

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 187/MP/2021

Subject : Petition under Section 94(1)(g) of the Electricity Act, 2003 read with Regulation 76 and 77 of the CERC (Terms and Conditions of Tariff) Regulations, 2019 and read with Regulation 111, 112 and 113 of the CERC (Conduct of Business) Regulations, 1999 seeking directions from the Commission to Respondent IPP's for providing rebate in fixed charges, interest free deferment of capacity charges and reduced late payment surcharge on account of Covid-19 pandemic in view of the Ministry of Power Notification dated 15.5.2020/ 16.5.2020.

Date of Hearing : **26.5.2022**

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

Petitioner : Maharashtra State Electricity Distribution Company Ltd.

Respondents : GMR Warora Energy Ltd & Coastal Gujarat Power Ltd.

Parties present : Shri Ravi Prakash, Advocate, MSEDCL
Shri Rahul Sinha, Advocate, MSEDCL
Shri Sahil Sood, Advocate, MSEDCL
Shri Vishrov Mukerjee, Advocate, GMRWEL
Shri Yashaswi Kant, Advocate, GMRWEL
Shri Juhi Senguttuvan, Advocate, GMRWEL

Record of Proceedings

Case was called out for virtual hearing 'on admission'.

2. During the hearing, the learned counsel for the Petitioner submitted that it has sought directions on the Respondent IPPs to provide rebate and interest-free deferment of capacity charges, in line with the directives of the Ministry of Power, GOI directives dated 15.5.2020 and 16.5.2020, on account of COVID-19. He also pointed out that this Commission in its order dated 3.4.2020 in Petition No. 06/SM/2020 had directed the distribution licensees to make payment with LPS at the reduced rate of 12% per annum, in case of any delayed payment to the generating companies and inter-State Transmission licensees beyond 45 days from the date of the presentation of the bills falling between 24.03.2020 and 30.06.2020. The learned counsel submitted that rather than enforcement of its legal rights, the prayer is to request the Respondents for grant of rebate and deferment of capacity charges including reduced LPS in line with MOP, GOI notification dated 15.05.2020 and Commission's order dated 3.4.2020 and keeping in view the hardship faced by the Petitioner on account of COVID-19 pandemic.



3. On a specific query by the Commission as to whether the MOP, GOI directives read with the Commission's order is applicable to the Respondent IPPs, whose tariff has been adopted under Section 63 of the Act, the learned counsel for the Petitioner clarified that since COVID-19 and its impact has been held to be a force majeure event by various Government authorities, the provisions of the PPA with regards to 'force majeure' will be applicable.

4. The learned counsel for the Respondent GMRWEL pointed out that the Commission in its order dated 20.1.2022 in Petition No.594/MP/2020 has taken the view that lockdown due to outbreak of Covid-19 cannot be considered as force majeure event that prevented/hindered or delayed the Respondent DNH therein, to perform its obligations under the PPA.

5. The Commission, after hearing the parties, reserved its order on 'maintainability' of the petition.

By order of the Commission

Sd/-

(B. Sreekumar)
Joint Chief (Law)

