

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 376/MP/2023

Subject : Petition under sections 79(1)(f) and (k) of the Electricity Act, 2003 for adjudication of disputes between the parties on the wrongful recovery and appropriation of amounts by GUVNL.

Petitioner : KSK Mahanadi Power Company Limited

Respondent : Gujarat Urja Vikas Nigam Limited

Date of Hearing : **29.6.2026**

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

Parties Present : Ms. Swapna Sheshadri, Advocate, KSKMPCL
Shri Vaibhav Sharma, Advocate, KSKMPCL
Ms. Aishwarya Subramaniam, Advocate, KSKMPCL
Shri M. G. Ramachandran, Senior Advocate, GUVNL
Ms. Ranjitha Ramachandran, Advocate, GUVNL
Ms. Srishti Khindaria, Advocate, GUVNL

Record of Proceedings

The matter was called out for hearing through virtual mode.

2. During the hearing, the learned counsel for the Petitioner submitted that the present Petition has been filed seeking refund of the Performance Bank Guarantee amounting to ₹303 crore, which was encashed by the Respondent, along with interest at the LPS rate as provided under the PPA. He also submitted that, consequent upon the termination of the Fuel Supply Agreement with GMDC, the PPA between the Petitioner and GUVNL had become impossible to perform and, therefore, there was no obligation on the part of the Petitioner to maintain the Performance Bank Guarantee. It was further submitted that the present dispute pertains to the Petitioner's monetary claim against GUVNL arising out of the encashment of the Performance Bank Guarantee after termination of the PPA and, accordingly, the dispute may be referred to arbitration under Section 79(1)(f) of the Electricity Act, 2003.

3. The learned senior counsel for the Respondent opposed the prayer for reference of the dispute to arbitration and submitted that the Performance Bank Guarantee was validly invoked on account of the Petitioner's breach of the PPA. It was further submitted that GUVNL is entitled not only to retain the amount of ₹303 crore realised through invocation of the Bank Guarantee but is also entitled to recover additional damages, for which a counter-claim has been filed in the present proceedings.

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



(a) Parties shall furnish the following information, on or before **17.7.2026**, after serving a copy on the other side:

- i. *Whether, under the PPA, the supply obligation was unit-wise or station-wise, and whether commencement of supply was linked to the Scheduled Delivery Date or to the COD of individual units. Provide the PPA clause-by-clause basis for the same.*
- ii. *Submit observations on the permissibility and relevance of alternate fuel arrangements under the PPA and related coal linkage/CSA/FSA in reference to tapering linkage coal available to KSK during the relevant period.*
- iii. *Whether the Power Purchase Agreement dated 3.6.2010 was approved by the Gujarat Electricity Regulatory Commission (GERC). If so, copies of the approval order(s) may be furnished.*

(b) The Petitioner shall, on or before **17.7.2026**, after serving a copy on the Respondent, furnish the following information:

- i. *Clarify whether it supplied/sold power generated using tapering linkage coal to third parties during the relevant period and whether such supply/sale was permissible under the PPA.*

(c) The Respondent shall, on or before **17.7.2026**, after serving a copy on the Petitioner, furnish the following information:

- i. *Place on record the documentary proof regarding the grant of 7.491 MTPA tapering linkage on 11 Jun 2009 and the CSA dated 16 Jan 2014 for 4.994 MTPA, to clarify whether the said coal was exclusively required to be used for supply to GUVNL and whether it was an interim/substitute fuel arrangement in lieu of Morga-II.*
- ii. *PPA clause-wise basis for its LD claim of ₹480.26 crore, including the exact formula under the PPA, and to provide the month-wise computation from COD to 30 Jun 2015, indicating contracted capacity, availability shortfall, normative/actual energy, applicable tariff/LD rate, and amount.*

4. The parties are also permitted to file their response to the above information, if any, on or before **31.7.2026**, after serving a copy on the other side.

5. The parties are further permitted to file their written submissions, if any, on the merits of the case, on or before **31.7.2026**, after serving a copy on the other side.

6. The matter is part-heard and shall be listed for hearing on **11.8.2026**.

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

