

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**IA (Diary) No.178/2022
in
Petition No. 237/MP/2021**

Subject : Petition under Sections 63 and 79 of the Electricity Act, 2003 read with statutory framework governing inter-State Transmission Systems and Articles 11 and 12 of the Transmission Service Agreement dated 14.3.2016 executed between Khargone Transmission Limited and its Long-Term Transmission Customers for *inter alia* claiming compensation due Change in Law and extension in the Scheduled Commercial Operation Date of the relevant elements of the Project on account of Force Majeure.

Date of Hearing : 9.5.2022

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

Petitioner : Khargone Transmission Limited (KTL)

Respondents : Madhya Pradesh Power Management Co. Ltd. (MPPMCL) and 7 Ors.

Parties Present : Shri Jafar Alam, Advocate, KTL

Record of Proceedings

The matter was mentioned by the learned counsel for the Petitioner on 9.5.2022 through video conferencing.

2. Learned counsel for the Petitioner submitted that the Petitioner has filed the Petition, *inter alia*, claiming compensation due to Change in Law and seeking extension in the Scheduled Commercial Operation Date ('SCOD') of the relevant elements of the its transmission project on account of Force Majeure as per the provisions of the Transmission Service Agreement ('TSA') dated 14.3.2016. Learned counsel for the Petitioner mainly submitted the following:

(a) The Commission vide Record of Proceedings for the hearing dated 24.1.2022, by applying the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 ('Change in Law Rules') had directed the Petitioner to approach the LTTCs for settlement of its Change in Law claims amongst themselves in terms of Change in Law Rules and granted liberty to file the amended Petition limited to its Force Majeure events.

(b) The said decision of the Commission has been set aside by the Appellate Tribunal for Electricity ('APTEL') vide its judgment dated 5.4.2021 in OP No. 1 of 2022 and Ors. Accordingly, as per direction of the APTEL, the matter is now listed for hearing on 17.05 .2022.

(c) The lead LTTC, MPPMCL vide its letter dated 4.5.2022, *inter alia*, has demanded the payment of liquidated damages amounting to approximately Rs. 128.59 crore citing the delay in the commissioning of the various elements of its Project within a period of 10 days failing which, it has threatened to initiate the action as per the TSA.

(d) The period of 10 days as indicated in the letter of MPPMCL expires on 14.5.2022 and accordingly, the Petitioner has filed IA in the Petition seeking urgent hearing and restraining the MPPMCL and other LTTCs from taking any coercive steps against the Petitioner under the TSA including the invocation/ encashment of the Contract Performance Guarantee of Rs. 48.7 crore submitted under the TSA.

(e) The Petitioner has already served the copy of the aforesaid IA on the Respondents and had intimated them about the mentioning of the matter by the Petitioner.

(f) The Petitioner had regularly issued the Force Majeure notices to the LTTCs including MPPMCL and had kept them informed about the occurrence of the Force Majeure events. The Petitioner had also approached the Commission during the construction stage of the Project claiming the Force Majeure reliefs vide Petition No. 308/MP/2019, wherein the Commission vide order dated 20.7.2020 had directed the Petitioner to approach the Commission for appropriate reliefs under the TSA once its Project is completed.

(g) In view of the above circumstances and keeping in view that the matter is already listed for hearing on 17.5.2022, the Commission may direct the MPPMCL to maintain the status-quo in the matter till the said date.

3. After hearing the learned counsel for the Petitioner, the Commission noted that the issue of the extension of SCOD of the Project on account of the Force Majeure events is already a subject matter of the present Petition, which is listed for hearing on 17.5.2022. Considering that despite notice of mentioning for early hearing (as per submission of the learned counsel for the petitioner), none has appeared for the Respondent, the Commission directed the parties to maintain the *status-quo* in the matter and the Respondent MPPMCL not to take any coercive action, till next date of hearing.

4. Accordingly, IA was disposed of.

By order of the Commission
Sd/-
(T.D. Pant)
Joint Chief (Law)