

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 372/MP/2023**

- 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 Transmission Service Agreement dated 17.11.2016, related to 765 kV Strengthening in Eastern Region (ERSSXVIII).
- Petitioner : POWERGRID Medinipur-Jeerat Transmission Limited (PMJTL)
- Respondent : West Bengal State Electricity Distribution Company Limited & Ors.
- Date of Hearing : **22.8.2024**
- Coram : Shri Jishnu Barua, Chairperson  
Shri Ramesh Babu V., Member  
Shri Harish Dudani, Member
- Parties Present : Shri Sanjay Sen, Senior Advocate, PMJTL  
Shri Shubham Singh, Advocate, PMJTL  
Ms. Pallavi Saigal, Advocate, PMJTL  
Shri Prashant Kumar, PMJTL  
Shri Yogeshwar, PMJTL  
Shri Manish Kr Choudhary, Advocate, Bihar Discoms  
Ms. Srishti Chaudhary, Advocate, Bihar Discoms

**Record of Proceedings**

The learned senior counsel for the Petitioner submitted that the present Petition had been filed *inter-alia* seeking a declaration that the Transmission Project of the Petitioner i.e., “765 kV Strengthening in Eastern Region (ERSSXVIII)” was affected by the *Force Majeure* and Change in Law events, an extension of the Scheduled Commercial Operation Date, which was 28.7.2020 for all elements except element eight (which was subsequently deleted by the CEA from the scope of work) by 760 days, i.e. up to 26.8.2022 and a further declaration that the Petitioner shall be entitled to increase in the cost of the Project during execution and completion of the transmission project. The learned senior counsel further referred the pleadings and made elaborate submissions on the various *Force Majeure* events involved viz. (i) delay caused due to the Covid-19 pandemic, (ii) delay caused due to introduction of the GST Act, 2017, (iii) delay caused due to the scarcity of sand in West Bengal, (iv) delay due to the local agitation / disturbances and Law & Order issues including various court cases, (v) delay due to cyclones, etc., and also the various Change in Law events involved viz. (i) Notification of the GST Act, 2017, (ii) change in design of transmission tower due to Power Line Crossings in WBSETCL, (iii) requirement of installation of the Bird Diverters/ Deflectors on the transmission lines and Aerospace Safety Aspects, and (iv) ban of truck movement on bridge over the Hooghly river.

2. The learned counsel for Respondents 2 & 3, Bihar Discoms, submitted that the SBPDCL has already filed its reply in the matter, which may be considered. The learned counsel further pointed out that the Petitioner has mainly premised its Force Majeure claims on the occurrence of the Covid-19 Pandemic and the court cases. However, the Petitioner has not indicated any steps taken by it for the vacation of the ad-interim order(s) passed by the various Courts for an extended period of time.

3. In rebuttal, the learned senior counsel for the Petitioner submitted that the Petitioner has indicated in detail the steps taken by the Petitioner to vacate the stay order(s) passed by the various courts. The learned senior counsel further sought liberty to place on record the relevant judgment(s)/order(s) in support of its claims.

4. In response to the specific query of the Commission regarding the element-wise break-up of the total compensation claimed, the learned senior counsel submitted that, as such, the contracts awarded for the construction of the Project might not have been element-wise. However, the Petitioner will strive to provide all the requisite details as available.

5. Considering the submission made by the learned senior counsel for the Petitioner and learned counsel for the SBPDCL, the Commission permitted the parties to file their respective written submissions and rejoinder, if any, within three weeks with a copy to the other side. The Commission further directed the Petitioner to provide the following details/information on an affidavit within two weeks.

(a) Amount of IDC and IEDC (provide separate numbers) factored in by the Petitioner while quoting the bid.

(b) Amount of IDC and IEDC actually incurred up to the SCOD of the project, i.e., 28.7.2020.

(c) Since the actual COD of each element or group of elements (considering pre-requisites) is different, the amount of IDC and IEDC actually incurred for the period from SCOD to actual COD for each such element (without any pre-requisites) or group of elements (with pre-requisites).

(d) Detailed calculations of IDC and IEDC amounting to Rs.164.05 crore and 38.09 crores, respectively, as claimed by the Petitioner. Whether this IDC and IEDC are towards the additional expenditure on the claimed Change in Law event or on total capital expenditure?

(e) Details of the loan infusion dates, amount and rate of interest thereof.

(f) The following details of Change in Law events that have affected the execution of each of the elements of the transmission scheme covered under the present Petition:

Sl. No.	Name of Transmission Element or Group of Elements	Detail of Change in Law event	Date of occurrence of Change in law event	Amount of compensation claimed on account Change in Law (in INR)	Additional IDC (in INR)	Additional IEDC (in INR)	Time extension if any sought by the Petitioner

	(considering pre-requisites)						against such change in law events under its claim of Force Majeure

6. Subject to the above, the Commission reserved the matter for order.

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