

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 10/MP/2017

Subject : Petition under Section 79(1) (b), (c), (f), (k) with Section 142 of the Electricity Act, 2003 read with Regulation 24 of the CERC (Conduct of Business) Regulations, 1999 for direction to the respondents to comply with the order dated 21.6.2013 in Petition No. 83/TT/2012 and hold that the respondent has contravened the direction of the Commission.

Petitioner : Power Grid Corporation of India Limited.

Respondent : Bharatiya Rail Bijlee Company Limited (BRBCL)

Date of hearing : 16.2.2017

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

Parties present : Shri A.M. Pavgi, PGCIL

Record of Proceedings

The representative of the petitioner submitted that the present petition has been filed seeking directions to Bhartiya Rail Bijlee Company Limited (BRBCL) to comply with the Commission's direction dated 21.6.2013 in Petition No. 83/TT/2012 and to pay the transmission charges till the 'Date of Commercial Operation' of the Nabinagar TPS. The representative of the petitioner further submitted as under:

(a) The Commission vide order dated 21.6.2013 in Petition No. 83/TT/2012 directed BRBCL to bear the transmission charges, as per the arrangement entered into by BRBCL with the petitioner till the commissioning of Nabinagar TPS. Accordingly, the petitioner was raising monthly bi-lateral bills on BRBCL towards the transmission charges for the transmission system effective since its DOCO and BRBCL was making payments. However, BRBCL vide its letter dated 22.3.2016 informed the petitioner that BRBCL need not pay transmission charges for the subject transmission system beyond 20.3.2016, date of its commissioning of unit-1.

(b) Since COD of the unit-1 is still to be achieved by BRBCL, it has stopped payment of transmission charges w.e.f. 20.3.2016, resulting in non-performing assets at the end of the petitioner.

(c) As per Regulation 8(8) of Central Electricity Regulatory Commission (Connectivity and Long Term Open Access and Medium Term Open Access in inter-State Transmission System and related matters) Regulations, 2009 and Proviso 3 of Regulation 8(5) of Central Electricity Regulatory Commission (Sharing of IST Charges and Losses) Regulations, 2010, the generator is liable to pay the transmission charges for the dedicated transmission system till the COD of the generator, subsequent to which the transmission charges shall be included in the common pool and shall be shared as per the Sharing Regulations.

(d) The issue of payment by BRBCL was discussed in the 2nd Meeting of Validation Committee held on 30.5.2016 wherein it was clarified by Chief (Engg) of the Commission that the transmission charges are payable by BRBCL till commercial operation of Unit 1. Accordingly, the petitioner vide its letter dated 16.6.2016 requested BRBCL to make payments. BRBCL vide its letters dated 10.8.2016 and 15.10.2016 declined the request made by the petitioner re-iterating its earlier stand in the letter dated 22.3.2016.

(e) BRBCL has been drawing the start-up power over the dedicated transmission line. However, it is not making payment of transmission charges since 20.3.2016 and has not extended the Letter of Credit as payment security mechanism despite the direction of Validation Committee.

(f) The matter was also taken up by the petitioner in the 33rd Commercial Sub-Committee meeting of ERPC held on 3.11.2016 wherein the petitioner was advised to approach the Commission for directions in this regard.

2. After hearing the representative 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, if already not served. The respondent was directed to file its reply, on affidavit, by 16.3.2017 with an advance copy to the petitioner, who may file its rejoinder, if any, on or before, 31.3.2017. The Commission directed the petitioner and the respondent that due date of filing the reply and rejoinder should be strictly complied with. No extension shall be granted on that account.

4. The petition shall be listed for hearing on 18.4.2017.

By order of the Commission

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