

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram:** Dr. Pramod Deo. Chairperson  
Shri S. Jayaraman, Member  
Shri V.S.Verma, Member  
Shri M.Deena Dayalan, Member

**DATE OF HEARING: 24.7.2012**

**Petition No. 170/2011**

Sub: Miscellaneous petition under Section 79 (1) (c) and (f) of the Electricity Act, 2003.

Petitioner : Talcher- II Transmission Co. Ltd.

Respondents : Tamil Nadu Electricity Board and Others

Parties present : Shri Amit Kapoor, Advocate for petitioner  
Miss Aproova Misra, Advocate for Petitioner  
Miss Deepeika Kalia, Advocate for Petitioner  
Shri Vinay Lohiya, TTCL  
Shri M.G. Ramachandran, Advocate, PGCIL  
Miss Swapna Seshadri, Advocate, PGCIL  
Shri R.K.Mehta, Advocate, CESU  
Shri David, Advocate, CESU  
Shri Rakesh Prasad, PGCIL  
Shri U.K.Tyagi, PGCIL  
Shri V.Vamsi, PGCIL  
Shri S.Vallinayagam, Advocate, TANGEDCO  
Shri S.Balaguru, Advocate, TANGEDCO  
Shri R.B.Sharma, Advocate, GRIDCO  
Shri Vivek Naryayan Sharma, Advocate, PVVNL

**Record of Proceedings**

Learned counsel for the petitioner submitted that the legal issues in this petition are similar to Petition No. 169/MP/2011 and accordingly, he is adopting the same arguments in the present petition.

2. Learned counsel for the TANGEDCO submitted that in prayer (a), the petitioner has prayed for setting off the adverse effect in cost and time overrun by treating the delays for implementation of the project as an event of Force Measure in terms of TSA. Learned counsel referred to the submission of the learned counsel for the petitioner recorded in para 2 of the Record of Proceedings of the hearing on 7.6.2012 and submitted that the petitioner has alleged discrimination in grant of Section 164 approval vis-à-vis PGCIL. Learned counsel further referred to the definition of "non-natural force majeure" under Article 11.3 (b) of the TSA and submitted that the Proviso to Article 11.3 (b) of the TSA provides as under:

*"provided a Competent Court of Law declares the revocation or refusal to be unlawful, unreasonable and discriminatory and strikes down the same."*

Learned counsel submitted that unless and until the proviso is complied with, there cannot be any event of force majeure and the petitioner cannot be granted any relief.

3. As regards prayer (b), learned counsel submitted that TANGEDCO has no objection for extension of the date of commercial operation provided the transmission charges remain unchanged as per provision of the TSA.

4. As regards prayer (c), learned counsel for the TANGEDCO submitted that the beneficiaries are not responsible for escalation of input/capital cost. Learned counsel further submitted that the Commission, vide its order dated 31.12.2010 in Petition No. 296/2010 had observed that 'in so far as the interests of the beneficiaries are concerned, the petitioners have already committed that the proposed extension of RCOD of the projects would not have any adverse impact on the transmission charges payable by the beneficiaries and shall remain unaltered as indicated in the TSA'. If the petitioner is agreeable to similar relief, the TANGEDCO has no objection for revision of the date of the commercial operation of the transmission system.

5. Learned counsel for the GRIDCO opened his arguments in the matter. Due to paucity of time, the Commission directed to list the petition for further hearing on 30.8.2012.

**By order of the Commission**

**Sd/-  
(T. Rout)  
Joint Chief (Law)**