

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 558/MP/2020

Subject : Petition seeking approval under Section 17(3) & 17 (4) of the Electricity Act, 2003 for creation of security interest in favour of Security Trustee pursuant to Rupee Term Loan Facility Agreement, and other security creating documents/financing agreements by way of hypothecation/assignment of Project assets of East North Interconnection Company Limited.

Date of Hearing : 11.8.2020

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

Petitioner : East North Interconnection Company Limited (ENICL)

Respondents : Jodhpur Vidyut Vitran Nigam Limited and 19 Ors.

Parties present : Shri Samiron Borkataky, Advocate, ENICL
Ms. Kritika Angirish, Advocate, ENICL
Shri Pushkar Bhavare, Advocate, ENICL
Shri Ventakraman R Inumula, ENICL
Shri Giriraj Ajmera, ENICL
Ms. Harini, Catalyst Trusteeship

Record of Proceedings

The matter was heard through video conferencing.

2. Learned counsel for the Petitioner submitted that the instant Petition has been filed for seeking approval of the Commission under Section 17(3) and 17(4) of the Electricity Act, 2003 for creation of security interest in favour of Security Trustee, Respondent No. 20, Catalyst Trusteeship Limited pursuant to Rupee Term Loan Facility Agreement, and other security creating documents/financing agreements by way of hypothecation/assignment of Project assets of the Petitioner. Learned counsel requested to issue notice to the Respondents.

3. In response to a specific query of the Commission regarding the Petitioner having already executed Loan Facility Agreement and Security Trustee Agreement, learned counsel for the Petitioner submitted that the above Agreements have been executed for creation of security interest subject to the Commission's approval and as per TSA, the Petitioner is required to obtain such approval within 6 months from the date of first drawdown.



4. After hearing the learned counsel for the Petitioner, the Commission admitted the Petition and directed to issue notice to the Respondents.

5. The Commission directed the Petitioner to implead the lender, namely, Axis Bank Limited, as party to the Petition and to file revised memo of parties, by 20.8.2020. The Petitioner was further directed to serve copy of the Petition on the Respondents including Axis Bank Limited immediately, if not already served. The Respondents were directed to file their reply by 25.8.2020 with advance copy to the Petitioner who may file its rejoinder, if any, by 10.9.2020.

6. The Commission further directed the Petitioner to provide the following details/information, on affidavit, by 20.8.2020:

(a) Reconciliation statement mentioning bifurcation of collective outstanding of prior loan (Rs. 789.19 crore) stated under "Utilisation of Axis Bank Loan" as enumerated in Para 12 of the Petition along with all other head-wise utilization of the amount stated therein (i.e, under para 12 referred above), in reconciliation with, Annexure 5(i) and 5 (iii) of the prescribed format (Annexure 8) submitted in the instant Petition and the revised prescribed format submitted on 22.7.2020, explaining the reasons for difference between the statements mentioned above; and

(b) Note 3 to Annexure 4 and asterisk mark (*) below the table 1 of Annexure 5 to the prescribed format (Annexure 8) submitted in the instant petition and the revised format dated 22.7.2020 states that 'no security was created in favour of Kotak Mahindra Bank Limited (KMBL)' and 'Kotak loan was unsecured' respectively. However, Schedule II to the loan agreement executed with KMBL (Terms and conditions of the loan) enumerates the details of the secured assets. Explain the reason for treating the loan as unsecured along with necessary supporting documents.

7. The due date of filing of reply, rejoinder and information should be strictly complied with.

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

By order of the Commission

Sd/-

(T.D. Pant)

Deputy Chief (Law)

