

CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Petition No. 131/MP/2012

Coram:

Shri Gireesh B.Pradhan, Chairperson

Shri M. Deena Dayalan, Member

Shri A.K.Singhal, Member

Date of Hearing: 01.04.2014

Date of Order : 16.04.2014

In the matter of

Petition under Sections 62, 79 and 178 of the Electricity Act, 2003 read with Regulation 44 of CERC (Terms and Conditions of Tariff) Regulation 2009 and Regulations 110/111/112 and 115 of CERC (Conduct of Business) Regulations, 1999.

And

in the matter of

Mahaguj Power Limited
Adani House, Near Mithakhali six Roads,
Navrangpura, Ahamadabad-380 009

Petitioner

Vs

1. Maharashtra State Power Generation Company Ltd.
Prakashgad, Prof Anant Kanekar Marg,
Bandra (E), Mumbai-400 051

2. Gujarat State Electricity Corporation Limited
Vidyut Bhawan, Race Course,
Vadohara-390 007

3. Mahaguj Collieries Limited
Prakashgad, Prof Anant Kanekar Marg,
Bandra (E), Mumbai-400 051

4. M/s Adani Enterprises Limited
Adani House, Near Mithakhali six Roads,
Navrangpura, Ahamadabad-380 009

Respondents

Parties Present

1. Shri Amit Kapur, Advocate, MPL
2. Ms. Poonam Verma, Advocate, MPL
3. Shri Aproova Mishra, Advocate MPL

ORDER

The petitioner, Mahagunj Power Limited, a subsidiary of Adani Power limited has filed this petition with the following prayers, namely:

- “(i) Establish techno-economic guidelines for thermal power plants based on coal rejects, lending certainty of any incentives/norms applicable.*
- “(ii) Grant in-principle approval to the Applicant for the proposed project and in-principle approval for determination of tariff for the power generated from the proposed project providing power to two different states.*
- “(iii) Grant liberty to file a separate Petition for determination of tariff under Section 62 read with Section 79 (1) (b) of the Electricity Act, 2003 at an appropriate stage, in terms of the applicable regulations.*
- “(d) Pass such other or further orders as this Hon’ble Commission may deem fit and proper in the facts and circumstances of the case.”*

2. Maharashtra State Power Generation Company Limited (hereafter “Mahagenco”) and Gujarat State Electricity Corporation Limited (hereafter “GSECL”) who have been jointly allocated Mahanadi and Machhakata captive coal blocks under Ministry of Coal letter dated 6.2.2006, have promoted Mahaguj Collieries Limited (hereafter “Mahaguj Collieries”) as a joint venture company with shareholding in the ratio of 60:40, to undertake the coal mining operations at the captive coal blocks. Through the process of competitive bidding, Adani Enterprises Limited (hereafter “Adani Enterprises”) has been selected by Mahaguj Collieries as the Mine Developer-cum-Operator (MDO) to undertake development and operations of the captive coal mine as also transport the coal to the thermal power stations of Mahagenco and GSECL in their respective State.

3. Ministry of Coal, Government of India vide its letter dated 28.4.2009 has accorded it approval for use of the coal rejects available as by-product of the mining

operations, for generation of power, subject to the condition that power generated shall be supplied to Mahagenco and GSECL only. Accordingly, MDO i.e. Adani Enterprises has incorporated the petitioner as a subsidiary company to set up the power plant for power generation based on coal rejects at the pithead of Machhakata coal block in Angul District of the State of Odisha. The petitioner has stated that the capital cost of the power plant is expected to be around ₹7.5 crore/MW.

4. The terms and conditions for determination of tariff, applicable for the period 1.4.2009 to 31.3.2014, were specified by this Commission by notifying the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (hereafter “the 2009 Tariff Regulations”). The 2009 Tariff Regulations did not contain the norms applicable to the generating stations operating on coal rejects. The petitioner was directed to submit tentative norms as may be applicable to the proposed coal rejects based power plant. The petitioner under the affidavit dated 24.8.2012 filed the proposed norms with explanation for the deviations from the existing norms of thermal generating stations as specified in the 2009 Tariff Regulations.

5. Mahaguj Collieries vide its letter dated 29.10.2012 submitted that it would finalize its response to the petitioner after receipt of the guidelines from Ministry of Coal regarding utilisation of washery rejects from Machhakata coal block. Mahaguj Collieries vide its affidavit dated 19.6.2013 has enumerated the various problems encountered in developing the coal plant including the conditions imposed by the Government of Odisha while granting administrative approval. According to Mahaguj Collieries, taking into account the conditions made by Government of Odisha, which include supply of 30% free power to the State, it has requested Ministry of Coal for permission to dispose of coal rejects at the pit-head through a transparent bidding process or to hand

over the rejects to Coal India Limited or any other authority prescribed by the Ministry of Coal. Mahaguj Collieries has submitted that the cost of power based on conditions imposed by Government of Odisha works out to ₹ 5.377 per unit at pit head, which would further increase due to transmission cost from Odisha to Gujarat and Maharashtra. Mahaguj Collieries has submitted that the matter was also taken up with the distribution companies in Maharashtra and Gujarat, who conveyed their inability to procure power at such high cost. The distribution companies have also expressed their apprehension whether they could purchase power from the petitioner as it is not proposed to be developed through competitive bidding. Mahaguj Collieries has submitted that the matter was also placed before its Board, who directed the petitioner to inform the MDO and this Commission to await the reply from the Ministry of Coal. Mahaguj Collieries has requested to defer the petition till the actual commencement of coal production, or till the reply from the Ministry of Coal regarding utilization of coal rejects is received.

6. The petitioner has refuted the submission of Mahaguj Collieries and has requested for rejection of its prayers. The petitioner has submitted that considering the overall scenario, it would be beneficial for distribution companies and gencos to agree to the development of the power project by the petitioner for various reasons.

7. The respondents were directed vide letter dated 27.5.2013 to file their replies to the petition by 21.6.2013. None of the respondents has filed its reply.

8. We have heard learned counsel for the petitioner and also have gone through the records of the case.

9. The petitioner in its first prayer has requested to establish techno-economic guidelines for thermal power plants based on coal rejects. It may be noted that subsequent to the filing of the present petition, the Commission has notified the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 after detailed consultations with the stakeholders. The regulations shall be in operation from 1.4.2014 till 31.3.2019. The regulations provide for the norms for determination of tariff of the generating stations based on coal rejects. Therefore, the issue raised by the petitioner in its first prayer has been addressed.

10. In the second prayer, the petitioner has sought in-principle approval for the proposed project and in-principle approval for determination of tariff for the power generated from the proposed project providing power to two different States. It is clarified that there is no provision either in the 2009 Tariff Regulations or in the 2014 Tariff Regulations for in-principle approval of the project. As regards in-principle approval to a project for supply of power to two different States, it is clarified that only if a project has a composite scheme for generation and supply of power to more than one State and has been developed in accordance with the Tariff Policy, the concerned generating company can approach the Commission under Section 79 (1) (b) of the Act either for determination of tariff under section 62 or for adoption of tariff under section 63 of the Act. Therefore, the prayer for in-principle approval for supplying of power to two different States cannot be entertained.

11. The petitioner has also sought liberty to file a separate petition for determination of tariff under Section 62 read with Section 79 (1) (b) of the 2003 Act at an appropriate stage, in terms of the applicable regulations. In our view, no permission/liberty is

required from the Commission for filing the tariff petition. If the petitioner makes an application under section 62 read with section 79 (1) (b) of the Act, the same shall be dealt with in accordance with law.

12. With the above, the present petition stands disposed of.

Sd/-
(A.K.Singhal)
Member

sd/-
(M. Deena Dayalan)
Member

sd/-
(Gireesh B.Pradhan)
Chairperson