

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 127/MP/2016  
along with I.A. No. 2/2017**

- Subject : Petition under Section 79 of the Electricity Act, 2003 for adjudication of the matter between the parties in relation to non-release of Bank Guarantee furnished with respect to Long Term Open access granted to the petitioner.
- Date of hearing : 19.1.2017
- Coram : Shri A.K. Singhal, Member  
Shri A.S. Bakshi, Member  
Dr. M.K. Iyer, Member
- Petitioner : Ind Barath Energy (Utkal) Ltd. (IBEUL).
- Respondent : Power Grid Corporation of India Limited.
- Parties present : Shri Sanjay Bajaj, Advocate, IBEUL  
Ms. Rigasha Takkar, Advocate, IBEUL  
Shri M. G. Ramachandran, Advocate, PGCIL  
Ms. Anushka Bardhan, Advocate, PGCIL  
Ms. Poorva Saigal, Advocate, PGCIL  
Shri Swapnil Verma, PGCIL  
Shri A.M. Pavgi, PGCIL  
Ms. Jayantika Singh, ERLDC

**Record of Proceedings**

Learned counsel appearing on behalf of PGCIL submitted that PGCIL has filed an Interlocutory Application under Sections 79(1) (c) and 142 of the Electricity Act, 2003. Learned counsel further submitted as under:

- (a) Despite the Commission`s direction dated 15.9.2016 and 15.11.2016, the petitioner has so far not opened Letter of Credit.
- (b) As on date, Rs. 48.74 crore is outstanding against the petitioner towards payment of transmission and related charges under the LTA and TSA and additionally an amount of Rs. 0.73 crore towards the delayed payment surcharge.

(c) The bank guarantee furnished by the petitioner is liable to be encashed without prejudice to the right of PGCIL to recover the outstanding amount.

(d) The petitioner has willfully disobeyed the directions given by the Commission to open Letter of credit to secure the payments becoming due to PGCIL.

2. Learned counsel for the petitioner submitted that due to shortage of funds, the petitioner could not open LC for remaining 116 MW. However, since, the petitioner has signed Corrective Action Plan with the lenders, it is in a position to comply with the directions of the Commission and requested for time to open the LC. Learned counsel further submitted that the petitioner has already completed its dedicated transmission line in terms of LTA.

3. After hearing the learned counsels for the petitioner and PGCIL, the Commission directed PGCIL to serve copy of the IA to the petitioner. The petitioner was directed to file its reply on or before 10.2.2017 with an advance copy to PGCIL who may file its rejoinder, if any by 23.2.2017.

4. The Commission directed the petitioner to open the Letter of Credit for the entire quantum and to pay balance outstanding amount to PGCIL by 15.3.2017. The Commission further directed that CTU shall release the bank guarantee only after the LTA is operationalized.

5. The petition and IA shall be listed for hearing on 23.3.2017.

**By order of the Commission**

**Sd/-**

**(T. Rout)**

**Chief (Legal)**