

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 100/MP/2018**

- Subject : Petition under Section 79(1)(f) read with Section 79(1)(k) of the Electricity Act, 2003 along with Regulation 68 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking indulgence of the Commission to direct NTPC Vidyut Vyapar Nigam Limited to comply with the order dated 11.10.2017 in Petition No.16/MP/2014 by computing the delay suffered by the Generation Project due to force majeure eventualities and revise the Scheduled Commercial Operation Date for the Generation Project.
- Petitioner : Megha Engineering & Infrastructure Limited (MEIL)
- Respondent : NTPC Vidyut Vyapar Nigam Limited (NVTNL)
- Date of Hearing : 24.9.2019
- Coram : Shri P. K. Pujari, Chairperson  
Dr. M. K. Iyer, Member  
Shri I. S. Jha, Member
- Parties Present : Shri Anand Kumar Srivastava, Advocate, MEIL  
Shri Nishant Talwar, Advocate, MEIL  
Shri T. Ashok Reddy, MEIL  
Shri Venugopal, MEIL  
Ms. Anushree Bardhan, Advocate, NVTNL and PSPCL  
Ms. Tanya Sareen, Advocate, NVTNL and PSPCL  
Shri Nishant Gupta, NVTNL  
Shri Anil Chawla, NVTNL

**Record of Proceedings**

Learned counsel for the Petitioner submitted that the present Petition has been filed for implementation of the Commission's order dated 11.10.2017 in Petition No. 16/MP/2014, wherein the Commission has held the incident of drought as a force majeure event in terms of the PPA and has allowed the extension of Scheduled Commercial Operation Date (SCOD) of the Project for the period during which drought persisted with direction to the Respondent, NVTNL to ascertain the duration of drought based on the necessary notification/circular issued by the Government of Andhra Pradesh and to revise the SCOD of the project. Learned counsel further submitted that the Commission vide Record of Proceedings for the hearing dated 7.2.2019 had directed the Petitioner to amend the Petition and place on record all the four notifications regarding drought issued by the Government of



Andhra Pradesh as well as to implead the distribution companies as parties to the present Petition. Accordingly, the Petitioner has amended the Petition and has placed on record all the four notifications issued by the Government of Andhra Pradesh.

2. Learned counsel for the Respondents, NTPC Vidyut Vyapar Nigam Limited and Punjab State Power Corporation Limited submitted that the decision of the Commission declaring the drought as force majeure event in terms of the PPA and the extending the SCOD of the Project in Petition No. 16/MP/2014 was only with respect to the notification of the Government of Andhra Pradesh dated 9.1.2013 i.e. for the period of 4 months. The Petitioner cannot seek further extension of SCOD in the present Petition on the basis of notifications dated 2.11.2011, 3.1.2014 and 17.12.2014 which were neither the part of Petition No.16/MP/2014 nor any relief was claimed by the Petitioner against these notifications in Petition No. 16/MP/2014.

3. In its rebuttal, the learned counsel for the Petitioner submitted that other three notifications are similar to notification dated 9.1.2013 declaring drought in the region with respect to various time lines.

4. The Commission observed that since the present Petition has been filed for implementation of direction dated 11.10.2017 in Petition No. 16/MP/2014, no new grounds/documents can be considered in the present Petition. However, the Petitioner may file separate Petition in accordance with law if the other three notifications are of similar nature.

5. Learned counsel for the Respondents sought permission to encash bank guarantees after accounting the extended SCOD as per notification dated 9.1.2013. The Commission directed the Respondent not to encash the performance bank guarantee of the Petitioner till further order. The Petitioner was directed to keep the performance bank guarantee valid accordingly.

6. After hearing the learned counsels for the Petitioner and the Respondents, the Commission reserved order in the Petition.

**By order of the Commission**

**SD/-  
(T.D.Pant)  
Deputy Chief (Law)**

