

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.269/MP/2018**

Subject : Petition under Section 142 of the Electricity Act, 2003, for noncompliance of the Commission's direction dated 28.9.2017 in Petition No. 97/MP/2017.

-Date of Hearing : **21.2.2024**

Coram : Shri Jishnu Barua, Chairperson  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member

Petitioner : Adani Power Limited

Respondents : Uttar Haryana Bijli Vitran Nigam Limited and Others.

Parties Present : Shri Amit Kapur, Advocate, APML  
Ms. Poonam Verma Sengupta, Advocate, APML  
Shri Shubham Bhut, Advocate, APML  
Ms. Sampada Narang, Advocate, APML  
Shri Kumar Guarav, APML  
Shri Chintan Mankad, APML  
Shri M. R. Krishna Rao, APML  
Shri Tanmay Vyas, APML  
Shri Sanjay Jain, Sr. Advocate, HPPC  
Ms. Ashima Gupta, Advocate, HPPC  
Shri Lokesh Sinhal, AAG, HPPC  
Shri Gaurav Gupta, HPPC  
Shri Vikrant Saini, HPPC  
Shri Bipin Gupta, Advocate, Rajasthan Discoms  
Shri Pramhans Sahani, Advocate, Rajasthan Discoms  
Shri Anand Ganeshan, Advocate, MSEDCL  
Shri Akash Lamba, Advocate, MSEDCL

**Record of Proceedings**

During the course of the hearing, the learned senior counsel for Respondents, Haryana Discoms, made detailed submissions in the matter. Learned senior counsel, *inter alia*, submitted as under:

(a) Respondents have moved an application, *inter alia*, praying for modification of paragraph 2(g) of the Record of Proceedings for the hearing dated 28.11.2023 and for appropriate orders to summon or implead Coal India Limited (CIL) and Railways as a party to the Petition as deemed appropriate by this Commission.

(b) Pursuant to the liberty granted by the Commission, Respondents vide their letters dated 5.10.2023 and 30.10.2023 had approached the CIL and Railways seeking specific and precise details/information relevant for working out the cost of savings in railway transportation on account of the IPT Scheme.

(c) Since Respondents were under the *bonafide* belief that both CIL and Railways, being public authorities, would assist in statutory/regulatory exercise undertaken by this Commission in terms of the directions of the Hon'ble Supreme Court, the Respondents, during the course of the hearing on 28.11.2023, did not insist upon its prayer for impleading them as parties [as captured at paragraph 2(g) of Record of Proceedings]. However, it emerges that the said entities have not acted upon the requisition made by Respondents, and the Respondents have been left with no other option but to reiterate their prayer for impleading the CIL and Railways as parties to the Petition.

(d) Although CIL has provided some data/information to Respondents, vide email dated 29.11.2023, the same, upon analysis, is found to be inadequate. Moreover, analysis of such data/ information by Respondents also revealed certain discrepancies. For instance, as per the data provided by CIL for the period from the financial year 2013-14 to the financial year 2022-23, the Petitioner lifted approximately 23,97,535 tonnes of extra coal against Haryana FSA under the IPT Scheme against the quantum submitted by the Petitioner in its affidavit dated 6.9.2023. Moreover, data submitted by CIL did not match with certificates issued by MCL & SECL to Respondents 1 & 2 by letters dated 14.2.2018 & 19.2.2018, which was submitted by the Respondents before the Commission in Petition No. 97/MP/2018. Various other discrepancies /inadequacies have also been pointed out by the Respondents in their application.

(e) Whereas the Railways have denied to comply with the requisition of Respondents despite the repeated requests by taking improbable positions to the effect that they do not have any data to share. In this regard, the e-mail of Railways dated 2.1.2024 was referred to.

(f) Railway Receipts (RR), which accompanies the coal invoices, contain all the details of the consignee as well as the freight details, and if nothing else, the Railways could have provided copies of such Railways Receipts.

(g) The Petitioner has failed to provide the details as requisitioned by this Commission under paragraphs 4(iv) and 4(v) of the Record of Proceedings for the hearing dated 30.6.2023.

(h) The Respondents are in the process of preparing and filing an appropriate application before the Hon'ble Supreme Court seeking an extension of time for deciding the present matter.

2. Learned counsel for Respondent, Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL), made elaborate submissions in the matter and referred to a brief note as circulated during the course of the hearing, mainly stated as under:

(a) Because of the IPT Scheme, the coal from SECL mines come to Tiroda TPP in Maharashtra (which supplies to MSEDCL) and alternate coal is used at Mundra Plant (which supplies to Haryana Discoms).

(b) The Petitioner has not been required to transport the coal from SECL coal mines over 1600 km to Mundra, but only 600 km to Tiroda and, therefore, the savings in transportation cost are to be passed onto the beneficiaries.

(c) The Petitioner has been claiming from MSEDCL the transportation cost of imported/alternate coal from Mundra/ alternate seaport over 1100 km to Tiroda when there is no such coal transportation to Tiroda. Adani Maharashtra claims to pay Adani Mundra for transportation without any coal being transported. After the declaration of IPT as a change in law by the Hon'ble Supreme Court, the fictitious transportation cost paid by MSEDCL should be refunded by the Petitioner.

3. Learned counsel for the Petitioner mainly submitted the following:

(a) The Petitioner may be permitted to file its reply to the application as moved by the Respondents, Haryana Discoms, for impleading Railways and Coal India Ltd. as parties to the Petition.

(b) The scope of the present remand proceedings, as per the judgment of the Hon'ble Supreme Court dated 20.4.2023, is limited to working out the savings in the Railway transportation on account of the IPT Scheme, which came to be held as Change in Law.

(c) Moreover, the above exercise is to be undertaken in respect of the Petitioner's Adani-Mundra Project (which supplies to Haryana Discoms). Pertinently, Tiroda Project and Kawai Project, which were at the relevant point in time, were owned and operated by different entities, namely, Adani Power Maharashtra Limited and Adani Power Rajasthan Limited are not a party to the present proceedings and the entire supply from these Projects, under the PPAs with the State Discoms, is being made to them only and, as such, they fall within the jurisdiction of the respective State Commissions. Such an issue between Adani Power Maharashtra Limited and MSEDCL is already pending appeals before the APTEL.

(d) Submissions now being made by Respondent, MSEDCL, are beyond the pleadings filed by it. MSEDCL ought to, therefore, be directed to file such submissions on an affidavit.

(e) In compliance with the direction of the Commission vide Record of Proceedings for the hearing dated 30.6.2023, the Petitioner has already filed its additional affidavit dated 6.9.2023 furnishing various supporting details/information.

4. In response, learned counsel for the Respondent, MSEDCL, opposed the submission made by learned counsel for the Petitioner that the issue of IPT with MSEDCL is pending before the APTEL.

5. In response to the specific query of the Commission with regard to the net savings in transportation cost due to the IPT Scheme as per the judgment of the Hon'ble Supreme Court worked out by the Petitioner itself based on its own calculations/ computations, if any, the learned counsel for the Petitioner sought liberty to place such details/calculation by an additional affidavit.

6. Considering the submissions made by the learned counsel for the parties, the Commission permitted the Petitioner to file its response to the application filed by the Respondents, Haryana Discoms, within three weeks with a copy to the other side.

7. The Commission also directed the Petitioner to file the following details/information, on affidavit, within three weeks:

(a) The savings accrued to the Petitioner in the transportation of coal on account of a change in law due to the IPT scheme for the period from the financial year 2013-14 to the financial year 2022-23, in accordance with the judgment of the Hon'ble Supreme Court vide Civil Appeal No. 2908 of 2022.

(b) The information related to coal transportation cost as per the IPT scheme for the period from the financial year 2012-13 to the financial year 2022-23, along with the relevant supporting documents in the following format:

	<b>Financial Year</b>	<b>Financial Year 2012-13 to Financial Year 2022-23</b>
ACQ (MT) of linkage coal to AP(M)L from coal mine as per respective FSA for Haryana	MCL	
	WCL	
	SECL	
Actual Quantum of Coal (MT) transferred from coal mine to AP(M)L corresponding to respective FSA for Haryana	MCL	
	WCL	
	SECL	
Scheduled Rail/Sea/Road Transportation Cost from respective coal Mine (in Rs/MT) to AP(M)L	MCL (Rail, Sea, Road)	
	WCL (Rail, Road)	
	SECL (Rail)	
Actual Quantum of coal (MT) diverted to Tiroda Power Plant from respective coal Mine, as per the IPT Scheme	MCL	
	WCL	
	SECL	
Rail Transportation Cost from respective coal mine to Tiroda Power Plant (in Rs/MT)	MCL	
	WCL	
	SECL	
Actual Quantum of coal (MT) diverted to Kawai Power Plant from respective coal Mine as per IPT Scheme (in Rs/MT)	MCL	
	WCL	
	SECL	
Rail Transportation Cost from respective coal mine to Kawai Power Plant (in Rs/MT)	MCL	
	WCL	
	SECL	

Rail/Sea/Road Distance (in Km) from AP(M)L to different coal mines	MCL (Rail, Sea, Road)	
	WCL (Rail, Road)	
	SECL (Rail)	
Rail Distance (in Km) from Kawai Power Plant to different coal mines	MCL	
	WCL	
	SECL	
Rail Distance (in Km) from Tiroda Power Plant to different coal mines	MCL	
	WCL	
	SECL	

(c) Explanation of the discrepancy in data as submitted by AP(M)L vide affidavit dated 6.9.2023 vis-à-vis that of CIL vide email dated 29.11.2023.

8. The Respondents were also permitted to file their response on the above details/information, if any, within two weeks with a copy to the Petitioner, who may file its rejoinder within two weeks thereafter.

9. The Haryana Discoms to again take up the matter with Railways immediately and requisition relevant Railway Receipts (RR) for the actual coal dispatched from the MCL, WCL and SECL coal mines to Adani-Mundra, Tiroda and Kawai plants. The Haryana Discoms are directed to submit the information received from the Railway within a week from the receipt of the same.

10. The Petitioner and the Respondents (Discoms of Haryana, Rajasthan and Maharashtra) are also directed to submit the legal position on whether the compensation on account of the IPT scheme in respect of the Tiroda Plant and Kawai Plant shall be dealt with by the CERC or the respective SERC.

11. The Respondents were further directed to update the Commission for their appropriate application before the Hon'ble Supreme Court seeking an extension of time for deciding the present matter.

12. The Petition will be listed for hearing on **10.4.2024**.

**By order of the Commission**  
Sd/-  
(T.D. Pant)  
Joint Chief (Law)