

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 209/MP/2019

Subject : Petition under Section 79 (1)(b) read with Section 79(1)(f) of the Electricity Act, 2003 and Article 10.1 of the Power Purchase Agreement dated 1.4.2013 for approval and consequent relief sought by the Petitioner due to a Change in law event viz. the introduction of new environmental norms by way of the Environment (Protection) Amendment Rules, 2015 issued by the Ministry of Environment, Forest and Climate Change dated 7.12.2015 impacting the revenues and costs of the Petitioner during the operating period.

Petitioner : Sembcorp Energy India Limited (SEIL)

Respondents : Southern Power Distribution Company of Telangana Limited (TSSPDCL) and Ors.

Petition No. 210/MP/2019

Subject : Petition under Section 79 (1)(b) read with Section 79(1)(f) of the Electricity Act, 2003 and Article 34.1 of the Power Supply Agreement dated 18.2.2016 for approval and consequent relief sought by the Petitioner due to a Change in law event viz. the introduction of new environmental norms by way of the Environment (Protection) Amendment Rules, 2015 issued by the Ministry of Environment, Forest and Climate Change dated 7.12.2015 impacting the revenues and costs of the Petitioner during the operating period.

Petitioner : Sembcorp Energy India Limited (SEIL)

Respondents : Southern Power Distribution Company of Telangana Limited (TSSPDCL) and Anr.

Date of Hearing : 27.2.2020

Coram : Shri P. K. Pujari, Chairperson
Shri I.S. Jha, Member

Parties present : Shri Sanjay Sen, Sr. Advocate, SEIL
Shri Nitish Gupta, Advocate, SEIL
Ms. Parichita Chowdhury, Advocate, SEIL
Ms. Swapna Seshadri, Advocate, Telangana Discoms
Shri Damodar Solanki, Advocate, Telangana Discoms



Record of Proceedings

Learned senior counsel for the Petitioner submitted that the present Petitions has been filed, *inter-alia*, seeking approval and consequent relief due to 'Change in Law' event, namely, introduction of new environmental norms by the Environment (Protection) Amendment Rules, 2015 notified on 7.12.2015. Learned senior counsel submitted that in order to achieve the environmental standards as per the said Notification, the Petitioner had appointed Tata Consulting Engineering, which has prepared a feasibility Report (TCE Report) on the technology and cost estimates for implementing the necessary measures to comply with new/revised environment norms. The said Report was submitted to Central Electricity Authority (CEA). CEA vide its letters dated 8.5.2019 and 15.5.2019 has advised for suitable technology and indicative cost for installation of FGD System. Learned senior counsel submitted that presently, the Petitioner is only seeking in-principle approval of the cost to be incurred by the Petitioner towards installation of Emission Control System, a pre-requisite for tie up of necessary debt from the lenders. Learned senior counsel submitted that the Petitioner has already initiated competitive bidding process for installation of Emission Control System. However, the bids received are yet to be opened.

2. Learned counsel for the Respondents, Telangana Discoms, referred their reply and mainly submitted as under:

(a) In terms of the Environmental Clearance for the Petitioner's Project dated 4.11.2009, the Petitioner is required to demonstrate the Emission Profile of its TPP on a periodic basis and display the actual emissions on real-time basis at the Plant, along with displays at CPCB and SPCB offices. However, the Petitioner has not provided the emission data. Accordingly, the Petitioner may be directed to submit the emissions data of its Project to ascertain as to whether the Petitioner is already complying with the revised emission norms.

(b) The fact that the new Plants such as the Petitioners' with advance machines of 660 MW using supercritical technology were already achieving the norms prescribed in 2015 MoEF Notification has also been envisaged in the Ministry of Powers' Notification dated 30.5.2018 issued under Section 107 of the Act.

(c) Unit-II of the Petitioner's TPP is coastal-based with BTG equipment supplied by Dongfong Electric Corp. Ltd., China, designed with supercritical technology with blending ratio of 70:30 (Indian Coal: Imported Coal). Also, PSA provides for blending of imported coal upto 40% by weight of equivalent domestic coal, which contains lesser ash content vis-à-vis domestic coal and thus, would further reduce the emission.

(d) The Petitioner is stated to be using the washed domestic coal by having entered into an agreement with Aryan Energy Private Limited. Since the washing of domestic coal reduces the ash content, it also results into lesser emission of NO_x, SO₂, CO₂.



(e) As regards NOx norms, MoEF, in Writ Petition (Civil) No. 13029 of 1985, in the matter of M.C Mehta v. Union of India & Ors., the Petitioner has filed an affidavit stating, *inter-alia*, for revision of NOx norms from 300mg/Nm³ to 450 mg/Nm³ for Thermal Power Plants installed between 1.1.2014 to 31.12.2016 and the same will be presented for final decision to the Secretary, MoEF. Since, the Petitioner's Plant is covered under the said period and it would already be complying with the revised norms.

3. In its rebuttal, learned senior counsel refuted the contentions made by the Respondents and submitted that only after taking into consideration of all emission data in respect of the Petitioner's Plant, CPCB's letter dated 11.12.2017, TCE Report and CEA, have substantiated the need for installation of FGD System and SNCR.

4. The Commission observed that Procurers should participate in the ongoing competitive bidding conducted by the Petitioner for installation of Emission Control System.

5. After hearing the learned senior counsel for the Petitioner and the learned counsel for the Respondents, the Commission directed the Petitioner to provide the following details, on affidavit, by 13.3.2020.

- (a) Environment Clearance in respect of Project;
- (b) Upfront allocation of funds for the environmental protection measures at the inception of the Project, if any;
- (c) Details of cost estimates submitted to lenders for financial closure of the Project;
- (d) Clarify as to whether the requirement of FGD was envisaged in the Investment Approval;
- (e) Six monthly report filed before CPCB for any period around December, 2015; and
- (f) Cost benefits analysis of the selected technology out of the two technologies suggested by CEA in its recommendation dated 15.4.2019.

6. The Commission directed the Respondents to file their response on the above information, if any, by 19.3.2020 with copy to the Petitioner.

7. Subject to above, the Commission reserved order in the Petitions.

By order of the Commission

**Sd/-
(T.D. Pant)
Deputy Chief (Legal)**

