



**THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW**

Petition No. 2108 of 2024

QUORUM

Hon'ble Shri Arvind Kumar, Chairman

Hon'ble Shri Sanjay Kumar Singh, Member

IN THE MATTER OF

Miscellaneous Petition under Regulation 28 (iv) of the Uttar Pradesh Electricity Regulatory Commission (Terms and Conditions of Generation Tariff) Regulations, 2019 as amended from time to time and the Power Purchase Agreement dated 26.09.2014 (along-with Addendum No. 1 dated 04.09.2019), approved by this Hon'ble Commission vide its Order dated 20.04.2016 in Petition No. 971 of 2014 read with the Order dated 15.01.2016, as well as the Order dated 06.05.2020 in Petition No. 1438 of 2019 for carrying out prudence check of the cost for procurement and use of Additional Coal on account of shortfall in supply of FSA Grade Coal in FY 2023-24 for supply of 187 MW Gross Contracted Capacity to Noida Power Company Limited from Unit 2 of 2 x 300 MW Coal based thermal generating station of Dhariwal Infrastructure Limited located at Tadali, Chandrapur in the State of Maharashtra.

AND

IN THE MATTER OF

Dhariwal Infrastructure Ltd. (DIL)

CESC House, Chowringhee Square, Kolkata - 700001, West Bengal

..... **Petitioner**

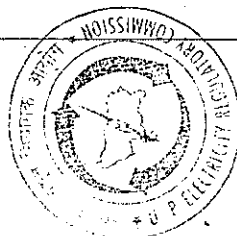
VERSUS

Noida Power Company Ltd. (NPCL)

Electric Sub-station, Knowledge Park-IV, Gr. Noida, Gautam Buddha Nagar, Uttar Pradesh,
Pin- 201301

..... **Respondent**

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THE FOLLOWING WERE PRESENT

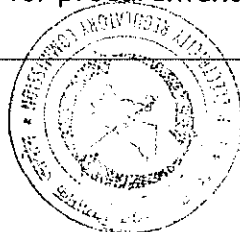
1. Shri Rahul Mukherjee, Deputy Manager, DIL
2. Ms. Abiha Zaidi, Advocate, DIL
3. Ms. Srishti Rai, Advocate, NPCL

ORDER

(DATE OF HEARING: 17.10.2024)

1. The Petitioner, Dhariwal Infrastructure Limited (DIL), has filed the present petition under Regulation 28 (iv) of the Uttar Pradesh Electricity Regulatory Commission (Terms and Conditions of Generation Tariff) Regulations, 2019 for conducting a prudence check of the cost for procurement and use of additional coal on account of shortfall in supply of FSA Grade Coal in FY 2023-24 for supply of 187 MW Gross Contracted Capacity to NPCL from Unit 2 of its 2x300 MW Coal based thermal generating station located at Tadali, Chandipur in the state of Maharashtra.
2. The Petitioner has prayed the following:
 - a) Admit the instant Petition for conducting prudence check towards cost of procurement and use of Additional Coal for FY 2023-24 in accordance with the directions of this Commission in its Order dated 06.05.2020 in Petition No. 1438 of 2019;
 - b) Approve the amount of ₹ 22.50 Crores along with adjustment of Debit/Credit Notes received from the Coal Companies towards the cost of procurement and use of Additional Coal in FY 2023-24 incurred by the Petitioner/DIL;
 - c) Allow the Petitioner/DIL to recover the balance amount of ₹ 2.25 Crores along-with the applicable Carrying Cost till the date of -actual payment made to the Petitioner/DIL on account of Revenue Gap towards procurement and use of Additional Coal for FY 2023-24;
 - d) Grant liberty to the Petitioner/DIL to approach this Commission for prudence check of the further revised claims for procurement and use of Additional Coal for FY 2023-

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24 as and when required on account of any future orders/directions issued by this Commission;

- e) Allow the Petitioner/DIL to continue the same principles for procurement and use of additional coal and approach this Commission for prudence check of the associated cost for the Tariff Period FY 2024-29, as those laid down by this Commission in Paras 47-50 of the Order dated 06.05.2020 in Petition No. 1438 of 2019;
- f) Condone any inadvertent omissions/errors/rounding-off differences/shortcomings and permit the Petitioner/DIL to add/alter this filing and make further submissions as may be required in future; and
- g) Pass such other Order(s) as this Commission may deem fit and proper, keeping in view the facts and circumstances of the case.

Brief Facts of the Case as submitted by the Petitioner:

- 3. The Petitioner has developed 2 X 300 MW coal fired thermal generating station at Tadali, Chandrapur in the state of Maharashtra. Out of net capacity of 273 MW from Unit No. II, 170 MW capacity (187 MW gross capacity) was contracted with NPCL in Uttar Pradesh through long term PPA dated 26.09.2014. The said PPA was approved by this commission vide its order dated 20.04.2016 in Petition No. 971 of 2014 read with the order dated 15.01.2016.
- 4. The Commission, had, vide its Order dated 06.05.2020 in Petition No. 1438 of 2019 permitted the Petitioner to procure and use Additional Coal to the extent of shortfall in the supply of FSA Grade Coal during the period FY 2019-20 and FY 2023-24, subject to the terms and conditions as mentioned in the above Order.
- 5. The key rulings of this Commission in its Order dated 06.05.2020 in Petition No. 1438/2019, in pursuance of which DIL has filed the present Petition, are summarized hereunder:
 - a) Subject to certain conditions specified in the Order dated 06.05.2020, DIL would be entitled to recover 90% of the cost of Additional Coal on a provisional

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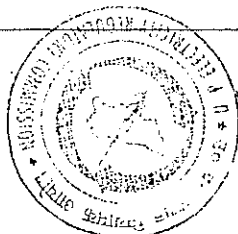




basis through monthly supplementary energy bills for each financial year of the MYT period FY 2019-24.

- b) DIL has been directed to submit a Petition along-with relevant details and documents for prudence check of the actual expenses incurred towards procurement and use of Additional Coal for every financial year at the beginning of the next financial year; and
 - c) DIL is also entitled to claim Carrying Cost under the instant Petition in line with the principle set by this Commission vide Order dated 19.03.2020 in Petition No. 1318/2018 & 1319/2018 as per the applicable Generation Tariff Regulations.
6. The Petitioner had earlier filed Petition No. 1630 of 2020, 1794 of 2021, 1873 of 2022 and 2005 of 2023 before this Commission for carrying out prudence check of the cost of procurement and use of Additional Coal for FY 2019- 20, FY 2020-21, FY 2021-22 and FY 2022-23, respectively, in compliance with the above Order dated 06.05.2020 issued in Petition No. 1438 of 2019. The said Petitions have, been disposed of by this Commission vide its Orders dated 08.06.2022, 20.03.2023, 13.06.2023 and 02.05.2024.
7. The Petitioner was granted Coal linkage of 14,30,000 MTPA for Unit 2 by Ministry of Coal and FSA was signed with South Eastern Coalfields Limited (SECL) on 06.06.2009. Subsequently, DIL signed Addendum #1 on 30.06.2016 with SECL for supply of 14,14,270 MTPA as Annual Contracted Capacity (ACQ). Thereafter, DIL signed Addendum # 3 dated 13.10.2020 to the FSA for enhancement of the ACQ to 15,71,409 MTPA. The revised ACQ under Addendum # 3 is allocated proportionately, i.e. 5,82,009 MTPA (37.037% of the ACQ) for supply of power to TANGEDCO and 9,89,400 MTPA (62.963% of the ACQ) to the Respondent/NPCL based on the Contracted Capacities under the respective PPAs. The Commission, had, vide its Order dated 19.03.2020 in Petition No. 1319 of 2018 and 1318 of 2018 filed by DIL approved such allocation of ACQ to the Respondent/NPCL based on its Contracted Capacity.

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8. Despite the increased ACQ, the Petitioner continued to face shortage in the supply of FSA Grade Coal during FY 2023-24 with respect to ACQ as well as variance in quality of such Coal. Thus, the Petitioner had to procure Non-FSA Grade Coal (RCR Coal) and E-Auction/Domestic Open Market (hereinafter collectively referred to as "Additional Coal") in FY 2023-24. The details of FSA Grade Coal and Additional Coal that were consumed during the period from April 2023 to March 2024 is evident from the following tables:

TABLE 1: FSA GRADE COAL RECEIVED FROM SECL DURING FY 2023-24

FY 2023-2024	Quantity	Quantity allocated for NPCL @62.963%	Quantity allocated for NPCL less Normative Transit Loss of 0.8%	GCV – As Received (less 85kcal/kg on account of variation during storage at generating station as per Generation Tariff Regulations 2019)
	Ton	Ton	Ton	kCal/kg
FSA Grade Coal (G10-12 grade directly received by rail)	11,86,821	7,47,258	7,41,280	3288

TABLE 2: ADDITIONAL COAL – ROAD-CUM-RAIL COAL RECEIVED AT PLANT FROM SECL DURING FY 2023-24

FY 2023-24	Quantity	Quantity allocated for NPCL @62.963%	Quantity allocated for NPCL less Normative Transit Loss of 0.8%	Quantity consumed for meeting NPCL demand	GCV – As Received (less 85 Kcal/kg on account of variation during storage at generating station as per Generation Tariff Regulations 2019)
	Ton	Ton	Ton	Ton	kCal/kg
RCR Coal	4,47,380	2,81,684	2,79,431	2,57,529	3,218

TABLE 3: ADDITIONAL COAL – E-AUCTION COAL FROM SUBSIDIARIES OF CIL/DOMESTIC OPEN MARKET COAL DURING FY 23-24

FY 2023-24	Balance Coal quantity required for supply of power to NPCL	GCV – As Received (less 85 Kcal/kg on account of variation during storage loss at generating station as per Generation Tariff Regulations 2019)
	Ton	kCal/kg
E-Auction/Domestic Open Market	22,703	3,752

9. The Petitioner in compliance with the direction of this Commission in its Order dated 06.05.2020 has followed a transparent process for procurement Additional Coal in compliance with Regulation 28(iv) of Generation Tariff Regulations 2019. The Certificates for 'As Received' GCV of Coal as tested by an independent NABL accredited third-party sampling agency for all the months of FY 2023-24 have been provided. The



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Regional Energy Accounts (REA) issued by the Western Regional Power Committee (WRPC) for FY 2023-24 have also been submitted. The Petitioner has first utilized the FSA Grade Coal for supply of power to the Respondent/NPCL for FY 2023-24.

10. Total compensation on account of procurement and use of Additional Coal for the entire FY 2023-24 works out to ₹ 22.50 Crores after adjustments for the Debit/Credit Notes of Rs. 5.67 Crores received by the Petitioner. The Petitioner raised the Supplementary Invoices of ₹ 24.95 Crores (for April 2023 to February 2024) and issued Credit Note of ₹ 4.70 Crores (for period of March 2024) to NPCL, claiming total of 90% of the cost, which amounted to a total of ₹ 20.25 Crores against a total claim of ₹ 22.50 Crores.
11. The Respondent/NPCL has accordingly paid Rs. 20.25 Crore against the Petitioner's Supplementary Invoices dated 20.07.2023, 18.10.2023, 10.01.2024 and 19.03.2023, as detailed below:

TABLE 4: REVENUE GAP/(SURPLUS) DUE TO COST OF PROCUREMENT AND USE OF ADDITIONAL COAL – FY 2023-24

Revenue Gap/(Surplus)- Cost of procurement and use of Additional Coal for supply of power to NPCL – FY 2023-24		
Particulars	UoM	FY 2023-24
Total Cost of Additional Coal for supply of power to NPCL (without Carrying Cost)	₹ Cr.	28.17
Net/Debit/Credit received for Non-FSA Grae Coal allocated to NPCL	₹ Cr.	-5.67
Total Cost of Additional Coal for supply of power to NPCL after netting Credit Note	₹ Cr.	22.50
Rebate adjusted payment made by NPCL towards Additional Coal bill for FY 2023-24	₹ Cr.	20.25
Balance Cost of Additional Coal for supply of power to NPCL after netting Debit/Credit Note	₹ Cr.	2.25

Note:
1) Carrying cost will be applicable till the date of actual payment of the balance outstanding amount by the Respondent as per UPERC Generation Tariff Regulation, 2019.

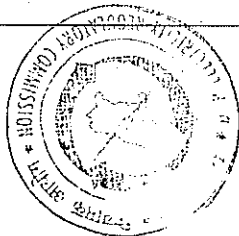
Record of Proceedings

12. The Commission, during the hearing dated 22.08.2024 directed the parties to submit reply and rejoinder. NPCL vide affidavit dated 30.09.2024 has filed its reply and the Petitioner vide affidavit dated 14.10.2024 has filed its rejoinder. The Commission heard the parties and concluded the hearing on 17.10.2024 and reserved its order.

Reply of NPCL

13. On 30.09.2024, NPCL filed its reply and mainly submitted as under:
- a) Supply from long-term contract from the DIL is utmost important to NPCL to ensure continuity and reliability of power in its licensed area of distribution. The

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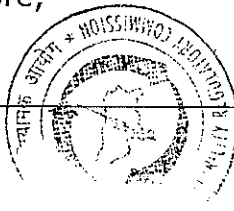


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Petitioner is required to justify along with supporting documents that it has first utilized the FSA Grade coal for the supply of power to NPCL in compliance with the Commission's Order dated 20.04.2016 in Petition No. 971 of 2014, MYT Order dated 05.02.2019 in MYT Petition No. 1235 of 2017 and Order dated 06.05.2020 in Petition No. 1438 of 2019. Further, the Petitioner is also required to justify along with supporting documents that it has undertaken a transparent process for the procurement of additional coal as per Generation Tariff Regulations 2019 as well as the Order's of the Commission.

- b) With regard to Prayer 31(e) of the Petitioner (i.e. to extend/continue the existing principles for procurement and use of additional coal, as laid down in the Order dated 06.05.2020 in Petition No. 1438 of 2019 for the subsequent Tariff Period FY 2024-29), it is submitted that it may be considered by the Commission in view of overall consumer interest and cost impact of the power from DIL's project and Draft UPERC (MYT for Distribution and Transmission Tariff) (3rd Amendment) Regulations, 2024 enabling auto billing of fuel and power purchase adjustment surcharge upon the consumers.
- c) The Petitioner has raised invoices for the procurement and use of additional coal for FY 2023-24 for a total amount of Rs. 20.25 Cr. after adjusting debit/credit notes in terms of the following:
- i. Supplementary Invoice dated 20.07.2023 bearing No. NPCL/SI/2023-24/08 towards 90% of the cost of additional coal for the period between April 2023 to June 2023 amounting to Rs. 6.59 Crore;
 - ii. Supplementary Invoice dated 18.10.2023 bearing No. NPCL/SI/2023-24/10 towards 90% of the cost of additional coal for the period between July 2023 to September 2023 amounting to Rs. 4.20 Crore;
 - iii. Supplementary Invoice dated 10.01.2024 bearing No. NPCL/SI/2023-24/11 towards 90% of the cost of additional coal for October 2023 to December 2023 amounting to Rs. 4.20 Crore;



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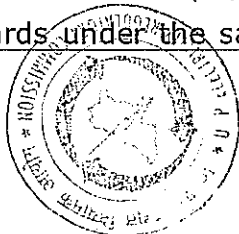


- iv. Supplementary Invoice dated 19.03.2024 bearing No. NPCL/SI/2023-24/13 towards 90% of the cost of additional coal for January 2024 to February 2024 amounting to Rs. 9.96 Crore;
- v. Credit Note dated 19.04.2024 bearing NPCL/SI/24-25/02 for March, 2024 amounting to Rs. 4.70 Crore.
- d) In compliance with the directions of the Commission vide its Order dated 06.05.2020, NPCL released an amount of Rs. 19.75 Cr. after adjusting rebate amounting Rs. 0.50 Cr. and a credit note of Rs. 4.70 Cr. against the supplementary invoices.

Rejoinder of DIL

14. On 28.05.2024, DIL filed its rejoinder and submitted as under:
- a) In compliance with the direction of the Commission in its earlier Orders dated 20.04.2016 in Petition No. 971 of 2014, Order dated 05.02.2019 in MYT Petition No. 1235 of 2017 and Order dated 06.05.2020 in Petition No. 1438 of 2019, the Petitioner has always first utilized proportionate FSA Grade Coal supplied under the FSA (i.e., G-10, G-11 & G-12 Grade Coal directly delivered by rail mode) for the supply of Contracted Capacity to the Respondent under the NPCL.
- b) DIL, being desirous to maximize its linkage allocation, had also signed Addendum # 3 to the FSA with SECL dated 13.10.2020 to increase the ACQ up to 100% of the normative requirement. However, the actual level of supply of FSA Grade Coal from SECL was beyond the control of the Petitioner, and the shortage in Coal supply could not be avoided in FY 2023-24.
- c) DIL has duly complied with the directions of the Commission in its Order dated 06.05.2020 in Petition No. 1438 of 2019 and has followed a transparent process for the procurement of Additional Coal in terms of Regulation 28(iv) of the Generation Tariff Regulations 2019.
- d) Prayer 31 (e) pertains to allowing the Petitioner to recover the costs of Additional Coal from FY 2024-25 and onwards under the same principle as adopted by this

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Commission during the Tariff Period FY 2019-24 vide its Order dated 06.05.2020, to ensure uninterrupted power supply to the Respondent. Such allowance by this Commission will provide necessary financial relief to the Petitioner, ensuring continued stability in operations and will also provide relief to the end consumers from the burden of accumulated interest, in case of delayed approval.

COMMISSION'S ANALYSIS AND DECISION:

15. The Commission has gone through various submissions made by the Petitioner and Respondent for determination of quantum of shortfall in supply of linkage coal under the FSA.
16. It is observed that DIL had been granted linkage for domestic coal under Letter of Assurance (LoA) dated 06.06.2009 by SECL and has executed FSA on 08.03.2016 and Addendum#1 on 30.06.2016. Subsequently, Addendum No. 3 dated 13.10.2020 was signed that ACQ under FSA dated 08.03.2016 would be revised from 14,14,270 tpa to 15,71,409 tpa. The revised ACQ under Addendum # 3 is allocated proportionately, i.e., 5,82,009 MTPA for supply of power to Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) and 9,89,400 MTPA to the NPCL based on the Contracted Capacities under the respective PPAs, which constitutes approximately 62.963% of the ACQ for the NPCL and 37.037% of the ACQ for TANGEDCO. Thus, the coal allocation is as below:

TABLE 5: Allocation of coal under FSA for NPCL and TANGEDCO

Allocation of Coal to DIL Unit-2 under the FSA			Allocation of Coal to NPCL under the FSA			Allocation of Coal to TANGEDCO under the FSA		
Total Contracted (Net) with NPCL and TANGEDCO	Coal allocated Capacity to Unit 2 Under the FSA		Contracted capacity (Net) with NPCL	Quantity of Coal allocated to NPCL		Contracted Capacity (Net) with TANGEDCO	Quantity of Coal allocated to TANGEDCO	
MW	MTPA	%	MW	%	MTPA	MW	%	MTPA
A	B	C	D	E=D/A	F=BXE	G	H=G/A	I=BXH
270	15,71,409	100	170	62.963%	9,89,400	100	37.037%	5,82,009

17. In support of its submission, DIL has also invited our attention to relevant clauses of the FSA signed with SECL, which reads as follows:



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"4.1 Annual Contracted Quantity (ACQ): 4.1.1 The Annual Contracted Quantity of Coal to be supplied by the Seller and undertaken to be purchased by the Purchaser, shall be 5,23,809 tonnes [against LOA quantity of 14,30,000 tonnes] per Year from the Seller's mines and/or from import, as per Schedule I. For part of Year, The ACQ shall be prorated accordingly.

The ACQ shall be in the proportion of the percentage of Generation covered under long term Power Purchase Agreement(s) executed by the Purchaser with the DISCOMs either directly or through PTC(s) who has/ have signed back-to-back long term PPAs with DISCOMs plus an additional 10% of the quantity covered under long term PPA on account of transmission loss and auxiliary consumption within the overall ceiling of LOA quantity. To clarify, if the PPA furnished is 60% the ACQ shall be 66% of the LOA quantity, but where the PPA furnished is 92% the ACQ shall be limited to LOA quantity. TPPS already having 100% PPA shall have no scope for any increase beyond LOA quantity. Whenever there is any change in the percentage of PPA(s), corresponding change in ACQ shall be affected through a side agreement.

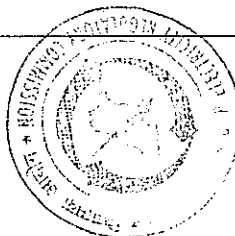
Such changes shall be allowed to be made only once in a quarter of the year. The change in ACQ for change in PPA during a quarter shall be made effective only from the beginning of the next quarter. The change in ACQ due to permissible quantity on account of auxiliary consumption and transmission losses may be affected accordingly. However, in no case ACQ should exceed the LOA quantity as mentioned in Schedule I, for which the FSA is executed." (Emphasis added)

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"4.2 End-Use of Coal

The total quantity of Coal supplied pursuant to this Agreement is meant for use at the Dhariwal Infrastructure Ltd. (formerly known as Dhariwai Infrastructure Pvt. Ltd.), Unit 2, IPP, 1 x 300 MW [Revised from 1 x 330 MW], Additional Capacity, Tadali MIDC, 8th KM on Chandrapur-Nagpur Highway, Chandrapur, Maharashtra as listed in Schedule I. **The Purchaser shall not sell/divert and/or transfer the Coal to any third part**

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for any purpose whatsoever and the same shall be treated as material breach of Agreement, for which the Purchaser shall be fully responsible and such act shall warrant suspension of coal supplies by the Seller."

18. The coal company itself has bifurcated the allowable coal quantity to two PPA wise beneficiaries viz. NPCL and TANGEDCO. The coal linkage granted to DIL under the FSA has to be apportioned on pro rata basis to all beneficiaries of the plant, and that the entire linkage coal cannot be made available to only one beneficiary.
19. **As observed vide its Order dated 02.05.2024 in Petition No. 2005 of 2023, the Commission would like to reiterate that proportionate ACQ of FSA grade coal available for generation and supply to NPCL is 9,89,400 ton only and accordingly proportionate FSA grade coal received against above ACQ has to be exclusively utilized by DIL to generate and supply capacity contracted with NPCL under the PPA dated 26.09.2014.**

Energy Supplied by Petitioner to Respondent

20. The month-wise details of energy supplied from DIL Unit-2 to NPCL for FY 2023-24 as validated through Monthly Regional Energy Accounts (REA) issued by Western Regional Power Committee (WRPC) and Northern Regional Power Committee (NRPC) for FY 2023-24 are as below:

TABLE 6: Validation of Energy Supplied from DIL Unit 2 to NPCL for FY 2023-24

NPCL SCHEDULED ENERGY FOR F. Y. -2023-24		
Month	As per WRPC (DIL Ex Bus) MUs	As per NRPC (Ex NR State Periphery) MUs
Apr-23	115.61	111.03
May-23	112.68	108.74
Jun-23	113.47	109.81
Jul-23	115.22	111.24
Aug-23	116.64	112.76
Sep-23	112.16	108.33
Oct-23	51.84	50.13
Nov-23	98.88	95.42
Dec-23	116.55	111.99
Jan-24	121.68	116.96
Feb-24	117.43	113.09
Mar-24	121.82	117.48

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Total	1314.03	1266.98
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21. The details of coal procurement are as follows:

A. Details of FSA Coal from SECL

The details of FSA Grade Coal supplied by SECL during 2023-24 by Rail are as under:

TABLE 7: FSA GRADE COAL RECEIVED FROM SECL DURING FY 2023-24

FY 2023-2024	Quantity	Quantity allocated for NPCL @62.963%	Quantity allocated for NPCL less Normative Transit Loss of 0.8%	GCV – As Received (less 85kcal/kg on account of variation during storage at generating station as per Generation Tariff Regulations 2019)
	Ton	Ton	Ton	kCal/kg
FSA Grade Coal (G10-12 grade directly received by rail)	11,86,821	7,47,258	7,41,280	3288

B. Details of Additional Coal:

a) The Petitioner has produced month-wise consumption and cost for procurement and use of Additional Coal along with adjustments for debit/credit notes from coal companies and the relevant coal parameters duly certified by the Statutory Auditor.

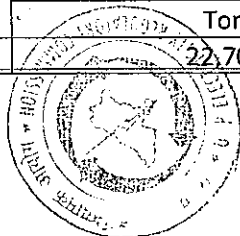
TABLE 8: B1: ADDITIONAL COAL – ROAD-CUM-RAIL COAL RECEIVED AT PLANT FROM SECL DURING FY 2023-24

FY 2023-24	Quantity	Quantity allocated for NPCL @62.963%	Quantity allocated for NPCL less Normative Transit Loss of 0.8%	Quantity consumed for meeting NPCL demand	GCV – As Received (less 85 Kcal/kg on account of variation during storage at generating station as per Generation Tariff Regulations 2019)
	Ton	Ton	Ton	Ton	kCal/kg
RCR Coal	4,47,380	2,81,684	2,79,431	2,57,529	3,218

TABLE 9: B3: ADDITIONAL COAL – E-AUCTION COAL FROM SUBSIDIARIES OF CIL/DOMESTIC OPEN MARKET COAL DURING FY 23-24

FY 2023-24	Balance Coal quantity required for supply of power to NPCL	GCV – As Received (less 85 Kcal/kg on account of variation during storage loss at generating station as per Generation Tariff Regulations 2019)
	Ton	kCal/kg
E-Auction/Domestic Open Market	22,703	3,752

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***Note:** Only E-Auction Coal was used during FY 2023-24 for supply of power to NPCL

22. The procedure followed by the Petitioner for procurement of additional coal is as under:

E-AUCTION COAL PROCUREMENT PROCEDURE FOR FY 2023-24

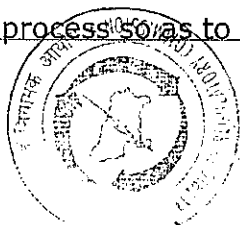
- i. Coal companies draw program for conducting e-auctions and notify the same, minimum 7 days in advance through displays on website of coal companies, for wide publicity. The programs are also intimated to the service providers (viz. MSTC/coal junctions) for hosting the same on their website.
- ii. The auctions are conducted on the website of MSTC/Coal Junction. Valid registration is required for participation in such auction. The bidder has to bid for a price equal to or above the reserve price to secure consideration in the concerned e-auction. The auctions are done by any of the CIL subsidiaries and /or SCCL.
- iii. The buyer has to submit amount, as per the quantity secured in auction, within 10 days of completion of auction with the concerned coal company.
- iv. Post submissions of coal value, the delivery order is released by the coal company with a validity of 45 days.

RCR Coal Procurement Procedure for FY 2023-24

- i. SECL notifies the quantities of coal that can be lifted by road mode. On the basis of applications received from various consumers and availability of coal, SECI allocates the coal quantities to the applicants.
- ii. The applicants need to submit the amount with SECL as per quantity allocated by SECL and thereafter delivery order is released by SECL with a validity of 45 days for dispatch of coal through road.

23. Regulation 28 (iv) of the Generation Tariff Regulations, 2019 provides that alternative coal supply from CIL beyond the FSA must be done through e-auction, and if coal is procured from domestic open market coal, then the generating company shall follow a transparent competitive bidding process so as to identify a reasonable market price. In

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the present case, part of Additional Coal has been procured through e-auction route from subsidiary companies of CIL, therefore, there can be no reservations in respect thereof. Further, the Non-FSA Grade Coal (RCR Coal) has been procured by DIL directly from SECL. **Hence, the Commission is inclined to hold that the procurement of Additional Coal has been made by DIL transparently and in terms of the direction of this Commission's Order dated 06.05.2020 and provisions of the Generation Tariff Regulations, 2019.**

DETAILS OF PENDING CLAIM AND SETTLED CLAIMS WITH THE COAL COMPANY FOR FY 2023-24

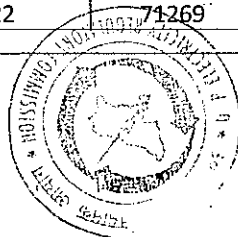
24. The Commission is aware that NABL accredited third party is authorized for coal sampling, preparation and testing at Power Plant end to promote impartiality, transparency and reliability. Thus, Petitioner may receive credit or debit notes depending upon the quality of coal tested at the loading end by the coal testing agency (CSIR-CIMFR) as against the billed grade.
25. The Petitioner issued Credit Note of ₹ 4.70 Crores to NPCL towards coal procurement for supply to NPCL during FY 2023-24 and refunded ₹ 0.70 Crores to NPCL as per the Commission's Order dated 13.06.2023 in Petition No. 1873 of 2022. The Petitioner has submitted Statutory Auditor's Certificates for 2023-24 certifying the GCV. The Petitioner has further submitted that GCV has been measured by an NABL accredited third party Sampler.
26. **The details / information submitted by DIL have been analysed as below:**

- a) Month wise details of FSA/ additional coal and energy supplied by DIL to NPCL for FY 2023-24 is as below:

TABLE-10: Details of FSA/ additional coal and energy supplied by DIL to NPCL for FY 2023-24

Month	Generation For Supply-NPCL (Mus)	FSA Coal Consumed (Tons)	Addl. Coal (Tons)		Total Coal Consumed (Tons)
			RCR Coal	E-Auction	
Apr-23	115.61	51293	44941	0	96234
May-23	112.68	66573	25233	0	91806
Jun-23	113.48	57946	28061	0	86007
Jul-23	115.22	71269	21715	0	92984

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Aug-23	116.65	83394	9123	0	92517
Sep-23	112.16	67821	22464	0	90284
Oct-23	51.85	43546	0	0	43546
Nov-23	98.89	47570	30836	0	78406
Dec-23	116.55	55193	34482	917	90593
Jan-24	121.69	55520	14529	15507	85556
Feb-24	117.44	58023	20966	6279	85269
Mar-24	121.82	83131	5179	0	88310
Total	1314.03	741280	257529	22703	1021512

TABLE 11: Level of delivery of Coal for Supply of Power to NPCL - FY 2023-24

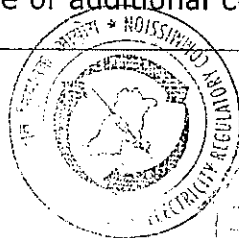
S.N.	Particulars	UoM	FY 2023-24
A	Energy supplied to NPCL	MUs	1314.03
B	Gross Generation considering normative Auxiliary energy consumption	MUs	1436.10
C	1. FSA Grade Coal (G10, G11 & G12 Grade Coal) by Rail		
C1	Coal consumption -FSA Grade Coal	Ton	741280
C2	Weighted Average GCV - 'As Received' at unloading point	kCal/kg	3288
C3	Energy supplied to NPCL at DIL Ex-Bus	MUs	955.71
D	2. Additional Coal		
D1	2A- RCR Coal		
D1-(a)	Coal Consumption - RCR Coal	Ton	257529
D1-(b)	Weighted Average GCV - 'As Received' at unloading point	kCal/Kg	3218
D1-(c)	Energy supplied to NPCL at DIL Ex-Bus	MUs	324.93
D2	2B- E-Auction Coal		
D2-(a)	Coal Consumption - E-Auction Coal	Ton	22703
D2-(b)	Weighted Average GCV - 'As Received' at unloading point	kCal/Kg	3752
D2-(c)	Energy supplied to NPCL at DIL Ex-Bus	MUs	33.40

b) The Petitioner has received total 11,86,821 Ton of FSA Grade Coal (i.e. 76% of ACQ) during FY 2023-24, out of which 7,41,280 Ton (62.963% of 11,86,821 Ton) (after considering normative transit loss) was utilized for generation and supply to NPCL from which it could have supplied 955 MUs in FY 2023-24 against the scheduled supply of 1314 MUs as validated by WRPC and NRPC Energy Accounts.

c) The shortfall in supply of coal received under the FSA has been made up by the DIL by procuring Additional Coal so that the power supply to the NPCL continues unabated in accordance with the obligations undertaken by the DIL under the PPA. Resultantly, the DIL was constrained to procure and use Additional Coal in FY 2023-24, the details of which are given above.

27. DIL also prayed the Commission to allow the Petitioner to continue the same principles for procurement and use of additional coal and approach this Commission for

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prudence check of the associated cost for the Tariff Period FY 2024-29, as those laid down by the Commission in the Order dated 06.05.2020 in Petition No. 1438 of 2019. The Commission observes that the power from the Petitioner's project is important for NPCL and for interest of consumer. The variation in claimed and approved amount on account of additional coal procurement over the Control Period of FY 2019-24 is analysed in table below:

TABLE 12: Claimed Vs Approved Amount on Account of Additional Coal Procurement

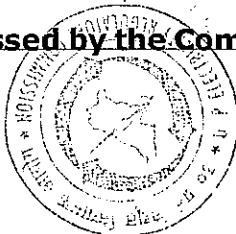
Year	Claimed by DIL (Rs./Cr.)	Approved by the Commission (Rs./Cr.)
FY 2019-20	7.24	7.24
FY 2020-21	0.41	0.41
FY 2021-22	7.03	7.03
FY 2022-23	82.81	82.81
FY 2023-24	22.50	22.50

In terms of the Commission's Order dated 06.05.2020 in Petition No. 1438 of 2019, DIL has filed separate petition for every Financial Year of the Control Period of 2019-24 for prudence check of cost of procurement and use of additional coal for supply of energy to NPCL as per its contractual obligation. The Commission after examining the details of FSA Grade Coal received from SECL and Additional Coal that was consumed during the period of 2019-24, carried out the prudence check of cost of procurement and use of additional coal by DIL and approved the cost claimed by DIL towards procurement of additional coal. It is noted from the above table that the costs claimed by DIL towards procurement of additional coal and approved by the Commission for every Financial Year of the Control Period of 2019-24 have been same. Therefore, the Commission has decided to conduct the prudence check on this account at the time of truing up at the end of the tariff period 2024-29, rather than for every Financial Year of tariff period 2024-29.

Commission's View

28. In view of the discussion made above, the Commission is persuaded to hold that there has been shortfall in supply of linkage coal under the FSA. Accordingly, in terms of Generation Tariff Regulations, 2019 read with the order dated 20.04.2016 passed by the Commission in Petition No. 971 of 2014,

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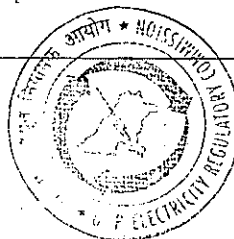
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DIL is entitled to procure and use Additional Coal in FY 2023-24 comprising of 2,57,529 Ton of RCR Coal, and 22,703 Ton of E-Auction Coal corresponding to the actual coal shortage.

29. The Commission observes that the incremental total cost of procurement of Additional Coal in FY 2023-24 amounts to a sum of Rs. 22.50 Cr. (i.e. Rs. 28.17 Crore minus Rs. 5.67 Crore), out of which DIL has already claimed Rs. 20.25 Cr from NPCL, leaving a balance amount of Rs. 2.25 Cr. The Petitioner has also prayed to approve carrying cost on balance 10% till the date of actual payment.
30. The Commission, after examining the details submitted by DIL, approves the total refundable amount of Rs. 22.50 Cr as total incremental cost of Additional Coal procured and used by the DIL in FY 2023-24 for supplying the Contracted Capacity to NPCL under the PPA as per the UPERC (Terms and Conditions of Generation Tariff) Regulations, 2019. The Commission further directs NPCL to release the balance amount of Rs. 2.25 Cr to DIL. The Petitioner shall also be entitled to carrying cost @ Bank Rate prevailing as on 1st April of respective financial year, beginning FY 2023-24 till the date of this order on the balance Rs. 2.25 Crore.
31. With regard to Prayer 31(e) of the Petitioner, the Commission observes that claim for use of alternative source of fuel by thermal generating station on account of shortage of fuel for tariff period FY 2024-29 would be governed by the provisions of applicable Generation Tariff Regulations. Therefore, the Commission permits the DIL to procure and use additional coal to the extent of shortfall in the quantity of coal supply from the FSA grade coal from SECL in accordance with the provisions of applicable Generation Tariff Regulations. In view of the above discussion, the Commission directs that
- a. DIL shall implement a transparent and standard procedure for all future procurement of Additional Coal &

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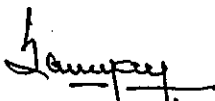


b. DIL can claim towards Additional Coal in monthly supplementary energy bills on provisional basis in respective Financial Year during the MYT Control Period 2024-29 strictly in accordance with the applicable UPERC Generation Tariff Regulations alongwith following conditions:

- i. Any FSA grade coal available under the PPA shall be utilized first before using e-auction coal.**
- ii. Any compensation paid by coal company to the petitioner for shortfall in supply of coal than the minimum / threshold quantity as per FSA or debit/credit notes on account of quality variation has to be adjusted from the year-wise relief claimed by the petitioner from the respondent.**
- iii. Ex-bus Generation and Scheduled Generation Ex-bus for supply to NPCL bus on month-to-month basis as per the meters at the station switchyard bus shall be reconciled with the relevant/SCADA data of RLDC and /or Regional Energy Accounting of RPC/ RLDC for the month.**
- iv. All facts & figures including coal consumed and "GCV as received basis" on month to month shall be duly certified by the statutory auditor along with approved NABL accredited third party sampler GCV report.**

32. The Commission further reiterates that expense towards Additional Coal during respective Financial Year shall be subject to prudence check of this Commission at the time of truing up at the end of the tariff period 2024-29.

The Petition No. 2108 of 2024 is disposed of in terms of above directions.


(Sanjay Kumar Singh)
Member


(Arvind Kumar)
Chairman

Place: Lucknow

Dated: 09.12.2024

