

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 55/MP/2021**

Subject : Petition under Section 79 of the Electricity Act, 2003 for execution of the order dated 15.1.2020 passed by this Commission in Petition No. 63/MP/2019 and initiation of proceedings/appropriate action under Section 142 read with Section 149 of the Electricity Act, 2003 and Regulation 111 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 against the Respondents for non-compliance of the order dated 15.1.2020 passed by the Commission in Petition No.63/MP/2019.

Date of Hearing : 21.5.2021

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

Petitioner : DB Power Limited (DBPL)

Respondents : Rajasthan Urja Vikas Nigam Limited (RUVNL) and 10 Ors.

Parties Present : Shri Deepak Khurana, Advocate, DBPL  
Shri Ravi Kishore, Advocate, PTC  
Shri Anand K. Ganesan, Advocate, RUVNL  
Ms. Swapna Seshadri, Advocate, RUVNL  
Shri Ashwin Ramanathan, Advocate, RUVNL

**Record of Proceedings**

Case was called out for virtual hearing.

2. Learned counsel for the Petitioner submitted that the present Petition has been filed, *inter alia*, seeking direction to the Respondents to comply with the Commission's order dated 15.1.2020 in Petition No. 63/MP/2019 and to forthwith pay the outstanding aggregate principal amount of Rs.230.58 crore to the Petitioner along with Late Payment Surcharge thereon as provided in the Power Purchase Agreements. Learned counsel mainly submitted the following:

(a) Vide order dated 15.1.2020 in Petition No. 63/MP/2019, the Commission had directed the Petitioner to calculate and claim the compensation for 61 MW for the period from 30.1.2016 to 31.7.2018 after offsetting the capacity charges, if any, earned on the said capacity during the relevant period. Accordingly, in terms of the said order, the Petitioner had raised the invoice dated 16.1.2020 for Rs. 230,58,89,377.20/- towards capacity charge for 61 MW for the period from 30.11.2016 to 31.7.2018.

(b) In response, the Respondents 1 to 4, vide their combined letter dated 3.2.2020, while agreeing to process the claims, had requested the Petitioner to submit its invoice discoms-wise along with all relevant documents in terms of capacity of 61 MW for period from 30.11.2016 to 31.7.2018 after offsetting the capacity charges, if any, earned on the said capacity during the relevant period.

(c) The Petitioner vide its letter dated 17.11.2020 while submitting all the relevant details reiterated its claim of Rs. 230,58,89,377.20/- and requested the Respondents to pay the said amount. It was also confirmed by the Petitioner that it had not earned any capacity charges on the said capacity during the relevant period.

(d) However, the Respondents have neither replied to the Petitioner's above letter nor have paid any outstanding amount due and payable to the Petitioner in terms of the Commission's order dated 15.1.2020.

(e) Since the Petitioner is already under severe financial stress, it has also prayed for an interim order directing the Respondents to forthwith pay the principal amount.

3. Learned counsel for the Respondent No. 1, RUVNL accepted the notice and submitted that the Commission's order dated 15.1.2020 in Petition No. 63/MP/2020 has been challenged by the Respondent in the Appellate Tribunal for Electricity ('APTEL') in Appeal No. 68/2020 and along with an application for seeking the stay thereon. However, when its application for stay was pressed by the Respondent, it was decided by the APTEL that the application will be taken up along with the pending appeals including an appeal filed by the Petitioner and that subsequently on three different occasions, the parties have moved applications for the urgent hearing of the appeals.

4. In response, the learned counsel for the Petitioner submitted that there is no stay granted by APTEL on the Commission's order dated 15.1.2020 and that it is a well settled principle that mere pendency of appeal does not operate as stay of the order.

5. After hearing the learned counsels for the Petitioner and the Respondent, RUVNL, the Commission ordered as:

- a) Admit. Issue notice to the Respondents.
- b) The Petitioner to serve copy of the Petition on the Respondents immediately, if not already served and the Respondents to file their reply, if any, by 25.6.2021, after serving to the Petitioner, who may file its rejoinder, if any, by 12.7.2021.
- c) Parties to comply with above directions within the specified timeline and no extension of time shall be granted.

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

**By order of the Commission**

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