

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 60/MP/2022

Subject : Petition or approval of input price of coal supplied from Pakri Barwadih mine for the period from the date of commercial operation i.e. 1.4.2019 to 31.3.2024.

Petitioner : NTPC Limited

Respondents : BSPHCL and 43 others.

Date of Hearing : **12.1.2024**

Coram : Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri Pravas Kumar Singh, Member

Parties Present : Ms. Swapna Seshadri, Advocate, NTPC
Ms. Ritu Apurva, Advocate, NTPC
Shri Karthikeyan Murugan, Advocate, NTPC
Shri S. Vallinayagam, Advocate, TANGEDCO & PCKL
Shri Aditya Singh, Advocate, MPPMCL
Shri Anup Jain, Advocate, MSEDCL
Shri Vyom Chaturvedi, Advocate, MSEDCL
Ms. Anushree Bardhan, Advocate, BSPHCL
Ms. Surbhi Kapoor, Advocate, BSPHCL
Ms. Shirsha Saraswati, Advocate, BSPHCL
Shri Dev Aaryan, Advocate, JBVNL

Record of Proceedings

During the hearing, the learned counsel for the Petitioner made detailed oral submissions in the matter and prayed for approval of the input price of coal from Pakri Barwadih Mines for the period from the date of commercial operation i.e. 1.4.2019 till 31.3.2024

2. The learned counsel for the Respondent TANGEDCO & PCKL and the learned counsel for the Respondent BSPHCL made detailed oral submissions in the matter. The learned counsels also submitted that the Petitioner may be directed to furnish a copy of the agreement signed by the Petitioner with the Mine Developer Operator (MDO) to the beneficiaries to examine the scope, including the financial terms of the contract.

3. The learned counsel for the Respondents MSEDCL, MPPMCL and JBVNL adopted the submissions of the Respondents TANGEDCO and BSPHCL.

4. In response, the learned counsel for the Petitioner clarified the issues raised by the Respondents. While pointing out that the Petitioner has furnished the documents in support of its claims, the learned counsel submitted that since the contract signed with the MDO is covered under a 'non-disclosure clause', a copy of the same has only been submitted in a sealed cover, to the Commission, for consideration. She, however, clarified



that the scope of the contract with the MDO has already been provided to the Respondents.

5. The Commission, after hearing the parties, directed the Petitioner to submit the following additional information on or before **11.3.2024** after serving a copy to the Respondents:

- (a) *In terms of regulation 36 (M), furnish year-wise comparison of RoM cost (at loading into railway wagon) and input price of coal claimed in instant petition with CIL's notified price for the same grade of coal.*
- (b) *The communication exchanged with the Ministry of Coal during the period from July, 2013 (mining plan submitted for N-W part of mine) to January, 2016, (approval received for revised mining plan).*
- (c) *In spite of the mining plan approved by MoC being for East, West and North West quarries, the reasons for filing an instant petition for East and West quarries and a submission made to file a separate petition for North West quarry. Further, it shall furnish the proposed methodology in arriving at input price exclusively for North West Mine, approval of Commission and recovery from beneficiaries thereof.*
- (d) *Petitioner shall furnish the information regarding the maintenance of accounts, preparation of balance sheet statements and audited by auditor thereof, are separate or common for North West Quarry. Further, it shall furnish year-wise expenses associated with North West quarry, from inception to 2022- 23, claimed in the instant petition.*
- (e) *As it is noticed that the various forms submitted in the petition are either unsigned or unaudited or audited but without any date, all forms duly signed and audited by the auditor, in terms of Regulation 3(6) of the 2019 Tariff Regulations, along with the date and UDIN, to be furnished.*
- (f) *The head-wise segregated break up, i.e. capital cost phasing, of investment approval given for Rs. 5044.60 Cr in 2015 viz a viz actual capitalization claimed till 2022-23.*
- (g) *Year-wise (from date of coal production to 2022-23) status of loading and transportation facilities works within the scope of MDO and within the scope of owner (S / R area to TP 10 and TP 10 to Railway Siding) along with year of put to use and year of capitalization of these facilities.*
- (h) *In spite of claiming monthly escalation in the mining fee of MDO, the reasons for the recovery of a fixed rate of Rs. 23.62 / ton (without any escalation) for non-completion of loading and transportation facilities by MDO. Further, it shall furnish year-wise amount incurred for loading and transportation of coal on account of non-completion of these facilities by MDO.*
- (i) *The date of award and cost thereof of loading and transportation works within the scope of the owner and the actual cost incurred / to be incurred for the execution of such works by third party. Further, it shall furnish the relevant penalty clauses of the agreement, year wise transportation charges incurred and cost recovered thereof from the contractor for such non-completion of facilities and year wise amount paid to MDO towards O & M of CHP.*



- (j) *The detailed computation (soft copy along with links and formulae) of surface transportation charges claimed as Rs. 278.32, Rs. 315.24, Rs. 314.72, Rs. 265.44 and Rs. 265.44 per ton in 2019- 20, 2020-21, 202-22, 2022-23 and 2023-24, respectively.*
- (k) *The reasons for claiming that mining operations have been completely halted from 07.07.2020 to 23.07.2020 and 02.09.2020 to 16.11.2020 and relaxation in ATQ sought thereof for 2020-21, in spite of the production capacity of mine in the subject was being 30,000 tonnes/day and the mine was in operation for a few days from 15.07.2020. Further, supporting documents, such as communication with state / central government organizations shall be submitted, in support of relaxation sought for the period from 16.10.2020 to 16.11.2020.*
- (l) *In regards to relaxation sought in ATQ for 2021-22, shall furnish month wise, number of days claimed on account of COVID – 19 and the number of days claimed on account of rainfall, separately and the deficit in quantity of coal production.*
- (m) *The details of total land identified for mining, land acquired as on COD of mine and year wise land acquired since COD of mine to till 2022-23.*
- (n) *In spite of certain expenses incurred towards Rehabilitation & Resettlement, including the construction of ITI, the reasons for inconsistency in recording that 'R & R' expenses as 'nil' as per auditor certificate issued as on COD of mine. Further, it shall furnish details of all expenses incurred other than mine operation, including expenses associated with R & R and CSR, as on COD of the mine.*
- (o) *Head-wise auditor certified detailed break up of, along with the scope of works and all supporting documents, capital cost of Rs. 130412.68 lakh as on COD of mine, shall be submitted.*
- (p) *Detailed break-up and scope of works of Rs. 41894.72 (accrual basis) claimed towards 'Mine Development Expenditure excluding IDC' under capital cost as on COD of mine.*
- (q) *The reasons along with supporting documents for claiming Rs. 870.15 lakh, Rs. 970.60 lakh, Rs. 1449.55 lakh, Rs. 1500.29 and Rs. 1552.80 in 2019-20, 2020-21, 2021-22, 2022-23 and 2023-24, respectively, towards 'Third Party Sampling Charges' under O & M expenses, in spite of the sampling and analysis is in the scope of MDO, as per agreement. Further, it shall furnish the details along with supporting documents, of how the claimed charges are different from the charges paid by the MDO to CIMFR towards 'Sampling and analysis'.*
- (r) *The soft copy (excel with links and formulae) of detailed computation of month-wise mining fee and escalation factor claimed. Further, shall furnish reasons along with supporting documents for abnormal escalation rate (3 times) claimed upto 0.663, under 'Fuel', while its original weight was 0.22.*
- (s) *The reasons for claiming amount of Rs. 75566.41 lakh, including IDC of Rs. 34081.93 lakh, in 2021-22 and Rs. 56500 lakh in 2022-23 towards CHP and Rs. 20000 lakh towards Rapid Loading Silo in 2023- 24 along with year wise investment made and computation details of IDC thereof w.r.t. this facility.*
- (t) *As regards the claim under additional capitalization towards 'Buildings & Structures', 'Substation', 'Mine Development Expenditures: Constructions of Roads & Drains',*



'Railway Siding' etc, shall furnish the scope of works along with the expenses and scope of works completed as on COD of mine.

- (u) Reasons for higher expenses in 2019-20 under certain heads such as security charges, salaries, professional charges, canteen expenses, other staff welfare expenses, Guest House Expenses etc, w.r.t. other years.*
- (v) The auditor certified (head wise), in terms of Regulation 3(6) of 2019 Tariff Regulations, details of copy of corporate expenses from 2019- 20 to 2021-22 along with the methodology followed in apportionment of such expenses to various projects of petitioner and apportioned cost to all such projects.*
- (w) The reasons for claiming electricity/power charges both prior and post to COD of mine, in spite of the same are in the scope of MDO. Further, it shall furnish the details of energy drawn and the entity, to whom such charges were paid.*
- (x) The detailed break up of capital cost, as on the letter of award to MDO and the list of items/works and cost thereof, which were part of capital cost, have become redundant after issuance of the said LoA to MDO and the list of items / works and cost thereof, decapitalized till the COD of the mine and adjustment of such amount in capital cost claimed as on COD of mine.*
- (y) Advance payment received from each of the plant to whom the coal is supplied, towards the cost of coal for generation and interest accrued thereof.*
- (z) The reasons for altering certain forms and components thereof prescribed in the 2019 Tariff Regulations such as forms 1A (Fixed Reserve Price), 2B (O & M @ 2 % of the average capital cost) etc,*
- (aa) As it is noted that certain forms and supporting documents prescribed in 2019 Tariff Regulation were not being submitted, the same shall be submitted, particularly form 15, form 18, form A, form B, form C, form K, form L, supporting documents 4 (copy of the approval of competent authority for capital cost and financial package), 6 (list of end-use generating stations to whom coal supplied / to be supplied and quantity thereof), 10 (copy of records submitted to CCO) etc.,*
- (bb) Month-wise GCV (EM) of coal supplied to various generating stations at generating station (unloading) end along with the reasons for the loss in GCV for more than 300 kCal / kg, if any.*
- (cc) Auditor certified, as per Regulation 3(6) of the 2019 Tariff Regulations, detailed break up for Rs.119155.99 lakh and Rs. 165559.36 lakh claimed towards 'Miscellaneous Expenses' and 'Pre-Commissioning Income from sale of coal', respectively, claimed under IEDC. In addition, it shall furnish the expenses pertaining to entertainment allowance, loss of provisions, community development expenses, annual performance incentives, PRP, CSR, helicopter/aircraft charges, Horticulture, CC allocation etc, considered under IEDC.*
- (dd) The relevant penal provisions of the MDO agreement for the shortfall in production of coal and year-wise amount recovered under such provisions.*

6. The Respondents are to file their replies by **25.3.2024** after serving a copy to the Petitioner who may, file a rejoinder, if any till **8.4.2024**.



7. Subject to the above, order in the matter was reserved.

By order of the Commission

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

