

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 194/MP/2021

- Subject : Petition under Section 79(1)(b) and (f) of the Electricity Act, 2003 and in terms of order dated 12.6.2019 in Petition No. 118/MP/2018 for grant of compensation on account of change in allocation of Mines for supply of coal.
- Petitioner : TRN Energy Private Limited (TEPL)
- Respondents : Paschimanchal Vidyut Vitran Nigam Limited and 7 Ors.
- Date of Hearing : **19.2.2024**
- Coram : Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Parties Present : Shri Matrugupta Mishra, Advocate, TEPL
Shri Nipun Dave, Advocate, TEPL
Ms. Akanksha, Advocate, TEPL
Shri Abhishek Kumar, Advocate, UPPCL
Shri Ravi Kishore, Advocate, PTCIL
Shri Keshav Singh, Advocate, PTCIL

Record of Proceedings

During the course of the hearing, the learned counsel for the Petitioner made detailed submissions in the matter. Whereas the learned counsel for Respondents, UP Discoms and PTCIL raised the preliminary objection on the maintainability of the Petitioner on the ground that by order dated 12.6.2019 in Petition No. 118/MP/2018, the Commission had granted the liberty to the Petitioner to demonstrate its claim of compensation on account of the change in the allocation of Mines for the supply of coal under the Change in Law with all relevant details. However, in the present case, the Petitioner has also prayed for this Commission to exercise its general regulatory powers under Section 79(1)(b) of the Electricity Act, 2003 for the grant of compensation on the above count, which is beyond the liberty granted to the Petitioner by order dated 12.6.2019. Learned counsel for Respondents, UP Discoms further insisted that the Commission ought to decide the above objection on the maintainability as a preliminary issue prior to going into the merits. In response, learned counsel for the Petitioner opposed the aforesaid preliminary objection as raised by Respondents. Learned counsel pointed out that in Petition No. 118/MP/2018 itself, the Petitioner had alternatively raised the plea of allowing the relief/compensation under the regulatory powers of this Commission, which has been clearly recorded in the order dated 12.6.2019. Learned counsel added that it is no longer in dispute that as per the decision of the Hon'ble Supreme Court, the objection towards maintainability, if any, has to be considered only while deciding the main case itself. The learned counsel, accordingly, sought liberty to address the objection towards the maintainability while arguing the main matter.

2. In response to the specific query of the Commission regarding the basis on which the actual claims towards the cost of transportation due to the change in the allocation of mine for supply coal have been made and whether such transportation rates are based on the rates notified by any authority or competitive bidding, etc., learned counsel for the Petitioner sought liberty to place all such details by way of an additional affidavit. The learned counsel for Respondents, UP Discoms insisted that the Petitioner ought to be directed to file a proper application for placing on record such details rather than by way of an additional affidavit.

3. Considering the submissions made by the learned counsels for the parties, the Commission directed the Petitioner to file the following details/information on an affidavit within two weeks:

(a) Relevant clauses of the Bid document, LOA, PPA, etc., substantiating that the rate offered is based on the distance of transportation of coal.

(b) All supporting documents, wherein both parties agreed that the source of coal is 15 Km away from the instant Plant and any variation in the same is a Change in Law event.

(c) Basis on which the actual claims towards the cost of transportation due to the change in the allocation of mine for supply coal have been made and whether such transportation rates are based on the rates notified by any authority or competitive bidding, etc.

4. The Commission also permitted the Respondents to file their comments on the aforesaid details/information, if any, within two weeks with a copy to the Petitioner, who may file its rejoinder thereof within two weeks thereafter.

5. The matter remained part-heard and will be listed for hearing on **26.4.2024**.

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