

**CENTRAL ELECTRICITY REGULATORY COMMISSION
(LAW DIVISION)**

Petition No. 245/MP/2021

Subject : Petition or approval of input price of coal supplied from Dulanga mines for the period from COD i.e. 1.10.2020 to 31.3.2024.

Petitioner : NTPC

Respondents : BSPHCL and 6 others

Date of Hearing : **12.1.2024**

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

Parties Present : Ms. Nikita Choukse, Advocate, NTPC
Shri Akash Lamba, Advocate, NTPC
Shri R.K. Mehta, Advocate, GRIDCO
Ms. Himanshi Andley, Advocate, GRIDCO
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 Dulanga mines.

2. The learned counsel for the Respondent GRIDCO, circulated note of arguments and made detailed oral submissions in the matter. He also circulated a note containing the list of documents which are required to be furnished by the Petitioner, which also include the copy of agreement signed by the Petitioner with the Mine Developer & Operator (MDO). In response, the learned counsel for the Petitioner clarified the issues raised by the Respondent and also submitted that the documents referred to by the Respondent have been furnished by the Petitioner. However, the learned counsel pointed out 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, have already been provided to the Respondents.

3. The Commission, after hearing the parties, directed the Petitioner to submit the following additional information on or before **26.2.2024**, after serving a copy to the Respondents:

- (a) *The allocation / award through auction details of Dulanga mine prior and post to the cancellation by the Hon'ble Supreme Court and the increase in cost thereof.*
- (b) *The year-wise comparison of the RoM cost (at loading into railway wagon) and input price of coal claimed in instant petition with CIL's notified price for same grade of coal, in terms of Regulation 36 (M).*
- (c) *Year wise, since the commencement of coal production to 2022 - 23, the status of loading facilities awarded to the third party (scope of works completed, scope of works yet to be completed, scope of works capitalized), which were under the scope of the MDO.*
- (d) *Year-wise amount recovered from MDO on account non-completion of loading facilities and the amount claimed towards completion of such facilities by third party along with reasons and rationality for reduction in Liquidated Damage (LD) from 19 % to 4.5 %, despite the same is being executed by a third party for additional cost.*
- (e) *The relevant provision of the regulations, under which the coal transportation charges, in lieu of non-completion of loading facilities, have been claimed as part of the O & M charges.*
- (f) *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.*
- (g) *As it is noted that various forms submitted in the petition were either unsigned or unaudited or audited but without any date, the petitioner shall submit all forms duly signed and audited by the auditor, in terms of regulation 3(6) of 2019, Tariff Regulations, along with date and UDIN.*
- (h) *Soft copy (excel with links and formulae) of the detailed computation of month wise escalation factor and mining fee claimed. Further, shall furnish reasons along with supporting documents for abnormal escalation rate (5.4 times) claimed upto 1.18, under 'Fuel', while its original weight was 0.22 and reasons for no weightage to 'Interest' in escalation factor, while its original weight was 0.1.*
- (i) *Reasons for claiming certain expenditures on 'Construction of Approach Road', 'Forest Diversion Compliance Cost' etc., under additional capitalization instead of O & M. Further, the details of scope of works claimed under 'Construction of Buildings' for Rs. 2667.63 lakh as an additional capitalization.*
- (j) *Reasons for higher expenses for the period of 6 months in 2020-21, i.e. from 01.10.2020 to 31.03.2021, under certain heads such as security charges, entertainment charges, salaries, land lease rent, annual performance incentives, professional charges, hiring vehicles, miscellaneous expenses, canteen expenses etc. w.r.t. expenses for the whole years in 2021-22 and 2022-23.*
- (k) *The auditor certified (head wise) details of corporate expenses from 2020-21 to 2022-23 along with the methodology followed in apportionment of such expenses to various projects of petitioner and apportioned cost thereof to all such projects.*
- (l) *The sub-head wise details of expenses and scope of works claimed for Rs. 161.96 lakh, Rs. 8698.06 lakh and Rs. 361.93 lakh, as on COD of mine, towards 'Other Plant and Machinery', 'Mine Development Expenditure' and 'MBOA', respectively.*

- (m) *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.*
- (n) *Advance payment received from Darlipali STPP and other plants towards cost of coal for generation and interest accrued thereof.*
- (o) *Year wise power drawn from Darlipali STPP and charges paid thereof till 2022 – 23.*
- (p) *Certain documents including at page numbers 589, 602, 614, 622, 623, 624, 633, 634, 644, 645, 646, 651, 1101 etc, of consolidated petition, were being illegible, petitioner shall submit legible copies of all such documents.*
- (q) *Reasons for the claim of reduced life of mine from 24 years to 21 years along with the approval of CCO and MoC.*
- (r) *The year wise quantity of coal produced since commencement of coal production to till 2022 - 23 and the quantity of coal supplied to Darlipali STPP thereof and quantity of coal sold to other plants / market and revenue realized thereof.*
- (s) *Reasons for altering certain forms and components thereof specified in the 2019 Tariff Regulations., such as Forms 1A (Fixed Reserve Price), 2B (O & M @ 2 % of average capital cost) etc.*
- (t) *As it is noted that certain forms and supporting documents, specified in the 2019 Tariff Regulations were not being submitted, the same shall be submitted, particularly, Form 3A, Form 15, Form 18, Form A, Form B, Form C, Form K, Form L, with supporting documents 4 (copy of 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.*
- (u) *Reasons for claiming higher loss in GCV (EM basis) from loading end to unloading end, particularly for months December, 2020, January, 2021, May, 2021, September, 2021, April, 2022, July, 2023 etc., inspite of the mine being integrated i.e. both loading end as well as unloading end are under the control of the Petitioner and the coal transported through MGR by the Petitioner.*
- (v) *The relevant penal provisions of MDO agreement for shortfall in production of coal and year wise amount recovered under such provisions.*
- (w) *Detailed break up of Rs. 16557.40 lakh, Rs. 305.66 lakh and Rs. 27457.52 lakh claimed towards 'Other pre-operating expenses', 'Miscellaneous Expenses', and 'Pre-commissioning income on sale of coal' respectively under IEDC. Further, shall furnish the expenses associated with annual performance incentives, performance related incentives, community development expenses, loss of provisions, Polytechnique college, CC allocation etc, considered under IEDC.*
4. The Respondents to file their replies by **12.3.2024**, after serving a copy to the Petitioner who may, file rejoinder, if any, by **22.3.2024**.

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

By order of the Commission

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