

**JOINT ELECTRICITY REGULATORY COMMISSION FOR  
THE STATE OF GOA AND UNION TERRITORIES  
GURGAON**

Coram  
Dr. V.K. Garg, Chairperson  
Sh. S.K.Chaturvedi, Member  
**Petition No. 89/2012**

**In the matter of**

Petition for fixation of completed / actual capital cost of project and Tariff of the project of the petitioner- a Power Generating Company under Regulations 3(2)(a), 3(4), 12 and 36 of the Joint Electricity Regulatory Commission for the State of Goa and Union Territories (Terms and Conditions for determination of Tariff) Regulations, 2009 read with sections 62(1) (a) and 63 of the Electricity Act, 2003.

**And in the matter of**

M/s Suryachakra Power Corporation Ltd.  
Suryachakra House,  
Plot No. 304-L-III, Road No.78,  
Film Nagar, Jubilee Hills,  
Hyderabad- 500096

**Vs.**

1. Electricity Department,  
Rep. by its Superintending Engineer,  
Port Blair, Andaman & Nicobar Islands.
2. Chief Secretary,  
Andaman & Nicobar Administration Secretariat, Port Blair,  
Port Blair, Andaman & Nicobar Islands.

**Present for petitioner**

1. Dr. S.M. Manepalli, MD, SPCL.
2. Shri Biji George, General Manager (Operation), SPCL.
3. Shri K. Vijay Kumar, Executive Director, SPCL.
4. Shri Sakesh Kumar, Advocate, SPCL.
5. Shri Rohit Rao. N, Advocate, SPCL.

**Present for respondents**

1. Shri Anand Behari, Superintending Engineer, ED- Andaman & Nicobar Islands.

2. Shri M. Jagannathan, AE, ED- Andaman & Nicobar Islands.
3. Shri Arvind Tewari, Consultant, ED- Andaman & Nicobar Islands.
4. Shri J.S. Yadav, Advocate, proxy counsel for Shri R. Balasubramanian, Advocate for respondents.

### **Order**

**Date 12.03.2013**

1. The parties filed submissions as directed by the Commission in the previous order dated 18.02.2013. In response to query of the Commission for compliance of the order dated 18.02.2013 the representatives of the petitioner submitted as under:-
  - i. Direction no. 1 of the order dated 18.02.2013 - complied.
  - ii. Direction no. 2 of the order dated 18.02.2013 - complied.
2. The representatives of the respondents stated at bar that the petitioner has complied both the directions issued by the Commission vide order dated 18.02.2013.
3. The representatives of the respondents to the query of the Commission for compliance of the three directions issued by the Commission to the respondents in the order dated 18.02.2013 submitted as under:-
  - i. Direction no. 1- Approval of Lt. Governor of UT of Andaman & Nicobar has been obtained. They failed to produce copy of the said approval if it had been obtained & an affidavit stating that approval has been given by the Lt. Governor. The Commission considered the submissions made by the representatives of the respondents and observed that the respondents failed to comply with this direction.
  - ii. Direction no. 2 of the order dated 18.02.2013 - not complied.
  - iii. Direction no. 3 of the order dated 18.02.2013 - not complied.
4. The representatives of the respondents on asking by the Commission for the reasons for non compliance of their directions given under order dated 18.02.2013 submitted that the respondents want to safeguard their financial interest by way of Bank Guarantee before releasing the amount to the petitioner. The Commission observed that the respondents neither filed application before the Commission for directions to the petitioner for furnishing Bank Guarantee by the petitioner nor sent direct communication to the petitioner to this effect. They also failed to supply the format of the Bank Guarantee if any, and the amount for which the Bank Guarantee is required.

The Commission further observed that in another case, a Sanction Order was issued by Andaman & Nicobar Administration, by following the rules under GFR for submission of necessary security. It is seen that Sanction Order precedes the procedural matter of furnishing security/ bank guarantee as per GFR. However, in the instant case, it is observed that the Sanction Order is yet to be issued stating that the petitioner is reluctant to submit the bank guarantee/ FDR.

5. The representatives of the petitioner contented that this part of submission of the representatives of the respondents is not in compliance of order of the Commission dated 18.02.2013. They prayed the Commission to invoke provisions of section 142 of the Electricity Act, 2003 against the respondents and to take appropriate action against them for non compliance of the order dated 18.02.2013 of the Commission.
6. The Commission considered the submissions made by both the sides and after due application of mind on the facts and circumstances of the matter the Commission observed that the project of the petitioner was executed under BOOT model; also the overhauling and replacement of parts of the machinery/ equipments shall enhance life and value of the existing machinery/ equipments. The project is embedded on the land of the respondents and is under total physical control of Andaman & Nicobar Administration. The spares purchased and brought by the petitioner will be added/ replaced in the existing machinery/ equipment. Moreover, the payment of advance will be in the nature of "payment on account" i.e. payment as work proceeds and the recovery is by the respondent from the tariff revenue stream.
7. The Commission further observed that recovery of the advance will also be from monthly tariff paid by the respondents to the petitioner and therefore, the risk of non recovery or nonpayment is minimal. The order of the Commission dated 18.02.2013 is self explanatory and directs the respondents to release the advance amount in stages that the first such payment is only to the extent of 50% namely Rs. 5 Crs. at the time of placement of order. The subsequent two stages of release of amount is only after completion of overhaul of two engines each time. As such, the related risk is negligible. Any improvement in the generating asset (which is under BOOT) will benefit both the parties.
8. When the Commission enquired from the representatives of the respondents that as stated by the petitioner, if the petitioner furnishes Bank Guarantee of Rs. 5 Crs. whether the same is sufficient and satisfying. But the Commission is surprised to hear from the representatives of the respondents that they were unable to reply without approval from the higher authorities with whom the file for release of advance money as per the order

dated 18.02.2013 is pending, whereas earlier the respondent had said approval has been obtained.

9. After having heard both the sides at length, going through the written submissions filed by both the parties and after application of mind the Commission directed as under:-
- i. The petitioner will furnish a revolving bank guarantee of Rs. 5 Crs. to the respondents in such a way that the Bank Guarantee amount will get reduced gradually by the amount recovery of advance by the respondents from the monthly tariff.
  - ii. The respondents shall release the amount as per the order dated 18.02.2013 of the Commission immediately on receipt of the Bank Guarantee but not later than one week of furnishing the Bank Guarantee.
10. The parties are directed to submit compliance report on or before 20.03.2013.
11. The respondents prayed for two months time for compliance of the directions of last two paras of the order dated 18.02.2013. The Commission observed that almost one month has already passed; therefore, the petitioner is directed to file compliance report in this regard on or before 18.04.2013 in enclosed formats Annexure "A" and "B".
12. The Commission further observed that the Commission is concerned for the uninterrupted and quality supply of electricity to the consumers in general and the examination period in particular but it appears that the commitment of the respondents to supply regular and uninterrupted quality electricity is short of expectation. The Commission further directed the respondents to depute a senior and responsible officer to attend the Commission's hearing on next date of hearing with proper authorization to give replies to the queries of the Commission.

Scheduled for hearing on 20.03.2013.

Sd/-  
(S.K.Chaturvedi)  
Member

Sd/-  
(Dr. V.K. Garg)  
Chairperson

Certified Copy

  
13.03.13  
(R.K. Malik)

Secretary

R. K. Malik  
Secretary

Joint Electricity Regulatory Commission  
For State of Goa and Union Territories  
Vanija Nikunj, 2nd Floor, Udyog Vihar, Ph-V  
Gurgaon-122016, Haryana

**Statement showing compliance of PPA provisions and CEA orders**  
**(Covering payments released by A&N Administration to M/s SPCL from COD till Jan., 2013)**

Particulars	As per PPA Provision	As per CEA Final order (Pl. give order Ref. under each Case separately)	As per Admission of claim and payment by ED- A&N	Effective date considered in case of each item		Remarks, if any
				As per CEA final order	As per A&N Admn. Release of payment	
<b>I) Competed cost of the project (Rs. Crs.)</b>						
<b>II) Tariff elements</b>						
(i) O&M expenses (% of project cost)						
(ii) Depreciation (% of project cost)						
(iii) Return on Equity (% of Equity)						
(iv) Debt Servicing (% of loan)						
(v) Interest on working capital (% of loan)						
(vi) Incentive in case of PLF above PPA norms (% of Equity)						
<b>III) Other items</b>						
(i) Heat recovery (kcal/kwh)						
(ii) Lub Oil consumption (gm/kwh)						

**Note:** In case payment was regulated by ED- A&N in respect of above items changing the percentage, kcal etc. please indicate under “Remarks” column, both the old as well as revised parameters with date of change.

(Signature of authorized  
Representative of M/s SPCL)  
Date:

Signature of authorized  
Representative of ED- A&N)  
Date:

## Annexure "B"

(Rs. Lakhs)

S. No.	Particulars	Year *		
		Year wise	Due	Paid
<b>I</b>	<b>Fixed Cost</b>			
a)	O&M expenses			
b)	Depreciation			
c)	Return on Equity			
d)	Debt Servicing			
e)	Int. on WC			
<b>II</b>	<b>Variable Cost</b>			
a)	HSD			
b)	Lub oil			
c)	Incentive			
d)	Income Tax			
e)	Water charges & Octroi			
<b>III</b>	Rebate			
<b>IV</b>	Recoveries			
<b>V</b>	Interest on delayed Payment			

\* Note: Please give the details year-wise from COD till January 2013.