

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.247/MP/2021

- Subject : Petition under Section 17(3) of the Electricity Act, 2003 read with Regulation 62 of the Central Electricity Regulatory Commission (Terms and Conditions for determination of tariff) Regulations, 2019 seeking approval for providing on Lease/License basis the Land and/or space in the Building of Petitioner to its Wholly Owned Subsidiary Company for undertaking Data Centre activities.
- Date of Hearing : 21.1.2022
- Coram : Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : Power Grid Corporation of India Limited (PGCIL)
- Respondents : Rajasthan Rajya Vidyut Prasaran Nigam Limited and 57 Ors.
- Parties Present : Shri M. G. Ramachandran, Sr. Advocate, PGCIL
Shri Shubham Arya, Advocate, PGCIL
Ms. Poorva Saigal, Advocate, PGCIL
Shri Doman Yadav, PGCIL
Shri V. C. Sekhar, PGCIL
Shri Arjun Malhotra, PGCIL
Shri Prashant Kumar, PGCIL
Shri Ravindra Khare, MPPMCL

Record of Proceedings

Case was called out for virtual hearing.

2. Learned senior counsel for the Petitioner submitted that the present Petition has been filed under Section 17(3) of the Electricity Act, 2003 ('the Act'), *inter alia*, seeking approval for providing on lease/ licence basis the land and/or space in the building of the Petitioner to its wholly owned subsidiary company for undertaking data centre activities. Learned senior counsel mainly submitted the following:

(a) Since the proposed data center activity is not an activity of a nature of engaging in any business for optimum utilization of the functional transmission assets and will be utilizing only land/space, which is not otherwise required for undertaking licensed transmission activities, the consideration for sharing of any proportion of the revenue derived from the activities of data center business proposed to be undertaken by its wholly owned subsidiary would not be within the scope of the provisions of Section 41 of the Act read with Regulation 64 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 ('the 2019 Tariff Regulations').

(b) The arrangement proposed is in the nature of the land being given on lease within the scope of Section 17(3) of the Act read with Regulation 62 of the 2019 Tariff Regulations.

(c) The lease charges for land and/or building space shall be determined through a certified external valuer to transparently determine the lease charges to be paid by the subsidiary on arm's length basis at the time of utilization for data centre activities.

(d) There will be no impact from the data activities on the inter-State transmission of electricity. The Petitioner will ensure that the data center activities shall not in any manner adversely affect its performance or obligation in the power transmission business.

(e) The rental/ lease received from its wholly owned subsidiary for the use of land/ space in the building to undertake data centre activities would be shared with beneficiaries/ LTTCs in accordance with the provisions applicable for non-tariff income as per Regulation 62 of the 2019 Tariff Regulations.

3. After hearing the learned senior 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 immediately, if not already served and the Respondents to file their reply, if any, by 15.2.2022 after serving copy of the same to the Petitioner, who may file its rejoinder, if any, by 28.2.2022;

(c) The Petitioner to file the following information/clarification on affidavit within two weeks:

(i) Whether instant case is covered under the provisions of the Central Electricity Regulatory Commission (Sharing of Revenue Derived from Utilization of Transmission Assets for Other Business) Regulations, 2020, which provides modalities for obtaining approval and intimation of "other business".

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

4. 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)**