

TUESDAY | 17 DECEMBER 2024

Case Update



PUNJAB STATE ELECTRICITY REGULATORY COMMISSION DIRECTS PUNJAB STATE POWER CORPORATION LIMITED TO PAY UNLOADING CHARGES TO NABHA POWER LIMITED



The Punjab State Electricity Regulatory Commission (“PSERC”) has passed a significant order on December 12, 2024, in Petition No. 23 of 2024, directing Punjab State Power Corporation Limited (“PSPCL”) to reimburse Nabha Power Limited (“NPL”) for costs incurred towards the unloading of coal at the project site. This ruling arises under the Power Purchase Agreement (“PPA”) dated January 18, 2010, and pertains to an amount of ₹18.81 Crore, withheld by PSPCL since March 2021, along with interest.

NPL, which operates a 1400 MW thermal power project in Punjab, sought PSERC’s intervention after PSPCL withheld unloading charges from the monthly energy bills. NPL argued that the definition of “F^{COAL}_n” under Clause 1.2.3 of Schedule 7 of the PPA explicitly includes actual costs for purchasing, transporting, and unloading coal at the project site. In support of its claim, NPL relied on the Supreme Court’s judgment dated October 5, 2017, which interpreted the PPA provisions to include unloading charges as part of energy charges. NPL also cited PSERC’s earlier order in a similar case involving Talwandi Sabo Power Limited (“TSPL”), where cost components related to coal unloading were allowed.

PSPCL opposed the petition on grounds of constructive res judicata, arguing that NPL had not previously raised this issue in earlier proceedings and, therefore, had forfeited its claim. PSPCL also contended that NPL’s claims lacked a detailed cost breakdown similar to TSPL’s case, where PSERC allowed such costs after rigorous scrutiny and mutual verification.

PSERC, rejecting PSPCL’s objections, held that the principle of constructive res judicata does not apply, as the railway siding for NPL’s project became operational only in 2016, making unloading charges relevant only thereafter. PSERC also reaffirmed the Supreme Court’s interpretation that unloading costs form an integral part of F^{COAL}_n. Aligning with its order in TSPL’s case, PSERC directed PSPCL to include manpower and operational costs for Locomotives and Wagon Tippers as part of the Monthly Energy Charges payable to NPL. Additionally, while PSERC declined to impose a Late Payment Surcharge (LPS), it allowed carrying costs to compensate for the delay in payment.

This order underscores the importance of judicial consistency and parity in regulatory decision-making, particularly for similarly situated entities operating under identical PPA terms. By directing PSPCL to honour NPL’s rightful claims, PSERC has reinforced the principle that costs legitimately incurred for the functioning of power projects must be fairly recovered. The decision also ensures that power generators can continue to operate sustainably while safeguarding contractual entitlements.

Nabha Power Limited was represented before the Punjab State Electricity Regulatory Commission by Shri Venkatesh, Managing Partner; Priya Dhankhar, Senior Associate and Kartikay Trivedi, Associate of the SKV Law Offices.