

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri A.K. Singhal, Member

Shri A.S. Bakshi, Member

Dr. M.K. Iyer, Member

I.A No. 18 of 2017

In

Petition No. 61/GT/2016

Date of order: 31st May, 2017

In the matter of

Interlocutory application filed by Haryana Power Purchase Centre for impleadment as respondent.

And

In the matter of

Approval of tariff for the period from 1.4.2014 to 31.3.2019 and truing-up of tariff from COD to 31.3.2014 in respect of 262.5 MW gross capacity sale from Kamalanga Thermal Power Plant of GMR -Kamalanga Energy Limited (1050 MW).

And

In the matter of

GMR- Kamalanga Energy Ltd
Skip House, 25/1, Museum Road,
Bangalore- 560025

..... **Petitioner**

Vs

1. GRIDCO Limited
Janpath, Bhubnaeshwar- 751022
2. Central Electricity Supply of Orissa
2nd floor, idco tower, janpath
Bhubaneshwar- 751022
3. North Eastern Electricity Supply Company of Orissa Limited
Januganj, balasore- 756019
4. Western Electricity Supply Company of Orissa Limited
Burla, distt- sambalpur- 768017
5. Southern Electricity Supply Company of Orissa
Courtpetta, berhampur,
Ganjam- 760004

.....**Respondents**



Parties present:

Shri Vishrov Mukerjee, Advocate, GKEL
Shri Rohit Venkat, Advocate, GKEL
Ms. Raveena Dhamija, Advocate, GKEL
Shri Raj Kumar Mehta, Advocate, GRIDCO
Ms. Himanshi Andley, Advocate, GRIDCO
Shri G.Umapathy, Advocate, HPPC
Shri Aditya Singh, Advocate, HPPC
Shri Leo G. Rozario, Advocate, HPPC

Order

This petition has been filed by the petitioner, GMR -Kamalanga Energy Limited (GKEL) for approval of tariff for the period 2014-19 and for revision of tariff based on trueing- up exercise for the period from COD to 31.3.2014 in respect of 262.5 MW gross capacity sale from Kamalanga Thermal Power Plant, in terms of the 2014 Tariff Regulations and 2009 Tariff Regulations respectively.

Interlocutory Application

2. Interlocutory Application (I.A. No. 18 of 2017) has been filed by the applicant, Haryana Power Purchase Centre (HPPC) with the following specific prayers:

“allow the present application and permit the impleadment of the applicant HPPC (Dakshin Haryana Bijli Vitran Nigam Ltd. and Uttar Haryana Bijli Vitran Nigam Ltd.) as party respondent in the above proceeding”

3. During the hearing on 23.5.2017, the learned counsel for the applicant has pointed out that the petitioner, GKEL is seeking to adjust the linkage fuel on pro rata basis to the discoms of Odisha, Bihar and Haryana in terms of the order dated 3.2.2016 in Petition No. 79/MP/2013. He also submitted that the Commission in the said order dated 3.2.2016 had clearly stipulated that the PPA pertaining to HPPC is from the Fuel Supply Agreement (FSA) of Coal India Ltd (CIL) only and thus the exact quantum of coal utilized by the petitioner for its obligations namely the coal availability from CIL under FSA need to be demonstrated and in the absence of the same, the applicant is not bound to pay any supplementary bill on account of CIL issues and shortfall



in domestic coal under FSA. Accordingly, the learned counsel submitted that the applicant is vitally interested in above proceedings as any order passed in the tariff petition will have a bearing on the applicant and prayed that the impleadment application may be allowed in the interest of justice.

4. In response, the learned counsel for the petitioner, GKEL raised objections to the impleadment of the applicant and submitted that the present petition relates to the determination of tariff for supply of power to respondent, GRIDCO with which the petitioner has a separate PPA. He has also submitted that there is no ground for impleadment of the applicant in the tariff petition as the applicant is not a counter party to the PPA with GRIDCO. The learned counsel pointed out that since the utilization of coal is to be demonstrated in terms of the procedure laid down by the Commission in order dated 3.2.2016, any grievance of the applicant with respect to utilization of coal may be settled through a separate dispute resolution mechanism prescribed in the PPA with the Haryana discoms. The learned counsel added that since the applicant is neither a necessary party nor a proper party, the impleadment of the applicant in the tariff petition would serve no purpose. Accordingly, the learned counsel prayed that the impleadment application may be rejected.

5. We have examined the matter. The Commission in Petition No. 79/MP/2013 (GMR vs HPPC & others) had decided the issue of “Increase in the cost of fuel due to changes in the Fuel Supply Arrangements”, by order dated 3.2.2016 as under:

“48. NCDP is a policy statement of Government of India with regard to supply of coal. NCDP clearly provides that in case of shortage in supply of coal by CIL or its subsidiaries, the shortfall will be made up through import. The LOAs issued to GEL/GEKL also provided that shortfall would be made through import. Similarly, the FSA provided that shortfall in supply of coal by CIL or its subsidiaries would be made through import. Therefore, meeting part of the coal requirement through import has been provided in NCDP and has been reiterated through the LOAs and FSA in favour of GEKL. It is significant to note that the petitioner has long term PPAs with Haryana Discoms and the FSA clearly provides that ACQ of 1.819 million tonne is proportionate to the capacity tied up under long term PPA with Discoms/PTC having long term back to back PPA with Discoms. Thus, coal for supply of power to Haryana Discoms is secured through the FSA. In so far as captive coal block is concerned, the petitioner was granted tapering linkage of 550 MW on account of delay in development of captive coal



block. The petitioner has not disclosed in the petition whether the FSA for supply of coal covered under the LOA for tapering coal linkage has been signed or not.

49. It is significant to note that the petitioner as an IPP has entered into PPAs with Haryana Discoms for supply of power from part of its capacity under Case 1 bidding. As per Para 2.7.2.4 of the RfP issued by HPGCL, the petitioner was required to quote an all inclusive tariff. The said para provides for the following:

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Under Case 1 bidding, it is the responsibility of the project developer to arrange for coal and the project developer is merely required to indicate the coal linkage in its bid in support of it being a serious bidder to supply power on sustained basis. The procurer does not take any responsibility in so far as fuel is concerned. Therefore, Haryana Discoms are responsible only to the extent of payment of charges in accordance with the PPAs for the power supplied to them.”

6. The learned counsel for the applicant has stated that the petitioner ought to demonstrate the exact amount of coal linkage utilized by the petitioner *vis-à-vis* its obligation to supply power to the beneficiaries. Since the issues raised by the applicant in the IA relates to the utilization of coal/ adjustment of linkage fuel on pro rata basis by the petitioner, in terms of the procedure laid down by the Commission in order dated 3.2.2016, we find no reason to examine the same in the proceedings related to the determination of tariff for supply of power to GRIDCO by the petitioner. Accordingly, the impleadment of the applicant as respondent in the present proceedings related to determination of tariff would serve no purpose. In view of this, the application for impleadment of the applicant, HPPC is not admissible. In case the applicant has any grievance on issues relating to utilization of coal/ adjustment of linkage fuel arising out of the Commission's order dated 3.2.2016, liberty is granted to the petitioner to approach the Commission by way of an appropriate application, after making all necessary parties as respondents. The I.A is disposed of in terms of the above.

7. The learned counsel for GRIDCO submitted that it may be granted time to file its response / written submissions on the affidavits filed by the petitioner, in the main petition. The learned counsel for the petitioner also prayed that it may be granted liberty to file written submissions. The Commission accepted the prayer and directed the parties to file reply/ written submissions with copy to the other party, on or before 30.6.2017.



8. The petition shall be listed for hearing on **25.7.2017**. Pleadings shall be completed by the parties prior to the date of hearing and no extension of time shall be granted for any reason whatsoever.

Sd/-
(Dr. M.K.Iyer)
Member

Sd/-
(A. S. Bakshi)
Member

Sd/-
(A. K. Singhal)
Member

Sd/-
(Gireesh B. Pradhan)
Chairperson

