

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.101/MP/2017

Subject :Petition under Section 79 (1)(b) read with Section 79(1)(f) of the Electricity Act, 2003 seeking compensation on account of occurrence of 'Change in Law' and 'Force Majeure' events relating to Power Purchase Agreement dated 1.11.2013 entered into between the Petitioner and the Respondents.

Date of hearing : 15.6.2017

Coram : Shri Gireesh B. Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member

Petitioner : D.B. Power Limited.

Respondents : PTC India Limited and others

Parties present :Shri Deepak Khurana, Advocate, DB Power Limited

Record of Proceedings

Learned counsel for the Petitioner submitted that the present petition has been filed for adjudication of the claims arising from Change in Law and *Force Majeure* events as per the provisions of the PPA dated 1.11.2013 entered into between the petitioner and the respondents. Learned counsel for the petitioner further submitted that the Commission vide Record of Proceedings for the hearing order dated 9.5.2017 has admitted the similar Petition No. 229/MP/2016 filed by the Petitioner and requested to admit the present petition and list both the petitions together.

2. After hearing the learned counsel for the petitioner, the Commission admitted the petition and directed to issue notice to the respondents.
3. The Commission directed the Petitioner to serve copy of the petition on the respondents and Prayas (Energy Group), Pune, an authorized consumer representative under Section 94 (3) of the Electricity Act, 2003 . The Commission directed the respondents and Prayas to file their replies by 7.7.2017 with an advance copy to the petitioner, who may file its rejoinder, if any, on or before 20.7.2017.
4. The Commission directed the Petitioner to furnish the following information on affidavit, by 7.7.2017:
 - (a) Whether any change in law events reducing the cost have occurred during construction and operation period;

- (b) Submit the copy of the Gazette notification increasing the forest tax/ Chhattisgarh Environment Cess/Chhattisgarh Environment tax and Chhattisgarh Industrial Development Cess/Chhattisgarh Development tax;
- (c) Claim towards Fly Ash Transportation during the period from 30.11.2016 to 31.3.2017 is related only to the energy supplied to RUVNL and not to all the long term beneficiaries. Submit details of fly ash generation corresponding to energy supplied to all RUVNL during the period from 30.11.2016 to 31.3.2017, along with quantum of ash transported up to 100 km distance and beyond 100 km (up to 300km) and rate of ash transportation cost.
- (d) Revenue earned and cost incurred towards transportation from supplying ash up to 100 km distance and beyond 100 km (upto 300 km).
- (e) Whether the petitioner has awarded the contract for transportation of ash through competitive bidding or through negotiation route. If the contract has been awarded through competitive bidding, then, submit copy of agreement along with the rate of transportation cost. If the contract has been awarded through negotiation route, then justify how can the price considered was competitive.
- (f) Actual fly ash transportation cost paid from 30.11.2016 (supply date to RUVNL) to 31.3.2017 duly certified by the auditor.
- (g) Under which head of account, transportation expenditure is booked and whether cost of such transportation was being recovered in tariff.
- (h) Whether the Petitioner is maintaining a separate account for revenue earned from sale of ash as per the notification of MoEF. If yes, the total revenue accumulated and the expenditure incurred from the same account till date. If not, the reason for not maintaining such separate account;
- (i) Submit the following information with regard to additional cost due to reduction in supply of coal from SECL :
- (i) Total Power tied-up in MW by the Petitioner for long term Beneficiaries from the period from 30.11.2016 (supply date to RUVNL) to 31.3.2017.
 - (ii) Break-up of coal received from difference sources viz. linkage coal, coal purchased from e-auction, imported coal, etc. during the period from 30.11.2016 (supply date to RUVNL) to 31.3.2017.
 - (iii) Coal requirement for schedule generation and actual generation in respect of long term PPA during the period from 30.11.2016 to 31.3.2017.

(iv) Quantum of power generated by the Petitioner based on the linkage coal received from SECL and quantum of power supplied to all the long term beneficiaries on daily basis during the period from 30.11.2016 to 31.3.2017.

5. The Commission directed that due date of filing the replies, rejoinders and information should be strictly complied with. No extension shall be granted on that account.

6. The petition shall be listed for hearing on 27.7.2017.

By order of the Commission

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