

No. MERC/Case No. 39 of 2012/00338

8 May, 2013

**NOTICE**

Subject: Petition of Wardha Power Company Limited under Section 86 (1) (b) and 86(1) (f) of the Electricity Act, 2003 in the matter of dispute between a Generating Company and the Distribution Licensee as a result of deliberate and willful failure of the distribution licensee to make payments, on account of the Change in law as per the terms of Power Purchase Agreement dated 04.06.2010.  
- **Case No. 39 of 2012**

Appended is a copy of Record of Proceedings (RoP) of the hearing held on 03.05.2013, in the above matter.

Further hearing in the matter is scheduled on **Friday, 7 June, 2013 at 11.00 hours** in the office of the Commission.

Sd/-  
(R.S. Sonawane)  
Dy. Director (Legal)

Encl. Copy of RoP

Shri Ramesh Kumar,  
Director,  
M/s Wardha Power Company Ltd.,  
8-2-293/82/A/431/A,  
Road No. 22, Jubilee Hills  
Hyderabad 500 033

Petitioner

Reliance Infrastructure Ltd.  
Devidas Lane, Off SVP Road  
Near Devidas Telephone Exchange  
Borivali (West)  
Mumbai 400 092

Respondent

**Consumer Representatives**

Prayas (Energy Group)  
Amrita Clinic, Athvale Corner,  
Lakdipool-karve Road Junction,  
Deccan Gymkhana, Karve Road,  
Pune 411 004.  
E-mail: [peg@prayaspune.org](mailto:peg@prayaspune.org)

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## **RECORD OF PROCEEDINGS**

HEARING : May 3, 2013 at 11:00 hrs

CASE NO. : 39 of 2012.

PETITIONER : Wardha Power Company Ltd. (WPCL)

RESPONDENT : Reliance Infrastructure Limited (RInfra-D)

MATTER : Petition of Wardha Power Company Limited under Section 86 (1) (b) and 86 (1) (f) of the Electricity Act, 2003 in the matter of dispute between a Generating Company and the Distribution Licensee as a result of deliberate and willful failure of the distribution licensee to make payments on account of change in law as per the terms of Power Purchase Agreement dated 04.06.2010.

CORAM Shri V.P. Raja, Chairman  
Shri. Vijay L. Sonavane, Member

1. Advocates Shri Sanjay Sen, Shri Hemant Singh, and Shri. N. Ramakrishnan, Director (WPCL) appeared for the Petitioner. Advocate Ms. Anjali Chandurkar and Shri.G. J.Thakkar, appeared for the Respondent (RInfra-D).
2. The Commission stated that the matter is regarding the interpretation of the PPA and observed that :
  - a) It is understood that Respondent has filed a petition before CERC for Change in Law for Sasan Plant. The Commission desired to know whether there is any similarity in both the cases .Respondent to submit details in next hearing.
  - b) Petitioner to submit details of Imported Coal Contracts including information whether the Contract is on CIF basis or on FOB basis?
  - c) The Commission enquired that at what time, the customs duty becomes applicable?
  - d) Both parties to Consult Taxation expert and arrive at conclusion on applicability of Customs Duty and other taxes etc. If there are Case Laws on this subject, the copy of the same may be provided. Both the parties' to approach Central Board of Customs/Excise and get advance ruling, if required.
  - e) Petitioner to submit written statement regarding their SEZ status under affidavit.

3. The Commission noted that the generic issue in this case is the shortage of coal.
4. Respondent submitted that WPCL bid was totally based on domestic coal. However, to meet the shortage, windows like e-auction are available, as import of coal was not stated at any stage.
  
5. The Petitioner submitted that the PPA and its interpretation talks about restoring the power plant to same economic position, 7 days prior to bid date, hence their plea for reimbursement of additional burden of custom duties.
  - f) The Commission directed both Petitioner and Respondents to submit final consolidated written submissions on arguments put up so far during various hearings and also provide to each other and to authorized consumer representatives.
  
6. Case fixed for further hearing on **Friday 7 June, 2013 at 11.00 hours.**

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**List of Persons present at the Hearing held on May 3, 2013 at 11:00 Hrs.**

1. Shri. Sanjay Sen, Advocate for WPCL
2. Shri. Hemant Singh, Advocate for WPCL
3. Ms. Anjali Chandurkar ,Advocate for RInfra-D
4. Shri. G.J. Thakkar, RInfra-D
5. Shri. N.Ramakrishnan, WPCL