

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. : **393/MP/2019**

Subject : Petition under Section 79 of the Electricity Act, 2003 read with Regulation 29 of the Central Electricity Regulatory Commission (Terms and Condition of Tariff) Regulations, 2019 for approval of additional expenditure on account of installation of various Emission control systems at Indira Gandhi Super thermal Power Station (3x500 MW) in compliance of Ministry of Environment and Forests and Climate Change, Government of India Notification dated 7.12.2015.

Date of Hearing : 1.6.2021

Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Pravas Kumar Singh, Member

Petitioner : Aravali Power Company Private Limited (APCL)

Respondents : Haryana Power Purchase Center (HPPC)

Parties present : Ms. Poorva Saigal, Advocate, APCPL
Ms. Tanya Sareen, Advocate, APCPL
Mr. Anjum Zargar, Advocate, APCPL
Ms. Swapna Seshdari, Advocate, HPPC
Mr. Anand Gansean, Advocate, HPPC
Ms. Ritu Apurva, Advocate, HPPC,
Mr. R. B Sharma, Advocate, BRPL
Ms. Megha Bajpeyi, Advocate, BRPL
Mr. Manoor Shoket, Advocate, TPDDL,
Mr. Kunal Singh, Advocate, TPDDL
Ms. Shefali Sobti, TPDDL

Record of Proceedings

The matter was called out for virtual hearing.

2. The learned counsel for the Petitioner submitted that the instant petition has been filed for approval of additional expenditure on installation of various Emission Control Systems at Indira Gandhi Super Thermal Power Station (3x500 MW) in compliance with the Ministry of Environment and Forests and Climate Change, Government of India Notification dated 7.12.2015 (MOEF&CC). She submitted that NIT was issued in October, 2018 i.e. prior to the notification of the 2019 Tariff Regulations. The Board of Directors accorded approval for the installation of ECS on 12.4.2019 and



letter of award was issued to GE Power India Ltd. on 29.4.2019. The hard cost approved by the Board of directors was of ₹872 crore inclusive of GST and the base cost of ₹48 lakh/MW is comparable to the CEA benchmark cost of ₹40 lakh/MW. She submitted that the pleadings are complete in the matter. On the issue of maintainability of the petition raised by the HPPCL that whether the MOEF&CC notification dated 7.12.2015 constitutes "Change in Law" within the meaning of Power Purchase Agreement (PPA), she submitted that said issue has been clarified in its rejoinder. She further submitted that the Commission in its order dated 20.7.2018 in Petition No.98/MP/2017 has already held that the MoEFCC Notification dated 7.12.2015 constitutes "Change in Law" and the additional capital expenditure incurred towards implementation of ECS for meeting the revised emission standards shall be admissible under "Change in Law" after a prudence check by the Commission.

3. The learned counsel for the Petitioner submitted that the Petitioner has shared the indicative tariff with the beneficiaries, vide letter dated 14.10.2020, as required under the 2019 Tariff Regulations. She submitted that the actual emission profile of the Petitioner's power plant has not been furnished and the same shall be placed on record soon. She further submitted that combustion modification has already been installed and commissioned in the generating station of the Petitioner and the installation of FGD is in progress and it is expected to be completed by December, 2022.

4. The learned counsel appearing on behalf of the BRPL submitted that the Petitioner should submit whether the bidding process took place before or after coming into force of the 2019 Tariff Regulations and reason for not calling for international competitive bidding. He submitted that the reply to the instant petition was filed in October, 2020. He sought time to file additional reply in the matter.

5. The learned counsel appearing on behalf of HPPCL submitted that the Petitioner should file the actual emission levels of the Petitioner's generating station.

6. The learned counsel appearing on behalf of TPDDL also sought time to file reply in the matter.

7. The Commission directed the Petitioner to clarify the issues raised by the beneficiaries/ Respondents, by 11.6.2021, and the beneficiaries/ Respondents to file their comments, if any, by 25.6.2021. The Commission further directed the parties to comply with the directions with the timeline specified and observed that no extension of time shall be granted. The Commission further directed the Petitioner to provide the following information on affidavit, by 11.6.2021 with an advance copy to the Respondents/ beneficiaries:

- (i) The present emission level of SO_2 and NO_2 during the past three years of its Thermal Power Units certified by competent Authority, as provided to the Pollution Control Board.
- (ii) Have the Respondents/ beneficiaries consulted regarding the proposed



additional capital expenditure prior to floating/ finalizing the bid for incurring such additional capital expenditure, if not reasons for the same;

- (iii) Copy of NIT along with bid opening/closing dates.
- (iv) Certificate from the competent authority that bidding and award of the work has been carried out in a fair and transparent manner as per the applicable GOI guidelines.
- (v) A note on the process of bidding for award of different packages of ECS, with names of the bidders who participated in the bid and name of the successful bidder, with a copy of the Letter of Award/Letter of Intent issued to the successful bidder.
- (vi) Station-wise/unit-wise break-up of the capital cost claimed for FGD as per the following table:

Unit No.	Capacity (MW)	CEA's indicative hard cost (₹ lakh per MW)	Hard cost claimed (₹ lakh per MW)	*Total IDC claimed (₹ lakh)	*Total IEDC claimed (₹ lakh)	#Total FERV claimed (₹ lakh)	*Total taxes & duties claimed (₹ lakh)	Total other costs claimed (₹ lakh)	**Total costs claimed (₹ lakh)
1									
2									
3									
4									
5									
6									

- (vii) Reasons for deviation from CEA's indicative hard cost, if any.
- (viii) If any contract for NOx reduction at the generating station has also been awarded, the cost of the same is to be segregated and the capital cost for FGD is to be provided separately and distinctly.
- (ix) Present status of implementation of FGD.

8. After hearing the parties, the Commission reserved the order in the petition.

By order of the Commission

sd/-
(V. Sreenivas)
Deputy Chief (Law)

