

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.333/MP/2019

- Subject : Petition under Sections 63, 79(1)(c) and 79(1)(d) of the Electricity Act, 2003 read with Regulation 86 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for allowing time overrun and cost overrun and the approval of increase in tariff adopted for Nagapattinam-Salem-Madhugiri Transmission System on account of force majeure and Change in Law events.
- Petitioner : Powergrid NM Transmission Company Limited (PGNMTL)
- Respondents : IL & FS Tamil Nadu Power Co. Ltd. (IL&FS) and 3 Ors.

Petition No. 13/MP/2021

- Subject : Petition under Sections 63 and 79 of the Electricity Act, 2003 read with Regulation 86 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for relief under Force Majeure (Article 11) and Change in Law (Article 12) of the Transmission Service Agreement dated 31.8.2015 related to Strengthening of Transmission System beyond Vemagiri.
- Petitioner : Powergrid Southern Interconnector Transmission System Ltd. (PSITSL)
- Respondents : Southern Power Distribution Company of Andhra Pradesh Ltd. and 15 Ors.
- Date of Hearing : 11.1.2022
- Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Parties Present : Shri M. G. Ramachandran, Sr. Advocate, PGNMTL & PSITSL
Shri Shubham Arya, Advocate, PGNMTL & PSITSL
Ms. Poorva Saigal, Advocate, PGNMTL & PSITSL
Ms. Shikha Sood, Advocate, PGNMTL & PSITSL
Shri S. Vallinayagam, Advocate, TANGEDCO
Shri Hemant Singh, Advocate, ITPCL
Shri Lakshyajit Singh Bagdwal, Advocate, ITPCL
Shri Mridul Chakravarty, Advocate, ITPCL
Shri Burra Vamsi Rama Mohan, PGNMTL & PSITSL
Shri V. C. Sekhar, PGNMTL & PSITSL
Shri Prashant Kumar, PGNMTL & PSITSL
Shri Arjun Malhotra, PGNMTL & PSITSL



Ms. Supriya Singh, PGNMTL & PSITSL
Shri Sunil Thomas, PGNMTL & PSITSL
Shri Venkatapathi Raju Nadimpalli, PSITSL
Dr. R. Kathiravan, TANGEDCO
Ms. R. Ramalakshmi, TANGEDCO
Shri R. Srinivasan, TANGEDCO

Record of Proceedings

Orders were reserved in the matters. However, consequent upon issuance of Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 ('Change in Law Rules') by the Ministry of Power, Government of India requiring a change in procedure dealing with the Change in Law cases, the matter are re-listed.

2. During the course of hearing, the learned senior counsel for the Petitioners submitted that these matters involve issue of Change in Law as well as force majeure. The learned senior counsel submitted that since the Commission has already heard the matters and reserved them for orders, the matters may be deferred as of now and decided after the Petitioner approaches the Respondents and come back to the Commission for passing order under Rule 3(8) of the Change in Law Rules. Accordingly, the Commission may direct the parties to adopt the procedure prescribed under the Change in Law Rules and thereafter, when the Petitioners approach this Commission under Rule 3(7), the Commission may examine the aspects involving Change in Law, scope, extent of Change in Law and the capital cost to be considered, etc. under Rule 3(8) of the Change in Law Rules.

3. The learned counsel for the Respondent, TANGEDCO submitted that in the Petition No. 333/MP/2019, there are no Change in Law events and for the same set of events, reliefs have been prayed under force majeure as well as Change in Law. The learned counsel further submitted that the said Petition also involves question as to who will bear such additional impact. The Project therein was constructed exclusively for evacuating the power from certain Independent Power Producers ('IPPs') and some of these IPPs did not come up. In such case, the burden cannot be shifted onto the Respondent/ Beneficiaries and ultimately to end consumers.

4. After hearing the learned senior counsel for the Petitioners and the learned counsel for Respondent, TANGEDCO, the Commission directed the Petitioners to file the following details within two weeks:

Petition No. 333/MP/2019:

- (a) As some of the pages in the Annexure Q related to proofs of court cases are illegible, legible copies of proof for all court cases claimed as force majeure events vide its affidavit dated 25.6.2020.

Petition No. 13/MP/2021:

- (a) CEA clearance certificates for all elements as mentioned in the Petition; and
- (b) Break-up and proof of payment made for wild-life clearance for element-5.

5. Subject to the above, the Commission reserved the order in the matters.

**By order of the Commission
Sd/-**

**(T.D. Pant)
Joint Chief (Law)**