It is therefore requested to kindly open the LC for the said amount as stated above latest by 16.04.2018, towards the payment security mechanism; failing which CTU shall be constrained to initiate Regulatory actions as per provisions of CERC Regulation of Power Supply, pertaining to maintenance of adequate payment security mechanism including but not limited to curtailment of MTOA/STOA.

As per above, the LTA was to be operationalised from 1.04.2018 but it was not operationalised from 1.04.2018. PGCIL vide letter dated 18.09.2018 operationalized the LTA from 2.5.2018 quoted as under:

"This has reference to our letter dated 28.03.2018 [at Sl. No. 3] regarding operationalization of 144 MW quantum of Long Term Access (LTA) granted to M/s MB Power (Madhya Pradesh) Ltd. with the commissioning of Jabalpur-Orai-Aligarh 765 kV corridor.

In this regard, it is to inform that ATC between WR-NR corridor has been enhanced w.e.f. 02.05.18 upon commissioning of Inter-Regional System Strengthening Scheme in WR and NR (Part-B) which inter-alia includes Jabalpur-Orai-Aligarh 765 kV D/c corridor. Accordingly, 144 MW LTA from MBPMPL generation plant in WR to target beneficiaries in NR is effective from 02.05.18.

28. We observe that although PGCIL informed Petitioner vide letter dated 28.03.2018 about operationalisation of LTA from 1.04.2018 , but it did not actually operationalise it as on 1.4.2018. Once the said date of 1.4.2018 passed, no communication to Petitioner by PGCIL has been filed on record as to when shall LTA be operationalised until 18.09.2018. PGCIL has not submitted any reasons for delay of four months in informing the Petitioner about operationalisation of LTA from 2.5.2018 and why PGCIL did not inform Petitioner even as late as 2.5.2018 that the LTA stans operationalised from today. We observe that LTA is a service sought by the Petitioner for which it was required to make payment. Once the Petitioner was required to pay for such Long term Access, it should have been informed the firm date of operationalisation of LTA prior to such operationalisation so that Petitioner could utilise the service of Long term Access. Hence letter dated 28.03.2018 of PGCIL cannot be treated as prior notice for date of operationalisation since the date mentioned in said letter never materialised.

29. We have perused order dated 06.07.2017 in Petition No. 103/MP/2017 quoted as under:

“15. We also observe that even though the transmission lines were ready in February, 2016, PGCIL operationalized the LTA only in July, 2016. Since the LTA customers carry the liability to pay the transmission charges from the date of commissioning of the transmission system based on which LTA has been granted, any delay in operationalization of the LTA beyond the COD of the concerned transmission system goes against the letter and spirit of the Connectivity Regulations and BPTA. In our view, CTU should take immediate steps to operationalize the LTA after commissioning of the transmission system.”

As per above, the CTU was directed to take immediate steps to operationalize the LTA without being at the mercy of the LTA customers to open the LC in order to operationalize the LTA. We had given similar directions in Order dated 8.3.2018 in Petition No. 229/RC/2015. In the present case PGCIL vide letter dated 28.03.2018 intimated that the Petitioner's LTA would be operationalized by 01.04.2018, and vide letter dated 29.03.2018 requested the Petitioner to open the LC by 16.04.2018. However, the Petitioner did not open the said LC by 16.04.2018. In

fact, the Petitioner vide its letter dated 28.08.2018 enhanced its existing LC against the LTA of 144 MW. Subsequently PGCIL vide its letter dated 18.09.2018 operationalized the LTA of the Petitioner w.e.f. 02.05.2018. PGCIL has not stated if it delayed the operationalization of LTA for want of LC from Petitioner, however in any case, PGCIL was not required to wait for the LC as per clarified vide various Orders issued prior to 2.5.2018 vide which it was clarified that LTA needs to be operationalized from the date of availability of transmission system and would not be affected due to non opening of LC by the LTA customer.

30. Therefore, we are of the view that, in the present case PGCIL should have indicated a firm date to the Petitioner by which the LTA shall be operationalized prior to such operationalisation. The retrospective operationalization of LTA w.e.f. 02.05.2018 by PGCIL vide its letter dated 18.09.2018 in the instant case is not found to be valid.

31. In view of the above discussions, we are of the view that the 144 MW LTA granted to the Petitioner stands operationalised only from the date of intimation for operationalization of LTA i.e. 18.09.2018. Accordingly, the Petitioner is not liable to pay ISTS charges for the period from 02.05.2018 to 17.09.2018 for the said 144 MW. Thus, the ISTS charges for the period from 02.05.2018 to 17.09.2018 for the said LTA of 144 MW, already paid by the Petitioner shall be refunded to the Petitioner by CTUIL. Accordingly, the CTUIL is directed to refund the amount collected from the Petitioner against 144 MW LTA for the period 02.05.2018 to 17.09.2018 within a month from the issuance of this order. Any offset received by the Petitioner for short term open access shall be adjusted while calculating shall refunds. The refund shall be adjusted under Bill-2 under Regulation 15(2)(b) of the CERC (Sharing of inter-State transmission charges and losses) Regulations, 2020.

32. Petitioner has sought carrying cost on the amount paid by it to the PGCIL. In this regard, we are of the view that, the Petitioner had not raised any dispute on retrospective operationalization of LTA and has paid the bills raised by the PGCIL. The Petitioner has raised the dispute with respect to the bills as well as the operationalization of the LTA only on 18.06.2019 i.e. after the passage of more

than one-year period from the date of operationalization of LTA. Therefore, we are not inclined to award any carrying cost against the amount already paid by it.

33. The Petition No. 257/MP/2019 is disposed of in terms of the above.

Sd/

(P. K. Singh)
Member

Sd/

(Arun Goyal)
Member

Sd/

(I. S. Jha)
Member