

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 312/MP/2015,  
Petition (Diary No. 328/2018) and  
Petition No. 296/MP/2018**

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

**Date of Order: of 11<sup>th</sup> of October, 2018**

**In the matter of**

Petition under Section 79 (1) (f) of the Electricity Act, 2003 qua adjudication over payment of transmission charges and other liabilities under the Bulk Power Transmission Agreement between Meenakshi Energy Private Limited, a generating company, and Power Grid Corporation of India Limited, the Central Transmission Utility.

**And  
In the matter of**

Meenakshi Energy Private Limited  
NSL ICON Building,  
Plot No.1 - 4, 2nd Floor,  
Road No. 12, Banjara Hills,  
Hyderabad - 500 034,  
Telangana

**.....Petitioner**

**Vs.**

Power Grid Corporation of India Limited  
Saudamini, Plot No.2  
Sector-29, Gurgaon - 122 001  
Haryana

**..Respondent**

**Petition (Diary No. 328/2018)**

**In the matter of**

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 raising invoices towards the payment of transmission charges upon the petitioner and seeking direction against PGCIL to comply with the statutory and contractual obligations.

**And  
In the Matter of**

Meenakshi Energy Private Limited  
NSL ICON Building,  
Plot No.1 - 4, 2nd Floor,  
Road No. 12, Banjara Hills,  
Hyderabad - 500 034,  
Telangana

.....Petitioner

**Vs.**

Power Grid Corporation of India Limited  
Saudamini, Plot No.2  
Sector-29, Gurgaon - 122 001  
Haryana

..Respondent

**Petition No. 296/MP/2018**

**In the Matter of**

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 raising invoices towards the payment of transmission charges upon the petitioner and seeking direction against PGCIL to comply with the statutory and contractual obligations.

**And  
In the Matter of**

Meenakshi Energy Private Limited  
NSL ICON Building,  
Plot No.1 - 4, 2nd Floor,  
Road No. 12, Banjara Hills,  
Hyderabad - 500 034,  
Telangana

.....Petitioner

**Vs.**

Power Grid Corporation of India Limited  
Saudamini, Plot No.2  
Sector-29, Gurgaon - 122 001  
Haryana

..Respondent

**Parties Present:**

Shri Sanjay Sen, Senior Advocate, MEPL  
Shri Avijeet Lala, Advocate, MEPL

Ms. Molshree Bhatnagar, Advocate MEPL  
Shri Nishant Talwar, Advocate, MEPL  
Ms. Suparna Srivastava, Advocate, PGCIL  
Shri V. Srinivas, PGCIL  
Shri R. P. Padhi, PGCIL  
Ms. Jyoti Prasad, PGCIL

### **ORDER**

The Petitioner, Meenakshi Energy Private Limited has filed Petition No. 312/MP/2015 seeking exemption from payment of transmission charges and other liabilities under the Bulk Power Transmission Agreement on account of certain alleged force majeure events. The Petitioner has made the following prayers:

“(a) Declare that MEPL (MEL) is not required to pay PGCIL any transmission charges until the commissioning of Phase II as the delay in the commissioning of Phase II has occurred on account of force majeure events covered by Clause 9.0 of the BPTAs;

(b) Direct PGCIL to produce the relevant records that show the extent to which the contracted transmission elements under the BPTAs have been or can be put to alternate use by STA and MTA customers and direct PGCIL to put the contracted transmission elements under the BPTAs to such alternate use;

(c) Without prejudice to the prayers above, declare that until the commissioning of Phase II, PGCIL is entitled to recover only the bare maintenance expenses for the transmission elements under the BPTAs built and commissioned exclusively for MEPL (MEL), and to the extent that PGCIL is unable to recover the amount necessary to meet the bare maintenance expenses from third party STA, MTA, and other LTA customers;

(d) Direct PGCIL to reduce the value of the Construction Bank Guarantees held by it in proportion to the capacity of MEPL’s (MEL’s) project which has already been commissioned; and

(e) Quash and set aside PGCIL’s demand for the establishment of a letter of credit (LC) made vide letter dated 01.10.2014 and subsequent communications.”

2. The matter was heard on 13.7.2017 and order was reserved. Subsequently, the Petitioner filed Interlocutory Application (IA) No. 45/2017 seeking amendments to the petition. The Commission while disposing of the IA in its order dated 29.6.2018 held that the amendment sought to be brought out through the I.A. raised separate causes of action for which the Petitioner should approach the Commission through a separate petition. The Commission further observed that after the order was reserved, the coram has changed on account of the demitting of office by ex-Chairperson and directed to list the main petition on 5.7.2018.

3. The Petitioner filed a Petition (Diary No. 328/2018) with the following prayers:

“(a) Hold and declare that Power Grid Corporation of India Limited cannot claim operationalization of the Long-Term Access from 01.10.2018 and 28.03.2018 respectively in view of the facts and circumstances stated in the petition and especially after relinquishment of the Long-Term Access w.e.f. July 2017;

(b) Hold and declare that Power Grid Corporation of India Limited is not entitled to claim transmission charges on the Petitioner in view of the facts and circumstances stated in the petition and especially after relinquishment of the Long Term Access w.e.f. July 2017

(c) Hold and declare the letter dated 30.06.2018 issued by Power Grid Corporation of India Limited (as annexed as Annexure P/10) is illegal to the extent that it accepts relinquishment of Long -Term Access by the Petitioner from 01.06.2018 as opposed to July 2017;

(d) Hold and declare that invoices raised by Power Grid Corporation of India Limited dated 07.11.2017, 06.11.2017, 05.12.2017, 05.01.2018, 08.02.2018, 06.03.2018, 06.04.2018, 05.06.2018, 10.01.2018, 15.03.2018, 01.05.2018, and 13.06.2018 including invoices raised subsequently to filing of the present Petition by Power Grid Corporation of India Limited are illegal and non-est in law; and

(e) Quash the invoices raised Power Grid Corporation of India Limited by dated 07.11.2017, 06.11.2017, 05.12.2017, 05.01.2018, 08.02.2018, 06.03.2018, 06.04.2018, 05.06.2018, 10.01.2018, 15.03.2018, and 01.05.2018.”

4. The Petition No. 312/MP/2015 was heard on 19.7.2018. During the course of hearing, learned counsel for the Petitioner requested the Commission to list the Petition No. 312/MP/2015 and Petition (Diary No. 328/2018) together. The Commission vide Record of Proceedings for the hearing dated 19.7.2018 suggested the Petitioner to withdraw both the petitions and to file a consolidated petition involving all the claims of the Petitioner. Learned counsel for the Petitioner sought time to seek instructions in the matter.

5. The Petitioner has filed the Petition No. 296/MP/2018 on 4.10.2018 with the following prayers:

“(a) Hold and declare that the events set out in paragraphs above and submission made there under constitute force majeure events under Clause 9.0 of the Long-Term Access Agreement signed and executed between the Petitioner and Power Grid Corporation of India Limited;

(b) Hold and declare that Power Grid Corporation of India Limited cannot claim operationalization of the Long-Term Access from 01.10.2017 and 28.03.2018 respectively in view of the facts and circumstances stated in the petition and especially after relinquishment of the Long-Term Access w.e.f. July 2017;

(c) Hold and declare that Power Grid Corporation of India Limited is not entitled to claim transmission charges on the Petitioner in view of the facts and circumstances stated in the petition and especially after relinquishment of the Long – Term Access w.e.f. July 2017;

(d) Hold and declare that Power Grid Corporation of India Limited is not entitled to seek opening of Letter of Credit in its favour by the Petitioner in view of the facts and circumstances stated in the petition and especially after relinquishment of the Long – Term Access w.e.f. July 2017;

(e) Hold and declare the letter dated 30.08.2018 issued by Power Grid Corporation of India Limited is illegal to the extent that it accepts relinquishment of Long -Term Access by the Petitioner from 01.06.2018 as opposed to July 2017;

(f) Hold and declare that invoices raised by Power Grid Corporation of India Limited dated 07.11.2017, 06.11.2017, 05.12.2017, 05.01.2018, 08.02.2018, 06.03.2018, 06.04.2018, 05.06.2018, 10.01.2018, 15.03.2018, 01.05.2018, and 13.06.2018 including invoices raised subsequently to filing of the present Petition by Power Grid Corporation of India Limited are illegal and non-est in law; and

(g) Quash the invoices raised Power Grid Corporation of India Limited by dated 07.11.2017, 06.11.2017, 05.12.2017, 05.01.2018, 08.02.2018, 06.03.2018, 06.04.2018, 05.06.2018, 10.01.2018, 15.03.2018, and 01.05.2018.

6. In the meanwhile, the Petitioner obtained a stay on the proceedings in Petition No.312/MP/2015 from the Hon'ble High Court of Hyderabad. The said order was challenged by PGCIL in the Supreme Court in SLP (Civil) Dy. No.33061/2018. Hon'ble Supreme Court vide order dated 1.10.2018 issued the following directions:

“Issue Notice returnable within four weeks.

In the meanwhile, there shall be stay of operation of the judgements and orders of the High Court.

The Central Electricity Regulatory Commission (CERC) who has reserved the orders in the petitions filed before it on 13.7.2017, is directed to decide the matters within a period of four weeks from today.”

7. Petition No. 312/MP/2015, Petition (Diary No. 328/2018) and Petition No. 296/MP/2018 were listed for hearing on 9.10.2018. During the course of hearing, learned senior counsel for the Petitioner submitted that the Petitioner has filed a Comprehensive Petition (Petition No. 296/MP/2018) involving all the issues and sought permission to withdraw the Petition No. 312/MP/2015 and Petition (Diary

No. 328/2018) and requested to adjust the filing fee paid in Petition (Diary No. 328/2018). Learned counsel for Power Grid Corporation of India Limited (PGCIL) submitted that PGCIL had no objection in this regard.

8. The prayer of the learned senior counsel for the Petitioner is allowed. Accordingly, Petition No. 312/MP/2015 and Petition (Diary No. 328/2018) are disposed of as withdrawn.

9. Notice is issued in Petition No. 296/MP/2018 to the Respondent who shall file its reply by 16.10.2018 and the Petitioner shall file its rejoinder, if any, by 19.10.2018. The Petition shall be listed for final hearing on 23.10.2018.

10. Since Hon'ble Supreme Court has directed to dispose of the matters within four weeks from 1.10.2018, the parties are directed to comply with the specified timeline. No extension of time shall be granted under any circumstances.

Sd/-  
**(Dr. M.K.Iyer)**  
Member

sd/-  
**(P.K.Pujari)**  
Chairperson