

**Central Electricity Regulatory Commission  
New Delhi**

**RECORD OF PROCEEDINGS**

**Petition No. 43/MP/2012**

Subject: Petition under Section 79(1)(f) of the Electricity Act, 2003 regarding a dispute arising under the Bulk Power Transmission Agreement dated 21.10.2009 executed between the Petitioner, being a generating company and the Respondent, being a transmission licensee, in relation to the claim of the Petitioner for extension of the date of commencement of open access due to delay caused by factors covered under the said Agreement

Date of Hearing: 20.3.2012

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

Petitioner: Himachal Sorang Power Private Ltd. (HSPPL), Shimla

Respondents: PGCIL, New Delhi

Parties present: Shri Rakesh Prasad, PGCIL  
Shri V. Thiagarajan, PGCIL  
Shri Sitesh Mukherjee, Advocate for HSPPL

This petition has been filed by the petitioner, HSPPL, seeking extension of the date of commencement of open access under the Bulk Power Transmission Agreement (hereinafter referred to as "the BPTA") dated 21.10.2009 executed between it and PGCIL, the respondent.

2. The learned counsel for the petitioner submitted as under:-

- (a) As per the BPTA, HSPPL shall bear the applicable transmission charges of NR corresponding to 100 MW from May 2011 or actual date of commercial operation of first unit, whichever is earlier, for a period of 25 years;
- (b) The implementation of the project by the petitioner has suffered huge delays due to geological surprises, torrential rains, labour issues and other factors, which are beyond the control of the petitioner and are

covered under the 'Force Majeure' clause of the BPTA. Having realized that it would not be able to achieve commissioning from May 2011, the petitioner requested PGCIL, the respondent, that the BPTA be amended suitably to extend the date of commencement of open access;

(c) The petitioner also wrote a letter dated 18.4.2011 to the Chairman, NRPC, setting out the details of the impediments in execution of the project to facilitate the members of the NRPC to deliberate on the issue of extension of the date of the BPTA; however, NRPC in its meeting held on 2nd June, 2011 did not extend the date of the BPTA, based on the precedence of M/s AD Hydro case, where extension of BPTA was not allowed;

(d) Pursuant to the meeting of the NRPC, the respondent, PGCIL, raised two invoices on the petitioner for a period when the petitioner has not even utilized the transmission network of the respondent.

3. The Commission directed to admit the petition and issue notice to the parties. The reply may be filed by respondent by 19.4.2012, with copy to the petitioner, who may file its rejoinder, if any, before 27.4.2013.

4. Matter shall be listed for hearing on 8.5.2012.

Sd/-

(T.Rout)  
Joint Chief (Law)  
10.4.2012