

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.54/MP/2019

Subject : Petition under Section 79(1) (f) of the Electricity Act, 2003 for seeking various reliefs against the Respondents in terms of PPA dated 25.7.2013

Petitioner : TRN Energy Private Limited

Respondents: PTC India Ltd. & ors

Date of hearing : 11.6.2020

Coram: Shri P.K.Pujari, Chairperson
Shri I.S.Jha, Member
Shri Arun Goyal, Member

Parties present: Shri Sourav Roy, Advocate, TRNEPL
Shri Atul Jain, TRNEPL
Shri Sanjay Sen, Senior Advocate, PTC
Shri Ravi Kishore, Advocate, PTC India
Shri H.L.Choudhary, PTC India
Ms. Suparna Srivastava, Advocate, PGCIL
Shri V.Srinivas, PGCIL
Shri Sitesh Mukherjee, Advocate, UPPCL
Shri Abhishek Kumar, Advocate, UPPCL

Record of Proceedings

The matter was taken up for hearing through Video Conferencing

2. At the outset, the learned counsel for the Petitioner referred to the note of arguments and submitted that the coal linkage payment of Rs.64 crore was to be made to SECL on 10.6.2020 and the non-payment of the same had resulted in lapse of more than 4 lakh Tonnes of linkage coal for the months of March, April and May, 2020. The learned counsel while pointing out that the Respondent UPPCL has made payment of Rs.72 crore to the Respondent PTC after 19.2.2020, submitted that Respondent PTC has not credited the said amount to the Petitioner to make payment to SECL. He further submitted that in case payment is not made to SECL by 11.6.2020, both the units of the Petitioner would go under shutdown. The learned counsel prayed that the Commission may direct the Respondent PTC to make payment of the said amount immediately.

3. On a specific query by the Commission to the Respondent PTC as to whether any payment to the Petitioner was outstanding, the learned counsel for the Respondent replied in the negative. The learned counsel for the Petitioner objected to the said



submission and clarified that the total amount outstanding, pursuant to the change in law claims allowed by the Commission vide order dated 12.6.2019 in Petition No. 118/MP/2018 was Rs.534 crore (approx.). He added that the said amount has not been paid by Respondent PTC, despite the Respondent UPPCL making a payment of Rs. 414 crore to the Respondent PTC on this count.

4. On further query by the Commission to the Respondent PTC as to whether any payment in respect of the change in law claims allowed by the Commission was made to the Petitioner, the learned Senior Counsel for the Respondent submitted that it would seek instructions. He however stated that in case any payment has been received by PTC from Respondent UPPCL on this count, PTC shall make payments to the Petitioner. The learned Senior Counsel further submitted that the Respondent may be permitted to file affidavit indicating the details of the payments made to the Petitioner and payments outstanding under the heads, namely (i) the monthly tariff payments (ii) the payment in respect of change in law claims allowed by the Commission and (iii) transmission charges to be reimbursed to Petitioner.

5. The learned counsel for the Respondent PGCIL submitted that the outstanding dues payable by the Petitioner to PGCIL towards transmission charges is Rs. 117 crore, out of which an amount of Rs. 88 crore is outstanding for more than 45 days. She submitted that PGCIL would be forced to resort to 'regulation of power supply' in case the outstanding dues are not paid by the Petitioner. In response, the learned counsel for the Petitioner pointed out to the reply filed by the Respondent PGCIL suggesting direct billing on the Respondent UPPCL to improve the recovery of transmission charges and seeking regulatory intervention in the matter. Accordingly, he submitted that the Commission may consider the said suggestion and pass appropriate directions or grant liberty to parties in this regard. In reply, the learned counsel for the Respondent PGCIL clarified that the payments made directly by UPPCL earlier was only at the instance of the Petitioner. She reiterated that the Petitioner is required to make payment of transmission charges to PGCIL as per BPTA signed by it or obtain an undertaking from Respondent UPPCL that it would make direct payments to Respondent PGCIL on behalf of the Petitioner. Rejecting the submission of the learned counsel of the Petitioner, the Commission observed that the parties may work out any suitable arrangement within the framework of the contract entered into by them.

6. The learned counsel for the Respondent UPPCL submitted that some of the reliefs sought for by the Petitioner in the petition, including the above prayer for direction on the UPPCL to make payment of transmission charges directly to the Respondent PGCIL amounts to re-writing of the contract and cannot be entertained. On a query by the Commission as to whether any payment has been made by UPPCL to Respondent PTC as contended by the Petitioner, the learned counsel for UPPCL prayed for time to seek instructions. The learned counsel further prayed that Respondent UPPCL may be granted liberty to file additional affidavit as regard the prayer of the Petitioner on the applicability of tariff for the first contract year and payments made by them to the respondent PTC after 19.02.2020.



7. The Commission after hearing the parties directed Respondent PTC that any payment due to the Petitioner, including payments received from UPPCL in respect of the Change in law claims allowed by the Commission, shall be made to the Petitioner on or before **18.6.2020**. The Commission also directed the Respondent PTC and Respondent UPPCL to file affidavits as per paras 4 and 6 above by **24.6.2020**, with copy to the Petitioner. The Petitioner shall file its response on or before **1.7.2020**. The Commission directed that due date of filing of affidavits and/or response thereon should be strictly complied with.

8. The Petition shall be listed for hearing in due course for which separate notice will be issued to the parties.

By order of the Commission

Sd/-
(B.Sreekumar)
Dy. Chief (Law)

