

Supplementary Power Purchase Agreement

Between

Paschimanchal Vidyut Vitran Nigam Ltd.

("Procurer 1")

and

Poorvanchal Vidyut Vitran Nigam Ltd.

("Procurer 2")

and

Madhyanchal Vidyut Vitran Nigam Ltd.

("Procurer 3")

and

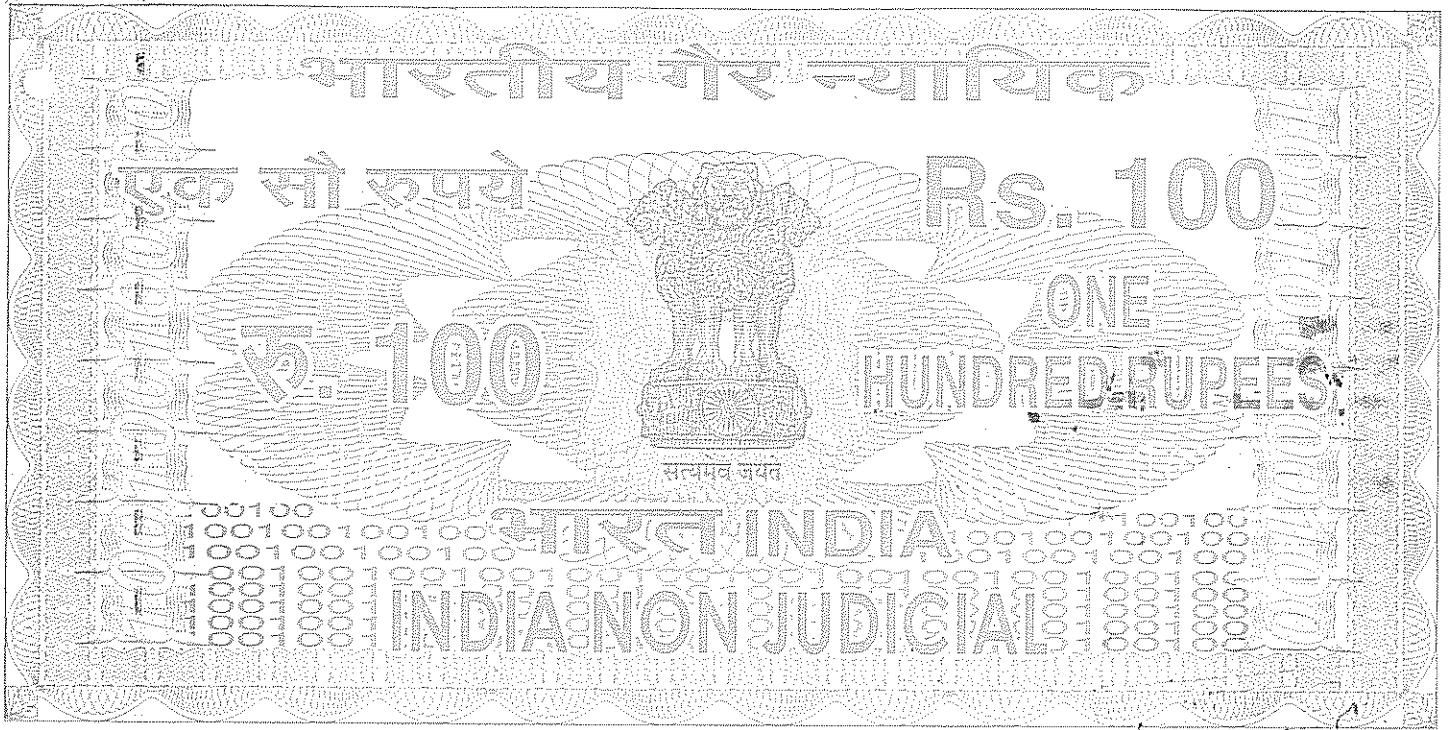
Dakshinanchal Vidyut Vitran Nigam Ltd.

("Procurer 4")

and

M/s Welspun Energy UP Private Limited

("Seller")



उत्तर प्रदेश UTTAR PRADESH

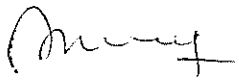
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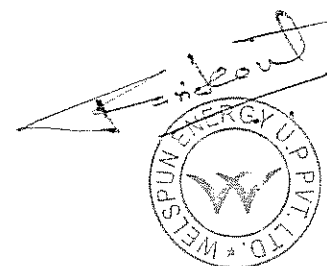
This Supplementary Power Purchase Agreement is made on the

12th day of Dec, 2014

Between

- (1) **Paschimanchal Vidyut Vitran Nigam Ltd**, a company incorporated in India and registered under the Companies Act, 1956, having its registered office at Victoria Park Meerut-250001 (Hereinafter referred to as "**Procurer 1**", which expression shall, unless repugnant to the context or meaning thereof, be deemed to include their respective successors, nominees and permitted assigns); and
- (2) **Poorvanchal Vidyut Vitran Nigam Ltd**, a company incorporated in India and registered under the Companies Act, 1956, having its registered office at Vidyut Nagar, P.O. DLW, Varanasi-2201010 (Hereinafter referred to as "**Procurer 2**", which expression shall, unless repugnant to the context or meaning thereof, be deemed to include their respective successors, nominees and permitted assigns); and


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- (3) **Madhyanchal Vidyut Vitran Nigam Ltd**, a company incorporated in India and registered under the Companies Act, 1956, having its registered office at 4A, Gokhale Marg, Lucknow-226001 (Hereinafter referred to as "**Procurer 3**", which expression shall, unless repugnant to the context or meaning thereof, be deemed to include their respective successors, nominees and permitted assigns); and
- (4) **Dakshinanchal Vidyut Vitran Nigam Ltd**, a company incorporated in India and registered under the Companies Act, 1956, having its registered office at Urja Bhawan, NH2, Sikandra, Agra (Hereinafter referred to as "**Procurer 4**", which expression shall, unless repugnant to the context or meaning thereof, be deemed to include their respective successors, nominees and permitted assigns)

THROUGH

UTTAR PRADESH POWER CORPORATION LIMITED ("UPPCL") a company incorporated in India and registered under the Companies Act, 1956, having its registered office at Shakti Bhawan, 14, Ashok Marg, Lucknow, U.P duly authorised by each of the above Procurers to enter into this

Agreement on their behalf

(The "Procurer1", "Procurer 2", "Procurer 3" and "Procurer 4" are (hereinafter collectively referred to as the "Procurers" and individually as a "Procurer")

And

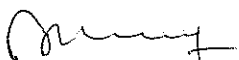
M/s Welspun Energy UP Private Limited (the "Seller"), a company incorporated in India and registered under the Companies Act, 1956, having its registered office at Welspun House, 7th Floor, Kamla City, Senapati Bapat Marg, Lower Parel (west), Mumbai-40003

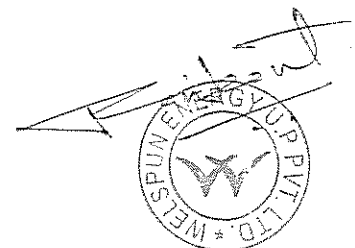
(each of the "Procurer 1", "Procurer2", "Procurer 3", "Procurer4" and or "Procurers" and "Seller" are individually referred as "Party" and collectively to as the "Parties")

WHEREAS:

A- Power Purchase Agreement Dated 04-01-11 was signed between the aforesaid Parties for purchase of 100 % Saleable Energy from 1320 MW Thermal Power Generating Plant situated at Gazipur (UP), in accordance with GoUP Energy Policy-2009 (as amended) issued by Department of Energy, GoUP.

B- In accordance with Article-3.1 under "conditions subsequent to be satisfied by the seller and the procurers." of aforesaid PPA, the seller was required to perform and


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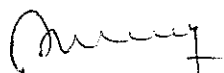


complete the various prescribed activities within 18 months from the effective date of PPA.

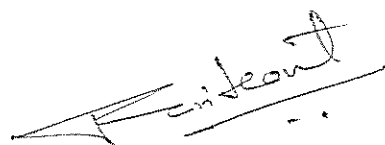
- C- On the request of seller for change of the project location from Gazipur to Mirzapur and for extension of the above period to fulfill the conditions subsequent , GoUP vide order dated 8-6-12 have accorded permission on change of location and the extension of time limit for a further period of 18 months or as requested by the seller (whichever is lesser) but with the condition that additional IDC on account of above extension shall not be admissible to the seller.
- D- UPPCL on behalf of Procurers and the Seller have mutually agreed to this Supplementary Agreement in respect of Generating Plant being set up and the same has been duly approved by UPERC vide its Order dated-03-11-14 ,a copy of which is annexed hereto as Annexure-1.

NOW, THEREFORE, in consideration of the foregoing and respective covenants and agreements set forth in this PPA and other consideration, the receipt, sufficiency and adequacy of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

- 1- The Project shall now be located in Distt. Mirzapur subject to availability of water at this new project site.
- 2- The time period for fulfillment of conditions subsequent under Article-3.1 of PPA shall now be 18 months with effect from the date of expiry of the original period stipulated in PPA.
- 3- The additional IDC in the project cost on due to this extension shall not be admissible in the cost.
- 4- The validity of Bank Guarantee earlier submitted by the seller in GoUP shall be proportionately extended for the same amount with extended period and the grace period for six months..
- 5- The Start date or Zero date shall mean the date indicated in the Investment Approval for commencement of implementation of the project and where no date has been indicated, the date of investment approval shall be deemed to be Start Date or Zero Date.
- 6- The scheduled commercial Operation date or SCOD shall mean the date(s) of commercial operation of a generating station or generating unit or block thereof as indicated in the investment approval or as agreed in power purchase agreement, whichever is earlier.



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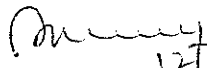
All other terms and conditions of PPA dated 04-01-11 shall remain unaltered.

Encl: As above

IN WITNESS WHEREOF the Parties have executed these presents through their authorized representatives at Lucknow.


For and on behalf of

[Procurers]


12/12/14
Signature with seal
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Witness:



1.


(S.K. Singh)
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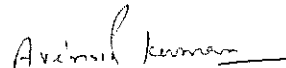
2.

For and on behalf of

[THE Seller]


RAVI KANT VERMA
Authorized Signatory
Welspun Energy UP Pvt. Ltd.
Signature with seal


Witness:


1. AVINASH KUMAR

2.



Annexure - I

(Pet. Nos. 830, 833, 838, 839, 840, 842, 845, 859 of 2012 and 897 of 2013)

BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

Date of Detailed Order : 3.11.2014

IN THE MATTER OF: Approval of Draft Supplementary Power Purchase Agreements (SPPAs), under MoU as per GoUP Energy Policy 2009, of the coal based thermal power projects who shall be supplying electricity to State Discoms.

U.P. Power Corporation Ltd.,
(through its Chairman)
7th Floor, Shakti Bhawan,
14, Ashok Marg, Lucknow.

----- Petitioner

AND

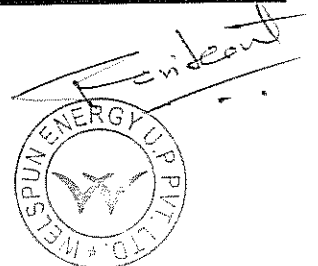
1. Bajaj Energy Pvt. Limited, B-10, Sector -3, Noida, Gautam Budh Nagar
2. Lalitpur Power Generation Company Ltd., B 2/335 Vishal Khand II, Gomti Nagar, Lucknow – 226 010
3. Himavat Power Pvt. Limited, 397, Udyog Vihar, Phase-3, Gurgaon 122 016
4. Lanco Anpara Power Limited, 411/9, River Side Apartment, New Hyderabad, Lucknow
5. Parekh Aluminex Limited, 601, Auto Commerce House, Kennedy Bridge, Nana Chowk, Mumbai
6. Welspun Energy Limited, Welspun House, 7th Floor, Kamla City, Senapati Bapat Marg, Lower Parel (W), Mumbai -13
7. Creative Thermolite Power Limited, 155 Somdutta Chamber –II, 9 Bhikaji Camma Place, New Delhi - 66
8. Unitech Machines Limited, U.M. House, Plot No. 35-P, Sector -44, Gurgaon
9. Torrent Power Limited, Torrent House off Ashram Road, Ahmedabad – 380009

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Detailed Order

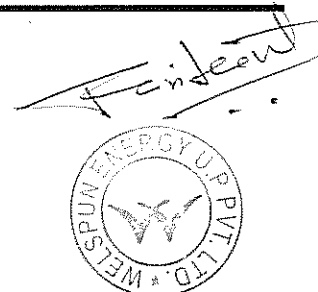
1. Government of Uttar Pradesh (GoUP) under Energy Policy, 2009 has entered in Minutes of Undertaking (MoU) with coal based thermal power project Developers to add the power generation capacity in Uttar Pradesh. The draft Power Purchase Agreements (PPAs) agreed between UPPCL and the Developers have been approved by the Commission after conducting due Public Hearing on 26.10.10. The operating norms and parameters have been approved by the Commission vide order dated 27.7.2011 subsequent to the Public Hearing dt 20.5.2011. The norms and parameters approved by the Commission have been notified through the UPERC (Terms and Conditions of Generation Tariff) (First Amendment) Regulations, 2012. Under the MoUs, 18 months were provided for completion of project preparatory activities and accordingly the bank guarantees submitted by the Project Developers were valid till 18 months from the date of signing of MoUs.
2. As the Developers could not complete the project preparatory activities within due timeframe, GoUP extended the validity vide order dated 8.6.2012 for further 18 months with the condition that the increase in IDC due to extension shall not be allowed. Subsequently, draft Supplementary PPAs were filed by UPPCL for approval of the Commission. The details of projects are as follows:

Sl. No.	Project	Capacity (MW)	Dt of MoU	Dt of PPA	Capacity in PPA (%)	Dt of approval by the Commission
1.	Lalitpur Power Generation Co	3 x 660	22-4-2010	10-12-2010	90%	18-11-2010
2.	Welspun Energy Ltd. Gazipur	2 x 660	31-12-2010	04-01-2011	100%	04-01-2011
3	Parekh Aluminex Ltd., Farukhabad	1 x 250	14-12-2010	01-01-2011	100%	31-12-2010
4	Himavat Power Pvt. Ltd. Bhognipur	2 x 660	25-08--2010	14-12-2010	90%	18-11-2010

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5	Lanco Anpara Power Limited, Bhognipur	2 x 660	4-11-2010	14-12-2010	90%	13-12-2010
6	Torrent Power Ltd., Sandila	2 x 660	31-12-2010	04-01-2011	90%	04-01-2011
7	Creative Thermolite Power Pvt. Ltd. Murka	2 x 300	28-10-2010	31-12-2010	90%	31-12-2010
8	Unitech Machines Ltd., Auraiya	1 x 250	15-12-2010	31-12-2010	90%	31-12-2010

SPPA dated 15.06.2011 of M/s Bajaj Energy, which was functional at five places (Barkhera, Kambarkhera, Maqsoodpur, Utraula, Kundarki) having capacity of 2x45 MW at each place, was filed for approval of the Commission as the capacity was revised from 90% to 100%.

In SPPA of Lalitpur Power Generation Co. dated 21.09.2012, the contracted capacity was also revised from 90% to 100%.

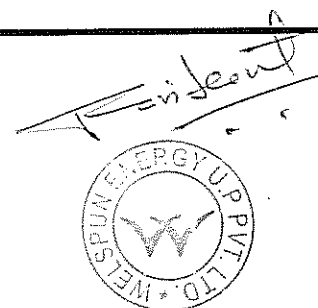
In case of Welspun Energy Ltd., the site was changed from Gazipur to Mirzapur and in case of Parekh Aluminex Ltd., from Farukhabad to Barabanki.

3. In the matter, Public Hearing was conducted on 26.12.2013. Vide order dated 23.1.2014, the Commission observed as follows:

At the outset, the Commission enquired that why the petitions for approval of SPPAs on extension granted by GoUP on 8.6.2012 were not brought to the Commission immediately after the date of extension as the extension was granted on 8.6.2012 and the petitions have been filed till August, 2013. Since the extended period of 18 months has already passed, the Commission considered that it would be prudent to examine the present status of these projects, therefore, it was directed by the Commission to all the parties to file their updated positions on

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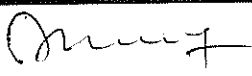


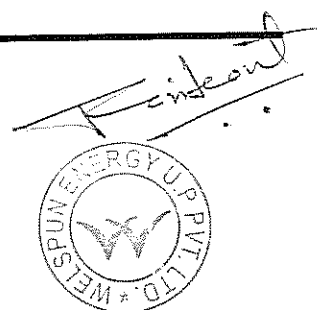
affidavit within 15 days from the date of public hearing. The affidavit should necessarily have the details of all the clearances, land acquired, status of bank guarantee, reasons for delay in filing petitions etc. Only Murka Thermal Power Project and Welspun Energy have filed their replies.

Broadly it has been found that M/s Bajaj Energy is an operating project and M/s Lalitpur Power Generation Company has achieved all the clearances and financial closure. M/s Lalitpur Power Generation Company has considerable progress in work, although still has not acquired the fuel allotment from the Gol but as mentioned by UPPCL, it has fair chances to get the coal from Gol. Other projects neither have fuel allotment nor have made any significant progress in the work and so their commissioning is uncertain. Such uncertainty in the scheduled delivery of future requirement of electricity as per the projected demand is not desirable and defeats the basic intent of getting power quickly from generators through MoU route. In view of this, notices may be issued to Respondent no 3 to 9 namely Himavat Power Pvt. Limited, Lanco Anpara Power Limited, Parekh Aluminex Limited, Welspun Energy Limited, Creative Thermolite Power Limited, Unitech Machines Limited and Torrent Power Limited to explain as to why approval of their respective SPPAs should not be refused?

The seven Respondents (No. 3 to 9) and UPPCL were directed to file their submissions on affidavit regarding above before 31st January, 2014 and the hearing was to be continued on 12.2.2014. All above seven respondents filed their submissions.

4. During the hearing on 12.2.2014, Lalitpur Power Generation Company Ltd. (LPGCL) submitted that that they had achieved their financial closure on 24.08.2011 and completed almost 75 % progress in site activities with an

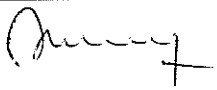

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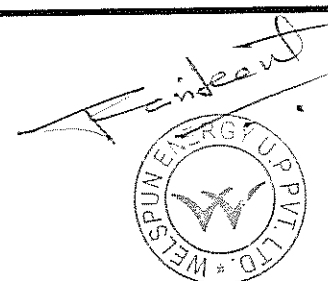




investment of about Rs. 7700 Crs. LPGCL informed that they had entered into MoU with Mahanadi Coal Fields Ltd. on 23.12.2013 for supply of coal for their two units. As no other Developer came out with the details of progress of the project, the Commission enquired that which are the companies who made sincere efforts since the last hearing? Subsequently, Himavat Power / Lanco Anpara submitted that they had invested about Rs. 1350 crores on the preparatory activities of both the projects, all the field studies were concluded and EPC contracts were to be finalized within two three weeks. The Commission considered that Lalitpur Power Generation Company Ltd., Himavat Power Pvt. Limited and Lanco Anpara Power Limited had made some progress. Welspun Energy submitted that they had acquired entire land for the project, obtained most of the statutory clearances required for the project and submitted additional bank guarantee to GoUP. Parekh Aluminex Limited and Creative Thermolite Power Limited submitted that they had acquired the land and most of the clearances required for the project. Unitech Machines Limited submitted that they were in process of acquiring land. Torrent Power Limited could not explain any substantial progress in the project.

5. The Commission showed its concern on apathetic development in these projects as the delay against the targeted dates would increase the gap between demand and supply. The PPAs have been entered through MoU route for the purpose to mitigate this gap and such uncertainty would forfeit the purpose. During the hearing, some issues were raised regarding the acquirement of land required for the projects. So, to examine the status of acquirement of land, vide order dated 20.3.2014, the Commission directed UPPCL to submit a detailed report on each of these cases so as to avoid disputes, if any. The parties were also directed to file their replies. The replies were to be filed within fifteen days. UPPCL and the developers filed their replies and provided their land status which was examined by the Commission.


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6. In order dated 20.3.2014, the Commission also elucidated that the detailed order in the subject matter shall be passed at a further date which would also cover the decision of the Commission on following issues:

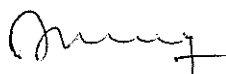
- a. Fuel Supply Agreement.
- b. Increase in quantum of supply under PPA.
- c. Change of location of the project.
- d. New commercial operation dates.
- e. Environmental clearance.
- f. Land availability.
- g. Water availability.
- h. Capital cost of the project etc.

7. Now, let us discuss issues as mentioned at 5 above, one by one alongwith the Commission's decision on these issues.

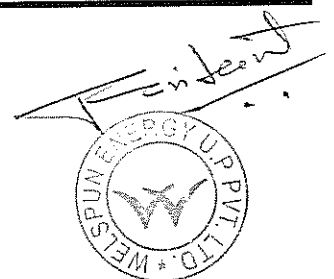
a. Fuel Supply Agreement

As per the Commission's order dated 18.11.2010,

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



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From the submissions, it has been observed that some developers have initiated the process for the environmental clearance with the alternate provision of imported coal which is not congruent to the Commission's view as mentioned above. As the projects have been envisaged in a State like Uttar Pradesh having no coastal connection, any alternate arrangement of imported coal would not be a feasible proposition. It is also pertinent with the fact that per capita income and per capita consumption of electricity, both are quite low in comparison to the national figures.

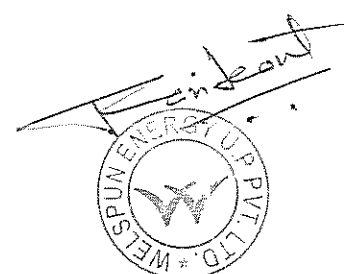
Therefore, the Commission reaffirms that the projects would be feasible only on Indian coal however, the shortage in the due quantities due to coal policies, may be compensated through procurement of fuel indigenous / imported preferably through long term contract or on spot-purchase / short-term contract / E-auction basis from domestic and/or international suppliers /traders within or from outside India as per the Commission's order dated 18.11.2010 and the applicable regulations.

b. Increase in quantum of supply under PPA

M/s Bajaj Energy Limited, which is functional at five places (Barkhera, Kambarkhera, Maqsoodpur, Utraula, Kundarki) having capacity of 2x45 MW at each place has revised the contracted capacity from 90% to 100% in SPPA dated 15.06.2011. Similarly, M/s Lalitpur Power Generation Co. has also revised the contracted capacity from 90% to 100% in SPPA dated 21.09.2012.

In this issue, the question arises that whether such additional quantity can be allowed in already agreed PPA when the restriction through the Tariff Policy under section 3 of the Electricity Act, 2003 is in place wherein it has been provided that after 5.1.2011, all future requirement of power should be procured competitively by the distribution licensee. However, the same


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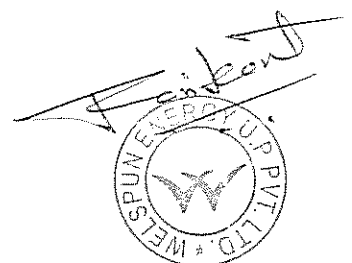
provision further gives exception in cases of expansion of the existing projects or where there is a State controlled/owned company as an identified developer and where regulators will need to resort to tariff determination based on norms provided that expansion of generating capacity by private developers for this purpose would be restricted to one time addition of not more than 50 % of the existing capacity.

The simple reading of above provision gives the way for one time expansion of capacity addition but not more than 50 % of the existing capacity. In above cases, the projects have either been commissioned after 5.1.2011 or have not been commissioned till date and therefore, may not be considered as existing projects on that particular date. But as the revised capacity of 100 % may be considered as the expansion of earlier capacity of 90 % and as the regulator needs to resort to tariff determination based on norms of generating capacities by private developers, the Commission finds that it would be reasonable and apt to allow the additional quantity of 10 % with the restriction, that in future no additional quantity would be allowed. Therefore, the Commission approves the revised quantities of 100 % in the case of M/s Bajaj Energy Limited and M/s Lalitpur Power Generation Co.

c. Change of location of the project

In cases of M/s Welspun Energy Limited and M/s Parekh Aluminex Limited, the locations of the plants have been changed from Gazipur to Mirzapur and Farukkhabad to Barabanki respectively. The changes have been agreed in as M/s Welspun Energy Limited pleaded that they would be nearer to coal mines and M/s Parekh Aluminex Limited had land near Barabanki. The Commission takes the cognizance of these changes..


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d. New commercial operation dates

The projects were envisaged under the GoUP Energy Policy, 2009 to cater the energy demand of the State by the year 2017. As per the approval of the Commission, the dates of commissioning, vide order dated 18.11.2010, are as below:

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

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

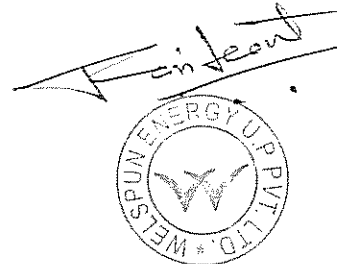
In case of 45 MW units, the COD for the first unit shall be 24 months and for the second unit it shall be 28 months from the date of MoU."

The projects have been delayed and therefore extension has been sought. As most of the projects have not even achieved their financial closure and the requirement of energy can not be postponed, it is the need of hour that these projects should be restricted to perform within the due timeframe. Therefore, the Commission considers that there shall be a Scheduled Commercial Operation Date (SCOD) and Zero Date as below:

'Scheduled Commercial Operation Date or SCOD' shall mean the date(s) of commercial operation of a generating station or generating unit or block thereof as indicated in the Investment Approval or as agreed in power purchase agreement whichever is earlier."

'Start Date or Zero Date' means the date indicated in the Investment Approval for commencement of implementation of the project and

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where no date has been indicated, the date of investment approval shall be deemed to be Start Date or Zero Date;

e. Environmental clearance

From the submissions, it is evident that the initiatives taken by the developers for environmental clearance except for those which have been taken on indigenous/imported coal have been satisfactory and accordingly the progress has been achieved. The Commission therefore, does not incline to add anything further.

f. Land availability

The issue of land has already been discussed in the preceding paragraphs therefore, does not require any additional mention.

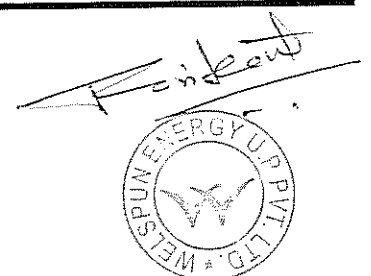
g. Water availability

This issue also requires no further discussion.

h. Capital cost of the project

The capital cost of the project is an important element which requires a detailed discussion. The projects are getting delayed. No capital cost has been agreed in the PPA. In such a situation, it is not known to the distribution licensee that at what cost they would get electricity from these plants. In this context, the Commission has already made its observation vide order dated 20.5.2013 in petition nos. 825,826,827,828 & 829 of 2012 as follows:

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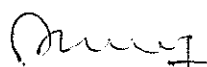


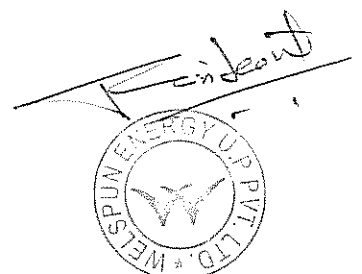


"In this matter, it is again to elucidate that under Reg -17 of UPERC Generation Regulation 2009, the actual expenditure incurred on completion of the project shall form the basis for determination of tariff subject to prudence check by the Commission. For submission of project cost, since there was no agreed capital cost in the PPA, the mode has been directed by the Commission vide its orders dated 22.12.11, 5.11.12 and 28.1.13. But, despite repeated directions of the Commission, UPPCL has not filed the verified and agreed capital cost till date. To provide a last chance, the Commission allows three months time to UPPCL to complete the job otherwise it would be treated as non-compliance of the Commission's orders and would be considered under the respective provisions of the Act.

Since there are many power projects for procurement of power for the Discoms under MoU with the GoUP and under PPA with UPPCL, it is necessary to evolve the mode so that the intent of the Act and the Regulations may not be misunderstood. The reluctance shown by UPPCL in this matter, which has caused enough delay in initiating the process for prudence check of capital cost and subsequent determination of tariff by the Commission, hammer the requirement of making the agreed cost as an essential part of PPA.

Therefore, it is directed that for all MoU Route projects who are under PPA with UPPCL, the agreed ceiling capital cost shall be brought to the Commission for approval and the approved cost shall be a part of PPA. The actual


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capital cost, if it is equal to the approved ceiling capital cost, shall form the basis for prudence check and determination of tariff by the Commission. If the actual cost is lower then the lower cost would be taken and if it is higher then the additional cost would first be verified and agreed by UPPCL/GoUP then shall be taken up by the Commission for consideration and approval. The necessary changes to remove the ambiguity in the Regulations shall be made accordingly.

However, in this case, since the projects are operational, the direction given in earlier orders shall be applicable. UPPCL and M/s Bajaj Energy Pvt. Ltd. will have to arrive on agreed/admitted capital cost without further delay as per the directions of the Commission. The Petitioner is directed to file the petitions for determination of final tariff afresh subsequently."

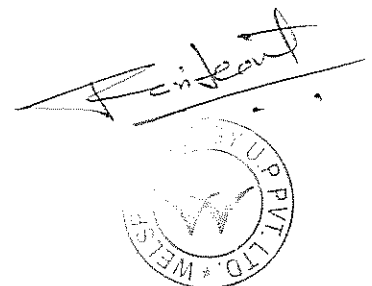
In this reference it is further required to be elucidated that while approving the agreed capital cost, the Commission shall also take into consideration the available bench mark norms.

8. In the matter, during the Public Hearings certain comments were filed which were replied by UPPCL and the details were mentioned in the Commission's order dated 23.1.2014 as follows:

Comments by Sri Avadhesh Kumar Verma and Sri Rama Shankar Awasthi:


Shakti Bhawan

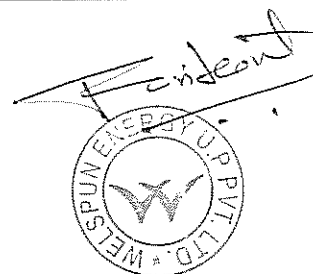
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- (i) Extension allowed by GoUP on 8.6.2012 without approval of the Hon'ble Commission is not valid and hence should be rejected.
- (ii) The energy is being purchased from MoU route projects like Rosa Power and Bajaj Energy @ Rs.6.06/unit and Rs.7.75/ unit respectively which is very high and not in favour of the consumer. MoU route has already been banned by Gol hence the extension of MoU route projects is against the intent of Gol. Therefore, no extension should be allowed.
- (iii) MoU route projects neither have fuel supply agreement with the Gol nor there are any chances in future. GoUP vide proposal dated 3.7.2012 has expressed that in case coal is not provided by Gol , the projects may be allowed to use imported coal however, GoUP would take care that the price of energy generated on imported coal is reasonable and competitive. In view of already high price from MoU route private generators, no further burden due to high cost of imported coal should be put on the consumer, and therefore, the extension must not be allowed.
- (iv) Regarding allotment of coal linkage, the content of letter sent by Hon'ble Prime Minister to GoUP should be made public.
- (v) A High level enquiry should be setup in this matter.
- (vi) Due to delay in commissioning, the fixed cost would increase and the burden would be levied on the consumers.
- (vii) On signing of PPA, the credibility of the company improves in the market resulting in the increase of market price of shares. It is required to be checked that whether this is not the intension of extension.
- (viii) It has to be ensured that whether the extension is in the interest of consumers of the State?
- (ix) Due to extension, the applicability of IDC has to be checked in detail.
- (x) The view of law wing of the GoUP should be made public.


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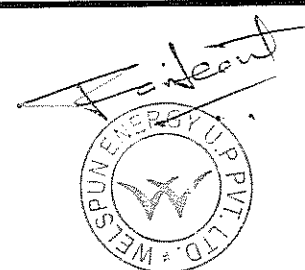


- (xi) UPPCL, being a separate entity, is not authorized to enter into SPPA.
- (xii) PPA after 5.1.2011 cannot be entered through MoU route as per the Tariff Policy.
- (xiii) No clause in the PPA has provision for extension of initial period by 18 months.
- (xiv) Permission granted by GoUP is of no consequence been matter related to electricity.
- (xv) Non - validity of extension, increase in tied capacity, change in location, etc.

Replies by UPPCL:

- (i) The extension has been granted by GoUP subject to approval of the Hon'ble Commission and therefore, shall stand invalidated suo-moto if the Commission rejects extension.
- (ii) All the MoUs have been entered before 5.1.2011 which was the deadline decided by Gol. The extension has been allowed by GoUP in view of the fact that project preparatory activities including the fuel supply agreement could not be achieved within due period. As far as the issue of high price of power from M/s Rosa Power and M/s Bajaj Energy is concerned, it is mainly due to increase in the cost of fuel which is pass through in the tariff.
- (iii) No project has been allowed to generate fully on imported coal till date. The efforts for getting the linkage of coal are on. However, the tariffs of electricity from these projects are to be decided by the Hon'ble Commission.
- (iv) The Gol has sought the details of requirement of coal for the projects to be commissioned before March 2015 vide letter dated 10.7.2012. According to recent Presidential directives, Lalitpur Power Project is expected to get the coal linkage.

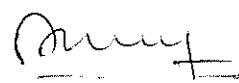

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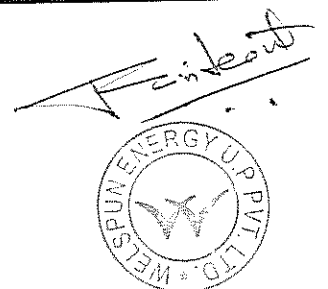




- (v) UPPCL has not disobeyed any order of the Hon'ble Commission in this matter.
- (vi) The delay has occurred mainly due to non-availability of coal linkage.
- (vii) The issue does not pertain to the subject of the petition.
- (viii) Extension has been granted to ensure mitigation of shortage of electricity for the consumer.
- (ix) The decision to disallow IDC for the extended period has been taken by GoUP.
- (x) The view of law wing of the GoUP has been sought in second extension which has not been filed with the Hon'ble Commission yet.
- (xi) Hon'ble Commission has already admitted the status of UPPCL as a purchaser of power on the basis of authorizations from discoms.
- (xii) SPPA does not involve fresh procurement of power.
- (xiii) As per conditions of PPA, the period may be extended due to the event or circumstances not within reasonable control of an affected party.
- (xiv) GoUP has issued the order dated 8.6.2012 as this matter being a policy involving public interest as per section 108 of the Electricity Act, 2003
- (xv) None of the project except Bajaj Energy could get coal linkage from GoI and hence could not achieve the financial closure. Only Lalitpur project has achieved financial closure although no linkage of coal has been achieved. Environmental Clearance for Lalitpur, Bognipur Phase-I & II has been achieved. For other projects, it is in process. In this situation, the extension has been granted by GoUP so that the Projects remain tied up.

9. In view of above and with the decisions made in foregoing paragraphs, on the issue of extension, the Commission opines as follows:


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Sl.no.	Pet.no.	Petitioner	Respondent	Subject
1.	830/12	UPPCL	Lalitpur Power Generation Co.	Approval of Supplementary PPAs
1	Capacity		3 x 660 MW TPS	
2	Date of MoU		22-4-2010	
3	Date of PPA		10-12-2010	
4	Capacity in PPA		90%	
5	Date of Approval by the Commission		18-11-2010	
6	Project Preparatory Activities – i. Land ii. MOEF Clearance iii. Financial Closer iv. EPC Contract v. Coal Linkage		Acquired Obtained Done on 24.8.2011 Awarded Executed MoU with Mahanadi Coal fields Ltd. Odisha on 23.12.2013 for supply of coal at 65% satisfaction level for Unit no. 1&2 (1320 MW).	
7	Extension by GoUP		Dt. 8-6-2012 for 18 months or as requested by the developer (which ever is lesser) with the provision that for additional period, IDC will not be allowed.	
8	Extension of Bank Guarantee		Accordingly BG amounting Rs. 99 Crore has been extended upto 10.6.2014.	
9	Supplementary PPAs		Dt. 15.6.2011 for supply of 100% power instead of 90% & 21.9.2012 subsequent to extension of MoU by GoUP.	
10	Change in Contracted Capacity		90% to 100%	
<u>Commission's Decision</u>				
Lalitpur Power Generation Co. Ltd has shown substantial progress in the project. All the activities have been completed including the MoU with Mahanadi Coal fields Ltd. Odisha. Therefore, the Commission allows extension with the condition that for the extended period, IDC would not be allowed.				



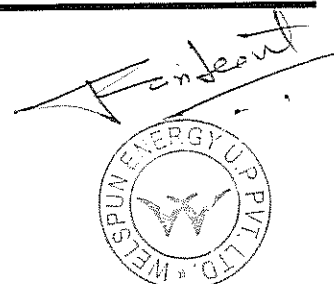
Sl.no.	Pet.no.	Petitioner	Respondent	Subject
2	839/12	UPPCL	Himavat Power Pvt. Ltd. Bhognipur	Approval of Supplementary PPA

1	Capacity	2 x 660 MW TPS
2	Date of MoU	25-08--2010
3	Date of PPA	14-12-2010
4	Capacity in PPA	90%
5	Date of Approval by the Commission	18-11-2010
6	Project Preparatory Activities – i. Land ii. MOEF Clearance iii. Financial Closer iv. EPC Contract v. Coal Linkage	Acquired <u>Obtained on indigenous/imported coal</u> Not achieved Awarded NOT GRANTED 7.5 mtpa applied on 15.07.2010 As per criteria of CEA the project has obtained maximum marks for grant of coal linkage.
7	Extension by GoUP	Dt. 8-6-2012 for 18 months or as requested by the developer (which ever is lesser) with the provision that for additional period, IDC will not be allowed.
8	Extension of Bank Guarantee	Accordingly BG amounting Rs. 66 Crore has been extended upto 14.6.2014.
9	Supplementary PPA	Draft has been filed

Commission's Decision

Himavat Power Pvt. Ltd. Bhognipur has shown moderate progress. Although all the preparatory activities have not been completed but it has obtained maximum marks for grant of coal linkage, awarded the EPC contract through International Competitive Bidding and paid about Rs 759.40 Crs. to EPC contractor. Therefore, the Commission allows extension with the condition that for the extended period, IDC would not be allowed.

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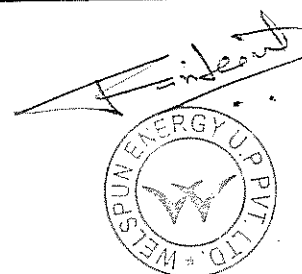
Sl.no.	Pet.no.	Petitioner	Respondent	Subject
3	840/12	UPPCL	Lanco Anpara Power Limited, Bhognipur	Approval of Supplementary PPA

1	Capacity	2 x 660 MW TPS
2	Date of MoU	4-11-2010
3	Date of PPA	14-12-2010
4	Capacity in PPA	90%
5	Date of Approval by the Commission	13-12-2010
6	Project Preparatory Activities – i. Land ii. MOEF Clearance iii. Financial Closer iv. EPC Contract v. Coal Linkage	Acquired 948 Acre <u>Obtained on indigenous/imported coal</u> Not achieved Awarded Not Granted 7.5 mtpa applied on 20.10.2010 As per criteria of CEA the project has obtained maximum marks for grant of coal linkage.
7	Extension by GoUP	Dt. 8-6-2012 for 18 months or as requested by the developer.(which ever is lesser) with the provision that for additional period, IDC will not be allowed.
8	Extension of Bank Guarantee	Accordingly BG amounting Rs. 66 Crore has been extended upto 14.6.2014.
9	Supplementary PPA	Draft has been filed

Commission's Decision

Lanco Anpara Power Limited, Bhognipur has shown moderate progress. Although all the preparatory activities have not been completed but it has obtained maximum marks for grant of coal linkage, awarded the EPC contract through International Competitive Bidding and paid about Rs 279.20 Crs. to EPC. contractor. Therefore, the Commission allows extension with the condition that for the extended period, IDC would not be allowed.


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Sl.no.	Pet.no.	Petitioner	Respondent	Subject
4	833/12	UPPCL	Welspun Energy Ltd. Mirzapur	Approval of Supplementary PPA

1	Capacity	2 x 660 MW TPS
2	Date of MoU	31-12-2010
3	Date of PPA	04-01-2011
4	Capacity in PPA	100%
5	Date of Approval by the Commission	04-01-2011
6	Project Preparatory Activities – i. Land ii. MOEF Clearance iii. Financial Closer iv. EPC Contract v. Coal Linkage	Acquired TOR submitted on indigenous/imported coal Not achieved Not Awarded Not Granted however, it has attained 90/100 qualifying marks for coal linkage. 7.37 mtpa applied on 29.12.2011
7	Extension by GoUP	Dt. 8-6-2012 for 18 months or as requested by the developer (which ever is lesser) with the provision that for additional period, IDC will not be allowed.
8	Extension of Bank Guarantee	Accordingly BG amounting Rs. 66 Crore has been extended upto 11.7.2014.
9	Supplementary PPA	Draft has been filed
10	Change in Project Site	The project site has been changed from Gazipur to Mirzapur.

Commission's Decision

Welspun Energy Limited has shifted the site from Gazipur to Mirzapur which seems better being in the vicinity of coal available area. The firm has attained 90/100 qualifying marks for coal linkage which is a major criteria for development of project in a State like Uttar Pradesh. Having 660 MW units, the plant seems to be more economical and viable in comparison to smaller capacity plants. Therefore, despite the fact that other activities have not been completed, the Commission considers to allow extension with the condition that for the extended period, IDC would not be allowed. It is also pertinent to mention that this extension is allowed only with the consideration that the project would soon show desirable progress within the extended period.

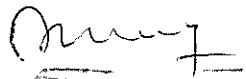


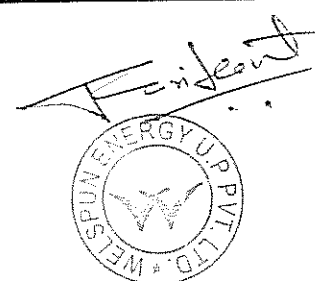
Sl.no.	Pet.no.	Petitioner	Respondent	Subject
5	838/12	UPPCL	Parekh Aluminex Ltd., Barabanki	Approval of Supplementary PPA

1	Capacity	1 x 250 MW TPS
2	Date of MoU	14-12-2010
3	Date of PPA	01-01-2011
4	Capacity in PPA	100%
5	Date of Approval by the Commission	31-12-2010
6	Project Preparatory Activities – i. Land ii. MOEF Clearance iii. Financial Closer iv. EPC Contract v. Coal Linkage	Acquired State level clearance on <u>indigenous/imported coal</u> Not achieved Not Awarded NOT GRANTED 1.45 mtpa applied on 29.01.2011
7	Extension by GoUP	Dt. 8-6-2012 for 18 months or as requested by the developer (which ever is lesser) with the provision that for additional period, IDC will not be allowed.
8	Extension of Bank Guarantee	Accordingly BG amounting Rs. 12.5 Crore has been extended upto 21.6.2014.
9	Supplementary PPA	Draft has been filed
10	Change in Project Site	The project site has been changed from Farukhabad to Barabanki.

Commission's Decision

Parekh Aluminex Ltd., Barabanki has not shown satisfactory progress. The project has not been considered for allotment of coal linkage yet. The State level environmental clearance on indigenous/imported coal has been given but that would not be a surety for allotment of coal linkage in future which is a necessary component for viability of a project in Uttar Pradesh. Therefore, the Commission does not consider to allow extension.


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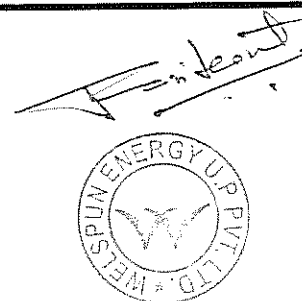
Sl.no.	Pet.no.	Petitioner	Respondent	Subject
6	845/12	UPPCL	Creative Thermolite Power Pvt. Ltd. Murka	Approval of Supplementary PPA

1	Capacity	2 x 300 MW TPS
2	Date of MoU	28-10-2010
3	Date of PPA	31-12-2010
4	Capacity in PPA	90%
5	Date of Approval by the Commission	31-12-2010
6	Project Preparatory Activities – i. Land ii. MOEF Clearance iii. Financial Closer iv. EPC Contract v. Coal Linkage	Acquired TOR Submitted Not achieved Not Awarded NOT GRANTED 2.98 mtpa applied on 30.03.2011
7	Extension by GoUP	Dt. 8-6-2012 for 18 months or as requested by the developer (which ever is lesser) with the provision that for additional period, IDC will not be allowed.
8	Extension of Bank Guarantee	Accordingly BG amounting Rs. 30 Crore has been extended upto 28.6.2014.
9	Supplementary PPA	Draft has been filed

Commission's Decision

Creative Thermolite Power Pvt. Ltd. Murka has not shown satisfactory progress. The project has not been considered for allotment of coal linkage yet which is a necessary component for viability of a project in Uttar Pradesh and the desired progress in the environmental clearance has also not been achieved. Therefore, the Commission does not consider to allow extension.

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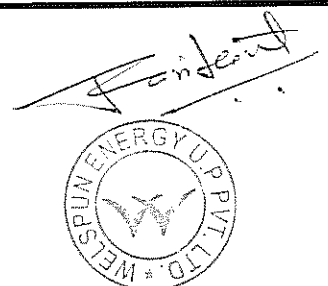
Sl.no.	Pet.no.	Petitioner	Respondent	Subject
7	897/13	UPPCL	Unitech Machines Ltd., Auraiya	Approval of Supplementary PPA

1	Capacity	1 x 250 MW TPS
2	Date of MoU	15-12-2010
3	Date of PPA	31-12-2010
4	Capacity in PPA	90%
5	Date of Approval by the Commission	31-12-2010
6	Project Preparatory Activities – i. Land ii. MOEF Clearance iii. Financial Closer iv. EPC Contract v. Coal Linkage	Acquired about 600 Acer of land <u>State level clearance on indigenous/imported coal</u> Not achieved Not Awarded NOT GRANTED 1.6 mtpa applied on 13.04.2011
7	Extension by GoUP	Dt. 8-6-2012 for 18 months or as requested by the developer (which ever is lesser) with the provision that for additional period, IDC will not be allowed.
8	Extension of Bank Guarantee	Accordingly BG amounting Rs. 12.5 Crore has been extended upto 15.6.2014.
9	Supplementary PPA	Subject to approval of the Commission

Commission's Decision

Unitech Machines Ltd., Auraiya has not shown satisfactory progress. The project has not been considered for allotment of coal linkage yet. The State level environmental clearance on indigenous/imported coal has been given but that would not be a surety for allotment of coal linkage in future which is a necessary component for viability of a project in Uttar Pradesh. Therefore, the Commission does not consider to allow extension.

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Sl.no.	Pet.no.	Petitioner	Respondent	Subject
8	842/12	UPPCL	Torrent Power Ltd., Sandila	Approval of Supplementary PPA

1	Capacity	2 x 660 MW TPS
2	Date of MoU	31-12-2010
3	Date of PPA	04-01-2011
4	Capacity in PPA	90%
5	Date of Approval by the Commission	04-01-2011
6	Project Preparatory Activities – i. Land ii. MOEF Clearance iii. Financial Closer iv. EPC Contract v. Coal Linkage	Not Acquired TOR Submitted Not achieved Not Awarded NOT GRANTED 7.18 mtpa applied on 06.09.2011
7	Extension by GoUP	Dt. 8-6-2012 for 18 months or as requested by the developer (which ever is lesser) with the provision that for additional period, IDC will not be allowed.
8	Extension of Bank Guarantee	Accordingly BG amounting Rs. 66 Crore has been extended upto 30.6.2014.
9	Supplementary PPA	Draft has been filed

Commission's Decision

Torrent Power Ltd., Sandila has not shown any progress. The project has not even acquired the land. Therefore, the Commission rejects the extension.

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Operational Project

Sl.no.	Pet.no.	Petitioner	Respondent	Subject
9	859/12	UPPCL	Bajaj Energy 2x45 MW at five places (Barkhera, Kambarkhera, Maqsoodpur, Utraula, Kundarki)	Approval of Supplementary PPA

1	Capacity	2 x 45 MW TPS (at 5 places)
2	Date of MoU	22.04.2010
3	Date of PPA	10-12-2010
4	Capacity in PPA	90%
5	Date of Approval by the Commission	18-11-2010
6	Supplementary PPA	15.06.2011
7	Change in Capacity	The capacity has been revised to 100%

Commission's Decision

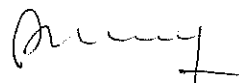
The Commission allows the extended capacity in agreement.

10. With above observations, the Commission disapproves the Draft Supplementary Power Purchase Agreements (SPPAs) of Parekh Aluminex Ltd., Barabanki, Creative Thermolite Power Pvt. Ltd. Murka, Unitech Machines Ltd., Auraiya and Torrent Power Ltd., Sandila.
11. However, considering the facts as above, the Commission approves the Draft Supplementary Power Purchase Agreements (SPPAs) of Lalitpur Power Generation Co., Himavat Power Pvt. Ltd. Bhognipur, Lanco Anpara Power Limited, Bhognipur and Welspun Energy Ltd. Mirzapur.
12. The petitions are disposed of.

(Indu Bhushan Pandey)
Member

(Desh Deepak Verma)
Chairman

Place : Lucknow
Dated: 3.11.2014


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