

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 194/MP/2017

Subject : Petition under Sections 61, 63, 79(1)(c) and 79(1)(f) of the Electricity Act, 2003 read with Article 16 of TSA and the tariff based competitive bidding guidelines for transmission service, for claiming relief under TSA dated 14.3.2016 relating to implementation of the transmission Project Elements.

Date of Hearing : 10.4.2018

Coram : Shri P. K. Pujari, Chairperson
Shri A. K. Singhal, Member
Shri A. S. Bakshi, Member
Dr. M. K. Iyer, Member

Petitioner : North Karanpura Transco Limited

Respondents : Jharkhand Bijli Vitran Nigam Limited and Others

Parties present : Shri Hemant Singh, Advocate, NKTL
Ms. Ankita Bafna, Advocate, NKTL
Ms. Priyanka Parida, Advocate, CCI and MOC
Shri Amit Verma, CMPDI
Capt. K.S. Bhati, CMPDI

Record of Proceedings

Learned counsel for the Central Coalfields Limited submitted that due to personal difficulty, arguing counsel in the matter is not available and requested for adjournment. Learned counsel further requested for time to file the reply on behalf of the Ministry of Coal.

2. Learned counsel for the petitioner had no objection to the adjournment and submitted that the petitioner has filed an affidavit dated 26.3.2018 regarding the non-issuance of NOC and requested to take on record the same. Learned counsel further submitted as under :

a) Post award of the transmission project, its implementation has been held up on account of non-availability of requisite No Objection Certificate (NOC) from the Ministry of Coal. No NOC has been issued till date even after lapse of two years since the issuance of LOI in favour of the petitioner.

- b) Non- issuance of NOC is an event which is completely beyond the control of the petitioner and is in the nature of force majeure which is continuing since the award of the project. The said force majeure event has resulted in delay in implementation of the project as a whole
- c) As per Article 4.4.2 of the TSA, in case Force Majeure event continues even after the maximum period of 180 days, the TSP may choose to terminate the agreement. Therefore, if NOC is not granted to the petitioner, then the TSA is likely to be terminated.
- d) Learned counsel requested the Commission to continue the interim order till the next date of hearing.
3. After hearing the learned counsels for the parties, the Commission directed the LTTCs not to take any coercive measure till the next date of hearing.
4. .The Commission directed the Ministry of Coal to file its reply, by 1.5.2018, with an advance copy to the petitioner, who may file its rejoinder, if any, by 30.5.2018. The Commission directed that due date of filing the reply and rejoinder should be strictly complied with. No extension shall be granted on that account
5. The petition shall be listed for hearing on 12.6.2018.

By order of the Commission

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