

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 229/MP/2016

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 19.8.2013 entered into between the Petitioner and the Respondent.

Date of hearing : 9.5.2017

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.

Respondent : Tamil Nadu Generation and Distribution Corporation Limited

Parties present : Shri Deepak Khurana, Advocate, DB Power Limited
Shri S. Vallinayagam, Advocate, TANGEDCO

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 19.8.2013 entered into between the petitioner and the respondent.

2. On a specific query of the Commission as to whether the 5% of power has been given on variable cost, learned counsel for the petitioner clarified that the petitioner is supplying 208 MW power to TANGEDCO in the State of Tamil Nadu besides supplying 5% of power to the State of Chhattisgarh under Clause 3.1(ii) of the Implementation Agreement dated 6.8.2009. Learned counsel for the petitioner further submitted that the petitioner is also supplying power to Rajasthan Discoms for which, the petitioner has filed a separate petition.

3. Learned counsel appearing on behalf of TANGEDCO requested for three weeks time to file its reply to the petition.

4. After hearing the learned counsels for both the parties, the Commission admitted the petition and directed to issue notice to the respondent.

5. The Commission directed the respondent to file its reply by 16.6.2017 with an advance copy to the petitioner, who may file its rejoinder, if any, on or before 10.7.2017.



6. The Commission directed the petitioner to furnish the following information on affidavit, by 16.6.2017:

- (a) Details of % of ash utilization such as brick manufacturing, road construction projects and soil conditioner in agriculture activity, etc.;
- (b) The methodology/ procedure followed for disposal of ash. Is there a laid down system for disposal of ash? If so, the same needs to be provided;
- (c) Details of ash transportation, ash transportation cost, income from sale of ash, agency to whom ash was sold, etc. in the format given under Annexure-A attached with this ROP;
- (d) Under which head of account, transportation expenditure is booked and whether cost of such transportation was being recovered in tariff;
- (e) 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; and
- (f) The impact of ash utilization on land acquisition for Ash Dyke, its maintenance cost (O&M) including consumption of water, capital expenditure, etc.

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

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

By order of the Commission

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

Annexure-A

| Sl. No. | Name of Agency to whom ash was supplied | Period of supply | Distance and quantum of supply of ash from plant | Rate of ash transportation cost (Rs./ton/km) | Rate of ash transportation cost fixed through negotiation/tenders | If through tender. No. of bidder participated | Income from ash sale | Total transportation Cost incurred |
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