

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.170/MP/2016**

Subject : Petition under Section 79 (1) (b) and (f) of the Electricity Act, 2003 for adjudication of claims towards compensation arising out of 'Change In Law' and consequential reliefs as per provisions of the PPA dated 27.11.2013 between the Petitioner and Respondent.

Petitioner : KSK Mahanadi Power Company Limited

Respondent : Tamil Nadu Generation and Distribution Corporation Ltd.

**Petition No. 171/MP/2016**

Subject : Petition under Section 79 (1) (b) and (f) of the Electricity Act, 2003 for adjudication of claims towards compensation arising out of 'Change In Law' and consequential reliefs as per provisions of the PPA dated 26.2.2014 between the Petitioner and Respondents.

Petitioner : KSK Mahanadi Power Company Limited

Respondents : Madhyanchal Vidyut Vitran Nigam Ltd. and Others

**Petition No. 179/MP/2016**

Subject : Petition under Section 79 (1) (b) and (f) of the Electricity Act, 2003 for adjudication of claims towards compensation arising out of 'Change In Law' and consequential reliefs as per provisions of the PPA dated 27.11.2013 between the Petitioner and Respondent.

Petitioner : KSK Mahanadi Power Company Limited

Respondent : Tamil Nadu Generation and Distribution Corporation Ltd.

Date of hearing : 20.12.2017

Coram : Shri A.K. Singhal, Member  
Shri A.S. Bakshi, Member  
Dr. M.K. Iyer, Member

Parties present : Ms. Swapna Seshadri, Advocate, KSK Mahanadi  
Ms. Ranjitha Ramachandran, Advocate, Prayas  
Shri Nishant, Advocate, TANGEDCO

## Record of Proceedings

Learned counsel for TANGEDCO requested for an adjournment due to non-availability of the arguing counsel in the matter. Request was allowed by the Commission as a last chance.

2. Learned counsel for the Petitioner submitted that none of the Respondents except Prayas, have filed their replies and requested the Commission to direct the Respondents to file their replies. Learned counsel for the Petitioner further submitted that the Hon'ble Supreme court vide its judgement dated 11.4.2017 in Appeal No. 5399-5400 of 2016, has held that if a generating company having a scheme for generation and sale of electricity in more than one State, then it is enough to construe that the generating company is having composite scheme. Since, the Petitioner is supplying power to more than one State under long term PPA, it is construed that the Petitioner is having a composite scheme. Accordingly, the Commission has jurisdiction to embark upon the issues raised in these Petitions.

3. The Commission directed the Petitioner in Petition Nos.170/MP/2016 and 171/MP/2016 to furnish the following information on an affidavit, on or before, 11.1.2018:

- a) Gazetted notification issued by the Department of Revenue, Ministry of Finance, regarding the issue of clean energy cess, service tax (also including the imposition of krishi kalyan and Swachh Bharat Cess which is a part of the service tax).
- b) Gazetted notification issued by the Ministry of coal regarding the issue of Royalty on coal and contribution made to National Mineral Exploration Trust as well as District Mineral Exploration Trust.
- c) Gazetted notification of increase in the Chhattisgarh Environment Cess/Chhattisgarh Environment tax and Chhattisgarh Industrial Development Cess/Chhattisgarh Development tax.
- d) Date of Commercial operation of the units.
- e) Actual date of supply of power to TANGEDCO, AP Discoms, Telangana and other beneficiaries.
- f) Copy of the Fuel supply agreement entered with SECL.
- g) Schedule generation/ actual generation as per NLDC/ SRLDC data.
- h) Proper documentary evidence, statutory notifications, proof and justification to be produced for the issue entry tax, excise duty and proper documentary evidence/ proof including the State whose VAT is applicable in the instant petition and also other change in law events.

i) Actual demand for coal supply given by generating company and the actual supply made available by the coal company for the period 2015-16 and 2016-17, along with Price and GCV of domestic coal received from linkage and Price and GCV of e-auction/ imported coal used, if any along with GCV considered for the computation of relief along with the calculations duly certified by coal company.

j) Different PPA-wise/ contracted capacity-wise coal requirement received during 2015-16 and 2016-17. Quantum of linkage coal, e-auction coal and imported coal along with the actual shortfall starting from the actual commencement of supply of power to the respondents met through e-auction and imported coal.

k) The claim and the adequate/detailed information regarding the issue of the carrying cost.

l) The calculations of the amount claimed due to various change in law events, including the quantum of domestic coal certified by SECL and the details of the operational parameters such as GCV, Station heat rate, PLF/ Normative availability, Specific oil consumption and the auxiliary consumption as quoted in the bid.

4. The Commission directed the Petitioner in Petition No. 179/MP/2017 to furnish the following information on an affidavit, on or before 11.1.2018:

a) Copy of all the Fuel supply agreement entered with SECL/CIL for its coal based thermal generating station having 3600 MW installed capacity.

b) Date of commercial operation of the units which are under commercial operation.

c) Pro-rata contracted capacity for all the beneficiaries from the units/ capacity under commercial operation and date of commencement of power supply to various beneficiaries.

d) Actual date of supply of power to TANGEDCO.

e) Certificate from SECL/any other domestic coal company regarding availability of quantum of coal for despatch to KSK Mahanadi and actual supply of coal during the affected period starting from actual commencement of the supply of power to the respondents.

f) Soft copy of detailed calculation including linkage for arriving at the compensation claimed during 2015-16 and 2016-17.

g) Details of the operational parameters i.e. :-

(i) **Station Heat Rate:-** Submit the Design Guaranteed Turbine cycle Heat Rate and Guaranteed Boiler efficiency along with design Temperature (Superheat & Reheat) and Pressure.

(ii) **Aux. Consumption**:- Submit the design guaranteed Auxiliary energy consumption and type of cooling system along with type of Boiler Feed pump.

(iii) **PLF/ normative availability**: As per the petition, PLF is 80%. However, PLF has been mentioned as 85% in the PPA. Submit the reason for variation in PLF.

5. In response to the Commission's query as to whether the Petitioner has filed the appeal before the Hon'ble High Court of Andhra Pradesh, learned counsel for the Petitioner submitted that certain beneficiaries have filed the appeal before the Hon'ble High Court of Andhra Pradesh, which is still pending. The Commission directed the Petitioner to furnish on an affidavit, the status of the matter pending before the Hon'ble High Court of Andhra Pradesh.

6. The Commission directed the respondents to file their replies by 5.1.2018 with an advance copy to the Petitioner, who may file its rejoinders, if any, on or before 12.1.2018 as a last opportunity. The Commission directed that due date of filing the replies, rejoinder and information should be strictly complied with. No extension shall be granted on that account.

7. These Petitions shall be listed for final hearing on 30.1.2018.

**By order of the Commission**

**Sd/-  
(T. Rout)  
Chief (Law)**