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संयुक्त विद्युत विनियामक आयोग गोवा राज्य और संघ राज्य क्षेत्र  
**JOINT ELECTRICITY REGULATORY COMMISSION**  
(for State of Goa & Union Territories)



Goa



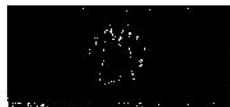
Andaman & Nicobar



Chandigarh



Dadra & Nagar Haveli



Daman & Diu



Lakshadweep



Puducherry

File No. 11/6/2012-JERC/1263 Petition No. 89/2012

Dated 25.09.2013

To,

Shri Anand Prakash, IAS  
Chief Secretary,  
Andaman Nicobar Administration,  
Port Blair -744101

Subject: Show Cause notice u/s 142 / 146 read with section 149 of the Electricity Act, 2003 in respect of petition no. 89/2012.

1. Whereas M/s Suryachakra Power Corporation Ltd.- Petitioner filed Petition No. 89/2012 for fixation of completed / actual capital cost and Tariff of the project of the petitioner- a Power Generating Company under sections 62(1) (a) and 63 of the Electricity Act, 2003 read with 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.
2. Whereas the Commission after notice and hearing disposed off the petition vide order dated 3.07.2013. The Commission at pages no. 89-91 of the order dated 3.07.2013 gave following directions:-
  - i. The completed cost of the project is fixed at Rs. 7829.65 Lakhs.
  - ii. The Liquidated Damages are not recoverable from the petitioner.
  - iii. Beyond 10.12.2002 and upto the end of COD namely 02.04.2003, the petitioner is eligible to receive the deemed generation charges in terms of 3.3 (c) (iii) of PPA.
  - iv. The incentive of 0.65% is applicable on the "amount of equity" as defined in the PPA and "not on the return on equity" as pleaded by the respondent, for every 1% increase in annual PLF over normative PLF.
  - v. The interest on Debt is reimbursable in the monthly tariff billing, on the basis of actual interest amount paid by the Petitioner. Along with each monthly invoice, the Petitioner is required to provide necessary documentary evidence in support of its claim to the Administration, from the respective lenders, for the prevailing rate of interest, repayment of loan, interest amount due on the reduced balance of loan after repayment and the interest amount actually paid by the Petitioner. For the purpose of the debt portion of the project cost, the loan amounts from Citi Bank and Unsecured Loan as approved by the Commission are to be included.

- vi. Interest on working capital: It is seen from the Written Submissions of both the parties that the Administration had started supplying HSD and Lube oil at the request of the Petitioner from July 2008 and January 2009 onwards respectively. Since the respondent is providing HSD and Lube Oil, while calculating the Working Capital requirements, these elements (Thirty days primary fuel cost & sixty days Lube Oil cost) are not to be included. As per the documents and Written Submissions provided by the Petitioner, SPCL has taken a WC loan from SBI on floating interest rate basis. The interest on Working Capital is payable on actual basis on furnishing documentary proof of payment to the Bank.
- vii. HEAT RATE: Heat Rate beyond 2010 kcal/ kWh is presently not recommended. However, in future the aforementioned suggestion of the CEA regarding the major overhauling and subsequent determination of Heat Rate and its consideration by the Commission may be pursued.
- viii. LUBE OIL CONSUMPTION: No change in the specific lube oil consumption is recommended as of now as norms are decided over the life of the plant. While initially the lube oil consumption may be less than the normative value, over the years it may exceed the norm value but as norms are decided based on the average over the life of the plant, on the whole it would average out.
- ix. Density of HSD: The Commission directs the respondent to accept the authenticated MET data submitted by the petitioner for the purpose of calculation of density of HSD.
- x. The Capital Cost as well as all operating parameters as approved by the Commission and the various tariff elements as enumerated in the PPA which flow from Capital Cost will become the basis for tariff determination with effect from the COD. The amount thus worked out month wise will be the Tariff due as per PPA. Actual payments made when compared with the "benchmark month wise due tariff" will determine the amount of Arrears/Recoveries.
- xi. The payment of arrears to the Petitioner will be made along with the interest on delayed payments as per terms of the PPA (as followed by the respondent on the recovery from the petitioner in the past). Similarly, recoveries from the Petitioner by the respondent will also be made along with interest as per terms of the PPA.
- xii. REFURBISHMENT OF THE PLANT: The plant having completed 10 years of operation, it is the right time for renovation of the plant after carrying out R&M study and Cost benefit analysis and proposal submitted to the Commission for taking prior "in principle" approval before proceeding with the actual works. For this purpose the Petitioner should make a Detailed Project Report giving complete scope, justification, cost-benefit analysis, estimated life extension, financial package, phasing of expenditure, schedule of completion, estimated completion cost and any other information considered to be relevant and file a petition before the Commission.
- xiii. The following charges being claimed as extra by the Petitioner are not admissible: Water Charges, Octroi Charges: (Administration may, however provide support to the Petitioner for exemption of Octroi charges as the plant is outside the bounds of Municipal Committee.)

Reimbursement of fees payable to Port management Board and Increase in O&M expenses other than the escalation provided in the PPA.

- xiv. REBATE: In view of the fact that the Capital cost was not finalised, both parties have been working with various figures of the Capital Cost, as also other tariff related parameters, therefore, the Invoices raised were being paid by the Administration on the basis of payment considered by them as due unilaterally as decided by the Administration. The rebate is applicable retrospectively since COD, on all Tariff Invoice amounts released within the PPA stipulated time for availing the Rebate. Any under-payment / over-payment be regulated by a para no. 11 of the directions as above in this order. If "amount paid" within the PPA stipulated time for availing the Rebate is equal or more than "Due amount" as calculated as per this order, then "Rebate" availed by A&N Admn. be retained by them. If "amount paid" (x) within the PPA stipulated time for availing the Rebate is less than the "Due Amount"(y) as calculated as per this order, then "Rebate" availed on excess of (y-x) be refunded alongwith the interest as per PPA provisions.
- xv. Loss of Opportunity claim: As there is no provision in the PPA regarding loss of opportunity claim, this claim of the petitioner is rejected.
- xvi. As there is no provision in the PPA regarding payment of HSD evaporation losses as also viewed by CEA vide letter dated January 22, 2013 that there is no provision in the PPA to allow compensation for evaporation losses no compensation on account of HSD Handling/Transportation losses is payable to the petitioner; also, the same decision holds good in respect of HSD supply by the respondent to the petitioner.

3. Whereas both the parties to the petition were directed to submit compliance report of the directions given by the Commission in the order dated 3.07.2013 within a fortnight i.e. by 17.7.2013.
4. Whereas the petitioner vide letter dated 12.07.2013 has intimated the Commission that the respondents are required to pay an amount of Rs. 84.18 Crs. as per the order dated 3.07.2013 of the Commission. The petitioner has also submitted its claim with the respondents and has complied with the directions issued by the Commission in the order dated 3.07.2013.
5. Whereas the respondents did not submit compliance report of the order dated 3.07.2013 upto 17.07.2013 and despite expiry of period of 27 days. Therefore, the Commission reached to the conclusion that the respondents willfully and intentionally did not comply with the directions issued by the Commission given in the order dated 3.07.2013 in petition no. 89/2012 within the stipulated period of a fortnight i.e. by 17.7.2013.
6. Whereas the respondents also failed to produce any stay order from any competent Court of Law/ APTEL/ Commission.
7. Whereas according to the provisions of Sections 142 and 146 read with Section 149 of the Electricity Act, 2003 non-compliance of provisions of the Electricity Act, 2003 and orders or directions issued by the Commission in the stipulated period attract penal action under Sections 142 and 146 read with Section 149 of the Electricity Act, 2003.

8. Whereas the Commission decided that a show cause notice be sent to the respondents/ licensee that why proceedings under Sections 142 and 146 read with Section 149 of the EA, 2003 be not initiated against the licensee for willful and intentional non-compliance of the directions / order of the Commission dated 3.07.2013 in petition no. 89/2012 and for nonpayment of an amount of Rs. 84.18 Crs. (as claimed by petitioner) within the stipulated period of a fortnight i.e. by 17.7.2013 and thereafter.
9. Whereas the Commission sent notice dated 1.08.2013 to the respondents/ licensee that why proceedings under Sections 142 and 146 read with Section 149 of the EA, 2003 be not initiated against the licensee for willful and intentional non-compliance of the directions / order of the Commission dated 3.07.2013 passed in petition no. 89/2012 and for nonpayment of an amount of Rs. 84.18 Crs. (as claimed by petitioner) within the stipulated period of a fortnight i.e. by 17.7.2013 and thereafter by 1.08.2013. The respondents/ licensee was directed to submit reply of the notice and compliance report of the order dated 3.07.2013 passed in petition no. 89/2012 on or before 8.08.2013 otherwise it will be presumed that the licensee is nothing to say in this matter.
10. Whereas the licensee submitted reply dated 6.08.2013 of the show cause notice dated 1.08.2013 and the Commission after hearing vide order dated 23.09.2013 decided that the Commission is of the opinion that the licensee/respondents have intentionally and willfully disobeyed/ contravened the order dated 3.07.2013 passed by the Commission in petition no. 89/2012. The respondents are liable to be penalized u/s 142 of the Electricity Act, 2003. Therefore, the Commission directs that a notice be served upon the respondents u/s 142 of the Electricity Act, 2003 that why penalty should not be imposed upon them for non-compliance / contravention of the order dated 3.07.2013 passed by this Commission in petition no. 89/2012. The respondents are further directed to submit reply of the notice on or before 25.10.2013.
11. Therefore, you are served with a show cause notice to explain that why penalty should not be imposed upon you for non-compliance / contravention of the order dated 3.07.2013 passed by this Commission in petition no. 89/2012. Your reply of the notice should reach the Commission on or before 25.10.2013 otherwise it will be presumed that you are nothing to say in the matter.



(R.K. Malik)  
Secretary