

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 91/MP/2018 Along with IA Nos. 68/2018 & 72/2018**

Subject : Petition under Section 79(1)(b) read with Section 79(1)(f) and other applicable provisions of the Electricity Act, 2003 seeking adjudication of disputes and differences under the Power Purchase Agreement dated 31.7.2012 as amended on 19.12.2014 and 23.1.2018 in regard to non-payment of tariff and unilateral deduction of the monthly energy bills of the Petitioner by the Respondents.

Date of Hearing : 16.5.2019

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

Petitioner : KSK Mahanadi Power Company Limited (KSKMPCL)

Respondents : Southern Power Distribution Co. of AP Ltd. and Another

Parties present : Ms. Swapna Seshadri, Advocate, KSKMPCL  
Shri Amal Nair, Advocate, KSKMPCL  
Shri S. Vallinayagam, Advocate, AP DISCOMs  
Ms. Amali, Advocate, AP DISCOMs

**Record of Proceedings**

Learned counsel for the AP DISCOMs submitted that the present Petition is barred on the ground of jurisdiction. Learned counsel submitted that the Hon'ble Supreme Court in its order dated 11.4.2017 in the case of Energy Watchdog vs. CERC and others though has expanded the jurisdiction of CERC to even those cases where there is inter-State supply of electricity. This order also clarified at Para 27 that jurisdiction is to be given to the State Commission under Section 64(5) of Electricity Act, 2003 if both parties concerned are agreeable. Learned counsel further submitted that the issue which was before the Hon'ble Supreme Court in the Energy Watchdog case is different from the issue raised in the present Petition by the generator. In the present Petition, issue is related to payment of transmission charges to PGCIL, which is an issue exclusively limited to the dispute between the generator and applicant.

2. Learned counsel for the Petitioner submitted that the Hon'ble Supreme Court order dated 8.4.2019 related to maintaining status quo, does not apply to the present case. Learned counsel submitted that the respondents in the last hearing dated 18.12.2018 had given the commitment to the Petitioner that they will pay the transmission charges in three instalments. However, till date no payment has been made. Learned counsel submitted that Petitioner has filed an IA for impleadment of PGCIL as party to the Petition.

3. Learned counsel for PGCIL submitted that since in the present case, there is bilateral issue, PGCIL is not required to implead as party to the Petition.

4. After hearing the learned counsels for the parties, the Commission directed the Respondents to file their replies on the IA No.68/2018 filed by the Petitioner on or before 7.6.2019, with an advance copy to the Petitioner, who may file its rejoinder, on or before 14.6.2019.

5. The Commission directed the Petitioner to file its reply on the IA No. 72/2018 filed by AP DISCOMs on or before 7.6.2019, with an advance copy to the Petitioner, who may file its rejoinder, on or before 14.6.2019.

6. The Petition, IA No 68/2018 and 72/2018 shall be listed for hearing in due course for which separate notice will be issued.

**By order of the Commission**

**Sd/-  
(T. D Pant)  
Dy. Chief (Law)**