

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No. 105/MP/2017
along with IA No. 42/2017**

- Subject : Petition under Section 79 (1) (b) and (f) of the Electricity Act, 2003 read with Article 11.6 and 17 of the Power Purchase Agreements dated 07.08.2008 for recovery of unpaid dues towards fuel cost.
- Date of hearing : 20.12.2017
- Coram : Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member
- Petitioner : GMR Kamalanga Energy Limited.
- Respondents : Haryana Power Purchase Centre and Others.
- Parties present : Shri Amit Kapur, Advocate, GKEL
Shri Vishrov Mukherjee, Advocate GKEL
Shri Yashawi Kant, Advocate GKEL
Ms. Raveena Dhamija, Advocate GKEL
Ms. Khyati Gupta, GKEL
Shri G. Umopathy, Advocate UHBVN and DHBVN
Shri Aditya Singhla, Advocate UHBVN and DHBVN
Shri Ravi Kishore, PTC India

Record of Proceedings

Learned counsel for the petitioner submitted that the present petition has been filed seeking recovery of outstanding amount of Rs 130 crore raised through Supplementary Bills for the period from July, 2016 to June, 2017 towards coal cost incurred by the petitioner on account of shortfall of domestic firm linkage coal. Learned counsel for the petitioner further submitted as under:

- a. The Commission vide order dated 3.2.2016 in Petition No. 79/MP/2013 has allowed the petitioner to recover the additional cost incurred on use of coal from alternate sources due to shortage in linkage coal. The said order has attained finality as far as the issue of compensation for shortfall of linkage coal is concerned.
- b. As per the formula given by the Commission in the said order dated 3.2.2016, the computation of ECR has two elements i.e. ECR based on coal supplied under the firm linkage and ECR based on coal procured through import, open market and tapering linkage.

c. The petitioner is charging the respondent in accordance with the order dated 3.2.2016 which contemplates that the petitioner shall apportion the firm linkage coal supply to it pro rata to all the beneficiaries i.e. Haryana Discoms, GRIDCO and Bihar Discoms. Further, the petitioner may also procure imported, open market or tapering linkage coal in order to make up the shortfall in coal supplied under firm linkage and the cost of procurement of coal from alternate source will also be apportioned pro rata based on power supplied to the beneficiaries.

d. Since, the linkage coal was granted with respect to all the beneficiaries, the linkage coal has to be apportioned to Haryana Discoms proportionate to the capacity being supplied to them. It is incorrect on the part of Haryana Discoms to assume that the linkage coal has to be appropriated for Haryana Discoms only.

2. Learned counsel for HPPC submitted as under:

a) Pursuant to the Commission's direction dated 29.8.2017, HPPC convened a meeting with PTC and the petitioner on 25.9.2017 to resolve the issue. However, no amicable settlement could be reached in the meeting. During the meeting, PTC did not submit anything on the issue. However, the petitioner reiterated its earlier stand that it is equally distributing the linkage fuel to all the beneficiaries and the energy charge for alternate fuel against the shortfall in domestic coal is done for the plant as whole and passing it on the Haryana Discoms on pro rata basis.

b) The Commission in order dated 3.2.2016 in Para 55 has clearly adjudicated that the shortfall in linkage fuel is allowed and the respondent is ready to give the same for shortfall in NCDP if any, attributed upon the respondent.

c) The petitioner is pro rata distributing the generation achievable through linkage fuel whereas the respondent is seeking the implementation of para 48 of the order dated 3.2.2017 in totality and adjust the linkage fuel allocated for Haryana PPA obligation and to claim the shortfall thereof, if any under FSA.

3. After hearing the learned counsels for the parties, the Commission reserved the order in the petition.

By order of the Commission
Sd/-
(T. Rout)
Chief (Legal)