

Subject: In the matter of approval of power sale agreement between PTC India Limited and MP State Electricity Board for sale of Power from Lanco Amarkantak Thermal Power Station being set up at Patadi, Korba, Chhattisgarh.

ORDER

Dated May 6, 2008

MP State Electricity Board (MPSEB) and MP Power Trading Company Limited (MPPTC)	-	Petitioner
PTC India Limited (PTC)	-	Respondent
Lanco Amarkantak Power Private Limited (LAPPL)	-	Developer

1. MP State Electricity Board (hereinafter referred to as “MPSEB” or “Petitioner”) in the capacity of Trading Licensee through its authorized representative Shri A.B. Bajpai filed the subject petition before the Commission on 16/11/2005 for approval of the Power Sale Agreement (PSA) executed between PTC India Limited (hereinafter referred to as “PTC” or “Respondent”) and MPSEB for sale of 300 MW power from Lanco Amarkantak Thermal Power Station. This thermal power station is being set up by Lanco Amarkantak Power Private Limited (hereinafter referred to as “LAPPL” or “Developer”) at Patadi, Korba in the State of Chhattisgarh. This is a coal fired thermal power plant of the capacity of 300 MW.

2. In the subject petition the Petitioner had submitted that the Power Sale Agreement (PSA) was executed between MPSEB and PTC on May 30, 2005. PTC and LAPPL had also entered into a Power Purchase Agreement (PPA) on May 11, 2005. This PPA is an annexure to the Power Sale Agreement. It is stipulated in the PSA between MPSEB and PTC that MPSEB will avail the entire power of 300 MW generated at Lanco Amarkantak Thermal Power Station Phase –I (300MW). The agreement is for 25 years. The Capped Tariff Rate, levelised over the relevant Tariff Years using a discounting factor of 12% per annum, shall be as follows:

	Tariff Year	Capped Tariff Rate (Rs./kWH)
1.	Tariff Years 1 to 12	2.18
2.	Tariff Years 1 to 25	2.20

This Capped Tariff does not include any applicable cess /duties or other levies by Govt. of Chhattisgarh on the generation and/or sale of electricity and if levied, shall be payable by MPSEB in addition. The trading margin of PTC shall be Rs. 0.05/kWH for the tariff years from 1 to 12 and Rs.0.10/kWH for the tariff years from 13 to 25. The overall tariff cap for 25 years would be open to revision in case coal prices escalate above 5% per annum already built in tariff, subject to the condition that the revised levelised tariff cap shall not exceed Rs. 2.25/kWH for 25 years.

3. The Petitioner had further submitted that in the PSA the conditions precedent to be satisfied are (a) the Appropriate Commission shall have approved the tariff for the sale and purchase of electricity and (b) the Purchaser i.e. the MPSEB shall have obtained approval, as may be necessary, of the subject agreement from Madhya Pradesh Electricity Regulatory Commission. Accordingly, the Petitioner approached the Commission for seeking the approval of the Commission on the said Power Sale Agreement.

4. The Commission, vide its order dated 7th March 2008 has provisionally approved the power sale agreement, subject to the fulfilment of the following conditions by 31/03/2008:

- a. The Developer LAPPL should submit to the jurisdiction of the Commission;
- b. The Petitioner and the Respondents should file an amendment in the agreements that the Appropriate Commission i.e. MPERC shall determine the tariff;
- c. The Petitioner should file full details of the calculation of the levelised tariff indicating capacity charge, energy charge, escalable portion of

- capacity charge and energy charge, rate of escalation used, discounting rate, etc.;
- d. The Developer should file the petition for determination of the generation tariff for the 300 MW said unit in accordance with the Commission's regulations i.e. MPERC (Terms and Conditions for Determination of the Generation Tariff) Regulations 2005;
 - e. The Developer should also file the petition for determination of the rate for infirm power generated from the project as the representative of LAPPL, in the hearing on 22/01/2008, informed the Commission that synchronization of the unit is due in April 2008 and the COD is scheduled in June 2008;
 - f. The Petitioner should confirm on affidavit that the evacuation systems are in place;
 - g. The Petitioner should initiate the action so as to allocate the subject power (300MW) among the three Distribution Companies of the State;
 - h. The Petitioner / Respondent should ascertain that all the clearances / approval as obtained by the Developer for the said project should be for proper generation capacity i.e. for 300 MW and in accordance with the statutory provisions and law of the land;
 - i. The in-principle approval is subject to the outcome of the case filed by PTC in the Hon'ble High Court of Delhi;
 - j. The 300 MW Unit of LAPPL (Unit – 1 of Lanco Amarkantak Thermal Power Station) shall be scheduled exclusively by SLDC of the State of Madhya Pradesh.
 - k. The Developer should file copies of all statutory clearances/approvals of the competent authorities regarding coal linkage, forest clearances, NOC from Gram Panchayats and water allocation for 300MW Thermal Power Station.
 - l. The PTC and LAPPL shall be responsible in case any objection is raised either by Govt. of Chhattisgarh / Chhattisgarh Electricity Regulatory Commission or other Govt. agency, in future.

5. The Commission further directed in its order dated 7th March 2008 the Petitioner and the Respondent to pursue with the Developer to comply with the Commission's directions as indicated in above paragraph. The Commission directed that the aforementioned requirements should be met latest by 31st March 2008 failing which the order becomes ipso facto infructuous.

6. The Petitioner vide its fax dated 28/03/08 requested to grant extension upto 30th April 2008 for complying with the conditions stipulated in Commission's order dated 7th March 2008. The Commission vide its order dated 29th March 2008 allowed time extension upto 30th April 2008 and fixed the date of next hearing on 16th April 2008 on the issue of availing the 300 MW power at a provisional rate of Rs 2.20 per kWh (capped) in accordance with provisions of PPA subject to submission of all relevant facts and figures in this regard.

7. Meanwhile, a Facsimile communication was received on 29th March 2008 from the Developer informing termination of the PPA executed between the Developer and the Respondent on 14.03.2008 on account of failure by Respondent to satisfy the conditions precedent to the PPA. The letter also indicated that since the PPA stands terminated, the conditions set in the Commission's order dated 7th March 2008 cannot be fulfilled. Copy of this letter was sent by the Commission to the Petitioner and the Respondent on April 04, 2008 seeking their response in the matter.

8. The Petitioner responded to the Commission's letter dated 4th April 2008 through a Facsimile message dated 15th April 2008. The Petitioner submitted that it had filed a Writ Petition before the Hon'ble High Court of MP in the matter of termination of the PPA by the Developer. The Hon'ble High Court took note of the Developer's act proposing to terminate the agreement in question without giving notice as per the agreement and the termination being contrary to the conditions imposed by the Commission. The Hon'ble High Court also took note of the fact that if the agreement is permitted to be terminated in the manner as done, it may have serious consequences with regard to the supply of electricity in the entire state. The Hon'ble High Court restrained the Respondents of the Writ Petition from giving effect to the notice issued for

termination of the agreement and directed them to maintain status quo with regard to the matter until further orders.

9. During the hearing held on 16th April 2008, the Respondent made a written submission before the Commission giving copies of the termination notice of Developer and reply of the notice sent by the Respondent. The Respondent sought time to respond to the other issues related to the conditions imposed by the Commission in its order dated 7th March 2008.

10. During the hearing, the Petitioner requested to have a fresh look on the conditions imposed vide Commission's order dated 07.03.2008. The Petitioner submitted that as per Electricity Act 2003 and the PPA, the tariff determination in the instant case falls solely within the jurisdiction of MPERC, because the supply and consumption is going to take place within the State of Madhya Pradesh. As the generation of electricity is linked with simultaneous consumption, the transaction of power under agreement shall be incomplete, unless it is supplied within the territory of Madhya Pradesh. The Petitioner also submitted that mere geographical location of generator cannot decide the jurisdiction of the Commission but it has to be linked to supply and consumption of electricity. The Petitioner cited provisions of the PPA regarding Appropriate Commission and submitted that there was no need to amend the agreement to specifically mention that MPERC shall determine the tariff as no other Commission has the jurisdiction. The Petitioner also requested the Commission to follow CERC norms for determination of tariff, as the same were mentioned in the PPA in May 2005.

11. The Petitioner further informed that the Developer is under obligation to provide all necessary details and information to the Respondent and therefore the Respondent PTC may be asked to furnish the details required for tariff determination. The Petitioner informed that open access had already been granted by the Nodal agency i.e. Central Transmission Utility (CTU). The Commission directed to submit a copy of the open access permission from CTU. At this point the Commission asked the Petitioner to confirm and submit details of interconnection with Madhya Pradesh grid to draw this additional power of 300 MW. The Petitioner agreed to submit it by next date of hearing.

Regarding other clearances / approvals, the Commission sought the clarification on the issue since some of the earlier submissions made were not for 300 MW capacity.

12. The Petitioner also intimated that the outcome of the case filed by PTC before the Hon'ble High court of Delhi may not have any bearing on this case, since the entire capacity of 300 MW has been allocated to the Distribution Companies by the State Government. The Petitioner also submitted that the designated SLDC shall schedule the power of Developer as per the PPA. As per the PSA the designated SLDC shall be Madhya Pradesh SLDC.

13. The Petitioner requested for final approval of the PSA and provisional tariff of 220 paise per unit from the date of commercial operation of first unit of the Developer's plant at Patadi, District Korba, Chhattisgarh subject to adjustment on final determination of tariff by the Commission as per the provisions of PPA. The Petitioner also requested that the in-firm power may be allowed either on the fuel based charges or as per the CERC regulation of frequency linked UI charges subject to applicable capping. Regarding the trading margins payable to PTC, the Petitioner submitted that since the PSA mentions that the PTC trading margins would be subject to CERC approval, the margin as per the PSA may be allowed.

14. The Commission sought specific response from the Respondent on the issues of submission of information/ documents as per the Commission's requirement and approval of provisional tariff. The Respondent sought time till 28th April 2008, which was accepted by the Commission.

Hearing on 28th April 2008

Shri D. Khandelwal, ED(L&RA) and Shri A. B. Bajpai, Additional General Manager, O/o ED (Commercial) appeared on behalf of M.P. Power Trading Company Ltd., Jabalpur.

Ms. Padma C. Rao, Assistant Vice President and Shri Rahul Dawan, Counsel appeared on behalf of PTC Ltd.

Shri Naveen Dubey, Counsel appeared on behalf of Lanco Amarkantak Power Pvt. Ltd.

15. The Petitioner filed a copy of Bulk Power Transmission Agreement between Respondent and Central transmission Utility (CTU) i.e. Power Grid Corporation of India Limited for providing long term open access to draw 300 MW from Lanco Amarkantak Power project located at Patadi, Korba, Chhattisgarh.

16. The Respondent filed a written submission informing the Commission that the Developer has refused to cooperate in taking various actions pursuant to the PPA. Respondent further intimated that it is not possible to procure any further information from Developer. Respondent requested the Commission to directly summon witnesses and direct production of documents as considered necessary in exercise of powers under Section 94 of the Electricity Act 2003.

17. The Developer made a written submission stating that he was not a Respondent in the matter. It was also submitted that he can not submit to the jurisdiction of MPERC under any contractual obligation or under the provisions of the law. Further the Developer intimated that as the PPA between PTC and LAPPL stands terminated on 14.3.2008, the conditions set out in the order of the Commission dated March 7, 2008 cannot be fulfilled. The learned advocate of the Developer made oral submission stating that MPERC does not have jurisdiction to determine tariff of power generated at the Developer's plant located in Chhattisgarh. He, however, could not respond to the Commission's query that in case MPERC does not have jurisdiction, then which other Commission has jurisdiction. He sought time to respond.

18. The Petitioner submitted that the Power Purchase Agreement (PPA) and Power Sale Agreement (PSA) were interlinked and interwoven. The Developer was aware of the fact that the entire power from its 300 MW power plant shall be consumed in Madhya

Pradesh. In this regard the matter of providing start up power came up before the Commission. The Petitioner confirmed that the Developer has tied up for start up power with Madhya Pradesh knowing very well that the power from its 300 MW power plant shall be sold to Madhya Pradesh. PPA contemplated that the sale would be governed by the approval of the Appropriate Commission. The Developer despite being present in the proceedings before the Commission never mentioned any Commission other than MPERC as Appropriate Commission. Further it was cited that under Section 86 of The Electricity Act 2003, the Commission of Madhya Pradesh has the powers to determine the tariff. As per Petitioner CERC jurisdiction is not there, as the power of first 300 MW unit is entirely being sold to Madhya Pradesh. Petitioner also submitted that geographical location of the generator does not decide the jurisdiction of State Commission and the jurisdiction depends upon location of the place where sale and consumption actually takes place.

19. The Petitioner cited Hon'ble Apex Court's decision in case number Appeal (civil) 1940 of 2008, between Essar Power and GUVNL. The Petitioner mentioned that as per Hon'ble Apex Court's order even the powers of adjudication in the matter of dispute between generating company and licensee lie with SERC or an arbitrator appointed by the SERC. The Petitioner objected to change of stand by the Developer before the Commission, which has the powers of Civil Court. The Petitioner requested the Commission to invoke powers under section 60 read with section 94 of the Electricity Act 2003 and direct the Developer to furnish the details or face punitive measures.

20. The Respondent agreed with the submissions made by the Petitioner and further added that the Developer has never indicated, which other body is the Appropriate Commission, if MPERC is not considered the Appropriate Commission. The Respondent also mentioned that the Developer has not so far challenged the orders of the Commission dated 7th march 2008 and the same are applicable to the Developer. The Respondent further submitted that the PPA and the PSA are back to back agreements and the Developer can not interpret them separately. As the power from the Developer's 300 MW power plant is to be sold entirely to Madhya Pradesh, only MPERC is the Appropriate Commission for the purpose of implementation of PPA. The Respondent also refuted the

Developer's plea of not being a Respondent by citing Developer's letter dated 16.1.2008 requesting the Respondent to make arrangements for appearance of Developer before MPERC.

21. After hearing all the parties, the Commission directed the Developer's counsel to reply to the specific queries raised by the Petitioner and the Respondent by filing a written submission on affidavit by 30th April 2008 with copies to the Petitioner and the Respondent furnishing point-wise views on all the aspects including the issue of the jurisdiction of the Commission. The Developer should categorically mention as to which Commission has the jurisdiction to determine tariff for generation and sale of power to the State of Madhya Pradesh through PTC. The Commission further directed the Petitioner and the Respondent to submit a written response to Developer's submission by 2nd May 2008.

22. On 30th April 2008, a facsimile copy of affidavit was received from the Developer reiterating the stand earlier taken on 28.04.2008. The Developer did not respond to the specific query of the Commission regarding the Appropriate Commission.

23. The Petitioner on May 02, 2008 submitted its reply to the Developer's submission and covered the following issues:

- a. It was confirmed that MP Grid System has adequate arrangement for drawing 300 MW power from Lanco Amarkantak Project through CTU System. A copy of letter No. 05-01/1037 dated 27.04.2008 is filed by the Petitioner. A copy of the Bulk Power Transmission Agreement dated 05.03.2007 executed between Respondent and Power Grid Corporation of India Limited for transfer of 300 MW power from Lanco Amarkantak Patadi Thermal Power Station of MP through PGCIL transmission network is also filed by the Petitioner.
- b. As regards clearances, it is submitted that forest clearance which was earlier provided for 250 MW power project can be treated as applicable for 300 MW power plant as the evacuation system is on 400 KV. As regards availability of water from Water Resources Department, it is the responsibility of generator

to ensure that he obtains necessary clearance before the commercial operation of the plant.

- c. It is undisputed that as per the provisions of Electricity Act, 2003 tariff for supply of power to the distribution companies is required to be determined by the 'Appropriate Commission' as specifically stated in the PPA.
- d. The Petitioner has cited Clause E and F of the recitals of the PPA, provisions of Electricity Act 2003 and order of Hon'ble supreme court in the dispute between Essar Power Ltd. and Gujrat Urja Vikas Nigam Limited – 2008 (3) SCC 468 and suggested that the Hon'ble Commission is the only 'Appropriate Commission' referred in the PPA who has jurisdiction in the matter.
- e. In regard to the contention made on 28.04.2008 before the Commission by the counsel of M/s Lanco Amarkantak that they are not Respondents in the proceedings before the MPERC, the Petitioner has cited Developer's letter 19.01.2006 addressed to Respondent agreeing to accept the tariff as approved by the Appropriate Commission. Further during the hearing on 22.01.2008 the representative of M/s Lanco Amarkantak was present. The Developer also specifically requested the Respondent vide their letter dated 16.01.2008 to obtain necessary permission from MPERC for participation and to offer views in the hearing.
- f. The Developer vide their letter dated 21.01.2008 submitted technical details to the Respondent requesting to obtain an undertaking from the Petitioner for conveying their willingness to supply startup power to their project at an early date. Subsequently, on the request of the Respondent, the Petitioner vide fax letter dated 06.02.2008 authorized the Developer to draw the required startup power from the allocated share of MP from the Central Generating Power Station located in Western Region subject to adjustment of energy made available by MP for such purpose. The Developer vide letter dated 25.02.2008 requested the Petitioner to send a copy of the communication dated 06.02.2008 to the WRLDC/PGCIL. The copies of these letters are filed by the Petitioner.

- g. The Petitioner also referred to Section 94 of the Electricity Act, 2003 and submitted that the Commission has all authority to summon and enforce the attendance of Developer in this matter.
- h. Keeping in view scheme of arrangement in PPA and PSA acknowledged by the parties and the provisions of the Electricity Act, 2003, the Petitioner requested to reject the contention of the Developer, that they were not respondent in the proceedings.
- i. In regard to the contention that the Developer vide letter dated 14.03.2008 has terminated Power Purchase Agreement executed with the Respondent, it is submitted by the Petitioner that the same is incorrect as the said notice dated 14.03.2008 has been stayed by the Hon'ble High Court of MP vide its order dated 31.03.2008.

24. The Respondent also submitted its reply to the Developer's submission and covered the following issues:

- a. The stand taken by the Developer in its affidavit dated 30th April'08 is misconceived, baseless and devoid of any merit. The Respondent intimated that right from the inception of the PPA between the Developer and the Respondent and PSA between the Petitioner and the Respondent, there was a clear understanding that the total power of 300 MW from the Developer's Thermal Power Station in Korba, Chhattisgarh (Phase 1 Unit) shall be procured from the Developer for sale to MPSEB. The PPA and PSA are intrinsically interlinked and have to be read together.
- b. The Developer has suppressed material facts and has not disclosed in its order dated 31st March'08 passed by the Hon'ble M. P. High Court whereby Hon'ble M. P. High Court has directed all the Respondents including the Developer to maintain the status quo. In the teeth of status quo Order passed by the Hon'ble M. P. High Court whereby the notice for termination of the PPA has been stayed, the Developer can by no means allege that the PPA between the Developer and the Respondent does not survive.

- c. The purported termination of the PPA is void, ab-initio premature and contrary to the PPA as no occasion of insistence thereof has arisen which can be treated as impeding or frustrating the due implementation of the PPA. Even if for the sake of argument it is taken that there has been delay in compliance of PPA clause, there is no power of terminating forthwith vested in the hands of the Developer.
- d. The Respondent has quoted the letter dated 19th January'06 of the Developer asking the Respondent to assure its assistance in the process of obtaining approval from MPERC. The Respondent has also cited the Developer's letter dated 16th January'08 asking the Respondent to obtain necessary permission for the Developer's participation in the proceedings pending before MPERC. The Developer also remained present and participated in the proceedings before MPERC on January 22, 2008.
- e. The Respondent also denied that the Developer does not have any direct commercial relation with the Petitioner as the PPA and the PSA are intrinsically interlinked and have to be read together as a part of complete transaction.
- f. As the Developer itself vide its letters dated 19th January'06 and 16th January'08 assured the Respondent of its assistance in the process of attaining approval from MPERC and also requested the Respondent to obtain necessary permission from this Commission for the Developer's participation being an important party in the proceedings. When this Commission held the hearing on 22.01.2008, the Developer was present and participated in the hearings. As such in the opinion of the Respondent, the Developer cannot now alter its stand and wriggle out of its contractual obligations.
- g. The Developer has suppressed material facts by not disclosing the Hon'ble M. P. High Court's Order dated 31st March'08. As a result of this Order, PPA between the Developer and the Respondent still subsists and has not been terminated.
- h. The Respondent also denied the Developer's plea that this Commission has no jurisdiction to pass any orders against the Developer.

JURISDICTION:

25. After getting the views of all the parties, the Commission decided to first address the issue of the jurisdiction before proceeding further in the matter.

26. As the generating station is located in the State of Chhattisgarh and the entire power will be supplied to the State of Madhya Pradesh, the transaction involves two States. Thus only one of the three Commissions namely CERC, Chhattisgarh ERC or MPERC can have jurisdiction. Section 79(1) of the Electricity Act 2003, dealing with the functions of Central Commission states:

- a) to regulate the tariff of generating companies owned or controlled by the Central Government;
- b) to regulate the tariff of generating companies other than those owned or controlled by the Central Government specified in clause (a), if such generating companies enter into or otherwise have a composite scheme for generation and sale of electricity in more than one State;
- c) -----

Plant of LAPPL is not owned or controlled by the Central Government nor has it a composite scheme for generation and sale of electricity in more than one State. Thus CERC does not have jurisdiction as regards tariff determination is concerned.

Now, we are left with only two Commissions viz. MPERC and Chhattisgarh ERC. Section 86(1) of the Electricity Act 2003 dealing with the functions of State Commission provides that the State Commission shall discharge the following functions namely

- a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State:
Provided that where open access has been permitted to a category of consumers under Section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;
- b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating

companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;

c) -----

As the entire power is meant for supply and consumption within Madhya Pradesh and procurement will be done by the Distribution Licensees of Madhya Pradesh, the transaction would affect the electricity consumers of Madhya Pradesh only. The Electricity Act 2003 neither envisages nor provides for tariff determination by a State Electricity Regulatory Commission of the State which is not a beneficiary of the generating plant. Thus the jurisdiction of Chhattisgarh ERC is also ruled out.

Considering the above, the Commission has come to the conclusion that MPERC and only MPERC has the jurisdiction in the matter.

27. In view of the opinion expressed in paragraphs 25 and 26 and considering the request of the Petitioner, the conditions laid down in this order dated 7.3.2008 are reviewed by the Commission as follows:-

- a. Irrespective of the Developer's denial to submit itself to the jurisdiction of the Commission, this Commission has jurisdiction to determine the tariff and approve PSA between PTC India Limited and MP State Electricity Board for sale of Power from Lanco Amarkantak Thermal Power Station being set up at Patadi, Korba, Chhattisgarh.
- b. The array of legal provisions read with PPA & PSA submitted before this Commission construe this Commission to be the appropriate Commission and even though there are no explicit provisions in the agreements that the generation tariff shall be determined by this Commission, the harmonious interpretation of PPA, PSA and Electricity Act, 2003 empowers this Commission to determine the tariff for sale of power from Lanco Amarkantak Thermal Power Station, First Unit at Patadi, Korba, Chhattisgarh to MPSEB. Thus the Commission is of the view that no such amendment is necessary in the Agreement.
- c. The full details of calculations of the levelized tariff are yet to be received by this Commission. Further for determination of generation tariff the capital costs and audited accounts alongwith other relevant details are

required on the date of COD as per CERC norms. Till such details are available and final tariff determined, only provisional tariff can be allowed by the Commission. The Commission hereby provisionally allows the recovery of the charges at 95% of the levelised tariff as indicated in the agreements i.e. 220 paise per unit (levelised), subject to retrospective adjustment when the final tariff is determined by this Commission.

- d. Since the Developer has so far not filed any tariff petition before the Commission, the Commission directs the Developer to file petition for determination of generation tariff with full particulars as required as per CERC norms and MPERC Regulations by 30.06.2008.
- e. Regarding in-firm power generated from the project, the Commission allows recovery at Unscheduled Interchange (UI) rates, subject to the cap imposed by CERC.
- f. The Petitioner has already confirmed that the evacuation system is in place through CTU and State Transmission Utility (STU).
- g. The State Government has already issued the notification dated 24.3.2008 allocating the 300 MW of power to the three Distribution Companies of the State.
- h. For the clearance/approvals under the statutory provisions and law of the land, the Developers are responsible to authorities stipulated under such provisions and clauses. It shall be the responsibility of the Developer to obtain such clearance and approvals and produce them before the appropriate authorities prescribed under law. At the time of submission of the petition for final determination of generation tariff a response will be required in this regard.
- i. The approval of this Commission shall be subject to the outcome of the case being heard by the Hon'ble High Court of Delhi and also the outcome of any other pending litigation before any Court of Law.
- j. As the 300 MW Power from the Developer's Unit 1 is exclusively meant for M.P., this shall be scheduled exclusively by SLDC of M.P.
- k. Same as elaborated at h above.

1. Any disputes/contentions if raised by the Government of Chhattisgarh/ Chhattisgarh Electricity Regulatory Commission or any other agencies in future shall have to be dealt with by the Respondent and the Developer.

28. The Commission hereby approves the PSA between the Petitioner and the Respondent subject to observations made in para 27.

29. The Commission disposes of the petition.

--sd--
(K. K. Garg)
Member (Engineering)

--sd--
(Dr. J.L. Bose)
Chairman