

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 297/MP/2018

Subject : Petition under Sections 63 and 79 (1) (f) read with Section 79 (1) (c) of the Electricity Act, 2003 seeking compensatory and declaratory relief under the Transmission Services Agreement dated 7.12.2010 on account of certain Change in Law events *inter alia* pursuant to the liberty granted by the Commission vide order in Petition No. 216/MP/2016 dated 25.6.2018

Date of Hearing : 12.12.2018

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

Petitioner : Bhopal Dhule Transmission Company Limited

Respondents : Chhattisgarh State Power Trading Company Limited and Others

Parties present : Shri Jafar Alam, Advocate, BDTCL
Shri Deep Rao, Advocate, BDTCL
Shri Divyanshu Bhatt, Advocate, BDTCL
Ms. Suparna Srivastava, Advocate, PGCIL
Shri Tushar Mathur, Advocate, PGCIL
Shri Tan Reddy, BDTCL
Ms. Anisha Chopra, BDTCL

Record of Proceedings

Learned counsel for the Petitioner submitted that the present petition has been filed seeking compensation for certain Change in Law events *inter alia* pursuant to the liberty granted by the Commission in its order dated 25.6.2018 in Petition No. 216/MP/2016. Learned counsel for the Petitioner further submitted that as per the Commission's order, the Petitioner has submitted clarifications/ documents sought by the Commission at Para 38 of above order dated 25.6.2018.

2. Learned counsel for PGCIL submitted that the Petitioner is pursuing the same matter in two forums which is not permissible as per law. Learned counsel further submitted that the Petitioner has filed an appeal before the APTEL in respect of the matter in question. Whereas, in the instant petition, the Petitioner has undertaken to withdraw the appeal if the Commission grants the relief sought in the present petition. Learned counsel further submitted that the appeal filed by the Petitioner before APTEL has been heard partly and requested the Commission to keep the instant petition in abeyance till decision in the appeal.

3. In response, learned counsel for the Petitioner submitted that the appeal filed by the Petitioner before the APTEL and the instant petition are distinct and severable matters pertaining to the same parties with different cause of action. Learned counsel submitted that the Petitioner has filed an appeal before the APTEL challenging the Commission's order dated 20.9.2017 in Petition No. 227/TT/2014 wherein the Petitioner was directed to bear transmission charges of PGCIL's transmission assets from their respective commercial operation dates till the commissioning of the Petitioner's transmission elements. The Petitioner has prayed before the APTEL that it is not liable to bear such transmission charges. However, the present petition has been filed in pursuance to the liberty granted by the Commission vide order dated 25.6.2018 in Petition No. 216/MP/2016 regarding additional expenditure incurred by the Petitioner towards IDC on loans during the extended construction period since the Change in Law events allowed under the said petition has burdened the Petitioner with *inter alia* an additional IDC liability.

4. Learned counsel for the Petitioner sought permission to withdraw clause (c) from the prayer of the present Petition with liberty to plead it later.

5. The Commission accepted the request of the Petitioner and accordingly, prayer (c) stands withdrawn.

6. The Commission admitted the Petition and directed to issue notice to the Respondents. The Commission directed the Petitioner to serve copy of the Petition on the respondents, if not served already. The Respondents were directed to file their replies, by 28.12.2018, with an advance copy to the Petitioner, who may file its rejoinder, if any, by 16.1.2019. The Commission directed that due date of filing the reply and rejoinder should be strictly complied with. No extension shall be granted on that account.

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

By order of the Commission

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