

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 205/MP/2022

Coram:

**Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V, Member
Shri Harish Dudani, Member**

Date of Order: 24 .03.2025

In the matter of:

Petition under Section 79(1)(f) read with Section 79(1)(k) of the Electricity Act, 2003, for the payment of outstanding dues towards the reimbursement of POC charges for the power supplied to Rajasthan Discoms through Power Trading Corporation of India within the scope of the Power Purchase Agreement dated 01.11.2013 (PTC-PPA) executed between the Petitioner and PTC and as per the terms of back-to-back Power Purchase Agreement executed by PTC with Rajasthan Urja Vikas Nigam Ltd. (RUVNL) referred to as the Procurers' PPA dated 01.11.2013.

And In The Matter Of:

Maruti Clean Coal and Power Limited,
7TH Floor, Office Tower, Ambiance Mall,
NH-8, Gurgaon-122002

...Petitioner

Versus

- 1) PTC India Limited,**
2nd Floor, NBCC Tower 15,
Bhikaji Cama Place, New Delhi-110066
- 2) Jaipur Vidyut Vitran Nigam Limited,**
Vidyut Bhawan, Jyoti Nagar
Near New Vidhan Sabha Bhawan
Jaipur-302 005, Rajasthan
- 3) Ajmer Vidyut Vitran Nigam Limited,**
Vidyut Bhawan, Makarwali Road,
Panchsheel Nagar, Ajmer-305 004, Rajasthan
- 4) Jodhpur Vidyut Vitran Nigam Limited,**
New Power House, Industrial Area,
Jodhpur-342 003, Rajasthan
- 5) Rajasthan Urja Vikas Nigam Limited,**
Vidyut Bhawan, Janpath, Jaipur-302 005, Rajasthan

...Respondents



Parties Present:

Shri Matrugupta Mishra, Advocate, MCCPL
Shri Nipun Dave, Advocate, MCCPL
Shri Ravi Kishore, Advocate, PTCIL
Shri Keshav Singh, Advocate, PTCIL
Shri Anand K. Ganesan, Advocate, Rajasthan Discoms
Ms. Swapna Seshadri, Advocate, Rajasthan Discoms
Shri Amal Nair, Advocate, Rajasthan Discoms
Ms. Shivani Verma, Advocate, Rajasthan Discoms

ORDER

The present petition is filed by Maruti Clean Coal and Power Limited (MCCPL) under Section 79(1)(f) read with Section 79(1)(k) of the Electricity Act, 2003 read with the relevant Regulations, for payment of the outstanding amount towards the reimbursement of Point of Connection charges for the power supplied to Rajasthan Discoms through Power Trading Corporation of India (PTC) within the scope of the Power Purchase Agreement dated 01.11.2013 (PTC-PPA) executed between the Petitioner and the PTC, as per the terms of back-to-back Power Purchase Agreement executed by PTC with Rajasthan Urja Vikas Nigam Ltd. (RUVNL) (referred to as the Procurers' PPA) dated 01.11.2013.

2. The Petitioner has made the following prayers:

- i. "Pass an appropriate direction to the Respondent No. 1 to reimburse POC charges to the Petitioner as paid by the Petitioner without deduction of any Rebate and TDS along with Late Payment Surcharge, interest, interest on working capital and Carrying Cost; and*
- ii. To pass such other or further orders as this Hon'ble Commission may deem appropriate"*

Submissions of Petitioner

3. Petitioner has mainly submitted as follows:

- a) The Petitioner is a generating company incorporated under the Companies Act, 1956 within the provisions of the Electricity Act, 2003, having an installed capacity of 300 MW (1x300 MW) coal-based thermal power plant located at Korba, in the State of Chhattisgarh.
- b) The Respondent No. 1 is PTC India Limited, which is an electricity trader in terms of Section 2(26) and Section 14 of the Act. PTC is a Category-I Inter-State Trading



Licensee and is engaged in the business of power trading in India, through which the Petitioner has executed PTC-PPA for back-to-back sale of power to Respondent Nos. 2, 3, and 4. The Respondent Nos. 2, 3, and 4 are the distribution licensees in the State of Rajasthan and are carrying on the business of distribution and retail supply of electricity in the State of Rajasthan. Respondent No. 5 is Rajasthan Urja Vikas Nigam Limited ("RUVNL"), which has been established for the purchase of power on behalf of DISCOMs in the State of Rajasthan.

- c) Petitioner, in terms of section 79(1)(b), has a composite scheme for the generation and sale of electricity in more than one State. Thus, the dispute is between inter-state parties.
- d) PTC-Petitioner was selected by RVPNL as the seller for the sale and supply of electricity in bulk for an Aggregated Contracted Capacity ("ACC") of 250 MW through Competitive Bidding. Subsequently, a Power Purchase Agreement was entered into for the supply of 250 MW to procurers from the Petitioner's power plant in Chhattisgarh on 01.11.2013. The Petitioner and PTC entered into a PPA (PTC-PPA) with the understanding that both the parties would abide by and adhere to the rights and obligations of PTC under the Procurer's PPA on a back-to-back basis and, accordingly, the terms of the Procurer's PPA stood incorporated by reference in PTC-PPA, subject to the exceptions/ deviations as expressly mentioned in PTC-PPA.
- e) A Tariff Petition was filed before the Rajasthan Electricity Regulatory Commission. The Rajasthan Commission, vide its Order dated 22.07.2015, in Petition No. RERC 431/13 approved the purchase of a total of 500 MW of power with 250 MW from PTC-Petitioner. The amount of power to be supplied was modified after the Hon'ble Supreme Court Order to 195 MW. Respondent No. 5, vide its letter dated 01.05.2018, directed PTC to supply only up to 195 MW, and a fresh Lol dated 02.05.2018 was issued, and the tariff was to remain the same as adopted vide RERC's Order dated 22.07.2015 passed in Petition No. Petition No. RERC 431/13.
- f) Pursuant to the passing of the Judgment dated 25.04.2018 by the Hon'ble Supreme Court of India, the Procurer's-PPA was amended vide Amendment No. 1 and was executed on 15.05.2018. Further, PTC-PPA was also amended vide Amendment No. 1, executed on 25.06.2019.

- g) Long-Term Open Access for the transmission system from the Injection Point up to the Delivery Point was a condition precedent for supplying Aggregated Contracted Capacity (ACC) of 195 MW to Respondent Nos. 2, 3, and 4, and for that, the necessary permission from PGCIL was required to be obtained. In pursuant to the same, the Petitioner got assigned 45 MW LTA to RUVNL out of Long-Term Open Access granted vide PGCIL letter dated 24.02.2010 for evacuating 171 MW (WR-126 and NR-45 MW). Further, an LTA of 205 MW was granted to MCCPL, vide CTU intimation letter dated 29.07.2016, for the transfer of power from its generating plant at Chhattisgarh-WR to Rajasthan DISCOMs-NR. The LTA for 250 MW was amended to 195 MW in view of the Hon'ble Supreme Court's Order dated 25.04.2018.
- h) Article 5.2 of the PTC-PPA between the Petitioner and PTC provides that it is the obligation of PTC to reimburse the Petitioner the monthly transmission charges paid by it towards transmission charges in supplying the power to the Rajasthan DISCOMs.
- i) As per the Long-Term Access agreement signed between the Petitioner and PGCIL, the Petitioner is under an obligation to make payment of POC charges on a monthly basis to PGCIL. Furthermore, as per the terms of the PTC-PPA and Procurer's PPA, the amount paid by the Petitioner on account of transmission charges is reimbursable to the Petitioner by PTC on submission of payment details of the same. The above-said reimbursement is required to be made immediately to the Petitioner since it is the obligation of PTC to make good of the payment thereof. However, PTC failed to make any reimbursement as per the provisions of the PTC-PPA.
- j) PGCIL started billing the Petitioner towards the payment of POC charges from the date of operationalization of LTA, in accordance with the 2010 Sharing Regulations. The payments of POC bills were made by MCCPL, and reimbursement was claimed as per the actual amount paid to PGCIL, including adjustment of rebate.
- k) PTC started delaying the reimbursement of POC charges from the month of January 2019, and the reimbursable amount accumulated to 27.46 Crore, ending the month of March 2019. This exhausted the limit of the Working Capital of the Petitioner, to continue to make the payment of POC charges to PGCIL within the due date. This resulted in the levy of the LPS by PGCIL, which is attributable to PTC. The delay in reimbursement of POC charges rose to 358 days for the month of November 2020, as against the normal time of one week, within which the POC charges should have been reimbursed.

- l) The delay in payment towards POC charges resulted in the levy of LPS by PGCIL, as well as PGCIL issued notices for invoking the regulatory restrictions vide letters dated 10.06.2020, 24.07.2020, and 08.02.2021, owing to the default in payment of POC bills. PTC started making payments towards POC Charges from March 2019 onwards. The Petitioner, owing to financial constraints, was only able to make payments to PGCIL up to the extent of the amount reimbursed by PTC.
- m) Owing to the abovementioned delay by PTC towards the reimbursement of POC charges, LPS was levied on the POC bills from April 2019 to December 2020, and the total amount of LPS levied by PGCIL amounted to Rs. 5, 80,12, 275.
- n) PGCIL vide letters dated 07.05.2019, 06.06.2019, 04.07.2019, 13.08.2019, 05.09.2019, 09.10.2019, 06.11.2019, 06.12.2019, 07.01.2020, 06.02.2020, raised the invoice towards the POC charges for the month of April 2019 till January 2020. PGCIL vide letters dated 21.06.2019, 06.11.2019, and 01.01.2020, raised invoices to the Petitioner towards the payment of POC charges for the period starting from January 2019 to March 2019, April 2019 to June 2019, and July 2019 to September 2019, respectively. Petitioner made the payment towards the POC charges for the months of for the period of January 2019 to August 2019 from the Credit bills that the Petitioner owed to PTC after the adjustment of the POC charges which were previously paid by PTC.
- o) Petitioner made the payment of outstanding bills for the months of August 2019 and January 2020. Thereafter, the Petitioner raised invoices for the reimbursement of the POC charges that were paid by the Petitioner. The Petitioner made the payment towards POC charges even without receiving any payment/ reimbursement from PTC which was an add-on burden on the Petitioner.
- p) On 18.02.2020, the Petitioner vide a letter addressed to PTC, informed that it had been paying the POC charges to PGCIL and claiming reimbursement, which was being received regularly up to May 2018, and since June 2018, the Petitioner had been facing huge delay in receipt of reimbursement, as the payment of INR 10.66 Cr. deposited on 14.06.2018 by the Petitioner was reimbursed on 25.10.2018 by PTC.
- q) The non-payment has resulted in the accumulation of bills amounting to INR 53.44 Cr even after the adjustment of refund of INR 42.68 Cr being Credit Bills. Thereafter, PTC on 24.01.2020 had only reimbursed INR 6.577 Cr. and a balance of INR 46.866 Cr.

out of which INR 37.37 Cr. was pending for more than 30 days. Petitioner requested PTC to immediately reimburse the POC charges, failing which Regulatory restrictions may be imposed by PGCIL.

- r) On 02.03.2020, the Petitioner, vide a letter addressed to PTC, informed that the Petitioner had been continuously paying the POC charges that are being raised by PGCIL. The Petitioner is facing acute difficulty in continuing to pay the POC charges to PGCIL due to (i) delay in receipt of reimbursement from PTC/RUVNL without any provision of LPS, (ii) deduction of 2% TDS by PTC from each bill payment, reducing the fund availability with the Petitioner, and (iii) inadequate working capital sanctioned by the lenders to continue to make payments without timely reimbursement.
- s) On 15.04.2020, the Petitioner issued another letter, addressed to PTC, wherein the Petitioner brought to the notice of PTC that it had to meet various obligations and has commitments towards procurement of coal, salaries of employees, procurement of e-auction, etc., and it would become extremely difficult for the Petitioner beyond 20.04.2020 to operate the plant.
- t) Delay in making the payment towards the POC charges to PGCIL has resulted in the levy of LPS as per the LTA signed between the Petitioner and PGCIL. PTC initially reimbursed the POC charges along with the LPS, but thereafter, PTC unilaterally deducted the LPS amounting to INR 5,41,76,851, which was previously paid by PTC, and the same was communicated by PTC, vide email dated 14.10.2021.
- u) POC charges are liable to be reimbursed by PTC once the same is paid to PGCIL by the Petitioner. The delay in making payment towards POC charges causes LPS to be levied according to the terms of LTA, which is attributable to PTC in the instant case, as the delay in making the payment towards the POC charges was on account of PTC. Hence, PTC is liable to pay the LPS at the same rate as payable for the delay in payment of energy charges. The total amount of LPS recoverable from PTC, as per Article 8.3.5 of the Procurer's PPA, is INR 6.87 crores. For the purpose of making payment of such charges, the Petitioner had to raise working capital from banks and Financial Institutions (FIs). Therefore, PTC is liable to not only reimburse the principal amount along with LPS but also to make good the cost the Petitioner was subjected to due to the raising of working capital from banks and FIs. Unless the same is granted, the Petitioner shall be subjected to irreparable loss and for no fault of its own.

Hearing dated 13.12.2022:

4. The Commission admitted the Petition and ordered the Petitioner to issue notice to the Respondents and clarify whether outstanding dues are covered under the Electricity (Late Payment Surcharge) Rules, 2021 ('LPS Rules').

Submission of Respondents:

5. Rajasthan DISCOMS (i.e., Respondents 2-5), in a joint reply vide affidavit dated 29.03.2023, has mainly submitted as follows:
 - a) Rajasthan DISCOMS are not liable to reimburse the POC charges much less LPS, interest, interest on working capital, and carrying cost. It is denied that there has been any delay in reimbursing the POC charges by the Rajasthan DISCOMS. In fact, the Petitioner has neither raised any claims against the Rajasthan DISCOMS nor is its case that it is the Rajasthan DISCOMS which are liable to make good the charges that have not been paid to the Petitioner by PTC. The present Petition ought not to be proceeded against the Rajasthan DISCOMS. The Present Petition is not even maintainable against the Rajasthan DISCOMS.
 - b) The transmission charges/ wheeling charges to the CTU/ STU are to be paid by PTC; Such charges, consequent to having been paid by PTC, are to be reimbursed by the procurers; in case of delay in payment of the monthly bill by the procurer beyond its due date, LPS shall be payable by the procurer to the seller.
 - c) LPS would be payable by the procurer in the event of delay of payment of the monthly bill beyond its due date. In other words, there can be no incidence of LPS on the procurers when no such monthly bill towards transmission charges has been raised by the Petitioner on the Rajasthan DISCOMS. This is to say that *de hors* a bill there cannot be any delay in payment being made.
 - d) The entire case of the Petitioner against PTC is that it has failed to carry out reimbursement of POC charges to the Petitioner. Therefore, since PTC has failed to carry out its contractual obligations, it is the Petitioners' case that PTC is liable to pay LPS, interest, interest on working capital, and carrying costs.

- e) Rajasthan DISCOMs have duly reimbursed the POC charges to PTC as and when an invoice towards the same has been raised by PTC on the Rajasthan DISCOMs. Rajasthan DISCOMs can only be faulted if they fail to reimburse the invoices towards POC charges as raised by PTC on the Rajasthan DISCOMs.

Submission of Respondent No.1 (PTC)

6. PTC, vide affidavit dated 13.04.2023, has mainly submitted as under:

- a) The present petition was filed on 15.07.2022, and any alleged claim three years prior to the institution of the present Petition is barred by the provisions of the Limitation Act, 1963.
- b) PTC-PPA and Procurer-PPA are on a back-to-back basis. PTC had always complied with the provisions of the PPA with regard to payment to the Petitioner for the power supplied. In many cases PTC had made the payment for the power supplied much before the due dates. PTC-PPA does not provide for any time frame for releasing the payment towards reimbursement of monthly transmission charges. Article 5.2 (d) of the PTC-PPA specifies that *"The monthly transmission charges shall be reimbursed by PTC as provided in article 4.4 of the Schedule 4 of the Procurer(s)-PPA to Company, if the same has been paid by Company to CTU."*
- c) The due dates defined in PTC-PPA do not cover Transmission Charges reimbursement, and hence, Surcharge is not applicable as per the agreement. Petitioner has the same understanding that no surcharge is applicable, and accordingly, the Petitioner had never raised any invoice towards LPS for POC Charges on the PTC. Further, in the case of reimbursement of POC Charges by Respondent 2-5, Rajasthan discoms, to PTC, there have been similar delays for which PTC also did not raise any LPS invoice on Respondents 2-5, Rajasthan Discoms. For delay in payment of Energy Bills, PTC has been raising LPS invoices on Respondent 2-5, Rajasthan Discoms, and accordingly, payments have been made by the DISCOMs.
- d) The Petitioner has delayed payment to the PGCIL and LPS on such amount has been charged by PGCIL from Petitioner on various monthly POC Bills. However, while raising POC reimbursement bills, the Petitioner had claimed such an amount from PTC. PTC has made it clear that no surcharge is reimbursable by PTC. However, at

the insistence of the Petitioner, PTC made the payment to the Petitioner and claimed the POC bill amount from Respondent 2-5, Rajasthan Discoms. As was the case, Respondents 2 to 5 made the payment after deducting the LPS amount, which was informed to the Petitioner by PTC.

- e) Payment to PGCIL is the sole responsibility of the Petitioner, and any Late Payment Surcharge levied by PGCIL on the Petitioner is solely on account of delay by the Petitioner in making payments to PGCIL, and PTC is in no way liable for the same.
- f) On receipt of a bill from the Petitioner along with proof of payment of POC charges to CTU, the PTC used to raise identical bills on Respondents No.2 to 5 and claimed reimbursement after making reimbursement to the Petitioner. However, Respondents No.2 to 5 delayed the reimbursement of POC charges. PTC, through various letters dated 24.07.2019, 01.10.2019, 20.06.2020, 22.10.2020, and 09.02.2021, had followed up with Respondent No.2 to 5 to make the payment of the POC charges at an early date.
- g) PTC, being a Trader of electricity, was acting as an intermediary/ conduit only and was entitled to trading margin only on the tariff, i.e., the payments for the energy supplied. It was the total understanding of all the parties that POC charges were ultimately reimbursed by Respondents No. 2 to 5, and now different interpretations cannot be given to the whole scheme of the transactions.
- h) PTC has deducted TDS as per the statutory requirement of Section 194 (C) of the Income Tax Act.

Rejoinder by Petitioner to the reply of PTC

7. Petitioner vide affidavit dated 27.05.2023 filed a rejoinder to the reply of PTC wherein it has reiterated its previous submissions; additionally, it has submitted as follows:

- a) This Commission has itself appreciated the issues arising in back-to-back PPAs, wherein a trader acts as an intermediary and for disputes arising qua reimbursement, inasmuch as this Commission introduced the provision of reimbursement of PoC charges from the ultimate procurer, i.e., Discoms to generators. Reference may be made to Regulation 13(2) of the 2020 Sharing Regulations, which came on 01.11.2020.

- b) Since the liability of LPS has accrued, admittedly, for reasons not attributable to Petitioner, and whereas the contract provides for “*reimbursement*,” which implies “*restoration*” and would therefore include the liability accrued to Petitioner for the delay in reimbursement, therefore the contention of the Respondent ought to be rejected. The Petitioner submits that it cannot be penalised for failure on the part of the Respondents to fulfil their reimbursement obligation on time. The fact that Petitioner has to be restored to the extent the Petitioner has expended or paid on account of transmission charges under the PPAs, the liability of reimbursement is to be understood as ‘*co-extensive*’.
- c) The obligation of reimbursement under Article 4.4. qua PTC is independent of the obligation of the Rajasthan Discoms to finally reimburse PTC on PoC charges. The terms of PPAs are incorporated into each other by reference, and therefore, to say that PTC has no obligation of reimbursement is contrary to the very text of Article 4.4. The contention of the PTC is also false for the reason that assuming but not admitting such was the contemplation under the PPAs; the same would have expressly provided for the same and included its consequence. The fact that the PPAs do not absolve PTC of any liability in case of default of Rajasthan Discoms is evidence that the parties never intended PTC to act only as an intermediary.

Petitioners’ rejoinder to the reply of Respondent Nos 2-5

8. Petitioner vide affidavit dated 27.05.2023 filed rejoinder to the reply of Respondent Nos. 2 to 5 as follows:

- a) PPAs ought to be read in a manner that would grant them business efficacy. The obligation to pay for the PoC charges is not of the Petitioner but of the Procurer to bear, and hence, the risk which is undertaken by the Petitioner has to be balanced with at least the assurance from the Procurers to compensate for the time value of money.
- b) The inter-se contractual relation between PTC and Rajasthan DISCOMs cannot come to aid for failure on their part to reimburse the Petitioner on time. Admittedly, there has been a delay by Rajasthan Discoms in reimbursement of PoC Charges, which has led to the levy of LPS by CTU on Petitioner. It is undeniable that Rajasthan Discoms are the ultimate beneficiary under the PPAs.

- c) Obligation of reimbursement covers within itself the obligation to pay any expenditure incurred so that Petitioner is restored for that excess expenditure. In terms of Article 4.4 of the Procurer-PPA, the liability to reimburse is on Rajasthan DISCOMs.

Hearing dated 31.07.2023

9. The Commission directed Petitioner to file the following information on affidavit:

Particular of bill	PoC bill raised by PGCIL to Petitioner			PoC bill raised by Petitioner to PTC		
Bill month	Bill Date	Bill due date	Date of payment of PoC bill by the Petitioner to PGCIL	Bill Date	Bill due date	Date of payment of PoC bill received from the PTC

10. The Commission directed PTC to file the following information for the disputed period on an affidavit:

Particular of bill	PoC bill raised by Petitioner to PTC			PoC bill raised by PTC to Rajasthan DISCOMs		
Bill month	Bill Date	Bill due date	Date of payment of PoC bill by the PTC to the Petitioner	Bill Date	Bill due date	Date of payment of PoC bill received from the Rajasthan DISCOMs

Submission of Respondent No.1, PTC

11. Respondent PTC, vide affidavit dated 06.09.2023, has mainly submitted as follows:

- a) The transaction started in December 2016, and the Petitioner raised the first bill for reimbursement of transmission charges on 07.12.2016, which was immediately paid on 09.12.2016. PTC continued to reimburse the POC charges to the Petitioner and raised bills on Respondents No.2 to 5.
- b) Initially, Respondents No.2 to 5 were also making the payment without much delay. However, from August 2018, the Procurers started delaying making payment to PTC

in respect of bills already paid to the Petitioner. From the table, it can be observed that the delay was substantial and, in some cases, it was more than 200 days.

c) PTC found it financially onerous to reimburse the payment to the Petitioner without receiving payment from Respondent No.2 to 5, and in July 2019, the total outstanding payment from Respondents No.2 to 5 was more than Rs.60.00 Crores. PTC had already made these payments to the Petitioner. PTC continued to follow up with Respondents No.2 to 5 in respect of the outstanding payments towards POC charges.

d) Neither PTC-PPA nor the Procurer-PPA had any provision for payment of late payment surcharge, and accordingly, PTC never claimed any LPS on account of the delay in receipt of payment towards the POC charges from Respondent No.2 to 5.

Submissions of the Petitioner

12. Petitioner vide affidavit dated 07.09.2023 has submitted the details of payment for PoC bills raised by PGCIL to the Petitioner and PoC bills raised by the Petitioner to PTC, as under:

Particular of bill	PoC bill raised by PGCIL to the Petitioner			PoC bill raised by the Petitioner to PTC		
Bill month	Bill Date	Bill due date	Date of payment of PoC bill by the Petitioner to PGCIL	Bill Date	Bill Due Date	Date of payment of PoC bill received from the PTC
Aug-19	05/09/19	20/10/19	09/1/2020	09/01/2020	16/01/2020	24/01/2020
Sep-19	09/10/19	23/11/19	09/1/2020	09/01/2020	16/01/2020	24/01/2020
Oct-19	06/11/19	21/12/19	09/1/2020	09/01/2020	16/01/2020	28/02/2020
Apr-19 to Jun-19	06/11/19	21/12/19	10/01/2020	10/01/2020	17/01/2020	16/06/2020
Nov-19	06/12/19	20/01/20	24/01/2020	24/01/2020	31/01/2020	01/07/2020
Dec-19	07/01/20	21/02/20	24/01/2020	24/01/2020	31/01/2020	29/07/2020
Jan-20	06/02/20	22/03/20	10/02/2020	10/02/2020	17/02/2020	19/08/2020
Feb-20	05/03/20	19/04/20	02/07/2020	02/07/2020	09/07/2020	24/08/2020
Oct-19 to Dec-19	03/04/20	18/05/20	19/09/2020	22/09/2020	29/09/2020	31/10/2020
Mar-20	08/04/20	23/05/20	30/07/2020	30/07/2020	06/08/2020	21/09/2020
Apr-20	08/05/20	22/06/20	24/08/2020	24/08/2020	31/08/2020	23/10/2020
May-20	05/06/20	20/07/20	24/08/2020	24/08/2020	31/08/2020	18/12/2020
Jan-20 to Mar-20	18/06/20	02/08/20	19/09/2020	22/09/2020	29/09/2020	27/11/2020
Jun-20	06/07/20	20/08/20	05/10/2020	06/10/2020	13/10/2020	07/01/2021
Jul-20	06/08/20	20/09/20	27/10/2020	31/10/2020	07/11/2020	08/02/2021
Aug-20	08/09/20	23/10/20	01/12/2020	01/12/2020	08/12/2020	07/04/2021
Sep-20	07/10/20	21/11/20	18/12/2020	21/12/2020	28/12/2020	21/05/2021

Apr-20 to Jun-20	09/10/20	23/11/20	18/12/2020	20/12/2020	27/12/2020	30/05/2021
Oct-20	06/11/20	21/12/20	11/01/2021	11/01/2021	18/01/2021	16/08/2021
Nov-20	09/12/20	23/01/21	09/02/2021	09/02/2021	16/02/2021	12/08/2021
Nov-20 Supp.	30/12/20	13/02/21	09/02/2021	09/02/2021	16/02/2021	09/02/2021
Jul-20 to Sep-20	20/01/21	06/03/21	08/04/2021	08/04/2021	15/04/2021	09/09/2021
Oct-20 to Dec-20	31/05/21	15/07/21	27/07/2021	27/07/2021	03/08/2021	09/09/2021
Apr'21 to Jun'21 sup	02/12/21	16/01/22	12/01/2022	12/01/2022	19/01/2022	09/02/2022

Submissions of PTC

13. Vide affidavit dated 31.10.2023, PTC submitted corrected details of billing as sought by the Commission as follows:

Particular of bill	PoC bill raised by Petitioner to PTC			PoC bill raised by PTC to Rajasthan DISCOMs			
Bill month	Bill Date	Bill due date	Date of payment of PoC bill by the PTC to the Petitioner	Bill Date	Bill due date	Date of payment of PoC bill received from the Rajasthan DISCOMs	Discom
Aug'19	9-01-20	Not Mentioned on the bill	23-01-20	24-01-20	25-01-20	17-02-2020	JVVNL
				24-01-20	25-01-20	29-06-2020	AVVNL
				24-01-20	25-01-20	26-06-2020, 30-06-2020, 01-07-2020	JDVVNL
Sep'19	9-01-20	Not Mentioned on the bill	24-02-20	24-02-20	25-02-20	17-03-2020	JVVNL
				24-02-20	25-02-20	29-06-2020 30-06-2020	AVVNL
				24-02-20	25-02-20	01-07-2020 02-07-2020 18-07-2020	JDVVNL
Oct'19	9-01-20	Not Mentioned on the bill	28-02-20	28-02-20	29-02-20	17-03-2020	JVVNL
				28-02-20	29-02-20	30-06-2020	AVVNL
				28-02-20	29-02-20	27-07-2020	JDVVNL
Apr'19 - Jun'19	9-01-20	Not Mentioned on the bill	16-06-20	21-05-20	24-05-20	01-09-2020	JVVNL
				21-05-20	24-05-20	30-09-2020	AVVNL
				21-05-20	24-05-20	12-11-2020	JDVVNL
Nov'19	24-01-20	Not Mentioned on the bill	1-07-20	21-05-20	22-05-20	17 Jul 2020 22 Jul 2020	AVVNL
				21-05-20	22-05-20	20-08-2020	AVVNL
				21-05-20	22-05-20	21-08-2020	JDVVNL
Dec'19	24-01-20	Not Mentioned on the bill	29-07-20	21-05-20	22-05-20	14-08-2020	JVVNL
				21-05-20	22-05-20	21-08-2020	AVVNL
				21-05-20	22-05-20	26-06-2020, 29-06-2020	JDVVNL
Jan'20	10-02-20	Not Mentioned on the bill	19-08-20	21-05-20	22-05-20	25-08-2020	JVVNL
				21-05-20	22-05-20	25-09-2020	AVVNL
				21-05-20	22-05-20	23-10-2020 27-10-2020 28-10-2020	JDVVNL
Feb'20	2-07-20	Not Mentioned on the bill	24-08-20	24-08-20	25-08-20	27-08-2020	JVVNL
				24-08-20	25-08-20	28-09-2020	AVVNL
				24-08-20	25-08-20	11-11-2020	JDVVNL
Mar'20	30-07-20	Not Mentioned on the bill	21-09-20	21-09-20	22-09-20	24-09-2020	JVVNL
				02-09-20	22-09-20	1-10-2020	AVVNL
				21-09-20	22-Sep-20	13-11-2020 18-11-2020	JDVVNL

Particular of bill	PoC bill raised by Petitioner to PTC			PoC bill raised by PTC to Rajasthan DISCOMs			
Bill month	Bill Date	Bill due date	Date of payment of PoC bill by the PTC to the Petitioner	Bill Date	Bill due date	Date of payment of PoC bill received from the Rajasthan DISCOMs	Discom
Apr'20	24-08-20	Not Mentioned on the bill	23-10-20	23-10-20	24-10-20	4-11-2020	JVVNL
				23-10-20	24-10-20	2-11-2020	AVVNL
				23-10-20	24-10-20	19-11-2020, 20-11-2020	JDVVNL
Oct'19 – Dec'19	22-09-20	Not Mentioned on the bill	31-10-20	2-11-20	5-11-20	6-11-2020	JWNL
				2-11-20	5-11-20	17-12-2020	AVVNL
				2-11-20	5-11-20	20-11-2020	3D4VNL
Jan'20 – Mar'20	22-09-20	Not Mentioned on the bill	27-11-20	28-11-20	1-12-20	4-12-2020	JVVNL
				28-Nov20	1-12-20	18-12-2020	AVVNL
				28-11-20	1-12-20	17-12-2020	JDVVNL
May'20	24-08-20	Not Mentioned on the bill	18-12-20	21-12-20	22-12-20	18-03-2021	JVVNL
				21-12-20	22-12-20	28-01-2201	AVVNL
				21-12-20	22-12-20	21-01-2021	JDWNL
Jun'20	6-10-20	Not Mentioned on the bill	7-01-21	9-01-21	10-01-21	18-03-21	JVVNL
				9-01-21	10-01-21	18-03-21	AWN
				9-01-21	10-01-21	23-02-2021	JDVVNL
July'20	31-10-20	Not Mentioned on the bill	8-02-21	9-02-21	10-02-21	18-03-21	JVVNL
				9-02-21	10-02-21	2-04-21	AVVNL
				9-02-21	10-02-21	17-05-2021	JDVVNL
Aug'20	1-12-20	Not Mentioned on the bill	7-04-21	8-04-21	9-04-21	16-04-21	JVVNL
				8-04-21	9-04-21	19-05-21	AVVNL
				8-04-21	9-04-21	18-05-2021, 19-05-2021	JDVVNL
Sep'20	21-12-20	Not Mentioned on the bill	21-05-21	22-05-21	23-05-21	26-05-21	JVVNL
				22-05-21	23-05-21	22-07-21	AVVNL
				22-05-21	23-05-21	26-05-2021	JDVVNL
Apr'20-Jun'20	21-12-20	Not Mentioned on the bill	31-05-21	01-06-21	04-06-21	04-06-21	JVVNL
				01-06-21	04-06-21	22-07-21	AVVNL
				01-06-21	04-06-21	06-07-2021	JDVVNL
Oct'20	11-01-21	Not Mentioned on the bill	13-07-21	14-07-21	15-07-21	27-07-21	JVVNL
				14-07-21	15-07-21	11-08-21	AVVNL
				14-07-21	15-07-21	11-08-2021	JDVVNL
Nov'20	09-02-21	Not Mentioned on the bill	12-08-21	12-08-21	13-08-21	25-08-21	JVVNL
				12-08-21	13-08-21	25-08-21	AVVNL
				12-08-21	13-08-21	23-09-2021, 17-09-2021	JDVVNL
Nov'20-Suppl	09-02-21	Not Mentioned on the bill	09-02-22	10-02-22	11-02-22	14-02-22	JVVNL
				10-02-22	11-02-22	22-03-22	AVVNL
				10-02-22	11-02-22	28-03-2022	JDVVNL
Jul'20 – Sep'20	09-02-21	Not Mentioned on the bill	9-09-21	9-09-21	12-09-21	14-09-21	JVVNL
				9-09-21	12-09-21	20-10-21	AVVNL
				9-09-21	9-09-21	09-12-2021 14-12-2021 20-12-2021	JDVVNL
Oct'20 – Dec'20	27-07-21	Not Mentioned on the bill	9-09-21	9-09-21	12-09-21	14-09-21	JVVNL
				9-09-21	12-09-21	20-10-21	AVVNL
				9-09-21	9-09-21	09-12-2021 14-12-2021 20-12-2021	JDVVNL
Apr'21 – Jun'21	13-01-22	Not Mentioned on the bill	9-02-22	10-02-22	11-02-22	14-02-22	JVVNL
				10-02-22	11-02-22	22-03-22	AVVNL
				10-02-22	11-02-22	28-03-2022	JDVVNL

a) As per the provisions of PTC PPA and Procurer(s) PPA, the Petitioner was required to pay the transmission charges to the CTUIL. After making the payment, the Petitioner was to raise the bill on PTC for reimbursement. PTC was required to reimburse the payment and, after paying the Petitioner, was to claim payment from Respondent No.2 to 5.

- b) Initially Respondents No.2 to 5 were also making the payment without much delay. However, from August 2018, there was considerable delay on part of the Respondents No.2 to 5 in making payment to PTC in respect of bills already paid by PTC to the Petitioner. The delay on the part of Respondents No.2 to 5, i.e., Rajasthan DISCOMs, was substantial, and, in some cases, it was more than 200 days. PTC found it financially onerous to reimburse the payment to the Petitioner without getting payment from Respondents No.2 to 5, and in July 2019, the total outstanding payment receivable from Respondents No.2 to 5 was more than Rs.60.00 Crores.
- c) Therefore, in view of the above delay, PTC was not able to make reimbursement to the Petitioner immediately. Accordingly, though the Petitioner had raised the PoC Bill for the month of November 2019 on 24.01.2020, PTC raised the Bill on Rajasthan DISCOMs on 21.05.2020 without reimbursing the PoC Bill to the Petitioner. Similarly, PoC bills for the months of December 2019 and January 2020 and PoC bill-3 for Apr19-June 19 were also raised on Rajasthan DISCOMs. However, no payment was made by Respondents 2 to 5, and payment was received from the Respondents only after submission of proof of payment regarding reimbursement to the Petitioner by PTC.

Hearing date 19.02.2024

14. The Commission reserved the matter for Order.

Submissions by Respondents 2-5, Rajasthan DISCOMs

15. Respondents 2-5, vide written submission dated 27.02.2024, have reiterated their initial claims with the following:

- a) Rajasthan DISCOMs have been made Respondents to the Petitioner despite the fact that there has been no claim/relief sought by the Petitioner against the Rajasthan DISCOMs, and as such, LPS as levied by PGCIL is attributable to PTC and not Rajasthan DISCOMs.
- b) Similarly, in the present case, no invoice has been raised by PTC towards LPS on Rajasthan DISCOMs. In view thereof, no direction can be passed on Rajasthan DISCOMs in the present Petition. This is without prejudice to the submissions. Even

otherwise, LPS is not payable with respect to delay in reimbursement of POC Charges.

- c) In the present Petition, the entire case of the Petitioner against PTC is that PTC has delayed reimbursing the transmission charges to the Petitioner. In terms of the above, it is stated that the dispute is, in fact, between the Petitioner and PTC, which is further clear from the fact that the Petitioner had time and again written letters to PTC and not Rajasthan DISCOMs.

Submissions of Petitioner

16. The Petitioner vide written submissions dated 04.03.2024 has reiterated earlier submissions; additional submissions are as follows:

- a) The Petitioner is entitled to receive reimbursement of POC charges along with Late Payment Surcharge from Respondent No. 1, PTC, in terms of the contractual arrangement between the parties.
- b) The issue pertaining to reimbursement of POC charges along with Late Payment Surcharge ("LPS") has been decided by this Hon'ble Commission vide Order dated 30.12.2023 in DB Power Limited vs. PTC India Limited and Ors. (Petition No. 26/MP/2023) and to that extent, the Petitioner places reliance on the said order.
- c) The Petitioner is entitled to recover the transmission charges from the PTC as per Article 5.2(d) of the PTC-PPA read with Article 4.4.1 of Schedule 4 of the Procurer-PPA. The Petitioner is further entitled to LPS due to delayed payments on behalf of PTC, as per the terms of Article 8.3.5 of the Procurer's PPA. The Petitioner has referred to paragraphs 21, 22, and 27 of Order dated 30.12.2023 in Petition No. 26/MP/2023. The Commission may impose liability on account of LPS accrued to the Petitioner for delayed payments of transmission charges covered under the PTC-PPA and Procurer(s) – PPA by PTC.
- d) The Petitioner is entitled to be adequately compensated, in addition to the payment of LPS, for the financial injury sustained by it due to the imposition of penalty by PGCIL. On account of constant failure on the part of the PTC to reimburse the transmission charges which were outstanding for more than 90 days, PGCIL issued

notices dated 14.08.2020 and 08.02.2022. Deduction of rebates from the POC bills is not envisaged under the PPAs and is outrightly illegal.

- e) It is submitted that payment of interest is nothing but a barometer for the time value of money, which is an inherent part of the principal amount as if the said principal accrues on the actual date of payment/ reimbursement. The Petitioner is entitled to reimbursement of TDS along with payment of interest on working capital and carrying cost/ interest on delayed payment of LPS. As the petitioner had to secure working capital loans to fulfil payment obligations to PGCIL due to delayed or absent reimbursement from PTC, they should be restored to their previous financial position through the principle of restitution. Therefore, the petitioner should be compensated for carrying costs, factoring in the interest on the working capital incurred for transmission charge payments.
- f) The principle of the time value of money is also enshrined under the commercial principles provided in Section 61(b) of the Electricity Act, 2003. It is settled law that the aforesaid commercial principles contained under Section 61 of the Act duly apply to a PPA under Section 63 as well. Therefore, the payment of delayed interest on delayed/ non-payment of POC charges to the Petitioner under the PTC-PPA cannot be denied or ignored in any manner whatsoever. The Petitioner is also entitled to receive the interest on account of the delayed payment of LPS.

Submissions of Respondent No. 1 (PTC)

17.PTC, vide written submission dated 04.03.2024, has mainly reiterated its previous submissions, and additionally, it has submitted as under:

- a) The issue in the present Petition is not covered in the Order dated 30.12.2023 in the case of 26/MP/2023. In the case of 26/MP/2023, the generator has been drawing bills/ invoices towards LPS on the delayed payment. Whereas in the present case, no invoice/bills have been drawn by the Petitioner on Respondents towards delay in reimbursement of POC/ transmission charges. The Respondent is not liable to pay any claims. Similar to this, it has been held as below:

“28. However, the Rajasthan Discoms have specifically pointed out that, unlike the Petitioner, PTC has not raised any Supplementary Bills for LPS upon them and, as such, no directions can be issued to them for payment of such charges. We agree with the aforesaid submission of the Rajasthan Discoms that

in the absence of any bills raised upon them, we refrain ourselves from passing any direction of the payment upon the Rajasthan Discoms”

Thus, from the above, it is clear that in the absence of any bills raised, no relief can be granted.

- b) The responsibility to pay for the transmission charges was that of the Procurer, i.e., Respondents No.2 to 5, and PTC was to reimburse the same to the company/ Petitioner only on the same being received by PTC.
- c) Time frame/ due date has been provided in the Procurer(s)-PPA and the Due Date pertains to monthly or supplementary bills only. Due Date has been defined as “the thirtieth (30th) day after a Monthly Bill or a Supplementary Bill is received and duly acknowledged by the Procurer(s) or, if such day is not a Business Day, the immediately succeeding Business Day, by which date such Monthly Bill or a Supplementary Bill is payable by such Procurer(s).”
- d) From provisions of Article 8.8.1, it is evident that the alleged LPS in respect of POC is in nature of the Supplementary Bill and also not as per provisions of the PPA as none of the criteria as laid down in Article 8.8.1 pertains to POC charges and/ or the LPS in respect of POC charges.
- e) Articles of the PTC-PPA relating to the due date do not cover Transmission Charges reimbursement, and hence, the surcharge is not applicable as per the Agreement. Applicability of surcharge is as per Clause 8.3.5 and 8.8.3 as mentioned below:

“8.3.5 In the event of delay in payment of a Monthly Bill by the Procurer(s) beyond its Due Date, a Late Payment Surcharge shall be payable by such Procurer(s) to the Seller at the rate of two percent (2%) in excess of the applicable SBAR per annum, on the amount of outstanding payment, calculated on a day to day basis (and compounded with monthly rest), for each day of the delay. The late payment surcharge shall be claimed by the Seller through the Supplementary Bill.

In the event of delay in payment of a Supplementary Bill by either Party beyond its Due Date, a Late Payment Surcharge shall be payable at the same terms applicable to the Monthly Bill in Article 8.3.5.”

That in view of the above provisions of the PTC-PPA, it is evident that surcharge is not applicable for reimbursement of Transmission Charges.

- f) Article 6.5 is not applicable in the present case as the Article is part of Article 6, which pertains to “Tariff, Payment Terms. and Payment Security”. On reading the complete Article 6, it is clear that the Article pertains to Tariff and related issues, i.e., Tariff payment and Trading Margin. It is also observed that under Article 6.2, it is incumbent upon the Petitioner to have reviewed Article 4 of the Procurer-PPA. Article

6.3 provides for the methodology for raising invoices by the Petitioner on PTC, who in turn would raise invoices on the Procurer(s). Article 6.4 provides that PTC shall make payment to the Petitioner for power supplied and also the methodology for charging rebate. Article 6.4 further provides that *“However, in case the payment is released to the Company after receipt on payment from Procurer, the amount paid to Company shall not be less than the amount received by PTC after adjusting its margin.”*

Thus, a conjoint reading of the provisions, Article 6, it is evident that Article 6.5 pertains to payment(s) related to tariff only and not to POC charges.

- g) Liability of payment to PGCIL rested with the Petitioner, and if there is any delay in payment to PGCIL, on account of which PGCIL levies LPS, same is to the account of the Petitioner, and accordingly, the Petitioner is not entitled to claim reimbursement of this amount.

Hearing dated 09.09.2024:

18. The matter has been re-listed for the hearing since the Order in the matter, which was reserved on 19.2.2024, could not be issued prior to the Members of the Commission, who formed part of Coram, demitting office. During the course of the hearing, the learned counsel for both sides prayed for relisting the matter for an oral hearing before this Coram. Considering this, the Commission directed to list the matter.

Hearing dated 19.02.2025

19. During the course of the hearing, the learned counsels for both sides made detailed submissions and concluded their arguments. Petitioner and Respondents requested time for written submissions; the Commission permitted both sides to file their respective written submissions and reserved the matter for Order.

Submissions of Rajasthan Discoms, Respondents 2-5:

20. The Respondent No. 2-5 have filed their Written Submissions dated 01.03.2025, wherein they mainly submitted as under:

- a) There has been no claim/relief sought by the Petitioner against the Rajasthan DISCOMs and this was also clearly admitted by the Petitioner's counsel when the matter was heard.
- b) PTC has not raised any claim on the Rajasthan DISCOMs at any stage of the proceedings, and no directions can be issued by this Commission to the Rajasthan DISCOMs in the present petition since there is no dispute between PTC and Rajasthan DISCOMs that require adjudication. PTC, vide Affidavit dated 31.10.2023, in compliance with the ROP dated 11.10.2023, has itself admitted the fact that PTC has never raised any invoice for LPS on the Rajasthan DISCOMs.
- c) The payment of transmission charges was the sole responsibility of the Petitioner, and the payment to be made by PTC was not dependent on the receipt of payment from Rajasthan DISCOMs. The LPS charged by the PGCIL was on account of default of the Petitioner and the Rajasthan DISCOMs cannot be held liable for the same.

Submissions of Petitioner:

21. Petitioner had made written submissions dated 05.03.2025, wherein it has mainly submitted as under:

- a) PTC, after having reimbursed PoC charges along with LPS to the Petitioner, subsequently withheld and deducted ₹5,41,76,851/- on the pretext that RUVNL, acting on behalf of the Rajasthan DISCOMs (Respondents No. 2-5), refused to honour the LPS component claimed by PTC. This was confirmed in PTC's email dated 14.10.2021, where PTC categorically stated that since RVUNL had deducted this amount while processing PoC bills, PTC would deduct the same amount from the payments due to the Petitioner.
- b) The unilateral deduction by PTC is wholly illegal, arbitrary, and contrary to the provisions of the PTC-PPA dated 01.11.2013. PTC-PPA does not permit PTC to unilaterally pass on any deductions or disallowances made by the Rajasthan DISCOMs onto the Petitioner, especially when the Petitioner has already incurred, paid, and claimed the PoC charges and LPS in accordance with the provisions of the PPA and after due approval from PTC itself.
- c) The liability for LPS squarely falls upon PTC under the back-to-back contractual arrangement between MCCPL, PTC, and the Rajasthan DISCOMs, as also held by this Commission in Order dated 30.12.2023 in Petition No. 26/MP/2023. In the said

Order, this Commission categorically held that PTC is liable to pay LPS to the generator under the PTC-PPA, irrespective of whether or not the Rajasthan DISCOMs have paid the corresponding amounts to PTC under the Procurer-PPA.

- d) Petitioner has discharged its contractual obligation of making PoC payments to CTUIL and raised reimbursement claims upon PTC; the Petitioner's entitlement to reimbursement, including LPS, crystallizes under the terms of the PTC-PPA. PTC cannot arbitrarily withhold or recover amounts paid to the Petitioner, citing unrelated disputes with Rajasthan DISCOMs.
- e) PTC has categorically admitted its failure to timely reimburse PoC charges to the Petitioner on account of financial constraints caused due to non-payment by the Rajasthan DISCOMs. There is no room for doubt that the delay in reimbursement of PoC charges to the Petitioner was solely attributable to the failure of PTC to manage the back-to-back payment mechanism envisaged under the PTC-PPA and Procurer-PPA. PTC's plea of financial constraints caused by the non-payment from Rajasthan DISCOMs cannot justify or excuse its default towards the Petitioner. It is settled law that the intermediary trader (PTC) remains independently liable to discharge its payment obligations towards the generator (Petitioner), irrespective of whether or not the downstream procurers (Rajasthan DISCOMs) have made corresponding payments.
- f) The cascading effect starting from PTC's failure to adhere to its contractual obligation to promptly reimburse PoC charges to the consequent imposition of LPS by CTUIL and culminating in the unilateral deductions by PTC has left the Petitioner in a vicious cycle of financial distress. The inability to recover working capital in a timely manner has not only increased the Petitioner's borrowing costs but has also impaired its ability to maintain adequate liquidity for ongoing operations.
- g) PTC's reliance on the absence of supplementary bills from the Petitioner as a ground to deny liability for LPS and carrying cost is a deliberate and untenable attempt to subvert the findings and intent of this Commission in D.B. Power Limited v. PTC India Limited & Ors., in Petition No. 26/MP/2023. In this, the Order Commission recognized the practical reality that in a multi-tier, back-to-back contractual framework, the issue of liability must first be adjudicated and clarified before supplementary bills can be appropriately raised by one party upon the next in the contractual chain. PTC's present argument that Petitioner's entitlement to LPS

and carrying cost should fail merely because MCCPL did not raise separate "Supplementary Bills" is a blatant attempt to subvert and invert this principle. PTC cannot, on the one hand, withhold the reimbursement of PoC charges and LPS from MCCPL and then, on the other hand, rely on the absence of supplementary bills from MCCPL to PTC as a shield against liability.

- h) Apart from being entitled to LPS, the Petitioner is also entitled to carrying cost for the period during which the Petitioner was denied timely reimbursement of PoC charges and LPS, which forced the Petitioner to resort to working capital borrowings at substantial cost to ensure continued operation of the generating station and to discharge its statutory obligations under the Transmission Service Agreement with CTUIL.
- i) PTC had been deducting 2% TDS from each bill payment, leading to a reduction in the fund availability with the Petitioner. Such TDS deduction on reimbursement is entirely illegal as reimbursement of expenses/bills cannot be regarded as a revenue receipt, and the same is not taxable.
- j) The deductions made by PTC towards rebate and TDS further compounded the Petitioner's financial distress by reducing the already delayed reimbursements and aggravating the working capital gap. Therefore, carrying costs must also be awarded on the amounts wrongfully withheld by PTC, including but not limited to the amounts deducted towards rebate and TDS, which were not contractually permissible under the PTC-PPA.
- k) Payment of interest is nothing but a barometer for the time value of money, which is an inherent part of the principal amount as if the said principal accrues on the actual date of payment/ reimbursement. Therefore, the Petitioner herein is entitled to interest, interest on working capital and carrying cost on the delayed payment of LPS, in order to restitute it to the same economic position as it was, as and when such payment first became due, along with compensation on illegal deduction of rebate and TDS.

Analysis and Decision

22. Petitioner, Maruti Clean Coal Private Limited (MCCPL), having a 300 MW coal-based thermal power plant in Korba, Chhattisgarh, agreed to sell 250 MW (reduced to 195MW) to Respondents 2-5, i.e., Rajasthan DISCOMs through inter-state trading licensee PTC.

Thereafter, a Power Purchase Agreement (PPA) dated 01.11.2013 was executed between Petitioner and PTC (PTC-PPA), and a back-to-back PPA was executed between Rajasthan DISCOMs and PTC (Procurers' PPA) for the supply of power.

23. In terms of PTC-PPA the liability of payment of PoC transmission charges to PGCIL was on the Petitioner, and PTC was to reimburse the monthly transmission charges to the Petitioner. In terms of Procurers' PPA, Rajasthan DISCOMs shall reimburse the paid transmission/wheeling charges to CTU/STU from the injection point to the delivery point to the seller (herein PTC) after the seller has reimbursed these charges to the Petitioner.
24. Petitioner MCCPL has submitted that PGCIL started billing PoC transmission charges from the date of operationalisation of LTA, and MCCPL, after making payment to PGCIL, claimed reimbursement from PTC. Since January 2019, PTC started delaying reimbursement of transmission charges. The Petitioner has claimed that it was discharging its liability towards transmission charges without getting reimbursed. Therefore, its working capital was exhausted, and the delay in payment of transmission charges resulted in a levy of LPS by PGCIL, which is attributable to PTC.
25. Per contra, PTC has stated that it continued to reimburse the POC charges to the Petitioner and raised bills on Respondents No.2 to 5. However, from August 2018, the Procurers' (Rajasthan DISCOMs) started to delay making payments to PTC in respect of bills already paid to the Petitioner. On account of this delay, PTC found it financially onerous to reimburse the payment to the Petitioner without receiving payment from Rajasthan DISCOMs. PTC is claiming that the payment of POC charges was the sole responsibility of the Petitioner and was not dependent on receipt of payment from the Respondents. Neither PTC-PPA nor the Procurer-PPA had any provision for payment of Late Payment Surcharge, and accordingly, PTC never claimed any LPS on account of the delay in receipt of payment towards the POC charges from Rajasthan DISCOMs. Accordingly, no liability accrues on PTC.
26. Rajasthan DISCOMs have categorically denied any liability on account of delayed reimbursement by PTC. They submitted that in the instant case, PTC has failed to reimburse the petitioner. Therefore, this is a dispute between the petitioner and PTC. Rajasthan DISCOMs have duly reimbursed the POC charges to PTC as and when an invoice towards the same has been raised by PTC. Any delay/non-payment was on account of PTC and not Rajasthan DISCOMs. Rajasthan DISCOMs have submitted that the present Petition is not even maintainable against the Rajasthan DISCOMs.

27. We have considered the submissions made by the Petitioner and the Respondents. The issues that arise for our consideration are as follows:

Issue No. 1: Whether the Petitioner is entitled to reimbursement of PoC Transmission charges along with the LPS? Whether Petitioner is entitled to interest, interest on working capital, and carrying cost on the delayed reimbursement of transmission charges?

Issue No.2: Whether the transmission charges should be reimbursed to the Petitioner without deduction of Rebate and TDS?

These issues are dealt with in subsequent paragraphs.

Issue No. 1: Whether the Petitioner is entitled to reimbursement of PoC Transmission charges along with the LPS? Whether Petitioner is entitled to interest, interest on working capital, and carrying cost on the delayed reimbursement of transmission charges?

28. The Petitioner has submitted that the Petitioner faced financial constraints due to delay in reimbursement of transmission charges by PTC. It is submitted that the Petitioner could not pay applicable transmission charges to CTU, which, in turn, levied a Late Payment Surcharge (LPS) on the Petitioner and further threatened regulatory actions for sustained delay. The Petitioner has stated that he included the LPS charges paid to CTU in the bills/invoices raised over PTC for reimbursement of transmission charges, which was declined by PTC.

29. PTC, relying on PTC-PPA, stated that the 'due date' for reimbursement of transmission charges is not defined; therefore, this is not 'delayed' reimbursement. PTC, being an intermediary agency, has to reimburse the Petitioner after getting paid by the Rajasthan DISCOMs. PTC has also claimed that it (PTC) is not functioning as a merchant trader and it is merely acting as an intermediary linking the Generating Company with DISCOMs and charges trading margin only on the flow of energy and not on reimbursement of transmission charges. The payment of POC charges was the sole responsibility of the Petitioner and was not dependent on receipt of payment from the Respondents. The LPS charged by the CTU was on account of the default of the Petitioner alone, and Respondent No.1, PTC, cannot be held liable for the same.

30. We have perused the documents on record with respect to the dispute, as raised between the Petitioner and Respondents. The Petitioner is contending that it should be reimbursed transmission charges along with a late payment surcharge by PTC in case PTC delays the reimbursement of transmission charges. We have perused the PPA signed between Petitioner and PTC (the PTC-PPA). The relevant extracts of PTC-PPA are as follows:

1. Article- 1: Definitions and Interpretation

“(E)...PTC and Company have agreed to entered into this Agreement and to abide by and to adhere to the rights and obligations of PTC under the Procure(s)-PPA on a back to back basis except to the extent anything mentioned otherwise herein under this Agreement for the purposes of Procurer(s)-PPA.

.....

*(G)...The provisions of the Procurer(s)-PPA, dated 01.11.2013 signed between PTC and the Procurer(s) shall be applicable **mutatis mutandis** to this Agreement except to the extent of the deviating as expressly stated in this Agreement.”*

As per the above, the Petitioner and PTC have agreed that the provisions of the Procurer-PPA are *mutatis mutandis* applicable upon the PTC-PPA unless there is a specific deviation thereunder.

Further, Article 5.2 provides as follows:

“5.2

...

(d) The Tariff payable by PTC to Company shall be sum of Capacity Charges and Energy Charges as per Procurer(s)-PPA minus PTC Trading Margin. The monthly transmission charges shall be reimbursed by PTC as provided in article 4.4 of the Schedule 4 of the Procurer(s)-PPA to Company, if the same has been paid by Company to CTU.

As per the above, monthly transmission charges shall be reimbursed by the PTC, subject to the condition that the same has been paid by the generating company to CTU.

31. Article 4.4 of Procurers' PPA provides as under:

“4.4 Transmission/ Wheeling Charges and RLDC/SLDC Charges

4.4.1 The payment of Transmission Charges/ Wheeling Charges to the CTU/ STU, from the Injection Point to the Delivery Point shall be paid by the Seller and would be reimbursed by the Procurer(s).

4.4.2 The payment of the RLDC/ SLDC charges shall be the responsibility of the Procurer(s).”

As per Article 4.4 of the PTC-PPA, PTC is required to first release payment of transmission charges/wheeling charges to the Petitioner and, thereafter, claim the same from Rajasthan DISCOMs. The collective interpretation of the above

provisions provides that liability of PoC/ transmission charges shall be discharged in the following manner:

Step 1: Petitioner pays the transmission charges to CTU;

Step 2: Petitioner raises an invoice on PTC for reimbursement of the transmission charges paid by it to CTU along with proof of payment;

Step 3: PTC reimburses the transmission charges to the Petitioner;

Step 4: PTC raises an invoice on Rajasthan DISCOMs towards reimbursement of transmission charges paid by PTC to the Petitioner along with proof of payment;

Step 5: Rajasthan DISCOMs reimburse the transmission charges as paid by PTC to the Petitioner.

As per the above, the reimbursement of monthly transmission charges by PTC to the Petitioner is to be done by it without linking it to the payment from the Procurer(s).

32. PTC has submitted that in case of Petition 26/MP/2023, the generator has been drawing bills/invoices towards LPS on the delayed payment, whereas in the present case, no invoice/bills have been drawn by the Petitioner on Respondents towards delay in reimbursement of POC/ transmission charges, therefore, in the absence of any bills raised, and in terms of Order in Petition 26/MP/2023, no relief can be granted to Petitioner.

33. Let us peruse if the Petitioner raised any invoices towards LPS it claims from PTC for delayed reimbursement of transmission charges. We observe that Petitioner has submitted a copy of invoices raised by it on PTC for some months towards reimbursement of transmission charges; a sample invoice raised on 9.1.2020 is quoted as follows:



Maruti Clean Coal and Power Limited (MCCPL)

CIN: U24292CT1999PLC013364
Regd. Office: Ward No. 42, Building No. 14, Civil Lines, Near Income Tax Colony, Raipur, Chhattisgarh - 492001

Buyer PTC India Limited
Billing Address NBCC Tower, 11th Floor, 15, Bhikaji Kama Place
Ramakrishna Puram West, New Delhi-110066
GSTN (Prov.) 07AABCP7947F1Z8
PAN AABCP7947F

Seller Maruti Clean Coal and Power Limited (MCCPL)
Billing Address 300MW Thermal Power Plant
Village- Bandhakhar, PO- Nunera, Tehsil- Pali,
District- Korba, Chhattisgarh, Pin- 495449
GSTN (Prov.) 22AADCM4810C1Z7
PAN AADCM4810C
Bill No. MCCREG20TR011
Period 01.08.2019 to 31.08.2019
Date 9-Jan-20

Reimbursement of Transmission charges

Ref: "PTC-PPA" between MCCPL & PTC and "Procure(s)-PPA" between PTC & Rajasthan Discoms dated 01.11.2013

Dear Sir

Please find enclosed the PoC Bill#1 MI2206190011 dated 05.09.2019 for the month of August'19 raised by PGCIL towards LTA to Rajasthan Discoms.

Reimbursement PoC Bill#1 for the month of August'19			
S no.	Description	LTA	Amount (Rs.)
1	PoC charges (Rs.)	195	60,567,585
2	HVDC charges (Rs.)	195	8,760,765
3	Reliability Support Charges (Rs.)	195	6,211,725
4	Gross Bill (Rs.)		75,540,075
5	Credits		(9,768,454)
6	Net Bill for reimbursement of PoC charges		65,771,621
Rupees Six Crore Fifty Seven Lacs Seventy One Thousand Six Hundred Twenty One Only			

Please make the payment in MCCPL Revenue Account, HDFC Bank Limited, Wazirabad, Gurgaon-122002, IFSC code HDFC0000572, A/c no. 05720330001376

For Maruti Clean Coal and Power Limited


Authorized Signatory

Encl: a/a



As per the above, the invoice has been raised on PTC by the Petitioner for POC charges, HVDC charges, reliability charges and credit bills. There is no component of LPS in the above-quoted bill.

34. We have perused the Petition filed by the Petitioner; though the Petitioner is claiming LPS towards delayed reimbursement by PTC, the Petitioner has not filed a single invoice in which it raised towards LPS due to delayed reimbursement of transmission charges on PTC. The Petitioner, vide letter dated 2.3.2020 to PTC, stated as follows:

PGCIL through NR-I has been issuing the Invoice of POC charges in the name of MCCPL. As per PPA the transmission charges paid by MCCPL are to be reimbursed by PTC/Rajasthan Discoms. MCCPL is facing huge difficulty in continuing to pay the POC charges to PGCIL due to the following:-

- (a) Delay in receipt of reimbursement from PTC/RUVNL without any provision for late payment surcharge.
- (b) PTC had been deducting 2% TDS from each bill payment reducing the fund availability with MCCPL.
- (c) The Working Capital sanctioned by lenders is not adequate to continue to make payments without timely reimbursement leading to delay in payment in POC bills to PGCIL.

In the above context, it is informed that currently POC charges amounting to **Rs. 33.65 Crore** are yet to be reimbursed by PTC to MCCPL since Rajasthan Discoms have not yet reimbursed an amount of **Rs. 13.21 Crore** to PTC which has already been paid by PTC to MCCPL. The details of POC charges pending reimbursement are attached as per **Annexure-I**.

The delay in the payment of POC charges can result in PGCIL invoking Regulatory Restriction on scheduling of power which can affect the power availability to Rajasthan Discoms and also having adverse effect on the revenue of the Company.

In order to streamline the payments of POC bills, it is requested that the NOC of Rajasthan Discoms be given for assigning 195 MW LTA granted to M/s. MCCPL to Discoms so that PGCIL can be requested to raise the Invoices directly in the name of Discoms who are the ultimate beneficiary.

Thanking you,

Yours faithfully,
For Maruti Clean Coal & Power Ltd.


H.M Jain
Authorised Signatory

Encl: as above

”

As per the above letter, the Petitioner itself acknowledged that there is no provision for a late payment surcharge on delayed reimbursement by PTC/RUVNL, due to which MCCPL is facing huge difficulty in continuing to pay POC charges to PGCIL.

35. The Petitioner has attached some email communications between the Petitioner and PTC, which do not have any reference to LPS on delayed reimbursement by PTC. There is only one email by Rajasthan discom to PTC regarding LPS, quoted as follows:

From: center Sector [mailto:xencsbilling@gmail.com]
Sent: 12 January 2021 17:43
To: PTC Energy <ptc.energy@ptcindia.com>; H L Choudhary <hlchoudhary@ptcindia.com>
Subject: Regarding your POC Bill no 1 for the month of May-20 and June -20 in respect of MCCPL

Dear sr

This is with reference to your invoices of POC charges for the month of June-20 received on 11.01.2021 wherein you have claimed LPS/Surcharge amount paid to PGCIL towards delay in payment made by MCCPL.

The Rajasthan Discoms are not liable for LPS/Surcharge amount paid by MCCPL to PGCIL Delay in payment.

Therefore, your invoices of POC charges for the month of June-20 has been verified after deducting the LPS/Surcharge amount in accordance with statement of STOA published by PGCIL for the month of Apr-20, May-20 and June-20. Copy attached herewith for reference please.

--

Regards

Center Sector

Billing, RUVNL, Jaipur

As per the above, it appears that the Petitioner might have forwarded the LPS claimed by PGCIL on the Petitioner to PTC, which might have forwarded the same to RUVNL. We observe the Petitioner has failed to attach any communication from the Petitioner to PTC attaching the invoice of LPS.

36. We observe that the Petitioner has placed reliance on Order dated 30.12.2023 in Petition No. 26/MP/2023 stating that the Petitioner is entitled to LPS due to delayed payments on behalf of PTC, as per the terms of Article 8.3.5 of the Procurer's PPA referring to various paragraphs of Order dated 30.12.2023 in Petition No. 26/MP/2023. In this regard, we have perused Order dated 30.12.2023 in Petition No. 26/MP/2023 quoted as follows:

"Submissions of the Petitioner

2...

i) The Petitioner has paid the transmission / POC charges to PGCIL, on behalf of PTCIL/ Procurer(s), regularly starting from August 2015, and thereafter submitted the said bills to PTCIL/ Procurer(s) for reimbursement of the same. However, beginning from January 2019, PTCIL/ Procurer(s) started defaulting in making timely reimbursement of the transmission charges/ POC paid by the Petitioner on their behalf, thereby entitling the Petitioner to claim LPS/interest. Accordingly, the Petitioner started raising supplementary bills for the LPS on delayed reimbursement of transmission/POC charges. The Petitioner raised supplementary bills upon PTCIL/ Procurer(s) towards LPS on the outstanding amounts on the basis of Regulation 59 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 and Clause 3.4 of CTUIL's BCD Procedure. As per the aforesaid provisions, the due date of the bill is provided as 45 days from the date of the bill, and the LPS is payable @ 1.50% per month on the outstanding amount. Therefore, the LPS claim due to delayed reimbursement of the transmission/POC charges is significantly lesser than the claim which would have accrued if the LPS on outstanding dues were to be calculated as per the provisions of the PPA.

..

(n) In terms of Regulation 13(2) of the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020, which came into force from 1.11.2020 (the Sharing Regulations), payment of POC charges is the liability of the ultimate beneficiary. Accordingly, as on 9.2.2022, PTCIL has made payment of the PoC dues accumulated till the month of June 2021. However, nothing has been paid as against the claim of LPS qua PoC reimbursement, to the Petitioner. As such, as on date, there is an outstanding of Rs. 20,39,79,703/- towards LPS qua PoC Bills for the months of January 2019 to June 2021, as against PTCIL/ Procurer(s), in terms of the provisions of the PPA(s).

..

Submissions of the Petitioner:

10. The Petitioner, vide its affidavit dated 14.8.2023, has submitted as under:

(a) With regard to the clause of the PPA regarding the raising of the LPS, there is no billing and payment provision under the PTC-PPA which deals with due dates, timelines, delayed interest, etc. As per recital G of the PTC-PPA, the provisions of the Procurer(s) PPA are mutatis-mutandis applicable on PTC-PPA, unless there is an express deviation/ bar stated in the Agreement. Accordingly, the provisions for Billing and Payment provided under the Procurer(s) PPA will be applicable to the PTC-PPA. However, the aforesaid provision neither specifically covers the billing with respect to reimbursement of transmission charges and timeline for such reimbursement, nor includes the delayed interest/ late payment surcharge in case of delay in reimbursement of transmission charges.

(b) If there is a delay in making payment of a principal amount, the said amount has to include the interest component for compensating for such delay. Since the interest is nothing but a barometer for the time value of money, which is an inherent part of the principal amount, as if the said principal accrues on the actual date of payment/ reimbursement.

(c) Therefore, applying the aforesaid principle of purposive interpretation, interest or late payment surcharge cannot be denied to the Petitioner based on an argument that (i) there is no provision for interest; or (ii) there is no timeline for payment of reimbursement bills, as interest entitlement has to be read into the right of the Petitioner to accept reimbursement of POC bills after a delay. As such, the intent and purpose behind Article 8 of the Procurer(s)- PPA, which provides for billing and payments including late payment surcharge etc., will be applicable.

(d) Regulation 59 of CERC (Terms and Conditions of Tariff) Regulations, 2019 and Clause 3.4 of CTUIL BCD Procedure, also provides for delayed interest/ LPS. In terms of this, the Petitioner is entitled to the payment of LPS on any payment beyond the due date of 45 days from the date of the bill, and LPS is payable @ 1.50% per month on the outstanding amount. Accordingly, the Petitioner has raised the bills for delayed interest on the basis of whichever provision (i.e., PPA and Regulation) provides a lower rate of interest on delayed payments. Accordingly, the Petitioner has a legal and contractual right to recover the aforesaid delayed interest on the reimbursement...

..."

Analysis and Decision

..

23. As per Article 8.3.5 of the Procurer-PPA, the LPS on delayed payment beyond the due date i.e., 30 days from the date of the bill, is two per cent (2%) in excess of the applicable SBAR per annum on the amount of outstanding payment, calculated on a day-to-day basis (and compounded with monthly rest), raised vide supplementary bill. However, we observe that in the present case, the Petitioner itself raised Supplementary Bills upon PTCIL towards LPS on the outstanding amounts on the basis of Regulation 59 of Tariff Regulations, 2019 and Clause 3.4 of CTUIL's

BCD Procedure. Having held that the Petitioner is entitled to the LPS on the delayed payment of transmission charges by PTC under the PTC-PPA, computation of LPS on the basis of Regulation 59 of Tariff Regulations, 2019 read with Clause 3.4 of BCD Procedure cannot be permitted.

24. Moreover, it is also observed that in several instances, the Petitioner had raised the claims for reimbursement of transmission charges upon PTC (by way of debit notes) even prior to having paid such charges to CTUIL, which is clearly not in accordance with the scheme of reimbursement envisaged under the provisions of both the agreements. However, it is also noted that while computing LPS liability upon PTC, the Petitioner has considered the Due Date for payment by PTC only from the date of payment of transmission charges by the Petitioner to CTUIL, which indicates the correct approach as such Due Date cannot run from the date of Debit Note raised by the Petitioner without first paying such charges to CTUIL and furnishing the requisite proof of payment to PTC. It is also noted that the Petitioner, having raised the LPS claims as per the Tariff Regulations, 2019 read with Cl. 3.4 of CTUIL's BCD Procedure, the Due Date has been considered as 45 days from the date of payment of transmission charges/PoC charges by DBPL. However, having held that the Petitioner will be entitled to LPS only as per the provisions of the PPAs, the Due Date also needs to be worked out as per the provisions of the PPAs only and not as per the Tariff Regulations, 2019.

“

As per the above, it is observed that the Petitioner therein, “DB Power,” raised regular supplementary bills towards LPS on the outstanding amounts on the basis of Regulation 59 of Tariff Regulations, 2019, and Clause 3.4 of CTUIL's BCD Procedure.

37. We observe that the instant Petition, the case is different from that of Petition No. 26/MP/2023. In the instant case, the Petitioner did not raise any invoices claiming LPS for delay in reimbursement by PTC; rather, there is an oblique reference of the Petitioner passing LPS paid by the Petitioner to CTU to PTC. An example has been formulated to explain the difference between Petition No. 26/MP/2023 and the instant Petition as follows:

For example:

If CTU had raised POC bills on the Petitioner in January 2020, which the Petitioner pays to CTU, say, on 25th August 2020, then CTU charges the Petitioner, LPS for approximately 7 months. If Petitioner, after making payment to CTU on 25th August 2020, had raised the reimbursement bill to PTC on 25th August 2020 itself. Two hypothetical scenarios may arise as under:

Scenario 1: if PTC had reimbursed the principal POC charges on 26th August 2020, no LPS could have been levied on PTC despite the Petitioner having already paid LPS to CTU.

Scenario 2: if PTC had reimbursed the principal POC charges on, say, 25.11.2020, LPS could have been levied for delayed reimbursement, at the maximum, for approximately 2 months and not for 7 months' delay by Petitioner in making the payment to CTU.

In Petition No. 26/MP/2023, the Petitioner therein had raised invoices on PTC for the period of delayed reimbursement of transmission charges by PTC for 2 months as in the aforesaid example.

In the instant case, however, the Petitioner did not raise any invoice to PTC for the LPS, which was to be calculated as (LPS rate X period of delay in reimbursing POC Charges by PTC). On the other hand, the Petitioner has merely forwarded the LPS paid by the Petitioner to PTC for 7 months under Scenario 2 in the aforesaid example.

38. PTC, referring to Order dated 30.12.2023 in Petition No. 26/MP/2023, has categorically stated that the Petitioner has not raised any invoice of LPS on PTC and PTC has not raised any invoice of LPS on Rajasthan Discoms. PTC has referred to the Order dated 30.12.2023 in Petition No. 26/MP/2023 and stated that in the absence of an invoice of LPS, no LPS can be claimed from PTC. The relevant extract of Order dated 30.12.2023 in Petition No. 26/MP/2023 is quoted as follows:

“28. It is also beyond the dispute that both the agreements i.e. the PTC-PPA and Procurer(s)-PPA, are back-to-back in nature and as a result, the obligations of the payment of LPS in the event of delay in making payment of transmission charges to PTC, under the Procurer(s)-PPA also fall upon the Rajasthan Discoms. However, the Rajasthan Discoms have specifically pointed out that, unlike the Petitioner, PTC has not raised any Supplementary Bills for LPS upon them and, as such, no directions can be issued to them for payment of such charges. We agree with the aforesaid submission of the Rajasthan Discoms that in the absence of any bills raised upon them, we refrain ourselves from passing any direction of the payment upon the Rajasthan Discoms. However, we clarify that PTC is at liberty to take all actions available under the provisions of Procurer(s) PPA and law, in accordance with the findings rendered by us in the present order.”

As per the above, it was held that in the absence of any LPS bills raised upon Rajasthan Discoms, no direction of the payment upon the Rajasthan Discoms could be passed.

39. Let us examine if the LPS raised by PGCIL on the Petitioner has any bearing in the instant case filed by the Petitioner claiming LPS for delayed reimbursement by PTC. We have already concluded in paragraph 31 of this Order that as per provisions of PTC-PPA, the Petitioner was required to pay monthly transmission charges to PGCIL without linking it with payment from PTC. Any delay on the part of the Petitioner to make payment to PGCIL has no bearing on delayed reimbursement by PTC in terms of the PTC-PPA.

40. In light of the above discussions and documents on record, the Petitioner has admitted that there is no provision for LPS on delayed reimbursements of transmission charges, and, accordingly, no invoice has been raised by the Petitioner on PTC towards LPS for delayed

reimbursement of POC Charges by PTC. We are, therefore, of the considered view that the Petitioner, in the instant petition, has failed to establish a prima facie case. If the Petitioner had raised an invoice on PTC towards delayed reimbursement of the monthly transmission charge by PTC and had PTC then refused to pay such LPS, a dispute would have arisen. The Petitioner without having raised any invoice, cannot now approach the Commission for adjudication.

41. Thus, the Prayer to allow LPS on delayed reimbursements of transmission charges by PTC is declined.

42. The Petitioner has also prayed for payment of interest and interest on working capital on delayed reimbursement of transmission charges by PTC. In light of the discussions above and the rejection of the prayer to allow LPS on delayed reimbursements of transmission charges by PTC, the prayer to allow interest and interest on working capital on delayed reimbursement of transmission charges by PTC also gets automatically rejected.

43. The issue is answered accordingly.

Issue No. 2: Whether the transmission charges should be reimbursed to the Petitioner without deduction of Rebate and TDS?

44. The Petitioner has submitted in PTC-PPA that there is no provision for rebate/ incentive on payment towards reimbursement of POC/ transmission charges. Accordingly, the Petitioner is entitled to recovery of the rebate illegally deducted. Also, the Petitioner has submitted that PTC had been deducting 2% TDS from each bill payment, leading to a reduction of the fund availability with the Petitioner. The Petitioner has contended that such TDS deduction on reimbursement is entirely illegal as reimbursement of expenses/ bills cannot be regarded as a revenue receipt and is not taxable.

45. We have considered the submissions of Petitioner and Respondents. We have perused the letter dated 23.1.2020 by the Petitioner to PTC, quoted as follows:



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MARUTI CLEAN COAL AND POWER LIMITED

Regd. Office : Ward No.42, Building No.14, Civil Lines
Near Income Tax Colony, Raipur, Chhattisgarh-CT INDIA 492001
Telephone : +91-8827394269, Fax: 91-771-4264967
E mail: mccpl.ho@hotmail.com
CIN : U24292CT1999PLC013364

Ref: MCCPL/PTC/19-20/3152
Date: 23rd January, 2020

Sh. H.L Choudhary
Vice President (Commercial),
PTC India Limited
2nd Floor, NBCC Tower
15, Bhikaji Cama Place
New Delhi-110066

Sub: Request for release of payment in Maruti Clean Coal and Power Limited.

Ref:

1. Provisional Energy Bill no. MCCINCG21LT029 dated 31.12.2019 for the month of Dec'19
2. Differential Final Energy Bill no. MCCINCG21LT031 dated 04.01.2020 for the month of Dec'19

Dear Sir,

With reference to the above invoices raised by MCCPL towards the power supplied in the month of Dec'19, we would like to bring to your kind notice that company has to meet various obligations/commitments such as purchase of coal, loan installments, interest payments etc. and immediately requires the funds for the same.

Keeping in view the above, you may kindly release the full payment of monthly bill of Dec'19 after deducting rebate calculated @ 2.25%.

We hope our request as above would be acceded to and we look forward to your continued support as always.

With regards,

Yours faithfully,
For Maruti Clean Coal & Power Ltd.

Authorised Signatory

As per the above, the Petitioner itself has stated that PTC can deduct rebate @2.25%.

46. The Petitioner has not filed any communication to PTC where it might have disputed the deduction of TDS by PTC. Vide letter dated 2.3.2020 quoted in paragraph 34 of this Order,



the Petitioner acknowledged that PTC is deducting TDS. However, it neither disputed nor asked the PTC not to deduct the same. In the absence of a dispute, Petitioner's case is devoid of merit.

47. The issue is answered accordingly.

48. The Petition No. 205/MP/2022 stands disposed of in terms of the above.

Sd/
(Harish Dudani)
Member

Sd/
(Ramesh Babu V)
Member

Sd/
(Jishnu Barua)
Chairperson