

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. MP/69/2014

Subject : Petition for relinquishment of the long term open access under the Bulk Power Transmission Agreement dated 29.7.2009, under Regulation 18 read with 32 of the Central Electricity Regulatory Commission (Grant of Connectivity, long term access and medium term open access in inter-State transmission and related matters) Regulations, 2009

Date of hearing : 23.9.2014

Coram : Shri Gireesh B. Pradhan, Chairperson
Shri M. Deena Dayalan, Member
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member

Petitioner : Aryan MP Power Generation Private Limited

Respondents : Power Grid Corporation of India Limited and others

Parties present : Shri Sanjay Sen, Senior Advocate, SCPL
Shri Matrugupta Mishra, Advocate, SCPL
Shri Ashok Pal, PGCIL
Shri S. Barpanda, POSOCO

Record of Proceedings

Learned counsel for the petitioner submitted that PGCIL has failed to ascertain the stranded capacity as per the directions of the Commission. He submitted that in the Joint Coordination Meetings it was made clear that due to extraneous circumstances such as pending approvals and clearances by the appropriate authorities, the petitioner is not in a position to commission the project as per scheduled date.

2. Learned counsel for the petitioner submitted that generation project has been delayed due to non-availability of coal linkage by Ministry of Coal and deferment in the grant of environmental clearance which are beyond the control of the petitioner and are in the nature of *force majeure* within the meaning of Clause 9 of the BPTA. Learned counsel for the petitioner submitted that the petitioner could have sought relinquishment of the long-term open access as provided under Regulation 18 of the CERC (Grant of Connectivity, long-term open access in inter-State transmission and related matters) Regulations, 2009 (Connectivity Regulations).

3. The representative of PGCIL submitted as under:
 - (a) The transmission system associated with the petitioner is a high capacity transmission corridor-IV and has been planned for evacuation of power from generation projects coming up in Chhattisgarh and Madhya Pradesh. The various generation projects are already delayed considerably from their original commissioning schedule.
 - (b) The LTA shall be commenced after availability of the dedicated part of the transmission system which is to be implemented by the petitioner as well as the common system is complete.
 - (c) The *force majeure* clause is not applicable to non-completion of the project and the hardship cannot be taken as an excuse.
 - (d) It was never clearly communicated to PGCIL that the commissioning of the project has come to a halt. Only the status and development of the project was discussed in the Joint Coordination Meetings. As per the Regulation 2 (1) (v) of the Connectivity Regulations, the petitioner is required to start the relinquishment process.
4. The representative of POSOCO submitted that since the estimated transmission charges need to be shared with all the beneficiaries, all DIC's should also be impleaded as parties to the petition.
5. After hearing the learned counsel for the petitioner and representatives of PGCIL and POSOCO, the Commission directed the petitioner to file written submission by 1.10.2014.
6. The Commission directed that due date of filing the written submission should be strictly complied with.
7. Subject to above, the Commission reserved order in the petition.

By order of the Commission

Sd/-

**(T. Rout)
Chief (Law)**