

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 269/MP/2018

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

Date of Hearing : **28.11.2023**

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

Petitioner : Adani Power (Mundra) Limited (APML)

Respondents : Uttar Haryana Bijli Vitran Nigam Limited and Others.

Parties Present : Shri Sanjay Sen, Sr. Advocate, APML
Shri Amit Kapur, Advocate, APML
Ms. Poonam Verma Sengupta, Advocate, APML
Shri Saunak Rajguru, Advocate, APML
Ms. Mandakini Ghosh, Advocate, APML
Ms. Sampada Narang, Advocate, APML
Shri Shubham Bhut, Advocate, APML
Shri Kumar Guarav, APML
Shri Hitesh Modi, APML
Shri M. R. Krishna Rao, APML
Shri Sanjay Jain, Sr. Advocate, HPPC
Ms. Ashima Gupta, Advocate, HPPC
Shri Lokesh Sinhal, AAG, HPPC
Shri Vikrant Saini, Advocate, HPPC
Shri Gaurav, HPPC
Shri Akash Lamba, Advocate, MSEDCL
Shri Bipin Gupta, Advocate, Rajasthan Discoms
Shri Pramhans Sahani, Advocate, Rajasthan Discoms
Shri Ravi Prakash, Advocate, MSEDCL

Record of Proceedings

Learned senior counsel for the Petitioner submitted that in compliance with the directions of the Commission vide Record of Proceedings for the hearing dated 30.6.2023, the Petitioner has already filed its affidavit dated 6.9.2023 furnishing the requisite details for working out the 'cost of saving in the railway transportation'. However, keeping in view the insistence of the Respondents, Haryana Discoms for requisitioning certain details from the Railways and Coal India Limited (CIL) under Section 94(1) of the Electricity Act, 2003 ('the Act'), the Commission vide Record of Proceedings for the hearing dated 25.10.2023 has deemed it appropriate to first ascertain the requirement of such details/documents and accordingly, permitted the

Respondents to first establish/justify the essentiality of such details/documents. Learned senior counsel, pointed out that on the pretext of the requirement/essentiality, the Respondents cannot be permitted to make fishing inquiries.

2. Learned counsel for the Respondents, Haryana Discoms submitted that pursuant to the Record of Proceedings for the hearing dated 25.10.2023, the Respondents have filed their submissions in support of its prayer for requisitioning the record from the CIL and Railways by way of powers conferred on this Commission under Section 94(1)(d) of the Act. Learned counsel further referred to the said submissions and mainly submitted as under:

(a) There is a considerable mismatch in the quantum of domestic coal transferred under the IPT scheme by the Petitioner to the Rajasthan and Maharashtra Discom(s) as submitted by the Petitioner and as indicated by the respective Discoms.

(b) The Petitioner, has submitted different quantum of coal lifted under the Haryana FSA on different occasions. The Quantum mentioned in monthly invoices raised by the Petitioner to Haryana is different from the quantum mentioned in its affidavit dated 6.9.2023. Moreover, the Petitioner, in its letter dated 9.10.2023, has also submitted the coal quantity lifted under Haryana FSA, which does not match with the invoices raised by the Petitioner or the affidavit submitted by the Petitioner. A comparative tabular representation of the quantum of coal consumed for the Respondents by the Petitioner as per the invoices raised by the Petitioner vis-à-vis the affidavit submitted by the Petitioner was also furnished.

(c) In terms of Para 32 of the Judgment dated 20.4.2023 of the Hon'ble Supreme Court, savings made in the railway transportation cost have to be passed on to the Respondent Discoms.

(d) Accordingly, the Respondents, in paragraph 6, have also indicated the information that may be elicited from the CIL and Railways by this Commission for complete and effective adjudication of the matter in terms of the para 32 of the Judgment of the Hon'ble Supreme Court dated 20.4.2023.

(e) Pursuant to the liberty granted by the Commission vide Record of Proceedings for the hearing dated 13.9.2023, Respondents had written to the Railways and CIL seeking requisite data. However, no response has been received.

(f) Despite the specific direction of the Commission, the Petitioner has failed to provide the details relating to (i) landed cost per GCV at each station and variation in cost per GCV due to Inter Unit Transfer of coal and corresponding transportation cost, and (ii) Performance parameter guaranteed by OEM and actual parameters such as SHR & AEC, etc. to assess the impact of coal transfer, as called for vide Record of Proceedings for the hearing dated 30.6.2023.

(g) The Respondents are not pressing for impleadment of the Railways and CIL.

3. Learned counsel for the Respondent, MSEDCL referred to MSEDCL's additional submissions dated 4.10.2023 and pointed out that there is a difference in the quantum of IPT coal transferred to its Tiroda Power Plant for the period from August 2013 to March 2023 as submitted by the Petitioner in its invoices and the details furnished along with its submissions dated 6.9.2023.

4. Learned counsel for the Respondents, Rajasthan Discoms submitted that the Respondents have already filed their replies in the matter and that the dispute in regard to the consumption of domestic linkage coal brought under IPT of coal for the supply of power by APL to the Rajasthan Discoms is pending before the APTEL. Learned counsel submitted that the Respondents have no say in the present Petition.

5. In response, learned senior counsel for the Petitioner submitted that the Petitioner, in its rejoinders, had already explained the difference in quantum of coal as being pointed out by the Respondents. Learned senior counsel submitted that for a certain period, it was not that the entire coal under MCL FSA was transferred to other plants and while the part coal under the FSA was transferred to the other plants under IPT, Mundra TPS continued to consume the balance requisitioned coal. Learned senior counsel, however, indicated that the Petitioner is willing to supply all the necessary details as may be deemed fit by the Commission.

6. Considering the submissions made by the learned senior counsel and learned counsel for the parties, the Commission ordered as under:

(a) The Respondents, Haryana Discoms are at liberty to again approach to the Coal India Limited and Railways seeking specific and precise details/information limited to the relevant for working out the cost of savings in railway transportation on account of IPT scheme. Thereafter, the Respondents shall place on record, on an affidavit, the information sought from the Coal India Ltd and Railways along with the justification towards relevancy of such details/documents.

(b) The Respondents, Haryana Discoms will also place on record the response received thereon, if any, on an affidavit before the next date of hearing with a copy to the Petitioner.

7. The Petition will be listed for hearing **on 5.1.2024**.

By order of the Commission

Sd/-

(T.D. Pant)

Joint Chief (Law)