

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 285/MP/2018

- Subject : Petition for inclusion of liquidated damages deducted from capital cost and re-computation of trued-up tariff for the period FYs 2011-14 and tariff for 2014-19 pursuant to order dated 26.12.2017 in Petition No. 152/GT/2015 in respect of Maithon Right Bank Thermal Power Plant (Units I & II)(2 x 525 MW) of Maithon Power Ltd.
- Petitioner : Maithon Power Ltd.
- Respondent : TPDDL & ors.
- Date of hearing : **11.4.2019**
- Coram : Shri P.K. Pujari, Chairperson
Dr. M.K. Iyer, Member
Shri I.S.Jha, Member
- Parties present : Shri Amit Kapur, Advocate, MPL
Shri Vishrov Mukerjee, Advocate, MPL
Shri Ameya Vikram Mishra, Advocate, MPL
Shri Pramod Singh, MPL
Shri Pankaj Prakash, MPL
Shri Mansoor Ali, Advocate, TPDDL
Ms. Shefali Sobti, TPDDL

Record of Proceedings

During the hearing, the learned counsel for the Petitioner circulated note of arguments and mainly submitted as under:

- (a) Out of the estimated LD of ₹160 crore for the delay in completion of project package, ₹144.50 crore was to come from BTG contractor i.e. BHEL and ₹15.50 crore was expected to be recovered from other contractors.
- (b) However, in terms of the BTG contract, BHEL was not liable to pay any LD for delays on account of force majeure events. The issue was deliberated in meeting held on 7.9.2013, wherein it was agreed that BHEL would compensate the Petitioner by providing free supply of spares worth ₹84 crore and free technical consultancy services till December 2014. Accordingly, the Contract Closure Committee of the Petitioner recommended for closure of contract with BHEL without imposing any LD.
- (c) As regards recovery of LD from other contractors, the actual amount of LD to be recovered was ₹41.12 crore as against the estimated ₹15.50 crore. The amount recovered towards LD has been adjusted in the gross block of fixed assets in the period 2011-12 to 2014-15.
- (d) Accordingly, the amount of ₹160 crore towards LD may be included in the capital cost and tariff may be revised for the period 2011-14 and 2014-19.



2. In response, the learned counsel for the Respondent, TPDDL submitted that the Commission may pass appropriate orders taking into account the recommendations of the Contract Closure Committee, after prudence check.

3. At the request of the learned counsel for the Petitioner, the Commission permitted to place on record the LD clause with regard to the contract of BHEL with Petitioner, on or before **29.4.2019**. Subject to this, order in the Petition was reserved.

By order of the Commission

sd/-
(T. Rout)
Chief (Law)

