

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
New Delhi**

**Petition No. 237/MP/2021  
Along with I.A No.31/2022**

- 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.
- Petitioner** : Khargone Transmission Limited (KTL)
- Respondents** : Madhya Pradesh Power Management Company Ltd. & Ors.
- Date of Hearing** : 24.11.2022
- Coram** : Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P.K. Singh, Member
- Parties Present** : Shri Sanjay Sen, Senior Advocate, KTL  
Shri G. Umaphy, Senior Advocate, MSEDCL  
Ms. Mandakini Ghosh, Advocate, KTL  
Shri Saahil Kaul, Advocate, KTL  
Shri Neha Dabral, Advocate, KTL  
Shri Deep Rao Palepu, Advoaacte, KTL  
Ms. Swapna Seheshdari, Advocate, PGCIL  
Shri Anup Jain, Advocate, MSEDCL  
Shri Akash Goel, Advocate, MSEDCL  
Shri Ravi Sharma, Advocate, MPPMCL/ MPPTCL  
Shri Ventakesh, Advocate, NTPC  
Shri Ashutosh Srivastava, Advocate, NTPC  
Shri Shivam Kumar, Advocate, NTPC  
Shri Prashant Kumar, PGCIL  
Shri V.C Shekar, PGCIL  
Shri Aryaman Saxena, KTL



## Record of Proceedings

The learned senior counsel for the Petitioner made detailed oral arguments referring to his Note of Arguments circulated during the course of hearing and requested the Commission to condone the delay in COD of the Petitioner's Project due to various *force majeure* events mainly (i) unexpected requirement to divert the KD line to avoid intersection with the proposed Jamphal Dam, (ii) delay due to imposition of the H+6 criteria for laying transmission lines by MPPTCL, (iii) delay in acquisition of land and construction of the Kandwa Sub-station due to agitation by locals, (iv) delay in receiving high way crossing approvals from NHA for construction of KL Line and (v) delay due to completion of KD line due to Covid-19 Pandemic.

2. As per the Transmission Services Agreement (TSA) dated 14.3.2016, the SCOD of the Project was July, 2019. He submitted that the SCOD of the Element 1: LILO of one circuit of Khandwa-Rajgarh 400 kV D/C transmission line at Khargone was February, 2018 against which the Element was put into commercial operation on 1.3.2018. Element 2: Khargone Khargone TPP Switchyard-Khandwa Pool 400 kV D/C (Quad) Transmission Line (KK Line); Element 3: Khandwa Pool-Indore 765 kV D/C Transmission Line (KI Line); and Element 4 Khandwa Pool-Dhule 765 kV D/C Transmission Line (KD Line) were put into commercial on 19.3.2020, 19.3.2020, 13.12.2021 respectively against the SCOD of July, 2019. Further, Element 5: Establishment of 765/400 kV, 2x 1500 MVA Pooling Station Khandwa (Khandwa Sub-station) and other Element were put into to commercial operation on 19.3.2020 and 13.12.2021 respectively against the SCOD of July, 2019. He further explained the *force majeure* events and their impact which lead to time over-run of the Petitioner's project.

3. In response to the query of the Commission regarding whether the route adopted by the Petitioner was specified by the Bid Process Coordinator (BPC), the learned senior counsel for the Petitioner submitted that three routes were given by the BPC and one of the routes given by BPC was almost aligned to route adopted by the Petitioner.

4. The learned counsel for MPPMCL and MPPTCL has submitted that the Petitioner's contention that the delay of 33 months in execution of KD line was due to unexpected requirement to divert the KD line to avoid intersection with Jamphal Dam, change in configuration of towers and imposition of H+6 criteria for laying transmission lines on both sides of crossing of transmission lines of MPPTCL was incorrect and baseless as the dam and the H+6 criteria were existing much prior to cut-off date as per Article 11 of the TSA. If the Petitioner was more diligent, these requirements could have been found by the Petitioner at the time of the planning of its Project. Further, there has been considerable delay on the part of the Petitioner in approaching the State Authorities for obtaining the approval under section 164 of the Electricity Act, 2003 and agitation by locals. Thus, the conduct of the Petitioner was negligent and lethargic during the execution of the Project. The time over-run is attributable to the Petitioner and therefore the claim of *force majeure* and Change in Law is not admissible.



5. The learned senior counsel for MSEDCL submitted that MSEDCL was having an allotted capacity of 50 MW as per schedule 1 of the TSA. He submitted that due diligence is in-built in RFP and RFQ and the Petitioner failed to act diligently while executing its Transmission Project. He submitted that Sulwade Jamphal-Kanoli Lift Irrigation Lift Project (“Jamphal Dam”) was started in April, 1999 and the mechanical work commenced in 2004. Hence, the said Project was in public domain much before the cut-off date of 4.4.2016 and any claim of the Petitioner on this account is untenable. Further, the requirement of H+6 criteria for crossing of various 400/22/132 kV line for MPPMCL were existing much prior to cut-off date of Petitioner’s Transmission Project. Thus, failure on the part of the Petitioner to investigate the route cannot be a ground for grant of any relief. The additional expenditure incurred by the Petitioner was on account of the failure on part of the Petitioner to act diligently. Thus, none of the claims of the Petitioner are maintainable. He further sought time to file note of submissions in the matter.

6. The learned counsel for the PGCIL submitted that in Petition No. 694/TT/2020, PGCIL has sought approval of COD of its assets as 1.8.2019 under Regulation 5(2) of the 2019 Tariff Regulations as the associated transmission system of the Petitioner is not ready and consequent determination of tariff of the assets under “POWERGRID Works associated with Transmission System Strengthening in WR associated with Khargone TPS” in Western Region. The Commission has already heard the matter and reserved the order in the matter. Thus, the proceedings in the instant matter should not affect the claims made by the Petitioner, including the deemed COD under the 2019 Tariff Regulations.

7. The learned counsel appearing for NTPC submitted that the Petitioner has made identical submissions regarding delay in completion of the transmission system due to *force majeure* in Petition No. 402/GT/2019 filed by NTPC and NTPC has dealt with the said issues in the said petition. He submitted that NTPC is not a party to the TSA executed between the Petitioner and the LTTCs. As regards the additional expenditure on account of diversion of route of the KK Line to avoid interception at NTPC’s railway siding for Khargone TPP, the learned counsel submitted that the Petitioner for the first-time sought Railway coordinates from NTPC only on 29.11.2018 and on 5.12.2018 NTPC gave the railway coordinates.

8. The Commission observed that there is a substantial reduction in route length for the route actually followed by the Petitioner as compared to the route lengths estimated for the three alternatives given by BPC, REC. The Commission directed BPC, REC to furnish reasons of such wide variation in route length for KI line and KK line.

9. The Commission directed the parties to file their written submissions by 12.12.2022 with a copy to the other parties. The Commission further directed the parties to comply with the above directions within the specified timeline and observed that if the written submissions are not received by 12.12.2022, the matter will be disposed on the basis of the information already on record.



10. Subject to the above, the Commission reserved the order in the petition.

**By order of the Commission**

**sd/-**

(V. Sreenivas)  
Joint Chief (Law)

