

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 195/MP/2022

Coram:

**Shri Jishnu Barua, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P.K. Singh, Member**

Date of Order: 21.04.2023

In the matter of:

Petition under Section 79(1)(c), (d) and (f) read with 142 of the Electricity Act, 2003 seeking adjudication of disputes as well as compliance of order dated 14.3.2022 passed by the Commission in Petition No. 145/TT/2018.

And in the matter of:

Essar Power Transmission Corporation Limited,
Lower Ground Floor,
Hotel Conclave Boutique,
A-20, Kailash Colony,
New Delhi – 1100048

...Petitioner

Also at: Essar Power M.P. Limited Power Plant
Village – Bandhaura, Post – Karsualal,
Tehsil – Mada, Waidhan,
District – Singrauli, Madhya Pradesh,
Pin - 486886

VERSUS

1. Mahan Energen Limited
(formerly known as Essar Power M.P. Limited),
Adani House,
C-105, Anand Niketan,
New Delhi- 110021

2. Central Transmission Utility of India Limited,
Registered Office Plot No. 2,
Near IFFCO Chowk Metro Station Sector 29,
Gurugram - 122001



3. Power Grid Corporation of India Limited,
B-9, Qutub Institutional Area,
Katwarai Sarai,
New Delhi -110016
4. Power System Operation Corporation Limited,
National Load Despatch Centre,
B-9, Qutub Institutional Area,
Katwarai Sarai,
New Delhi -110016
5. Western Region Power Committee,
F-3, MIDC Area, Marol,
Opposite SEEPZ, Central Road,
Andheri East,
Mumbai – 400093
6. Arcelor Mittal Nipon Steel India Ltd,
(formerly known as Essar Steel India Limited)
27th KM on Surat-Hazira Road,
Hazira District,
Surat- 394270
7. M.P. Power Management Company Limited,
Block No. 11, Shakti Bhawan,
Vidyut Nagar,
Jabalpur -482008
8. Western Regional Load Despatch Centre
F-3, Krantiveer Lakhujji Salve Marg,
Seepz, Andheri East, Mumbai,
Maharashtra 400096

...Respondents

For Petitioner : Shri Amal Nair, Advocate, EPTCL

For Respondents : Ms. Swapna Sheshadri, Advocate,CTUIL
Ms. Aastha Jain, Advocate, CTUIL
Shri Siddhart Sharma, Advocate,CTUIL
Shri Tushar Mathur, Advocate, CTUIL
Shri Nitin Gaur, Advocate, MPPMCL
Shri Shri Hemant Singh, Advocate, MEL
Shri Lakshyajit Singh Bagdwal, Advocate, MEL
Shri Robin Kumar, Advocate, MEL
Shri Ranjeet Singh, CTUIL
Shri Bhaskar Wargh, CTUIL,
Shri Nitin Guar, Advocate, MPPMCL



ORDER

The instant petition has been filed by Essar Power Transmission Corporation Limited (EPTCL) under Section 79(1)(c), (d) and (f) read with 142 of the Electricity Act, 2003 ("2003 Act") seeking adjudication of disputes as well as compliance of order dated 14.3.2022 passed by the Commission in Petition No. 145/TT/2018.

2. The Petitioner has made the following prayers:

"In view of the above facts and circumstances, it is respectfully prayed that this Hon'ble Commission may be please to:

- (a) *Hold & Direct Respondent No. 1 to pay the proportional transmission charges in terms of the Order dated 14/03/2022;*
- (b) *Direct the CTUIL not to hold any disbursement against the POC portion of EPTCL's bills and release the amount withheld till date;*
- (c) *Hold and direct that the Respondent No. 1 is in non-compliance of the Order dated 14/03/2022 passed by this Hon'ble Commission in Petition No. 145/TT/2018 and initiate proceedings under Section 142 of the Electricity Act;*
- (d) *Direct the WRLDC to take action in terms of Rule 7 of the LPS Rules, 2022 notified by the Ministry of Power;*
- (e) *Pass any other Order(s) as deemed fit and just by this Hon'ble Commission."*

3. The matter was heard on 29.7.2022 and the Commission admitted the petition and notices were issued to the Respondents. The Commission further directed the Respondents to file their reply to the petition as well as the IA by 25.8.2022 and the Petitioner to file rejoinder, if any, by 2.9.2022.

4. Thereafter, the instant petition was listed on 15.11.2022, 20.12.2022, 12.1.2023 and 14.2.2023 alongwith IAs.

5. The learned counsel for the Petitioner appeared on 11.4.2023 and submitted that the Petitioner would withdraw the petition and would file an affidavit to this effect. The Petitioner, vide affidavit dated 12.4.2023, has submitted that the Petitioner



wishes to withdraw the instant petition and has further made the following submissions:

a) The Commission *vide* order dated 14.3.2022, had determined the annual transmission charges of the Stage-II Assets of the Petitioner. Under the terms of that order, 76% of the total tariff was to be paid through the PoC Pool and 24% of the capital cost is to be recovered from the MEL. MEL, however, refused to pay its portion of the tariff. CTUIL, Respondent No.2 also started wrongly deducting MEL's dues from the Petitioner's tariff. Accordingly, the Petitioner filed the instant petition for enforcement of order dated 14.3.2022.

b) During the pendency of the instant proceedings, the Petitioner prayed for some interim relief so that the Petitioner could atleast meet the O&M Expenses of the transmission assets. The Commission *vide* Record of Proceedings (RoP) dated 20.12.2022 issued the following directions:

"3. Taking into consideration the difficulties faced by the Petitioner in meeting the O&M Expenses of the transmission assets, the Commission directed CTUIL to recover the remaining balance amount due from the Petitioner, in terms of its order dated 14.3.2022 in Petition No. 145/TT/2018, in five equated installments."

c) Thereafter, on the Petitioner's application, the Commission amended the RoP dated 20.12.2022 to change the number of equated monthly instalments from five to ten. The relevant portion of the RoP order dated 12.1.2023 is as follows:

*"4. After hearing, the Commission directed to register Diary No. 11 of 2023 after approval. The Commission further directed CTUIL that the balance excess payment recoverable from the Applicant-EPTCL may be recovered in 10 equated monthly instalments in terms of Commission's order dated 14.3.2022 in Petition No. 145/TT/2018. Accordingly, the Commission modified its order *vide* RoP dated 20.12.2022 in Petition No. 195/MP/2022, whereby it had directed CTUIL to recover the remaining balance amount due from the Applicant, in terms of its order dated 14.3.2022 in Petition No. 145/TT/2018, in five equated instalments. Accordingly, the said IA stands disposed of."*



d) In the meantime, MEL had filed an Appeal (DFR No.492/2022 converted into Appeal No.71/2023) before the APTEL against the Commission's order dated 14.3.2022 in Petition No. 143/TT/2018 and also filed I.A. No. 1927 of 2022 to stay the order dated 14.3.2022 during the pendency of the proceedings. APTEL vide order dated 24.1.2023 granted interim relief to MEL.

The relevant portion of the order is as follows:

"17. We are satisfied that both the ingredients, apart from a prima facie case being made out, ie the test of balance of convenience and irreparable injury, are satisfied in the present case. The IA is partly allowed, and there shall be interim stay of payment of the invoices raised by CTUIL for the period from September, 2018 till October, 2021. The Appellant shall, however, pay the dues for the period from 01.11.2021 till date, and thereafter till the main appeal is finally disposed of, subject, of course, to the result of the main appeal."

e) In view of the APTEL's order dated 24.1.2023, the Petitioner may be allowed to withdraw the instant petition with a liberty to approach the Commission after disposal of Appeal No. 71 of 2023 and it may be clarified that CTUIL, may continue to effect the deductions as per the Commission's directions in RoP dated 12.1.2023 in ten equated monthly instalments (EMI), without prejudice *inter alia* to EPTCL's stand that the said deductions were contrary to law. The withdrawal is without prejudice to EPTCL's claim for tariff and its arrears thereto.

6. Accordingly, the Petitioner is permitted to withdraw the instant petition and the pending IAs. The CTUIL shall continue to effect the deductions towards transmission charges, from the Petitioner as per the Commission's directions in RoP dated 12.1.2023 in ten equated monthly instalments, as prayed by the Petitioner. As regards the Petitioner's request to grant liberty to approach the Commission upon



outcome of Appeal No. 71 of 2023 filed by MEL, the Petitioner may act as per the provisions of law.

7. Accordingly, the Petition No. 195/MP/2022 and the pending I.A. No. 49/IA/2022 and I.A. No. 68/IA/2022 are disposed of as withdrawn.

sd/-
(P.K.Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I.S. Jha)
Member

sd/-
(Jishnu Barua)
Chairperson

