

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 116/MP/2019**

Subject : Petition for resolution of disputes regarding payment of capacity charges for the allocated capacity for Muzzafarpur Thermal Power Station (MTPS) Stage II (390 MW)

Petitioner : Kanti Bijlee Utpadan Nigam Limited

Respondents : Jharkhand Bijli Vitran Nigam Limited & 4 ors.

Date of Hearing : 20.5.2022

Coram : Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri Pravas Kumar Singh, Member

Parties Present: Ms. Swapna Seshadri, Advocate, KBUNL  
Shri Anand K Ganesan, Advocate, KBUNL  
Ms. Ritu Apurva, Advocate, KBUNL  
Shri Jai Dhanani, Advocate, KBUNL  
Shri Arijit Maitra, Advocate, GRIDCO  
Shri Venkatesh, Advocate, DVC  
Shri Ashutosh Kumar Srivastava, Advocate, DVC  
Shri Nihil Bharadwaj, Advocate, DVC  
Shri Mahoranjhan Sahoo, Advocate, DVC

**RECORD OF PROCEEDINGS**

The case was called out for virtual hearing.

2. At the outset, the learned counsel for the Respondent GRIDCO prayed that the hearing of the matter may be deferred, as the settlement talks between the Respondent and the Petitioner were held on 18<sup>th</sup> and 19<sup>th</sup> of May, 2022 and are at an advanced stage. He also submitted that since the talks are continuing between the officials of both the parties, at the highest level, an early solution in the matter was expected at the earliest. The learned counsel further submitted that, based on the request of the Respondent, the MOP, GOI vide its letter dated 28.3.2022, had re-allocated the quantum of power allocated to the Respondent, to the State of Tamil Nadu.

3. On specific query by the Commission as to why the matter could not be settled within the time frame of four weeks already sought by the Respondent (vide hearing dated 22.2.2022) and that the deferment is sought at such a belated stage, the learned counsel for the Respondent GRIDCO pointed out that the parties involved in the settlement talks are Government companies, which require Board approvals. He further submitted that the Commission as a last chance may defer the matter, for



four weeks, since most of the issues have been sorted out by the parties, and solution is expected soon.

4. On further query by the Commission regarding the steps taken by the Respondent for an amicable settlement, pursuant to the hearing dated 22.2.2002, with chronology of events, the learned counsel for the Respondent GRIDCO clarified that the officials of both the parties were frequently in discussions on the subject matter, even prior to the settlement talks between the parties on 18<sup>th</sup> and 19<sup>th</sup> May, 2022. However, the learned counsel for the Petitioner while confirming that the settlement talks between the parties had taken place on 18<sup>th</sup> and 19<sup>th</sup> May, 2022, also clarified that no meetings /discussions have taken place between the parties, prior to the said date.

5. The learned counsel for the Petitioner suggested that since pleadings are complete, the Commission, may, reserve its order in the matter, after granting some time to the Respondent GRIDCO to report on the final outcome of the settlement talks. In response, the learned counsel for the Respondent GRIDCO reiterated that in terms of Section 89 of the Civil Procedure Code, 1908, the Commission may defer the matter, when there exists an element of settlement between the parties. He further submitted that since the 'coram' hearing the matter is different from the coram which reserved orders earlier, the same, may be re-heard on merits.

6. The learned counsel for the Respondent, DVC submitted that since SLDC, Bihar was not communicating any declared capacity to the Respondent on a day-ahead basis, the Respondent cannot be held liable to pay capacity charges. He further submitted that the since the Respondent is not a party in the settlement talks, the Commission, may decide the matter, based on the submissions and documents on record.

7. The Commission, after hearing the parties, adjourned the hearing of the matter. At the request of the Respondent GRIDCO, the Commission granted four weeks' time to the Respondent GRIDCO to report on the final outcome of the settlement talks being held between the Respondent and the Petitioner, and to apprise to the Commission the progress of the settlement talks, after two weeks. No further extension of time shall be granted for any reason. In case no settlement has been arrived at, within the said period of four weeks, the matter shall be considered and disposed of, on merits, in terms of the submissions of the parties.

**By order of the Commission**

**Sd/-**  
(B. Sreekumar)  
Joint Chief (Law)

