

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No.264/MP/2018
Alongwith I.A. No.66/2018**

Subject : Petition under Section 79 (1)(c), 79(1)(b) and 79(1)(f) and other applicable provisions of the Electricity Act, 2003 against the Respondent No.1 challenging the notice dated 1.8.2018 for termination of the Transmission Services Agreement executed with the Petitioner.

Date of Hearing : 30.8.2018

Coram : Shri P.K. Pujari, Chairperson
Shri A.K. Singhal, Member
Dr. M.K. Iyer, Member

Petitioner : KSK Mahanadi Power Company Limited (KSKMPCL)

Respondents : Power Grid Corporation of India Limited and Others

Parties present : Shri Gopal Jain, Senior Advocate, KSKMPCL
Shri Anand K. Ganeshan, Advocate, KSKMPCL
Shri Ashwin Ramanathan, Advocate, KSKMPCL
Shri N. Ramakrishnan, KSKMPCL
Ms. Suparna Srivastava, Advocate, PGCIL
Shri J. Mazumder, PGCIL
Shri K. K. Jain, PGCIL
Shri Rajiv Srivastava, Advocate, UPPCL
Ms. Garima Srivastava, Advocate, UPPCL
Ms. Gargi Srivastava, Advocate, UPPCL

Record of Proceedings

Learned senior counsel for the Petitioner submitted that the present petition has been filed challenging the termination notice dated 1.8.2018 issued by PGCIL for the termination of the Transmission Services Agreement (TSA) dated 5.12.2012 on account of non-opening of LC. Referring to the affidavit dated 29.8.2018, learned senior counsel submitted that the Petitioner has deposited cash of Rs. 22 crore with PGCIL towards the payment security mechanism and shall furnish the payment security mechanism for the entire capacity of 1900 MW amounting to Rs. 108 crore by September, 2018. Learned senior counsel for the Petitioner submitted that the Petitioner has filed an IA for seeking stay on the notice dated 1.8.2018 regarding termination of the TSA which may be granted.

2. Learned counsel for PGCIL submitted that the Petitioner vide its letter dated 17.8.2018 approached PGCIL with a commitment to make payment of outstanding dues of Rs. 53 crore in the first week of September, 2018 and Rs. 68 crore (becoming due on 5.9.2018) in the first week of October, 2018. Learned counsel submitted that PGCIL agreed to put the regulation of power supply on hold on account of the commitment of



KSK Mahanadi to make a payment of Rs. 53 crore by 5.9.2018 which is subject to commitment of requisite LC as payment security mechanism before 31.8.2018. Learned counsel submitted that unless the payment security mechanism for Rs. 108 crore is put in place, PGCIL would be constrained to terminate the TSA. Learned counsel further submitted that the Petitioner be asked to submit on affidavit the complete outstanding dues which are outstanding for less than 60 days and the payment plan therefor.

3. After hearing the learned senior counsel for the Petitioner and learned counsel for PGCIL, the Commission admitted the petition and directed to issue notices to the respondents. The Commission directed the respondents to file their replies, by 12.9.2018, with an advance copy to the Petitioner, who may file its rejoinder, if any, by 19.9.2018. The Commission directed that due date of filing the replies and rejoinders should be strictly complied with. No extension shall be granted on that account.

4. As regards the interim relief, the Commission directed the Petitioner to open the LC as payment security mechanism. The Commission allowed the Petitioner on its request to deposit cash amount of Rs. 108 crore, if the Petitioner fails to open the LC on or before 20.9.2018. The Commission further directed that the cash amount will not carry any interest as it has been allowed on the request of the Petitioner due to difficulty of opening of LC. The Commission directed PGCIL not to take any coercive measure in terms of the notice dated 1.8.2018 till the next date of hearing. Accordingly, the Commission disposed of the IA No. 66/2018.

5. The Commission further directed the Petitioner to submit on affidavit by 18.9.2018 the details of complete outstanding dues (which are outstanding for either more than or less than 60 days) and its plan for payment.

6. 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/-
(T. Rout)
Chief (Law)**