

**TAMIL NADU ELECTRICITY REGULATORY COMMISSION**  
**(Constituted under section 82 (1) of the Electricity Act, 2003)**  
**(Central Act 36 of 2003)**

**PRESENT:**

**Thiru S.Akshayakumar**

.... **Chairman**

**and**

**Dr.T.Prabhakara Rao**

.... **Member**

**I.A.No.1 of 2019**

**in**

**M.P.No.27 of 2016**

M/s.SEPC Power Private Limited  
Represented by its Vice President  
3B, Nawazish  
No.30, Khader Nawaz Khan Road  
Nungambakkam  
Chennai – 600 006.

... Applicant / Petitioner  
(Thiru P.Sathyakumar  
Vice President,  
Party-in-Person)

Vs

The Tamilnadu Generation and Distribution  
Corporation Limited  
Represented by its Chairman and Managing Director  
No.144, Anna Salai  
Chennai – 600 002.

....Respondent  
Thiru Abdul Saleem  
(Advocate for the Respondent)

**Date of hearing** : **14-02-2019**

**Date of Order** : **01-04-2019**

We have considered the prayer of the applicant in the I.A., M/s. SEPC Power Pvt. Ltd. to re-open the proceedings in M.P.No.27 of 2016. The caption of the interim application filed on 04-01-2019 states as “petition to re-open and record the

written submissions of the petitioner pursuant to the developments that have taken place” subsequent to the hearing held on 30-11-2018”. However, there is no specific prayer in the above interim application to re-open the main case. The main case was reserved for orders on 30-11-2018 itself, after hearing both sides and the Commission did not direct the petitioner to file any affidavit on the developments that took place after the said date and the petitioner on its own accord filed the above written submission / interim application. The Commission examined the said application for the reasons enumerated in the subsequent discussion:-

2. In the said interim application, the petitioner has submitted as follows:-
  - (a) The petitioner has confirmed for usage of 100%Alternate Coals instead of 50% blend.
  - (b) The FOB price in the CSTA would be linked to 100% of the average of ICI2, API3 and API5 indices published by Argus for the reference period.
  - (c) The freight would also take into account of the freight for Indonesian coals which in the instant case would be ICI2 Coal freight
  - (d) Thus, the price advantage of High Ash & High Moisture Coal as well as the price advantage of ICI coal is considered by the petitioner.
  - (e) The CSTA would be amended to incorporate the above changes
  - (f) With regard to cap on the ceiling costs, the petitioner has confirmed that that such cap / ceiling is applicable for the Alternate Coal also as was considered for Base Coal and as rephrased as below:

"The ceiling VFC shall be the Merit Order Cut Off determined every year by this Commission and in case, no such Cut Off is determined for the Year, then

the cap shall be on the basis of usage of domestic coal in the Petitioners plant".

- (g) The 5 year Levelised FCC (the "LFCC") is already submitted vide submissions on 29-11-2018 and the same is Rs.2.262 / unit for the first five year period. The applicable FCC payable for a particular period shall be determined based on the PLF as defined in PPA for such period and LFCC per unit (Rs/Kwhr) for such period.
- (h) With regard to determination of the variable charges, the Petitioner is offering reduction in norms of operation as prayed for by Respondent and considering the revision in coal specs and operating loads etc. as below:

Operating Parameter	Existing Norms	Proposed Norms
Heat Rate	2391 Kcal/Kwhr	2351 Kcal/Kwhr
Auxiliary Consumption	7.44%	6.75%
Coal Losses (As received to As fired)	100 Kcal/Kg	50 Kcal/Kg

- (i) These revised norms are subject to review at the end of 3<sup>rd</sup> year based on the actual operating norms for the previous years. Should there be any adverse variation, the same would be corrected and incorporated by mutual discussion and agreement of the parties subject to the present Norms in PPA as the ceiling.
- (j) The petitioner is further offering a fixed discount of Rs 0.225 / Unit for first three years and thereafter such fixed discount is subject to mutual discussion and agreement of the Parties.
- (k). The per unit VFC would be determined in accordance with the formula provided for in PPA by applying the revised norms as above, applying the landed coal costs from CSTA & CHA and applying the fixed discount as above.
- (l) The per unit VFC determined based on the reduced norms, fixed discount and current CSTA & CHA terms for the FOB Index price of 59 USD/MT and Exchange

Rate of 69 Rs/USD works out to Rs.2.598/ Unit as shown in the detailed statement attached which also contains the landed cost calculations for coal as per CSTA & CHA.

(m) The VFC payable (Rs) for any period shall be determined using the applicable per unit VFC for the units generated for such period.

(n) The discount offered in the VFC in para (c) above and reduction in norms offered, takes into account of and subject to:

- i. Prompt payment of Invoices within 30 days of submission of Invoice and shall not be applicable thereafter;
- ii. Dispatch of the plant at 80% levels.
- iii. The Fixed discount is valid for initial 3 year period and thereafter subject to review and acceptance by the Parties
- iv. The reduced Norms of operation offered in para (b) above is subject to review and re-fixation at the end of 3rd year based on the actual norms achieved for the previous 3 years subject to the present norms in the PPA as ceiling.

3. The Petitioner also has submitted to treat their plant on par with respondent's LTOA generators by ensuring that the respondent does not exercise the buyout of the petitioner's plant. The petitioner also contended that except those specifically mentioned above all other terms shall be governed by the PPA and during the 3 years period, if the Commission extends any increase in tariff or additional charges to its generators, the same shall be extended to the petitioners also.

4. Inasmuch as the Commission reserved its orders on the main petition on 30-11-2018 itself, the additional submissions made in the present application cannot be taken into account unless the case is permitted to be re-opened by the Commission. Therefore, we confine ourselves to the issue of re-opening the main petition and we leave the other issues to be decided in the main petition. We also make it clear that in this interim application only the question of re-opening M.P.No.27 of 2016 which has been reserved for orders on 30-11-2018 is taken up for consideration and not the merits or otherwise of the written submissions made herein.

5. In the present I.A., the petitioner has stated among other things, that he is offering a further discount of Rs.0.225 per unit. Any discount, in our view will be beneficial not only to the financial interest of the Utility and also the consumer at large. However, considering the stage at which the said discount is offered, we would like to treat the same as interim application simplicitor to re-open the case for the limited purpose of detailed examination of the commercial impact in depth and the consumer interest involved on it. This could be ascertained only if the response of the licensee is known to us.

6. A case can be re-opened after it being reserved for orders, if it is to clarify certain ambiguity etc. in the document, evidence etc. Moreover this case is one which involves huge public money and considering the principles governing the tariff fixation including clause (b) and (d) of section 61 of the Electricity Act, 2003 we consider to exercise the power to re-open the case with utmost caution and not as a matter of routine.

7. Further, it is apposite to mention here that the Commission has got inherent powers to make such orders as may be necessary under Regulations 48 (1) of the Conduct of Business Regulations. Hence, we find it necessary and expedient to take recourse to said regulation.

8. For the above reasons, we allow the case be re-opened. It is made clear that we have neither observed nor passed anything on the merit on the main petition which will be examined as and when the same is listed for further hearing.

Ordered accordingly.

(Sd.....)  
**(Dr.T.Prabhakara Rao)**  
**Member**

(Sd.....)  
**(S.Akshayakumar)**  
**Chairman**

/True Copy /

Secretary  
Tamil Nadu Electricity  
Regulatory Commission