

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH

Petition No. 22 of 2022
Date of Hearing: 16.05.2022
Date of Order: 19.05.2022

Petition under Section 86 of the Electricity Act 2003 read with Article 18.1 of the Power Purchase Agreement dated 01.09.2008 seeking directions to approve and take on record the Supplementary Agreement dated 09.05.2022 executed between Talwandi Sabo Power Limited and Punjab State Power Corporation Limited amending the PPA dated 01.09.2008.

AND

In the matter of : Talwandi Sabo Power Limited Mansa- Talwand Sabo Road, Village Banawala, District Mansa, Punjab-151302

..Petitioner

Versus

Punjab State Power Corporation Limited, The Mall, Patiala, Punjab - 147001

....Respondent

Present: Sh. Viswajeet Khanna, Chairperson
Sh. Paramjeet Singh, Member

TSPL: Sh. Akshat Jain, Advocate
Sh. Arun Kumar

PSPCL: Ms. Poorva Saigal, Advocate
Sh. Paramjit Singh, CE/ARR&TR
Sh. VPS Kailay, Dy.CE/Projects

ORDER

1. Talwandi Sabo Power Limited (TSPL), has filed the present petition seeking to approve the Supplementary Agreement dated 09.05.2022 and allow amendment in the PPA dated 01.09.2008 in accordance with Article 18.1 of the PPA. It has been submitted that:
 - a) The Petitioner is a generating company that owns and operates 1980 MW (3x660 MW) thermal power plant in the state of Punjab under Case II Scenario IV route and has entered into the Power

Purchase Agreement dated 01.09.2008 (PPA) with the erstwhile Punjab State Electricity Board (now PSPCL). On 04.09.2013, TSPL entered into a Fuel Supply Agreement (FSA) with Mahanadi Coalfields Limited (MCL) for procurement of coal for the Project for a period of 20 years on a without prejudice basis under the aegis of the Order dated 18.04.2013 passed by the Hon'ble APTEL in Appeal Nos. 56 & 84 of 2013.

- b) That on 15.05.2018, the Ministry of Coal vide its letter no. 23011/79/2014-CPD/CLD issued the methodology for linkage rationalization for IPPs, whereby the coal linkage of a Thermal Power Plant (TPP) of an Independent Power Producers (IPPs) may be transferred from one coal company to another based on the coal availability and future coal production plan of the coal company. The underlying objective behind the exercise is meant to reduce the landed cost of coal due to reduction in transportation cost and cost of coal.
- c) That Coal India Limited (CIL) on 25.08.2020 issued a notice inviting the Expression of Interest (Eoi) from IPPs for rationalizing their existing linkage. Accordingly, with a view to reduce the landed cost, the Petitioner submitted its Eoi requesting for rationalization of linkage and CIL vide its letter dated 21.07.2021 intimated the rationalized quantity/saving (calculated by CEA) by rationalization of linkage of 2.5 MMT from Mahanadi Coalfields Limited (MCL) to Northern Coalfields Limited (NCL) and Eastern Coalfields Limited (ECL) as 0.715MMT/Rs. 0.81 per kWh and 0.864 MMT/Rs. 0.45 per kWh respectively. The cost saving as calculated by CEA is indicative and is for consideration as a criterion only for selection of IPPs. However, actual saving realized due to linkage rationalization is required to be passed on

to the Procurer/Discom through a Supplementary Agreement, which in turn is required to be approved by the appropriate Electricity Regulatory Commission.

- d) On 08.03.2022, TSPL filed Petition No. 12 of 2022 before this Commission seeking approval of the Supplementary Agreement dated 07.03.2022 executed with PSPCL for giving effect to pass through of cost savings to be made by TSPL to PSPCL on account of Linkage Rationalization of 0.715 MMT of coal from MCL to NCL. And on 06.04.2022, the Commission passed the Order inter-alia approving the said Supplementary Agreement dated 07.03.2022 finding it to be prudent with the underlying objective of reducing the variable charges.
- e) On 06.04.2022, TSPL wrote to PSPCL seeking its concurrence with respect to rationalization of coal linkage from ECL as well, stating that:-
- (i) Rationalization of coal linkage from ECL will not only increase materialization of domestic linkage coal at TSPL but will also reduce dependence on costlier e-auction and imported coal.
 - (ii) Landed cost of ECL coal as received under import substitution scheme in FY2019-20 & FY 2020-21 is almost equivalent to the landed cost of MCL linkage coal. For the same period, the weighted average landed cost on annual basis of ECL coal along with NCL coal is lesser than that of the landed cost of MCL coal and shall continue to be so.
 - (iii) TSPL undertakes not to lift any ECL coal in case the weighted average landed cost on annual basis of ECL coal along with NCL coal is more than that of the landed cost of MCL coal.
- f) On 09.05.2022, TSPL and PSPCL executed the Supplementary Agreement to PPA dated 01.09.2008. In terms of Article 18.1 of

the PPA, the PPA can be amended or supplemented only by a written agreement between the Parties and after duly obtaining the approval of this Commission:-

“18.1 Amendment

This Agreement may only be amended or supplemented by a written agreement between the Parties and after duly obtaining the approval of the Appropriate Commission, where necessary.”

Accordingly, the Supplementary Agreement dated 09.05.2022 has been executed pursuant to the mutual written agreement between the parties and now the same is being filed before this Commission for approval.

g) It has been further submitted that:

- (i) TSPL vide Letter dated 14.05.2021 applied for Linkage Rationalization considering the entire coal lifting through Direct Rail mode only and even Coal India Limited has calculated the cost savings on the basis of coal lifting through Direct Rail mode only.
- (ii) That TSPL shall opt for road transportation only if the transportation cost through Road mode shall be equal or less than the transportation cost through Rail mode. The Direct Road mode is only applicable for short distance customers and since the distance from mines upto TSPL is approx. 1550 kms (i.e., from ECL to TSPL), Direct Road mode is not feasible for TSPL and hence it has not applied for the same whilst applying for rationalization of coal from Coal India Limited.

2. After considering the averments made in the petition, the petition was listed for hearing on admission on 16.05.2022 with the

direction that PSPCL may file its reply to the petition by 13.05.2022 with a copy to TSPL and TSPL may file its rejoinder thereto, if any, before the date of hearing with a copy to PSPCL. .

3. PSPCL filed its reply vide memo No. 3046 dated 13.05.2022 and submitted:
- a) That the Supplementary Agreement has been executed in terms of Ministry of Coal, Government of India, Coal Linkage Rationalization policy for independent Power Producers (IPPs) issued on 15.05.2018, with the objective to reduce the landed cost of coal due to reduction in transportation cost and cost of coal.
 - b) That the Supplementary PPA has been entered into in public interest and the full extent of savings that will accrue by prudent actions of the TSPL will be passed on to PSPCL.
 - c) That the Supplementary PPA has been entered into on the premise that the savings shall be passed on to PSPCL. The indicative savings from rationalization of linkage through ECL have been computed on the basis of coal transportation charges through Rail Mode. In this regard, TSPL has also clarified the position in the Petition that it shall opt for road transportation only if the transportation through Road Mode shall be equal to or less than the transportation cost through Rail Mode.
 - d) TSPL shall be liable to provide details of any such coal procurement under the Coal Linkage Rationalization policy and related information(s) to PSPCL as and when sought for by PSPCL. Therefore, the Commission may approve the Supplementary Agreement dated 09.05.2022 to the Power Purchase Agreement (PPA) dated 01.09.2008 entered into

between the parties for the purpose of rationalization of coal linkage from MCL to ECL.

4. The petition was admitted during hearing on 16.05.2022. The learned Counsel for the Petitioner reiterated the submissions made in the Petition and learned Counsel for PSPCL also pleaded for approval of the Supplementary Agreement dated 09.05.2022. On query, learned Counsel for PSPCL submitted that earlier they were insisting for a cap on the cost of the proposed linkage source to which TSPL was not agreeable, but now keeping in view the coal shortage scenario and scope of better materialization of domestic coal, PSPCL is convinced that the said arrangement is in the interest of PSPCL and the consumers of the State.

5. Findings and Decision of the Commission:

After hearing the parties and keeping in view the facts stated in the petition as well as the reply filed by PSPCL, the Commission observes and decides as under:

- 5.1 It has been submitted that, in reference to the TSPL's Expression of Interest (EoI) submitted for rationalization of its coal linkage, CIL intimated the rationalized quantity/saving on account of linkage rationalization of 2.5 MMT from Mahanadi Coalfields Limited (MCL) to Northern Coalfields Limited (NCL) and Eastern Coalfields Limited (ECL) as 0.715MMT/Rs. 0.81 per kWh and 0.864 MMT/Rs. 0.45 per kWh respectively. The said saving is indicative and the passing on benefits is to be calculated on actual data. It was also submitted that TSPL had applied for Linkage Rationalization considering the entire coal lifting through Direct Rail mode only and it shall opt for road transportation only in case if the transportation cost through Road mode shall be equal or less than

the transportation cost through Rail mode. Further, the methodology mandates that, cost saving for the transferred quantity shall be passed on to the Discoms/buyers through a Supplementary Agreement which shall be approved by the appropriate Electricity Regulatory Commission. And, the Fuel Supply Agreement (FSA) of the rationalized source would be signed/implemented only after the appropriate Commission approves the Supplementary Agreement. The Supplementary Agreement dated 07.03.2022 for Linkage Rationalization from MCL to NCL stand already approved by the Commission in petition 12 of 2022. Accordingly, the instant petition has been filed for approval of the Supplementary Agreement dated 09.05.2022 executed between the petitioner Generator and the distribution licensee PSPCL, in terms of Article 18.1 of the PPA.

5.2 The Commission refers to the Article 18.1 of the PPA, which provides as under:

“18.1 Amendment

This Agreement may only be amended or supplemented by a written agreement between the Parties and after duly obtaining the approval of the Appropriate Commission, where necessary.”

Thus, the provision exists in the PPA to amend or supplement the same by a written agreement between the Parties with the approval of the Commission. Herein, the parties to the PPA have entered into a Supplementary Agreement with mutual consent, with the stated objective to reduce the landed cost of coal, which shall result in reduction of the variable charges. It has been also submitted that, it will help in increasing materialization of domestic linkage coal at

TSPL and reduce dependence on costlier e-auction and imported coal.

In view of the above, the Commission finds it prudent to approve the same with the direction that the full extent of the savings would be passed on to the Respondent PSPCL and that the Petitioner would be responsible for providing the necessary details and related information in respect of such procurement of coal and actual savings that accrue. However, as stated above the entire coal lifting would be through direct rail mode only and road transport shall be resorted to only if the landed cost is equal to or less than that of direct rail mode.

The petition is disposed of accordingly.

Sd/-

(Paramjeet Singh)
Member

Sd/-

(Viswajeet Khanna)
Chairperson

Chandigarh
Dated: 19.05.2022