

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 112/MP/2015

- Subject : Petition under Section 79 of the Electricity Act, 2003 read with statutory framework governing procurement of power through competitive bidding and Articles 13.2.(b) of the Power Purchase Agreement dated 7.8.2007 executed between GMR Kamalanga Energy Limited and Bihar State Power (Holding) Company Ltd. for compensation due to change in law impacting revenues and costs during the operating period.
- Date of hearing : 6.11.2015
- Coram : Shri Gireesh B. Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member
- Petitioners : GMR Kamalanga Energy Limited and GMR Energy Ltd.
- Respondents : Bihar State Power (Holding) Company Limited and others
- Parties present : Shri Amit Kapur, Advocate, GMR
Shri Vishrov, Advocate, GMR
Shri Rohit Venkat, Advocate, GMR

Record of Proceedings

Learned counsel for the petitioner submitted that the present petition has been filed under Section 79 (1) (b) of the Electricity Act, 2003 and Article 10 of the Power Purchase Agreement read with clause 5.17 of the Competitive Bidding Guidelines for compensation on account of Changes in Law during the operation period which have financial implication on the cost and revenue of the petitioner due to (i) increase in the rate of royalty on coal, (ii) levy of clean energy cess, (iii) increase in excise duty on coal, (iv) change in the New Coal Distribution Policy, (v) change in source of coal, (vi) change in coal transportation from Rail mode to Road mode, (vii) Levy of service tax, (viii) increase in development surcharge, (ix) increase in VAT and MAT, (x) impact on interest on working capital and return on equity, (xi) delay in operationalization of Rampia Coal, and (xii) levy of Swachh Bharat cess.

2. Learned counsel submitted that since these developments have taken place after the submission of bids and have an impact on the cost of the project, the same needs to be compensated by the procurers in terms of Article 10 of the PPA.

3. After hearing the learned counsel for the petitioner, the Commission admitted the petition and directed to issue notices to the respondents.

4. The Commission directed the petitioner to serve a copy of the petition on the respondents, by 13.11.2015. The respondents were directed to file their replies by 4.12.2015 with an advance copy to the petitioner who may file its rejoinder, if any, by 23.12.2015.

5. The petition shall be listed for hearing on 12.1.2016.

By Order of the Commission

**(T. Rout)
Chief (Law)**