

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 237/MP/2021

- Subject : Petition under Sections 63 and 79 of the Electricity Act, 2003 read with the statutory framework governing Inter-state Transmission Systems, and Articles 11 and 12 of the Transmission Service Agreement dated 14.03.2016 executed between Khargone Transmission Limited and its Long-Term Transmission Customers for *inter alia* claiming compensation due to Change in Law and seeking extension in the scheduled commercial operation date of the relevant elements of the Project on account of Force Majeure.
- Date of Hearing : 24.1.2022
- 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 Company Limited and 7 Ors.
- Parties Present : Shri Deep Rao, Advocate, KTL
Ms. Parichita Chowdhury, Advocate, KTL
Ms. Harneet Kaur, Advocate, KTL
Shri TAN Reddy, KTL
Shri Gaurav Kumar, KTL
Shri Balaji Sivan, KTL
Shri Harshit Gupta, KTL

Record of Proceedings

Case was called out for virtual hearing.

2. Learned counsel for the Petitioner submitted that the present Petition has been filed seeking compensation on account of Change in Law events and extension of the Scheduled Commercial Operation Date of the relevant elements of the Project on account of force majeure events in terms of Article 11 and Article 12 of the Transmission Service Agreement dated 14.3.2016. Learned counsel further mainly submitted the following:

(a) The Petitioner had filed Petition No. 308/MP/2019 before the Commission, *inter alia*, claiming an in-principle approval of force majeure and Change in Law events impacting the Project. The Commission in its order dated 20.7.2020 granted liberty to the Petitioner to approach the Commission for appropriate relief under the TSA once the Project is completed.

(b) Ever since, the Petitioner has made significant progress in the development of the Project and has commissioned all the elements of its Project except Khandwa Pool - Dhule 765 kV D/C line ('KD Line').

(c) After filing of the present Petition, the Petitioner has also commissioned the KD line and, accordingly, its entire Project has achieved the commercial operation on 13.12.2021. Accordingly, the Petitioner may be permitted to place on record the subsequent developments by way of an additional affidavit.

(d) As regards Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 ('the Change in Law Rules'), the said Rules cannot whittle down the powers of the Commission under Section 79 of the Electricity Act, 2003. However, the Commission may take a view in this regard.

3. After hearing the learned counsel for the Petitioner, the Commission observed that on occurrence of an event of Change in Law, the affected party, in the present case the Petitioner, and other parties, in the present case the Respondents/LTTCs, are required to settle the Change in Law claims among themselves and approach the Commission only in terms of Rule 3(8) of the Change in Law Rules. Accordingly, the Petitioner may approach the Respondents/LTTCs for settlement of Change in Law claims amongst themselves in terms of the Change in Law Rules and thereafter approach the Commission in terms of Rule 3(8) of the said Rules.

4. The Commission observed that the Petitioner is at liberty to file amended Petition limited to force majeure events within two weeks of this order.

5. 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)**