

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 215/MP/2022

Subject : Petition seeking approval for input price of coal supplied from Talabira Mines to end use generating stations for the period from COD i.e. 1.4.2021 to 31.3.2024 under Regulation-9 of CERC (Terms and Conditions of Tariff) Regulations, 2019.

Petitioner : NLC India Limited

Respondents : TANGEDCO and 15 others

Date of Hearing : **16.5.2023**

Coram : Shri Jishnu Barua, Chairperson
Shri I.S. Jha, Member
Shri Arun Goyal, Member
Shri Pravas Kumar Singh, Member

Parties Present : Shri Kulamani Biswal, Advocate, NLCIL
Shri Rakesh Pandey, Advocate, NLCIL
Shri A. Srinivasan, NLCIL
Shri Tulasi Kumar, NLCIL
Ms. Akansha, NLCIL
Shri S. Vallinayagam, Advocate, TANGEDCO

Record of Proceedings

During the hearing, the learned counsel for the Petitioner submitted that the present petition has been filed seeking approval for input price of coal supplied from Talabira Mines to end use generating stations, for the period from COD of Mines (1.4.2021) to 31.3.2024, Accordingly, the learned counsel mainly submitted the following;

- (a) Mining plan of the block was approved by Ministry of Coal, GOI in January 2012. The mine was envisaged to be operated under Mine Developer cum Operator (MDO) mode and Letter of award for appointment of MDO was issued on 6.2.2018.
- (b) Ministry of Power, Government of India on 19.11.2020 allotted the Talabira coal block to the Petitioner, as a coal mining block with a capacity of 20 MTPA.
- (c) The COD of the Mine was declared on 1.4.2021 as per Regulation 5 (3) (b) of the Second Amendment to the 2019 Tariff Regulations, and Auditor certificate issued by M/s AASA and Associates dated 3.12.2021 is enclosed.
- (d) MOC, GOI has permitted the Petitioner for sale of upto 75% of production of coal from the Talabira mines, from 1.4.2021. Till the commencement of operation of the Talabira Thermal Power Plant, NLC Tamil Nadu Power Ltd (NTPL) will remain the sole end use generating station and the transfer price of coal has to be determined for sourcing of coal by NTPL from Talabira.



(e) This petition is for approval of the input price of Talabira mines for direct supply of 2.6 MTPA to NTPL, based on its requirement.

2. The learned counsel for Respondent TANGEDCO circulated note of arguments and made detailed oral submissions as under:

- (a) The PPA between the Petitioner and the Respondents relates to the coal supply source as Mahanadi Coal Fields (MCL), Talcher, Orissa. Accordingly, FSA has been executed by the Petitioner with MCL. However, for procurement of coal for NTPL station from Talabira Mines, the consent of the beneficiaries, had not been obtained by the Petitioner.
- (b) The consent of the beneficiaries is a pre-requisite, in terms of the CEA guidelines and Regulation 43 (3) of the 2019 Tariff Regulations, notified by the Commission. The Petitioner may indicate the circumstances under which the coal sourcing was shifted to Talabira mines, even when the same is not economically viable for the beneficiaries.
- (c) Though sourcing of alternate fuel is permissible on the grounds of shortage, and for optimization of power generation, substitution of fuel is not permissible, as in the present case. The Petitioner has also not pleaded that the sourcing of coal from Talabira mines, is on account of shortage and /or for optimisation of power generation.
- (d) The O&M expenses for the year 2021-22 shall be fixed on COD on par with the existing similar mines and the escalation rate for the subsequent years shall be restricted to 3.5% as applicable, for mines commissioned before 31.3.2019.

3. In response, the learned counsel for the Petitioner clarified that the Government of India had allocated Talabira II & III OCP Coal Block in Sambalpur District, Odisha to the Petitioner as per 'Nominated Authority constituted under section 6 of the Coal mines (Special Provision) Act, 2015. He also submitted that the sourcing of coal from Talabira Mine to NTPL was communicated to all the beneficiaries (including TANGEDCO) vide letter dated 7.5.2019, but no response was received. The learned counsel further submitted that 1.417 MT coal was lifted from Talabira Mines during the years 2021-22 and the requirement for NTPL from Talabira Mines, would be only 2.6 MTPA for the period 2022-24.

4. At the request of the learned counsel for the parties, the Commission permitted the Petitioner and the Respondent to file their written submissions (not exceeding three pages) by **12.6.2023**.

5. Subject to the above, order in the petition was reserved.

By order of the Commission

Sd/-
(B. Sreekumar)
Joint Chief (Law)

