

Case No. 43/2017

Interim Order-20

Date of hearing: 04.08.2020

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Shri SitieshMukharjee, Sr. Advocate, Sri Arjun Agarwal, Advocate, and Shri Ritwik Mishra, GM on behalf of M/s. OPGC Ltd., Ms. Susmita Mohanty, DGM (PP), and Shri Ashok Samantaray, Sr. Consultant, GRIDCO Ltd., Shri P. K. Pradhan and Shri R. P. Mahapatra both objectors and Ms. Niharika Pattanayak, ALO, DoE, Govt. of Odisha are present. Nobody is present on behalf of Shri A. K. Sahani, Shri Ananda Mohapatra, M/s. Hindalco Industries Ltd. and M/s. MCL. The submission of Mr. P.K.Pradhan to the consolidated rejoinder filed by the petitioner is taken on record.

2. Due to Covid-19 pandemic situation the Commission had decided to hear the matter though Video Conferencing in the Virtual Court on 04.08.2020.
3. The Ld. Counsel appearing for M/s. OPGC states that "as fired" GCV is the industry norm for determination of ECR. The Commission wanted to know from the Counsel whether delivery of coal is to be accepted at mine's end or at power station end. The OPGC representative states that PPA recons delivery of coal at power station end. GCV should be measured at power station end and not at mine's end. He points out a notification of Government of India in the year 1992 basing on which PPA has been signed with GRIDCO in the year 1996. He states that as per that notification energy charges shall be computed on the basis of GCV of coal actually fired in the power station. He also points out a record note of a meeting held in OERC on 05.08.2019 where it was stated by the expert that with 9% moisture content, there would be a loss of 282 Kcal/Kg in the GCV of coal. He further states that determination of GCV at mine's end is not correct as mechanical auger is not utilized for sample collection.
4. The representatives of GRIDCO state that the present application has been infructuous. The instant application has been filed due to dispute between them and OPGC on computation of ECR for FY 2017-18 which was based on the regulation of the Commission. Since Hon'ble Supreme Court has set aside the order of OERC in this regard, the petition is to be filed afresh. The MoP notification for the year 1992 has been selectively quoted by OPGC. MoP notification allows deviation while signing of the PPA. OPGC is getting concessional coal since GRIDCO is

the beneficiary. Therefore, GRIDCO has a say on FSA between OPGC and MCL. The sale of coal concludes at mine's end. The GCV at mine's end and at power station end should be similar.

5. Mr. R P Mohapatra states that GCV is to be determined on the basis of PPA. The loading point/receipt point of coal in OPGC is the MGR. After reaching power station the coal is stocked before firing. The MoP notification in the year 1992 does not speak about measurement of GCV at firing point. It says about the coal which is to be fired. GCV mentioned in the PPA is not to be varied, only price can be varied.
6. Another objector Mr. P K Pradhan states that as per the Apex Court order the Commission is to decide the matter according to the PPA and therefore, the Commission has limited scope here. The present case has lost its merit after the judgement of Apex court. Only parameters mentioned in PPA should be adopted. Since OPGC has not taken any step for measurement of GCV at power station end, the GCV should be adopted as per the values at mine's end.
7. Heard the parties at length. Hearing concluded. Parties are directed to file their written note of submission, if any, by 18.08.2020.
8. The Case is posted to 15.09.2020 for Orders.

Sd/-

Member (M)

Sd/-

Member (P)

Sd/-

Chairperson