

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No: 263/MP/2023

Coram:

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

Date of Order: 19th May, 2025

In the matter of:

Petition under Section 79 of the Electricity Act, 2003 seeking a declaration that no State Transmission Charges and Losses can be imposed upon the Petitioner towards the supply of power to M/s MPSEZ Utilities Limited, amongst other reliefs.

And in the matter of:

Adani Power Limited,
Adani Corporate House, Shantigram,
Near Vaishno Devi Circle, S.G. Highway,
Khodiyar, Ahmedabad – 382 421.

... Petitioner

Versus

- 1. Gujarat Energy Transmission Corporation Limited,**
Sardar Patel Vidyut Bhavan, Race Course,
Vadodara,
Gujarat-390007
- 2. State Load Despatch Centre, Gujarat,**
132kV Gotri Sub Station Compound, Gotri Road,
Vadodara,
Gujarat 390007
- 3. Western Regional Load Dispatch Centre,**
Sardar Patel Vidyut Bhavan, Race Course,
Vadodara,
Gujarat-390007
- 4. Central Transmission Utility of India Limited,**
First Floor, Saudamini, Plot No.-2,
Sector-29, Near IFFCO Chowk Metro Station
Gurgaon,
Haryana-122001



5. MPSEZ Utilities Limited,

Adani Corporate House, Shantigram,
Near Vaishno Devi Circle, S.G. Highway, Khodiyar,
Ahmedabad-382421, Gujarat

...Respondent(s)

Parties Present: Shri Sanjay Sen, Senior Advocate, APL
Shri Hemant Singh, Advocate, APL
Shri Lakshyajit Singh Bagdwal, Advocate, APL
Ms. Lavanya Panwar, Advocate, APL
Shri Amol Shetty, Advocate, APL
Ms. Roberta Ruth Edwin, Advocate, APL
Ms. Neha M. Dabral, APL
Ms. Ranjitha Ramchandran, Advocate, SLDC & GETCO
Shri Kumar Gaurav, APL
Shri Aditya P Das, WRLDC
Shri Alok Mishra, WRLDC
Shri Swapnil Verma, CTUIL
Shri Ranjeet S. Rajput, CTUIL

ORDER

The instant Petition has been filed by the Petitioner, Adani Power Limited (APL) under Section 79 of the Electricity Act, 2003 (hereinafter referred to as “the Act”), seeking a declaration that no State Transmission Charges and Losses can be imposed upon the Petitioner towards the supply of power to the M/s MPSEZ Utilities Limited (MUL), amongst other reliefs.

2. The Petitioner has made the following prayers in the instant Petition:

“(a) Hold and declare that the Petitioner viz., Adani Power Limited is not utilizing the Intra-State Transmission System operated and maintained by Gujarat Energy Transmission Corporation Limited (GETCO)/ State Transmission Utility while supplying power to MUL and is only availing the Inter-State Open Access qua the Inter-State Transmission System operated and maintained by Central Transmission Utility of India Limited (CTUIL), in terms as stated in the present petition;

(b) Hold and declare that the Petitioner viz., Adani Power Limited is not utilizing the Intra-State Transmission System maintained and operated by Gujarat Energy Transmission Corporation Limited (GETCO)/ State Transmission Utility while supplying power from Adani Power (Mundra) to MUL as an alternate arrangement under UPCL PPA, in terms as stated in the present petition;

(c) Direct that no state transmission charges & losses can be levied upon Adani Power Limited by the Respondent No. 1- Gujarat Energy Transmission Corporation Limited for supply of power to MUL, in terms as detailed in the present petition;



(d) Direct Respondent No.1 to refund state transmission charges recovered illegally from the Petitioner to the tune of approximately Rs. 21,72,74,209/- till May 2023 along with interest thereon till the date of payment by Respondent No.1 to the Petitioner;

(e) Direct Respondent No.1 to refund the state transmission losses which has been wrongfully levied on the Petitioner till May 2023 by suitably amending the DSM accounts or otherwise along with interest thereon till the date of payment by Respondent No.1 to the Petitioner; and

(f) Pass any other order as this Commission may deem appropriate.”

Submissions of the Petitioner:

3. The Petitioner, in its submission, has mainly submitted as follows:

- a. On 29.11.2013, the Petitioner (APL) entered into a Power Purchase Agreement (PPA) with MUL under Case-1 Bidding Procedure with APL (Mundra) for procurement of 50 MW thermal power for a term of 25 years from the date of execution of the APL (Mundra) PPA.
- b. On 11.6.2014, the Gujarat Electricity Regulatory Commission (GERC) in its Order in Petition No. 1393 of 2014 approved Adani Power Limited (Mundra) PPA and adopted the tariff as agreed therein.
- c. As per the terms and conditions of the PPA dated 29.11.2013, APL (Mundra) requested MUL for a novation of 10 MW capacity out of the aggregate capacity of 50 MW, thereby procurement of 10 MW was done with APL (Udupi), and the remaining 40 MW from APL (Mundra).
- d. Accordingly, on 1.3.2016, APL (erstwhile Udupi Power Corporation Limited) entered into a PPA with MUL (“UPCL PPA”) under Case-1 Bidding Procedure for procurement of the 10 MW thermal power for a term of 25 years from the date of execution of Udupi Power Corporation Limited (UPCL) PPA.
- e. Till May 2016, Gujarat Southern Load Despatch Centre (SLDC) did not impose any transmission charges and losses for the supply of power to MUL under the

bilateral transaction.

- f. Thereafter, on 4.6.2016, APL made an application towards a bilateral transaction for supplying power from APL to MUL through Short Term Open Access (STOA) in the inter-State transmission system to Western Regional Load Despatch Centre (WRLDC). While accepting the application for scheduling, WRLDC applied Gujarat STU transmission charges and losses to UPCL.
- g. On 6.6.2016, the Petitioner wrote an email to the Gujarat SLDC and stated that MUL is purchasing power from APL under STOA, and WRLDC imposed Gujarat STU transmission charges on MUL in the open access approval issued by WRLDC. Further, APL requested Gujarat SLDC to confirm that such Gujarat STU transmission charges and losses are not applicable, as it is required by WRLDC for incorporating them into its system.
- h. On 7.6.2016, APL wrote another email to Gujarat SLDC that Gujarat STU transmission charges and losses are not applicable with respect to power flow from APL (Udupi) to MUL, so that WRLDC can revise the charges in the open access approval accordingly.
- i. The Petitioner, vide email dated 23.6.2016 to Gujarat SLDC and WRLDC, stated as follows:
 - i. APL (Mundra) had requested Gujarat SLDC to confirm to WRLDC regarding non-applicability of the Gujarat STU transmission charges and losses on the open access transaction for power flow from UPCL to MPSEZ.
 - ii. Since APL (Mundra) will be again applying for the STOA for the month of



July, 2016, it requested Gujarat SLDC to immediately confirm the same so that the Gujarat STU transmission charges and losses are not levied.

- iii. Requested WRLDC not to levy charges as Gujarat SLDC has verbally confirmed on the non-applicability of the Gujarat STU transmission charges and losses on the transaction between APL (Udupi) UPCL and MUL.
- j. In response to the Petitioner's email dated 6.6.2016, WRLDC wrote an email dated 23.6.2016, thereby stating that as per the Application, it was mentioned that STU charges are not internalized and accordingly, WRLDC has collected STU and SLDC charges. Further, the Petitioner requested SLDC to confirm that such Gujarat STU transmission charges and losses are not applicable, as it is required by WRLDC for incorporating them into its system.
- k. The Gujarat SLDC vide its email dated 24.6.2016, clarified to WRLDC that looking at the route (UPCL-KPTCL-SR-WR-MUPL), it can be deciphered that the Gujarat Energy Transmission Corporation Limited (GETCO) losses and charges are not applicable for the said transaction as MPSEZ is connected with the Petitioner's Busbar through a dedicated 220 kV network with the Petitioner bus, which in turn is CTUIL's (inter-State) point. In terms of the above email of Gujarat SLDC, till date, the status quo that existed at the point of issuance of the above clarification by Gujarat SLDC remains the same.
- l. The Petitioner vide another email dated 11.7.2016 requested WRLDC to refund GETCO charges applied on UPCL to MUL transaction for the month of June 2016, pursuant to which, the said charges were refunded on 19.7.2016.
- m. From July 2016 to April 2018, Gujarat SLDC did not impose any State

transmission charges and losses on MUL/APL for bilateral open access. However, since May 2018, the Gujarat SLDC/WRLDC has again started levying State transmission charges and losses for the bilateral transactions. The said charges levied are as follows:

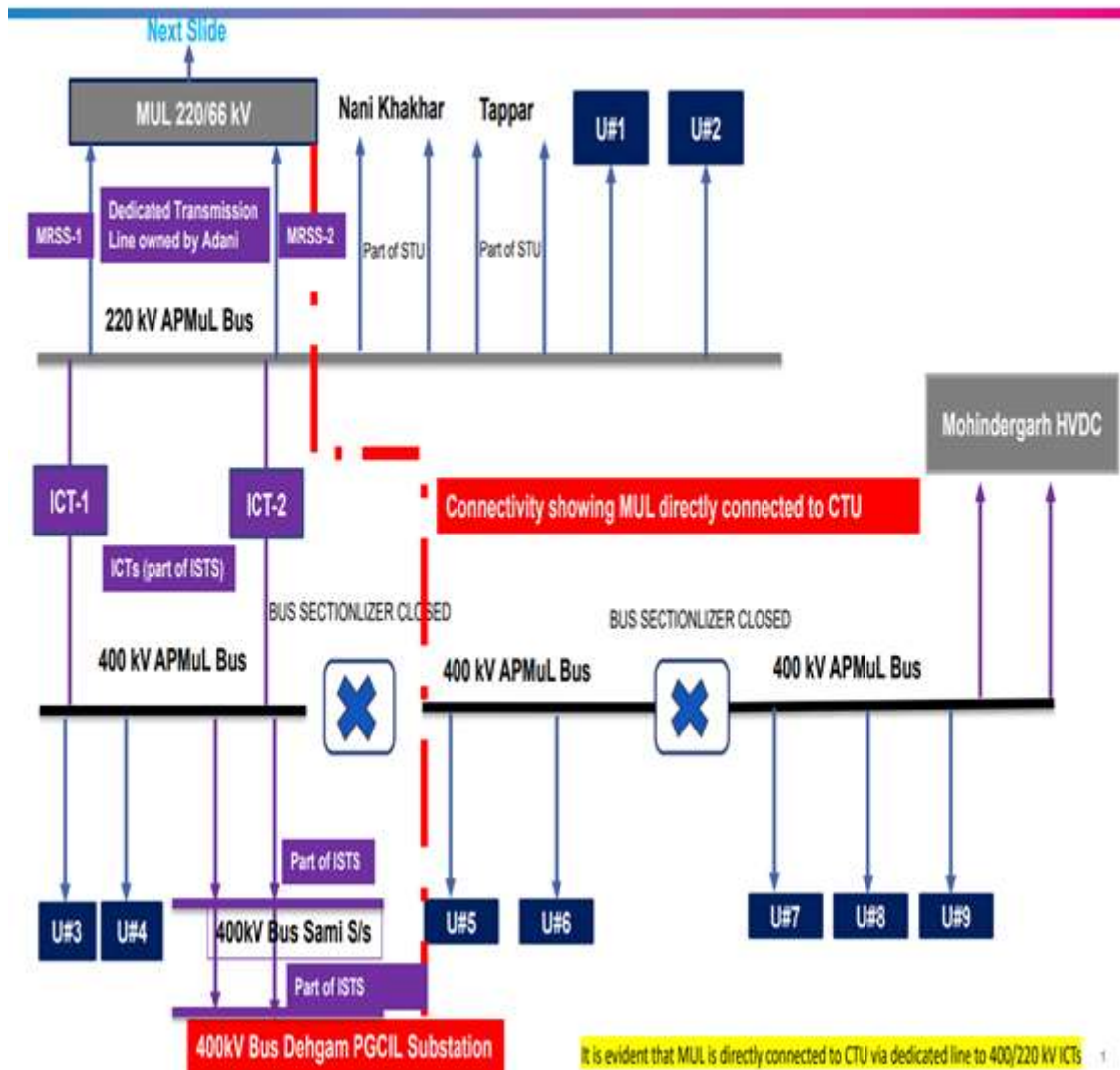
- i. State transmission charges and losses towards bilateral supply from Udupi Plant to MUL under UPCL PPA;
 - ii. State transmission charges and losses towards alternate supply of the 10 MW from APL (Mundra) to MUL under STOA, when there is an outage at the Udupi Plant; and
 - iii. State transmission charges and losses towards the alternate supply of the 40 MW from APL other than the Mundra Plant to MUL under MTOA, when there is an outage at the Mundra Plant.
- n. Additionally, MoUs were executed between the entities of the Petitioner with MUL, which are as follows:
- i. The MoU dated 23.12.2021 executed between the APMuL, MUL, Adani Enterprise Limited (AEL) [trader] and Raipur Energen Limited (REL), whereby it was agreed that REL would supply an alternate source/ power of 40 MW to MUL through AEL, in case the APMUL plant is not able to supply power due to certain factors which are beyond its control. The said MoU was thereafter amended on 14.2.2022.
 - ii. The MoU dated 23.12.2021, executed between UPCL, MUL, AEL, and Raigarh Energy Generation Limited (REGL), whereby it was agreed that REGL would supply power of 10 MW to MUL through AEL, in case the UPCL plant is not able to supply power due to certain factors which are

beyond its control.

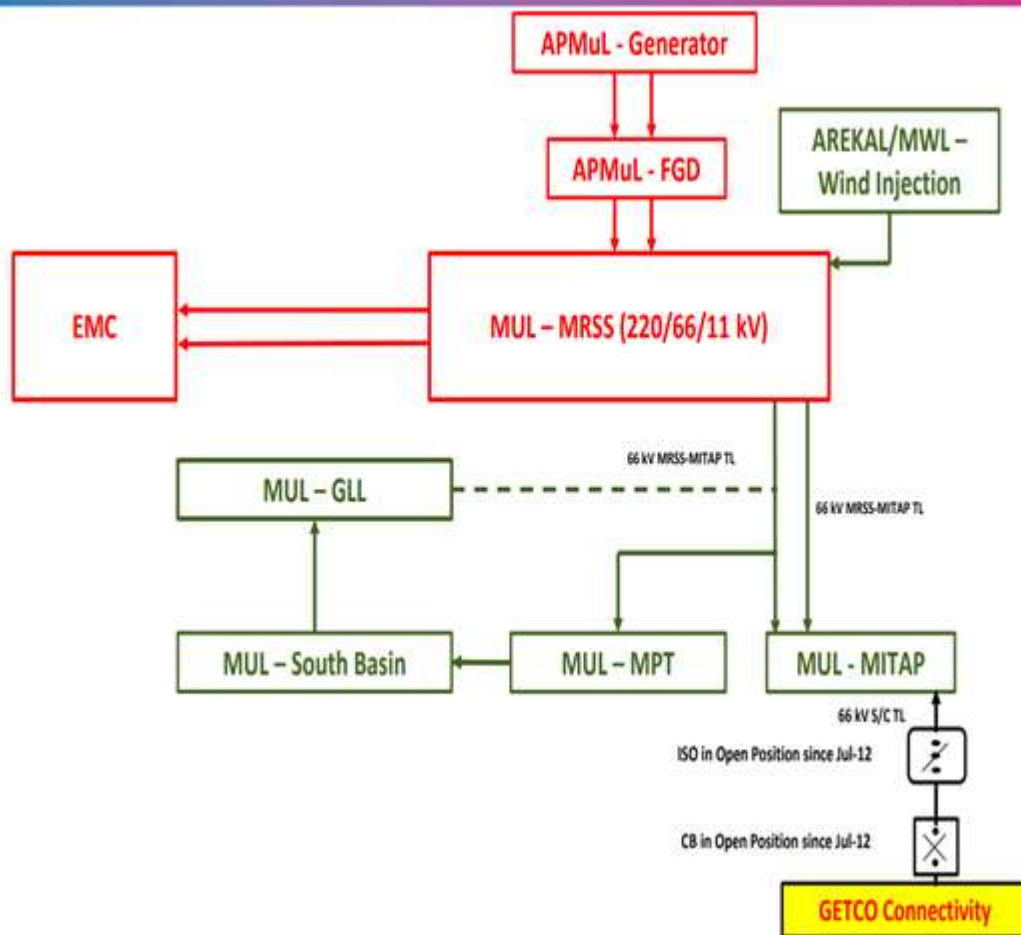
- o. Even after repeated reminders, Gujarat SLDC did not adhere to its own clarification dated 24.6.2016. Accordingly, MUL, again on 17.6.2022, wrote a letter to the Gujarat SLDC regarding the long-term pending issue of GETCO/transmission charges and losses not to be applied on MUL, while purchasing power through open access, and requested Gujarat SLDC to immediately stop applying the GETCO/STU transmission charges and losses on open access to MUL and refund the charges collected under the bilateral transaction of MUL.
- p. Since 17.6.2022, Gujarat SLDC has again stopped levying State transmission charges and losses while granting the STOA approvals for supply of power from APL (Mundra) to MUL under the alternative arrangement of UPCL PPA, in case the Udupi plant is under outage. This clearly demonstrates that the charges previously imposed were based solely on the discretionary decisions of the State entities (i.e., Gujarat SLDC and GETCO), without any evidence of actual use of the intra-State system.
- q. The legal maxim *sublato fundamento cadit opus* is squarely attracted to the factual premise of the present case. This principle specifically propounds that if initial action is not in consonance with law, then subsequent actions that are similarly placed would also fall through for the reason of illegality. In this regard, the Petitioner has placed reliance on the judgments of the Hon`ble Supreme Court in the cases of Coal India Ltd. v. Ananta Saha [(2011) 5 SCC 142] and State of Punjab v. Davinder Pal Singh Bhullar [(2011) 14 SCC 770].
- r. The Single Line Diagram (SLD) showing the subject transmission asset is as

follows:

Pictorial diagram of MUL directly connected to CTU



Pictorial diagram of MUL Network



- s. As per the SLD, MUL's distribution system is directly connected with the APL (Mundra) switchyard through the dedicated transmission line, which in turn is connected with the inter-State transmission system network. The contracted power under the PPAs, as well as the power availed through bilateral and exchange transactions, is not at all flowing into the intra-State transmission network of GETCO.
- t. APL (Mundra) supplies power to MUL in respect of the additional 10 MW quantum under the alternative arrangement of 10 MW UPCL PPA in case of any outage of Udupi Power Plant, then no intra-State network is used in view of single-line diagram, as in that case as well, the power is being supplied through the above dedicated transmission line only (without there being any usage

whatsoever of the intra-State grid).

- u. Since the execution of the foregoing PPAs, MUL has been procuring power as follows:
 - i. When the power is scheduled under APL (Mundra) PPA, the same is being supplied through a dedicated line connected with the APL bus directly to the sub-station of MUL, without there being any involvement of the intra-State transmission system owned and operated by GETCO.
 - ii. When the APL (Mundra) generating station is under outage, then APL arranges alternate power from other generating sources located in different States under bilateral transactions, by using the inter-State transmission system owned and operated by CTUIL.
 - iii. The UPCL PPA, the entire 10 MW power is sourced through availing the open access on the inter-State transmission system. When the Udupi power generating station is under outage, then APL arranges alternate power from APL (Mundra) STOA by using the dedicated line and other generating sources located in different States under bilateral transactions, by using the inter-State transmission system owned and operated by CTUIL.
- v. This Commission, on several occasions, has held that the transmission charges are levied based on the contract path and not on the basis of actual flow of power, and therefore, when an entity contracts power only through the use of inter-State Transmission system, then no State transmission charges can be levied. In this context, the Petitioner has placed reliance on the orders dated 8.6.2013 and 19.11.2013 in Petition No. 189/MP/2012 (Lanco Anpara Power Limited v. UPPTCL & Ors.) and Petition No. 95/MP/2013 (Jai Prakash Power

Ventures Ltd. v. MPPTCL & Ors.), respectively.

- w. The State transmission charges imposed on MUL by GETCO from May 2018 to May 2023 are as follows:

Y-o-Y	GETCO transmission charges (₹)
2018	1344611
2019	540122
2020	14326384
2021	45249287
2022	135859916
2023 till 31.5.2023	19953890
Total	217274209

4. The Western Regional Load Despatch Centre (WRLDC), in its reply vide affidavit dated 5.12.2023, has mainly submitted as follows:

- a. APL (Mundra), with an installed capacity of 4620 MW (APL Stage-1 (4x330 MW), APL Stage-2 (2x660 MW), and APL Stage-3 (3x660 MW)), is an intra-State generating station under the jurisdiction of Gujarat SLDC. Accordingly, the scheduling of power from the Petitioner's generating plant is done by SLDC Gujarat.
- b. The scheduling of power from APL (Mundra) power station to MPSEZ Utilities Limited (MUL) is facilitated by Gujarat SLDC.
- c. The SLDC Gujarat and WRLDC have addressed the Petitioner's allegations of arbitrary and unlawful imposition of the State transmission charges and losses on power supplied to MUL contending that the application of such charges and losses for the STOA transactions is executed by WRLDC in accordance with information provided by the SLDCs, as mandated by the Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2008 ("the 2008 Open Access Regulations"). Accordingly, SLDC

Gujarat communicates the transmission charges for the use of the State network to WRLDC for processing the STOA applications from Gujarat's intra-State entities. Additionally, the SLDC specifies the applicability of STU charges for each STOA transaction in the Standing Clearance or No Objection Certificate (NOC) issued to the RLDC with the STOA application.

- d. In the NOCs/Standing Clearances issued by SLDC Gujarat to MUL through April 2018, the applicability of STU charges was explicitly stated as "NO." Consequently, WRLDC did not impose STU transmission charges on the corresponding STOA transactions involving MUL as a buyer up until April 2018. However, starting from May 2018, SLDC Gujarat revised its stance and indicated that STU charges would be applicable for STOA transactions involving MUL. Accordingly, WRLDC then applied STU transmission charges to the relevant STOA transactions from that point onward.
- e. During the transition to the National Open Access Registry (NOAR), a new registration process was conducted for all entities. In accordance with NOAR procedures, the registration process for intra-State entities, including MUL, was initiated by MUL, approved by SLDC Gujarat, and subsequently reviewed by WRLDC. Upon the implementation of NOAR, MUL was registered as a new utility on the NOAR platform. SLDC Gujarat approved MUL's NOAR registration, explicitly indicating that STU charges would apply. Consequently, WRLDC has been applying the relevant STU charges to all STOA transactions involving MUL as the buyer in the NOAR system. Thus, during the entire process, WRLDC has carried out scheduling and despatch strictly in line with the prevailing regulatory provisions, including the 2008 Open Access Regulations and subsequent amendments thereof.

5. The Petitioner, in its rejoinder vide affidavit dated 29.12.2023 to the reply filed by WRLDC, has mainly submitted as follows:

- a. WRLDC has failed to consider that till May 2016, no State transmission charges and losses were ever levied by the SLDC Gujarat while issuing the NoCs for supply of power by APL to MUL.
- b. In June 2016, WRLDC imposed State transmission charges and losses on the Petitioner in connection with the approval for bilateral transactions. This action was contested by both APL and MUL through various communications, asserting its unlawfulness and arbitrariness. In response, SLDC Gujarat issued a clarification vide email dated 24.6.2016, explicitly stating that State transmission charges and losses were not applicable, given that M/s MPSEZ is connected with the APL bus bar through a dedicated 220 kV network with APL bus, which is a CTUIL (inter-State) point. Following this clarification, WRLDC ceased applying STU charges and losses to APL.
- c. Despite no change in circumstances, WRLDC began imposing STU charges from May 2018 without consulting SLDC to ascertain any differences from the situation addressed in the clarification dated 24.6.2016. Under its statutory responsibilities, WRLDC is tasked with maintaining grid operations and overseeing the inter-State transmission system, as per Regulation 2.3 of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010. Consequently, when a transaction occurs that does not involve the intra-State transmission system, WRLDC is obligated to fulfil its statutory duties by inquiring into and verifying the use of the State transmission network.

6. The Petitioner, vide affidavit dated 5.12.2023 in compliance with the Record of Proceedings (“RoP”) for the hearing dated 20.10.2023, has mainly submitted as follows:

- a. In response to the specific query of the Commission regarding the control area jurisdiction of MUL, the Petitioner has submitted that it is a deemed distribution licensee in the State of Gujarat as per the Government of India Notification No. 228 (E) dated 3.3.2010 issued by the Ministry of Commerce & Industries, which specifies that all SEZ developers shall be deemed licensees for the purpose of clause (b) of Section 14 of the Act. The same has also been considered by the Gujarat Electricity Regulatory Commission (GERC) in its order dated 17.4.2010 in Licence Application No. 6/2008. Therefore, MUL, like any other distribution company, is being controlled by SLDC Gujarat.
- b. The year-wise bifurcation of the State transmission charges and losses levied on the supply of the 10 MW power to MUL from: (i) Udupi Plant; (ii) APL (Mundra) under STOA when Udupi Plant was under outage; and (iii) sources other than APL (Mundra) under STOA and MTOA when Udupi Plant was under outage and supply of the 40MW power to MUL from the alternate sources under STOA and MTOA when APL (Mundra) Plant was under outage are submitted as follows:

Year	Supply of 10 MW power from Udupi Plant			Supply of 10 MW power from APL (Mundra) Plant under STOA when Udupi Plant was under outage		
	GETCO Transmission Charges (₹ in lakh)	GETCO Transmission Losses (Mwh)	GETCO Transmission Losses (%)	GETCO Transmission Charges (₹ in lakh)	GETCO Transmission Losses (Mwh)	GETCO Transmission Losses (%)
	(A)			(B)		
2018	13.45	234	1.96	0.00	0	0
2019	1.89	22	3.97	3.51	41	3.99
2020	79.86	750	3.39	54.27	532	3.44
2021	58.68	551	3.52	16.12	161	3.49
2022	0.00	0	0	0.00	0	0

Year	Supply of 10 MW power from Udupi Plant			Supply of 10 MW power from APL (Mundra) Plant under STOA when Udupi Plant was under outage		
	GETCO Transmission Charges (₹ in lakh)	GETCO Transmission Losses (Mwh)	GETCO Transmission Losses (%)	GETCO Transmission Charges (₹ in lakh)	GETCO Transmission Losses (Mwh)	GETCO Transmission Losses (%)
2023 (till 30.11.2023)	0.00	0	0	0.00	0	0
Total	153.88			73.90		
	Supply of 10 MW power from sources other than APL (Mundra) under STOA and MTOA when Udupi Plant was under outage			Supply of 40MW power from alternate sources under STOA and MTOA when APL (Mundra) Plant was under outage		
	(C)			(D)		
2018	0.00	0.00	0.00	0.00	0.00	0.00
2019	0.00	0.00	0.00	0.00	0.00	0.00
2020	9.13	90	3.51	0.00	0.00	0.00
2021	51.74	502	3.66	325.96	2742	3.53
2022	214.58	1566	3.80	1144.02	9044	3.79
2023 (till 30.11.2023)	72.35	413	3.64	245.78	1533	3.69
Total	347.80			1715.76		

Year	Total GETCO Transmission Charges (₹ in lakh)
	(A+B+C+D)
2018	13.45
2019	5.40
2020	143.26
2021	452.49
2022	1358.60
2023 (till 30.11.2023)	318.13
Total	2291.33

7. State Load Despatch Centre (SLDC), Gujarat, in its reply vide affidavit dated 11.12.2023, has mainly submitted as follows:

- a. The Petitioner has no locus to file the Petition against GETCO since the issue at hand concerns the State transmission charges and losses applied to MUL. As MUL obtained a NOC specifying that these charges are payable, any dispute regarding the applicability of these charges should be raised by MUL, not the Petitioner. MUL's acceptance of the NOC, including the applicability of State transmission charges, and subsequent open access obtained based on



this acceptance, precludes the Petitioner from contesting these charges. Additionally, the fact that MUL recovers these charges from the Petitioner does not grant the Petitioner the right to file a Petition against the Respondents. The Petitioner may address any grievances directly with MUL and seek a refund if legally or contractually justified, but lacks the locus to challenge Respondents on this matter.

- b. The issue of the State transmission charges and losses pertains to MUL, an intra-State entity under the jurisdiction of Gujarat SLDC. The Commission has no jurisdiction in the instant matter as the same falls within the jurisdiction of the Gujarat State Electricity Commission. In this regard, reliance is placed on the APTEL's judgment in the case of 'State Load Despatch Centre and Another v. Gujarat Electricity Regulatory Commission and Another' (Appeal No. 70 of 2015, dated 7.4.2016), which affirmed the jurisdiction of the State Commission in cases involving STOA for collective transactions. Additionally, since the NOC for open access, which is central to the dispute, is issued by the Gujarat SLDC, the jurisdiction for addressing this issue clearly lies with the Gujarat Electricity Regulatory Commission.
- c. The instant Petition is barred by limitation as it was filed on 11.8.2023, and the same challenges apply to the NOCs issued from May 2018, and therefore, are barred by limitation, delay, laches, and acquiescence. The Petitioner cannot now seek to alter circumstances and actions taken over five years ago when accounts have already been settled. Revisiting this matter would require complex adjustments affecting other entities that have also settled their accounts, complicating the situation further. Additionally, there is no provision for delayed payment surcharges or carrying costs; MUL, having agreed to the

State transmission charges and losses, cannot now claim interest or additional costs. The transmission charges and losses recovered for STOA is adjusted to reduce the transmission charges for Long-term and Medium-term open access customers of the State grid.

- d. MUL, an intra-State entity, sought NOCs from the Gujarat SLDC, which is required under the 2008 Open Access Regulations. The said Regulations also mandate the indication of State transmission charges in the open access approval process. The NOCs issued indicated the State transmission charges and losses, which were accepted by MUL and other parties. Consequently, STOA was applied for, granted, and the transmission carried out, with the charges duly paid. The specific NOCs were not challenged, and the applicability of the transmission charges was acquiesced.
- e. MUL is an intra-State entity connected via the 66 kV MITAP sub-station to the 66 kV Mundra Ind sub-station of the GETCO grid. Additionally, MUL is linked at the 220 kV level with the FGD switchyard of APL, which connects to the GETCO network and the CTUIL network. The SLD submitted is incorrect as it does not mention MUL's connection to the 66 kV GETCO network.
- f. The dedicated line from the Mundra generating station to MUL's Sub-station belongs to the Petitioner, not MUL, and is specifically for the generating station. This line cannot be used for supplying power from other stations or for consumer connections. MUL lacks direct connectivity to the CTUIL or inter-State transmission network; it is only connected through the GETCO 66 kV Mundra sub-station and the dedicated line to the Mundra generating station. Thus, claims that MUL is supplied power via the inter-State transmission system are inaccurate.

- g. The instant issue pertains not to the supply of power from the Mundra generating station to MUL but to the alleged inter-State supply of power. Since the PPA with Udupi Power Plant was signed on 1.3.2016, the claim regarding the absence of State transmission charges and losses until May 2016 is irrelevant. When the NOC was applied for in May 2018, it was granted with due consideration of the State transmission charges and losses, recognizing MUL as an intra-State entity with standby connectivity to the GETCO grid. The NOCs issued from May 2018 onwards clearly indicated that the State transmission charges and losses were applicable, and SLDC's response to MUL's inquiries in letters dated 4.5.2018 and 17.5.2018, affirmed the same. MUL continued to pay these charges until 17.6.2022, when it raised the issue without providing an explanation for the delay. Since 17.6.2022, SLDC has not levied the State transmission charges and losses for power scheduled from APL (Mundra) as an injecting entity, although such charges have consistently been applied to the inter-State transactions involving MUL.
- h. The issues which requires the investigation beforehand are as follows: (a) determining the ownership of the dedicated line from Mundra Power Plant to MUL and whether the Petitioner is using this dedicated line to supply power from sources other than the Mundra generating station, which would be a violation of Section 12 of the Act. It appears that the Petitioner is utilizing the dedicated line for power transmission from both its Karnataka generating station and other sources; (b) examining the connectivity of MUL to the CTUIL/inter-State transmission system, in view of the fact that bus bar of a generating station cannot be used to connect one transmission line to another and must remain separate; and (c) investigating the supply by the Petitioner

to MUL from sources other than its own generating station, given that the Petitioner does not hold a trading licence.

8. GETCO, during the arguments held on 24.01.2024, submitted that it adopts the reply filed by SLDC Gujarat.

9. In response to the reply filed by SLDC Gujarat, the Petitioner in its rejoinder vide affidavit dated 18.1.2024, has mainly submitted as follows:

a. WRLDC has imposed arbitrary and unlawful GETCO/STU transmission charges and losses on Udupi TPS of the Petitioner for power supplied to MUL under the UPCL PPA via bilateral transactions using the inter-State Transmission Network. The Petitioner had arranged power from alternate sources through agreements with the traders or other generators, but the financial burden of these STU transmission charges and losses has consistently fallen on APL. Despite this, the STU transmission charges and losses are being levied on MUL under the assertion that the control area jurisdiction falls within the Gujarat SLDC, necessitating reimbursement by the Petitioner. Consequently, the Petitioner is directly impacted by these charges. Additionally, Udupi TPS, which has merged with the Petitioner with effect from 1.10.2021, is also affected by the imposition of GETCO transmission charges and losses, prompting the Petitioner to file the present Petition.

b. The Petitioner, as a generating company, is challenging GETCO's actions as an STU licensee, which impede APL's right to inter-State open access by arbitrarily imposing STU transmission charges and losses on the APL-MUL transaction, thereby rendering it financially burdensome. Regulation 26 of the 2008 Open Access Regulations provides for a redressal mechanism,

stipulating that all disputes under the said Regulations are to be resolved by this Commission. Therefore, this Commission has the requisite jurisdiction to adjudicate the current Petition.

- c. Whenever the inter-State transmission system is involved, and a State entity imposes transmission charges or losses, in the absence of open access within the intra-State system, a dispute arises that constitutes the 'jurisdictional fact' or cause of action for approaching the Commission under Section 79(1)(f) of the Act. In this regard, a reliance is placed on the rulings of the Hon`ble Supreme Court in the case of Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success-I [(2004) 9 SCC 512] and Ponnala Lakshmaiah v. Kommuri Pratap Reddy [(2012) 7 SCC 788]. Additionally, the Commission vide its orders dated 30.6.2016 and 24.7.2017, in Petition No. 98/MP/2014 (Shyam Century Ferrous & Ors. v. Meghalaya Energy Corporation Limited & Ors.) and Petition No. 73/MP/2016 (Millennium Cement Co. Pvt. Ltd. v. Office of Chief Engineer SLDC, West Bengal State Electricity Transmission Company Ltd. & Ors.), respectively, has held that parties aggrieved by SLDC actions related to the inter-State open access have the right to seek redress from the Commission.
- d. The contention by GETCO that the issues raised by the Petitioner regarding the NOC issued in May 2018 are barred by limitation does not hold, as the State transmission charges and losses imposed by GETCO, Gujarat SLDC, and WRLDC directly affect the APL-MUL transaction, which involves inter-State open access. This scenario necessitates the exercise of this Commission's regulatory powers under Section 79(1)(c) to regulate inter-State transmission of electricity. The levy of the State transmission charges and losses impacts the landed tariff of Udipi TPS of APL and other inter-State

transactions, potentially leading to GETCO's unjust enrichment regarding its Annual Revenue Requirement (ARR). Consequently, the issue pertains to the tariff-regulatory jurisdiction of the Commission.

- e. Moreover, reference to the Hon`ble Supreme Court judgments in the case of 'Energy Watchdog and A.P. Power Coordination Committee v. Lanco Kondapalli Power Ltd. [(2016) 3 SCC 468] establishes that limitation does not apply where the Commission exercises its regulatory powers. Therefore, the present Petition falls within the jurisdiction of the Commission, and the Limitation Act does not impede its adjudication. Furthermore, the Petitioner's challenge to the levy of STU charges from May 2018 to May 2023 remains valid, as even if claims from May 2018 to 2020 were deemed barred by limitation, the levy of such arbitrary charges from 8.8.2020 (i.e., three years prior to the filing date of 8.8.2023) can still be contested within the instant Petition.
- f. The law regarding the payment of interest has been long settled by the Hon`ble Supreme Court, in which the court has categorically held that the interest is nothing but the 'time value of money' which an entity is to be paid in order to provide complete justice. In this regard, reliance has been placed on the judgments of the Supreme Court in the cases of Indian Council for Enviro-Legal Action v. Union of India [(2011) 8 SCC 161] and Central Bank of India v. Ravindra [(2002) 1 SCC 367].
- g. GETCO has incorrectly submitted that the principles of waiver and acquiescence are applicable in the instant matter as the Petitioner had consistently corresponded with Gujarat SLDC regarding the issue. Notably, despite no change in circumstances, WRLDC began imposing STU charges

from May 2018 without consulting SLDC Gujarat to determine if the situation had altered since the clarification issued on 24.6.2016.

- h. GETCO's argument is unfounded on the aspect that MUL, being an intra-State entity, requires a NOC from SLDC. The Commission vide order dated 28.7.2010 in Petition No. 220/2009, ruled that the imposition of STU charges depends on the utilization of GETCO's transmission system, not on the control area jurisdiction of SLDC. Although the Petitioner's control area jurisdiction falls under SLDC Gujarat, the same does not authorize SLDC Gujarat to impose the State transmission charges and losses. Moreover, the APL-MUL transaction does not involve access to GETCO's intra-State transmission system. Accordingly, no such charges or losses can be imposed by the Respondents.
- i. The transmission charges are levied based on the contract path/ open access and not on the basis of incidental flow of power due to laws of physics, and therefore, when an entity contracts power only through the use of the inter-State transmission system, then no State transmission charges can be levied. This position has already been settled by the Commission vide orders dated 8.6.2013 and 19.11.2013 in Petition No. 189/MP/2012 (Lanco Anpara Power Limited v. UPPTCL & Ors.) and Petition No. 95/MP/2013 (Jai Prakash Power Ventures Ltd. v. MPPTCL & Ors.), respectively.
- j. Under Section 2(16) of the Act, a dedicated line can be employed for point-to-point transmission from the generating station's switchyard or bus-bar to the sub-station or load centre (MUL). Thus, any power supplied to MUL, including that from the ISTS network, is transmitted point-to-point from the Petitioner's bus-bar, with the ISTS and PoC Charges applicable only up to the termination

point of the CTUIL network at the Petitioner's bus-bar. Consequently, beyond ISTS charges, no additional intra-State charges can be levied on the APL-MUL transaction. Moreover, GETCO cannot impose transmission charges on this transaction without proof of intra-State open access or a contract path involving GETCO's network. Regarding the connection to the 66 kV GETCO Mundra sub-station, it is noted that this connection has been inactive for over ten years, with the line isolator disconnected since July 2012, as per the directions of the SLDC Gujarat.

- k. On 24.6.2016, SLDC Gujarat clarified to WRLDC that the transmission route from UPCL to MUL was "UPCL-KPTL-SR-WR-MUPL," and that GETCO's losses and charges were not applicable because MPSEZ is connected with the APL Busbar through a dedicated 220 kV network with APL bus, which in turn is a CTUIL (inter-State) point. This clarification indicates no involvement of GETCO's intra-State transmission system. Therefore, GETCO cannot now reverse its position, particularly as SLDC Gujarat operates under GETCO's aegis. Since the transaction path and connection status have remained unchanged since the issuance of the clarification, GETCO's attempt to levy charges contrary to its aforesaid clarification.
- l. The Petitioner and MUL have consistently contested the imposition of State transmission charges and losses, and disputed the legality of the same in their letters dated 4.5.2018, 17.5.2018, 11.8.2018, and 17.6.2022. Even after this, the SLDC Gujarat did not provide a rationale for the sudden imposition of State transmission charges and losses starting from May 2018. Even though MUL paid these charges under protest, this payment does not legitimize the charges, which are argued to be inconsistent with the Act and, thus, deemed

illegal and arbitrary. The legal principle that if initial action is not in consonance with law, then subsequent actions that are similarly placed would also fall through for the reason of illegality, is squarely applicable in the present case. In this regard, reference has been made to the judgments of the Supreme Court in the case of Coal India Ltd. v. Ananta Saha [(2011) 5 SCC 142] and State of Punjab v. Davinder Pal Singh Bhullar.

- m. With regard to the GETCO's contention that Section 12 of the Act is violated because the 220 kV line cannot be used by other generating companies, GETCO has neglected to properly address that this line was constructed as a dedicated line by the Petitioner, and the power flowing through it belongs to the Petitioner, being injected at the Petitioner's sub-station. Additionally, GETCO's argument that APL cannot supply power from the sources other than its own generation stations (Mundra and Udupi) without a trading licence is unfounded, as it fails to consider Article 4.6 of the APL Mundra PPA and UPCL PPA, which allow for alternative power supplies if the Petitioner is unable to provide the power from its own stations, with tariffs being paid as per the terms of the Agreement. Also, for an alternate supply of power, the other generator replaces the generator with which the PPA is executed. Therefore, there is no case of trading of power in the present case, as is alleged by GETCO.

10. The Respondent, MUL vide affidavit dated 9.2.2024 in compliance with the RoP for the hearing dated 24.1.2024 has submitted the table showing the relevant dates of communication between MUL and Gujarat SLDC as follows:

4.5.2018	MUL issued a letter to SLDC Gujarat, thereby intimating it that it has inadvertently applied State Transmission Charges and Losses upon MUL for the purchase of power through a collective transaction while issuing the NOC, and accordingly requested Gujarat SLDC to make the necessary corrections and issue a revised NOC for the month of May 2018.
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17.5.2018	MUL, in continuation of the earlier letter dated 4.5.2018, issued another letter to SLDC Gujarat, thereby stating that no communication has been received qua the revised NOC for the month of May, 2018. Accordingly, MUL again requested SLDC Gujarat to issue a revised NOC for the month of May, 2018.
11.8.2018	MUL issued a detailed letter to SLDC Gujarat with respect to the State Transmission charges and losses imposed upon MUL for collective/ bilateral transactions. Vide the said letter, MUL explained in detail that such charges and losses cannot be imposed upon MUL.
17.6.2022	MUL again issued a letter to SLDC Gujarat explaining that no State Transmission charges and losses can be imposed upon MUL for open access qua collective/ bilateral transactions, as there is no contract path through GETCO's intra-State transmission system.

11. The Respondents, GETCO and SLDC Gujarat, in their joint written submissions dated 10.2.2024, have reiterated the points which are already submitted in their reply.

12. The Petitioner, vide affidavit dated 10.2.2024 in compliance with the RoP for the hearing dated 24.1.2024, has mainly submitted as follows:

- a. For procurement of power, MUL & APL have entered into a Power Purchase Agreement dated 29.11.2013 ("APL (Mundra) PPA") for supply of the 50 MW at the Delivery Point of MUL i.e. MUL's Periphery.
- b. Out of this 50 MW capacity, 10 MW has been contracted with APL-Udupi TPS located in the State of Karnataka vide dated 1.3.2016 ("UPCL PPA") having Delivery Point at MUL's Periphery. The APL (Mundra) and UPCL PPA contain a provision for an alternative source for the supply of power to MUL.
- c. MUL is connected with the APL (Mundra Power Plant) busbar through a dedicated line. The said busbar is further connected to the CTUIL network. Parallely, the APL (Mundra) busbar is also connected with the STU network.
- d. MUL was also having connectivity with the 66 kV GETCO Mundra sub-station at MUL's MITAP sub-station. However, the said connectivity of MUL has not been in use for more than 10 years, and the line isolator has been

disconnected since July 2012, based on the instructions received from the SLDC Gujarat. GETCO is also aware of the same.

- e. MUL sources power from UPCL TPS under UPCL PPA or from an alternative source located outside the State of Gujarat, either under Adani (Mundra) PPA or UPCL PPA or under STOA from Power Exchange. The power is received at the CTUIL inter-connection point, having connectivity at the APL (Mundra) Bus Bar.
- f. Power flows through the 220kV line of APL (Mundra), which is further connected with the MUL's substation. At no instance does the contract path flow through the network of GETCO.

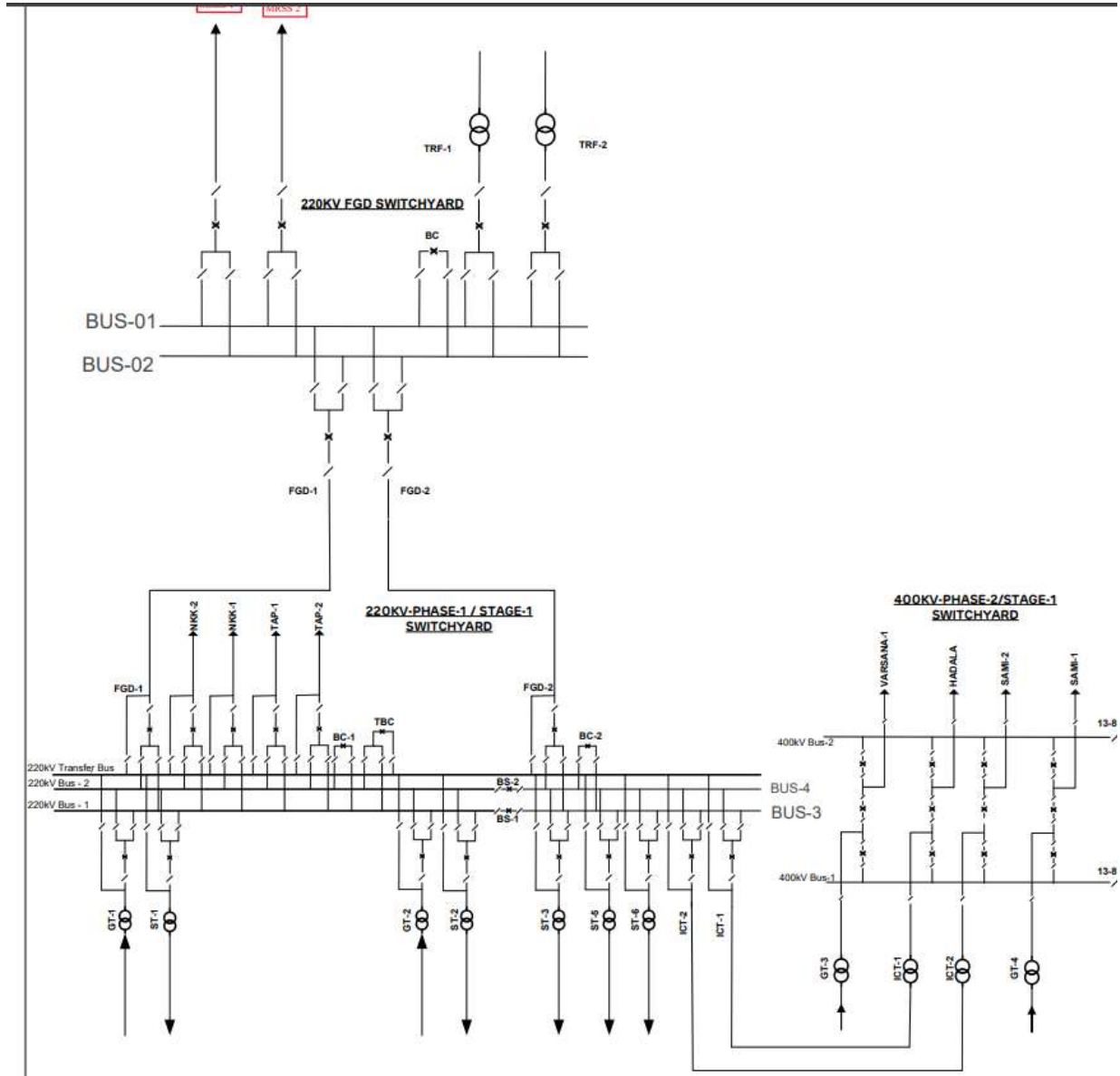
13. SLDC Gujarat, vide affidavit dated 10.2.2024 in compliance with the RoP for the hearing dated 24.1.2024, has mainly submitted as follows:

- a. MUL is an intra-State entity having connectivity through the 66 kV MITAP Sub-station of MUL with the 66 kV Mundra Ind Sub-station of the GETCO grid. It is understood that the transmission circuit is open with a specific intention that if MUL is connected to both ends with the STU network, it will become a ring main transmission system. In case of ring main transmission system due to technical reasons, there would be heavy power flow from the 220 kV to the 66 kV network of GETCO. Thus, to restrain heavy power flow in the 66 kV network, which in turn would overload the 66 kV network of GETCO and be detrimental for GETCO, it was decided that one of the GETCO sub-stations (66 kV Mundra Ind Sub-station) shall be opened and MUL will be radially connected with only one GETCO network, i.e, 220 kV. Therefore, MUL is connected through dedicated lines at the 220 kV level with the FGD switchyard

of APL (Mundra generating station), which in turn is connected to the 220 kV GETCO network.

- b. Since dedicated lines of the Petitioner from its Mundra generating station can be used only for the conveyance of power generated in the Mundra generating station, the intended contractual path has to be through the GETCO grid. This would necessarily involve the State transmission network and therefore the State transmission charges are payable.
- c. As per the contention of the Petitioner itself, the actual power flow is not relevant. Therefore, the fact that the Petitioner is claiming (even assuming but not admitting) that the power flow is from CTUIL to bus bar to the dedicated line to MUL is not relevant. Since the circuit with 66KV Mundra Ind Sub-station of GETCO grid was kept open, the flow of power might be through the bus bar and dedicated lines, but the intended path has to be considered through the 66 kV Mundra Ind Sub-station. The intended contractual path cannot be through the Petitioner's dedicated lines when the power is being availed from sources other than the APL Mundra generating station.
- d. The Mundra Station to MUL can be a dedicated transmission system from a generating company to a place of use; the said line is not a transmission line and cannot be claimed as belonging to any transmission licensee. Neither UPCL nor the Petitioner, much less UPCL, is a transmission licensee for such a line. Therefore, there cannot be a transmission of UPCL or other sources' power through such a line, and this is not legally permissible.
- e. The diagram submitted by the GETCO in its reply clearly shows the position, the bus bar at bottom right "220 kV – Phase 1/Stage -1 Switchyard", shows

the connectivity to NKK-2, NKK -1, TAP- 1, and TAP-2, which are GETCO lines. Therefore, there is connectivity to the GETCO network even through the APL bus bar. The snapshot of the diagram is as follows:



- f. For the period March 2012, April 2012, May 2012, June 2012, July 2012, March 2013, and April 2013, MUL had sought NOC for power purchase through STOA, from time to time, and State transmission charges and losses were applied. No issue was raised by MUL at this time.
- g. However, in April 2018, when the Application was received and there was a consideration of the Application and review of the aspects, it was realised that

the prior NOCs had been allowed inadvertently, and the State transmission charges were applicable to such transaction as there is STU connectivity. It was noted that SLDC cannot allow any distribution licenses to use generator bus bar to draw the power because the Petitioner (Mundra generating station) had taken CTUIL connectivity to inject the power in ISTS network which is also limited (1980 MW) and therefore, the same cannot be used for drawal of power by MUL. Hence, the State network used for the drawal of power and the State transmission charges and losses should be applied.

- h. As soon as the mistake was realised, from May 2018 onwards, SLDC in all future NOCs considered the State transmission charges and losses, considering the MUL as an intra-State entity having standby connectivity with the GETCO grid.
- i. Adani Enterprises Limited (not the Petitioner) for MUL had applied for inter-State MTOA for drawal by MUL for 10 MW and 40 MW (from Adani Raigarh and Raipur generating station) for the period from 1.6.2022 to 31.3.2023, and GETCO had applied the State transmission charges for the same, and the same was paid. If MUL was connected directly to CTU, there is no reason for NOC of GETCO (medium term is through GETCO and short term is through SLDC).

14. The Petitioner in its written submission dated 10.2.2024 has reiterated the points which are already duly captured during the course of the Petition.

15. Since the order in the matter, which was reserved on 24.1.2024, could not be issued prior to the Members of the Commission, who formed part of Coram, demitting office, the matter was re-listed for the hearing on 26.9.2024. During the course of the

hearing, the learned counsels for the Petitioner and the Respondent, GETCO, submitted that the Pleadings are already completed in the matter, and the parties have also filed their respective written submissions, which may be considered, and the matter may be reserved for the order. Learned counsel for the Respondent, GETCO, however, added that a typographical error has crept in recording a particular date in the written submissions, and GETCO may be permitted to file a one-pager clarification in this regard. The same was filed with the GETCO accordingly.

Analysis and Decision:

16. We have considered the submissions of the Petitioner and the Respondents and perused the documents available on the record. The following issues arise for consideration of this Commission:

Issue No.1: Whether APL has the locus to file the instant Petition before this Commission?

Issue No. 2: Whether this Commission has the jurisdiction to adjudicate the dispute involved in the present petition, and whether the Petition is barred by Limitation?

Issue No.3: Whether the transmission charges and losses could have been levied by SLDC Gujarat and WRLDC upon the APL in terms of the transaction in question?

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

Issue No.1: Whether APL has the locus to file the instant Petition before this Commission??

17. GETCO and SLDC Gujarat have inter-alia contended that the issue of the State transmission charges and losses pertains to MUL, an intra-State entity under the jurisdiction of Gujarat SLDC. The Commission has no jurisdiction in the instant matter as the same falls within the jurisdiction of the Gujarat State Electricity Commission. In this regard, GETCO and SLDC Gujarat have placed reliance on the APTEL's judgment in the case of 'State Load Despatch Centre and Another v. Gujarat Electricity Regulatory

Commission and Another' (Appeal No. 70 of 2015, dated 7.4.2016), which affirmed the jurisdiction of the State Commission in cases involving STOA for collective transactions. Additionally, since the NOC for open access, which is central to the dispute, is issued by the Gujarat SLDC, the jurisdiction for addressing this issue clearly lies with the Gujarat State Commission. MUL had sought NOCs, and NOCs were issued to MUL stating that the State transmission charges and losses are payable. Since NOCs were issued to MUL, if there is any issue with the said NOCs, the same has to be raised by MUL.

18. *Per contra*, the Petitioner has submitted that as a generating company, it is challenging GETCO's actions which impede the Petitioner's right to avail non-discriminatory inter-State open access by arbitrarily imposing the STU transmission charges and losses on the APL-MUL transaction, thereby rendering it financially burdensome. Regulation 26 of the 2008 Open Access Regulations provides for a redressal mechanism, stipulating that all disputes under the said Regulations are to be resolved by this Commission. Whenever inter-State transmission system is involved, and a State entity imposes transmission charges or losses, in the absence of open access within the intra-State system, a dispute arises that constitutes the 'jurisdictional fact' or cause of action for approaching the Commission under Section 79(1)(f) of the Act. In this regard, a reliance has been placed on the rulings of the Hon`ble Supreme Court in the case of Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I [(2004) 9 SCC 512] and Ponnala Lakshmaiah v. Kommuri Pratap Reddy [(2012) 7 SCC 788]. Therefore, this Commission has the requisite jurisdiction to adjudicate the current Petition. The Petitioner has further submitted that while STU transmission charges and losses are levied on MUL, the same are required to be reimbursed by the Petitioner. As such, the Petitioner is directly affected by the levy of the State transmission charges and losses.

19. We have gone through the submissions of the parties. In order to address this issue, it is first important to consider the transaction involved in the present case. APL, through its Mundra Power Plant (located in the State of Gujarat) and Udupi Power Plant (located in the State of Karnataka), is supplying 40 MW and 10 MW of power in terms of the PPAs dated 29.11.2013 and 01.03.2016, respectively, to MUL located in the State of Gujarat. As per the Petitioner, the supply of power takes place in the following manner:

- i. Under the APL (Mundra TPP) - MUL PPA, APL Mundra TPP supplies power through a dedicated line connected with the APL bus directly to the sub-station of MUL. However, in case of outage or non-availability of power from APL Mundra TPP, the power is supplied through an alternate source located in different States, through the same route, i.e., through the dedicated line which is connected with the sub-station of MUL by using the Inter-State Transmission system owned and operated by CTUIL.
- ii. Under the APL (Udupi TPP)- MUL PPA, APL Udupi TPP supplies power by availing the open access in the Inter-State Transmission System. Further, in case of any outage/non-availability qua the Udupi Plant, then APL Udupi TPP arranges alternate power from other generating sources located in different States under bilateral transactions, through the same route, i.e., through the dedicated line which is connected with the sub-station of MUL by using the Inter-State Transmission system owned and operated by CTUIL.

20. Undisputedly, the supply to MUL from Mundra TPP is through a 220 kV dedicated transmission line. It is only when the power is supplied from Udupi or any alternate power plant that the Petitioner is required to avail STOA with payment of State

transmission charges and losses. As per the Petitioner, State transmission charges cannot be levied on it since MUL's distribution system is directly connected with the Mundra TPP's switchyard through the dedicated transmission lines, which in turn are connected with the inter-State transmission system network.

21. As per the SLDC Gujarat, the Petitioner is not an aggrieved party in the present case as it is MUL, who has paid the State transmission charges, and the charges would be refunded to MUL, if so directed. As regards the expression 'person aggrieved', the Hon'ble Supreme Court in the case of Thamanna vs. K. Veera Reddy and Ors., (1980) 4 SCC 62 has observed as under:

"Although the meaning of the expression "person aggrieved" may vary according to the context of the statute and the facts of the case, nevertheless, normally "a 'person aggrieved' must be a man who has suffered a legal grievance, a man against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something or wrongfully affected his title to something."

22. The Appellate Tribunal for Electricity vide its common judgment dated 21.8.2019 in Appeal No. 106 of 2016 and Appeal No. 65 of 2017 has observed that only persons directly affected can be considered to be aggrieved. The relevant portion of the judgment is extracted as under:

"7.4.....The Hon'ble Supreme Court has held in Grid Corporation of Orissa Ltd. v Gajendra Haldea & Ors. [(2008) 13 SCC 414]; Thamanna vs. K. Veera Reddy and Ors., (1980) 4 SCC 62 and Gopabandhu Biswal vs Krishna Chandra Mohanty, (1998) 4 SCC 447 that there should be an actual legal injury and only persons directly affected can be considered to be aggrieved. The mere deprivation of a chance of a future benefit is insufficient for conferment of locus standi. The Appellant, having failed to show a definite legal injury, did not have the locus standi to approach the State Commission and also does not have locus standi to maintain the present Appeal."

23. Thus, there should be an actual legal injury, and only the person directly affected can be considered to be aggrieved. Admittedly, the NOCs were issued to MUL, and the State Transmission charges and losses were levied on MUL, which were duly paid at

the relevant times. As per the Petitioner, the Petitioner reimburses the State transmission charges to MUL. In this case, the Petitioner can be an aggrieved party only under the contract if the payment liability of such transmission charges is not clearly laid out. Thus, dispute, if any, with regard to the payment of the State transmission charges ought to have been raised by the Petitioner before MUL in accordance with the terms and conditions of the PPA. As regards the applicability of the State transmission charges, since MUL is applying for NOC and making payment of the transmission charges, MUL is the aggrieved party, who is directly affected, so as to challenge the levy of the State transmission charges.

24. Further, it is also apparent that MUL considers itself as an 'aggrieved party' in this case since the Discom itself had raised the issue before SLDC, Gujarat vide its letter dated 17.6.2022. The relevant portion of the letter dated 17.6.2022 to the Chief Engineer, SLDC, Gujarat is extracted as under:

“Sub: Long pending issue of GETCO charges and losses not to be applied on MUL open access/collective transactions

Ref:

Dear Sir

This is with reference to the long pending issue of applicability of GETCO charges and losses to MPSEZ Utilities Ltd. (MUL) while purchasing power through open access. In this regards we shall once again like to bring to your kind attention the following:

- *WRLDC vide its email dtd. 23.06.2016 (enclosure-A2) had sought clarification from SLDC Gujarat whether GETCO Charges and Losses should be applied or not on open access transactions of MUL. SLDC vide its email dtd. 24.06.2016 (enclosure- A2) confirmed to WRLDC that GETCO charges and losses shall not be applicable as MUL is connected to APL Busbar through dedicated 220 kV network with APL bus which in turn is CTU (Interstate) point.*
- *Thereafter, the GETCO charges and losses were not applied on any open access/collective transaction of MUL.*

- However, SLDC on 26.04.2018 (enclosure-A3) issued the NOC for May'18, wherein, the GETCO charges and losses were made applicable on MUL open access/collective transactions.
- MUL vide its letter dtd. 04.05.2018 (enclosure-A4) informed SLDC about the same and requested to correct and issue the revised NOC. A reminder letter was sent on 17.05.2018 (enclosure- A5) to SLDC by MUL.
- SLDC vide its letter dated 23.05.2018 (enclosure-A6) informed MUL that the NOC issued is in order and there is no need to revise it by SLDC.
- MUL responded to SLDC vide its letter dated 11.08.2018 (enclosure-A7) clearly mentioning the facts on the basis of which SLDC had not applied GETCO charges and losses on MUL till Aug'18 and again requested for not applying the same.
- Till date, SLDC has not given any reason for changing its stand suddenly from not applying to applying the GETCO charges and losses on MUL open access/collective transactions.

We shall once again like to submit that MUL is drawing power directly through dedicated 220 kV transmission line connected to APMuL's bus which in-turn is connected with CTU (ISTS) network. In other words, MUL is directly drawing power from ISTS without using the GETCO network. Single line diagram of the switchyard is once again enclosed for further reference.

In view of the above, we request SLDC to immediately stop applying the GETCO charges and losses on open access/collective transactions to MUL and also initiate refund of the GETCO charges collected under bilateral/collective transactions of MUL.

*Thanking you,
Yours sincerely,
For MPSEZ Utilities Ltd."*

25. In light of the above, we are of the opinion that the Petitioner has no locus standi to prefer the present Petition for consideration by this Commission. Having denied the locus of the Petitioner in filing the present Petition, we do not find it necessary to go into Issues Nos 2 and 3.

26. Before parting, we express our displeasure at the conduct of SLDC, Gujarat, in this case. As per SLDC Gujarat's own submission, State transmission charges and losses were levied on power purchase by MUL through STOA during the period of

March 2012, April 2012, May 2012, June 2012, July 2012, March 2013, and April 2013. SLDC Gujarat has also not contested the submission of the Petitioner that SLDC, Gujarat had clarified to WRLDC vide its email dated 24.6.2016 that looking at the route (UPCL-KPTCL-SR-WR-MUPL), it can be deciphered that the Gujarat Energy Transmission Corporation Limited (GETCO) losses and charges are not applicable for the said transaction as MPSEZ is connected with the Petitioner's Bus bar through a dedicated 220 kV network with the Petitioner bus, which in turn is CTUIL's (inter-State) point. In fact, SLDC Gujarat has clarified on this issue that it was only in April 2018, while considering the STOA Application and review of the aspects, it was realised that the prior NOCs had been allowed inadvertently, and the State transmission charges were applicable to such transactions as there is STU connectivity. Considering that the issue involves financial implications, SLDC, being a statutory body, ought to operate in a consistent manner and should avoid taking shifting stands.

27. Petition No. 263/MP/2023 is disposed of in terms of the above.

Sd/-
(Harish Dudani)
Member

sd/-
(Ramesh Babu V)
Member

sd/-
(Jishnu Barua)
Chairperson