

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.256/MP/2022

Subject : Petition under section 79(1)(f) of the Electricity Act, 2003 seeking recovery of fixed charges paid by the Petitioner to the Respondent for the Anta, Auriya and Dadri power plants of the Respondent for the period from 12.8.2021 till 12.2.2022 and other incidental charges and a declaration that the Petitioner is not liable to bear any share in the take-or-pay liability that may be imposed on the Respondent by Gas Authority of India Ltd, in future for Anta, Auriya and Dadri power plants of the Respondent.

Date of Hearing : **16.2.2023**

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

Petitioner : PSPCL

Respondents : NTPC Ltd.

Parties Present : Ms. Suparna Srivastava, Advocate, PSPCL
Shri. Tushar Mathur, Advocate, PSPCL
Ms. Ritu Apurva, Advocate, NTPC

Record of Proceedings

During the hearing, the learned counsel for the Petitioner mainly submitted as under:

- (a) In terms of the Relinquishment Policy of MOP, GOI dated 22.3.2021 and after approval by the State Commission (PSERC) on 5.8.2021, the Petitioner had issued notice dated 12.8.2021 to the Respondent, relinquishing the power allocated to it from the generating stations of the Respondent (viz., Anta, Auraiya and Dadri) with immediate effect.
- (b) After expiry of 6 months from the date of issuance of notice of relinquishment, the Petitioner ceased to be liable to pay any capacity (or energy charges) to the Respondent.
- (c) However, in terms of the categorical findings of the Appellate Tribunal for Electricity in its judgment dated 8.2.2022 in Appeal Nos. 239/2021 & 240/2021 (BRPL & BYPL v CERC & ors), the relinquishment notice issued by the Petitioner to the Respondent on 12.8.2021, is to take effect immediately and not after 6 months as envisaged under the Relinquishment Policy.



(d) Consequently, the capacity charges amounting to Rs.62.47 crore (approx.) paid by the Petitioner to the Respondent in respect of the aforesaid three generating stations, for the period of 6 months, after issuance of the notice of relinquishment of power (i.e. from 12.8.2021 to 11.2.2022 for Anta & Auraiya) and till 31.3.2021 (for Dadri) are liable to be refunded by the Respondent.

(e) The Respondent cannot be allowed to claim any further charges from the Petitioner including its claims towards future take or pay liability.

2. The learned counsel for the Respondent submitted that it has filed its reply in the matter. The learned counsel for the Petitioner sought time to file its rejoinder to the said reply.

3. The Commission, after hearing the parties, admitted the petition and directed issuance of notice to the Respondent. The Petitioner shall file its rejoinder to the reply of the Respondent, by **27.3.2023**. No extension of time shall be granted for any reason.

4. Petition shall be listed for hearing on **25.4.2023**.

By order of the Commission

Sd/-

(B. Sreekumar)
Joint Chief (Law)

