

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 178/MP/2016

Coram:

Shri Gireesh B.Pradhan, Chairperson

Shri A.K.Singhal, Member

Shri A.S.Bakshi, Member

Dr. M.K.Iyer, Member

Date of Order: 9th of August, 2017

In the matter of

Petition under Section 79 (1) (f) of the Electricity Act, 2003 for adjudication of disputes arising under the Power Purchase Agreement dated 26.2.2014 between the Petitioner and the Respondents.

And

In the matter of

KSK Mahanadi Power Company Limited
8-2-293/82/A, Road No. 22,
Jubilee Hills, Hyderabad-500 033

..... **Petitioner**

Vs

1. The Managing Director,
Madhyanchal Vidyut Vitran Nigam Limited
4A, Gokhale Marg, Lucknow-226 001, UP

2. The Managing Director,
Paschimanchal Vidyut Vitran Nigam Limited
Urja Bhawan, Victoria Park,
Meertu-250 001, UP.

3. The Managing Director,
Purvanchal Vidyut Vitran Nigam Limited,
DLW Bhikharipur,
Varanasi-221 004, U.P.

4. The Managing Director,
Dakshinanchal Vidyut Vitran Nigam Limited
Urja Bhawan, NH-2 (Agra-Delhi Bypass Road),
Sikandra, Agra-282 002, U.P.

..... **Respondents**

ORDER

The Petitioner, KSK Mahanadi Power Company Limited, has filed the present petition seeking adjudication of disputes arising between the Petitioner and the Respondents on account of Change in Law event in terms of Article 13 of the PPA dated 26.2.2017. The Petitioner has made the following prayers:

“(a) Hold and declare that the non-availability of the domestic coal from the coal linkage granted to the Petitioner and requiring the Petitioner to procure coal from the open market is on account of Change in Law in terms of Article 10 of the PPA;

(b) Hold and declare that the Respondents are liable to pay the Petitioner, for the additional costs incurred for purchase of coal at market prices over and above the Coal India Limited published prices for coal supply under coal linkage granted (to the extent of shortfall of linkage quantity) for the term of the PPA and the Respondents to carry out necessary tariff adjustment to give effect to such economic impact;

(c) Direct the Respondents to receive and acknowledge the entire Supplementary Bills from the Petitioner for the arrears of amounts finally allowed by the Commission towards Change in Law from the date of Change in Law notification till the date of final disposal of the present petition and issue necessary directions to the Respondents to pay such adjusted tariff in terms of the PPA;

(d) Restore the Petitioner to the same economic condition prior to occurrence of the Changes in Law by permitting the Petition and the amounts as per the computations set out in hereinabove or through a suitable mechanism to compensate the Petitioners as and when the financial impact of the Changes in Law arose; and

(e) Direct the Respondents to pay *pendent lite* and future interest at the rate of 15% per annum on the amounts payable on account of Change in Law;

(f) Grant costs in favour of the Petitioner and against the Respondents for the present petition.”

2. Learned counsel for the Petitioner, vide his letter dated 4.8.2017, has submitted that the since the claim made in the petition relates to the period prior to the delivery date, the computation and claim for the period prior to and subsequent to the delivery date needs to be re-assessed by the Petitioner and

has sought permission to withdraw the present petition with liberty to approach the Commission in future in accordance with law.

3. The prayer of the Petitioner is allowed. Accordingly, Petition No. 178/MP/2016 is disposed of as withdrawn.

Sd/-
(Dr. M.K.Iyer)
Member

sd/-
(A.S. Bakshi)
Member

sd/-
(A. K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson