

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 177/MP/2020

Subject : Petition under Section 79(1)(b) & (f) and other applicable provisions of the Electricity Act, 2003 for applicability of the provisions of PPA dated 26.2.2014 and amendment dated 23.1.2018 for levying penalty for maintaining availability below 80% for a contract year.

Petitioner : KSK Mahanadi Power Company Limited (KSKMPCL)

Respondents : Uttar Pradesh Power Corporation Limited (UPPCL) and Ors.

Date of Hearing : 14.7.2020

Coram : Shri I. S. Jha, Member
Shri Arun Goyal, Member

Parties present : Ms. Swapna Seshadri, Advocate, KSKMPCL
Shri Anand Ganesan, Advocate, KSKMPCL
Shri Ashwin Ramanathan, Advocate, KSKMPCL
Shri C. K. Rai, Advocate, UPPCL
Shri Vikram Singh, UPPCL

Record of Proceedings

The matter was heard through video conferencing.

2. Learned counsel for the Petitioner submitted that the instant Petition has been filed, *inter-alia*, seeking declaration that the computation of penalty applicable for shortfall in availability shall be carried out on an annual basis as per Clause 4.2.5 of Schedule 4 of the Power Purchase Agreement (PPA). Learned counsel submitted that the issue involved in the instant Petition is squarely covered by the Commission's order dated 18.1.2019 in Petition No. 224/MP/2018 (MB Power (Madhya Pradesh) Limited v. UPPCL and Ors.) and order dated 14.5.2019 in Petition No. 77/MP/2018 (TRN Energy Private Limited v. UPPCL and Ors.). She further added that the Petitioner herein and the generators in the said Petitions i.e. MB Power (Madhya Pradesh) Limited and TRN Energy Pvt. Ltd. have been selected in the same bidding process and have identical PPAs.. Accordingly, the Commission may pass an appropriate order in line with its earlier orders.

3. Learned counsel for the Respondent, Uttar Pradesh Power Corporation Limited (UPPCL) accepted the notice and requested for two weeks' time to file reply.



4. After hearing the learned counsel for the Petitioner and the Respondent, UPPCL, the Commission admitted the Petition and directed to issue notice to the Respondents.

4. The Commission directed the Petitioner to serve copy of the Petition on the Respondents immediately, if not already served. The Respondents were directed to file their reply by 30.7.2020 with advance copy to the Petitioner. The Commission directed that due date of filing of reply should be strictly complied with.

5. The Petition shall be listed for hearing, if required, in due course.

By order of the Commission

Sd/-

(T.D. Pant)

Deputy Chief (Law)

