

**CENTRAL ELECTRICITY REGULATORY COMMISSION**  
**NEW DELHI**  
**Petition No. 199/MP/2018**

Subject : Petition under Section 79 (1) (f) and Section 79 (1) (k) of the Electricity Act, 2003 read with Section 79 (1) (c) of the Electricity Act, 2003 challenging the illegal and unlawful conduct of PGCIL of wrongfully raising invoices for transmission charges upon the petitioner in a manner inconsistent with applicable regulations and orders of this Commission and seeking directions against PGCIL to comply with its statutory and contractual obligations.

Date of Hearing : 24.10.2018

Coram : Shri P. K. Pujari, Chairperson  
Dr. M. K. Iyer, Member

Petitioner : Maheshwaram Transmission Limited

Respondents : TANGEDCO & Others

Parties Present : Shri Deep Rao, Advocate, MTL  
Shri Divyanshu Bhatt, Advocate, MTL  
Shri Syed Jafar Alam, Advocate, MTL  
Shri S. Vallinayagam, Advocate, TANGEDCO

**Record of Proceedings**

Learned counsel for the Petitioner argued at length and submitted that the present Petition has been filed under Sections 63 and 79 (1) (f) of the Electricity Act, 2003 read with Article 12 of the Transmission Service Agreement dated 10.6.2015, for seeking reliefs due to the following change in law events :

- (i) Promulgation of new set of compensation guidelines for the reorganized Rangareddy and Sangareddy districts in the State of Telangana; and
- (ii) Promulgation of Goods and Services Tax with effect from 1.7.2017.

2. Learned counsel for the Petitioner further submitted as under :

(i) The Commission in its order dated 10.1.2018 in Petition No. 1/SM/2018 has observed that promulgation of Good and Services Act, 2017 is a change in law event. The Commission in the said order had sought the information from all parties regarding the changes in taxes and duties, which has already been filed by the Petitioner. The total impact on the Petitioner on account of the promulgation of GST laws is Rs 1.27 crore.

(ii) . TANGEDCO in its reply has contended that since, the rates of compensation was not in accordance with the guidelines issued by Ministry of Power (MoP) vide notification dated 15.10.2015, the Petitioner should have

approached the High Court for re-fixing the compensation as per the guidelines issued by MoP. The Petitioner is under no obligation under TSA to challenge the validity of a law before claiming the relief of change in law event. The Petitioner is only required to establish that change in law event has occurred after the cut-off date.

3. Learned counsel for TANGEDCO submitted as under :

(i) As per Article 5.1.4 (d) of the TSA, the Petitioner was entitled to seek access to the site and other places where the Project is being executed, at its own costs, including payment of any crop compensation or any other compensation as may be required. Therefore, the Petitioner cannot pass the burden and liability on the LTTC's.

(ii) As per Article 5.1.5 of the TSA, in case the Project involves any resettlement and rehabilitation, the resettlement and rehabilitation package will be implemented by the State Authorities, for which the cost is to be borne by the TSP and no charges would be allowed in the transmission charges on account of any variation in the resettlement and rehabilitation cost.

(iii) The Petitioner's claim on account of promulgation of GST is not sustainable as the construction of Nizamabad Yeddumailaram (Shankarpalli) Line and Maheshwaram-Mahabubnagar Line were completed on 14.10.2017 and 15.12.2017, i.e. soon after the promulgation of GST. Therefore, GST is not applicable for the portions of project like supply of materials, laying of foundation, erection of towers and stringing of lines which were completed ahead of 14.10.2017 and 15.12.2017.

(iv) Learned counsel for TANGEDCO submitted that TANGEDCO is not pressing upon the argument that the Petitioner should have approached the High Court regarding fixation of the compensation.

4. The Commission directed the Petitioner to submit the following information/clarification, on or before, 7.11.2018.

(i) Original estimate cost and tax portion included thereon;

(ii) Auditors Certificate on computation for the increase in tax separately for service tax/ GST and excise duty worked out on the original estimated cost as well as on actual cost incurred after deducting the exclusions for which these are not applicable; and

(iii) Clarify, whether any of the taxes which were applicable at the time of bid which have been subsumed/ abolished with GST. If so, submit Auditor Certificate on savings of such taxes.

5. After hearing the learned counsels for the Petitioner and the Respondent, the Commission reserved the order in the Petition.

**By order of the Commission**

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