

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 117/MP/2017

Subject : Petition under Section 79(1)(b) read with Section 79(1)(f) of the Electricity Act, 2003 read with Regulation 111 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 *inter-alia* seeking direction to the Respondent to pay the Tariff considering 1.8.2015 to 31.3.2016 as the First Contract Year in terms of Schedule 8 of the Power Purchase Agreement 19.8.2013 executed between the Petitioner and the Respondent.

Date of hearing : 22.8.2017

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

Petitioner : D.B. Power Limited (DBPL)

Respondent : Tamil Nadu Generation & Distribution Corporation Ltd.

Parties present : Shri Deepak Khurana, Advocate, DBPL
Shri S. Vallinayagam, Advocate, TANGEDCO

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Petition has been filed *inter-alia* for seeking direction to TANGEDCO to pay the transmission charges considering 1.8.2015 to 31.3.2016 as the First Contract Year in terms of Schedule 8 of the Power Purchase Agreement dated 19.8.2013 executed between the Petitioner and TANGEDCO. Learned counsel for the Petitioner further submitted as under:

(a) The Petitioner has set up a 1200 MW (2x600 MW) coal based Thermal Power Plant at Village Badadarha, District Janjgir Champa in the State of Chhattisgarh.

(b) On 20.12.2013, PGCIL granted LTA of 208 MW to the Petitioner in Southern Region for supply of power to TANGEDCO for the period from 1.8.2014 to 30.9.2028. However, since, the payment through cheque was not realized due to "Drawers Signature Differs", PGCIL cancelled the LTA granted on 20.12.2013 on the ground that the filing date cannot be considered as November, 2013 as the actual payment subsequently was released by Demand Draft in January, 2014.

(c) The Commission vide order dated 16.2.2015 in Petition No. 376/MP/2014 had held that the application of the Petitioner had been rightly considered by PGCIL as an application made in January, 2014 as opposed to November, 2013. Aggrieved

by it, the Petitioner approached the Hon'ble APTEL and the Hon'ble APTEL directed PGCIL to grant LTA to the Petitioner. Accordingly, PGCIL granted LTA for 117 MW and 91 MW on 1.8.2015 and 5.10.2015, respectively to the Petitioner.

(d) The Scheduled Delivery Date under the PPA dated 19.8.2013 was 1.2.2014 and the expiry date was 15th Anniversary of the delivery date. However, PPA defines 'Delivery Date' as the date on which the Petitioner commences supply of Aggregated Contracted Capacity of 208 MW to TANGEDCO i.e. 1.2.2014 and 'Expiry Date' commences from the delivery date for a period of 15 years. Article 4.7.1 of the PPA provides that in the event of occurrence of *Force Majeure events* affecting the Petitioner, the Scheduled Delivery Date and the Expiry Date shall be deferred to permit the Petitioner to overcome the effects of the *Force Majeure* events.

2. After hearing the learned counsel for the Petitioner, the Commission admitted the Petition and directed to issue notice to the Respondents.

3. The Commission directed the Petitioner to serve the copy of the Petition on the Respondents immediately, if not served already. The Commission directed the Respondents to file their replies, by 18.9.2017, with an advance copy to the Petitioner, who may file their rejoinder, if any, by 6.10.2017. The Commission directed that due date of filing the replies and rejoinders should be strictly complied with. No extension shall be granted on that account.

4. The Petition shall be listed for hearing on 17.10.2017.

By order of the Commission

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