

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 55/MP/2015

Subject : Petition for relinquishment of the Long-term Open Access under the Bulk Power Transmission Agreement dated 13.5.2010 under the Regulation 18 read with Regulation 32 of the Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009.

Petitioner : Jindal India Thermal Power Limited (JITPL)

Respondents : Power Grid Corporation of India Limited (PGCIL) and Ors.

Date of Hearing : 21.1.2020

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

Parties present : Shri Matrugupta Mishra, Advocate, JITPL
Ms. Shikha Ohri, Advocate, JITPL
Ms. Pratiksha Chaturvedi, Advocate, JITPL
Ms. Suparna Srivastava, Advocate, PGCIL
Mr. Tushar Mathur, Advocate for PGCIL
Shri Swapnil Verma, PGCIL
Shri Dwaipayan Sen, PGCIL

Record of Proceedings

Learned counsel for the Petitioner submitted that pursuant to the liberty granted by the Commission vide Record of Proceedings dated 17.12.2019, the Petitioner has filed the additional written submissions on 24.12.2019 and requested to consider the same.

2. Learned counsel for PGCIL submitted that the matter has already been argued in detail. Learned counsel further submitted that the primary contentions of the Petitioners in the batch matters that the Clause 9 (force majeure clause) of the BPTA cuts across the entire BPTA including Clause 5 of the BPTA and that BPTA being a statutory contract, there is no need to rely upon the Regulation 18 of Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009, have also been raised by the Petitioners before the APTEL in the appeals filed against Commission's order dated 8.3.2019 in Petition No. 92/MP/2015. Learned counsel further submitted Petitioners have to choose to raise these issues either before the APTEL or this Commission and cannot be allowed to agitate the same issues before

both the forums.

3. In rebuttal, learned counsel for the Petitioner submitted since the questions of law involved in the instant case before the Commission and in the appeal before APTEL are same, the Petitioner is entitled to take same legal stand before both the forums. Learned counsel submitted that the arguments/submissions of the Petitioners in the batch matter were that the earlier view taken by the Commission is required to be revisited in the light of the written submissions/arguments advanced by the Petitioners therein.

4. After hearing the learned counsels for the parties, the Commission reserved order in the matter.

By order of the Commission

**Sd/-
(T.D. Pant)
Deputy Chief (Law)**