

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 621/MP/2020

Subject : Petition under Section 79(1)(b) read with Section 79(1)(f) of the Electricity Act, 2003 and Article 8.3 of the Power Purchase Agreement dated 27.11.2013 between GMR Energy Trading Limited and TANGEDCO read with Power Purchase Agreement dated 3.5.2014 between GMR Energy Trading Limited and GMR Warora Energy Limited (as back-to-back arrangement for supply of power) for recovery of Late Payment Surcharge on account of delay in payment of Monthly Bills and Supplementary Bills (transmission charges) raised by GWEL on TANGEDCO.

Date of Hearing : 20.4.2021

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

Petitioner : GMR Warora Energy Limited (GWEL)

Respondent : Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO)

Parties Present : Shri Vishrov Mukherjee, Advocate, GWEL
Shri Yashaswi Kant, Advocate, GWEL

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 Respondent, TANGEDCO to pay the outstanding Late Payment Surcharge ('LPS') of Rs. 77.78 crore for the period from 1.4.2018 to 30.6.2020 for delay in payment of monthly bills and supplementary bills (transmission charges). Learned counsel further submitted that there cannot be any dispute regarding TANGEDCO's liability to pay LPS as per the provisions of the agreement in case of delay in payment of monthly and supplementary bills and that TANGEDCO itself has admitted its failure to pay the monthly and supplementary bills of the Petitioner in its affidavit filed before the Appellate Tribunal for Electricity ('the APTEL') in Appeal No. 289 of 2018.

3. In response to the specific query of the Commission regarding LPS being the direct off-shoot of the principal amount of monthly and supplementary bills as already under consideration before the APTEL, learned counsel submitted that the proceedings before the APTEL in Appeal No. 289 of 2018, filed by TANGEDCO, pertain to the change in law claims allowed by the Commission in its order dated 16.3.2018 in Petition No. 1/MP/2017. The Petitioner had filed IAs in the said Appeal seeking direction to TANGEDCO for making payment which are limited to the outstanding principal amount of supplementary bills and not to the LPS on the

monthly bills and supplementary bills. It was further submitted that as non-payment of LPS is a separate cause of action, the Petitioner is entitled to raise it separately before the court of first instance i.e. this Commission. These proceedings are not an off-shoot of the APTEL proceedings.

4. After hearing the learned counsel for the Petitioner, the Commission reserved the order on the admissibility of the matter.

By order of the Commission

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