

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 170/MP/2016

Subject : Petition under Section 79 (1) (b) and (f) of the Electricity Act, 2003 for adjudication of claims towards compensation arising out of 'Change In Law' and consequential reliefs as per provisions of the PPA dated 27.11.2013 between the Petitioner and Respondent.

Petitioner : KSK Mahanadi Power Company Limited

Respondent : Tamil Nadu Generation and Distribution Corporation Ltd.

Petition No. 171/MP/2016

Subject : Petition under Section 79 (1) (b) and (f) of the Electricity Act, 2003 for adjudication of claims towards compensation arising out of 'Change In Law' and consequential reliefs as per provisions of the PPA dated 26.2.2014 between the Petitioner and Respondents.

Petitioner : KSK Mahanadi Power Company Limited

Respondents : Madhyanchal Vidyut Vitran Nigam Ltd. and Others

Petition No. 179/MP/2016

Subject : Petition under Section 79 (1) (b) and (f) of the Electricity Act, 2003 for adjudication of claims towards compensation arising out of 'Change In Law' and consequential reliefs as per provisions of the PPA dated 27.11.2013 between the Petitioner and Respondent.

Petitioner : KSK Mahanadi Power Company Limited

Respondent : Tamil Nadu Generation and Distribution Corporation Ltd.

Date of hearing : **30.1.2018**

Coram : Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member

Parties present : Shri Anand K. Ganeshan, Advocate, KSK Mahanadi
Ms. Swapna Seshadri, Advocate, KSK Mahanadi
Shri Ashwin Ramanathan, Advocate, KSK Mahanadi
Ms. Parichita Chowdhury, Advocate, KSK Mahanadi
Shri N. Ramakrishnan, KSK Mahanadi
Ms. Ranjitha Ramachandran, Advocate, Prayas
Ms. Anushree Bardhan, Advocate, Prayas
Shri S. Vallinayagam, Advocate, TANGEDCO
Shri Rajeev Srivastava, Advocate, UPPCL



Record of Proceedings

On a specific query by the Commission as regards the status of the Writ Appeals pending before the Hon'ble High Court of Andhra Pradesh with respect to jurisdiction of the Central Commission vis-à-vis the State Commission, the learned counsel for the petitioner clarified that it had not filed any Writ Appeal before the said High Court or any other judicial forum on this issue. The learned counsel however submitted that certain discoms and generators have filed appeals before the said Court, challenging the orders of AP Electricity Regulatory Commission (APERC) and the Telangana State Electricity Regulatory Commission (TSERC) holding that they have jurisdiction to adjudicate the disputes between the discoms and the generating companies located in the erstwhile State of AP. He also submitted that the judgment of the Hon'ble SC in Energy Watchdog case interpreting the term 'composite scheme' under section 79 (1) (b) of the Electricity Act, 2003 is applicable in the present case. However, the pendency of the Writ Appeals in the High Court of AP with respect to jurisdiction is of no relevance as even otherwise, the petitioner has the composite scheme for generation and supply of power to more than one state i.e to the States of AP, Telangana, Tamil Nadu and UP including the State of Chhattisgarh (host state) and this Commission has the jurisdiction to decide these petitions. The learned counsel further submitted that the generating company is facing cash flow problems on account of change in law events and hence the Commission, in terms of its decisions in earlier petitions pertaining to change in law, may be applied to the present case of the petitioner.

2. In response, the learned counsel for the respondent, TANGEDCO pointed out that the petitioner in one of the tariff petitions filed before TSERC had contended that the said Commission only has the jurisdiction to deal with the matter in terms of the PPA and that regular payments are being made. He also pointed out that in case change in law events are decided in the petition, the same would be applicable to all the discoms in the States of AP and Telangana. The learned counsel further submitted that the petitioner has entered into long term PPAs with the discoms amounting to a capacity of 2100 MW when only two units of 600 MW each had only been commissioned. The petitioner may be requested to clarify the same on affidavit.

3. The learned counsel for respondent, UPPCL submitted that it may be granted time to file reply to the submissions made by the petitioner in response to ROP dated 26.12.2017.

4. The Commission after hearing the parties adjourned the hearing. The Commission directed the petitioner to justify, on affidavit, whether the present petitions can be heard, in the backdrop of the writ appeals regarding jurisdiction pending before the High Court of AP as above. The Commission also directed the petitioner to submit the following information (in Petition No. 179/MP/2016), with advance copy to the respondents, on or before **20.2.2018**:



a) Copy of the Coal supply agreement entered with M/s Goa Industrial Development Corporation and M/s Gujarat Mineral Development Corporation Ltd;

b) Copy of MOU dated 13.7.2015 between South Eastern Coalfields Ltd. and KSK Mahanadi

6. The respondents shall file their replies with an advance copy to the other, on or before **27.2.2018**. Rejoinder, if any, by **5.3.2018**. Matter shall be listed for hearing on **14.3.2018**. Pleadings shall be completed by the parties prior to the date of hearing.

By order of the Commission

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

