

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 132/MP/2019**

Subject : Petition Section 79(1)(f) of the Electricity Act, 2003 read with Clause 7.0 of the Bulk Power Purchase Agreement executed between Indian Railways and Bhartiya Rail Bijlee Company Limited dated 16.12.2010 seeking relief on account of Force Majeure events being suffered by the Indian Railways.

Date of Hearing : 28.6.2022

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

Petitioner : Indian Railways (IR)

Respondents : Bhartiya Rail Bijlee Company Limited (BRBCL) and 2 Ors.

Parties Present : Shri Deep Rao, Advocate, IR  
Ms. Harneet Kaur, Advocate, IR  
Shri Arjun Agarwal, Advocate, IR  
Ms. Swapna Seshadri, Advocate, BRBCL  
Shri Anand Ganesan, Advocate, BRBCL  
Ms. Ritu Apurva, Advocate, BRBCL  
Shri Jai Dhanani, Advocate, BRBCL  
Shri Abhinav Mishra, Advocate, Bihar Discoms  
Ms. Jagriti Doshi, Advocate, Bihar Discoms

**Record of Proceedings**

Case was called out for virtual hearing.

2. At the outset, learned counsel for the Petitioner prayed for three weeks' time to file an additional affidavit to place on record the subsequent developments. Learned counsel, elaborating such events, submitted that at the time of filing of the Petition certain force majeure events including delay in issuance of No Objection Certificate (NOC) by the various State Transmission Utilities were ongoing which prevented the Petitioner from off-taking and consuming the power from the Respondent No.1's Project. However, subsequently such events have come to end as the Petitioner had re-allocated such power to the other States where there was no issue of NOC or the Petitioner was already having the NOC and as such force majeure claims of the Petitioner have now crystallised.

3. Learned counsel for the Respondent No.1 submitted that in view of the subsequent developments, it would be appropriate for the Petitioner to withdraw the present Petition and to file a fresh Petition on the subject matter. Learned counsel suggested that alternatively, the Petitioner may be directed to file an application seeking amendment to the Petition so as to incorporate such subsequent developments and to appropriately mould its prayers.

4. In response, learned counsel for the Petitioner opposed the suggestions made by the learned counsel for the Respondent No.1 and submitted that the Petitioner does not wish to file a fresh Petition by withdrawing the present Petition. Learned counsel further added that the Petitioner also is not willing to change the prayers made in the present Petition and only seeks to place on record the subsequent developments by way of an additional affidavit.

5. Learned counsel for the Respondents 2 & 3 submitted that vide Record of Proceedings for the hearing dated 21.3.2022, the Commission had allowed the Respondents to file an additional affidavit. However, the Respondents do not wish to file additional affidavit.

6 After hearing the learned counsel for the parties, the Commission permitted the Petitioner to file additional affidavit to place on record the subsequent developments within two weeks as last opportunity. The Respondents are directed to file their submissions thereon, if any, within two weeks thereafter.

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.D. Pant)  
Joint Chief (Law)**