

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SCO NO. 220-221, SECTOR 34-A, CHANDIGARH**

**Petition No. 18 of 2012
Date of Order: 03.10.2012**

In the matter of : Petition regarding signing of Fuel Supply Agreement with
M/s South Eastern Coalfields Limited, Bilaspur
(Chhatisgarh) in respect of 1400 MW Rajpura TPP.

AND

In the matter of: Punjab State Power Corporation Limited
Versus
Nabha Power Limited

Present: Smt.Romila Dubey, Chairperson
Shri Virinder Singh, Member
Shri Gurinderjit Singh, Member

ORDERx

This petition has been filed by Punjab State Power Corporation Limited (PSPCL) in the matter of Fuel Supply Agreement to be entered into for Nabha Power Limited (NPL). PSPCL has stated that erstwhile Punjab State Electricity Board (succeeded by PSTCL and PSPCL after unbundling) entered into a Power Purchase Agreement (PPA) dated 18.01.2010 with Nabha Power Limited, whereunder respondent NPL agreed to establish, operate, maintain, generate and supply power from the Power Project of 2x700 MW (1400 MW) capacity at village Nalash, Rajpura (Punjab). The said Power Project was awarded under a Case-2 competitive bidding initiated by PSEB in terms of the approval granted by the Commission and in terms of Section 63 of the Electricity Act, 2003, the Standard Bidding Documents (SBD) and Guidelines issued by Government of India (Guidelines).

2. Regarding Fuel Supply Agreement (FSA), the petitioner PSPCL has reproduced the relevant clauses of the Request for Proposal (RfP) and the PPA as under:-

- i) Provision at page-11 of the RfP issued to all the bidders:-

“2.1.3 Fuel Supply Agreement will be signed between the Procurer and the Fuel Supplier. The same agreement will have a clause whereby the Procurer has a right to assign this agreement for a specific period; within the term of the Fuel Supply Agreement (“FSA”) to a third party. Accordingly, the FSA will be assigned to the Selected Bidder during the term of the PPA”.

- ii) As per SBDs, and the Power Purchase Agreement (“PPA”) signed with NPL on 18.01.2010, the definition clause of Fuel Supply Agreement reads as under:-

“Fuel Supply Agreements⁶ [as Applicable] means the agreement(s) entered into between the Seller and the Fuel Supplier for the purchase, transportation and handling of the Fuel, required for the operation of the Power Station. In case the transportation of the Fuel is not the responsibility of the Fuel Supplier, the term shall also include the separate agreement between the Seller and the Fuel Transporter for the transportation of Fuel in addition to the agreement between the Seller and the Fuel Supplier for the supply of the Fuel”.

⁶This definition may be modified keeping in mind the entity responsible for fuel procurement / allocation of linkage viz. the Procurer or the Seller.

- iii) As per Power Purchase Agreement signed with NPL, definition of ‘Fuel’ reads as under:-

“Fuel” means primary fuel used to generate electricity namely, domestic coal.

3. As per requirement of SBD guidelines, fuel linkage was arranged by the Procurer PSPCL before submission of RfP bids. South Eastern Coalfields Limited (SECL) issued the Letter of Assurance (LOA) for 5.55 million tones per annum (mtpa) of coal vide No.SECL/BSP/S&M/COMML/359/NPL TPS(LOA)/3515 dated 11/18.12.2008. Copy of LOA was supplied to all the bidders before submission of RfP bids.

4. The respondent NPL informed petitioner PSPCL that SECL (a subsidiary of Coal India Limited) had circulated draft MoU alongwith the FSA with following changes amongst the other conditions and requested for consent of the petitioner PSPCL to sign the FSA.

- “i) As per FSA clause No.4.3 under heading ‘Source of Supply’, the Coal India Limited’s subsidiary will arrange for the imported coal for the balance quantity to be supplied at the prevailing imported coal prices;
- ii) As per FSA clause No.2.0 under heading Period of Agreement the Fuel Supply Agreement will be only for a period of 5 years at present subject to further renewal as against 25 years being the total tenure of the Power Purchase Agreement”.

As per the draft MoU clause No.6 (vii), “Quantum of supply of indigenous coal under the FSA shall be at the sole discretion of Seller from time to time but shall not exceed 50% of ACQ under any circumstances”.

5. Petitioner PSPCL further submitted that respondent NPL has been representing to the petitioner that in case Fuel Supply Agreement with the above changes suggested by SECL is not signed, the coal linkage of 5.55 mtpa may be cancelled and no coal may be provided for the project by SECL.

6. Petitioner, PSPCL has further stated that the element of imported coal appearing in the ‘Source of Supply’ clause of the FSA has implications on cost of generation but the PPA clearly provides for determination of energy charges on domestic coal. In view of sub-article 1.2.3 of Schedule 7 under heading “TARIFF” of the PPA, the ‘Monthly Energy Charges’ are directly linked with weighted average actual cost to the Seller for purchasing, transporting and unloading the coal most recently supplied to and at the project before the beginning of month (expressed in Rs/MT in case of domestic coal).

7. The petitioner PSPCL has prayed to :-

- (a) initiate a proceeding on the aspect of signing of the Fuel Supply Agreement by the respondent with the SECL for sourcing of the coal requirements for the Power Project of Nabha Power Limited for generation and supply of electricity to the petitioner;
- (b) pass such direction as considered appropriate in regard to the signing of the Fuel Supply Agreement by the respondent with the SECL; and
- (c) pass such further Order or Orders as this Commission may deem just and proper in the circumstances of the case.

8. The petition was admitted vide Order dated 23.04.2012. During hearing for admission of the petition on 17.04.2012, Petitioner, PSPCL submitted that it intended to revise the petition in view of revision of Government of India (GoI) policy to assure supply of domestic coal upto 80%. PSPCL was directed to revise the petition and also to calculate the financial implication of revised policy i.e. use of imported coal to the extent of 20%. Respondent NPL was directed to check and confirm suitability of their plant equipment for using blended coal with imported component upto 20% and submit the details of implications on the cost of generation in case change in the Fuel Supply Agreement was made as per draft MoU/FSA circulated by the SECL and also in line with the latest policy of Ministry of Coal and Mines, Government of India.

In the next hearing held on 22.5.2012, the petitioner PSPCL was directed to file the revised petition by 18.6.2012 with advance copy to the respondent NPL who were also directed to file its reply by 25.6.2012. Respondent, NPL vide Ref: NPL/PSERC/18/001 dated 25.06.2012 submitted that there were certain policy developments currently being deliberated in Government of India which would have an impact on the coal supply for thermal projects. As these policy developments and their impact on coal supply have to be analysed and incorporated in the reply, respondent NPL requested for grant of extension in time to file reply to the petition.

9. Petitioner PSPCL filed additional submissions vide C.E./ARR & TR memo No.5564/TR-5/512 dated 11.7.2012 with a copy to respondent NPL. Petitioner PSPCL submitted that it had set out in the application / petition for directions, the facts and circumstances relating to signing of the FSA with SECL and the difficulties faced in respect of the same on account of the change which had come into existence in the policy of coal linkage earlier given under the New Coal Distribution Policy 2007 (NCDP 2007), on account of which SECL had not been signing the FSA on the same terms and conditions as envisaged under NCDP 2007. The respondent NPL had sent a letter dated 15.06.2012 to petitioner, PSPCL on the signing of the Fuel Supply Agreement with SECL forwarding therewith the letter dated 17.02.2012 from Ministry of Coal, Government of India and the letter dated 29.03.2012 from SECL attaching thereto the list of various projects according to the year of likely benefit including that of the respondent. Petitioner PSPCL submitted in its additional submissions that without prejudice to its rights and contentions under PPA, presently there was need to pursue the matter with the Government authorities to pre-pone the supply of the coal from the dates indicated in the list forming part of the above mentioned letters to dates consistent with the commercial operation of the various Units of the respondent's project as envisaged under PPA. Petitioner, PSPCL further submitted that it had become necessary to decide on the extent to which the model FSA now proposed by the SECL should be agreed to. The consequences of not signing the FSA as and when proposed by SECL may result in coal linkage being lost in which case the project would not have any coal supply. In such circumstances, without prejudice to the interse rights and contentions of the respective parties, there may be serious implications on PSPCL getting power supplied from the project on account of coal being not available. On the other hand, signing of the model FSA will have implications including financial on the purchase of electricity. Petitioner, PSPCL submitted that in view of the letter dated 15.06.2012 giving the status of the proposals of the SECL, there was need to pursue the matter with the Ministry of Coal and coal companies for preponing the supply of coal from the dates consistent with the commercial operation schedule as provided in the PPA.

10. Respondent, NPL filed reply vide Ref: NPL/PSERC/18/002 dated 23.08.2012 and submitted that as per new model FSA amended in May 2012, MoU, CIL and Gol policies, it is not mandatory for CIL and its subsidiaries to supply domestic coal and imported coal in the ratio of 80:20. On the contrary the CIL and its subsidiaries have the prerogative to supply any mix of domestic and imported coal. Under the new Model FSA, CIL and its subsidiaries have an obligation to pay a very meagre penalty if targeted supply of 80% of the Assured Coal Quantity (ACQ) is not met by them. Respondent NPL further submitted that CIL had instructed its subsidiaries including SECL to initiate signing of FSAs for projects which would get commissioned before 31.03.2015 and are listed in the Central Electricity Authority's (CEA) compilation. Respondent NPL also submitted that due to erroneous detailing in the records of CEA, only one Unit (Unit 1) of the Rajpura Project figures in the year 2014-15 whereas the commissioning of Unit 2 of the project has been recorded in year 2015-16, after 31.03.2015. As per PPA, the commissioning of Unit No.1 and Unit No. 2 is scheduled in January 2014 and May 2014 respectively. This will have serious and adverse implications on the progress of the project, particularly Unit No. 2, and the proposed coal washery and logistics facilities. Respondent, NPL has further brought out that total quantum of 6.68 mtpa coal would be required to run the project with 1400 MW capacity at the Normative Availability of 85% as per the PPA. The Units configuration change for the project from 660 MW to 700 MW each for both Units was done as per the terms of Article 3.1.1A of the PPA pursuant to the approval of petitioner, PSPCL. Against the requirement of 6.68 mtpa for the project, the present quantum of coal linkage under the Letter of Assurance (LOA) issued for the project through SECL is only for 5.55 mtpa. Respondent, NPL has given the detail of GCV (k Cal / kg), Rate Rs./Tonne of domestic coal of SECL, coal likely to be imported from South Africa, Indonesia or Australia and its impact on upward revision of variable cost of power. Regarding compatibility of boiler for using imported coal, Respondent/NPL has submitted that the project including the boiler has been designed based on PPA for usage of domestic coal. Respondent, NPL has submitted that it may be possible to use some amount

of imported coal in the boiler, however, the technical implications of such usage may require additional investigation after ascertaining the exact source and technical parameters of the imported coal. The cost and time implications for making arrangement for blending of imported coal would result in the increase of capital cost of the project. NPL has submitted that in view of the benefits of using entirely domestic coal at the project and the disadvantages associated with supply on usage of imported coal, it would be prudent to use domestic coal from the "Pachwara Central Coal Block" (Pachwara Coal Block) allocated to PSPCL / State of Punjab for usage at Rajpura Power Project besides other power projects in Punjab.

Accordingly the respondent, NPL has prayed to dispose of the petition with the directions to :-

- (a) direct the petitioner to take all requisite steps as mentioned in para 10 to ensure that the FSA for Unit No.2 which is expected to be commissioned well before 31.03.2015 is executed with SECL alongwith Unit No.1 as per the current policies of the Ministry of Power, the Ministry of Coal and the CIL;
- (b) direct the petitioner to take all requisite steps as mentioned in para 9 to ensure supply of such quantum of coal from the Pachwara Coal Block to the Project which would be sufficient to meet the shortfall in supply of coal under the FSA with SECL to ensure that the operation of the Project at Normative Availability under the PPA is not jeopardized;

Alternatively, direct usage of imported coal as well as domestic e-auction coal to the extent feasible, for the Project to achieve the Normative Availability as per the PPA and also direct consequential amendments (including impact on the operation of the Project) in the PPA on account of using imported coal;

- (c) in the event of short supply of coal resulting into fall of the Project's generation capacity below the Normative Availability in terms of the PPA, the petitioner, PSPCL should be directed to pay Capacity Charges for the short fall in generation upto the Normative Availability;

- (d) allow upward tariff revision for the Project keeping in view the additional capital costs to be incurred by the respondent in view of setting up blending mechanism;
- (e) pass appropriate Orders with respect to pass through of the additional cost incurred by NPL in setting up of washery necessary for transportation and use of washed coal for the Project; and in the interim till the time washery is set up, allow pass through of charges incurred for washing of coal through commercial washeries.

11. Petitioner, PSPCL and respondent, NPL argued the case on 11.09.2012 and emphasized the urgency to execute the Fuel Supply Agreement with SECL without taking into account and without prejudice to the rights and obligations of the parties under Power Purchase Agreement dated 18.01.2010 at this stage. After hearing the views of both sides, the Commission decided to close further hearing of the petition. PSPCL and NPL were directed to file written submissions within two days vide Order dated 13.09.2012.

12. In compliance to the Order of the Commission, petitioner, PSPCL filed the written submissions vide C.E./Thermal Designs letter No.6234 dated 13.09.2012. It submitted interalia that there was no merit in the objections raised by the respondent, NPL to the execution of FSA by the respondent. It was further submitted that without prejudice to the rights and contentions of the respective parties on various aspects sought to be raised by the respondent, these may be considered at the appropriate stage on merits. The petitioner, however denied that there was any merit in these contentions of the respondent. PSPCL submitted that the respondent be directed to take steps and execute FSA with South Eastern Coalfields Limited. Respondent No.2 also filed written submissions in compliance to Orders dated 13.09.2012 vide Ref:NPL/PSERC/18/003 dated 15.09.2012. It submitted that without prejudice and in addition to the obligation of petitioner, PSPCL to arrange the assured quantum of coal under the Letter of Assurance for the project, petitioner was responsible to arrange the coal for the entire capacity of the project i.e. 1400

MW as the respondent was allowed to change the unit configuration from 1320 MW to 1400 MW under Article 3.1.1.A of the PPA by the petitioner vide its letter dated 13.04.2010. The arrangement of LOA by PSPCL through SECL is only one of the sources for supply of coal for the project. Apart from this source, PSPCL was also under an obligation to arrange the coal from other sources i.e. coal blocks like Pachwara and or e-auction of coal etc. The respondent also reiterated the prayers made in the reply of the petition.

13. Findings and Decision :

A. After going through the petition, additional submissions, reply, rejoinder and written submissions filed by the petitioner and the respondent and hearing the arguments put-forth by the parties, the Commission with regard to the prayer of the petitioner, gives its findings as under:

The petitioner has prayed to:

- (i) initiate a proceeding on the aspect of signing of the Fuel Supply Agreement by the respondent with SECL for sourcing of the coal requirements for the power project of Nabha Power Limited for generation and supply of electricity to the petitioner;
- (ii) pass such direction as considered appropriate in regard to the signing of the Fuel Supply Agreement by the respondent with SECL; and
- (iii) pass such further order or orders as this Commission may deem just and proper in the circumstances of the case.

B. The Commission notes that Punjab State Electricity Board (PSEB now Punjab State Power Corporation Limited; PSPCL) in June 2009, through a special purpose vehicle (SPV) in the name of Nabha Power Limited(NPL), a wholly owned company of the then PSEB as on that date, issued the Request for Proposal (RfP) (Annexure-B of the petition) for selection of developer through tariff based bidding process for procurement of power (1200 MW \pm 10%) on long term basis from power station to be set up at Village Nalash,

near Rajpura, District Patiala under the Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees dated 19.1.2005 issued by the Ministry of Power, Government of India (Guidelines). The Commission notes further that the competitive bids were invited by the petitioner under Case-2 bidding whereunder Project site stands identified and fuel allocation provided, in this case as per scenario 4 of the RfP i.e. where fuel linkage has been provided by the procurer. The Power Purchase Agreement (PPA) (Annexure-A of the petition) was signed between the then PSEB (referred to as the Procurer in the PPA) and Nabha Power Limited (referred to as the Seller in the PPA) on 18.1.2010. The Commission understands that NPL signed the PPA as the Seller, after executing the Share Purchase Agreement (SPA) between the shareholders of NPL (then a wholly owned company of PSEB) and the selected bidder (L&T Power Development Limited; LTPDL) for the purchase of one hundred percent (100%) of the shareholding of the NPL, thereby the same becoming a wholly owned company of LTPDL. To clarify the matter, it is brought out that the SPV NPL which was incorporated by the then PSEB for initiating the competitive bidding process for procurement of power was transferred to the successful bidder LTPDL by way of the SPA whereby one hundred percent (100%) of the shareholding of NPL was purchased by LTPDL and then the PPA was signed by NPL, as a wholly owned company of LTPDL with the then PSEB. Rightly so, in the PPA, the then PSEB has been referred to as the Procurer and NPL as the Seller.

C. The petitioner has submitted that as per requirement of Standard Bidding Document Guidelines, fuel linkage was arranged by the Procurer(petitioner) before the submission of RfP bids and the Letter of Assurance (LOA) for 5.55 million tonnes per annum (mtpa) coal was issued by South Eastern Coalfields Limited (SECL). The Commission observes that in the LOA no. SECL/BSP/S&M/COMML/359/NPL TPS(LOA)/3515 dated 11/18.12.2008 (Annexure-C of the petition) issued by SECL, the following points are noteworthy:

- i) The LOA was addressed to Nabha Power Limited
- ii) Nabha Power Limited has been referred to as “the Assured”
- iii) The LOA mentions that SECL, referred to as “the Assurer”, provisionally assures that it would endeavour to supply coal to the Assured (subject to the terms & conditions provided therein) in consideration of the request by NPL for issuance of LOA requiring 55,50,000 tonnes per annum (tpa) of F Grade coal for its 1200 MW Power Plant located at Rajpura Thermal Power Plant, Village Nalash, near Rajpura, District Patiala referred to as “the Plant”.
- iv) Under Clause 1 ‘Scope of Assurance’, sub-clause 1.1 ‘Quantity, Grade and Source of coal’ of the LOA, it has been mentioned that “Subject to the Assured fulfilling its obligations in accordance with Clause 2 to the satisfaction of the Assurer within the period of validity of this LOA and the signing of the Fuel Supply Agreement (FSA) within three (3) months thereafter, the Assurer shall endeavour to supply, as per the normative requirement of the Plant 55,50,000 tonnes per annum (tpa) of F Grade* coal to the Assured, which shall be subject to review and assessment by the Assurer of the actual coal requirement of the Assured as well as the incremental availability of coal from the mines of the Assurer and of imported coal. It is expressly clarified that in the event that the incremental coal supplies available with the Assurer (after meeting out the commitments already made) is less than the incremental coal demand, such incremental availability shall be distributed on pro-rata basis and balance quantity of coal requirement shall be met through imported coal available with the Seller, which too shall be distributed on pro-rata basis.

**Parameters in case of imported coal shall be specified by CIL/Assurer.*

- v) Under Clause 2 ‘Fulfillment of Assured’s obligations’ sub-clause 2.1 ‘Time-bound achievement of milestones’ it is mentioned that “The Assured shall undertake to complete all the activities, as mentioned in Annexure 1 to this LOA, within twenty four (24) months from the date of issue of LOA and each activity within the time-period mentioned against it unless such completion is affected due to any Force Majeure

event provided that such Force Majeure event shall not include inability or failure to obtain financing for the Plant or failure to comply with the existing rules and regulations with respect to statutory clearances applicable to the Plant or any such event resulting from the negligence, omission or default by the Assured; and the Assured notifies in writing within seven (7) days of occurrence of any such Force Majeure event along with documentary evidence of the same.

- vi) Further, under sub-clause 2.2 'Reporting Requirement' it is mentioned that " The Assured shall submit the status of each activity/milestone including the documentary evidence in relation to such status within the time-period as mentioned in Annexure 1."
- vii) Under Clause 3.4 'Encashment of Commitment Guarantee' sub- clause 3.4.2 'Failure to sign the FSA', it is mentioned that "The Assurer shall have the right to encash the CG in the event of failure by the Assured to sign the FSA within three (3) months from the expiry of validity of the LOA or the satisfactory achievement of all the milestones, as shown in Annexue 1, whichever is earlier. It is also clarified to the Assured that the percentage of annual contracted quantity fixed with respect to Take or Pay obligations in the FSA may be reviewed by the Seller in light of its coal availability and coal commitments, and amended on year-to-year basis during the term of the FSA.
- viii) Under Clause 4 'Validity of the LOA' it is mentioned that "The LOA shall remain valid for a period of twenty four (24) months from the date of issue of this LOA unless extended for three (3) months in accordance with Clause 3.5 hereof, and shall stand annulled upon expiry of such period.
- ix) Under Clause 5 'Assignment of the LOA' it is mentioned that " The Assured shall not, without the express prior written consent of the Assurer, assign to any third person the LOA, or any right, benefit, obligation or interest therein or thereunder.

D. The Commission further notes the following contents in the various documents/submissions:

- i) As per the petition, in the RfP (Annexure B of the petition), clauses 2.1.3 and 2.1.3A read as under:

2.1.3 “A Fuel Supply Agreement will be signed between the Procurer and the fuel supplier. The same agreement will have a clause whereby the Procurer has a right to assign this agreement for a specific period, within the term of the Fuel Supply Agreement (“FSA”) to a third party. Accordingly, the FSA will be assigned to the Selected Bidder during the term of the PPA.”

2.1.3A “Once the FSA as per 2.1.3 has been assigned to the Seller, any penalty for not procuring the minimum guaranteed fuel shall be born by:

- a) The Procurer, if the availability of the Seller’s generating plant has been more than the minimum offtake guaranteed by the Procurer; and
- b) The Seller, if the availability of Seller’s generating plant has been less than the minimum availability guaranteed by the Seller.”

- iii) As stated in the petition, as per the SBDs and the PPA (Annexure A of the petition), the definition of FSA reads as under:

“Fuel Supply Agreements⁶[as Applicable] means the agreement(s) entered into between the Seller and the Fuel Supplier for the purchase, transportation and handling of the Fuel, required for the operation of the Power Station. In case the transportation of the Fuel is not the responsibility of the Fuel Supplier, the term shall also include the separate agreement between the Seller and the Fuel Transporter for the transportation of Fuel in addition to the agreement between the Seller and the Fuel Supplier for the supply of the Fuel;

⁶*This definition may be modified keeping in mind the entity responsible for fuel procurement/allocation of linkage viz. the Procurer or the Seller;*”

iv) In the Model FSA (enclosed with Annexure-D of the petition), under Clause 19.0 'Miscellaneous' sub-clause 19.7 'Assignment' reads as under:

“The Purchaser shall not, without the express prior written consent of the Seller, assign to any third party this Agreement or any part thereof, or any right, benefit, obligation or interest therein or thereunder.”

E. The Commission also notes that the petitioner in its submission dated 13.9.2012 submitted that Coal India Ltd., vide its letter dated 29.5.2012 informed the coal companies including SECL on the modification of signing the FSA with regard to it having included the power plants with long term PPA with distribution companies which have been commissioned or would get commissioned after 31.9.2009 and on or before 31.3.2015 (instead of 31.12.2011 earlier).

F. In response to the petition, the Commission notes that the respondent appears to have a few other concerns and apprehensions, which have been brought out in its reply to the petition and subsequent submissions. The Commission opines that these do not fall within the ambit of the decision with regard to the prayer made in this petition, which is for seeking suitable direction(s) for signing of the FSA. Accordingly, other concern(s), if any, should not become an impediment in the course of signing of the FSA. In the circumstances, the Commission directs the respondent to sign the FSA with SECL immediately. In case the milestones as per the LOA have not been achieved so far, forthwith action to complete all the activities mentioned therein be taken by the respondent. The consequences for any further delay in signing the FSA by the respondent shall be to its account. Simultaneously, the petitioner is directed to extend full co-operation to the respondent with regard to the signing of the FSA. As a matter of abundant clarity, the Commission would like to point out that in the opinion of the Commission, the petitioner has no role qua the FSA and SECL and the FSA is required to be signed between NPL and SECL, which for the present is one of the critical

links in the chain for timely execution of the Project. It is seen that as per the LOA, NPL is 'the Assured' and the LOA further brings out that the FSA shall be signed by the Assured with SECL. The Commission notes that in the PPA also, the definition of FSA provides for the document to be signed by the Seller with the Fuel Supplier. As per the provisions in the LOA and FSA brought out above, assignment of these documents is not allowed without the prior written express consent of SECL. Given the current scenario of shortage of power in the State, the Commission considers it of utmost importance and in the interest of all the stakeholders viz. the generator, the procurer and the consumers, that the Project is commissioned in time. In case the respondent has grievance(s) and remedy for the same is not available under the PPA or possibly can not be resolved amicably between the parties mutually and falls within the statutory competency of the Commission, it is free to file a separate petition under the relevant provisions in the Electricity Act, 2003 at appropriate stage.

G. The Commission advises respondent/NPL to vigorously pursue the matter with all concerned Government authorities e.g. SECL, Coal India Ltd., Ministry of Coal, Ministry of Power and Central Electricity Authority etc. for maintaining the status quo with respect to quantity/quality/grade/origin of coal committed as per the LOA. On its part petitioner/PSPCL should co-ordinate with NPL and pursue the matter, even at highest level, with the State /Central Govt.

Accordingly, NPL is directed to sign the FSA with SECL without prejudice to all the rights and contentions of the parties under the Power Purchase Agreement dated 18.1.2010.

The petition is disposed of accordingly.

Sd/-
(Gurinderjit Singh)
Member

Sd/-
(Virinder Singh)
Member

Sd/-
(Romila Dubey)
Chairperson

Chandigarh
Dated: 03.10.2012