

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.179/MP/2023

- Subject : Petition under Section 11(2) of the Electricity Act, 2003 read with 79 of the Electricity Act, 2003, along with Regulation 111-113 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 inter-alia seeking a declaration/ direction with regard to the principles/ methodology to be adopted for computation of the rate/ compensation at which such supply of power to Respondent Nos. 1 to 8 for the period between being 15.03.2023 to 16.06.2023, or such other period as extended by Ministry of Power from time to time, based on principles laid down with respect to Section 11(2) of the Electricity Act, 2003.
- Petitioner : Tata Power Company Limited (TPCL).
- Respondents : Gujarat Urja Vikas Nigam Limited (GUVNL) and 8 Ors.
- Date of Hearing : **15.3.2024**
- Coram : Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Parties Present : Shri Sajan Poovayya, Sr. Advocate, TPCL
Shri Sanjay Sen, Sr. Advocate, TPCL
Ms. Mandakini Ghosh, Advocate, TPCL
Ms. Neha M. Dabral, Advocate, TPCL
Ms. Subhi Sharma, Advocate, TPCL
Shri Deepak Thakur, Advocate, TPCL
Shri Adarsh Bhardwaj, Advocate, TPCL
Ms. Samprati Singh, Advocate, TPCL
Shri Divyansh Kasana, Advocate, TPCL
Shri M. G. Ramachandran, Sr. Advocate, GUVNL, PSPCL & HPPC
Ms. Ranjitha Ramachandran, Advocate, GUVNL,
Ms. Srishti Khindaria, Advocate, GUVNL
Ms. Poorva Saigal, Advocate, PSPCL & HPPC
Shri Ravi Nair, Advocate, PSPCL & HPPC
Ms. Anumeha Smiti, Advocate, PSPCL & HPPC
Ms. Swapna Seshadri, Advocate, Rajasthan Discoms
Ms. Kritika Khanna, Advocate, Rajasthan Discoms
Ms. Shivani Verma, Advocate, Rajasthan Discoms
Shri Anand K. Ganesan, Advocate, Rajasthan Discoms
Shri Amal Nair, Advocate, Rajasthan Discoms
Shri G. Sai Kumar, Advocate, MSEDCL
Shri Akash Lamba, Advocate, MSEDCL

Record of Proceedings

During the course of the hearing learned senior counsel for the Petitioner, TPCL in Petition No.179/MP/2023 made detailed oral submissions on the technical aspects of computation of the cost of imported coal procurement at which supply of power in terms of directions issued by the Ministry of Power on 20.2.2023 under Section 11 of the Electricity Act, 2003 ('Directions, 2023') to Respondent Nos. 1 to 8 for the period between 15.3.2023 to 30.6.2024 was made. Learned senior counsel further referred to its additional affidavit dated 4.3.2024 in support of its arguments.

2. Learned senior counsel for the GUVNL, PSPCL & HPPC opposed the submissions made by the learned senior counsel for the TPCL and mainly submitted that TPCL is claiming higher costs and is availing higher premium. Learned senior counsel for the Respondent further referred its reply dated 13.3.2024 filed in Petition No. 179/MP/2023 and submitted that TPCL is not sharing the entire mining profit to the extent of 100% of coal imported from Indonesia with GUVNL and only sharing 30% of the said mining profit. Moreover, TPCL has failed to furnish the actual details and documents regarding applicable income tax, royalty, and bill of lading, etc. for arriving at computation of sharing of mining profit. Learned senior counsel added that TPCL cannot be permitted to purchase coal at a price higher than the price at which the coal is available as per the published indices and get a higher tariff under Section 11 of the Electricity Act, 2003. Learned senior counsel further added that TPCL is required to provide the actual cost of FOB price of coal available from Indonesia with supporting documents duly authenticated and further establish that the cost incurred is prudent based on the relevant indices and that the Indonesian Regulations deal with benchmark prices only for royalty and not for export of coal price from linked mines. On that basis, TPCL should show that it could not have procured the coal at a lower cost from Indonesia as compared with the spot market price claimed by them.

3. Learned senior counsel for the Petitioner, TPCL in Petition No.179/MP/2023 sought liberty to file its clarifications on the reply filed by the GUVNL dated 13.3.2024 by way of an additional affidavit.

4. Learned counsel for the MSEDCL submitted that MSEDCL adopted the submissions of the GUVNL as filed by the GUVNL vide its reply dated 13.3.2024 and further sought liberty to file its reply on the e-filing portal.

5. Learned counsel for the PSPCL sought additional time to file its reply to the additional affidavit filed by the TPCL in Petition No. 179/MP/2023.

6. Considering the submissions of the learned senior counsels and learned counsel for the parties, the Commission directed as under:

(a) The Petitioner to clarify whether the differences between the rates fixed by MoP and rates claimed by the Petitioner are on account of coal or on account of other parameters such as freight, insurance, loading charges etc. The Petitioner to submit the month-wise details containing the difference in the coal prices based on the MoP rates and the rates claimed by the Petitioner after ignoring the other parameters.

(b) The Petitioner to submit the month-wise consumption of coal containing such details as the dates of decision taken for procurement of coal, actual dates of bills of lading, GCV of coal, FoB price of coal after factoring the freight time from the port of despatch in Indonesia or any other country of import till the destination port in India., freight and other charges etc.

(c) The Petitioner to file its additional affidavit on the reply filed by the GUVNL within a week with a copy to Respondents/Procurers who may file their reply (s), if any, within 10 days thereafter. The Commission further permitted Respondents/Procurers who have not filed responses so far, to file their respective responses to the additional affidavit dated 4.3.2024 filed by the TPCL along with the above response, with a copy to the TPCL who may file its rejoinder, if any, within a week thereafter.

7. The matter remained part-heard and will be listed for the hearing **on the aspect of interim relief on 19.4.2024.**

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