



Uttar Pradesh Electricity Regulatory Commission

Kisan Mandi Bhawan, II Floor, Gandhi Nagar, Lucknow-226010 Phone 2720476 Fax 2720423 E-mail uperc@uperc.gov.in

Ref: UPERC Secy D.O. 2011-2221

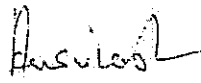
Date: 04th January, 2011.


1. Chairman cum Managing Director
UP Power Corporation Limited.
7th Floor, Shakti Bhawan.
14, Ashok Marg, Lucknow
2. Chief Engineer (PPA)
UP Power Corporation Limited.
3rd Floor, Shakti Bhawan.
14, Ashok Marg, Lucknow
- ✓ 3. M/s Welspun Energy Limited.
Welspun House, 7th Floor.
Kamala City, Senapati Bapat Marg
Lower parcel (W)
Mumbai -13

Sir,

Please find enclosed herewith copy of the Commission's order dated 04.01.2011 in pet. no. 716 of 2011 in the matter of approval of draft Power Purchase Agreement (PPA) of 2 x 660 MW Ghazipur TPP of M/s Welspun Energy Limited for supply of power from its coal based Independent Power Plant (IPP) in accordance with MoU signed with GoUP under U.P. Government Energy Policy - 2009.

Yours Sincerely,


(A.K. Srivastava)
Secretary


C.E. (P.P.A.)
U P P. C. L.
Shakti Bhawan Bldg.
Lucknow.



Petition No 716 of 2011

BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

Date of Order : 04.01.2011

IN THE MATTER OF: Approval of draft Power Purchase Agreement (PPA) of 2 x 660 MW Ghazipur TPP of M/s Welspun Energy Limited for supply of power from its coal based Independent Power Plant (IPP) in accordance with MoU signed with GoUP under U.P. Government Energy Policy - 2009.

BETWEEN

U.P. Power Corporation Ltd. (UPPCL),
14-Ashok Marg,
Lucknow.

_____Petitioner

AND

M/s Welspun Energy Limited,
Welspun House, 7th Floor,
Kamala City, Senapati Bapat Marg
Lower parel (W)
Mumbai -13

_____Respondent

Order

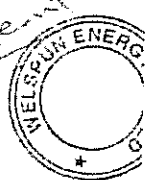
1. The Energy Policy, 2009 of the Government of Uttar Pradesh has envisaged development of Independent Power Plants (IPPs) under various routes including MoU route in order to setup required power generation capacity in the State. The GoUP signed a MoU with M/s M/s Welspun Energy Limited on 31st December 2010 for setting up a of 2 x 660 MW coal based thermal power station at District Ghazipur. In compliance to MoU, the draft PPA has been agreed between UPPCL, as Nominated Agency by GoUP for procurement of 99% power on behalf of the DISCOMs of the state, and M/s Welspun Energy Limited, as Seller. The draft PPA has been submitted by UPPCL for approval of the Commission.
2. The Petitioner has submitted that the draft PPA has been prepared as per the standard documents of Ministry of Power for Case 2 bidding, UPERC (Terms and



Page 1 of 2

CE (P.P.A.)
U.P.P.C.L.
Shakti Bhawan Extn
Lucknow

4/1/11





Conditions of Generation Tariff) Regulations 2009 and Commission's order dated 18.11.10 / corrigendum dated 7.12.10 in the matter of approval of draft PPAs for setting of IPPs through MoU route in the State of U.P.

3. The Commission had approved draft PPAs of MoU route IPPs, based on standard documents of Ministry of Power for Case 2 bidding and UPERC (Terms and Conditions of Generation Tariff) Regulations 2009, following the process of Public Hearing vide order dated 18.11.10. Certain deviations were approved therein to remove the bottlenecks in preparation of PPA documents for MoU route IPPs. As the project in subject petition has configuration of same capacity units i.e. 660 MW, the Commission's approved deviations in order dated 18.11.10 shall also be applicable for 2x660 MW Ghazipur TPP.
4. With the above, the Commission approves the draft PPA submitted by the petitioner for 2 x 660 MW Ghazipur TPP agreed between UPPCL and M/s Welspun Energy Limited.
5. The generating plant shall be covered under UPERC (Terms and Conditions of Generation Tariff) Regulations, 2009 and its amendments thereof. Either party to PPA may approach the Commission for specific relief under these regulations if such provision or remedy is not available in the PPA signed between them.
6. The generating plant/company shall abide by the provisions of the Act, Rules, Codes, Regulations, Orders and Directions of the appropriate Authority/Commission issued from time to time regarding generation and evacuation of electricity.
7. The petition is disposed of.

(Meenakshi Singh)
Member

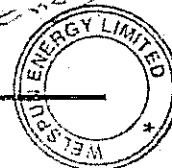
(Shree Ram)
Member

(Rajesh Awasthi)
Chairman

Place : Lucknow
Dated: 04.01.11



CP (P.P.A.)
U.P. P.C.D.
Shakti Bhawan Bldg.
Page 1 of 1
Lucknow.





Uttar Pradesh Electricity Regulatory Commission

Kisan Mandi Bhawan, II Floor, Gomti Nagar, Lucknow-226010 Phone 2720426 Fax 2720423 E-mail secretary@uperc.org

Ref: UPERC/Secy/D(G)/2010- 195

Date: 7th December, 2010


1. U.P. Power Corporation Ltd. (UPPCL).
14-Ashok Marg.
Lucknow.
2. M/s Bajaj Energy Pvt. Ltd. (Pet. nos. 662 to 666 of 2010)
B-10, Sector 3, Noida.
Gautam Budh Nagar (U.P.)
3. M/s Bajaj Hindustan Ltd.. (Pet. nos. 689 of 2010)
B-10, Sector 3, Noida.
Gautam Budh Nagar (U.P.)
- ✓ 4. M/s Himavat Power Pvt. Ltd. (Pet. nos. 701 of 2010)
397-Udyog Vihar, Phase-3
Gurgaon - 122 016

Dear Sir,

Please find enclosed herewith copy of the Commission's order dt 7.12.10 (corrigendum to Commission's order dt 18.11.10 in petition nos. 662, 663, 664, 665, 666, 689 and 701 of 2010) in the matter of Approval of draft Power Purchase Agreements (PPAs) for supply of power from coal based Independent Power Plants (IPPs) in accordance with MoU signed with GoUP under U.P. Government Energy Policy - 2009.

Yours Sincerely,

Secretary 7/12/10


C.E. (P.P.A.)
U. P. P. C. L.
Shakti Bhawan Extn,
Lucknow.



BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

Petition Nos. 662, 663, 664, 665, 666, 689 and 701 of 2010

IN THE MATTER OF: Approval of draft Power Purchase Agreements (PPAs) for supply of power from coal based Independent Power Plants (IPPs) in accordance with MoU signed with GoUP under U.P. Government Energy Policy - 2009.

AND

IN THE MATTER OF: Petitioner:

U.P. Power Corporation Ltd. (UPPCL),
14-Ashok Marg,
Lucknow.

V/s

Respondents:

1. M/s Bajaj Energy Pvt. Ltd. (Pet. nos. 662 to 666 of 2010)
B-10, Sector 3, Noida,
Gautam Budh Nagar (U.P.)
2. M/s Bajaj Hindustan Ltd., (Pet. nos. 689 of 2010)
B-10, Sector 3, Noida,
Gautam Budh Nagar (U.P.)
3. M/s Himavat Power Pvt. Ltd. (Pet. nos. 701 of 2010)
397-Udyog Vihar, Phase-3
Gurgaon - 122 016


Corrigendum to ORDER dated 18.11.2010

The corrigendum is hereby issued in reference to clause '12 e - Fuel' of the Commission's order dated 18.11.2010 in Petition Nos. 662, 663, 664, 665, 666, 689 and 701 of 2010.

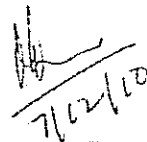
The approved clause 6.5 shall be read as below:

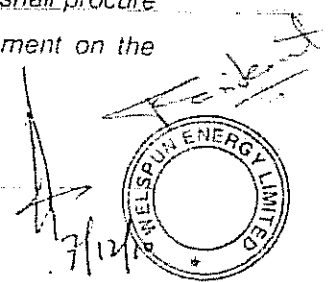
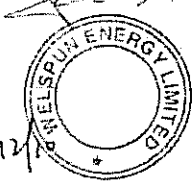
***Fuel :**

The responsibility for arrangement of fuel shall be with the developer who shall procure the fuel under coal linkage granted to the Seller by the Central Government on the


C.E. (P.P.A.)
U. P. P. C. L.
Shakti Bhawan Extn.
Lucknow.




7/12/10



7/12/10


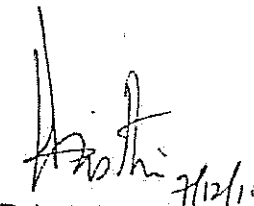
recommendations of GoUP. In case of any short supply, procurement of fuel indigenous / imported preferably through long term contract or on spot-purchase / short-term contract / E-auction basis from domestic and/or international suppliers /traders shall be within or from outside India. The Seller shall obtain the prior consent of Lead Procurer about procurement of coal from any source other than coal linkage. In case the permission is not granted by the Lead Procurer within seven (7) working days from the date of receiving the application, it would be considered as deemed permission and if rejected then it would be considered as procurer's inability to procure which would make conditions of clause 4.4.3 of the agreed PPA applicable and loss of availability due to rejected fuel quantity shall be taken into account while computing availability and fixed charges."

Accordingly, clause 4.4.2 (c) shall also be added as follows:


"Lead Procurer has rejected Seller's proposal to procure coal from any source other than coal linkage, as per clause 6.5"

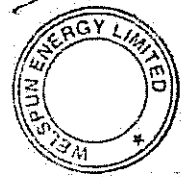

(Meenakshi Singh)
Member


(Shree Ram)
Member


(Rajesh Awasthi)
Chairman

Lucknow, Dated: 7th December, 2010


CE (P.P.A.)
U. P. P. C. D.
Shakti Bawan Bkta.
Lucknow.



BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

Petition Nos. 662, 663, 664, 665, 666, 689 and 701 of 2010

IN THE MATTER OF: Approval of draft Power Purchase Agreements (PPAs) for supply of power from coal based Independent Power Plants (IPPs) in accordance with MoU signed with GoUP under U.P. Government Energy Policy - 2009.

AND

IN THE MATTER OF:

Petitioner:

U.P. Power Corporation Ltd. (UPPCL),
14-Ashok Marg,
Lucknow.

V/s

Respondents:


1. M/s Bajaj Energy Pvt. Ltd. (Pet. nos. 662 to 666 of 2010)
B-10, Sector 3, Noida,
Gautam Budh Nagar (U.P.)
2. M/s Bajaj Hindustan Ltd., (Pet. nos. 689 of 2010)
B-10, Sector 3, Noida,
Gautam Budh Nagar (U.P.)
3. M/s Himavat Power Pvt. Ltd. (Pet. nos. 701 of 2010)
397-Udyog Vihar, Phase-3
Gurgaon - 122 016

Present:

1. Rajesh Awasthi, Chairman
2. Shree Ram, Member
3. Meenakshi Singh, Member

The following were present:

- 1) Sri S. K. Agarwal, Director (Finance), UPPCL
- 2) Sri R.K. Johar, CE, PPA, UPPCL
- 3) Sri. S.P. Pandey, EE, PPA, UPPCL
- 4) Sri A. K. Singh, CE(O), UPPTCL
- 5) Sri V.P. Tiwari, SE, UPPTCL
- 6) Sri S.N.M. Tripathi, Advisor BHL & BEPL
- 7) Dr. Sanjeev Kumar, BHL & BEPL


CE. (P.P.A.)
U. P. P. C. L.
Shakti Bhawan Extn
Lucknow.



- 8) Sri N. N. Murty, HPFL
9) Sri N.N. Murty Raju, HPPL
10) Sri S. Mohan, Sr. Manager, NTPC
11) Sri Prashant Chaturvedi, Manager, NTPC

ORDER

(Date of Public Hearing : 26.10.10)


1. The Energy Policy, 2009 of the Government of Uttar Pradesh has mandated that power would also be procured for the State through MoU Route. Generating projects of capacity 250 MW and above being set up through MoU route would be eligible to get the benefits under this Policy. The Policy also authorizes co-gen plants to setup additional power generation capacity, not exceeding 100 MW, based on conventional fuel such as coal or gas to generate power round the year. For this the Co-generator will use ground water and will also be responsible to arrange the fuel. However, the ground water will not be used if the project site is located in the dark area as considered deficient in availability of ground water by the Department of water resources.

2. Subsequently, vide order dated 5.08.2010, the GoUP has made another amendment to GoUP Energy Policy, 2009 which states as below:

"Where the developer sells electricity to state utilities, the transmission lines including sub-stations and its up gradation of existing equipments etc. if any, shall be done by the state utilities for evacuating the power from generating station. However, the work at generating stations end including switch yard, bay etc. shall be the responsibility of developer."

For the projects under MoU route, the signed MoUs affirm that the projects will be treated as "Industry" in terms of Industrial Policy of the State and all the incentives available to new projects will be applicable.

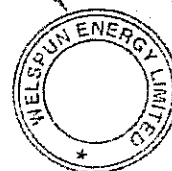
3. M/s Bajaj Hindustan Ltd., a co-generator generating electricity in the State based on bagasse has signed an MoU with Government of U.P. on 22.04.10 under the GoUP Energy Policy for setting up of coal based thermal generation capacity of 90 MW (2 x 45 MW) at each of the five sites viz Barkhera (Pilibhit), Khamberkhera (Lakhimpur Kheri), Maqsdapur (Shahjahanpur), Kundarkhi (Gonda), and Utraula Balrampur. Subsequently vide letter dated 11.05.2010, GoUP has permitted M/s Bajaj Hindustan Ltd. to assign the project to their subsidiary company named M/s


S.E. (P.P.A.)
P. C. D.
Shakti Barwan Extn.
Lucknow.




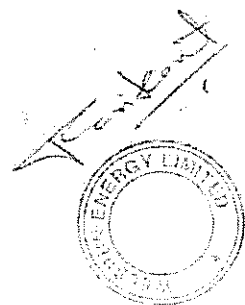
- Bajaj Energy Pvt. Ltd.. The Petitioner, UPPCL intends to sign Power Purchase Agreements (PPA) with M/s Bajaj Energy Pvt. Ltd. for purchase of 90% power from each location. The draft PPA has been submitted for approval of the Commission.
4. M/s Bajaj Hindustan Ltd. has also signed an MoU with Government of U.P. on 22.04.2010 for setting up of 3 x 660 MW coal based Thermal Power Project at Mirchwara Distt. Lalitpur. The Petitioner, UPPCL intends to sign a Power Purchase Agreement (PPA) with M/s Lalitpur Power Generation Company Ltd., a Special Purpose Vehicle (SPV) made by UPPCL, for purchase of 90% power. The SPV will be transferred to M/s Bajaj Hindustan Ltd. and the PPA shall be signed by UPPCL with M/s Bajaj Hindustan Ltd.. The draft PPA has been submitted for approval of the Commission.
5. Similarly, M/s Lanco Infratech Ltd. has signed an MoU with Government of U.P. for setting up 2 x 660 MW coal based thermal power project at Bhognipur Distt. Ramabai Nagar. UPPCL intends to enter into PPA with M/s Himavat Power Pvt. Ltd., a SPV of M/s Lanco Infratech Ltd, for purchase of 90% power. The draft PPA has been submitted for approval of the Commission.
6. In the matter, vide order dated 11.06.2010, the Commission had sought clarification from the petitioners on certain issues before taking up the matter of approval of the draft PPAs for procurement of power through MoU Route. The first issue pertained to the status of UPPCL as a Purchaser of power intended for sale in the State and the second issue was regarding allocation of power among DISCOMS. In this regard UPPCL has submitted the authorization from the Board of Directors of four DISCOMS for procurement of power on their behalf and the details of capacities allocated to the DISCOMS. As regarding draft PPA, both the parties were directed to follow the standard document available for Case 2 based power procurement process and the respective Regulations of UPERC for the terms and conditions for determination of tariff..
7. The draft PPAs have been submitted by the petitioner after incorporating the Commission's directions as above. The general conditions have been taken from Case 2 standard bidding documents and the terms and conditions for determination of tariff have been taken from UPERC (Terms and Conditions of Generation Tariff) Regulations, 2009. Along with the petitions the list of deviations sought has also been attached for approval of the Commission

~~CB-PPA-I~~
U.P.C. No.
Shakti Bhawan Bldg.
Lucknow.



8. As the issue was regarding approval of draft PPA for procurement of power through MoU route and for which the tariff is to be decided by the Commission, a Notice dated 15.10.10, for Public Hearing in the matter, was placed in two newspapers, i.e. the Times of India and Dainik Jagran inviting comments/objections/suggestions to the above petitions from stakeholders and interested parties. The petitioner was directed to put the above mentioned petitions along with the relevant documents on its website and also to make available hard copies of the same for inspection of any person during office hours. In this matter no submission has been received by the Commission till the time of hearing.
9. At the outset of the hearing on 26.10.10 the Commission enquired about the present status on various project preparatory activities for timely commencement of long term procurement of power from those projects for which MoUs have been signed with GoUP. Sri S.K. Agarwal, Director(Finance), UPPCL submitted that M/s Bajaj Energy Pvt. Ltd. is developing projects on its own land for which ground water would be used. The process for MoEF clearance has been started and fuel linkage has been confirmed. In case of Lalitpur, he stated that the SPV was made in the year 2009 and all the clearances have been obtained. The fuel linkage for the project has been cleared by CEA. He further submitted that various project preparatory activities have also been started for Bhognipur.
10. The Commission, vide letter dated 18/19 October 2010, directed all the parties who had signed the draft PPA to submit individually a certificate to the effect that the documents submitted by them are true copy of the draft PPA signed by both parties. Only M/s Himavat Power Pvt. Ltd. has submitted a letter of consent before the hearing. However, Sri S.K. Agarwal, Director (Finance), UPPCL stated that the terms and conditions submitted in the draft PPA have been principally agreed by all the parties to the draft PPA.
11. During the hearing, the petitioner was directed to present the deviations one by one along with the reasons so that the Commission might consider the feasibility and the effect of the deviations sought. Sri S.P. Pandey, UPPCL detailed the deviations before the Commission. Most of the deviations as sought by the petitioner were general in nature required to either bring greater clarity in the document or to smoothen the progress of MoU route projects in the State. Some projects specific deviations had also been made in the document.


CE (D.P.A.)
U.P.P.C. &
Shakti Bhawan Bada,
Lucknow.



12. Since most of the deviations are general in nature the Commission opines that discussion on each and every point is not required in the order. However, there are certain specific issues which require to be dealt in detail. The specific issues are as below:

a. Performance Guarantee (PG) and its validity:

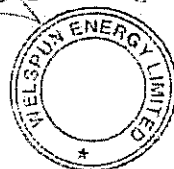
Under MoU route the generator has to deposit an irrevocable bank guarantee @ Rs. 5 lakh /MW with GoUP in favour of Governor of Uttar Pradesh having validity of 18 months from the date of execution of MoU. The PG is to remain valid beyond six months of the period of MoU. In case of breach of MoU, or any part thereof, by the company during this period the State Government shall have the right to invoke the said bank guarantee.

In the Standard bidding document the validity of the PG is till three months after the scheduled Date of Commissioning (COD) whereas in the draft PPA there is no provision for PG after 24 months from the date of signing of MoU.

This aspect was raised by the Commission. In response to this Sri N.N. Murty Raju, HPPL submitted that since all the risks in MoU route project remain with the generator, there may not be any PG. Sri S.K. Agarwal, Director (Finance) propounded that in case of delay in COD they might end up with purchase of power at a higher cost therefore, in view of such contingent liability the Commission may consider provision of PG for the period covering date of commissioning.

In this matter, the Commission is of the considered opinion that project implementation should have equally balanced obligations on both parties. Although, the PPAs through MoU route are different from the PPAs of the bidding route since the preparatory activities are to be completed by the developer only but in absence of PG, any burden of contingent liability on the petitioner due to delay in commissioning can not be compensated. In this light, it becomes mandatory to make provision for PG for the period covering COD so that timely completion of the project may be ensured and such contingent liabilities may be compensated if arose. Therefore the Commission considers that it would be appropriate to make a provision for PG to be deposited with

CE (PPA.)
U. P. C. L.
Shakti Bhawan Extn.
Lucknow.



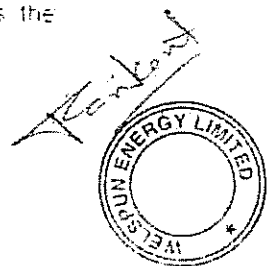
the procurers having validity from three months before scheduled COD to three months after scheduled COD. In case the actual COD is different from the scheduled COD then the validity of the PG shall be adjusted accordingly so that it remains with the procurer upto three months after actual COD. The Commission decides to approve clause 3.1.1 of the draft PPA with the modification that the promoter shall provide with the petitioner an aggregate amount of PG @ Rs 5 lakh /MW having validity as above.

b. Date of Commissioning (COD):

In case of 2 x 45 MW projects, the COD has been mentioned as 24 months from the date of approval by the Commission, whereas in case of 2 x 660 MW it is 74 and 78 months from effective date and in case of 3 x 660 MW it is 72, 78 and 84 months from effective date. The Commission desired to know how these CODs have been fixed and agreed therewith. Dr. Sanjeev Kumar, BHL & BEPL submitted that since 2 x 45 MW units are being commissioned on their own land and would use the ground water, the time required for preparatory activities has been abridged. He further submitted that they would go ahead with award of EPC contract for construction of the project as soon as the Commission accords approval. He affirmed that they would be able to complete the project within stipulated time. Sri. S.P. Pandey, EE, UPPCL stated that under the standard bidding process the time allowed for completion of 660 MW thermal power project is 48 months which is counted from the date when 100% share holding for the SPV is transferred to the promoter. It does not account for the period involved for completing the project preparatory activities. In the MoU route projects, about 18 to 24 months have been envisaged for achieving the conditions precedent. Considering this period, the COD mentioned in draft PPAs are justified.

In the matter, the Commission also enquired why the date of financial closure should not be considered as the effective date. Sri S K Agarwal, D(F), UPPCL submitted that although they have envisaged the implementation schedule taking effective date as the date of signing of PPA, the date of financial closure could also be considered as the effective date.

(P.P.A.)
P. C. B.
Shakti Bhanu Bhatia
Lucknow.



Taking into account the above, the Commission considers that in any case 18 months from the date of signing of PPA, which is the effective date, would be appropriate and sufficient for a 660 MW project for fulfilling the conditions precedent.

Thus the COD for the first 660 MW unit shall be 52 months from the date of financial closure as provided in the Regulations and for the subsequent units it shall be at intervals of six months i.e. for the second unit the COD shall be 58 months from the date of financial closure and for the third unit it shall be 64 months from the date of financial closure.


In case of 45 MW units, the COD for the first unit shall be 24 months and for the second unit it shall be 28 months from the date of MoU.

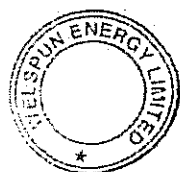
c. Sale of Power in case of Procurer's inability to procure:

Sri S.K. Agarwal, Director (Finance), UPPCL averred that the clause has been modified by them after intense discussions with the developers in case of Procurer's inability to procure and then the developer resorts to sale to third party. It has been agreed by both the parties that in such a case whatever be the sale proceeds over and above the variable charges, it shall be first adjusted against the due fixed charges. Any amount left after adjusting the fixed charges shall remain with the developer but if the amount received over and above variable charges would be less than the fixed charges payable by the procurer then the procurer shall pay the shortfall to fulfill the fixed charge liability. Sri Agarwal advocated that the Commission may allow the modification as envisaged by them.

The Commission opines to keep the modified clause as agreed by the parties.

However, the clause in the draft PPA regarding sale of power does not cover any such eventuality where, in case of procurer's inability to procure the power, the developer sells it to its affiliate company at a lower cost. In this context, the Commission is of the opinion that such power shall not be sold at a tariff below that provided by the Commission under the PPA.


Shakti Dhawan Esq.
Lucknow.



d. Liquidated Damages in case of delay in COD:

The rates / amount of liquidated damages to be imposed in case of delay in COD have been taken by the petitioner from the PPA signed for Rosa Power Project. The rates specified are Rs. 550 and Rs. 5560 per day per MW. Dr. Sanjeev Kumar, BHL & BEPL stated that the rates have been taken from the MoU for Rosa Power Project because that is the only project which has come through MoU route in the State. The project has been commissioned successfully and is supplying power to DISCOMS. In this regard, the Commission opines to allow the LD clause as accepted by both the parties in PPA.

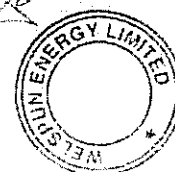
e. Fuel:

The MoU signed by M/s Bajaj Hindustan Ltd. (pet. nos. 662 to 666 of 2010) categorically states in clause 4 that the coal allocated by the Govt. of India will exclusively be used for power generation for these projects. As per the MoUs signed by M/s Lanco Infratech Ltd. (pet. no. 701 of 2010) and M/s Bajaj Hindustan Ltd. (pet. no. 689 of 2010), clause 4 states that it is understood that the responsibility of arranging the fuel will be solely of the Company.

The draft PPA document states as below:

"The Seller shall procure the Fuel either under coal linkage granted to the Seller by the Central Government on the recommendations of GoUP and/or procure indigenous / imported Fuel on spot-purchase / short-term contract / long term contract / E-auction basis from domestic and/or international suppliers /traders within or outside India or any other mode available to the Seller from time to time. The Seller shall obtain the prior consent of Lead Procurer about procurement of coal from any source other than coal linkage, specially import of coal, from time to time. In case the permission to import coal or purchase from open market is not granted by the Lead Procurer within fifteen (15) working days which results into the closure of the plant or short fall in Availability, such loss of availability during such the period will be taken into account while computing Availability and Fixed Charge."

[Signature]
CE (PPA.)
U. P. P. C. L.
Shakti Bhawan Extn.
Lucknow.




Dr. Sanjeev Kumar, BHL & BEPL stated that as per the new coal distribution policy of Ministry of Coal, coal companies may sign FSA only after commissioning of the project. The linkage allowed for the projects shall be 90% of annual contracted quantity (equivalent to 85% PLF) Balance 10% would be directly procured by the developer. The policy also states that Coal India is liable to pay compensation only if actual supply is less than 50% of annual contracted quantity. In view of this, Dr. Kumar requested that the generators may be allowed to procure fuel from other sources also so that any such eventuality leading to loss of generation or closure of the generating plant is avoided.

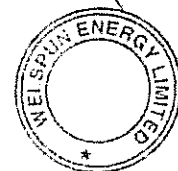
Sri S.K. Agarwal, Director (Finance), UPPCL submitted that to ensure availability of generating plants, apart from procurement of fuel through long term linkage, procurement from other sources may be allowed. But in such a situation it should be the prerogative of the procurer to know beforehand the price at which the fuel is going to be procured from sources other than long term linkage so that it does not adversely load their ARR. If the cost of fuel proposed to be so procured does not suit their limitations then they may not allow the generator to procure fuel from any such source. Therefore, although, the Commission may allow procurement of fuel from other sources than the long term linkage but it should be only with the permission from the lead procurer.

Taking into consideration the new coal distribution policy of Ministry of Coal, it is evident that 100 % supply of coal may not be possible for such projects. In this matter either the GoUP should help in getting the coal from Govt. of India or for making up the shortage, procurement from other sources may be allowed. Hence, the Commission opines that to ensure availability of power from these generating stations in the State, procurement of coal from any source other than the long term coal linkage with the permission of procurer may be allowed. The approved clause 6.5 shall be as below;

"Fuel :

The responsibility for arrangement of fuel shall be with the developer who shall procure the fuel under coal linkage granted to the Seller by the Central Government on the recommendations of GoUP. In case of any short supply, procurement of fuel independent imported preferred.


CB (P.P.A.)
U. P. P. C. L.
Shakti Bhawan Extn
Lucknow.



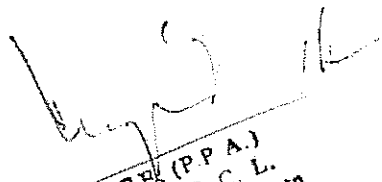
through long term contract or on spot-purchase / short-term contract / E-auction basis from domestic and/or international suppliers /traders shall be within or from outside India. The Seller shall obtain the prior consent of Lead Procurer about procurement of coal from any source other than coal linkage. In case the permission is not granted by the Lead Procurer within seven (7) working days from the date of receiving the application, it would be considered as deemed permission and if rejected then it would be considered as procurer's inability to procure which would make conditions of clause 4.4.3 of the agreed PPA applicable."

f. Extension of term/renewal:

The draft PPA has been submitted with a provision for extension of term/renewal after the completion of term of PPA i.e. 25 years from the date of commissioning whereas the standard document provides only for transfer of the project at a terminal value and does not provide for extension of term/renewal after the completion of term of PPA. On query by the Commission, Sri S.K. Agarwal, Director (Finance), UPPCL asserted that the provision of extension of term/renewal has been envisaged and agreed by all the parties for MoU route projects. He further submitted that this was required to infuse confidence in the generator coming under MoU route and therefore, the Commission may allow this. In this reference, the Commission observes that the MoU route has been conceptualized based on Build, Own and Operate basis rather than Build, Own, Operate and Transfer basis. The extension in term of agreement, as agreed by the parties, would be allowed by the Commission after prudence check on a petition filed by the developer before 90 days from the expiry of term of PPA.

g. Capital Cost:

As per the Regulations, PPA may provide a ceiling on capital expenditure which would be admitted by the Commission after prudence check although the actual capital cost incurred on completion of the project shall form the basis for determination of tariff which shall be


CE (PPA.)
U. P. P. C. L.
Shakti Bhawan Bldg.
Lucknow.



approved by the Commission under Regulation 17 of UPERC (Terms and Conditions of Generation Tariff) Regulations, 2009.

h. Norms of Operation :

The norms of operation for 45 MW and 660 MW are not specified in the existing UPERC (Terms and Conditions of Generation Tariff) Regulations, 2009. Therefore, the norms of operation under Regulation 16 shall be decided by the Commission separately by an order and the necessary amendments in the Regulations would be made.

i. Tariff determination :

As per the Energy Policy, 2009 of GoUP the Commission would decide the tariff for these projects under the provisions of Regulation 4 of UPERC (Terms and Conditions of Generation Tariff) Regulations, 2009.

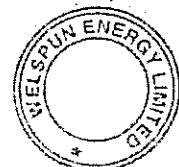
13. Adhoc Tariff:

Under Schedule 7 of the draft PPA, provision of adhoc tariff, based on UPERC Regulations, has been made. In this reference it is to clarify that there is no such provision in the existing Regulations and thereby the Commission does not allow any provision for adhoc tariff. Provisional tariff shall only be decided by the Commission as provided in the UPERC Regulations.

14. List of deviations from the standard documents as approved by the Commission:

SN	Clause No./ Article No.	As per SBD PPA	As per Draft PPA	Reason for Deviation	Commission's approval
1	1.1	Nil	'Auxiliary Energy Consumption' or ' Normative Auxiliary Energy Consumption' or AUX: in relation to a period means the quantum of energy consumed by auxiliary equipments of the generating station and transformer losses within the generating station and shall be expressed as a percentage of the sum of gross energy generated at the generator	This definition is introduced as per UPERC (T&C of Generation Tariff) Regulations 2009	Approved as per the Regulations

CB (PPA)
U. P. P. C. L.
Shakti Bhawan Extn
Lucknow.



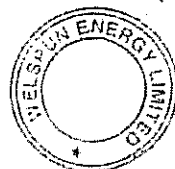
			terminals of all the units of the generating station		
2	1.1	"Availability Factor" or "Availability" : shall have the meaning ascribed thereto in ABT (provided that in place of Installed capacity and Normative auxiliary consumption it shall be Contracted Capacity).	<p>'Availability' : in relation to a thermal generating station for any period means the average of the daily average Declared Capacities (DCs) for all the days during that period expressed as a percentage of the installed capacity of the generating station minus normative auxiliary consumption in MW, and shall be computed in accordance with the following formula:</p> $N \text{ Availability (\%)} = 10000 \times \sum_{i=1}^{DC_i} \{N \times IC \times (100 - AUX_n)\} \%$ <p>Where, IC = Installed Capacity of the Unit in MW; DC_i = average Declared Capacity for the ith day of the period in MW N = Number of days during the period; and AUX_n = Normative Auxiliary Consumption as a percentage of gross generation</p>	This PPA Covered Under UPERC jurisdiction.	Approved as per the Regulations
3	1.1	Available Capacity : shall have the meaning ascribed thereto in ABT	Available Capacity : means in each Settlement Period Power Station's Declared Capacity (as is grossed up for Normative Auxiliary Consumption) in that Settlement Period	This definition is elaborated inline with ABT	Approved
4	1.1	<p>Capital Cost : means the lower of the following:</p> <p>a) actual capital cost of the Project on a relevant date which shall not be later than the Commercial Operation Date of the Power Station, as certified by the auditors appointed jointly by the Seller and</p>	Capital Cost : shall mean the total expenditure actually incurred by Seller, in setting up and constructing the Unit, as approved by Appropriate Commission	Capital cost shall be as approved by UPERC	Approved as the Capital Cost shall be decided under Regulation 17

CE (PPA)
D. P. C. L.
Shakti Bhawan Bata,
Lucknow.




		<p>Procurers (jointly) ; or</p> <p>(b) total project cost of the Project as set forth in the Financing Agreements,</p> <p>provided that Capital Cost shall always exclude cost overruns arising due to a Seller Event of Default, or costs due to events for which compensation has been received by Seller from the Procurers or Insurers or Third Parties; Provided further that the Capital Cost in relation to a Unit shall be the total Project Cost allocated in proportion to the Contracted Capacity of the said Unit.</p>			
5	1.1	<p>Contracted Capacity : means</p> <p>a) (i) for the first Unit, [] MW; (ii) for the second Unit, [] MW; (iii) for the third Unit, [] MW and so on till last Unit, rated net capacity at the Interconnection Point, and in relation to the Power Station as a whole means [] MW rated net capacity at the Interconnection Point as mentioned in the Selected Bid,</p> <p>b) in case the Seller exercises its option as per Article 3.1.1A, the rated net capacity expressed in MW of each Unit and Power Station, up to the maximum of the Contracted Capacity demanded in the RfP or such rated capacities as may be determined in</p>	Contracted Capacity : means ninety percent (90%) of Installed Capacity.	PPA is for 90% of Installed Capacity.	Approved

CP (P.P.A.)
 U.P. P. C. L.
 Shakti Bhawan E&P
 Lucknow



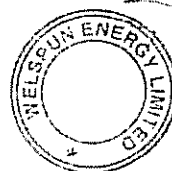
		<p>accordance with Article 6.3.4 or Article 8.2 of this Agreement;</p> <p>[Note: The above definition is to be replaced with the following in case of SPV signing the PPA and other agreements prior to the submission of Bids]</p> <p>means</p> <p>a) rated net capacity expressed in MW of each Unit or Power Station, as the case may be, at the</p>			
		<p>Interconnection Point, as provided in Selected Bid as per Format 3 of Annexure 6 of the RFP,</p> <p>b) in case the Seller exercises its option as per Article 3.1.1A, the rated net capacity expressed in MW of each Unit and Power Station, up to the maximum of the Contracted Capacity demanded in the RFP,</p> <p>or</p> <p>such rated capacities as may be determined in accordance with Article 6.3.4 or Article 8.2 of this Agreement</p>			
6	1.1	Nil	<p>Current Rate(s) of Exchange : shall mean the market rate(s) of foreign exchange not exceeding the highest State Bank of India (SBI) TT selling rates applicable to any liability of Seller in respect of any installment of the principal or any interest on any foreign Debt or where applicable in respect of any return on foreign equity as on the date on which such installment or as the case may be such return on foreign equity</p>	<p>This definition is introduced as per Project specific requirement</p>	<p>Approved</p>


 CE. (P.P.A.)
 U.P.P.C. L.
 Shakti Bhawan Extn.
 Lucknow.




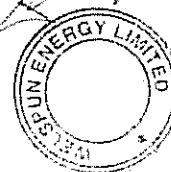
7	1.1	Nil	becomes due.	Date of Financial Closing or Investment Approval Date : shall mean the date upon which the Financing Agreements have been executed and the same is approved by the Board of Directors of the Seller.	These definition is introduced as per Project specific requirement	Approved
8	1.1	Debt Service : means the amounts which are due under the Financing Agreements by the Seller to the Lenders, expressed in Rupees (with all amounts denominated in currencies other than Rupees being converted to Rupees at the Reference Exchange Rate, the selling rate in Rupees for the Foreign Currency on the relevant day, as notified by the State Bank of India as its TT Rate at 12:00 noon on the Notice to Proceed)	Debt Service: means the amounts which are due under the Financing Agreements by the Seller to the Lenders, expressed in Rupees (with all amounts denominated in currencies other than Rupees being converted to Rupees at the Current Rate(s) of Exchange.		As per SBD with project specific modification	Approved
9	1.1	Expiry Date : means the 25th anniversary of the Commercial Operation Date of the Power Station. For the avoidance of doubt, in case the COD of the Power Station occurs on June 1, 2013, then the 25th anniversary of the Scheduled COD of the Power Station shall occur on June 1, 2038, i.e. in the Contract Year 2038-39.	Expiry Date : means the 25th anniversary of the Commercial Operation Date of the Power Station. For the avoidance of doubt, in case the COD of the Power Station occurs on June 1, 2013, then the 25th anniversary of the COD of the Power Station shall occur on June 1, 2038, i.e. in the Contract Year 2038-39.	"Scheduled" term is deleted because expiry date shall be the 25th anniversary of actual COD.		Approved
10	1.1	Independent Engineer : means an independent consulting engineering firm or group appointed jointly by all the Procurers jointly) and the Seller to carry out the functions in accordance with Article	Independent Engineer : means an independent consulting engineering firm or group appointed by the Seller in consultation with the UPPCL/Lead Procurer eight (8) months prior to Scheduled COD. to carry out the functions in accordance	Modified as per the Project Specific requirement and mutually agreed		Approved

CE. (P.P.A.)
P. C. L.
Shakti Bhawan East
Lucknow.



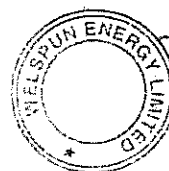
		4.7.1 and Article 6, Article 12 and Article 8 herein. provided that separate Independent Engineer may be appointed for the purposes of Article 4.7.1, Article 6, Article 12 and Article 8; provided further that the separate Independent Engineer may be appointed for each financial year for the purposes of Article 8, and in such case, such Independent engineer shall be appointed at least ninety (90) days prior to the beginning of the financial year	with Article 4.7.1 and Article 6, Article 12 and Article 8 herein. provided		
11	1.1	Nil	Installed Capacity : means the summation of the name plate capacities of all the units of the generating station or the capacity of the generating station (reckoned at the generator terminals) as approved by the Commission time to time. Provided that for purpose of this agreement installed capacity means.....	This definition is introduced as per UPERC (T&C of Generation Tariff) Regulations, 2009	Approved as per the Regulations. The project specific installed capacities may be mentioned
12	1.1	Normative Availability : Means equal to eighty per cent (80%) Availability at the Delivery Point on Contract Year basis	Normative Availability or Target Availability : Means equal to eighty five per cent (85%) Availability at the Delivery Point on Contract Year basis	Modified as per UPERC (T&C of Generation Tariff) Regulations, 2009	Approved as per Regulations for all TPPs commissioned after 1.4.09
13	1.1	Nil	Plant Load Factor or PLF : for a given period, means the total sent out energy corresponding to Scheduled Generation during the period, expressed as a percentage of sent out energy corresponding to Contracted Capacity in that period and	This definition is introduced as per UPERC (T&C of Generation Tariff) Regulations	Approved as per the Regulations with modification


U.P.P.C. Ltd.
 Shakti Bhawan Extn.
 Lucknow.

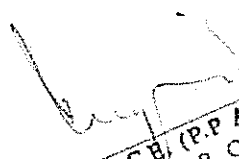


			<p>shall be computed in accordance with the following formula.</p> $PLF (\%) = 10000 \times \sum_{i=1}^N \frac{SG_i}{N \times CC} \times (100 - AUX_n) \%$ <p>Where: (1) "CC" Contrated Capacity in MW; (2) "SGi" = Scheduled Generation in MW for the Settlement Period I (only for the procurers); (3) "N" = Number of Settlement Periods during the period; and (4) "AUXn"= Normative Auxiliary Consumption (%)</p>	2009	
14	1.1	Scheduled Energy or Scheduled Generation : means scheduled generation as defined in the ABT.	<p>Scheduled Energy : means the quantum of ex-bus energy in kWh scheduled to be injected into the grid by the Unit corresponding to Scheduled Generation.</p> <p>Scheduled Generation or SG : At any time or for any period or time block means schedule of generation in MW ex-bus given by the State Load Despatch Centre.</p>	Defined for clarity	Approved
15	1.1	Nil	Stabilization Period : shall mean, a period of One hundred Eighty (180) days commencing on the Commercial Operation Date of the Unit.	This definition is introduced as per UPERC (T&C of Generation Tariff) Regulations , 2009	Approved
16	1.2.16	The contents of Schedule 16 shall be referred to for ascertaining accuracy and correctness of the representation made by the Seller in Article 2 6 of Schedule 10 hereof	In case any thing in this Agreement is found in consistence with UPERC Regulations or orders passed by UPERC, then UPERC Regulations/Orders shall prevail over this Agreement	Schedule 16 and Article 2 6 of Schedule 10 of SBD are not applicable for this FPA	Approved

CE. (P.P.A.)
U. P. P. C. L.
 Shakti Bhawan Extn
 Lucknow



17	23	Nil	<p>Extension of term/Renewal</p> <p>2.3.1 The Term of this Agreement can be extended beyond the Term of Agreement ("Renewal") by delivering written notice by either Party not later than one hundred and eighty (180) days prior to the end of the Term of Agreement. In which event the Term of this Agreement shall extend by mutual Agreement of the Parties for a mutually agreed period with such amendments as shall be mutually agreed by the Seller and the Procurers and approved by UPERC, as may be applicable. The extension in term of agreement, as agreed by the parties, would be allowed by the Commission after prudence check on a petition filed by the developer before 90 days from the expiry of term of PPA.</p> <p>2.3.2 Where either party signifies its intention to extend the term of this Agreement and negotiations between them commence, then this agreement shall be deemed to have been extended beyond the Term of Agreement until the negotiations are ended, provided that during this spill over period the terms and conditions for supply and purchase of power and other matters incidental thereto, will remain unchanged;</p> <p>2.3.3 Notwithstanding anything to the contrary contained herein, if either Party exercises its right of renewal as aforesaid and if the Seller and the Procurers</p>	<p>Introduced to describe the procedure for extension of this PPA.</p>	<p>Approved with modifications as the projects have been envisaged and agreed by the parties with the conditions of extension of term/renewal instead of transfer on terminal value as provided under standard guidelines.</p>
----	----	-----	--	--	--


 CB (P.P.A.)
 U.P.P.C. Lt.
 Shakti Bhawan Extn.
 Lucknow.



are unable to agree on the terms and conditions applicable during the mutually agreed period of the extended term within a period of one hundred and eighty (180) days from the Expiry Date, then the Term of Agreement shall end on the date of expiry of the Term of Agreement as automatically extended by spill over period.

2.3.4 Consequences on non- extension

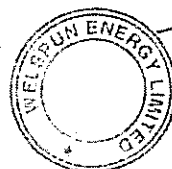
2.3.4.1 Sale of Energy to third party

If at the expiry of the Term of Agreement, the Agreement is not extended pursuant to the above provisions, then the Seller may, subject to applicable laws, sell the Contracted Capacity under this Agreement to any third party. In such case, the Procurers/UPPCL/SLD C/STU shall have no objection in wheeling such power, subject, however, to the payment of wheeling charges by the Seller or the third party buyer, as determined by the UPERC.


2.3.4.2 Sale of the Power Station

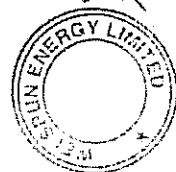
If at the expiry of the Term of Agreement, the Agreement is not extended, the Seller may also exercise its option to sell the Power Station as it may decide and in such event the Seller shall have discretion to sell the Power Station to any third party or the

14
CE. (P.P.A.)
U. P. P. C. L.
Shakti Bhawan Extn
Lucknow.



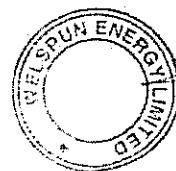
			<p>Procurer(s)</p> <p>2.3.5 Extension on Force Majeure</p> <p>Notwithstanding anything to the contrary contained in this Agreement, the Scheduled Commercial Operation Date of any Unit shall be extended by the duration of any Force Majeure Event occurring during the Construction Period and as approved by the Commission.</p>		
18	3.1.1	<p>Prior to the Effective Date, the Seller or the Selected Bidder, on behalf of the Seller, have provided to the Procurers, the Performance Guarantee from any of the banks in the list of banks provided in the RFP, of an aggregate amount of Rupees [Insert AMoU] calculated at Rs. 7.5 lakhs per each MW of the total contracted capacity) which has been provided separately to each of the Procurers for the amount calculated pro-rata (and rounded off to [insert amount]) with the principle that amounts below Rupees [insert amount] shall be rounded down and amounts of Rupees [insert amount] and above shall be rounded up) in the ratio of Allocated Contracted Capacities. Subject to Article 3.4, the Performance Guarantee shall be initially valid till three (3) Months after</p>	<p>Prior to the Effective Date, Promoter has provided to GOUP, the Bank Guarantee of an aggregate amount of Rupees (@ Rs. 5 lakh/MW) in accordance with the provisions of Clause 16 of the MoU dated The MoU is valid till 18 months from the date of execution and the Bank Guarantee shall remain valid beyond six months of the period of the MoU. In case of breach of the MoU or any part thereof by above said company the said Bank Guarantee can be invoked by GOUP.</p> <p>The promoter shall provide for the same aggregate amount of Bank Guarantee as provided with the GoUP with the procurers having validity from before three months from scheduled COD to after three months from scheduled COD. In case the actual COD is different from the scheduled COD then the validity of the PG shall be adjusted accordingly so that it remains with the procurer upto after three months from actual COD.</p>	Modified as per Project specific requirement and as agreed mutually	Approved with modification


 G.D. (P.P.A.)
 U.P.P.C. Ltd.
 Shashi Bhanu Bhatia
 Lucknow.



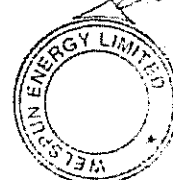
		the Scheduled COD of the Power Station and which shall be extended from time to time to be valid up to three (3) Months after the actual COD of the Power Station. In case the validity of Performance Guarantee is expiring before the validity period specified in this Article, the Seller shall at least thirty (30) days before the expiry of the Performance Guarantee replace the Performance Guarantee with another Performance Guarantee or extend validity of existing Performance Guarantee which is valid and in force till the validity period specified in this Article.			
19	3.1.1.A	The Seller shall have the option to change the Unit configuration after the Effective Date till NTP provided that Seller submits the undertaking that the changed Unit configuration meets all the conditions specified in Format 3 of Annexure 6 of RfP and the changed Unit configuration meets all Functional Specifications. Any additional cost arising out of the changed Unit configuration shall be to the account of the Seller and no adjustment in the Tariff will be permitted	Not used	Applicable only for Case-2 competitive bidding	Approved
20	3.1.2.(ii)	the Seller shall have executed Fuel Supply Agreement and provided the copies of the same to the Procurer	the Seller shall have obtained coal linkage from Standing Linkage Committee (Long Term), GOI and provided the copies of the same to the Procurer	As per New Coal Distribution Policy (NCDP) of Ministry of Coal, Coal	Approved

C.E. (P.P.A.)
 P. P. C. L.
 Shakti Bhawan Bldg
 Lucknow.



				companies signing FSA only after commissioning of the Project. Hence, execution of FSA as a condition precedent of PPA is not possible.	
21	3.1.2. (iii) (c)	(1) in case the Project is proposed to be developed on the books of the Bidder, he shall have completed the execution and delivery of the Financing Agreements for at least twenty five percent (25%) of the debt required for the Project as certified by the Lender/Lead Lender; or (2) in case the Seller develops the Project on a non recourse basis, Seller shall have achieved Financial Closure	Seller shall have achieved Financial Closure	Case (1) of 3.1.2.(iii)(c) of SBD PPA is not applicable.	Approved
22	3.1.2. (vi)	the Seller shall have taken the possession of the land, for the Power Station and have paid the remaining Declared Price of the Land, if any to the State Government authority acquiring the land	Seller shall have acquired and taken possession of the land for the power station and paid the declared price of the land, if any to the State Government authority acquiring the land within the time stipulated for this purpose under the applicable laws	"Declared Price of the Land" mentioned in Article 3.1.2 (vi) of SBD PPA is not applicable to this PPA. Hence this is modified suitably.	Approved
23	3.3	Consequences of non-fulfillment of conditions under Article 3.1 3.3.1 If any of the conditions specified in Article 3.1.2 is not duly	Consequences of non-fulfillment of conditions under Article 3.1 3.3.1 If the conditions specified in Article 3.1 are not	as agreed mutually	Approved with modification

(C.E. (P.P.A.))
D. P. S. C. L.
Shakti Bhawan Bldg.
Lucknow.



	<p>fulfilled by the Seller even within three (3) Months after the time specified under Article 3.1.2, then on and from the expiry of such period and until the Seller has satisfied all the conditions specified in Article 3.1.2, the Seller shall be liable to furnish to the Procurers additional weekly Performance Guarantee of Rs. [Insert AMoUnit not less than that derived on the basis of Rs. 0.375 lakhs per MW of maximum capacity proposed to be procured] within two (2) business days of expiry of every such week. Such additional Performance Guarantee shall be provided to each Procurer in the manner provided in Article 3.1.1 and shall become part of the Performance Guarantee and all the provisions of this Agreement shall be construed accordingly. The Procurers shall be entitled to hold and/or invoke the Performance Guarantee, including such increased Performance Guarantee, in accordance with the provisions of this Agreement.</p> <p>3.3.2 Subject to Article 3.3.3 and 3.3.3A, if:</p> <p>(i). fulfilment of any of the conditions specified in Article 3.1.2 is delayed beyond the period of three (3) Months and the Seller</p>	<p>duly fulfilled within the relevant stipulated time or after extended time, the Procurer or the Seller shall have the right to terminate this Agreement by giving a Termination Notice to the Seller/ Procurers in writing of at least seven (7) days to explain and/or perform</p> <p>3.3.2 In case of inability of the Seller to perform the activities specified in Article 3.1 within the relevant stipulated time period or during extended period, otherwise than for the reasons directly attributable to the Procurers/ UPPCL/GROUP or Force Majeure event, this Agreement may be terminated by the UPPCL/the Lead Procurer at its option, by giving a Termination Notice of at least seven (7) days, in writing to the Seller and in such case, the Seller shall be liable to pay liquidated damages, as may be determined by UPERC; provided that the amount of liquidated damages shall in no case exceed the amount of bank guarantee given by the Promoter as stated under Article 3.1.1</p> <p>3.3.3 Similarly, in case of inability of UPPCL/Procurers to perform the activities specified in Article 3.1 within the relevant stipulated time period or during extended period, otherwise than for the reasons directly attributable to the Seller or Force Majeure event, this Agreement may be terminated by the Seller at its option, by giving a Termination Notice of at least seven (7) days in writing to UPPCL/the Lead Procurer and in such case the</p>		
--	--	--	--	--

CE. (P.P.A.)
U. P. P. C. L.
Shakti Bhawan Bldg
Lucknow.



For Sent

	<p>fails to furnish any additional Performance Guarantee to the Procurers in accordance with Article 3.3.1 hereof; or</p> <p>(ii) the Seller furnishes additional Performance Guarantee to the Procurers in accordance with Article 3.3.1 hereof but fails to fulfil the conditions specified in Article 3.1.2 for a period of eight (8) months beyond the period specified therein,</p>	<p>Procurer shall be liable to pay liquidated damages, as may be determined by UPERC, against site development and other charges, to Seller. Bank Guarantee of the Seller shall be released forthwith</p> <p>3.3.4 Any extension/increase in time period provided hereinabove shall also lead to equal increase in the time period of bank guarantee provided by the seller under clause 3.1.1. The new Scheduled COD shall be decided with the approval of the Commission accordingly.</p>		
	<p>all the Procurers (jointly) or Seller shall have the right to terminate this Agreement by giving a Termination Notice to the Seller / Procurer in writing of at least seven (7) days.</p> <p>If the Procurers or the Seller elect to terminate this Agreement in the event specified in the preceding paragraph of this Article 3.3.2, the Seller shall be liable to pay to the Procurers an amount of Rupees [Insert amount not less than that derived on the basis of Rs. 10.00 lakhs per MW of the maximum capacity proposed to be procured] only as liquidated damages. The Procurers shall be entitled to recover this amount of damages by invoking the Performance Guarantee to the extent of Rupees [Insert amount not less than that derived on the basis of Rs. 10.00 lakhs per MW of the maximum</p>			


[Signature]
 CE. (P.P.A.)
 U.P. P.C. L.
 Shakti Bhawan Bldg.
 Lucknow.



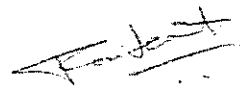
capacity proposed to be procured] and shall then return the balance Performance Guarantee, if any, to the Seller. If the Procurers are unable to recover said the amount of Rupees [Insert amount not less than that derived on the basis of Rs. 10.00 lakhs per MW of the maximum capacity proposed to be procured] or any part thereof from the Performance Guarantee the amount not recovered from the Performance Guarantee, if any, shall be payable by the Seller to the Procurers within ten (10) days from the end of eight (8) Months period from the due date of completion of conditions subsequent.

It is clarified for removal of doubt that this Article shall survive the termination of this Agreement.

3.3.3 In case of inability of the Seller to fulfil the conditions specified in Article 3.1.2 due to any Force Majeure event, the time period for fulfilment of the Condition Subsequent as mentioned in Article 3.1.2 and Article 3.1.2A, shall be extended for the period of such Force Majeure event, subject to a maximum extension period of ten (10) Months, continuous or non-continuous in aggregate. Thereafter this Agreement may be


CB (P.P.A.)
P.P.O. L.
Sudhakar Bhatnagar
Lucknow.



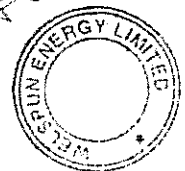


terminated by either the Procurers (jointly) or the Seller by giving a notice of at least seven (7) days, in writing to the other Party.

Similarly, in case of inability of the Procurers to fulfil the conditions specified in Article 3.1.2A due to any Force Majeure event, the time period for fulfilment of the Condition Subsequent as mentioned in Article 3.1.2 and Article 3.1.2A, shall be extended for the period of such Force Majeure event, subject to a maximum extension period of ten (10) Months, continuous or non-continuous in aggregate. Thereafter, this Agreement may be terminated by either the Procurers (jointly) or the Seller by giving a Termination Notice of at least seven (7) days, in writing to the other Party.

3.3.3A[insert if applicable] In case of inability of the Procurers to perform the activities specified in Article 3.1.2A within the time period specified therein, otherwise than for the reasons directly attributable to the Seller or Force Majeure event, the Condition Subsequent as mentioned in Article 3.1.2 would be extended on a day for day basis equal to the additional time which may be

CB (P.P.A.)
T. P. P. C. Li.
Shakti Sarwan Bhat.
Lucknow.



required by the Procurers to complete the activities mentioned in Article 3.1.2A, subject to a maximum additional time of six (6) Months. Thereafter, this Agreement may be terminated by the Seller at its option, by giving a Termination Notice of at least seven (7) days, in writing to the Procurers. If the Seller elects to terminate this Agreement, the Procurers shall, within a period of thirty days,

~~purchase the entire~~ shareholding in the Seller for the following amount. Provided such purchase of shares shall be undertaken by the Procurers in the ratio of their then existing Allocated Contracted Capacity:

a) total amount of purchase price paid by the Successful Bidder to the shareholders of the Seller to acquire the equity shares of the Seller as per the RFP; plus

b) total amount of the Declared Price of Land to the extent paid by the Seller after the acquisition of its 100% shareholding by the Selected Bidder; plus

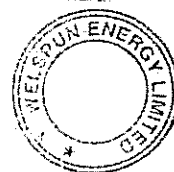
c) an additional sum equal to ten percent (10%) of the sum total of the amounts mentioned in sub-clauses (a) and (b) above

In addition the

CE. (D.P.A.)

P. C. L.

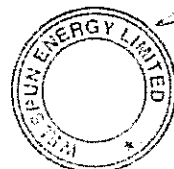
Shardha Dasgupta
Lucknow



Signature

		<p>Performance Guarantee of the Seller shall also be released forthwith.</p> <p>3.3.4 No Tariff adjustment shall be allowed on account of any extension of time arising under any of the sub-articles of Article 3.3. Provided that due to the provisions of Article 3.3.3 and 3.3.3A, any increase in the time period for completion of Conditions Subsequent mentioned under Article 3.1.2 and 3.1.2 A, shall also lead to an equal increase in the time period for Scheduled COD and Scheduled Connection Date</p>			
24	3.4	<p>Reduction in the amount of Performance Guarantee :</p> <p>3.4.1 On the due fulfilment by the Seller of all the conditions specified under Article 3.1.2 and investment by the Seller of at least twenty five percent (25%) of the total equity required for the Project as certified by the lead lender of the Seller, the Performance Guarantee then existing shall be reduced by an aggregate amount of Rupees [Insert amount calculated at Rs. 2.5 lakhs per each MW of the total Contracted Capacity] and such reduced Performance Guarantee/s shall be provided separately to each of the Procurers in the ratio of their then respective Allocated Contracted Capacities</p>	Not used	This Article is deleted as per Project specific requirement and as agreed mutually	Approved

C/S (P.P.A.)
 D.P.C. Li.
 Shri D. V. Bhatia
 Lucknow



[and rounded off to the nearest Rupees [Insert amount] with the principle that amounts below Rupees [Insert amount] shall be rounded down and amounts of Rupees [Insert amount] and above shall be rounded up and for the period specified in Article 3.4.2.

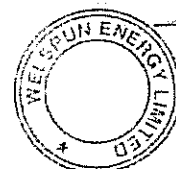
3.4.2 The Performance Guarantee specified in Article 3.4.1 hereof shall be in substitution of the earlier Performance Guarantee furnished under Article 3.1.1

The Performance Guarantee furnished under this Article shall be initially valid till three (3) Months after the Scheduled COD of the Power Station and which shall be extended from time to time to be valid upto three (3) Months after the actual COD of the Power Station.


3.4.3 The Performance Guarantee furnished under Article 3.1, 3.3 and 3.4 shall be for guaranteeing the due and timely completion of the Project and achievement of Scheduled Commercial Operation Date of each Unit within the time specified in this Agreement.

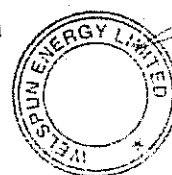
3.4.4 The failure on the part of the Seller to furnish and maintain the Performance Guarantee as mentioned above

By (P.P.A.)
S. P. C. D.
Sh. ...
1, 2020

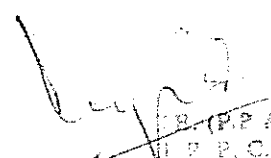


		<p>shall be a material breach of the term of this Agreement on the part of the Seller.</p> <p>3.4.5 If the Seller fails to achieve COD of each of the Units on their respective Scheduled Commercial Operation Date specified in this Agreement, subject to conditions mentioned in Article 4.5.1, the Procurers jointly shall have the right to encash the Performance Guarantee and appropriate in their favour as liquidated damages an amount specified in Article 4.6.1, without prejudice to the other rights of the Procurers under this Agreement.</p>			
25	3.5	<p>Return of Performance Guarantee :</p> <p>3.5.1 The Performance Guarantee as submitted by Seller in accordance with Article 3.4 shall be released by the Procurers within three (3) Months from the actual Commercial Operation Date of the Power Station. In the event of delay in achieving Scheduled COD of any of the Units by the Seller (otherwise than due to the Procurers' inability to complete the activities mentioned in Article 3.1.2A, or Force Majeure event) and consequent part invocation of the Performance Guarantee by the Procurers, the Procurers shall release the Performance Guarantee if any</p>	Not used	This Article is deleted as per Project specific requirement and as agreed mutually	Approved



 CE (P.P.A.)
 U.P.P.C. Ltd.
 Shakti Bhawan Extn.
 Lucknow.



		remaining unadjusted under Article 3.4, after the satisfactory completion by the Seller of all the requirements regarding achieving the Scheduled Commercial Operation Date of the remaining Units of the Power Station. It is clarified that the Procurers shall also return/release the Performance Guarantee in the event of (i) applicability of Article 3.3.2 to the extent the Performance Guarantee is valid for an amount in excess of Rupees [Insert amount not less than that derived on the basis of 10.00 lacs per MW of the maximum capacity proposed to be procured], or (ii) termination of this Agreement by any Party under Article 3.3.3 or Article 3.3.3A of this Agreement.			
		3.5.2 The release of the Performance Guarantee shall be without prejudice to other rights of the Procurers under this Agreement			
26	4.3.1	Subject to the terms and conditions of this Agreement, the Seller undertakes to sell to the Procurers, and the Procurers undertake to pay the Tariff for all of the Available Capacity up to the Contracted Capacity and Scheduled Energy of the Power Station, according to their then existing Allocated Contract Capacity,	Subject to the terms and conditions of this Agreement, the Seller undertakes to sell to the Procurers, and the Procurers undertake to pay the Tariff for ninety percent (90%) of the Available Capacity and Scheduled Energy of the Power Station, according to their then existing Allocated Contract Capacity, throughout the term of this Agreement	Contracted Capacity is 90% of the Installed Capacity of the Project as per this PPA. Hence, purchase and sale of Available Capacity and Scheduled	Approved

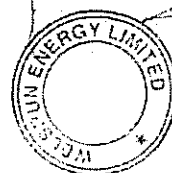

 (PPA)
 W.P.C.L.
 Senior Project Eng
 Lucknow




 Rande

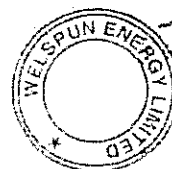
		throughout the term of this Agreement		Energy is modified suitably inline with the Project specific requirement	
27	4.3.2	Unless otherwise instructed by all the Procurers (jointly), the Seller shall sell all the Available Capacity up to the Contracted Capacity of the Power Station to each Procurer in proportion of each Procurer's then existing Allocated Contracted Capacity pursuant to Dispatch Instructions	Unless otherwise instructed by all the Procurers (jointly), the Seller shall sell ninety percent (90%) of the Available Capacity of the Power Station to each Procurer in proportion of each Procurer's then existing Allocated Contracted Capacity pursuant to Dispatch Instructions	DO	Approved
28	4.3.3	Nil	The Scheduled Generation and Electrical Output attributable to ninety percent (90%) of Available Capacity shall be provided to each Procurer in the ratio of the amounts sought to be supplied pursuant to Dispatch Instructions	DO	Approved
29	4.3.4	Nil	The Seller shall be entitled to sell the Scheduled Generation and Electrical Output attributable to ten percent (10%) of Available Capacity to third party consumers, other licensees, traders, etc	DO	Approved
30	4.4.1	Subject to other provisions of this Agreement, the entire Contracted Capacity of the Power Station and all the Units of the Power Station shall at all times be for the exclusive benefit of the Procurers and the Procurers shall have the exclusive right to purchase the entire Contracted Capacity from the Seller. The Seller shall not grant to	Subject to other provisions of this Agreement, the entire Contracted Capacity shall at all times be for the exclusive benefit of the Procurers and the Procurers shall have the exclusive right to purchase the entire Contracted Capacity from the Seller. The Seller shall not grant to any third party or allow any third party to obtain any entitlement to the Available Capacity and/or Scheduled Energy attributable to Procurers then existing Allocated	Contracted Capacity is 90% of the Installed Capacity of the Project as per this PPA. Hence, purchase and sale of Available Capacity and Scheduled Energy is	Approved

C.B. (P.P.A.)
 U. P. P. C. L.
 Shakti Bhawan Extn.
 Lucknow.



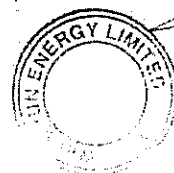
		any third party or allow any third party to obtain any entitlement to the Available Capacity and/or Scheduled Energy	Contract Capacity	modified suitably inline with the Project specific requirement	
31	4.4.3	<p>If a Procurer does not avail of power upto the Available Capacity provided by the Seller corresponding to such Procurer's Allocated Capacity, and the provisions of Article 4.4.2 have been complied with, the Seller shall be entitled to sell such Available Capacity not procured, to any person without losing the right to receive the Capacity Charges from the Concerned Procurer for such un-availed Available Capacity. In such a case, the sale realization in excess of Energy Charges, shall be equally shared by the Seller with the Concerned Procurer. In the event, the Seller sells such Available Capacity to the shareholders of the Seller or any direct or indirect affiliate of the Seller/shareholders of the Seller without obtaining the prior written consent of the Procurer, the Seller shall be liable to sell such Available Capacity to such entity at tariffs being not less than the Tariff payable by the relevant Procurer whose capacity is being sold pursuant to this Article. If more than one Procurers do not avail fully of their</p>	<p>If any one or more than one Procurer do not avail power upto the Available Capacity provided by the Seller corresponding to such Procurer's or Procurers's Allocated Contracted Capacity, and the provisions of Article 4.4.2 have been complied with, the Seller shall be entitled to sell such Available Capacity not procured, to any person without losing the right to receive the Capacity Charges from the Concerned Procurer(s) for such un-availed Available Capacity. In such a case the surplus amount received over variable charge shall be adjusted against the Fixed Charge liability of such Procurer(s) in respect of quantum of such capacity and/or power sold to third parties as provided below.</p> <p>In case the surplus amount over variable charge is higher than the Fixed Charge liability of such Procurer(s) in respect of quantum of such capacity and/or power sold by Seller to third parties, such excess amount shall be retained by Seller. In case the surplus amount over Variable Charges is lower than the Fixed Charge liability of such Procurer(s) in respect of the quantum of such capacity and/or power sold by Seller to third parties, such short fall amount shall be payable by the respective Procurer(s).</p>	As agreed mutually being cost plus project.	Approved with modification

S. (P.P.S.)
J. P. S. O. L.
Shakti Bhawan B-1
Lucknow



	<p>Allocated Contracted Capacity, provisions of this Article shall be applicable to them mutatis mutandis and in such case, fifty percent (50%) of the excess over Energy Charges recovered by the Seller from sale to third party shall be retained by the Seller and the balance fifty percent (50%) shall be provided by the Seller to the Concerned Procurer/s in the ratio of their Available Capacity not dispatched by such Concerned Procurer/s and sold by the Seller to third parties. During this period, the Seller will also continue to receive the Capacity Charges from such Procurers. Upon the Procurers or any Procurement who has not availed of the Available Capacity, as envisaged under this Article, intimating to the Seller of its intention and willingness to avail of the part of the Available Capacity not availed of and therefore sold to the third party, the Seller shall, notwithstanding anything contained in the arrangement between the Seller and said third party, commence supply of such capacity to the Concerned Procurement/s from the later of two (2) hours from receipt of notice in this regard from the Concerned Procurement/s or the time for commencement of supply specified in such notice</p>	<p>Provided that in such case, if the power is sold by the promoter to its affiliate company then it should not be sold at a tariff less than the agreed in this PPA.</p> <p>In such case, the Procurers/ UPPCL/ SLDC/STU shall have no objection in wheeling such power</p>	

CE (P.P.A.)
U. P. P. C. L.
Shakti Bhawan Extn.
Lucknow.



32	4.6.1	<p>If any Unit is not Commissioned by its Scheduled Commercial Operation Date other than for the reasons specified in Article 4.5.1, the Seller shall pay to each Procurer liquidated damages, proportionate to their then existing Allocated Contracted Capacity, for the delay in such Commissioning or making the Unit's Contracted Capacity available for dispatch by such date. The sum total of the liquidated damages payable by the Seller to the Procurers for such delayed Unit shall be calculated as follows:</p> $SLDb = [CCun \times dn \times DR1], \text{ if } dn \leq 60$ $SLDb = [CCun \times 60 \times DR1] + [CCun \times (dn - 60) \times DR2], \text{ if } dn > 60$ <p>Where:</p> <p>a) "SLDb" are the liquidated damages payable by the Seller during the period beginning with the day from the Scheduled Commercial Operation Date of a Unit up to and including the day on which Unit is actually Commissioned;</p> <p>b) "CCun" is the Contracted Capacity of Unit "n";</p> <p>c) "d" is the number of days in the period beginning with the day after the Scheduled Commercial Operation Date of Unit "n" up to and including the day on</p>	<p>4.5.1 If any Unit is not Commissioned by its Scheduled Commercial Operation Date other than for the reasons specified in Article 4.5.1, the Seller shall pay to each Procurer liquidated damages, proportionate to their then existing Allocated Contracted Capacity, for the delay in such Commissioning or making the Unit's Contracted Capacity available for dispatch by such date. The sum total of the liquidated damages payable by the Seller to the Procurers for such delay shall be calculated as follows:</p> $SLDb = [CCun \times dn \times DR1], \text{ if } dn \leq 180$ $SLDb = [CCun \times 180 \times DR1] + [CCun \times (dn - 180) \times DR2], \text{ if } dn > 180$ <p>Where:</p> <p>a) "SLDb" are the liquidated damages payable by the Seller during the period beginning with the day from the Scheduled Commercial Operation Date of the Unit up to and including the day on which Unit is actually Commissioned;</p> <p>b) "CCun" is the Contracted Capacity of the Unit;</p> <p>c) "dn" is the number of days in the period beginning with the day after the Scheduled Commercial Operation Date of Unit up to and including the day on which the Unit is actually Commissioned;</p> <p>d) "DR1" is Rs. Five hundred and fifty (550) of damages per MW per day of delay in case "dn" is less than 160 days and "DR2" is Rs. Five thousand five hundred and sixty (5560) of damages per MW per day of delay in</p>	<p>The LD amount is modified as agreed mutually</p>	<p>Approved with modified figures of LD</p>
----	-------	--	--	---	---

Signature
 Shashi Bhanu Bhat
 Lucknow.



Signature

		which such Unit is actually Commissioned) "DR1" is Rs. Ten Thousand (10,000) of damages per MW per day of delay in case "d" is less than 60 days and "DR2" is Rs. Fifteen Thousand (15,000) of damages per MW per day of delay in case "d" is equal to or more than 60 days	case "dn" is equal to or more than 180 days		
33	4.6.2	The Seller's maximum liability under this Article 4.6 shall be limited to the amount of liquidated damages calculated in accordance with Article 4.6.1 for and upto twelve (12) Months of delay for the Unit. Provided that in case of failure of the Seller to Commission the Unit even after expiry of twelve (12) Months from its Scheduled Commercial Date, the provisions of Article 14 shall apply	The Seller's maximum liability under this Article 4.6 shall be limited to the amount of liquidated damages calculated in accordance with Article 4.6.1 for and upto twelve (12) Months of delay for the Unit, provided that the amount of such Liquidated damages shall in no case exceed (RS. 5 lakh/MW). Provided that in case of failure of the Seller to commission the Unit even after expiry of twelve (12) Months from its Scheduled Commercial Date, the provisions of Article 14 shall apply	Modified inline with Project specific requirement and as agreed mutually	Approved with modifications
34	4.7.1 (b)	a Unit is Tested Capacity equal to the Contracted Capacity and to this extent, shall be treated as follows	a Unit is Tested Capacity equal to the Installed Capacity and to this extent, shall be treated as follows.	Modified inline with Project specific requirement (because Contracted Capacity is 90% of Installed Capacity or Tested Capacity, whichever is lower)	Approved
35	4.7.2	In every case which is less than ninety five (95) percent of its Contracted Capacity then	In every case which is less than ninety five (95) percent of its Installed Capacity then	Modified inline with Project specific requirement	Approved

CE (P.P.A.)
U.P.P.C. Lt.
Shahid Bhawan Bldg.
Lucknow.

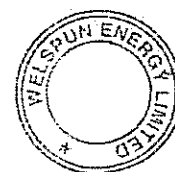


35	6.3.4 (i) (d)	d) the Availability Factor of the derated Unit shall be calculated by reference to the reduced Contracted Capacity; and	d) the Availability Factor of the derated Unit shall be calculated by reference to the reduced Installed Capacity; and	Modified in line with Project specific requirement	Approved
37	6.3.4 (i) (e)	the Capital Cost and each element of the Capital Structure Schedule shall be reduced in proportion to the reduction in the Contracted Capacity of the Power Station as a result of that derating (taking into account the Contracted Capacity of any Unit which has yet to be Commissioned)	the Capital Cost and each element of the Capital Structure Schedule shall be reduced in proportion to the reduction in the Installed Capacity of the Power Station as a result of that derating (taking into account the Contracted Capacity of any Unit which has yet to be Commissioned)	Modified inline with Project specific requirement	Approved
38	6.3.4 (ii)	If at the end of Initial Performance Retest Period or the date of the eighth Performance Test mentioned in Article 6.3.3, whichever is earlier, the Tested Capacity is less than the Contracted Capacity as existing on the Effective Date or in case the Seller has exercised the option under Article 3.1.1A the Contracted Capacity so finalised, the consequences mentioned in Article 8.2.2 shall apply for a period of one year. Provided that such consequences shall apply with respect to the Tested Capacity existing at the end of Initial Performance Retest Period or the date of the eighth Performance Test mentioned in Article 6.3.3, whichever is earlier	If at the end of Initial Performance Retest Period or the date of the eighth Performance Test mentioned in Article 6.3.3, whichever is earlier, the Tested Capacity is less than the Installed Capacity (as existing on the Effective Date) the consequences mentioned in Article 8.2.2 shall apply for a period of one year. Provided that such consequences shall apply with respect to the Tested Capacity existing at the end of Initial Performance Retest Period or the date of the eighth Performance Test mentioned in Article 6.3.3, whichever is earlier	Modified inline with Project specific requirement	Approved

39 6.3.5 If a Unit's Tested Capacity as at the end of the Initial Performance Retest Period or the date of the eighth Performance Test mentioned in Article 6.3.3, whichever is earlier, the Tested Capacity is less than the Installed Capacity (as existing on the Effective Date) the consequences mentioned in Article 8.2.2 shall apply for a period of one year. Provided that such consequences shall apply with respect to the Tested Capacity existing at the end of Initial Performance Retest Period or the date of the eighth Performance Test mentioned in Article 6.3.3, whichever is earlier

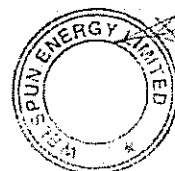
CE. (P.P.A.)
U.P.P.C.L.

Shashi Bhawan Extra
Lucknow.



	<p>the Initial Performance Retest Period or the date of the eighth Performance Test mentioned in Article 6.3.3, whichever is earlier, is found to be more than it's Contracted Capacity as existing on the Effective Date or in case the Seller has exercised the option under Article 3.1.1A the Contracted Capacity as so finalised, the Tested Capacity shall be deemed to be the Unit's Contracted Capacity if any Procurer/s agrees and intimates the same to the Seller within thirty (30) days of receipt of the results of the last Performance Test to purchase such excess Tested Capacity and also provide to the Seller additional Letter of Credit and Collateral Arrangement (if applicable) for payments in respect of such excess Tested Capacity agreed to be purchased by such Procurer/s. In case the Procurer/s decide not to purchase such excess Tested Capacity, the Seller shall be free to sell such excess Tested Capacity to any third party and the Unit's Contracted Capacity shall remain unchanged, notwithstanding that the Tested Capacity exceeded the Contracted Capacity. Provided that in all the above events the Seller shall be liable to</p>	<p>Performance Retest Period or the date of the eighth Performance Test mentioned in Article 6.3.3, whichever is earlier, is found to be more than it's Installed Capacity (as existing on the Effective Date), the Tested Capacity shall be deemed to be the Unit's Installed Capacity. If any Procurer/s agrees and intimates the same to the Seller within thirty (30) days of receipt of the results of the last Performance Test to purchase ninety percent (90%) of such excess Tested Capacity and also provide to the Seller additional Letter of Credit and Collateral Arrangement (if applicable) for payments in respect of ninety percent (90%) of such excess Tested Capacity agreed to be purchased by such Procurer/s. In case the Procurer/s decide not to purchase ninety percent (90%) of such excess Tested Capacity, the Seller shall be free to sell such excess Tested Capacity to any third party and the Unit's Contracted Capacity shall remain unchanged, notwithstanding that the Tested Capacity exceeded the Installed Capacity. Provided that in all the above events, the Seller shall be liable to obtain/maintain all the necessary consents (including Initial Consents), permits and approvals including those required under the environmental laws for generation of such excess Tested Capacity</p>	<p>Project specific requirement (because Contracted Capacity is 90% of Installed Capacity or Tested Capacity, whichever is lower)</p>	
--	---	---	---	--

CE (P.P.A.)
U.P.P.C. Lt.
Shakti Bhawan Bldg.
Lucknow.



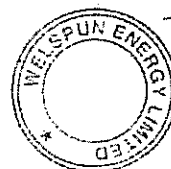
		obtain/maintain all the necessary consents (including Initial Consents), permits and approvals including those required under the environmental laws for generation of such excess Tested Capacity			
40	6.5	Nil	<p>Fuel :</p> <p>The responsibility for arrangement of fuel shall be with the developer who shall procure the fuel under coal linkage granted to the Seller by the Central Government on the recommendations of GoUP. In case of any short supply, procurement of fuel indigenous / imported preferably through long term contract or on spot-purchase / short-term contract / E-auction basis from domestic and/or international suppliers /traders shall be within or from outside India. The Seller shall obtain the prior consent of Lead Procurer about procurement of coal from any source other than coal linkage. In case the permission is not granted by the Lead Procurer within seven (7) working days from the date of receiving the application, it would be considered as deemed permission and if rejected then it would be considered as procurer's inability to procure which would make conditions of clause 4.4.3 of the agreed PPA applicable.</p>	<p>As per the New Coal Distribution Policy (NCDP) of Ministry of Coal :</p> <p>Annual Contracted Quantity (ACQ) shall be equivalent to 85% PLF</p> <p>Linkage shall be 90% of ACQ (including coal may be imported by Coal India Ltd (CIL)) and 10% of ACQ to be directly procured by the Project developers themselves.</p> <p>CIL is liable to pay compensation, only if actual supply is less than 50% of ACQ</p>	Approved with modification

Due to
above the

BB. (P.P.A.)

V.P.P.C.L.

Sanku Bhawan Bati
Lucknow



Handwritten signature

				Seller shall be permitted for procure required quantity of coal through any source as per the requirement	
41	8.2.2	(i) If a Unit's (or if all the Units have been Commissioned, of the Power Station's) then current Tested Capacity as established by the Repeat Performance Test and the Final Test	(i) If a Unit's (or if all the Units have been Commissioned, of the Power Station's) then current Tested Capacity as established by the Repeat Performance Test and the Final Test Certificate issued by the Independent Engineer,	Modified inline with project configuration and Project specific requirement	Approved
		Certificate issued by the Independent Engineer, is less than its Contracted Capacity as existing on the Effective Date or in case the Seller has exercised the option under Article 3.1.1A the Contracted Capacity so finalised, the Seller shall not be permitted to declare the Available Capacity of the Unit (or if all the Units have been Commissioned, of the Power Station's) at a level greater than its Tested Capacity, in which case: a) the Unit's (or if all the Units have been Commissioned, of the Power Station's) Contracted Capacity shall be reduced to its most recent Tested Capacity and Quoted Capacity Charges shall be paid with respect to such reduced Contracted Capacity b) Further, the Quoted	is less than its Installed Capacity as existing on the Effective Date, the Seller shall not be permitted to declare the Available Capacity of the Unit (or if all the Units have been Commissioned, of the Power Station's) at a level greater than its Tested Capacity, in which case: a) the Unit's (or if all the Units have been Commissioned, of the Power Station's) Installed Capacity shall be reduced to its most recent Tested Capacity. b) Not Used; c) the Availability Factor of the derated Unit (or if all the Units have been Commissioned, of the Power Station's) shall be calculated by reference to the reduced Installed Capacity, and: d) the Capital Cost and each element of the Capital Structure Schedule shall be reduced in proportion to the reduction in the Installed Capacity of the Power Station as a result of that derating (taking into account the Installed Capacity of any Unit which has yet to be Commissioned)	(because Contracted Capacity is 90% of Installed Capacity or Tested Capacity, whichever is lower). Applicable only for Case 2 bidding	


CE (PPA)
D. R. P. C. L.
 Shakti Bhawan Extn.
 Lucknow.



Non -Escalable Capacity Charge shall be reduced by the following:

Rs. 0.25/kwh x [1 - ((Tested Capacity of all Commissioned Units + Contracted Capacity at the Effective Date or in case the Seller has exercised the option under Article 3.1.1A the Contracted Capacity so finalised of all Units not Commissioned)/Contracted Capacity at the Effective Date of all Units or in case the Seller has exercised the option under Article 3.1.1A the Contracted Capacity so finalised)];

c) the Availability Factor of the derated Unit (or if all the Units have been Commissioned, of the Power Station's) shall be calculated by reference to the reduced Contracted Capacity, and;

d) the Capital Cost and each element of the Capital Structure Schedule shall be reduced in proportion to the reduction in the Contracted Capacity of the Power Station as a result of that derating (taking into account the Contracted Capacity of any Unit which has yet to be Commissioned);

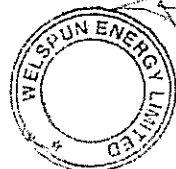
(ii) The consequences mentioned in sub-Article (i) above shall apply from the completion date of each Repeat Performance Test. If at

(ii) The consequences mentioned in sub-Article (i) above shall apply from the completion date of each Repeat Performance Test.. If at the end of second Repeat Performance Test conducted by the Seller or the last date of the end of the six month period referred to in Article 8.1.1, whichever is earlier, the Tested Capacity is less than the Installed Capacity (as existing on the Effective Date), the consequences mentioned in Article 8.2.2 shall apply for a period of at least one year after which the Seller shall have the right to undertake a Repeat Performance Test. Provided that such consequences shall apply with respect to the Tested Capacity existing at the end of second Repeat Performance Test conducted by the Seller or the last date of the end of the six month period referred to in Article 8.1.1, whichever is earlier

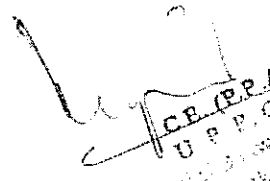
11/6

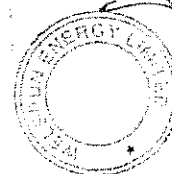
[Signature]

(P.P.A.)
P. P. C. L.
Bharwan Bata
Lucknow



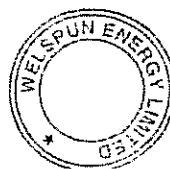
		the end of second Repeat Performance Test conducted by the Seller or the last date of the end of the six month period referred to in Article 8.1.1, whichever is earlier, the Tested Capacity is less than the Contracted Capacity as existing on the Effective Date or in case the Seller has exercised the option under Article 3.1.1A the Contracted Capacity so finalised, the consequences mentioned in Article 8.2.2 shall apply for a period of at least one year after which the Seller shall have the right to undertake a Repeat Performance Test. Provided that such consequences shall apply with respect to the Tested Capacity existing at the end of second Repeat Performance Test conducted by the Seller or the last date of the end of the six month period referred to in Article 8.1.1, whichever is earlier			
42	8.2.4	If a Unit's than it's Contracted Capacity, the mutatis mutandis	If the Unit's than it's Installed Capacity, the mutatis mutandis	Modified inline Project specific requirement (because Contracted Capacity is 90% of Installed Capacity or Tested Capacity, whichever is lower)	Approved
43	11.3.4	In the event of delay in payment of a Monthly	In the event of delay in payment of a Monthly Bill by	As per UPERC	Approved


 C.B. (P.P.A.)
 U.P.P.C. Ltd.
 Station 2, Gurgaon Bkta.
 Lucknow.



		Bill by any Procurer beyond its Due Date month billing, a Late Payment Surcharge shall be payable by such Procurer to the Seller at the rate of two (2) percent in excess of the applicable SBAR per annum, on the amount of outstanding payment calculated on a day to day basis (and compounded with Monthly rest), for each day of the delay	any Procurer beyond its Due Date month billing, a Late Payment Surcharge shall be payable by such Procurer to the Seller at the rate of one point two five percent (1.25%) per month as per UPERC Regulations	(T&C of Generation Tariff) Regulations, 2009	d
44	11.3.5	For payment of any Bill before Due Date, the following rebate shall be paid by the Seller to the Procurer in the following manner. [Note: These rebate rates along with the slabs can be changed and decided by the Procurer at the time of issuing the Bid Documents] a) Provisional Bill will be raised by the Seller on the last Business day of the Month where the Capacity Charges shall be based on the Declared Capacity for the full Month and the Energy Charges shall be based on the final implemented Scheduled Energy upto 25th day of the Month. Rebate shall be payable at the rate of two point two five percent (2.25%) of the amount (which shall be the full amount due under the Provisional Bill) credited to Seller's account on first day of the Month and rebate amount shall reduce at the rate of zero point	For payment of Bills of capacity charge and energy charges through the letter of credit on presentation, a rebate of two percent (2%) shall be allowed. If the payments are made other than through a Letter of Credit but within a period of one months from the date of presentation of bills by seller a rebate of 1% shall be allowed as per UPERC Regulations. The above rebate will be allowed only to those Procurers who credit to Seller's account the full Monthly Bill. However, no rebate shall be payable on the bills raised on account of Change in Law relating to taxes, duties and cess	As per UPERC (T&C of Generation Tariff) Regulations, 2009	Approve d

CE. (P.P.A.)
U.P.P.C.L.
Shakti Bhawan Extn
Lucknow.



Frank

zero five percent (0.05%) for each day, upto fifth (5th) day of the Month.

b) Applicable rate of rebate at (a) above shall be based on the date on which payment has been actually credited to the Seller's account. Any delay in transfer of money to the Seller's account, on account of public holiday, bank holiday or any other reasons shall be to the account of the Procurers.

c) Two percent (2%) rebate for credit to Sellers account made within one (1) Day of the presentation of Monthly Bill for the Month for which the Provisional Bill was raised earlier.

d) For credit to Seller's account made on other days the rebate on Monthly Bill shall be as under:
Number of days before Due Date of Monthly Bill
Rates of Rebate applicable
29 Two percent (2.00%)
Each day thereafter upto the Due Date 2% less
 $[0.033\% \times \{29 \text{ less number of days before Due Date when the payment is made by the Procurers}\}]$

e) Rebate of two point two five percent (2.25%) to two point zero five percent (2.05%) will be available only to those Procurers who credit

CE (P.P.A.)
U. P. P. O. Lt.
Shakti Bhawan Bstn.
Lucknow.



one hundred percent (100%) of the Provisional Bill within first five (5) days of the Month to Seller's account/designated account and balance amount, if any, based on Monthly Bill (as per REA) within the Month.

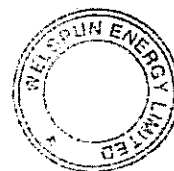
f) In the event only part amount of Provisional Bill is credited to Seller's account, within first five (5) days and the balance amount is credited to Seller's account during other days of the Month, rebate will be paid on such part amount, at the rate of two percent (2%) plus zero point zero three three percent (0.033%) per day for the number of days earlier than the 6th day when such part amount is credited to Seller's account;

g) The above rebate will be allowed only to those Procurers who credit to Seller's account the full Monthly Bill.

h) No rebate shall be payable on the bills raised on account of Change in Law relating to taxes, duties and cess;

i) If the Provisional Bill has not been paid by the date of receipt of the Monthly Bill then such Provisional Bill shall not be payable provided in case the Provisional Bill has already been paid then only the difference

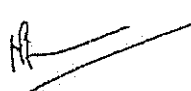
CE (P.P.A.)
U.P.P.C.L.
Shakti Bhawan Bldg
Lucknow




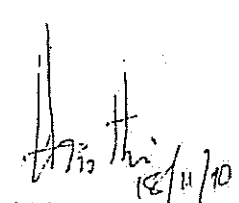
Forfeit

		between the Monthly Bill and Provisional Bill shall be payable			
45	Schedule 5 : 1.1 (ii) (d)	The Unit must operate to its Contracted Capacity with Fuel quality and water temperature available at the time of Testing and no adjustment shall be allowed for any variation in these parameters	The Unit must operate to its Installed Capacity with Fuel quality and water temperature available at the time of Testing and no adjustment shall be allowed for any variation in these parameters	Modified inline with Project specific requirement	Approved
46	Schedule 7	Tariff Based Schedule	UPERC Regulations based Tariff	As per UPERC (T&C of Generation Tariff) Regulations, 2009	Approved

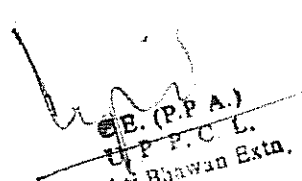
15. With the above deviations, the Commission approves the draft PPAs submitted by the petitioner.
16. These generating plants shall be covered under UPERC (Terms and Conditions of Generation Tariff) Regulations, 2009 and its amendments thereof. Either party to PPA may approach the Commission for specific relief under these regulations if such provision or remedy is not available in the PPA signed between them.
17. The generating plant/company shall abide by the provisions of the Act, Rules, Codes, Regulations, Orders and Directions of the appropriate Authority/Commission issued from time to time regarding generation and evacuation of electricity.
18. The petitions are disposed of.


(Meenkshi Singh)
Member


(Shree Ram)
Member


(Rajesh Awasthi)
Chairman

Lucknow Dated 18th November 2010


S.E. (P.P.A.)
U.P.P.C.L.
Shakti Bhawan Extn.
Lucknow.

