

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 113/MP/2020

- Subject : Petition under Section 79 (1)(c)&(f) of the Electricity Act, 2003 read with the provisions of the CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 to set aside the bill dated 1.1.2020 of the Central Transmission Utility (PGCIL) towards Transmission Charges (POC and HVDC charges) as well as the Notice for Regulation of Power Supply dated 3.1.2020.
- Petitioner : KSK Mahanadi Power Limited (KSKMPL)
- Respondents : Power Grid Corporation of India Limited (PGCIL) and Ors.
- Date of Hearing : 26.5.2020
- Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
- Parties present : Shri Ashwin Ramanathan, Advocate, KSKMPL
Ms. Suparna Srivastava, Advocate, PGCIL
Shri V Srinivas, PGCIL
Shri Vipin Josheph, PGCIL
Shri A. Choudhary, PGCIL

Record of Proceedings

The matter was heard through video conferencing.

2. Learned counsel for the Petitioner requested for time to file rejoinder to the reply of PGCIL and prayed for adjournment.

3. Learned counsel for the Respondent, PGCIL objected to the request of the Petitioner for additional time and submitted that as per the Commission's direction dated 21.1.2020 read with letter dated 6.3.2020, the Petitioner was required to file its rejoinder by 16.3.2020. Learned counsel for the Respondent submitted as under:

(a) As on date, transmission charges to the tune of approximately Rs. 224 crore have become payable by the Petitioner. Out of this amount payable, Rs. 160 crore has become outstanding (exceeding 45 days) against the Petitioner and there is no payment security mechanism available with PGCIL to secure such dues. Therefore, PGCIL has issued a Termination Notice under the Transmission Service Agreement dated 5.12.2012.

(b) Raising of fresh bill as sought by the Petitioner in terms of the Commission's order dated 31.7.2019 in Petition Nos. 20/RP/2018 and



3/RP/2019 vis-à-vis the adjustment Bill-3 raised by PGCIL had the effect of the surcharge amount to the tune of Rs.13.8 crore out of the total disputed amount of Rs. 122 crore indicated by the Petitioner. Moreover, the Petitioner has not paid the subsequent invoices leading to further accumulation of dues.

(c) The Petitioner has failed to point out that the Resolution Process has been initiated against the Petitioner Company before National Company Law Tribunal, Hyderabad and Resolution Professional (RP) has been appointed therein. PGCIL has lodged its claims towards transmission charges before RP. However, due to the pending litigation, RP is likely to not admit the liability completely.

(d) Since the Petitioner continues to utilise the inter-State transmission system for the purpose of evacuating the power without paying for transmission charges, the Petitioner may be directed to clarify payment of outstanding dues.

4. In response to the specific query of the Commission regarding payment of the outstanding transmission charges to PGCIL, learned counsel for the Petitioner submitted that he did not have any instruction regarding payment of transmission charges.

5. The Commission observed that vide Record of Proceedings dated 21.1.2020, the Petitioner was directed to pay Rs.100 crore along with current transmission charges to PGCIL and that if the outstanding dues exceeding 45 days are more than Rs.122 crore at any point of time, PGCIL is free to regulate the Petitioner's power supply in accordance with law. The Commission further observed that for any dispute pertaining to surcharge on the principal amount, the Petitioner cannot withhold the payment of entire transmission charges including the current/regular transmission charges. In view of the above and with no clear indication from the Petitioner on payment of outstanding transmission charges to PGCIL, the Commission observed that PGCIL is at liberty to take appropriate action, including the regulation of Petitioner's power supply in accordance with law, in case the principal outstanding dues (exceeding 45 days) excluding the surcharge remain unpaid. The Commission, however, directed PGCIL to bring to the notice of the Commission if any payment is made by the Petitioner towards outstanding dues.

6. After hearing the learned counsels for the parties, the Commission directed the Petitioner to file its rejoinder, by 29.5.2020.

7. 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)
Deputy Chief (Law)**

