BEFORE THE CHHATTISGARH STATE ELECTRICITY REGULATORY COMMISSION

RAIPUR

Misc. Petition No _____ of 2021

FILE No.

CASE No.

AND IN THE MATTER OF:

DB Power Limited, having its corporate office at
C-31, Naman Corporate Link,
3rd floor, G Block, Opposite Dena Bank,
Bandra-Kurla Complex, Bandra (East),
Mumbai- 400051

And its plant at

Village: Badadarha,
Dist: Janjgir-Champa,
Chhattisgarh
Through its authorized Signatory
Shailendra Bajpai vide resolution dated 07.02.2017

..... **Petitioner**

AND

1. Chhattisgarh State Power Trading Company Limited
   Having its Head office at
   Vidyut Seva Bhawan,
   Dangania, Raipur- 492013, (C.G)
   Chhattisgarh
   Through its Managing Director

2. Chhattisgarh State Power Distribution Company Limited
   Block – 8, CS Power Companies Campus,
   Danganiya, Raipur (C.G)
   Though its Managing Director ..... **Respondents**

Petition for Truing Up of Energy (Variable) Charges as well as for approval of other reimbursable expenses for the period 01.04.2020 to 31.03.2021 in terms of Section 86 of the Electricity Act 2003 read with Tariff policy in respect of 5% of the net generated power procured by the Respondent pursuant to the long term PPA dated 05.01.2011.

AND

Petition for Approval of provisional Energy Charges and other reimbursable expenses for FY 2022-23 in terms of Section 86 of the Electricity Act 2003 read with Tariff policy for 5% of the net generated power procured by the Respondent pursuant to the long term PPA dated 05.01.2011.

MOST RESPECTFULLY SHOWETH:

1. DESCRIPTION OF THE PETITIONER

a. The Petitioner is a generating company incorporated under the Companies Act, 1956. The Petitioner is operating a 1200 MW (2 x 600) Thermal Power Plant at Village Badadarha, in District Janjgir-Champa, Chhattisgarh, Unit-I of which achieved COD on 03.11.2014 and Unit-II on 26.03.2016. The copies of the letters dated 14.11.2014 and 04.04.2016 issued by Central Electricity Authority (CEA) for Unit-I and II respectively are annexed hereto and marked as **Annexures P-1 and P-2**.

b. The Petitioner is filing this Petition for Truing Up of the energy charges as well as for approval of other reimbursable expenses for F.Y 2020-21. The Petitioner is also seeking Approval of provisional Energy Charges and other reimbursable expenses for FY 2022-23.

c. The present Petition is being filed by Shailendra Bajpai, the authorized signatory of the Company having been duly authorized by a resolution of Board of Directors dated 07.02.2017 to file and prosecute the present petition for all intents and purposes. As such he is duly authorized and competent to sign and verify the present petition as well as file and institute the present petition for and on behalf of the Petitioner. A copy of the said resolution of Board of Directors dated 07.02.2017 is annexed hereto and marked as **Annexure P-3**.

2. DESCRIPTION OF THE RESPONDENTS

a. The Respondent No. 1 is one of the successor companies of erstwhile Chhattisgarh State Electricity Board and a trading arm of the State of Chhattisgarh engaged in the business of trading of electricity and having its office at the address mentioned herein above in the cause title.

b. The Respondent No. 2 is a deemed distribution licensee in the State and one of the successor companies of erstwhile Chhattisgarh State Electricity Board. The Respondent No. 2 is procuring from the Respondent No.1 power supplied by the Petitioner on back to back basis and is therefore a necessary party to this Petition.

3. SUBJECT MATTER IN BRIEF INCLUDING CAUSE OF ACTION

The present Petition is being filed for truing up of the Energy charges of Rs. 1.758/ unit as well as for approval of reimbursable expenses of Rs.0.120/unit for the period 01.04.2020to 31.03.2021in respect of the 5% of the net generated power being procured by the Respondents pursuant to the long term PPA dated 05.10.2011. The Petitioner is also seeking approval of provisional energy charges of Rs.1.758/unit and other reimbursable expenses of Rs. 0.120/unit for F.Y 2022-23.

4. RELEVANT PROVISIONS OF THE ACT OR REGULATION

a. CSERC (Terms and Conditions for determination of tariff according to Multi-Year Tariff principles and Methodology and Procedure for determination of Expected revenue from Tariff and Charges) Regulations, 2015 ---- CSERC MYT Regulations 2015.
b. Chhattisgarh State Electricity Regulatory Commission (Conduct of Business) Regulations, 2009
c. The Electricity Act 2003
d. Tariff Policy
e. CSERC (Fees and Charges) Regulations, 2009

5. STATEMENT OF LIMITATION

This Petition is being filed in accordance with the terms of the PPA dated 05.01.2011 by which the Parties can agree on adhoc tariff and thereafter, if required, approach appropriate Commission for approval of energy charge. Though not agreed to by the Petitioner, the Respondents have been paying adhoc energy charges as determined by this Hon'ble Commission for power procured by Distribution Licensee. The Petitioner is filing this Petition within reasonable time of adhoc tariff being made applicable by Respondents. Hence, this Petition is in time.

6. STATEMENT OF JURISDICTION

The power plant of the Petitioner is located in the State of Chhattisgarh. The power is being supplied within the State of Chhattisgarh to the State Distribution Company through State Trading Company on back to back basis. Hence, this Hon'ble Commission has jurisdiction to entertain and adjudicate the present petition in terms of Section 86 of the Electricity Act, 2003 read with provisions of tariff policy.

7. FACTS OF THE CASE IN DETAIL

The facts and circumstances leading to the filing of the present Petition are enumerated herein below in the following paragraphs:

i. The Petitioner entered into a Memorandum of Understanding ("MOU") on 07.01.2008 with the State of Chhattisgarh and CSEB for setting up a coal based thermal power plant. An Implementation Agreement ("IA")dated 06.08.2009 was thereafter executed by the Petitioner with the State of Chhattisgarh and Chhattisgarh State Power Holding Company Ltd - CSPHCL (a successor company of CSEB). The copies of the said MOU dated 07.01.2008 and the Implementation Agreement dated 06.08.2009 are annexed hereto and marked as **Annexure P-4 and P-5 respectively**.

ii. As per the terms of the MOU and the IA, the Petitioner was required to provide, on an annualized basis, to the Government or

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its nominated agency, 5% of the net generated power (gross power generated minus the auxiliary consumption) generated by the project at the Energy (variable) charges, as may be approved by the Appropriate Electricity Regulatory Commission, if required. Under the MOU and IA, the Government also had a first right of refusal to purchase power up to 30% of the aggregate capacity of the generating units at tariff to be approved by the Appropriate Electricity Regulatory Commission, if required.

iii. In exercise of its first right of refusal, the Government of Chhattisgarh decided to purchase 30% of power of the aggregate capacity of the generating units and accordingly nominated the Respondent No. 1 as an authorized representative of the Government to execute power purchase agreement with the Petitioner. Pursuant thereto, a Power Purchase Agreement ("PPA") dated 05.01.2011 was executed between the Petitioner and the Respondent No. 1 for supply of 5% of the net generated power at the Energy (variable) charges as well as for supply of 30% of the aggregate capacity of the generating units at the tariff as may be approved by the Appropriate Commission, if required. A copy of the said PPA dated 05.01.2011 is annexed hereto and marked **Annexure P-6**. However, the Respondent No. 1 is procuring only 5% of the net power generated which in turn is being procured by the Respondent No. 2 on back to back basis. A copy of the letter dated 25.04.2017of Respondent No. 1 confirming that the power procured by it from the Petitioner is being procured by the Respondent No. 2 on back to back basis is annexed hereto and marked **Annexure P-7.** However, till date the Respondents have not furnished copy of any back to back PPA entered into between the Respondents due to which the Petitioner is compelled to procure coal from e-auction and/or from open market for generating and supplying power to the Respondents.

iv. The Petitioner submits that it also has a long term PPA with TANGEDCO for 208 MW, out of which 117 MW was operationalized from 01.08.2015 and the entire 208 MW from 05.10.2015. The Petitioner also has a long term PPA with Rajasthan Discoms for 311 MW, out of which 175 was operationalized on 30.11.2016; another 75 MW was operationalized from 27.03.2017 and the balance 61 MW was operationalized from 01.08.2018. It may be noted that both the PPA's with TANGEDCO and Rajasthan Discoms are case-1 PPA's executed pursuant to section 63 competitive bidding process and tariffs in respect of both the said PPA's have been adopted by respective SERC.

v. The details of the rate charged against each of the above referred section 63 PPA's are as under:

TABLE A

FY	RAJASTHAN DISCOMs			TANGEDCO		
	AFC	Variable charges	Total	AFC	Variable charges	Total
20-21	2.723	1.437	4.160	2.238	2.339	4.577

vi. The PPA dated 05.01.2011 entered into the parties stipulates that if the tariff is not determined then the Parties agree to jointly work out adhoc tariff.

vii. Since any adhoc tariff could not be agreed for the year FY 2020-21, the Petitioner has been billing the electricity supplied to Respondent No 1 at energy charges of Rs 1.60 /unit for four months beginning April 2020 to July 2020based on the tariff advised by Respondent No 1 from April 2019 and onwards. The letter dated 23.05.2019 of Respondent No 1 is annexed hereto and marked **Annexure P-8.**

viii. Subsequently, CSPTrDCL, via letter dated 27.07.2020, communicated to Petitioner to oblige with CSERC's order dt. 30.05.2020 wherein it was clarified that energy charges for FY 2020-21 shall be billed at the latest tariff determined by the Commission for the Generators whose tariff has been so determined. A copy of letter dated 27.07.2020 of Respondent No 1 annexed hereto and marked **Annexure P-9.**

ix. Petitioner, based on above communication, raised bills at the rate of Rs 2.483 / unit (i.e. the tariff determined under the latest Tariff Order dated 01.01.2020 under **Petition No. 43 of 2017(T) applicable for the year FY 2017- 18)** for all the months beginning April 2020 till March 2021. A copy of said Tariff Order is annexed hereto and marked **Annexure P-10.**

Section A

8. Part I

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i. The Petitioner submits that based on the audited accounts, the actual energy charges (based on coal procured under e-auction) incurred in supplying 5% of net generated power to the Respondent for F.Y 2020-2021 comes to Rs1.758/unit as against the energy charge of Rs 2.483/unit paid by the Respondents. So also, the reimbursable expenses duly audited are Rs. 0.120/unit.

ii. A table summarizing energy charge rate and various elements of reimbursable expenses is given hereunder:

TABLE B

True-Up Petition		From Apr'20 to Mar'21	
Total Units Supplied to the Respondents		**32,38,03,134**	
S. No.	**Component**	**Cost Incurred (Rs)**	**Cost (Rs/Unit)**
	Energy Charge		
1	Energy Charge Rate	56,90,84,007.13	1.758
	TOTAL	**56,90,84,007.13**	**1.758**
Other Cost Elements to be Reimbursed on Actual Basis			
2	ED Aux	1,61,21,975	0.050
3	Water Charges	48,03,974.61	0.015
4	Fly Ash	1,80,40,588.35	0.056
	TOTAL	**3,89,66,537.66**	**0.120**
	Application Fees	10,000	
	TOTAL	**60,80,60,544.78**	**1.878**

iii. METHODOLOGY ADOPTED FOR CALCULATING THE ENERGY CHARGE RATE

CSERC MYT Regulations 2015 provide mechanism for determining Energy Charge Rate and reads as under:

Energy charge rate (ECR) in Rupees per kWh on ex-power plant basis shall be determined to three decimal places in accordance with the following formulae for coal-based stations:

ECR =

[{(GHR- SFC x CVSF) x LPPF I CVPF I+ SFC x LPSFi] x 100 / (100-AUX)

Where,

AUX = Normative auxiliary energy consumption in percentage

CVPF = Gross calorific value of primary fuel as fired , in kCal per kg, per litre or per standard cubic meter, as applicable

CVSF = Calorific value of secondary fuel, in kCal per ml

ECR =Energy charge rate, in Rupees per kWh sent out

GHR =Gross station heat rate, in kCal per kWh

LPPF = Weighted average landed price of primary fuel , in Rupees per kg, per litre or per standard cubic meter, as applicable, during the month

SFC = Specific fuel oil consumption, in ml per kWh

LPSFi - Weighted Average Landed Price of Secondary Fuel in Rs./ml considered initially

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iv. The Petitioner has calculated the Energy Charge Rate applying the above mechanism. The detailed working of the Energy Charge rate, both Normative and Actual, for the year FY 2020- 21 is given hereunder:

ECR (Normative) =

{(GHR- SFC x CVSF) x LPPF / CVPF + SFC x LPSFi] x 100 / (100-AUX)

= [{(2375-0.5*10)*2.125/3020}+0.5*0.04]*100/(100-5.25)

=1.781 Rs/kWh

ECR (Actual) =

{(GHR- SFC x CVSF) x LPPF / CVPF + SFC x LPSFi] x 100 / (100-AUX)

= [{(**2300**-0.5*10) * **2.149**/3020}+**0.18***0.04]*100/ (100-**5.30**)

=1.734 Rs/kWh

TABLE C1: Computation of Landed Cost of Coal for FY 2020-21 – Normative and Actual

S. No.	Particulars	Unit	(Normative)	(Actual)
1	Quantity of Coal supplied by Coal company	MT	32,73,107	32,73,107
2	Adjustment in quantity supplied made by Coal company	MT	-	-
3	Coal Supplied by Coal company (1+2)	MT	32,73,107	32,73,107
4	Transit & Handling Losses (Normative - 0.8%)	MT	26,185	62,209
5	Net coal Supplied (3-4)	MT	32,46,922	32,10,898
6	Amount Charged by Coal Company	Rs.	5,34,23,58,029	5,34,23,58,029
7	Adjustment in amount charged made by coal company	Rs.	-	-
8	Total amount Charged (6+7)	Rs.	5,34,23,58,029	5,34,23,58,029
9	Transportation Charges by rail/road transport	Rs.	1,55,73,77,278	1,55,73,77,278
10	Adjustment in amount charged made by Railways/ Transport Company	Rs.	-	-
11	Demurrage Charges, if any	Rs.	-	-
12	Cost of diesel in	Rs.	-	-

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	transporting coal through MGR system, if applicable			
13	Total Transportation Charges (9+/-10-11+12)	Rs.	1,55,73,77,278	1,55,73,77,278
14	Total Amount Charged for coal supplied including Transportation (8+13)	Rs.	6,89,97,35,306	6,89,97,35,306
15	Landed cost of Coal	Rs./kg	**2.125**	**2.149**

TABLE C2: Computation of Station Heat Rate for FY 2020-21

(i) Gross Station Heat Rate - Normative

Normative Regulation 39.3(a)(a) of the CSERC MYT Regulation 2015 provide that the Gross Station Heat Rate of thermal Generating Stations with sub-critical technology shall be **2375 kcal/kwh.**

(ii) Gross Station Heat Rate – Actual [Based on "As Received Basis"] Coal

S. No.	Particulars	Unit	Qty.	GCV [kCal/ kg]
1.	**Coal Received FY 2020-21**			
1.1	Linkage	MT	24,46,927	3,410.64
1.2	Non-Linkage	MT	32,10,898	3,019.77
	Total (1.1 + 1.2)	MT	56,57,825	
2	**Coal Consumed FY 20-21**	MT		
2.1	Linkage	MT	24,46,927	3,410.64
2.2	Non-Linkage	MT	33,79,596	3,019.77
	Total (2.1 + 2.2)	MT	58,26,523	3,183.92
3	**Generation**	kWh	8,07,33,32,000	
4	**Specific Coal Consumption ((2 X 1000) / 3)**	Kg/kWh	0.72	
5	**GCV of Secondary Fuel Consumed (SFC)**	kCal/Kl	10,000	
6	**Secondary Fuel Consumed FY 2020-21**	Kl	1,488	
7	**Specific SFC consumed ((6 X 1000 X 1000) / 3)**	ml/kWh	0.18	
8	**SHR (4 X 2 + (7 X 5 / 1000))**	kCal/kWh	**2,299.68**	

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TABLE C3: Computation of Energy Charge Rate for FY 2020-21 – Normative and Actual

S.No.	Particulars	Unit	FY 2020- 21 (Normative)	FY 2020- 21 (Actual)
	Price of Fuel			
1	Price of Coal	Rs./ MT	2,125	2,149
2	Price of Oil	Rs./Kl	39,303	39,303

S.No.	Particulars	Unit	FY 2020- 21 (Normative)	FY 2020- 21 (Actual)
3	Auxiliary Consumption	%	5.25	5.30
4	Transmission Loss	%	-	-
5	GCV of Coal As Received Basis	kCal/kg	3,019.77	3,019.77
5	GCV of Coal As Fired Basis	kCal/kg	-	-
6	GCV of Secondary Fuel	kCal/ltr	10,000	10,000
7	Specific Oil Consumption	ml/kWh	0.50	0.18
	ECR Calculation			
8	Auxiliary Consumption	%	5.25	5.30
9	Calorific Value of Primary Fuel (CVPF)	kCal /kg	3,019.77	3,019.77
10	Calorific Value of Secondary Fuel (CVSF)	kCal /ml	10.00	10.00
11	Gross Station Heat Rate (GSHR)	kCal /kWh	2,375	2,300
12	Landed Price of Primary Fuel (LPPF)	Rs./kg	2.125	2.149
13	Specific Fuel Oil Consumption (SFC)	ml/kWh	0.50	0.18
14	Landed Price of Secondary Fuel (LPSFi)	Rs./ml	0.04	0.04
15	**ECR (Ex-Bus)**	**Rs./kWh**	**1.781**	**1.734**

v. Clause-13 of MYT Regulations, 2015 specifies mechanism for sharing of gains and losses on account of controllable factors. Accordingly, aggregate net gain on account of over achievement or aggregate net loss on account of under achievement in reference to the norms set in tariff order for efficiency linked controllable items shall be passed on to the beneficiary/consumer(s) and retained by the generating company in the ratio of 50:50 or as may be specified in the order of the Commission passed under these Regulations.

vi. Clause 11 of the MYT Regulations, 2015 specifies generation performance parameters like PLF, SHR, Auxiliary consumption, PAF as controllable factor.

vii. Based on Clause-11 and Clause-13 of the MYT Regulations, 2015 for sharing the gains/losses, the Petitioner submits request for approval of Energy Charge Rate of Rs. 1.758 / kWh for the year FY 2020- 21 as below

TABLE D: Energy Charge Rate for FY 2020- 21(after Sharing gains and Loss)

S No	Particular	Unit	FY 2020-21	
			Normative	Actual
1	ECR (Ex-Bus)	Rs./kWh	1.781	1.734
2	ECR (after Sharing gain and loss)	Rs./kWh	**1.758**	

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viii. The detailed working of the differential tariff and the total claim for differential tariff for the year FY 2020- 21 is given below.

TABLE E: Energy Charge Rate for FY 2020- 21(after Sharing gains and Loss

Total Claim for Differential Tariff for FY 20-21					
S.No	**Unit Supplied to CG (kWh)**	**Rate Based On E-Auction coal (Rs./Unit)**	**Ad-hoc tariff (Rs./unit)**	**Rate Difference (Rs./unit)**	**Differential Claim (Rs.)**
	(a)	(b)	(c)	(d)= (b) - (c)	(e) = (d) x (a)
1	32,38,03,133.500	1.758	2.483	-0.726	**-23,49,19,173.35**
	Other Cost Elements to be Reimbursed on Actual Basis				
2	ED on Aux				1,61,21,974.70
3	Water Charges				48,03,974.61
4	Fly Ash Expenses				1,80,40,588.35
5	Application Fees				10,000.00
	TOTAL (1+2+3+4+5)				**-19,59,42,635.70**

ix. The Broad Design Parameters and the Performance Guaranteed Schedule of BTG are annexed and marked as **Annexure P-11 (Colly) hereto.**

9. Each of the elements of energy charge rate reflected in Table C1– C3 above is explained hereunder:

a. Quantity of Coal Procured:

Coal is used as the Primary Fuel for Petitioner's Generating Units. The Petitioner submits that the quantity of coal considered is based on the audited accounts as certified by the Petitioner's Chartered Accountant. The month wise details of coal procurement including coal procured through e-auction are given at **Annexure P- 13.** The daily coal consumption data in respect of Unit I and Unit II are given at **Annexure P-14.**

The Petitioner submits that the linkage coal is made available only if the power is supplied to the distribution licensee, either directly or through power trading company (like the Respondent) which, in tum, has a back to back long term PPA with the distribution companies. Since the Respondent No. 1 is a trading company and has not furnished a back to back long term PPA that it may have with any distribution licensee including the Respondent No. 2 against Petitioner's PPA, SECL refused to supply linkage coal against the Petitioner's PPA. As such, due to the non-availability of the linkage coal for power supplied to the Respondents, the Petitioner has utilized a mix of coal procured through e-auction and open market for generating 5% power supplied to the Respondent.

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In order to procure linkage coal, the Company had approached SECL more than once, from whom the Petitioner is procuring linkage coal. However, allocation was denied by SECL, citing non-availability of back to back PPA with any DISCOM by CSPTradeco. In view of the above, the Petitioner made multiple communications with Respondent No. 1 to arrange back to back PPA which is still pending. Some of the letters addressed by the Petitioner to

the Respondent No. 1 requesting co-operation for availing linkage coal are annexed and marked as **Annexure P-15collectively**

Ministry of Power, Government of India (MoP), vide letter dated 31.7.2013, had advised the Electricity Regulatory Commissions as under:

"4. As per decision of the Government, ***the higher cost of import/market based e-auction coal be considered for being made a pass through on a case to case basis by CERC/SERC to the extent of shortfall in the quantity indicated in the LoA/FSA and the CIL supply of domestic coal*** *which would be minimum of 65%, 65%, 67% and 75% of LOA for the remaining four years of the12th Plan for the already concluded PPAs based on tariff based competitive bidding.*

5. The ERCs are advised to consider the request of individual power producers in this regard as per due process on a case to case basis in public interest. The Appropriate Commissions are requested to take immediate steps for the implementation of the above decision of the Government."

Further, the Revised Tariff Policy, 2016 made specific provisions regarding pass through of the cost of imported coal/market-based e-auction coal for meeting the shortfall between the assured quantity/quantity indicated as ACQ in the LOA/FSA and Order in Petition No. 284/MP/2018 Page18 of 44 reduced quantity of coal supplied by CIL.

The Gazette dated 28.01.2016 is annexed and marked as **Annexure P-16**

Under the long term PPAs with Tamilnadu and Rajasthan Discom, in case of coal received by the petitioner under the FSA falling short of the quantity required to meet the supply obligations, the procurer discoms have been making payment based on actual energy charge based on coal sourced under Non-FSA route (e-auctions) for such shortfall quantity under FSA. As such, the Quantity of coal supplied under the Fuel supply agreement has been utilized towards the eligible PPAs, ie, PPA between DB Power and Tangedco as well as PPA between DB Power and Rajasthan Discom through PTC.

In the instant case of supply to CSPTrDCL, coal is being procured by the Petitioner from the most economically available alternate sources other than FSA Coal, as the PPA is not qualified to get coal under Fuel Supply Agreement in absence of 'back to back PPA with CSPDCL, majorly through e-auctions, conducted by Coal India Limited. As there is NIL coal supply under linkage FSA towards supply of power from to Respondent No. 1 (for lack of back Power SupplyAgreement as explained above), the energy charges as applicable with e-auction coal is being considered for supply of electricity to Respondent No 1 i.e. CSPTrDCL for the period of April 2020-Mar 2021.

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The Petitioner participates in auctions being announced by SECL and MCL, from time to time. Notices of e-auction from CIL for 2020-21 where DB Power had participated is annexed and marked as **Annexure P-17**. It may be noted that no imported coal has been used by the Petitioner for supplying power to the Respondents.

b. Normative transit and handling losses

Regulation41.10 CSERC MYT Regulations 2015 specify the norms for Landed Price of Coal as well as the Normative Transit Losses that are allowed to be incorporated in the Landed Price of Coal. Regulation 41.10 of CSERC MYT Regulations 2015 reads as under:

41.10: The landed cost of fuel for the month shall include price of fuel corresponding to the grade and quality of fuel inclusive of royalty, taxes and duties as applicable, transportation cost by conveyer/rail/road or any other means, and, for the purpose of computation of energy charge, and in case of coal shall be arrived at after considering normative transmit and handling losses as specified in Regulation 39.7.

Regulation 39.7 of CSERC MYT Regulations 2015 reads as under:

39.7: Transit and Handling Losses

Transit and Handling losses for coal based generating stations for the control period, as a percentage of quantity of indigenous coal dispatched by the coal supply company during the month shall be as given below:

(a) Coal based Generating Stations except at (b) below:

i. Pit head generating stations	*:*	*0.20%*
ii. Non-pit head generating stations	*:*	*0.80%*
(b) Korba East TPS complex	*:*	*1.15%*

Based on the above Regulations, the Petitioner has worked out the Landed Price of Coal. It is further submitted that, procurement of Coal from mines has been considered at Normative Transit Loss of 0.80%.

c. Gross Calorific Value (GCV) of Coal

The Petitioner maintains the data of GCV of coal on "as received basis". The Weighted Average Gross Calorific Value of various non-linkage sources of Coal is computed at 3019.77 kCal/ kg on as received basis.

d. Normative Gross Station Heat Rate (GHR)

Regulation 39.3(a)(a) of the CSERC MYT Regulation 2015 provide that the Gross Station Heat Rate of thermal Generating Stations with sub-critical technology shall be 2375 kcal/kwh. The Petitioner has accordingly applied GHR of 2375 kcal/kwh.

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e. Normative Auxiliary Energy Consumption (AUX)

Regulation 39.5 of the CSERC MYT Regulation 2015 stipulates Auxiliary Energy Consumption of coal based generating stations of 500 MW and above having steam driven boiler feed pumps at 5.25%. The Petitioner has

therefore worked out the AUX at 5.25% as per Regulation 39.5 for the period 01.04.2020to 31.03.2021.

f. Normative Specific (Secondary) Fuel Oil Consumption (SFC)

The Applicant has worked out the SFC at 0.5ml/kwh for the period 01.04.2020to 31.03.20221 in accordance with Regulation 39.4 of CSERC MYT Regulations 2015.

g. Calorific Value of Secondary Fuel (CVSF)

The BIS 2008 (I.S 15770: 2008) provides the standard CVSF in the range of 10-10.5 Kcal/ml. The Petitioner has taken CVSF value as 10 Kcal/ml accordingly.

h. Weighted Average Landed Price of Secondary Fuel (LPSFi)

The Petitioner submits that the weighted average landed price of secondary fuel has been arrived at on the following basis:

Weighted average landed price Of secondary fuel for the year= Amount paid for SF for the Year /Qty of SF purchased

Applying the above formulae, the weighted average landed price of secondary fuel for the year FY 2020- 21 is as under:

Weighted average landed price = 5,84,69,952 Rs/1487.69 kL
Of secondary fuel = 39302.51 Rs/kL
= 0.039 Rs/ mL

The details for secondary fuel consumption and details for determination of landed cost of secondary fuel is annexed and marked as **Annexure P-18 and P-19**respectively.

Part II

REIMBURSMENT OF DUTIES, LEVIES AND OTHER CHARGES

The CSERC MYT Regulations 2015 bifurcates various factors into Controllable and Uncontrollable factors and provides for pass through of Gains and Losses on account of Uncontrollable factors. The relevant regulations of CSERC MYT Regulations 2015 read as under:

Regulation 11.1 of CSERC MYT Regulations 2015

For the purpose of these Regulations, the term "uncontrollable factors" shall comprise of the following factors, but not limited to, which were

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beyond the control of the applicant and could not be mitigated by the applicant:

(a) Force Majeure events;
(b) Change in law
(c) Judicial pronouncements,
(d) Fuel prices i.e. price of coal, oil and all primary-secondary fuel;
(e) Sales mix and quantum of Sales;
(f) Cost of power purchase;
(g) Costs on account of inflation;
(h) Taxes and Statutory levies

Regulation 12 of CSERC MYT Regulations 2015 reads as under:

MECHANISM FOR PASS THROUGH OF GAINS OR LOSSES ON ACCOUNT OF UNCONTROLLABLE FACTORS

The aggregate net gains / losses to the generating company or STU/transmission licensee or distribution licensee on account of uncontrollable items (as per the tariff order) over such period shall be passed on to beneficiaries/ consumers through the next ARR or as may be specified in the Order of the Commission passed under these Regulations.

The details of each of the reimbursable expenses are as under:

1. Electricity Duty on Auxiliary Power

As per the Chhattisgarh Electricity Duty Act, 1949, the Petitioner is charged Electricity Duty by the State Government on power generated including that on auxiliary power. The levy of electricity duty is a statutory levy and falls within the purview of the Uncontrollable factors. Moreover, the Electricity duty provided in books by the Petitioner is part of the cost incurred by the Petitioner for generation and supply of power to the Respondent. As such, the Respondent is liable to reimburse the electricity duty provided in the books by the Petitioner on power generated including that on auxiliary power. A copy of the letter dated 26.09.2015 of the Respondent No. 1 confirming that the electricity duty shall be reimbursed is annexed and marked as **Annexure P-20** hereto.

The Petitioner has calculated the Electricity duty on auxiliary as per the following formulae:

(Units supplied to CSPTradeco in the month)/ (Total units supplied to all customers in that month) * (Total ED on Aux paid to the State Government)

A copy of the latest notice dated 19.05.2021demanding payment towards electricity duty is annexed and marked as **Annexure P-21.**

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2. Water Charges

The CSERC MYT Regulations 2015 stipulates that water charges shall be pass-through on reimbursement basis. The Petitioner is paying water charges to the Water Resource Department, the Government of Chhattisgarh on regular basis for water consumed for generation of power. The Petitioner has calculated the Water Charges as per the following formulae:

(Units supplied to CSPTradeco in the year)/ (Total units supplied to all customers in that year) * (Water Charges corresponding to water consumed in that year)

The details of water charges paid for FY 2020-21 are enclosed as **Annexure P-22**.

3. Fly Ash

Ash disposal expenses are integral to generation. It is submitted that the Coal received at the Petitioner's plant is of sub-standard quality as compared to that of Design Coal and has high Ash content. Part of the ash generated is disposed off in the form of slurry and the balance ash is transported for use in cement industry, brick industry, for paving of roads, etc. Ministry of Environment, Forests and Climate Change (MoEF&CC) issued various Notifications on fly ash utilization, first Notification was issued on 14th September, 1999 which was subsequently amended in 2003, 2009 and 2016 vide Notifications dated 27th August, 2003, 3rd November, 2009 and 25th January, 2016 respectively.

MoEF&CC's Notification of 25th January, 2016 **stipulated cost of transportation of fly ash to be borne entirely by TPS up to 100 km and equally shared between user and TPS for more than 100 km and up to 300 km**

In the state of Chhattisgarh where Petitioner is located, the supply of fly ash far exceeds the demand for the by product from various industries, resulting into Petitioner incurring expenditure towards transportation and disposal of the ash.

CSERC MYT Regulations 2015, under Clause 11.1(b) and (f) defines "Change in Law" and "Cost of Power Purchase" under Uncontrollable Factors that were beyond the control of the applicant. Further, Clause 12 of the Regulations can be read as below

"MECHANISM FOR PASS THROUGH OF GAINS OR LOSSES ON ACCOUNT OF UNCONTROLLABLE FACTORS defines

The aggregate net gains / losses to the generating company or STU/ transmission licensee or distribution licensee on account of uncontrollable items (as per the Tariff Order) over such period shall be

passed on to beneficiaries/consumers through the next ARR or as may be specified in the Order of the Commission passed under these Regulations"

The Petitioner submits that the stipulation of transportation of fly ash to be borne entirely by the TPS is a "Change in Law" event and an uncontrollable factor that is beyond the control of the applicant i.e. Petitioner in this case. **The expenses incurred on account of ash disposal are reimbursable based on the actual cost incurred in disposing the ash.**

The Petitioner has worked out the fly ash expenses on the basis of following formulae:

Fly Ash expenses for a year = (Units supplied to CSPTradeco in that year) / (Total units supplied to all customers in that year) * (Fly Ash expenses incurred in that year)

The month wise summary of fly ash expenses in respect of 5% energy supply to the Respondents for FY 2020-21 is annexed thereto and marked as **Annexure P-23**.

SECTION B

PROJECTED ENERGY CHARGES AND PROJECTED REIMBURSABLE EXPENSES FOR F.Y.2021-21

As explained hereinabove, the Petitioner claims the energy (variable) charges of Rs. 1.758/unit and reimbursable expenses of Rs. 0.120/unit for the period 01.04.2020 to 31.03.2021.

The Petitioner submits that the average cost incurred above reflects the actual expenditure incurred by the Petitioner in generation of electrical energy supplied to the Respondent for F.Y 2020-21 as well as the amounts calculated in accordance with the normative parameters stipulated in the CSERC MYT Regulations, 2015. Considering, on conservative basis, if there is no escalation in expenses to be incurred for supply of power to the Respondents in F Y 2022-23 and presuming the normative parameters stipulated in CSERC MYT Regulations2015 to be static, the Petitioner submits for approval of this Hon'ble Commission the provisional energy charge of Rs1.758/unit together with provisional reimbursable expenses of Rs0.120/unit for the FY 2022-23.

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SECTION C

ESTABLISHMENT OF PAYMENT SECURITY MECHANISM

In term of Article 9.1.1 of the PPA, the Respondent No. 1 is obligated to establish a Payment Security Mechanism (PSM) in form of Letter of Credit (L/C) in favor of the Petitioner.

Further, Ministry of Power has also issued directive dated 28.06.2019, followed by subsequent corrigendum, clarifications and Revised Procedure dated 17.07.2019, 09.08.2019 and 25.02.2021, stipulating mandatory opening and maintaining adequate Letter of Credit as Payment Security Mechanism under Power Purchase Agreements by Distribution Companies.

Based on repeated reminders from the Petitioner, the Respondent No 1 has issued Letter of Credit that is inadequate and also conditional. The copy of LC dated 18.01.2020 along with amendment dated 15.01.2021 are annexed

The copies of directives from MoP, letters addressed to the Respondent No. 1 requesting for opening of L/C and objections raised on inadequacy of LC are annexed, and copies of the LC are annexed and marked as **Annexure P-24A, Annexure P-24B and Annexure P-24C.**

DBPL Energy Supply to CSPTrDCL during FY 2020- 21

The month wise supply of energy from DBPL to CSPTrDCL during FY 2020- 21 is annexed and marked as **Annexure P-25.**

LAW POINTS INVOLVED IN THE MATTER, IF ANY

None, at this stage.

RELIEF SOUGHT

PRAYERS:

In view of the aforesaid facts and circumstances, the Petitioner most respectfully prays that, this Hon'ble Commission may accept this Petition and may be pleased to:-

a) True up the Energy (Variable) Charges of Rs 1.781/unit and reimbursable expenses of Rs 0.120/unit for the Period 01.04.2020 to 31.03.2021;
b) Direct the Respondent to pay the difference / shortfall in the energy (variable) charge and reimbursable expenses for the period 01.04.2020to 31.03.2021 forthwith upon approval by this Hon'ble Commission;
c) Approve Provisional Energy (Variable) Charges of Rs 1.781/unit and provisional reimbursable expenses of Rs0.120/unit for FY2022-23;
d) Direct the Respondent to reimburse the filing fees paid by the Petitioner towards this Petition;
e) Allow carrying cost;

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f) Direct the Respondent No. 1 to establish adequate payment security mechanism in favor of the Petitioner in accordance with the provisions of the directives of Ministry of Power and Power Purchase Agreement; and

g) Condone any inadvertent omissions / errors / rounding off differences/shortcomings and permit the Petitioner to add/alter the Petition and make further submissions as may be required at a future date.

INTERIM RELIEFS

As prayed hereinabove

GROUNDS FOR CLAIMING RELIEFS

The grounds are as stated and explained hereinabove in this Petition

Petition filing fee of Rs. 10,00,000/- submitted in terms of Schedule I of the CSERC (Fees and Charges) Regulations, 2009. The Petitioner submits that the CSERC MYT Regulations 2015 provide for recovery of filing fees paid by the generating companies from the beneficiaries.

The Petition prays accordingly.

Raipur.
Dated: 16/09/2021

(Shailendra Bajpai)
Authorized Signatory
For D.B. Power Ltd.