

CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi

Petition No. 42/MP/2023

Subject : Petition under Section 79(1)(c) of the Electricity Act, 2003 seeking appropriate directions for the mode and manner for compliance of direction issued by the Hon'ble Appellate Tribunal for Electricity in its Judgment dated 6.10.2022 passed in Appeal No.196/2019 and Appeal No.73/2018.

Petitioner : Central Transmission Utility of India (CTUIL)

Respondents : MB Power (Madhya Pradesh) Company Limited & Anr.

Date of Hearing : 7.2.2023

Coram : Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Parties Present : Ms. Suparana Srivastava, Advocate, CTUIL
Shri Tushar Mehta, Advocate, CTUIL
Shri Shankar Sharma, Advocate, CTUIL
Shri Tehastiva Dhawan, Advocate, CTUIL
Shri Anand K. Ganesan, Advocate, PGCIL
Shri Swapna Sheshdari, Advocate, PGCIL
Ms. Surbhi Gupta, Advocate, PGCIL
Shri Swapnil Verma, CTUIL
Ms. Priyansi Jadiya, CTUIL
Ms. Muskan Aggrawal, CTUIL

Record of Proceedings

The learned counsel for the Petitioner submitted that the instant petition has been filed seeking directions regarding the mode and manner in which the Petitioner has to pay the bank charges to MB Power (Madhya Pradesh) Limited in compliance of direction issued by Appellate Tribunal for Electricity (APTEL) in its judgment dated 6.10.2022 in Appeal No.196 of 2019 (in Petition No. 96/MP/2018 and Appeal No.73 of 2018 (in Petition No. 141/TT/2015) and APTEL's order dated 13.1.2023 in Execution Petition (EP) No. 17 of 2022.

2. The gist of submissions made by the learned counsel for the Petitioner are as follows:



- (a) MB Power filed Appeal No. 73 of 2018 against the Commission's order dated 15.12.2017 in Petition No. 141/TT/2015 and PGCIL filed Appeal No. 196 of 2019 against the Commission's order dated 10.5.2019 in Petition No. 96/MP/2018. APTEL vide its judgement dated 6.10.2022 dismissed the appeal No. 196/2019 filed by PGCIL and partially allowed Appeal No. 73/2018 upholding Commission's order dated 10.5.2019 in Petition No. 96/MP/2018 directing CTUIL to pay the bank charges to M.B Power towards extension of the bank guarantee and PGCIL to pay the reverse transmission charges to M.B Power for the period of delayed operationalisation of LTA.
- (b) Pursuant to APTEL's judgement dated 6.10.2022, M.B Power filed an execution proceedings i.e. E.P No. 17 of 2022 before the APTEL for execution of the judgment dated 6.1.2022 and APTEL vide its judgment dated 13.1.2023 directed CTUIL to pay the bank charges and PGCIL to pay the reverse transmission charges to M.B Power on or before 12.2.2023.
- (c) Aggrieved with the judgment dated 13.1.2023 in E.P No. 17/2022, both CTUIL and PGCIL have filed Civil Appeals before Hon'ble Supreme Court and the same were admitted on 13.1.2023 observing that the parties are bound to comply with the directions of APTEL in its judgement dated 13.1.2023 subject to the outcome of appeals filed before Hon'ble Supreme Court. Thus, no stay has been granted in the appeals by Hon'ble Supreme Court.
- (d) Bank guarantee of ₹60 crore was submitted by M.B. Power pursuant to the grant of connectivity for 1200 MW and LTA for 392 MW by the PGCIL which was subsequently reduced to ₹30 crore vide RoP dated 18.9.2018 in Petition No. 96/MP/2018 by the Commission.
- (e) Initially, PGCIL and CTUIL were one unified entity. Later, during the pendency of appeals filed before the APTEL, there was a demerger of PGCIL and CTUIL. Upon segregation of role of PGCIL and CTUIL, the Commission vide order dated 10.5.2019 in Petition No. 96/MP/2018 directed the Petitioner to make payment towards the bank charges and PGCIL to make payment for reverse transmission charges to M.B Power.
- (f) The Petitioner is a revenue neutral entity. There is neither any provision for the Petitioner to make any bilateral payments to an entity nor has any financial corpus to make such payment. The said fact was also brought into notice in the execution proceedings. Accordingly, she prayed to the Commission to issue appropriate interim directions regarding the mode and manner in which Petitioner is required to discharge its liability towards M.B Power so that there is no non-compliance of the APTEL's judgment dated 13.1.2023 in E.P No. 17 of 2022. She further submitted that the last date for payment of bank charges is 12.2.2023

3. After hearing the learned counsel for the Petitioner, the Commission admitted the petition and directed to issue notice to the Respondents. The Commission further directed the Respondents, to file their reply by 20.2.2023 and the Petitioner to file its



rejoinder, if any, by 1.3.2023. The Commission also directed to comply with the directions within the timeline specified and observed that no further extension of time will be granted.

4. The Commission also directed CTUIL to pay the bank charges as per directions of APTEL from the fee/payment received from various entities viz. application fees for Connectivity, Long Term Access and Medium-Term Open Access and encashed Conn-BG1s under Central Electricity Regulatory Commission (Connectivity, Long Term Access and Medium-Term Open Access) Regulations, 2009.

5. The Petition shall be listed for hearing on 10.3.2023.

By order of the Commission

sd/-

(V. Sreenivas)
Joint Chief (Law)

