

CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Petition No. 405/MP/2019

- Subject : Petition under Section 79 of the Electricity Act, 2003 read with statutory framework governing procurement of power through competitive bidding ('Competitive Bidding Guidelines') and (a) Article 10 of the PPA dated 9.11.2011 between GMR Kamalanga Energy Limited and Bihar State Electricity Board and (b) Article 13 of the PPA dated 12.3.2009 between GMR Energy Limited (on behalf of GMR Kamalanga Energy Limited) and PTC India Limited with back to back PPA between PTC India Ltd. and Haryana Distribution companies, for compensation due to Change in Law for compensation due to levy of charges for transportation of fly ash and evolving a mechanism for grant of appropriate adjustment/compensation to offset financial impact on account of levy of charges for transportation of fly ash and carrying cost.
- Date of Hearing : 27.8.2020
- Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
- Petitioners : GMR Kamalanga Energy Limited and Anr.
- Respondents : Dakshin Haryana Bijli Vitran Nigam Limited and 7 Ors.
- Parties present : Shri Vishrov Mukerjee, Advocate, GMR
Shri Yashaswi Anand, Advocate, GMR
Shri G. Umapathy, Advocate, Haryana Utilities
Shri Manish Kumar Choudhary, Advocate, BSPHL

Record of Proceedings

The matter was heard through video conferencing.

2. Learned counsel for the Petitioner submitted that the present Petition has been filed pursuant to liberty granted by the Commission in its order dated 21.2.2018 in Petition No.131/MP/2016, wherein the Commission *inter-alia* held that levy of charges for transportation of fly ash pursuant to Notification dated 25.1.2016 issued by Ministry of Environment, Forest and Climate Change (MoEF&CC) was a Change in Law event in-principle. Learned counsel circulated his note on arguments and submitted that the admissibility of the Petitioner's claims toward fly ash transportation was made subject to compliance with certain conditions stipulated by the Commission in its order dated



19.12.2017 in Petition No.101/MP/2017 (in the matter of DB Power Ltd. Vs. PTC India Ltd. and others) and that the Petitioner has complied with the said conditions and has placed on record the relevant documents for determination of the compensation. Learned counsel further sought liberty to place his note on arguments on record.

3. Learned counsel for the Respondents, Haryana Utilities advanced extensive arguments in support of his contentions and reiterated the submissions made in his pleading. Learned counsel further sought liberty to file his written submissions.

4. Learned counsel for the Respondents, Bihar State Power Holding Company Limited (BSPHCL) adopted the arguments advanced by learned counsel for Haryana Utilities and sought two weeks' time to file his reply/ written submissions.

5. Based on the request of learned counsels for the parties, the Commission directed the parties to file their written submissions, if any, by 22.2.2021 with copy to each other.

6. The Commission further directed the Petitioner to provide the following details/ information on affidavit by 18.2.2021:

(a) Certify that enough efforts have been made to sell the fly ash produced from the generating station to cement companies or other users who purchase fly ash for their use; and

(b) Proof of efforts made such as advertisement in newspapers/ website or any correspondence made with the nearby users such as cement companies for sale of fly ash generated from the Power Plant.

7. Subject to the above, the Commission reserved order in the Petition.

By order of the Commission

**Sd/-
(T.D. Pant)
Deputy Chief (Law)**

