

**BEFORE THE MAHARASHTRA REGULATORY COMMISSION,  
MUMBAI**

**Filing No: \_\_\_\_\_  
Case No. 189 of 2013**

**IN THE MATTER OF**

Petition of Adani Power Maharashtra Limited for compensation in tariff on account of "Change in Law" under the PPAs dated 31.03.2010, 19.08.2010 and 16.02.2013.

**AND IN THE MATTER OF**

Adani Power Maharashtra Limited

**Petitioner**

**VERSUS**

Maharashtra State Electricity Distribution Company Ltd.

**Respondent**

Prayas (Energy Group)

**Consumer Representative / Applicant**

**SUBMISSION FROM PRAYAS (ENERGY GROUP).**

1. This submission is regarding the matter mentioned above. As per the hearing in this matter held on 18<sup>th</sup> February 2014, the Commission had stated that it would appoint consultant to assist the Commission in the present matter.
2. The Commission also stated that it was open to suggestions from all the stakeholders regarding the terms of reference to be specified for the consultant. Accordingly, we had submitted the issues listed below to be considered as a part of the terms of reference for the consultant:
  - a. Whether a letter issued by the Ministry of Power to the Central Commission can be construed as a directive to a State Commission and whether it is binding on the state Commission to act on the same?
  - b. Whether an advice given by Central Commission to the Central Government can be construed as a directive to a State Commission and whether it is binding on the State Commission to act on the same?
  - c. Whether at any point of time, was the petitioner contractually assured of 100% supply of domestic coal at CIL notified prices?
  - d. Whether the events such as the CCEA approved mechanism for supply of coal to power producers and the letter from the Ministry of Power addressed to the secretary CERC, constitute 'change in law' as per the article 10 under the said PPAs?
3. Through an email dated 10<sup>th</sup> June 2014, the Commission has shared a power point presentation prepared by the consultant. The presentation is titled as '*Framework for determining incremental coal cost pass through*' and it suggests scenarios for the purpose of pass through without evaluating legal issues which question the very applicability of allowing any pass through.
4. We submit that it is premature and inappropriate to discuss modalities of pass through when applicability of the provisions of 'change in law' is being contested based on evidence and analysis. As the consultant's work fails to address the crucial legal issues, we are making this submission to highlight the same and to bring to the Commission's notice certain evidence, which needs to be factored in before proceeding further. Only after these issues are addressed, can there be any discussion regarding the modalities of the pass through, if any.

5. We submit that 'change in law' provisions of the PPA do not apply to this petition, for the following reasons:

- i. **Advice given by Ministry of Power (MoP):** On 31st July 2013 the MoP issued a letter to secretary of the Central Electricity Regulatory Commission (CERC) with respect to the impact on tariff in concluded PPAs due to shortages in domestic coal availability and subsequent changes in NCDP. Excerpts of para 4 and 5 of the said letter are quoted below for ready reference:

*"4. As per the 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/ERC 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 of remaining four years of the 12th Plan for already PPAs based on tariff based competitive bidding."*

*5. The **ERCs are advised to consider the requests 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. (**Emphasis added**)*

- ii. As the excerpts above make it clear, the ERC is merely advised to consider the request of individual power producers as per due process and on a case to case basis, keeping in mind the larger aspect of public interest. Thus, it clearly means that depending on the type of bidding, fuel arrangements, PPA terms and conditions and other relevant factors, the Commission will have to evaluate whether the provisions of 'change in law' become applicable and if so, determine impact on tariff, if any. The letter issued by MoP is only advisory and not binding in nature as under the Electricity Act, the Central Ministry cannot issue any directives to a State Commission.
- iii. Further, it would be pertinent to note that concerning the issue of open access, the MoP in a similar manner had issued a circular advising the ERCs on the steps to be taken to implement certain provisions of the Electricity Act 2003. Through a Suo-motu petition (case no 50 of 2012) the Commission conducted a public hearing to decide whether it should implement the said advice given by the MoP and ruled as follows:

*"136. The Commission is of the view that the MoP letter based on the opinion from M/o Law and Justice on Operationalisation of Open Access in Power Sector is nature of suggestion/advisory for development of market in the Power Sector to the State Commissions and may be looked as 'Policy Vision' of the Central Government.*

*Conclusion- The MoP letter based on the opinion from M/o Law and Justice on Operationalisation of Open Access in Power Sector is nature of suggestion/advisory for development of market in the Power Sector to the State Commissions and may be looked as 'Policy Vision' of the Central Government."*

- iv. Even in this case, as in the open access related matter, the MoP letter only advises the Commission to consider such issues on a case to case basis after following due process and keeping in mind public interest. Hence, there is no larger policy implication for all contracts signed under competitive bidding on account of this advice from MoP. In spite of this fact, if the Commission wishes to act based on the said letter issued by Ministry of Power, such decision will be solely discretionary and the Commission will have to justify the same based on legal and regulatory principles.

- v. **Applicability of change in Law:** Now let us consider the issue of 'Change in Law'. The article 10 of the PPA which deal with the issue of change in law, states the following:

*"10.1.1 "Change in Law" means the occurrence of any of the following events after the date, which is seven (7) days prior to the Bid Deadline resulting into any additional recurring/ non-recurring expenditure by the Seller or any income to the Seller:*

- *the enactment, coming into effect, adoption, promulgation, amendment, modification or repeal (without re-enactment or consolidation) in India, of any Law, including rules and regulations framed pursuant to such Law;*
- *a change in the interpretation or application of any Law by any Indian Governmental Instrumentality having the legal power to interpret or apply such Law, or any Competent Court of Law;*
- *the imposition of a requirement for obtaining any Consents, Clearances and Permits which was not required earlier;*
- *a change in the terms and conditions prescribed for obtaining any Consents, Clearances and Permits or the inclusion of any new terms or conditions for obtaining such Consents, Clearances and Permits; except due to any default of the Seller;*
- *any change in tax or introduction of any tax made applicable for supply of power by the Seller as per the terms of this Agreement.*

*but shall not include*

- (i) any change in any withholding tax on income or dividends distributed to the shareholders of the Seller, or*
- (ii) change in respect of UI Charges or frequency intervals by an Appropriate Commission or*
- (iii) any change on account of regulatory measures by the Appropriate Commission including calculation of Availability."*

- vi. A case is being made to project that any change in supply of domestic coal was never envisaged. Now that the shortfall in domestic coal availability has become a reality, it is being projected as a 'changed scenario' and it is being claimed that this issue of shortages is now being redressed by the Government through the CCEA approved mechanism. But before proceeding further, following issues need to be addressed:

1. Was the petitioner relying on domestic coal as the primary source for the said units identified under the present petition at the time of bidding?
2. Is there indeed any change in the nature of assurance that was contractually guaranteed to the petitioner, before and after the said events occurred?
3. Is the 'change in law' clause applicable to the present petition?

Let us consider these issues one by one.

- vii. **Coal Source identified at the time of bidding:** As the petition is based on changes emanating from the CCEA decision and changes to New Coal Distribution Policy, it needs to be ascertained whether the petitioner had plans to procure domestic coal for this project at all. In this regard, it is instructive to look at the bid submitted by the petitioner. The Annexure 3 of the petition is the 'Bid dated 07.08.2009'. The copy of petition received by us has few pages missing from this annexure; however page on 179 states the primary fuel source identified by the petitioner. Excerpt of the same is produce below.

Proven reserves of the mine (in case of mine allocation):	Not applicable
At least fifty percent (50%) of the quantity of coal required for the (balance capacity of) power station at Normative Availability on an annual basis and supporting computation for the same	2.54 Million MT with coal having GCV(ARB) of 4250 Kcal/Kg. Supporting computation attached
OR	
Copy of the fuel supply agreement (s) for at least fifty percent (50%) of the total the quantity of coal required for a term of at least five (5) years or the term of the PPA (which ever is less) for the power station at Normative Availability on an annual basis	Copy of Fuel Supply Agreement dated 25 <sup>th</sup> June 2009 with Adani Enterprises Ltd. for supply of 3 Million MT of Imported coal up to Sept 2018 is attached. Our fuel supplier AEL, who is the largest coal trading company of the country, has long term arrangements with coal mines in Indonesia, Australia and South Africa for trading of coal
Particulars of documents enclosed in support of the above	FSA dated 25 <sup>th</sup> June 2009

- viii. The above excerpt makes it clear that the petitioner was anyway banking on imported coal for supply of 3 Million MT and had even signed an FSA for the same with its own sister concern. This fact is further corroborated by the environment clearance application of the petitioner, which also identifies coal source as imported coal. The said environment clearance is annexed as annexure 1 and relevant paras are quoted below:

*“The undersigned is directed to refer to letter dated 01.12.2009 and 7.1.2010 on the subject mentioned above. The Ministry of Environment & Forests has examined the application.*

*2. It has been noted that the proposal is for expansion of the 2x660 MW (Phase-I) Coal Based TPP by addition of 3x660 MW. Environmental clearance for Phase-I (2x660 MW) was accorded on 29.05.2008. Land requirement for both the Phases will be restricted to only 402 ha, which is in MIDC notified industrial area. Tiroda town is about 5.0 km from the site. Domestic coal from SECL will be used as fuel for 1x660 MW. **For 2x660 MW units, imported coal from South Africa is proposed to be used. Ash and sulphur content in domestic coal to be used will be 34% and 0.5 % respectively. Ash and sulphur content in imported coal will be 32% and 0.3 % respectively. Domestic coal requirement for 1x660 MW will be 2.89 MTPA and for 2x660 MW imported coal requirement will be 2.72 MTPA (per unit). Total coal requirement will be 8.36 MTPA. Water requirement of 90 mcm/annum will be obtained from Wainganga river which flows at a distance of 5 km from the site. Allotment of 90 mcm/annum is in place. Nagzira wildlife sanctuary is located at a distance of 11.0 km from the site. Cost of the expansion project will be Rs. 9696.0 Crores.**” (***Emphasis added***)*

- ix. Subsequent to this, the petitioner has applied for amending the environment clearance to change the source of coal from imported to domestic. The said applications were accepted by the Ministry of Environment and Forest and an amended clearance has been granted on 13.03.2014. The said clearance states as follows:

*“This has reference to your letters dated 22.07.2013, 16.08.2013, 12.09.2013, 24.09.2013 and 09.12.2013 requesting for the amendment of environmental clearance (EC) accorded for the above project vide letter of even no.dated 22.04.2010 regarding change of source of coal from Imported to Domestic.*

*2. The matter was placed before the Expert Appraisal Committee (Thermal Power) in its 3rd & 8th Meetings held during October 10, 2013 & January 9-10, 2014 respectively. In acceptance of the recommendation of the Expert Appraisal Committee (Thermal Power) and in view of the information/clarification furnished by you, with respect to the above mentioned power project, the Ministry accords amendment in the said EC for change of source of coal from Imported to Domestic.”<sup>1</sup>(Emphasis added)*

- x. Based on the above excerpts the following can be deduced:
- a. Since the time of bidding, the petitioner was planning to source its primary coal requirement through imports from South Africa.
  - b. Accordingly, FSA for importing coal of about 3 Million Ton per year was signed for this purpose on 25<sup>th</sup> June 2009.
  - c. The decision to change the coal source from imported to domestic was willingly and voluntarily taken by the petitioners keeping in mind its own commercial interests and is not on account of the actions or inaction of any Indian Government instrumentality.
  - d. Further, even the letters written by the petitioner seeking to modify the environment clearance based on change in the coal source from imported to domestic were issued post the CCEA decision and CERC and MoP advice, and hence cannot be considered under change in law related provisions.
  - e. From the above points, it becomes clear that not only there is no possibility of applying ‘change in law’ related provisions to this case, but as imported coal is costlier than domestic coal, the petitioner will benefit in terms of reduced fuel cost on account of change in its fuel source and hence there cannot be any upward impact on the quoted tariff.
- xi. In light of the points mentioned above, we pray to the Commission as follows:
1. Declare that the provisions of the ‘change in law’ clause do not apply as the decision to change the primary coal source from imported to domestic is willingly and voluntarily being taken by the petitioner keeping in mind its own commercial interest and is not on account of any actions or inaction on part of any Indian Government instrumentality. Therefore, dismiss the petition without allowing any tariff revision.
  2. Without prejudice to the above prayer, if the Commission decides to proceed further then following process must be followed:
    - a. Frame issues regarding applicability of the provisions of ‘change in law’ as per the article 10 of the PPA.
    - b. Allow all stakeholders to make submissions on the issues framed.
    - c. Issue an interim order clarifying Commission’s decision regarding applicability of change in law related provisions and need for tariff revision, if any.
    - d. Conduct due public hearing based on public notice inviting suggestions and comments from public, before deciding any change in tariff.

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<sup>1</sup> [http://environmentclearance.nic.in/writereaddata/Amendment\\_EC/0\\_0\\_14\\_Mar\\_2014\\_1140520401AdaniMaha-Tiroda\\_ECAmend.pdf](http://environmentclearance.nic.in/writereaddata/Amendment_EC/0_0_14_Mar_2014_1140520401AdaniMaha-Tiroda_ECAmend.pdf)

6. We once again request the Commission to kindly take this submission on record and also allow us to make further submissions in this matter, if any.

**(Signature)**

**Date:** 12 June 2014

**Place:** Pune

**Annexure I**

Link: <http://environmentclearance.nic.in/Auth/openletter.aspx?EC=4452>

**J 13012/81/2008-IA.II (T)  
Government of India  
Ministry of Environment & Forests**

Paryavaran Bhawan  
CGO Complex, Lodi Road  
New Delhi-110 003  
Dated: April 22, 2010.

To,

M/s Adani Power Maharashtra Pvt.Ltd  
"Shikhar" (9th Floor)  
Mithakhali Circle, Navrangpura  
Ahmedabad - 380009

**Sub: Expansion from 1320 MW to 3300 MW by addition of 3x660 MW Coal Based Thermal Power Plant in MIDC Industrial Area at village Tiroda, in Gondia Distt., in Maharashtra - Reg. Environmental Clearance.**

Sir

The undersigned is directed to refer to letter dated 01.12.2009 and 7.1.2010 on the subject mentioned above. The Ministry of Environment & Forests has examined the application.

2. It has been noted that the proposal is for expansion of the 2x660 MW (Phase-I) Coal Based TPP by addition of 3x660 MW. Environmental clearance for Phase-I (2x660 MW) was accorded on 29.05.2008. Land requirement for both the Phases will be restricted to only 402 ha, which is in MIDC notified industrial area. Tiroda town is about 5.0 km from the site. Domestic coal from SECL will be used as fuel for 1x660 MW. For 2x660 MW units, imported coal from South Africa is proposed to be used. Ash and sulphur content in domestic coal to be used will be 34% and 0.5 % respectively. Ash and sulphur content in imported coal will be 32% and 0.3 % respectively. Domestic coal requirement for 1x660 MW will be 2.89 MTPA and for 2x660 MW imported coal requirement will be 2.72 MTPA (per unit). Total coal requirement will be 8.36 MTPA. Water requirement of 90 mcm/annum will be obtained from Wainganga river which flows at a distance of 5 km from the site. Allotment of 90 mcm/annum is in place. Nagzira wildlife sanctuary is located at a distance of 11.0 km from the site. Cost of the expansion project will be Rs. 9696.0 Crores.

3. The project has been considered in accordance with the provisions of the EIA notification issued by the Ministry of Environment & Forests vide S.O. 1533 (E), dated September 14, 2006.

4. Based on the information submitted as at Para 2 above and others, the Ministry of Environment and Forests hereby accords environmental clearance to the above project under the provisions of EIA notification dated September 14, 2006, subject to the compliance of the following conditions:

(i) Only one unit of 1x660 MW shall be run on 100% domestic coal for which coal linkage from SECL is available and the other two units of 2x660 MW shall be run purely on imported coal, as per details in para 2.

(ii) Separate stacking arrangement shall be made for indigenous and imported coal.

(iii) In case source of fuel supply is to be changed at a later stage for the 2x660 MW the project proponent shall come back to the Ministry as the appraisal presently was done based on imported coal for 2x660 MW units.

A) Water and Waste Water Management

(iv) No ground water shall be extracted for use in operation of the power plant even in lean season.

- (v) No water bodies including natural drainage system in the area shall be disturbed due to activities associated with the setting up / operation of the power plant.
- (vi) Minimum required environmental flow suggested by the Competent Authority of the State Govt. shall be maintained in the Channel/ Rivers (as applicable) even in lean season.
- (vii) Hydro-geological study of the area shall be reviewed annually and results submitted to the Ministry and concerned agency in the State Govt. In case adverse impact on ground water quantity and quality is observed, immediate mitigating steps to contain any adverse impact on ground water shall be undertaken.
- (viii) Closed cycle cooling system with induced draft cooling towers shall be provided and COC of at least 5.5 shall be adopted.
- (ix) The treated effluents conforming to the prescribed standards only shall be re-circulated and reused within the plant. There shall be no discharge outside the plant boundary except during monsoon. Arrangements shall be made that effluents and storm water do not do not get mixed.
- (x) Effluent from the desalination plant shall be first treated in a guard pond before discharged, if applicable.
- (xi) A sewage treatment plant shall be provided (as applicable) and the treated sewage shall be used for raising greenbelt/plantation.
- (xii) Rainwater harvesting should be adopted. Central Groundwater Authority/ Board shall be consulted for finalization of appropriate rainwater harvesting technology within a period of three months from the date of clearance and details shall be furnished.
- (xiii) Regular monitoring of ground water level shall be carried out by establishing a network of existing wells and constructing new piezometers. Monitoring around the ash pond area shall be carried out particularly for heavy metals (Hg,Cr,As,Pb) and records maintained and submitted to the Regional Office of this Ministry. The data so obtained should be compared with the baseline data so as to ensure that the ground water quality is not adversely affected due to the project.

#### B) Air Pollution Control

- (xiv) Provision for installation of FGD shall be provided.
- (xv) High Efficiency Electrostatic Precipitators (ESPs) shall be installed to ensure that particulate emission does not exceed 50 mg/Nm<sup>3</sup>.
- (xvi) Adequate dust extraction system such as cyclones/ bag filters and water spray system in dusty areas such as in coal handling and ash handling points, transfer areas and other vulnerable dusty areas shall be provided.
- (xvii) Green Belt consisting of 3 tiers of plantations of native species around plant and at least 100 m width shall be raised. Wherever 100 m width is not feasible a 50 m width shall be raised and adequate justification shall be submitted to the Ministry. Tree density shall not less than 2500 per ha with survival rate not less than 70 %.
- (xviii) Noise levels emanating from turbines shall be so controlled such that the noise in the work zone shall be limited to 75 dBA. For people working in the high noise area, requisite personal protective equipment like earplugs/ear muffs etc. shall be provided. Workers engaged in noisy areas such as turbine area, air compressors etc shall be periodically examined to maintain audiometric record and for treatment for any hearing loss including shifting to non noisy/less noisy areas.

#### (C) Fly Ash Management

- (xix) Utilisation of 100% Fly Ash generated shall be made from 4th year of operation of the plant. Status of implementation shall be reported to the Regional Office of the Ministry from time to time.
- (xx) Fly ash shall be collected in dry form and storage facility (silos) shall be provided. Unutilized fly ash shall be disposed off in the ash pond in the form of slurry form. Mercury and other heavy metals (As,Hg, Cr, Pb etc.) will be monitored in the bottom ash as also in the effluents emanating from the existing ash pond. No ash shall be disposed off in low lying area.



(xxi) Ash pond shall be lined with HDP/LDP lining or any other suitable impermeable media such that no leachate takes place at any point of time. Adequate safety measures shall also be implemented to protect the ash dyke from getting breached.

(xxii) For disposal of Bottom Ash in abandoned mines (if proposed to be undertaken) it shall be ensured that the bottom and sides of the mined out areas are adequately lined with clay before Bottom Ash is filled up. The project proponent shall inform the State Pollution Control Board well in advance before undertaking the activity.

(xxiii) Regular monitoring of ground water level shall be carried out by establishing a network of existing wells and constructing new piezometers. Monitoring around the ash pond area shall be carried out particularly for heavy metals (Hg,Cr,As,Pb) and records maintained and submitted to the Regional Office of this Ministry. The data so obtained should be compared with the baseline data so as to ensure that the ground water quality is not adversely affected due to the project.

#### (D) Disaster Management

(xxiv) Adequate safety measures shall be provided in the plant area to check/minimize spontaneous fires in coal yard, especially during summer season. Copy of these measures with full details along with location plant layout shall be submitted to the Ministry as well as to the Regional Office of the Ministry.

(xxv) Storage facilities for auxiliary liquid fuel such as LDO and/ HFO/LSHS shall be made in the plant area in consultation with Department of Explosives, Nagpur. Sulphur content in the liquid fuel will not exceed 0.5%. Disaster Management Plan shall be prepared to meet any eventuality in case of an accident taking place due to storage of oil.

#### (E) CSR/RCR Plan

(xxvi) A good action plan for R&R (if applicable) with package for the project affected persons be submitted and implemented as per prevalent R&R policy within three months from the date of issue of this letter.

(xxvii) An amount of Rs 66.0 Crores shall be earmarked as one time capital cost for CSR programme. Subsequently a recurring expenditure of Rs 13.20 Crore per annum shall be earmarked as recurring expenditure for CSR activities. Details of the activities to be undertaken shall be submitted within one month along with road map for implementation.

(xxviii) While identifying CSR programme the company shall conduct need based assessment for the nearby villages to study economic measures with action plan which can help in upliftment of poor section of society. Income generating projects consistent with the traditional skills of the people besides development of fodder farm, fruit bearing orchards, vocational training etc. can form a part of such programme. Company shall provide separate budget for community development activities and income generating programmes. This will be in addition to vocational training for individuals imparted to take up self employment and jobs.

In addition a special scheme for upliftment of SC/ST's and marginalised population in the study area out of CSR programme shall be formulated and submitted to the Ministry within six months along with firm commitment of implementation. The scheme shall have an in-built monitoring mechanism.

#### (F) General

(xxix) Additional soil for leveling of the proposed site shall be generated within the sites (to the extent possible) so that natural drainage system of the area is protected and improved.

(xxx) First Aid and sanitation arrangements shall be made for the drivers and other contract workers during construction phase.

(xxxi) Provision shall be made for the housing of construction labour within the site with all necessary infrastructure and facilities such as fuel for cooking, mobile toilets, mobile STP, safe drinking water, medical health care, crèche etc. The housing may be in the form of temporary structures to be removed after the completion of the project.

(xxxii) The project proponent shall advertise in at least two local newspapers widely circulated in the region around the project, one of which shall be in the vernacular language of the locality concerned within seven days from the date of this clearance letter, informing that the project has been accorded environmental clearance and copies of clearance letter are available with the State Pollution Control Board/Committee and may also be seen at Website of the Ministry of Environment and Forests at <http://envfor.nic.in>.

(xxxiii) A copy of the clearance letter shall be sent by the proponent to concerned Panchayat, Zila Parisad / Municipal Corporation, urban local Body and the Local NGO, if any, from whom suggestions/representations, if any, received while processing the proposal. The clearance letter shall also be put on the website of the Company by the proponent.

(xxxiv) A separate Environment Management Cell with qualified staff shall be set up for implementation of the stipulated environmental safeguards.

(xxxv) The proponent shall upload the status of compliance of the stipulated EC conditions, including results of monitored data on their website and shall update the same periodically. It shall simultaneously be sent to the Regional Office of MOEF, the respective Zonal Office of CPCB and the SPCB. The criteria pollutant levels namely; SPM, RSPM (PM<sub>2.5</sub> & PM<sub>10</sub>), SO<sub>2</sub>, NO<sub>x</sub> (ambient levels as well as stack emissions) shall be displayed at a convenient location near the main gate of the company in the public domain.

(xxxvi) The project proponent shall also submit six monthly reports on the status of compliance of the stipulated environmental clearance conditions including results of monitored data (both in hard copies as well by e-mail) to the respective Regional Office of MOEF, the respective Zonal Office of CPCB and the SPCB.

(xxxvii) The environment statement for each financial year ending 31st March in Form-V as is mandated to be submitted by the project proponent to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently, shall also be put on the website of the company along with the status of compliance of EC conditions and shall also be sent to the respective Regional Offices of the Ministry by e-mail.

(xxxviii) The project proponent shall submit six monthly reports on the status of the implementation of the stipulated environmental safeguards to the Ministry of Environment and Forests, its Regional Office, Central Pollution Control Board and State Pollution Control Board. The project proponent shall upload the status of compliance of the environment of the environmental clearance conditions on their website and update the same periodically and simultaneously send the same by e-mail to the Regional Office, Ministry of Environment and Forests.

(xxxix) Regional Office of the Ministry of Environment & Forests will monitor the implementation of the stipulated conditions. A complete set of documents including Environmental Impact Assessment Report and Environment Management Plan along with the additional information submitted from time to time shall be forwarded to the Regional Office for their use during monitoring. Project proponent will up-load the compliance status in their website and up-date the same from time to time at least six monthly basis. Criteria pollutants levels including NO<sub>x</sub> (from stack & ambient air) shall be displayed at the main gate of the power plant.

(xl) Separate funds shall be allocated for implementation of environmental protection measures along with item-wise break-up. These cost shall be included as part of the project cost. The funds earmarked for the environment protection measures shall not be diverted for other purposes and year-wise expenditure should be reported to the Ministry.

(xli) The project authorities shall inform the Regional Office as well as the Ministry regarding the date of financial closure and final approval of the project by the concerned authorities and the dates of start of land development work and commissioning of plant.

(xlii) Full cooperation shall be extended to the Scientists/Officers from the Ministry / Regional Office of the Ministry at Bangalore / CPCB/ SPCB who would be monitoring the compliance of environmental status.

5. The Ministry of Environment and Forests reserves the right to revoke the clearance if conditions stipulated are not implemented to the satisfaction of the Ministry. The Ministry may also impose additional environmental conditions or modify the existing ones, if necessary.

6. The environmental clearance accorded shall be valid for a period of 5 years to start operations by the power plant.
7. Concealing factual data or submission of false/fabricated data and failure to comply with any of the conditions mentioned above may result in withdrawal of this clearance and attract action under the provisions of Environment (Protection) Act, 1986.
8. In case of any deviation or alteration in the project proposed including coal transportation system from those submitted to this Ministry for clearance, a fresh reference should be made to the Ministry to assess the adequacy of the condition(s) imposed and to add additional environmental protection measures required, if any.
9. The above stipulations would be enforced among others under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and rules there under, Hazardous Wastes (Management and Handling) Rules, 1989 and its amendments, the Public Liability Insurance Act, 1991 and its amendments.
10. Any appeal against this environmental clearance shall lie with the National Environment Appellate Authority, if preferred, within 30 days as prescribed under Section 11 of the National Environment Appellate Act, 1997.

(LALIT KAPUR)

DIRECTOR

Copy to:

1. The Secretary, Ministry of Power, Shram Shakti Bhawan, Rafi Marg, New Delhi 110001.
2. The Secretary (Environment), Forests and Environment Department Government of Maharashtra.
3. The Chairman, Central Electricity Authority, Sewa Bhawan, R.K. Puram, New Delhi-110066.
4. The Chairman, Maharashtra Pradesh State Pollution Control Board, Kalpataru Point, 3rd & 4th Floors, Sion Matunga Scheme Road No. 6, Opp. cine Planet, Sion Circle, Sion (E), Mumbai – 400 022
5. The Chairman, Central Pollution Control Board, Parivesh Bhawan, CBD-cum-Office Complex, East Arjun Nagar, Delhi- 110032.
6. The Chief Conservator of Forests, Regional Office (WZ), E-5, Kendriya Paryavaran Bhawan, Arera Colony, Ravishankar Nagar, Bhopal - 462016.
7. The District Collector, Gondia District, Govt. of Maharashtra.
8. The Director (EI), MOEF.
9. Guard file.
10. Monitoring file.

(LALIT KAPUR)  
DIRECTOR