

# ● PRAYAS

Initiatives in Health, Energy,  
Learning and Parenthood



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28<sup>th</sup> February 2013

To,  
Ms. Smita Jhingran, IRS  
Secretary,  
Competition Commission of India  
The Hindustan Times House  
18-20, Kasturba Gandhi Marg,  
New Delhi – 110 001

**Subject:** Request for intervention in petition filed by Maharashtra State Generation Company Ltd (MSPGCL) against Mahanadi Coalfields Limited (MCL) and Coal India Limited (CIL).

Ref: F.No.DG/CCI/IW/1/39/2011/1909 (Case no 3 & 11 of 2012)

Dear Sir,

Prayas (Energy Group) had filed an intervention application dated 13 July 2012, under section 25 of the Competition Commission of India (General) Regulations, 2009 (No. 2 of 2009), which permits a person or an organization to take part in the proceedings before the commission. Subsequently, on 14<sup>th</sup> September 2012 we wrote another letter to the commission requesting to acknowledge receipt of our intervention application, share petition and other relevant documents and to allow us to make further submissions. Following this, we received a formal acknowledgement receipt from the commission and a notice from the Director General Investigation's office to make further submissions, if any.

However, the petition and/or material placed on record by the petitioner, respondents and other parties has not yet been made available to us. Nonetheless, we filed a detailed submission to the commission as well as to the office of Director General Investigation on 13<sup>th</sup> December 2012, based on our study of power and coal sector issues and their relevance to the said matter. It is understood that investigation process has been completed and final report has been submitted by the Director General Investigation's office to the commission. In this regard, we would like to once again request the commission to consider our intervention application under the section 25 of the Competition Commission of India (General) Regulations, 2009 (No. 2 of 2009), using which the Commission can permit a person or enterprise to take part in the proceedings before it. The section 25 of the said regulations states as follows:

***"25. Power of Commission to permit a person or enterprise to take part in proceedings:—***

*(1) While considering a matter in an ordinary meeting, the Commission, on an application made to it in writing, if satisfied, that **a person or enterprise has substantial interest in the outcome of proceedings and that it is necessary in the public interest to allow such person or enterprise to present his or its opinion on that matter**, may permit that person or enterprise to present such opinion and to take part in further proceedings of the matter, as the Commission may specify.*

*(2) The application referred to in sub-regulation (1) shall be accompanied by proof of payment of fees, in accordance with regulation 49.*

- (3) The application referred to in sub-regulation (1) shall contain, –
- (a) legal name of the person or the enterprise making the request;
  - (b) address in India for service of notice or documents;
  - (c) telephone number, facsimile number and electronic mail address, if available;
  - (d) the mode of service of notice or documents to be used;
  - (e) a concise statement of the matters in issue in the proceedings which affect the person or the enterprise making the request;
  - (f) documents or affidavits or evidence in support of the statement, with a list thereof.
- (4) On an order made under sub-regulation (1), –
- (a) **on an application made by a party, Secretary shall furnish to the person or enterprise permitted to participate in the proceedings, copies of such documents previously filed in the matter by other parties as may be decided by the Commission within ten days of the order;**
  - (b) the person or enterprise permitted to participate in the proceedings shall furnish copies of all documents filed under sub-regulation (3) to all other parties to the proceedings within ten days of the order.” **(Emphasis added)**

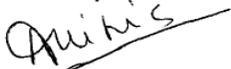
Accordingly, as submitted before, we request the commission to treat our submissions dated 13<sup>th</sup> July 2012 and 13<sup>th</sup> December 2012 as intervention applications in this regard. These letters meet all the requirements mentioned as per sub-section 3 of section 25 of the Competition Commission of India (General) Regulations, 2009 (No. 2 of 2009). Therefore, our main prayers to the commission are as follows:

- a. Allow Prayas (Energy Group) to be an intervener under section 25 of the Competition Commission of India (General) Regulations, 2009 (No. 2 of 2009) and consider this letter, as well as our earlier submissions dated 13<sup>th</sup> July 2012 and 13<sup>th</sup> December 2012 as applications in the same regard.
- b. Share all the relevant information as per section 25 (4) of the Competition Commission of India (General) Regulations, 2009 (No. 2 of 2009) which states: “(a) on an application made by a party, Secretary shall furnish to the person or enterprise permitted to participate in the proceedings, copies of such documents previously filed in the matter by other parties as may be decided by the Commission within ten days of the order...”
- c. Condone any delay or error in this submission on account of lack of procedural compliance, if any. Allow us to make further submissions in this matter by participating in subsequent proceedings related to this case.
- d. Not to reject the intervention application without giving the intervener a hearing.

We kindly request the commission to place this submission on record, acknowledge receipt of the same and allow us to make further submissions, if any.

Thanking you

Sincerely



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**Cc to:**

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