

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 278/MP/2018  
Alongwith IA No.75/2018**

Subject : Petition under Section 79(1)(b), 79(1)(c) & 79(1)(f) of the Electricity Act, 2003 read with Regulation 32 and the detailed procedure as envisaged under the Central Electricity Regulatory Commission (Grant of Connectivity, Long Term, Medium Term Open Access in Intra State and related matters) Regulations, 2009.

Date of Hearing : 13.9.2018

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

Petitioner : Jindal India Thermal Power Limited (JITPL)

Respondents : South Eastern Central Railways and Others

Parties present : Shri Sanjay Sen, Senior Advocate, JITPL  
Shri Pardeep Dahiya, Advocate, JITPL

**Record of Proceedings**

Learned senior counsel for the Petitioner submitted that the present petition has been filed for seeking directions to South Eastern Central Railways (SECR) for termination of the PPA dated 8.4.2016 entered into between the Petitioner and SECR for supply of power under the Open Access Arrangement in terms of Section 42 of the Electricity Act, 2003. Learned senior counsel further submitted as under:

(a) In September 2015, Railway Energy Management Company Ltd. (REMCL) invited bids to procure electricity from a power generating station for a total contracted capacity of 585 MW, which included 70 MW for SECR in the State of Chhattisgarh. Subsequently, on 8.4.2016, the Petitioner entered into a PPA with SECR.

(b) On 26.4.2016, the Petitioner submitted "Performance Security" of Rs. 7 crore to SECR for a period of six months in the form of an irrevocable and unconditional bank guarantee in terms of Article 9 of the PPA. After the submission of Performance Security and signing of PPA, REMCL was required to return the bid security of Rs.10.25 crore. However, despite various letters to REMCL for the return of the security amount, no response has been received till date.

(c) As per the Chhattisgarh State Electricity Regulatory Commission (Connectivity and intra-State Open Access) Regulations, 2011 and the provisions of the PPA, SECR is required to obtain NOC for use of intra-State transmission network for delivery of power at TSS points. However, despite the repeated requests for fulfillment of conditions precedent and consequent to the non-issuance of NOC, the Petitioner was unable to procure any access from the transmission system. Therefore, the Petitioner vide letter dated 5.5.2018 invoking

Article 4.4 of the PPA terminated the PPA due to non-fulfillment of the condition precedent.

(d) Since, there is no valid and subsisting PPA, the performance security and the bid security both needs to be discharged.

(e) Learned senior counsel submitted that the Petitioner has filed an Interlocutory Application (IA) for seeking direction to SECR and REMCL to prohibit them from taking any coercive measure till the disposal of the petition.

2. After hearing the learned senior 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 copy of the petition on the respondents immediately, if not served already. The respondents were directed to file their replies, by 12.10.2018, with an advance copy to the Petitioner, who may file its rejoinder, if any, by 31.10.2018. The Commission directed that due date of filing the replies and rejoinder should be strictly complied with. No extension shall be granted on that account.

4. As regards to the prayers made in the IA, the Commission directed the respondents not to take any coercive measure till the next date of hearing. Accordingly, the Commission disposed of the IA No.75/2018.

5. The petition shall be listed for hearing in due course for which separate notice will be issued.

**By order of the Commission**

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