

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 205/MP/2024**  
**along with IAs No. 49/2024 and 50/2024**

Subject : Petition under Section 79 (b) and (f) of the Electricity Act, 2003 read with Article 9 of the Power Purchase Agreement dated 29.04.2011 between Electricity Department, Goa (ED-Goa) and Ratnagiri Gas and Power Pvt. Ltd. (RGPPL), seeking adjudication of dispute regarding RGPPL's demand of Rs. 92,38,48,877/- from ED Goa.

Petitioner : Electricity Department, Goa

Respondents : RGPPL and 2 others

Date of Hearing : **17.10.2024**

Coram : Shri Jishnu Barua, Chairperson  
Shri Ramesh Babu V., Member  
Shri Harish Dudani, Member

Parties Present : Shri Nalin Kohli, Senior Advocate, Electricity Dept. Goa  
Ms. Gayatri Aryan, Advocate, Electricity Dept. Goa  
Ms. Sakshi Kapoor, Advocate, Electricity Dept. Goa  
Shri Anshul Malik, Advocate, Electricity Dept. Goa  
Shri Ayushman Arora, Advocate, Electricity Dept. Goa  
Shri Venkatesh, Advocate, RGPPL  
Shri Ashutosh Srivastava, Advocate, RGPPL  
Shri Aashwyn Singh, Advocate, RGPPL  
Shri Kartikay Trivedi, Advocate, RGPPL  
Ms. Ananya Dutta, Advocate, RGPPL  
Shri Vishal Binod, Advocate, MSEDCL  
Shri Sagnik Maitra, Advocate, MSEDCL  
Shri Gajendra Singh, WRLDC  
Shri Alok Mishra, WRLDC

**Record of Proceedings**

During the hearing, the learned Senior counsel for the Petitioner, after giving the detailed background of the case, made oral submissions, mainly as under:

- (a) The total capacity of the generating station of the Respondent RGPPL is 1967 MW, out of which 95% capacity is allocated to MSEDCL and 1% capacity (19.67 MW) is allocated to the Petitioner. The balance capacity of 2% each has been allocated to DNH and Damn & Diu. The Petitioner, on 29.4.2011, executed the PPA with the Respondent RGPPL, and the power supply commenced w.e.f. April 2012.



- (b) Respondent RGPPL declared its availability based on **RLNG**. However, the Respondent, MSEDCL, stopped scheduling power from the RGPPL station due to a change of fuel and also denied the payment of fixed charges. This gave rise to a dispute between the Respondents MSEDCL and RGPPL, which was finally decided by the Hon'ble Supreme Court vide judgment dated 9.11.2023 in Civil Appeal No. 1922 of 2023 [*MSEDCL v. RGPPL & Ors.*].
- (c) Since MSEDCL stopped the scheduling power from the generating station from August/Sept.2013, the Respondent RGPPL was not 'available' to generate power for the Petitioner due to 'technical minimum' load requirements. On 4.10.2013, the Respondent RGPPL wrote to the Petitioner stating that it will not be able to generate power until the Petitioner increases its share of capacity. Thus, the Respondent RGPPL was unable to generate power for the Petitioner. Despite being unavailable to generate power, the Respondent RGPPL demanded the fixed charges from the Petitioner for the period August/Sept 2013;
- (d) The Tariff Regulations provide for a formula for the determination of 'capacity charges' which provides for calculations based on 'Plant Availability Factor'/PAF. In the present case, since the DC of the generating station ought to have been zero owing to its inability to generate, the PAF also would be zero and therefore, no capacity charges are payable.
- (e) From the various correspondences between the Respondent RGPPL and the Petitioner, it is evident that the said Respondent offered unpredictable and uncertain power supply to the Petitioner. It had offered 1 MW power in April 2015 and offered 20-30 MW power in June 2016, which was limited only till March, 2017. Thereafter, the Respondent offered 6.5 MW to the Petitioner in September 2019 and again 6.4 MW power in March 2021. There was no consistency in its offers.
- (f) After April 2022, the Respondents' inability to supply power to the Petitioner was due to the technical minimum constraints on account of the non-scheduling by the Respondent MSEDCL. The Petitioner cannot, therefore, be made liable to pay any charges to the Respondent RGPPL.
- (g) All offers made by the Respondent RGPPL were contingent on the demand by Indian Railways and the technical minimum requirement. This situation was neither envisaged nor incorporated in the PPA. This demonstrates that the Respondents' conditional offers were deviation from the PPA.
- (h) The contention of the Respondent RGPPL that the Petitioner is bound by the judgment of the Hon'ble Supreme Court dated 9.11.2023 is misconceived. The dispute before the Hon'ble Supreme Court, the APTEL, and this Commission was only between Respondent RGPPL and Respondent MSEDCL. Also, the issue with regard to the 'declaration of availability' as per Article 5.9 of the MSEDCL PPA was not raised by the Petitioner. Neither Article 5.9 nor a similar clause exists in the PPA executed by the Petitioner with the Respondent RGPPL.



2. Due to a paucity of time, the submissions of the parties could not be concluded. Accordingly, the matter is '**Part heard**' and shall be listed for further hearing on **5.12.2024**.

**By order of the Commission**

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

