

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 211/MP/2022

Subject : Petition under Section 79 of the Electricity Act, 2003 read with Article 8.4.1, 8.4.2 and 8.4.11 of Schedule I of Power Purchase Agreement dated 20.01.2014 read with CERC (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2020 seeking directions to PTC India Ltd. to comply with its statutory and contractual obligation to establish and operate a valid Escrow Arrangement and Letter of Credit as Payment Security Mechanism in favour of MB Power (Madhya Pradesh) Limited.

Date of Hearing : 29.9.2022

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

Petitioner : MB Power (Madhya Pradesh) Limited (MBPMPL)

Respondents : PTC India Ltd. and 5 Ors.

Parties Present : Shri Amit Kapur, Advocate, MBPMPL
Shri Akshat Jain, Advocate, MBPMPL
Shri Pratyush Singh, Advocate, MBPMPL
Shri Sagnik Maitra, Advocate, MBPMPL
Shri Abhishek Gupta, MBPMPL
Shri Abhishek Kumar, Advocate, UPPCL
Shri Sitesh Mukherjee, Advocate, UPPCL
Shri Karan Arora, Advocate, UPPCL

Record of Proceedings

The learned counsel for the Petitioner submitted that the present Petition has been filed, *inter-alia*, seeking directions to the Respondent No.1, PTC (a) to comply with its statutory and contractual obligation to (i) establish a valid Letter of Credit (LC) as payment security mechanism in favour of the Petitioner, and (ii) execute a default escrow agreement for establishment and operation of Default Escrow Account as payment security mechanism; and (b) to charge trading margin of only 2 paise/unit in terms of the Commission's regulations for power supplied to the Petitioner to Respondents No. 2 to 6 – UP Discoms through PTC until a valid and appropriate LC and/or Escrow Arrangement is provided to the Petitioner by PTC. Learned counsel further submitted as under:

(a) In terms of the Power Purchase Agreement (PPA) dated 20.1.2014 executed between PTC and the Petitioner and the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2020 ('Trading Licence Regulations'), PTC was, *inter-alia*, mandated to provide a monthly unconditional, revolving and irrevocable LC in respect of payment of monthly/supplementary bills and to

establish Default Escrow Account in favour of the Petitioner as payment security mechanism.

(b) Despite the Petitioner having held various meeting with the officials of PTC and written multiple letters requesting PTC to comply with its statutory and contractual obligations, PTC has neither provided a valid and appropriate LC nor the Escrow Arrangement to the Petitioner till date.

(c) Swift copy of LC dated 15.10.2020, LC dated 15.9.2021 as well as the amended LC dated 4.6.2022 as provided by PTC are deficient and contrary to the stipulations/attributes of LC provided under the PPA and Trading Licence Regulations. PTC has also not established the Escrow Arrangement in favour of the Petitioner till date.

(d) The actions of PTC are in violation of its statutory and contractual obligations under (i) Articles 8.4.1, 8.4.2 and 8.4.11 of Schedule I of the PPA and Regulation 9 (1)&(10) of the Trading Licence Regulations; (ii) Clause 6.2 of the Tariff Policy, 2016; (iii) Regulation 8(1)(d) & (f) of the Trading Licence Regulations, and (iv) Regulation 9(5) and 17(4) of the Trading Licence Regulations, etc.

2. After hearing the learned counsel for the Petitioner, the Commission ordered as under:

(a) Admit. Issue notice to the Respondents.

(b) The Petitioner to serve copy of the Petition on the Respondents and the Respondents to file their reply to the Petition, if any, within four weeks after serving copy of the same to the Petitioner, who may file its rejoinder within three weeks thereafter.

(c) The Petitioner to submit the following information within three weeks:

(i) Details of month-wise segregated amount raised through original bills, amount raised through supplementary bills, basis/reasons for supplementary bills and amount under dispute, etc. for the period from 1.4.2019 to 30.9.2022 / till date;

(ii) Month-wise compensation claimed for part load operation from 15.5.2017; and

(iii) Trading margin charged by PTC from 1.4.2019 to 30.9.2022 / till date.

(d) Parties to comply with the above directions within specified timeline and no extension of time shall be granted.

3. The Petition shall be listed for hearing on 22.12.2022.

By order of the Commission

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