

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 38/MP/2022

Subject : Petition under Section 79(1)(f) of the Electricity Act, 2003 for adjudication of disputes arising under the Power Purchase Agreement dated 31.7.2012 between the Petitioner and the Respondents.

Petitioner : KSK Mahanadi Power Company Ltd.

Respondents : Southern Power Distribution Company of Telangana Limited & 3 ors.

Date of Hearing : **22.8.2022**

Coram : Shri I.S. Jha, Member
Shri Arun Goyal, Member
Shri Pravas Kumar Singh, Member

Parties present : Ms. Swapna Seshadri, Advocate, KSKMPCL
Shri S Vallinayagam, Advocate, AP Discoms

Record of Proceedings

Case was called out for virtual hearing.

2. During the hearing, the learned counsel for the Petitioner submitted that the Petitioner has filed the present petition seeking a declaration that the claim of the Respondents towards liquidated damages of Rs 23.6 crores under Article 4.8 of the PPA is not tenable and that the unilateral action of the Respondent No.2, in invoking the Performance bank guarantee of Rs. 18.96 crores, is illegal and contrary to the terms of the PPA. She submitted that the Petitioner has also prayed for a direction on the Respondents to refund the amount wrongfully encashed, along with interest, till the date of actual payment.

3. On a query by the Commission as to whether the claim was barred by limitation, the learned counsel for the Petitioner answered in the negative. She, however, clarified that the petition filed by the Petitioner before the APERC (OP. No.13/2014) was transferred to this Commission by order dated 19.1.2019, pursuant to the judgment dated 3.12.2018 of the Hon'ble Supreme Court in Civil Appeal no. 11142 of 2018, upholding the jurisdiction of this Commission and thereafter, the present petition was filed in the format, as directed by this Commission.

4. The learned counsel for the Respondent AP Discoms, who appeared in the matter, took notice, and prayed for time to file its reply.

5. After hearing the parties, the Commission directed as under:

(a) Admit, issue notice.



(b) The Respondents shall file their reply by **15.9.2022**, after serving copy to Petitioner, who shall file its rejoinder, if any by **30.9.2022**. Pleadings shall be completed within the due dates mentioned and no extension of time shall be granted.

6. The Petition shall be listed for hearing on **11.10.2022**.

By order of the Commission

Sd/-
(B. Sreekumar)
Joint Chief (Law)

