

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 118/MP/2018**

Subject : Petition under Section 79(1)(b) and (f) of the Electricity Act, 2003 read with Article 10 of the PPA dated 25.7.2013 (PTC-PPA) and procurers PPA for claiming compensation on account of events pertaining to Change in Law.

Date of Hearing : 21.8.2018

Coram : Shri P. K. Pujari, Chairperson  
Shri A. K. Singhal, Member  
Dr. M. K. Iyer, Member

Petitioner : TRN Energy Private Limited

Respondents : Paschimanchal Vidyut Vitran Nigam Limited and Others

Parties present : Shri Ratan K. Singh, Advocate, TRN Energy  
Shri Suraj Prakash, Advocate, TRN Energy  
Shri Mrinal Litoria, Advocate, TRN Energy  
Shri Ashish Anand Bernard, Advocate, PTC India  
Shri Paramhans, Advocate, PTC India  
Shri Rajiv Srivastava, Advocate, UPPCL

**Record of Proceedings**

Learned counsel for the Petitioner submitted that the present Petition has been filed for seeking compensation on account of Change in Law events which have resulted in additional expenditure during the operating period. Learned counsel further submitted as under:

- a) The Commission through its various orders has already dealt with most of the claims pertaining to the change in law events as claimed by the Petitioner.
- b) With regard to increase in transportation charges, learned counsel submitted that as per the bid, the distance from the mine to the power plant was quoted as 15 Kms. considering the allocation of fuel linkage from SECL. However, the allocation of fuel linkage from the nearest SECL is located at the distance of 150 Kms. which have resulted into increase in transportation charges from mines to the thermal plant.

2. Learned counsel for UP Discoms submitted as under :

- a) The present Petition is not maintainable. The tariff of the Petitioner has been adopted by UPERC under Section 63 of the Act in respect of the power being purchased by UP Discoms. Therefore, UPERC has jurisdiction to adjudicate upon the present Petition.
- b) There is no PPA between the Petitioner and UP Discoms. Therefore, there is no privity of contract.
- c) As per Article 15.4.1 of the PPA between the UP Discoms and PTC, the Agreement is solely for the benefit of the parties and their respective successors and permitted assignees and shall not be construed as creating any duty, standard of care or any liability to any person who is not a party to the Agreement.
4. After hearing the learned counsels for the parties, the Commission directed the Petitioner and the Respondents to file their written submissions by 7.9.2018. The Commission further directed that due date in filing the written submissions shall be strictly complied with failing which the order shall be passed on the basis of the documents available on record.
5. Subject to the above, the Commission reserved the order in the Petition.

**By order of the Commission**

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