

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 394/MP/2019

Coram:

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

Date of Order: 15th March, 2025

In the matter of

Petition under Section 79(1)(f) of the Electricity Act, 2003 read with Regulation 20 and 21 of the Central Electricity Regulatory Commission (Sharing of Transmission Charges & Losses in inter State Transmission) Regulations, 2010 and Regulation 111 of the Central Electricity Regulation Commission (Conduct of Business) Regulations, 1999.

And

In the matter of

**Central Transmission Utility of India Limited,
(a 100% wholly owned subsidiary of Power Grid Corporation of India Limited),
B-9, Qutab Industrial Area,
Katwaria Sarai, New Delhi-110016.**

... Petitioner

Versus

- 1. Himachal Sorang Power Private Limited,
D-14, Ashirvad Building Sector-1,
Near state Bank of India,
New Shimla, Shimla-171009.**
- 2. Ind Barath Energy (Utkal) Limited,
Plot No. 30-A, Road No-1, Film Nagar,
Jubilee Hills, Hyderabad-500033.**
- 3. Simhapuri Energy Limited,
Madhucon Greenlands,
6-3-866/2, 3rd Floor, Begumpet,
Hyderabad-500016.**
- 4. Grid Controller of India Limited,
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi-110016.**

... Respondents



Following were present:

Ms. Suprana Srivastava, Advocate, CTUIL
Ms. Divya Sharma, Advocate, CTUIL
Shri Avishay, Advocate, CTUIL
Shri Nitai Aggarwal, Advocate, CTUIL
Sri Hemant Singh, Advocate, HSPPL
Ms. Supriya Rastogi, Advocate, HSPPL
Shri Jay pal, Advocate, HSPPL
Shri Pawan Singh, HSPPL
Shri N.Kumar, Advocate, HSPPL
Shri Hari Babu, CTUIL
Shri Yogeshwar, CTUIL

ORDER

The Petitioner, Central Transmission Utility of India Limited (hereinafter referred to as 'Petitioner/CTUIL'), has filed the present Petition seeking directions to recover the outstanding transmission charges from the Respondents for using the long-term access granted to them by the Petitioner. The Petitioner has made the following prayers:

“(a) Direct the Petitioner to recover the outstanding dues of the Respondents amounting to Rs.455.22 crores through adjustment against the STOA charges being passed onto the LTA customers every month in 3 monthly instalments;

(b) Pass such further and other order(s) as this Commission may deem fit and proper in the facts and circumstances of the present case.”

Background

2. The Petitioner had earlier filed Petition No. 32/MP/2017 seeking directions against HSPPL for payment of the alleged outstanding dues. The Commission, vide order dated 26.9.2017, directed HSPPL to pay the outstanding dues and held that HSPPL would not be permitted to inject power under the LTA/MTOA/STOA until the outstanding charges were paid. The said order dated 26.9.2017 was challenged by HSPPL before the APTEL in Appeal No. 169 of 2018.



3. Subsequently, the Petitioner filed the instant Petition No. 394/MP/2019, seeking directions to recover the outstanding transmission charges from various generators, whose Long-Term Access (hereinafter referred to as 'LTA') had been operationalized but later relinquished without payment. The Petitioner sought permission to adjust the unpaid charges against revenues from Short-Term Open Access (hereinafter referred to as 'STOA') users. The Commission, after hearing the parties, vide order dated 24.1.2020, held as under:

"15. We have considered the submission of the Petitioner. The Petitioner has expressed its inability to recover the outstanding LTA charges from the Respondents since their TSAs have been terminated and there is no generation from their plants and as such could not be regulated for recovery of the charges. Accordingly, the Petitioner has prayed for issue of directions for recovery of the outstanding dues of the Respondents from the STOA charges (collected and being passed on to the LTA customers) in three monthly installments. We notice that STOA charges collected from the STOA customers are disbursed among the LTA customers in proportion to the monthly transmission charges payable by them in terms of Regulation 25 (2) of the Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2008, as amended from time to time. There is no provision in any of the Regulations to permit recovery/ reimbursement of outstanding LTA charges in respect of defaulting LTA customers from the STOA charges. In our view, CTU should take all necessary steps to recover the outstanding charges from the Respondents as permissible under law including projecting the claims before NCLT in those cases wherever applicable. Further, in order to ensure recovery of outstanding LTA charges from Respondents, we direct that the Respondents shall not be granted long term access, medium term open access and short term open access in future unless they clear the outstanding LTA charges. If Petitioner is unable to recover the charges after making all reasonable efforts, it may approach the Commission for appropriate directions."

4. Aggrieved by the said order dated 24.1.2020, the Respondent, Himachal Sorang Power Private Limited (hereinafter referred to as 'HSPPL/Respondent No. 1'), approached the Appellate Tribunal for Electricity (hereinafter referred to as 'APTEL'). The APTEL, vide order dated 17.2.2023, set aside the Commission's order

dated 24.1.2020 and remanded the matter to the Commission for fresh consideration after affording an opportunity of hearing to HSPPL.

5. The matter was listed for the hearing on 19.2.2025. During the course of the hearing, the learned counsel for the Respondent, HSPPL, submitted that APTEL, vide its order dated 26.9.2017 in Appeal No. 169 of 2018, set aside the Commission's order dated 26.9.2017 in Petition No. 32/MP/2017 and held as under:

"83. In the light of above, we are satisfied that the impugned event occurring on 18.11.2015 and subsequent directions of GoHP is a force majeure event and accordingly, the Appellant cannot be held liable to pay any transmission charges till continuation of such event under the provisions of BPTA and TSA.

ORDER

For the foregoing reasons as stated above, we are of the considered view that the captioned Appeal No. 169 of 2018 has merit and is allowed to the extent as concluded herein above. The Impugned Order dated 26.09.2017 passed by the Central Electricity Regulatory Commission in Petition No.32/MP/2017 is set-aside. The direction against HSPPL to pay the past and current dues pertaining to Transmission Charges along with surcharge and to open a Letter of Credit, and also the direction that the Appellant would not be permitted to inject power under Long-Term Open Access ("LTOA/ LTA")/ Short-Term Open Access ("STOA"), until it makes the aforesaid payment of outstanding charges is also set aside, The excess payment made by the Appellant pertaining to period after the date of occurrence of the Force Majeure Event i.e. 18.11.2015 shall be reimbursed to the Appellant along with carrying cost within three months. The Appeal in terms of above along with pending IAs, if any, shall stand disposed of."

6. The learned counsel for the Respondent further submitted that CTUIL subsequently challenged the order passed by APTEL before the Hon'ble Supreme Court in Civil Appeal No. 8494 of 2024. However, the Hon'ble Supreme Court vide order dated 27.8.2024 dismissed the said Civil Appeal. Thus, the APTEL order has attained finality. Accordingly, the transmission charges paid by HSPPL for the intervening period in November 2015 have been reimbursed by CTUIL pursuant to the aforesaid APTEL order. Consequently, the issue in Petition No. 394/MP/2019,

qua transmission charges as claimed by CTUIL in its prayers, does not survive since the same has been settled by APTEL in Appeal No. 169 of 2018.

7. The learned counsel for the Petitioner agreed to the above submissions of the Respondent and submitted that now the instant Petition has become infructuous and may be disposed of accordingly.

8. Considering the submissions of the learned counsels for the Respondent, HSPPL, and the Petitioner, the Petition is disposed of as infructuous.

9. The Petition No. 394/MP/2019 is disposed of in terms of the above.

Sd/-
(Harish Dudani)
Member

sd/-
(Ramesh Babu V.)
Member

sd/-
(Jishnu Barua)
Chairperson

