

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 13/SM/2017

Subject : Abolition of Clean Energy Cess and Introduction of Goods and Service Tax Compensation cess.

Date of hearing : **21.12.2017**

Coram : Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member

Respondents : GMR-Kamalanga Energy Limited & Others

Parties present : Shri Yashaswi Kant, Advocate, Sasan Power Ltd
Shr Janmali Manikala, Advocate, Sasan Power Ltd
Shri Vishrov Mukerjee, Advocate, Sasan Power Ltd
Shri Abhishek Munor, Advocate, CGPL
Shri Tushar Nagar, Advocate, CGPL
Shri Pratyush Pandey, Advocate, TPDDL
Ms. Ranjitha Ramachandran, Advocate, GUVNL & Haryana discoms
Ms. Nayantara Pandey, Advocate, GKEL & GWEL
Shri Nishant Kumar, Advocate, BALCO & ACB
Shri Matrugupta Mishra, Advocate, BALCO & ACB
Shri Md. Zeyauddin, BALCO
Shri Raunak Jain, TPDDL
Shri Vishvendra Tomar, TPDDL
Shri Alok Shankar, Advocate, GKEL & GWEL
Ms. Swapna Sheshadri, Advocate, PSPCL
Ms. Neha Garg, Advocate, PSPCL
Ms. Rhea Luthra, Advocate, PSPCL
Shri Aashish Anand Bernad, Advocate, PTC India
Shri Paramhans, Advocate, PTC India
Shri Puneet Munjal, Tata Power
Shri Pankaj Prakash, Tata Power
Shri Deep Rao, NER Transmission & 6 ors
Shri Chetan Sharma, Sterlite Power

Record of Proceedings

During the hearing, the learned counsel appearing for GUVNL & Haryana discoms submitted that the discoms are procuring power from generators namely, GMR-Kamalanga Energy Ltd (GKEL), Adani Power Ltd (APL), Sasan Power Ltd (SPL) and Coastal Gujarat Power Ltd (CGPL). She however pointed out that while GKEL, SPL and CGPL have filed their submissions in the matter, no submissions have been made by APL. The learned counsel while stating that it is incumbent on the generators to place before the Commission the details regarding the impact of GST and other statutory



levies imposed by the Central Govt. with effect from 1.7.2017, however proposed that the generating companies may be directed to file a tabulated statement, on affidavit, containing details of the various taxes and duties existing as on cut-off date, as on 30.6.2017, as on 1.7.2017 and changes if any, since 1.7.2017. She also submitted that the generators may be directed to confirm that other than the taxes claimed under change in law, there is no other implication of the levy of Goods and Services Tax i.e. no other taxes have been abolished or reduced or subsumed.

2. The learned counsels appearing for the generators GKEL, SPL and CGPL accepted the suggestion of the learned counsel as regards the filing of a tabulated statement of the claims made under change in law. They however pointed out that there has been increase in the cost/expenditure incurred by the generators due to payment of GST compensation Cess @ Rs 400/MT on coal and lignite under the GST Compensation Act with effect from 1.7.2017 and hence prayed that the Commission may consider the grant of relief on this count, pending final disposal of the matter.

3. The Commission observed that in order to examine the claims made by the parties and to take a holistic view in the matter, all relevant data/information is required in a composite manner. Accordingly, the Commission directed that the generating companies, whose claims under change in law had already been allowed and /or pending for consideration, shall file their claims, on affidavit, as per the enclosed format, on or before 2.1.2018, with advance copy to the respondent discoms. The respondent discoms may file their responses by 9.1.2018. The generating companies are also directed to confirm that apart from the taxes claimed under change in law, there is no other implication of the levy of Goods and Services Tax i.e. no other taxes have been abolished or reduced or subsumed.

4. The learned counsel appearing for some of the transmission licensees submitted that he has filed interlocutory applications praying for a declaration that the enactment of the GST constitutes a Change in Law event under Article 12 of the Transmission Services Agreement in respect of transmission projects awarded through tariff based competitive bidding and thereby seeking intervention in these proceedings. The Commission however observed that the applications seeking reliefs under change in law in respect of such transmission projects would be considered through separate proceedings to be initiated by the Commission. Accordingly, the request of the learned counsel for intervention in these proceedings was not acceded to.

5. The Petitions pertaining to generation projects shall be listed for hearing on **16.1.2018**.

By order of the Commission

**-Sd/-
(T. Rout)
Chief (Law)**



Annexure

Sl No.	Nature of taxes/duties	As on the respective cut-off date	Changes in taxes/duties from cut-off date till 30.6.2017 (Pre-GST)	Rate of taxes/duties as on 1.7.2017 (GST)	Changes if any, in taxes/duties since 1.7.2017	Remarks if any
1						
2						
3						

