

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 117/MP/2015

Subject : Petition under Sections 79(1)(f) and 79(1)(k) of the Electricity Act, 2003 seeking appropriate directions against the Respondent/ CTU for refund of Relinquishment Charges paid by the Petitioner Company to the Respondent for Relinquishment of Medium Term Open Access of 208 MW.

Date of hearing : 10.12.2015

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

Petitioner : D.B Power Limited

Respondent : Power Grid Corporation of India Limited

Parties present : Shri Sanjey Sen, Senior Advocate, D.B. Power
Shri Hemant Singh, Advocate, D.B. Power
Shri Tushar Nagar, Advocate, D.B. Power
Shri Vikas Adhia, D.B. Power
Shri H. Sharma, D.B. Power

Record of Proceedings

Learned senior counsel for the petitioner submitted as under:

- (a) The present petition has been filed seeking direction to the respondent to refund relinquishment charges paid by the petitioner.
- (b) The petitioner has set up a 1200 MW (2x600 MW) thermal Power Plant at Village Baradarha, Tehsil Dabhra in district Jajgir-Champa, Chhattisgarh.
- (c) On 28.5.2013, the petitioner made an application to CTU for grant of MTOA of 208 MW. CTU vide its letter dated 10.7.2013 granted MTOA to the petitioner and requested to sign the Transmission Service Agreement. On 10.8.2013, the petitioner entered into TSA with PGCIL.
- (d) The petitioner vide letter dated 29.7.2013 requested CTU to prepone the commencement date of MTOA granted from 1.6.2014 to 1.12.2013 which would help the petitioner in supplying power to the State of Tamil Nadu. CTU vide its

letter dated 26.8.2013 directed the petitioner to open Letter of Credit in terms of the MTOA agreement.

(e) On account of the fact that the petitioner had entered into long term PPA with TANGEDCO, on 25.11.2013, the petitioner made an application to CTU for grant of Long Term Open Access (LTA) for 208 MW power from its project to TANGEDCO in Tamil Nadu and requested PGCIL to replace the MTOA granted to it with LTA from the date of commencement of such LTA.

(f) In response, PGCIL vide its letter dated 28.11.2013, informed the petitioner that there is no provision in 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 (Connectivity Regulations) to replace one type of access with another type of access and each kind of access is to be treated separately. PGCIL advised the petitioner to relinquish the MTOA granted to it so that its application for grant of LTA for the same power may be considered. The petitioner vide its letter dated 2.12.2013 relinquish the MTOA granted to consider the LTA's application made by it.

(g) CTU vide its letter dated 16.12.2013 informed the petitioner that the MTOA granted to the petitioner stood withdrawn. CTU vide letter dated 30.6.2014 informed the petitioner that as per Clause 24 of the Connectivity Regulations, customer relinquishing MTOA is required to pay transmission charges for the quantum of relinquishment for the period of relinquishment or 30 days whichever is lesser and directed the petitioner to pay relinquishment charges of ₹ 4,39,31,472/- for one month. On 7.7.2014, the petitioner paid the said amount under protest and disagreed with the levy of relinquishment charges.

(h) Subsequently, the Commission vide order dated 8.8.2014 in Petition No. 92/MP/2014 held that the grant of MTOA without valid PPA is invalid. Therefore, CTU ought to refund the relinquishment charges paid to it by the petitioner. However, CTU vide letter dated 12.12.2014 denied to refund relinquishment charges on account of the fact that the cancellation of MTOA granted to the petitioner had been done on the specific request of the petitioner and the relinquishment charges were levied by CTU in line with the relevant provisions of the Connectivity Regulations.

(i) Learned senior counsel for the petitioner requested the Commission to admit the petition.

2. After hearing the learned senior counsel of the petitioner, the Commission admitted the petition and directed to issue notice to the respondent.

3. The Commission directed the petitioner to serve copy of the petition on the respondent by 18.12.2015. The respondent was directed to file its reply, on affidavit, by 15.1.2016 with an advance copy to the petitioner, who may file its rejoinder, if any, on or before 29.1.2016. The Commission directed the petitioner to explain, on affidavit by 15.1.2015, the reason for changing the MTOA to LTA. The Commission directed that due date of filing the reply, rejoinder and information should be strictly complied with. No extension shall be granted on that account.

4. The petition shall be listed for hearing on 4.2.2016.

By order of the Commission

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