

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No. 105/MP/2017
alongwith I.A. 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 PPAs dated 7.8.2008 for recovery of unpaid dues towards fuel cost.

Date of hearing : 10.8.2017

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 & Another

Respondents : Haryana Power Purchase Centre & Others.

Parties present : Shri Amit Kapur, Advocate, GMRKEL
Shri Vishrov Mukherjee, Advocate, GMRKEL
Ms. Ravina Dhamija, Advocate, GMRKEL
Shri G. Umapathy, Advocate, HPPC
Shri S. Vallinagyam, Advocate, HPPC
Shri Ravi Juneja, HPPC
Ms. Jyoti Nagpal, Advocate, PTC

Record of Proceedings

Learned counsel for the petitioner submitted that the petitioner has filed the Interlocutory Application (IA) seeking clarification of the Commission's directions dated 20.6.2017 to the extent that the Commission's observations with respect to disputed amounts and direction for payment of undisputed amounts pertains only to the Supplementary Bills raised for the month of July, 2016 onwards and that no deductions can be made from the supplementary bills raised for the period prior to July 2016, which have already been paid by the respondents. Learned counsel further submitted as under:

a). While disposing of the IA No. 30/2017, the Commission in Para 5 of the RoP dated 20.6.2017 directed the respondents to pay the outstanding dues raised in the Supplementary Bills for change in law events other than for shortfall in coal linkages, which have not been disputed by the respondents.

b). Pursuant to the RoP, on 29.6.2017 and 5.7.2017, the petitioner requested PTC and CMD-UHBVNL respectively to release of the undisputed amount of Rs. 35.79 crore towards compensation for change in taxes, cess and duties for the period July 2016 to April 2017.

c). On 30.6.2017, PTC informed HPPC that as per the Commission's directions dated 20.6.2017, the Haryana Discoms were directed to pay the outstanding dues raised by the petitioner for change in law events other than for shortfall of linkage coal. HPPC was informed that it was liable to pay Rs. 35.79 crore for the period from July 2016 to April 2017.

d). The petitioner is apprehending that the respondents have withheld release of the undisputed amounts and may seek to adjust undisputed amounts paid by them towards coal cost pass through for the period prior to July 2016. The respondents have not challenged the order dated 3.2.2016 in Petition No. 79/MP/2013 and same has attained finality. The respondents have also not disputed the payments made in relation to coal cost pass-through prior to July, 2016.

e). Learned counsel requested to clarify that the direction dated 20.6.2017 in the present petition for payment of undisputed amounts is an interim measure only in relation to the Supplementary Bills raised by the petitioner for the period commencing July 2016 . If the said clarification is not issued, the respondents may adjust/set-off admitted undisputed amounts paid for the period prior to July 2016 against current Supplementary Bills.

2. After hearing the learned counsel for the petitioner, the Commission admitted the IA and directed to issue notice to the respondents.

3. Learned counsels appearing for HPPC and PTC India Limited accepted the notice to the IA.

4. Learned counsel for HPPC submitted that HPPC has already paid Rs. 35 crore as an advance and requested for time to file detailed reply to the IA.

5. Learned counsel for PTC requested for two weeks' time to file reply to the IA.

6. The Commission directed the petitioner to serve the copy of the IA on the respondents immediately, if not served already. The Commission directed the respondents to file their replies by 17.8.2017, with an advance copy to the petitioner, who may file its rejoinder, if any, by 24.8.2017. The Commission directed that due date of filing the replies and rejoinders should be strictly complied with. No extension shall be granted on that account.

7. The Commission directed to list the Petition and IA for hearing on 29.8.2017.

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