ANDHRA PRADESH CENTRAL POWER DISTRIBUTION CORPORATION LIMITED
Dr. Y.S.R Vidyut Soudha, Corporate office, , ITI Road, Vijayawada -520 008

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**From**
Chief General Manager,
RAC, Corporate office,
APCPDCL,
Vijayawada-520008

**To**
The Secretary, APERC,
11-4-660, 4th Floor,
Singareni Bhavan, Red Hills
Lakdikapul, Hyderabad-04

**Lr.No.CGM/RAC/GM/PP & RAC/CP/VJA/F. 50/D.No. 352/24, dt. 18-01-2024**

Sir,

Sub:- APCPDCL – RAC – VJA - Petitions filed by the DISCOMS for pass-through of Fuel & Power Purchase Cost Adjustment (FPPCA) for 3rd & 4th Quarters of FY2022-23 – Certain information on claims made under the head 'Arrears' in respect of HNPCL – Submitted - Regarding.

Ref: Lr.No.APERC/Tariff/F.No.85/D.No.1234/2023, Date: 21.09.2023.

***

The Licensee is herewith submitting the information sought inrespect of M/s HNPCL regarding petitions filed by the DISCOMS for pass-through of Fuel & Power Purchase Cost Adjustment (FPPCA) for 3rd & 4th Quarters of FY2022-23.

1. A detailed note on the payments on M/s HNPCL as required by Hon'ble APERC.
2. Letter no. HNPCL/VPP/APPCC/119/2023, Dt:31.03.2023/01.04.2023
3. Letter no. HNPCL/VPP/GoAP energy dept 32/2022, Dt:18.09.2022
4. Letter no. HNPCL/VPP/APDISCOMS 04/2022, Dt:10.02.2022
5. Lr. No. CE/SLDC/SE/GO/DEPPMO/DEE2/AEE-PP/F.Hinduja/D.No.402/22, Dt.28.09.2022
6. Letter no. HNPCL/VPP/GoAP energy dept 31/2022, Dt:18.09.2022
7. Letter no. HNPCL/VPP/CGM PP-APPCC 32/2022, Dt:20.09.2022

Encl: As above

Yours faithfully,

18/1

**Chief General Manager/RAC**
**Corporate Office**
**APCPDCL, Vijayawada**

## A Detailed note on the payments on M/s HNPCL as required by Hon'ble APERC

1) M/s Hinduja National Power Corporation Limited (HNPCL) submitted a letter vide HNPCL/VPP/CGM PP-APPCC/32/2022,20.09.2022 and requested for realizing of pending payments from APDISCOMs/APPCC towards fixed charge for certain period. They have submitted the month wise and event wise information related to the Declared capacity, Declared capacity on coal, actual export, Backing down on coal availability and Deemed availability along with the events for the period .

2) The Hon'ble Supreme Court vide their judgment dt 2nd February 2022 in HNPCL case, at para 114 stated that till O.P. No.21 of 2015 and O.P.No.19 of 2016 are decided by the State Commission, the appellants DISCOMS shall forthwith start purchasing the power from HNPCL at the rate of Rs.3.82 pr unit as per theorders passed by the APTEL dated 16th March, 2018 and by this Court dated 21st August, 2020.

3) Further vide para 110 of the same order, the Hon'ble SC pronounced as following:

We therefore find no reason to interfere with the impugned judgment. However, before parting with the judgment, it is necessary to place on record the conduct of the appellants - DISCOMS. Though vide order dated 14th July, 2020, this Court had stayed the impugned judgment passed by the APTEL, vide order dated 21st August, 2020, this Court had clarified that there shall be no stay of the order dated 16th March, 2018 passed by the APTEL. It is not in dispute that in pursuance of the interim order dated 16th March, 2018, passed by the APTEL, the appellants - DISCOMS were purchasing the power at the rate of Rs.3.82 per unit from HNPCL till 14th July, 2020. It is thus clear that in view of the order passed by this Court on 21st August, 2020, the appellants - DISCOMS were required to continue to purchase the power from HNPCL at the rate of Rs.3.82 per unit.

In this regard a letter was addressed to learned AG to render his opinion on the claims of HNPCL and suggesting DISCOMs for taking further necessary action .

On 29.10.22 received the opinion from office of the Advocate General with reference to the claims made by M/s HNPCL on 2 counts.

1. Payment for deemed availability
2. Payment for deemed generation since through obligated to purchase power but not purchased by APDISCOMs.

For claim no 2 the opinion of the Learned Advocate General is as given below.

"in the light of series of the orders by APTEL,APERC and the Supreme Court ,I am of the opinion that the Discoms would be obligate to comply with the terms of the order contained in EP 3 of 2018 Dt 31.05.2018 in its application to the fact situation arising during pendency of the civil appeal before the Hon'ble Supreme Court between August 2020 and February-2022 finally stated at page 7, subject to verification of the claim of the power producer by the DISCOMs in the manner allowable under law ,t he DISCOMs would be obligated to consider the same in accordance with the directions issued by APTEL from time to time ,more particularly the order Dt 31.05.2018 in EP 3 of 2018 with reference to the APERC order Dt 14.06.2018.

For claim no 1,learned AG was of the opinion that DISCOMs are not obligated to pay any amount to the generator.

As per the learned AG opinion matter was discussed in APPCC meeting held on 08-11-2022 .

After thorough discussions of the matter APDISCOMs resolved that:

1) *"The basis for the claim of the producer is the deemed generation with respect to the capacity of the project. The fact situation was regulated by interim orders of the respective tribunals and that it involved the dimension of FC and VC, with reference to an order dated 31st May 2018 passed by APTEL.*

2) *The said order is implemented by APERC by order dated 14-06-2018 fixing the FC and VC as 1.06 and 2.76 respectively.*

3) *In the reference to the status quo as on 31.01.2018, DISCOMs procurement was not confined to the allocated quantities (2822.55 MU) by APERC for the financial year 2017-18, since DISCOMs procurements exceeded the said quantity in the year 2017-18.*

4) *DISCOMs have bought power from producer in the absence of an allocation order by APERC, relevant for 2018-19, 2019-20 and 2020-21 without there being an allocation order by APERC, but based on Tribunal Order.*

5) *The matter came up to discussion in conferences with Ld. Advocate General. The opinion of AG is clear that the orders of APTEL ought to have been complied with, as noticed by the adverse observations of the Supreme Court and that the compliance with APTEL order cannot be conditioned regarding quantities upon a regulatory power to be exercised by APTEL order cannot be conditioned regarding quantities upon a regulatory power to be exercised by APERC and that in fact, the DISCOMs did not abide by this norm for the relevant period.*

6) *In view of the above contrasting methods of calculations as to the quantum of power and in order to obviate any further court room adverse orders, including the contempt, which the Supreme Court considered, APPCC resolved to take opinion from a respected Retired Judge of a Supreme Court on the aspect whether:*

a) *to limit the quantum of power procured by APDISCOMs with 2822.55 MU per year, for payment of fixed cost during the period of said 17 months i.e., 21.08.2020 to 02.02.2022 and accordingly calculate the fixed cost liability*

*OR*

b) *to calculate Fixed cost Liability of APDISCOMs during the period 21.08.2020 to 02.02.2022 towards deemed generation of the project capacity of 1040 MW with 80% as normative availability duly deducting the quantum of the power which does not fall in the merit order for non-procurement of power by APDISCOMs (considering APTEL order in EP.03 of 2018 dated 31.05.2018.)*

*OR*

c) *to suggest any other appropriate method of calculation for Fixed cost Liability of APDISCOMs during the period 21.08.2020 to 02.02.2022 towards deemed generation."*

Further APDISCOMs resolved to obtain the opinion from a reputed retired Judge of Supreme Court.

Accordingly a letter was addressed to Justice Sri Deepak Gupta and obtained opinion as follows.

The queriest no 2 is liable to pay the fixed charge to HNPCL at the rate of Rs 1.06 per Kwh for entire capacity of 1040MW as per the PPA and they cannot hold that they are

liable to pay fixed costs @Rs 1.06 per Kwh only to the extent of 2822.55MU per year for the period of 21.08.2020 to 02.02.2022.

4) In this regard details of declared available energies that can be admitted or not for the corresponding events/months mentioned by M/s HNPCL along with reasons/remarks for not admitting the energies which were obtained from APSLDC are enclosed.

5) The details of claims of M/s HNPCL , the details from APSLDC are attached .The brief details of the dispute between the claims of energy accorded by M/S HNPCL &APSLDC is explained below:

   a) Firm dispatches for March 2018 to July 2022 - 6377.9MU (No dispute)

   b) Backing down on coal availability as claimed by M/S HNPCL = 14,788.6 MU

      As admitted by APSLDC =439.19 MU

      Disputed MU (14786.6 -439.19) = 14,349.41 MU

   c) With regard to this 14,349.41 MU, the following table depicts the months in which major discrepancies observed.

| Sl No | Month/Year | As claimed by M/S HNPCL(MU) | As Certified by APSLDC(MU) | Difference (MU) | Remarks |
|---|---|---|---|---|---|
| 1 | March 2018 to 15th June 2018 | 2453.13 | 0 | 2453.13 | {The reasons |

| | | | | | |
|---|---|---|---|---|---|
| 2 | June-2018(balance) | 109.5 | 29.12 | 80.38 | for not admitting entire energies by APSLDC is given below} |
| 3 | Dec - 2018 | 104.93 | 18.55 | 86.38 | |
| 4 | July - 2019 to Sep-19 | 551.56 | 49.53 | 502.03 | |
| 5 | August 2020 to March -2022 | 11209 | 0 | 11209 | |
| Total | | 14428.12 | 97.2 | 14330.92 | |

d) The energies that cannot be admitted as valid declaration are as following :

1. Energies from March -2018 to 15th June 2018
   (There is no PPA but HNPCL declared availability) — 2453.13 MU
2. June 2018 balance Energy[For the period from 16.06.2018 to 21.06.2018, M/s HNPCL furnished the DC for 2 units and mentioned that 1 unit is under RSD, As there is only 1 unit is under service, APSLDC considered actual generation plus back down for 1 unit] — 80.38 MU
3. Dec-2018 [For the period from 16.12.2018 to 23.12.2018, M/s HNPCL furnished the DC for 1 unit on the basis of coal sourced from other sources other than linkage coal form MCL. During this period the availabilities considered as Zero as there is no generation]. — 86.38MU
4. July -2019 to September 2019 [For the Period from 01.07.2019 to 07.08.2019, M/s HNPCL furnished the DC for 2 units but APSLDC considered only 1 unit in calculating the availability (As per shift records stating that, as per APTEL Orders DISCOMs are obliged to take power from 1 unit only and requested for modification of DC for 1 Unit] — 502.03 MU

e) For the Period from 18.07.2020 to 03.02.2022 Units were not taken into service as per APPCC instructions vide letter CE/PP/GM/PP-1/DE/Thermal/F.HNPCL/D.No.24/20, dated 17.07.2022. A quantum of 11209

MU pertains to the period from Aug -2020 to March 2022. During this period there is no generation and the availabilities are considered as zero.

6) The reasons as furnished by the generator requesting for considering payments from APDISCOMs are as given below:

a) APERC vide its order of 31.01.2018 permitted withdrawal of the petition for approval of the PPA. APDISCOMs have stopped scheduling power from 02.02.2018. APTEL has granted status-quo ante vide its interim order dated 16.03.2018. MCL vide letter dated 29.05.2018, advised suspension of coal supplies under FSA citing the letter dated 13.03.2018 from APDISCOM stating that APPCC has decided not to procure power under long term PPA and hence no procurement of power from HNPCL by AP DISCOMs. MCL further stated that APDISCOMs have failed to comply with FSA condition of issuing the Power procurement certificate for the year 2017-18. Aggrieved by the APERC order, HNPCL filed petition in APTEL and APTEL gave an order on 16.03.2018 to maintain status quo ante still the schedule didn't resume.

b) Aggrieved by the non-scheduling of the plants, inspite of APTEL order of status quo ante dated 16.03.2018, HNPCL approached APTEL. APTEL, vide its order dated 31.05.2018 directed APERC to bifurcate the interim tariff into FC and VC. Directed DISCOMs to schedule HNPCL as long as the VC is within Merit Order Dispatch and DISCOMs, don't schedule, then DISCOMs have to pay FC. APERC bifurcated the interim tariff of Rs 3.82 per unit into FCc of 1.06 and VC of 2.76 per unit on 14.06.2018. APDISCOMs, started scheduling power from 15th June 2018. With the units generating the coal got exhausted and the coal supply had not resumed, due to the action of DISCOMs in advising MCL to stop coal supplies and by not complying with the Annual procurement Certificate. HNPCL opted for alternate coal and E auction coal, for which APDISCOM didn't accept it as pass through. HNPCL had to approach Orissa High Court to seek relief under FSA. APDISCOMs became party to the case and have fought against HNPCL.

c) The coal supply resumed from March 2019 after the Orissa High Court ordered MCL to supply 100 rakes per month and with this the rollover of the lesser materilsation by MCL was not granted in the next months. Orissa High Court order also directed HNPCL to deposit Rs 12.50 Lakhs per rake in FD, which could not withdrawn without directions of the Court. APTEL gave its final order in favor of HNPCL on 07.01.2020 setting aside the impugned order of APERC dated 31.01.2018. Against the appeal by APDISCOMs, Hon'ble Supreme court gave a stay order on APTEL order on 14.07.2020. DISCOMs stopped scheduling from 18th July 2020

d) Hon'ble Supreme Court clarified on 21.08.2020 order that there is no stay on 16.03.2018 order of APTEL, there by reinstatring status quo ante. APDISCOMs, in gross voilation of the Supreme Court order of 20.08.2020, did not schedule the plant till the final order of Supreme Court on 02.02.2022.

e) Pending Orissa High Court varying its interim order for supply of 100 rakes per month, HNPCL is still constrained in declaring full availability due to actions of APDISCOMs, in advising MCL to stop supplies.

7) As per the information furnished by M/s HNPCL a quantum of 10264.3 MU is also claimed as Deemed Availability from June-2018 to July-2022, as shown below.

| Financial Year | Deemed Availability Claimed (MU) | Fixed Cost claimed (in Rs.Cr) |
|---|---|---|
| 2018-19 | 4010.10 | 425.0706 |
| 2019-20 | 3819.21 | 404.8363 |
| 2020-21 | 1180.39 | 125.1213 |
| 2021-22 | 0 | 0 |
| 2021-22 (up to July-2022) | 1254.55 | 132.9823 |
| **Total** | **10,264.25** | **1088.011** |

8) In this connection the following points are submitted as a ground for rejection of claims of M/s HNPCL for deemed availability.

a) M/s HNPCL has Fuel Supply Agreement (FSA) dated 26.08.2013, for an annual quantum of 4.624 MT with M/s Mahanadi Coal Fields.

b) On 4th January 2018, in compliance of directions of Govt, the DISCOMs filed petition before APERC to with draw the P.P.A. On 31st January the APERC pronounced orders permitting the DISCOMs **to withdraw the Continuation Agreement** due to surplus power in AP. Subsequently, APDISCOMs indicated the same to the Coal Supplier stating that they do not have any intention to procure power from M/s HNPCL.

c) During the time periods between July 2018 to Jan 2019, April 2019 to Jan 2020, April 2020 to June 2020, April 2022 to July 2022, apparently there were disruptions in Coal Supply to M/s HNPCL, as per the embargo imposed through the order of Hon'ble Odisha High Court in WP No 18496 of 2018, wherein M/s Mahanadi Coal Fields is directed to supply only 100 Rakes per Month to M/s HNPCL Power Plant.

d) Considering the Odisha Court Order as a default by the DISCOMs, M/s HNPCL has considered Machine availability which is not backed up by Coal stocks due to limitation in supply, as deemed availability

e) Deemed Availability is defined in clause 2.1 Schedule-J of Amended & Restated Agreement with HNPCL which is paraphrased as below:

1. Any loss or reduction in Availability occurring due to any of the following events, shall, save and except to the extent such events are not attributable to any act or omission of the Company, be deemed as Availability:

2. Any defect or deficiency then existing in the equipment or other works of the Procurers (including, without limitation, the Interconnection Facility and the Grid);

***3. Any other default on the part of the Procurers; or***

4. Any event of Force Majeure declared by the Procurers or attributable to the facilities or operations of the Procurers; or

5.any conditions existing in the Grid which are outside the Grid Technical Limits; or

6.The existence of any Indian Political Event affecting the Company; or The existence of any Non Political Event of Force Majeure affecting the Company.

f. As on 31st January 2018, as per the legal position, APDISCOMs have no PPA with M/s HNPCL. The same has been intimated to the concerned Coal Company. Coal supply interruption to M/s HNPCL by M/s MCL, in pursuant to the interim orders of Odisha High Court, cannot be attributed as a default of the Procurer (APDISCOMs). HNPCL could not prove it in Odisha High Court about having a valid PPA with APDISCOMs.

g. In compliance of the directions of Hon'ble Tribunal, APDISCOMs procured power during the period 16th April 2018 to 18th July 2020 and issued utilisation certificates of Coal to the Coal company. DISCOMs have complied with their obligations as per the directions of APTEL during the disputed period until it is finally got settled by Hon'ble Supreme Court vide their order dated 2nd February 2022. The PPA becomes valid only after the said orders of Supreme Court.

h.Since the existence of a valid PPA between the parties is under question until it is settled by the Hon'ble Supreme Court, the act of DISCOMs can not be construed as Procurer's default.

i.It It is the fault & inability of M/s HNPCL to get the dispute solved in Hon'ble Odisha HC.

In view of the above, maximum availability of energies that can be considered for payment are as follows:

a) Energy from Aug -20 to Feb -22 = 11209 MU

b) Energy that APSLDC agreed to admit = 439 MU

Total = 11,648 MU

c) The amount to be paid towards fixed charges of this energy of 11,648 MU @ Rs.1.06 works out to Rs.1234.68 Crs.

d) If the disputed energies (as given in 2,3,&4 of the above table) are also considered for payment, the additional amount for the energy of 668.79 MU, works out to be Rs. 70.89 Crs .

Further it was resolved to seek the guidance of Government for further course of action to avoid any further legal complications.

a. On 19.12.2022 GoAP vide lr no 4053.POO.eer4/PO553/Dt 19.12.2022 informed that the matter has been referred to Law department for their opinion on the proposal submitted in regard to payment of fixed charges for the period from 21.08.2020 to 02.02.2022.The law department has advised to consider the request of M/s. HNPCL for payment of fixed charges keeping in view of the final orders passed by the Supreme Court of India and legal opinions obtained and also issued GO RT no 19,Dt 16.02.2023 as given below.

   1) To submit the loan application to PFC/REC by APDISCOMs for an additional amount of Rs 1234.68Cr under LPS rules 2022 for dues payable to M/s HNPCL.
   2) To provide the Government guarantee for the additional loan amount of Rs.1234.68Cr under LPS rules 2022.
   3) To permit APDISCOMs to enter into a fresh PPA with M/s. HNPCL

In determination of the amounts to be paid to M/s HNPCL regarding the above claims ,the following orders issued by various judicial authorities are taken into consideration.

1.Order issued by Hon'ble APTEL Dt 16.03.2018 in IA no .211 of 2018 in appeal no .41 of 2018.

2.Order issued by Hon'ble APTEL Dt 31.05.2018 in EP no.3 of 2018 in IA no .211 of 2018 in appeal no .41 of 2018.

3.Order issued by Hon'ble APERC order Dt 14.06.2018 in obedience to directions of EP no.3 of 2018 in IA no .211 of 2018 in appeal no 41 of 2018 dated 31.05.2018.

4.Order issued by Hon'ble Supreme court dated 21.08.2020 in which it is clarified that there shall be no stay of the Order dated 16.03.2018 passed by the APTEL .

# HINDUJA NATIONAL POWER CORPORATION LIMITED

Corporate Office : Hinduja House, 171 Dr. Annie Besant Road, Worli, Mumbai - 400 018
www.hindujagroup.com, Office Tel : +91-22-61360407, Fax : +91-22-2497 4208
Plant Office : Palavalasa Village, T.Devada Post, Steel Plant (Sub Office), Pedagantyada Mandal, Visakhapatnam-530 031. A.P. India.
CIN : U40109TG1994PLC017199

**Without prejudice**

**Letter Ref No.: HNPCL/VPP/APPCC/119/2023** **Date: 31.03.2023 / 01.04.2023**

**CGM Finance,**
APPCC,
Vidyut Soudha, Gunadala,
Vijayawada - 520004

Sir,

**Sub: HNPCL 1040 MW Thermal Power Plant, Visakhapatnam–Late Payment Surcharge (LPS) for the payment of Rs 1234.68 Cr for the period 21.08.2020 to 02.02.2022**

**Ref:** 1. HNPCL letter no. HNPCL/VPP/APPCC/12.2023 dated 09.03.2023
2.APPCC letter No. APPCC/CGM-F/GM-PP&S/SAO/AO/D.No 129/23 dated 06.03.2023
3 Lr.No CGM(Finance)/APPCC/SAO/AO(PP&S)/D.No.333/2020 dated 30-09-2020 , Income Tax Act Sec.206C(1H),
4. Central Board of Direct Taxes Press release New Delhi, 13th May 2020,
5. Central Board of Indirect Taxes and Customs Notification No. 60/2020 dated 30th July 2020
6. Lr No CGM(Fin)/APPCC/GM(PP&S)/SAO (PP&S)/AO/D.No.203/22 dated 13-04-2022
7. Ministry of Power Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 dated 03.06.2022

We hereby submit the Late Payment Surcharge invoice of HNPCL for the period 21.08.2020 to 02.02.2022 for amount of Rs 1234.68 Cr in line with the APPCC letter (Ref#2) dated 06.03.2023, HNPCL letter dated 9.3.2023 (ref#1) and read with this letter.

The billing is done without prejudice to the rights of HNPCL in the Review Petition no 8/2022 filed by HNPCL seeking a review of the order dated 01.08.2022 passed by the Hon'ble APERC in Petition OP No. 21 of 2015 and 19 of 2016 and before any other appropriate authority seeking available remedies.

The enclosed bill for this period is on the basis of the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 under Ministry of Power dated 03.06.2022 (ref#6) on the basis of the

Siddhartha Das

HINDUJA NATIONAL POWER CORPORATION LTD.

HINDUJA

# HINDUJA NATIONAL POWER CORPORATION LIMITED

Corporate Office : Hinduja House, 171 Dr. Annie Besant Road, Worli, Mumbai - 400 018
www.hindujagroup.com, Office Tel : +91-22-61360407, Fax : +91-22-2497 4208
Plant Office : Palavalasa Village, T.Devada Post, Steel Plant (Sub Office), Pedagantyada Mandal, Visakhapatnam-530 031. A.P. India.
CIN : U40109TG1994PLC017199



HINDUJA NATIONAL POWER CORPORATION LIMITED


Regd. Office: C/o Gulf Oil Corporation, Post Bag No.1, Kukatpally, Sanathnagar I.E., Hyderabad - 500 018
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www.hindujagroup.com, Tel: 91-22-24960767 Fax: 91-22-2497 4208
Plant Office: Palavalasa Village, Pedagantyada Mandal, Visakhapatnam District, A.P. India
PAN : AAMCH2426D GST Reg. No. 37AABCH2426D1ZI


**Late Payment Surcharge BILL**

**To**

**CGM Finance,**

**APPCC, Vidyut Soudha, Gunadala, Vijayawada**

| Procurer | PAN Number | TAN Number | GSTIN Number | GST e invoice ack no: |
|---|---|---|---|---|
| **Eastern Power Distribution Company Of Andhra Pradesh Limited** | AAACE9876B | VPNE00240C | 37AAACE9876B1ZH | 112315825948610 |
| **Southern Power Distribution Company Of Andhra Pradesh Limited** | AAHCS4056Q | HYDA11867C | 37AAHCS4056Q2ZM | 112315825948647 |
| **Andhra Pradesh Central Power Distribution Corporation Limited** | AATCA0874A | VPNA05550G | 37AATCA0874A1ZO | 112315825948683 |

HNPCL Monthly Bill No : HNPCL/2022-23/Minvoice-Interim/Station#1/V1-LPS/03-23
Billing Period August 2020 to February 2022
Date of Issue : 31.03.2023 / 01.04.2023
Due Date : As per provisions of PPA

| S.No. | Particulars | Unit | Amount in Rs. | Reference Details |
|---|---|---|---|---|
| | **Sale of Electrical power** | | | |
| A | Fixed Charges based on Declared Capacity/Availability | INR | 3,301,274,887 | *As per Annexure-A* |
| | Total Amount Payable | INR | *3,301,274,887* | |
| | Total Payable Amount (in Words) | *Rupees Three Hundred Thirty Crore Twelve Lakh Seventy Four Thousand Eight Hundred Eighty Seven Only* | | |

Note:

(a) LPS Bill is being issued without prejudice to the rights of HNPCL in the Review Petition filed by HNPCL seeking review of the order dated 01.08.2022 passed by the Hon'ble APERC in Petition OP No. 21 of 2015 and 19 of 2016 and other available remedies. and HNPCL hereby reserves its rights to claim the differential amount as per tariff determined by APERC/ othe reamedies at a subsequent date

(b) It is expressly declared and understood that the tariff stated above is on the baisis of Tariff fixed by the Hon'ble Commission vide Order dated 01.08.2022. The final Monthly Tariff Bill Amount payable and the corresponding Late Payment Surcharge shall be as per the Final Tariff Orders / Revised Interim Tariff Orders of APERC.

Payment to be made in favour of "**Hinduja National Power Corporation Limited** " as per the Bank details given below:

Bank Name: State Bank of India
Account Name: Hinduja National Power Corporation Limited
Branch: Commercial Branch ,Visakhpatnam
Account Number: 35711323628
IFS Code: SBIN0014407

**For Hinduja National Power Corporation Limited**

Siddartha Das

**(Authorised Signatory)**

HINDUJA NATIONAL POWER CORPORATION LTD.

Encl : As Above

E.&.O.E

Copy for Information to:
(1) CE, APSLDC, Vidyut Soudha, Hyderabad

LPS Calculation sheet
Period: August 2020 to February 2022

Annexure-A

| SL. | Particulars | UOM | Value | Value | Value | Value | Reference Details |
|---|---|---|---|---|---|---|---|
| V | **Late Payment Surcharge payble** | **Rs.** | **3,301,274,887** | | | | |
| | AP Discom | | | **APEPDCL** | **APSPDCL** | **APCPDCL** | |
| W | Power Purchase ratio | % | | 36.22% | 40.44% | 23.34% | *Ref: Consolidated Agreement dated 17.02.2023. As per APERC Order dated 01.08.2022 (para 77)* |
| X | **LPS share- G * F** | **Rs** | | **1,195,721,764** | **1,335,035,564** | **770,517,559** | |
| Y | **Total** | **Rs** | **3,301,274,887** | | | | |

Siddhartha Das

HINDUJA NATIONAL POWER CORPORATION LIMITED

Continuation Sheet

# HINDUJA NATIONAL POWER CORPORATION LIMITED

| Marginal cost of funds based on lending rate ( MCLR) for one year of the State Bank of India | | | | | | | |
|---|---|---|---|---|---|---|---|
| Effective Date - 1 year rate | | | | | | | |
| Date | MCLR(%) | Date | MCLR(%) | Date | MCLR(%) | Date | MCLR(%) |
| 15.08.2022 | 7.70 | 10.01.2021 | 7.00 | 10.04.2019 | 8.50 | 01.07.2017 | 8.00 |
| 15.07.2022 | 7.50 | 10.12.2020 | 7.00 | 10.03.2019 | 8.55 | 01.06.2017 | 8.00 |
| 15.06.2022 | 7.40 | 10.11.2020 | 7.00 | 10.02.2019 | 8.55 | 01.05.2017 | 8.00 |
| 15.05.2022 | 7.20 | 10.10.2020 | 7.00 | 10.01.2019 | 8.55 | 01.04.2017 | 8.00 |
| 15.04.2022 | 7.10 | 10.09.2020 | 7.00 | 10.12.2018 | 8.55 | 01.03.2017 | 8.00 |
| 15.03.2022 | 7.00 | 10.08.2020 | 7.00 | 01.11.2018 | 8.50 | 01.02.2017 | 8.00 |
| 15.02.2022 | 7.00 | 10.07.2020 | 7.00 | 01.10.2018 | 8.50 | 01.01.2017 | 8.00 |
| 15.01.2022 | 7.00 | 10.06.2020 | 7.00 | 01.09.2018 | 8.45 | 01.12.2016 | 8.90 |
| 15.12.2021 | 7.00 | 10.05.2020 | 7.25 | 01.08.2018 | 8.25 | 01.11.2016 | 8.90 |
| 15.11.2021 | 7.00 | 10.04.2020 | 7.40 | 01.07.2018 | 8.25 | 01.10.2016 | 9.05 |
| 15.10.2021 | 7.00 | 10.03.2020 | 7.75 | 01.06.2018 | 8.25 | 01.09.2016 | 9.10 |
| 15.09.2021 | 7.00 | 10.02.2020 | 7.85 | 01.05.2018 | 8.15 | 01.08.2016 | 9.10 |
| 15.08.2021 | 7.00 | 10.01.2020 | 7.90 | 01.04.2018 | 8.15 | 01.07.2016 | 9.15 |
| 15.07.2021 | 7.00 | 10.12.2019 | 7.90 | 01.03.2018 | 8.15 | 01.06.2016 | 9.15 |
| 15.06.2021 | 7.00 | 10.11.2019 | 8.00 | 01.02.2018 | 7.95 | 01.05.2016 | 9.15 |
| 15.05.2021 | 7.00 | 10.10.2019 | 8.05 | 01.01.2018 | 7.95 | 01.04.2016 | 9.20 |
| 15.04.2021 | 7.00 | 10.09.2019 | 8.15 | 01.12.2017 | 7.95 | | |
| 10.04.2021 | 7.00 | 10.08.2019 | 8.25 | 01.11.2017 | 7.95 | | |
| 10.03.2021 | 7.00 | 10.07.2019 | 8.40 | 01.10.2017 | 8.00 | | |
| 10.02.2021 | 7.00 | 10.06.2019 | 8.45 | 01.09.2017 | 8.00 | | |
| 10.01.2021 | 7.00 | 10.05.2019 | 8.45 | 01.08.2017 | 8.00 | | |

https://sbi.co.in/web/interest-rates/interest-rates/mclr-historical-data

Siddhartha Das

HINDUJA NATIONAL POWER CORPORATION LTD.

# HINDUJA NATIONAL POWER CORPORATION LIMITED

**Late Payment Surcharge for 1234.68 Cr for the period from June 18 till March 22**

| Period | Invoiced Amount with Interim Fixed Charge (Rs) for backing down | LPS ( compounding) Interim fixed billing (Rs) | Invoice no |
|---|---|---|---|
| Aug-20 | 261676858.00 | 108855559 | HNPCL/2020-21/Minvoice-Interim/Station#1/V1-FC/09-20 |
| Sep-20 | 731994703.00 | 291707880.4 | HNPCL/2020-21/Minvoice-Interim/Station#1/V1-FC/10-20 |
| Oct-20 | 767037199.00 | 292429365.6 | HNPCL/2020-21/Minvoice-Interim/Station#1/V1-FC/11-20 |
| Nov-20 | 738761700.00 | 269051794.4 | HNPCL/2020-21/Minvoice-Interim/Station#1/V1-FC/12-20 |
| Dec-20 | 762410215.00 | 264823989 | HNPCL/2021-22/Minvoice-Interim/Station#1/V1-FC/01-21 |
| Jan-21 | 768579585.00 | 254182401.3 | HNPCL/2021-22/Minvoice-Interim/Station#1/V1-FC/02-21 |
| Feb-21 | 666273600.00 | 209402117.6 | HNPCL/2021-22/Minvoice-Interim/Station#1/V1-FC/03-21 |
| Mar-21 | 0.00 | 0 | |
| Fy 20-21 | 4696733860.00 | 1690453107.35 | |
| | | | |
| Apr-21 | 755212921.00 | 212998161.6 | HNPCL/2021-22/Minvoice-Interim/Station#1/V1-FC/04-21 |
| May-21 | 762667337.00 | 203029375.5 | HNPCL/2021-22/Minvoice-Interim/Station#1/V1-FC/05-21 |
| Jun-21 | 740046954.00 | 185439037.3 | HNPCL/2021-22/Minvoice-Interim/Station#1/V1-FC/06-21 |
| Jul-21 | 672314271.00 | 158086745.4 | HNPCL/2021-22/Minvoice-Interim/Station#1/V1-FC/07-21 |
| Aug-21 | 699304525.00 | 153769755.7 | HNPCL/2021-22/Minvoice-Interim/Station#1/V1-FC/08-21 |
| Sep-21 | 737733513.00 | 151109352.7 | HNPCL/2021-22/Minvoice-Interim/Station#1/V1-FC/09-21 |
| Oct-21 | 767551287.00 | 145800011.7 | HNPCL/2021-22/Minvoice-Interim/Station#1/V1-FC/10-21 |
| Nov-21 | 741075163.00 | 129883759.7 | HNPCL/2021-22/Minvoice-Interim/Station#1/V1-FC/11-21 |
| Dec-21 | 762410292.00 | 122560898.8 | HNPCL/2021-22/Minvoice-Interim/Station#1/V1-FC/12-21 |
| Jan-22 | 1011749877.00 | 148144681.6 | HNPCL/2021-22/Minvoice-Interim/Station#1/V1-FC/01-22 |
| Feb-22 | 0.00 | 0 | |
| Fy 21-22 | 7650066140.00 | 1610821779.94 | |
| | | | |
| | | | |
| Total | 12346800000.0 | 3301274887.3 | |

Siddhartha Das

HINDUJA NATIONAL POWER CORPORATION LTD

# HINDUJA NATIONAL POWER CORPORATION LIMITED

total payment made for the period. The billing for LPS shall be subject to any revisions as may be necessary, depending on the outcome of the Review Petition mentioned above or any other legal remedies available to HNPCL. Accordingly, supplementary bills shall be raised as and when required in future for the entire claims of Rs 2400.96 crs invoiced by us. .

We have enclosed month wise interim fixed charge bill from Aug 2020 till Feb 2022 matching with the payment amount of Rs 1234.68 Cr and applicable Late Payment Surcharge as per the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 (ref#7). Since APPCC has clarified vide their letter (ref#6) that they are deducting TDS @0.1% under sec 194Q, TCS amount vide letter (ref#3) in line with the applicable rate vide CBDT press release (ref#4) will not be collected based on the realization of the Invoices. The system generated QR code and the IRN no has been attached separately for the purpose of statutory compliance under GST law (ref#5).

We request you to kindly make the payment at the earliest.
Thanking you,

Yours faithfully
For Hinduja National Power Corporation Limited,

Sidhartha Das

**Sidhartha Das**
Vice President- Commercial

HINDUJA NATIONAL POWER CORPORATION LTD.

**Copy to:**
1. **CE, APSLDC,** Vidyut Soudha, Vijayawada.

# HINDUJA NATIONAL POWER CORPORATION LIMITED

Corporate Office : Hinduja House, 171 Dr. Annie Besant Road, Worli, Mumbai - 400 018
www.hindujagroup.com, Office Tel : +91-22-61360407, Fax : +91-22-2497 4208
Plant Office : Palavalasa Village, T.Devada Post, Steel Plant (Sub Office), Pedagantyada Mandal, Visakhapatnam-530 031. A.P. India.
CIN : U40109TG1994PLC017199


APPCC
SAO
AO-1
AO-2
AAO
20 SEP 2022
GM/APSPDCL
INWARD NO

Without prejudice

Letter Ref. No.: **HNPCL/VPP/GoAP Energy Dept/32/2022** **18-09-2022**

To

**Special Chief Secretary,**
Energy Department,
Govt of Andhra Pradesh
2nd Block, Room No:141,
Ground Floor, A.P Secretariat Office,
Velagapudi
Vijaywada

MEMBER CONVENER
APPCC
Inward No. 440 Date 19/9/22
CGM/PP — Addl.Secy
CGM/Finance — CGM/HR
CE/SLDC — MC

Dear Sir

**Sub:** Deemed fixed charge and Request for release of outstanding payments on priority

**Ref.:** 1. Our letter dated 10.02.2022 bearing ref no HNPCL/VPP/AP Discoms/04/2022
2. APERC order dated 01.08.2022
3. Supplementary agreement dated 05.09.2022
4. Our letter dated 18.09.2022 bearing ref no HNPCL/VPP/AP Discoms/31/2022

This has reference to our various communications (ref#1 and its linked prior letters) and discussions regarding the pending payments of HNPCL.

As clarified before, HNPCL has been invoicing the fixed charges invoices in line with the Hon'ble APTEL order dated 16.03.2018, 31.05.2018 and Hon'ble APERC order dated 14.06.2018, which order, when read with the PPA, make it abundantly clear that in case of the non-scheduling of the plant by the AP DISCOMS, HNPCL is entitled to fixed charges.

# HINDUJA NATIONAL POWER CORPORATION LIMITED

Subsequently, the Hon'ble APTEL vide its final order dated 07.01.2020 upheld the validity of the 1998 PPA and the subsequent Continuation Agreement dated 28,04.2016 and held that the AP Discoms could not have been permitted to withdraw OP No. 19/2016 as also that the subsequent dismissal of OP No. 21/2015 was contrary to law. Thereafter, the APDiscoms preferred a Civil Appeal against the APTEL's final order dated 07.01.2020 wherein the Hon'ble Supreme court vide its order dated 01.02.2022 categorically upheld APTEL's final order dated 07.01.2020, thus upholding the validity of the 1998 PPA and subsequent Continuation Agreement. Subsequently in line with the Hon'ble Supreme Court's order, the Hon'ble APERC vide its order dated 01.08.2022 (ref#2) clearly mandating the approved project cost, Tariff and approval of PPA. Pursuant thereto, a Supplementary Agreement to the PPA was signed on 05.09.2022.

In line with the above orders, HNPCL started billing for interim fixed charges and the cumulative outstanding figure now stands at Rs 2400 cores without any LPS.

In the interim period post the order of APERC 31-1-2018, an appeal was filed by HNPCL which APTEL held in favour of the Company. A subsequent appeal by Discoms was dismissed by the supreme court vide its order of 2-2-2022.

Per directions of the supreme court, the Hon'ble APERC passed a common order dated 1-8-2022 approving the Continuation Agreement 2016 along with the 1998 PPA and fixed the final tariff wef 1-8-2022. In line with the directions of the APERC, the parties signed a Supplementary agreement on 05.09.2022. It is relevant to state here that in so far as supply of power by HNPCL under the adhoc orders of the Hon'ble APERC is concerned, the Hon'ble APERC in its order dated 01.08.2022 held as follows:

*"…. Therefore, in the extraordinary facts and circumstances of the case, we direct that the adhoc tariff fixed from time to time shall be the final tariff for the period from actual CoD of unit-I till 31.07.2022."*

In terms of APERC's order dated 01.08.2022, the tariff for the years from CoD till the APERC order will be in line with the various orders passed by the APERC and APTEL and are to be paid in line with the 1998 PPA, Continuation Agreement and Supplementary agreement.

While HNPCL has been raising the bills for interim fixed charges as per the orders of APTEL, APERC etc. the Discoms have defaulted in their payment obligations triggering certain clauses of the PPA, which also entitle the Company for claiming fixed charges vis a vis

# HINDUJA NATIONAL POWER CORPORATION LIMITED

deemed availability .MCL vide their letter dated MCL/SBP/HOD(M&S)/Comml/2018-19/788 dated 29.05.2018 has advised that APPCC informed MCL that APPCC has accorded approval not to procure power from HNPCL power project, which shows that Discoms have

discontinued power purchase under the long term PPA. In addition to the above, MCL did not receive the annual power purchase certificate, which the Discoms are obligated to provide (provided in the previous year as well). MCL further advised that due to the above reasons, MCL is suspending the coal supplies under the long term FSA. After the decision of MCL, at the instance of AP Discoms, HNPCL was constrained to approach the Hon'ble Orissa High Court, wherein the Hon'ble Court put in place an interim mechanism vide its order dated 27.02.2019 which requires HNPCL to deposit an amount of Rs 12.50 lakhs per rake for coal purchased by it. While the Hon'ble Supreme Court at the instance of HNPCL has subsequently varied this order on 20.04.2022, the aggregate amount so deposited stands at Rs 122 crs since March 2019.

Further, in spite of APTEL orders, AP Discoms, have not cleared the outstanding of HNPCL which are in excess of Rs 250 crs for a continuous period of over 60 days. Due to non-payment of the dues, HNPCL has been facing continuous cash crunch, whereby procurement of coal, payment of freight and O&M payments have been severely impacted. Further to add to our difficulty Hon'ble APERC has disallowed the true up till the CoD of the order. HNCPL had to depend on Working Capital beyond 60 banking days as permitted in the PPA and to a large extent draw funds from its Promoters. The promoters have infused project equity of approx. Rs 2300 crs and to sustain operations pending payment from AP Discoms, Promoters had to infuse around Rs 3500 crs by way of ICDs.

The conduct of AP DISCOMS in writing to MCL alleging non-existence of long term PPA (which constitutes a default under the terms of the FSA) led to a situation where HNPCL struggled to arrange requisite coal to be able to operate at full load. As a result the plant could not operate at full load or remained shutdown due to lack of coal even though units were technically available.

In terms of the Schedule J of the Continuation Agreement, 2016, Paragraph 2.1, HNPCL is eligible to claim Deemed Availability Charges if there is a loss or reduction of Availability for reasons not attributable to HNPCL including any other default on the part of the Procurer.

HNPCL continuously declared its day ahead declaration based on Technical capacity and availability without coal clearly citing the broad reasons for not being able to declare full

# HINDUJA NATIONAL POWER CORPORATION LIMITED

capacity on coal. This was subsequently corroborated with various letters and discussions. The reasons for non availability of coal arises from the conduct and action of Discoms in not catering to proper power procurement certificates to MCL in terms with our FSA and also in

declaring that there is no long term PPA, even when the matter was sub judice. Thus, in these circumstances, the Discoms are solely responsible for the non availability of coal and thus the Company was constrained to give the technical availability of the plant, which was kept in reserve shut down mode, ready and capable to generate power to full capacity.

Some of the relevant clauses of the PPAs (amongst others) such as 8.2, 10.1,para 2.1 of Schedule J on the basis of which HNPCL is claiming deem fixed charges.

The fixed charges invoices are raised broadly as per the orders of APTEL, APERC but not solely on the basis of these clauses of the PPA. The daily availability declarations contain the reasons for declaring deemed availability, which is in line with provisions of the Continuation Agreement.

The total outstanding of fixed charges invoiced stands at Rs 2400.96 crs inclusive of the July'22 invoice. Thus, sustained operations are not feasible without payment of overdue receivables and continuous supply of coal and without restriction of 100 rakes only per month directed by Orissa High Court

In support of our interpretation of the terms of the Continuation Agreement read with 1998 PPA, we are pleased to attach the Legal Opinion obtained from our counsels.

FOR HNPCL

Authorized Signatory

**Venugopal K**
CEO

Encl:

1. Legal Opinion from our counsel

CC to:

1. Convenor APPCC, Vidyutsoudha, Vijaywada

HINDUJA NATIONAL POWER CORPORATION LIMITED
Corporate Office : Hinduja House, 171 Dr. Annie Besant Road, Worli, Mumbai - 400 018
www.hindujagroup.com, Office Tel : +91-22-61360407, Fax : +91-22-2497 4208
Plant Office : Palavalasa Village, T.Devada Post, Steel Plant (Sub Office), Pedagantyada Mandal, Visakhapatnam-530 031. A.P. India.
CIN : U40109TG1994PLC017199

Without prejudice

Letter Ref. No.: **HNPCL/VPP/AP Discoms/04/2022** **10-02-2022**

To

**Chairman and Managing Director,**
**AP Transco,**
**Vidyut Soudha , Gundala Eluru Road,**
**Vijaywada – 520004, Andhra Pradesh**

Dear Sir

**Sub:** Request for release of outstanding payments on priority

**Ref.:** 1. Our letter Ref No.: HNPCL/VPP/AP Discoms/31/2020 dated 20.04.2020
2. Our letter Ref No.: HNPCL/VPP/AP Discoms/33/2020 dated 28.04.2020
3. Our letter Ref No.: HNPCL/VPP/AP Transco/35/2020 dated 21.05.2020
4. Our letter Ref No,: HNPCL/VPP/AP Transco/36/2020 dated 17.06.2020
5. Our letter Ref No.: HNPCL/VPP/AP Discoms/38/2020 dated 27.06.2020
6. Our letter Ref No.: HNPCL/VPP/AP Discoms/37/2020 dated 27.06.2020
7. Our letter Ref No.: HNPCL/VPP/AP Discoms/39/2020 dated 03.07.2020
8. Our letter Ref No.: HNPCL/VPP/AP Discoms/40/2020 dated 11.07.2020
9. Our letter Ref No.: HNPCL/VPP/AP Discoms/42/2020 dated 23.07.2020
10. Order dated 21.08.2020 passed by the Hon'ble Supreme Court in Civil Appeal No(s).1844/2020
11. Our letter dated 24.08.2020 bearing ref no. HNPCL/VPP/AP Discoms/43/2020
12. Our letter dated 26.08.2020 bearing ref no. HNPCL/VPP/AP Discoms/44/2020
13. Legal Notice dated 28.08.2020 issued by our legal counsel - Link Legal India Law Services
14. Our letter dated 04.09.2020 bearing ref no HNPCL/VPP/AP Discoms/45/2020
15. Our letter dated 08.09.2020 bearing ref no HNPCL/VPP/AP Discoms/46/2020
16. Our letter dated 18.09.2020 bearing ref no HNPCL/VPP/AP Discoms/47/2020

# HINDUJA NATIONAL POWER CORPORATION LIMITED

17. Your letter dated 26.09.2020, ref no CGM/APSPDCL/IPC/GM/F.HNPCL/D.No.1116/20
18. Our letter dated 05.10.2020 bearing ref no HNPCL/VPP/AP Discoms/48/2020
19. Our letter dated 12.10.2020 bearing ref no HNPCL/VPP/AP Discoms/49/2020
20. Our letter dated 26.10.2020 bearing ref no HNPCL/VPP/AP Discoms/50/2020
21. Our letter dated 16.11.2020 bearing ref no HNPCL/VPP/AP Discoms/51/2020
22. Our letter dated 26.11.2020 bearing ref no HNPCL/VPP/AP Discoms/52/2020
23. Our letter dated 11.12.2020 bearing ref no HNPCL/VPP/AP Discoms/54/2020
24. Our letter dated 24.12.2020 bearing ref no HNPCL/VPP/AP Discoms/55/2020
25. Our letter dated 31.12.2020 bearing ref no HNPCL/VPP/AP Discoms/56/2020
26. Our letter dated 12.01.2021 bearing ref no HNPCL/VPP/AP Discoms/58/2020
27. Our letter dated 21.05.2021 bearing ref no HNPCL/VPP/AP Discoms/59/2020
28. Hon'ble Supreme Court order dated 02.02.2022 in Civil Appeal No.1844/2020
29. Our letter dated 03.02.2022 bearing ref no HNPCL/VPP/AP Discoms/02/2022
30. your letter dated 05.02.2022, ref no CGM/P&IPC/GM/IPC/EE/F.HNPCL/D.No.95/22

We thank you for the immediate response and letter to MCL (ref#30) so as to facilitate the commencement of coal supply on an urgent basis. We have made an immediate payment of Rs 36.5 crores to MCL from internal resources for 50 rakes of coal with an additional amount of Rs 6.25 cr for placement in fixed deposits. On allocation of rakes further payments shall be made to railways.

We write in connection with the captioned subject matter. Kindly appreciate that the Hon'ble supreme Court in its order dated 02.02.2022 has directed the following and is reproduced for convenience as below

*"112. In the result, the present appeal is dismissed with costs, quantified at Rs.5,00,000/(Rupees Five lakh only). Pending I.As., if any, shall stand disposed of.*

*113. Taking into consideration that the issue before the State Commission is pending since long, we direct the State Commission to decide O.P. No.21 of 2015 and O.P. No.19 of 2016, as expeditiously as possible, and in any case, within a period of six months from the date of this judgment.*

# HINDUJA NATIONAL POWER CORPORATION LIMITED

*114. Needless to say that till O.P. No.21 of 2015 and O.P. No.19 of 2016 are decided by the State Commission, the appellants – DISCOMS shall forthwith start purchasing the power from HNPCL at the rate of Rs.3.82 per unit as per the orders passed by the APTEL dated 16th March, 2018 and by this Court dated 21st August, 2020."*

In response to your advice on plant light up for both units, we have started generation of power effective from 3-2-2022 and till 9th February have exported 125.84 Mus to AP Discoms. As per day ahead schedule received from SLDC, we are running both units at peak load. The plant was started with a coal stock of approx. 1,50,000 tonnes which was carried since 18-7-2020 when the scheduling was stopped by Discoms and despite the clarificatory order of 21-8-2020 passed by the Hon'ble Supreme Court, the recommencement of the power procurement did not happen despite our repeated requests in the interim period till pronouncement of the final order by the court on 3-2-2022.

Our ability to procure coal has been badly impaired during the above period of plant stoppage leading to negative cash flows coupled by the overdue outstanding payments on account of fixed charges billed from 14-6-2018 in terms of the orders of Hon'ble APTEL dated 16-3-20218 read with order dated 31-5-2018 and of Hon'ble Commission of 14-6-2018. The Promoters have consistently supported HNPCL with short term funding to ensure timely debt servicing to avoid the account becoming a NPA and also to meet payment of salary & wages, O&M expenses, preventive maintenance of the plant etc. keeping in mind over 900 strong workforce (direct and Indirect) whose livelihood is at stake. The Promoters cannot be expected to provide finance any further after the long pending disputes have been resolved by the Hon'ble Supreme Court.

We are constrained to buy further coal for seamless and continuous running of the plant as per your scheduling unless are old dues are liquidated on priority. Our financial hardship over the 18 months period has been brought to the notice of the Hon'ble Supreme Court in the final hearing of the Civil Appeal. The total outstanding of fixed charges invoiced stands at Rs 2260.30 crs inclusive of the January'22 invoice. Thus, sustained operations are not feasible without payment of overdue receivables. We would also need to augment our working capital for regular operations. Kindly refer to our letter of 3-2-2022 (ref # 29) where we have made a humble appeal to release the outstanding payments for reasons cited above.

# HINDUJA NATIONAL POWER CORPORATION LIMITED

We would also like to bring to your notice that under the Fuel Supply Agreement (FSA) with MCL, there is a penalty for short lifting of coal in each FY (Financial Year) below a threshold level. These penalties are significant, and we would be constrained to claim reimbursement for such levy, which may arise due to the non-payment of our dues. MCL has stopped coal supplies after APDiscoms have advised MCL about the stoppage of scheduling of the plant, despite having a SC order in August 2020. Hence, any such penalty is to be paid by APDIscoms without recourse to the Company. Further, Coal India has notified revised coal stocking norms which may also have an impact our non-procurement of coal

In light of our submissions above, we request you to release an immediate sum of Rs500 Cr and give a committed schedule of payment of the pending receivables over a reasonable period of time.

FOR HNPCL

Authorised Signatory

**Venugopal K**
CEO
CC:

1. Convenor APPCC, Vidyutsoudha, Vijaywada
2. CE Commercial, Vidyutsoudha, Vijaywada
3. CE IPC, Vidyutsoudha, Vijaywada
4. CE APSLDC, Vidyutsoudha, Vijaywada

## ANDHRA PRADESH STATE LOAD DESPATCH CENTRE

From
Chief Engineer,
APSLDC,
Vidyut Soudha,
Gunadala, Vijayawada- 520 004.

To
The Chief General Manager,
PP, APPCC,
Vidyut Soudha,
Gunadala, Vijayawada - 520 004

Lr.No.CE/SLDC/SE/GO/DEPPMO/DEE2/AEE-PP/F.Hinduja/D. No. 1107 /22, Dt. 28.09.2022
Sir,

Sub: APSLDC-Availabilities of M/s HNPCL for the period from June 2018 to July2022-Communicated-regarding.

Ref: Lr.No.CGM(PP)/GM(Legal)/DGM(T&H)/F.HNPCL,D.No.440/22,Dt:15.09.2022

* * * * *

With reference to the letter cited, the availabilities of M/s HNPCL for the period from June 2018 to July 2022 are herewith furnished.

| AS per APSLDC In MU | | | |
|---|---|---|---|
| | Act+back down | Actual | Backdown |
| Jun-18 | 257.94 | 228.82 | 29.12 |
| Jul-18 | 59.54 | 46.89 | 12.65 |
| Aug-18 | 0.00 | 0.00 | 0.00 |
| Sep-18 | 0.00 | 0.00 | 0.00 |
| Oct-18 | 141.00 | 140.74 | 0.26 |
| Nov-18 | 180.99 | 141.72 | 39.28 |
| Dec-18 | 93.69 | 75.14 | 18.55 |
| Jan-19 | 74.12 | 61.51 | 12.61 |
| Feb-19 | 8.22 | 8.22 | 0.00 |
| Mar-19 | 222.54 | 207.85 | 14.69 |
| 2018-19 | 1038.05 | 910.89 | 127.16 |
| | | | |
| Apr-19 | 299.26 | 286.69 | 12.57 |
| May-19 | 289.30 | 279.457 | 9.84 |
| Jun-19 | 319.50 | 284.521 | 34.98 |
| Jul-19 | 350.76 | 330.87 | 19.89 |
| Aug-19 | 103.04 | 75.07 | 27.97 |
| Sep-19 | 170.77 | 169.098 | 1.67 |
| Oct-19 | 229.39 | 217.34 | 12.05 |
| Nov-19 | 156.49 | 148.91 | 7.58 |
| Dec-19 | 304.78 | 294.94 | 9.84 |
| Jan-20 | 266.12 | 264.76 | 1.36 |
| Feb-20 | 238.15 | 230.25 | 7.90 |
| Mar-20 | 182.73 | 181.45 | 1.28 |
| 2019-20 | 2910.30 | 2763.356 | 146.94 |
| | | | |

29/9/22



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| | | | |
|---|---|---|---|
| Apr-20 | 160.55 | 146.63 | 13.92 |
| May-20 | 290.12 | 272.82 | 17.29 |
| Jun-20 | 402.38 | 362.79 | 39.59 |
| Jul-20 | 300.18 | 285.86 | 14.32 |
| Aug-20 | 0.00 | 0.00 | 0.00 |
| Sep-20 | 0.00 | 0.00 | 0.00 |
| Oct-20 | 0.00 | 0.00 | 0.00 |
| Nov-20 | 0.00 | 0.00 | 0.00 |
| Dec-20 | 0.00 | 0.00 | 0.00 |
| Jan-21 | 0.00 | 0.00 | 0.00 |
| Feb-21 | 0.00 | 0.00 | 0.00 |
| Mar-21 | 0.00 | 0.00 | 0.00 |
| 2020-21 | 1153.23 | 1068.10 | 85.13 |
| | | | |
| Apr-21 | 0.00 | 0.00 | 0.00 |
| May-21 | 0.00 | 0.00 | 0.00 |
| Jun-21 | 0.00 | 0.00 | 0.00 |
| Jul-21 | 0.00 | 0.00 | 0.00 |
| Aug-21 | 0.00 | 0.00 | 0.00 |
| Sep-21 | 0.00 | 0.00 | 0.00 |
| Oct-21 | 0.00 | 0.00 | 0.00 |
| Nov-21 | 0.00 | 0.00 | 0.00 |
| Dec-21 | 0.00 | 0.00 | 0.00 |
| Jan-22 | 0.00 | 0.00 | 0.00 |
| Feb-22 | 192.15 | 192.58 | -0.43 |
| Mar-22 | 75.66 | 75.66 | 0.00 |
| 2021-22 | 267.81 | 268.24 | -0.43 |
| | | | |
| Apr-22 | 290.03 | 287.285 | 2.74 |
| May-22 | 429.52 | 380.792 | 48.73 |
| Jun-22 | 352.72 | 340.141 | 12.58 |
| Jul-22 | 391.40 | 375.05 | 16.35 |
| 2022-23 up to July2022 | 1463.66 | 1383.27 | 80.40 |
| | | | |
| | | | |
| Grand Total | 6833.04 | 6393.85 | 439.19 |

While calculating the availabilities of M/s HNPCL, the following are considered.

a) For the Period from 18.07.2020 to 03.02.2022 Units were not taken into service as per APPCC instructions vide letter CE/PP/GM/PP-1/DE/Thermal/ F.HNPCL/ D.No.24/20, Dt:17.07.2020.During this period there is no generation and the availabilities are considered as zero.



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b) For the period from 16.06.2018 to 21.06.2018,M/s HNPCL furnished the DC for 2 units and mentioned that 1 unit is under RSD.As there is only 1 unit is under service, APSLDC considered actual generation plus back down for 1 unit.

c) For the period from 16.12.2018 to 23.12.2018,M/s HNPCL furnished the DC for 1 unit on the basis of coal sourced from other sources other than linkage coal from MCL. During this period the availabilities considered as zero as there is no generation.

d) For the Period from 01.07.2019 to 07.08.2019,M/s HNPCL furnished the DC for 2 units but APSLDC considered only 1 unit in calculating the availability (As per shift records stating that ,as per APTEL Orders Discoms are obliged to take power from 1 unit only and requested for modification of Dc for 1 unit.)

Yours faithfully,

28/09/22

Chief Engineer/APSLDC

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Spl. Chief Secretary to Government * Energy Department * A.P. Secretariat, Velagapudi, Guntur District
64
30 SEP 2022

# HINDUJA NATIONAL POWER CORPORATION LIMITED

Corporate Office : Hinduja House, 171 Dr. Annie Besant Road, Worli, Mumbai - 400 018
www.hindujagroup.com, Office Tel : +91-22-61360407, Fax : +91-22-2497 4208
Plant Office : Palavalasa Village, T.Devada Post, Steel Plant (Sub Office), Pedagantyada Mandal, Visakhapatnam-530 031. A.P. India.
CIN : U40109TG1994PLC017199

MEMBER CONVENER
APPCC
Inward No. 1160 Date 30/9/22
CGM/PP | Addl.Secy
CGM/Finance | CGM/HR
CE/SLDC | MC

Without prejudice

Letter Ref. No.: **HNPCL/VPP/ GoAP Energy Dept /31/2022** **18-09-2022**

To

**Special Chief Secretary,**
Energy Department,
Govt of Andhra Pradesh
2nd Block, Room No:141,
Ground Floor, A.P Secretariat Office,
Velagapudi
Vijaywada

MC/APPCC
pl verify and
putup
30/9.

Dear Sir

**Sub:** Request for release of outstanding payments on priority

**Ref.:** 1. Our letter dated10.02.2022 bearing ref no HNPCL/VPP/AP Discoms/04/2022
2. APERC order dated 01.08.2022
3. Supplementary agreement dated 05.09.2022

This has reference to our various communications (ref#1 and its linked prior letters) and discussions regarding the pending payments of HNPCL.

Hon'ble Supreme Court vide its final order on 02.02.2022 dismissed the appeal of the AP Discoms and upheld the PPA with HNPCL. Hon'ble SC also directed APERC to decide on the two petitions – Approval of the Continuation Agreement and Approval of the Completed Capital Cost and Tariff.

APERC in line with the directions of the Hon'ble Supreme Court, decided on the 2 petitions – approved the Continuation Agreement read with 1998 PPA with modifications / amendments as per its order and approved the Completed Capital Cost and Tariff.

# HINDUJA NATIONAL POWER CORPORATION LIMITED

In line with the APERC order, AP Discoms and HNPCL has signed Supplementary Agreement to be read with Continuation Agreement on 05.09.2022.

As per day ahead schedule received from APSLDC, HNPCL is operating both units on a continuous basis and supporting the needs of the State of Andhra Pradesh.

After the APERC order 01.08.2022, multiple meetings were held with AP Discoms and requisite information was submitted by way of soft copies of the invoices, the daily availability declarations, ledger extract from the HNPCL books of accounts, etc.

However, AP Discoms have not released the funds as per the accounts submitted during various meetings.

Due to non-payment of the receivables, HNPCL has been facing severe cash crunch and had to ration payments to coal, railway and road freight.

The present coal stock (plant and siding) is about 55000 Tons, which can sustain at best 3 days for a continuous operation of the plant and as a result of this we are unable to build up coal stocks. We are not able to procure full coal quantity due to on going cash crunch.

We are constrained in paying for further coal for seamless and continuous operation of the plant as per your scheduling unless our old dues are liquidated on priority. The total outstanding of fixed charges invoiced stands at Rs 2400.96 crs inclusive of the July'22 invoice. Thus, sustained operations are not feasible without payment of overdue receivables.

Request your kind intervention for immediate release of the outstanding receivables at the earliest.

FOR HNPCL

Authorized Signatory

**Venugopal K**
CEO

CC:

1. Member Convenor APPCC, Vidyutsoudha, Vijaywada

6441716/2022/CE-02-KRS-VJWD

**HINDUJA NATIONAL POWER CORPORATION LIMITED**
Corporate Office : Hinduja House, 171 Dr. Annie Besant Road, Worli, Mumbai - 400 018
www.hindujagroup.com, Office Tel : +91-22-61360407, Fax : +91-22-2497 4208
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CIN : U40109TG1994PLC017199

Without prejudice

Letter Ref. No.: **HNPCL/VPP/ CGM PP-APPCC /32/2022** **20-09-2022**

To
**Chief General Manager- Power Purchase,**
IPC, APPCC,
Vidyut Soudha, Gunadala
Vijayawada

Dear Sir
**Sub:** compiled information related to outstanding payments regarding

**Ref.:** 1. Our letter dated 18.09.2022 bearing ref no HNPCL/VPP/AP DISCOMs/31/2022
2. APERC order dated 01.08.2022
3. Supplementary agreement dated 05.09.2022

This has reference to our letter (ref#1) and discussion on 19.09.2022 regarding pending payments of HNPCL.

Accordingly, we are enclosing the details of information month wise related to Declared capacity, Declared capacity on coal, actual export, Backing down on coal availability and Deemed availability along with the events for the period and broad default in line with the PPA terms on account of APDISCOMs in a tabulated format for easy reference.

Request your kind intervention for immediate release of the outstanding receivables at the earliest.

FOR HNPCL
Authorized Signatory
Sidhartha Das

**Sidhartha Das**
VP Commercial

Dgm/Thermal

Inward No. 3531
20 SEP 2022

Encl: as above

CC: Member Convenor APPCC, Vidyutsoudha, Vijaywada

Billing information from March 2018 till July 2022

| Events | PPA provision and default conditions | Period | Total Declared Avilability (MU) for billing= (A+B) | Declared capacity on coal (MU)- (A) = (C+D) | Dispatch Firm (MU) JMR - (C) | Backing down on coal availbility (MU) (D) | Deemed Availibility (MU) (B) |
|---|---|---|---|---|---|---|---|
| APERC vider its order of 31.01.2018 permitted withdrawl of the petition for approval of the PPA. AP Discoms have stopped scheduling power from 02.02.2018. APTEL has granted status-quo ante vide its interim order dated 16.03.2018. MCL vide letter dated 29.03.2018, advised suspension of coal supplies under FSA citing the letter dated 13.03.2018 from APDiscom stating that APPCC has decided not to procure power under long term PPA and hence no procurement of power from HNPCL by AP Discoms. MCL further stated that AP Discoms have failed to comply with FSA condition of issuing the Power procurment certificate for the year 2017-18. Agrived by the APERC order, HNPCL filed petition in APTEL and APTELgave an order on 16.03.2018 to maintain status quo ante Still the schedule didnt resume. | AP Discoms clearly did not comply with the provisions of Schedule J of the Continuation Agreement | Mar-18 | 723.38 | 723.38 | 0.00 | 723.38 | 0.00 |
| | | Apr-18 | 696.46 | 696.46 | 0.00 | 696.46 | 0.00 |
| | | May-18 | 723.86 | 723.86 | 0.00 | 723.86 | 0.00 |
| | | Jun-18 | 309.43 | 309.43 | 0.00 | 309.43 | 0.00 |
| | from March 18 till 14th June 2018 | | 2453.13 | 2453.13 | 0.00 | 2453.13 | 0.00 |
| Aggrieved by the non-scheduling of the plants, inspite of APTEL order of status quo ante dated 16.03.2018, HNPCL approached APTEL. APTEL, vide its order dated 31.05.2018 directed APERC to bifurcate the interim tariff into FC and VC. Directed Discoms to schedule HNPCL as long as the VC is within Merit Order Dispatch and Discoms, dont schedule, then Discoms have to pay FC. APERC bifrucated the interim tariff of Rs 3.82 per unit into FCc of 1.06 and VC of 2.76 per unit on 14.06.2018. AP Discoms, started scheduling power from 15th June 2018. With the units generating the coal got exhausted and the coal supply had not resumed, due to the action of Discoms in advising MCL to stop coal supplies and by not complying with the Annual procurement Certificate, HNPCL opted for alternate coal and E auction coal, for which APDiscom didn't accept it as pass through. HNPCL had to approach Orissa High Court to seek relief under FSA. AP Discoms became party to the case and have fought against HNPCL. | MCL did not commence supply of Coal, as the Annual Procurment certificates being issued by AP Discoms specifically mentioned that the procurment of power was only a temporary arrangment and not long term PPA. Discoms, did not agree to issue a certificate inspite of APTEL directions. During the period, AP Discoms have stopped paying the invoices and outstanding amounts have rised to over Rs 250 crs as per 10.1 (d) of continuation agreement. | Jun-18 | 369.00 | 369.00 | 259.50 | 109.50 | 0.00 |
| | | Jul-18 | 722.89 | 58.60 | 37.92 | 20.69 | 664.29 |
| | | Aug-18 | 723.38 | 0.00 | 0.00 | 0.00 | 723.38 |
| | | Sep-18 | 697.19 | 11.05 | 0.00 | 11.05 | 686.14 |
| | | Oct-18 | 719.74 | 163.75 | 135.37 | 28.39 | 555.99 |
| | | Nov-18 | 698.40 | 176.21 | 140.12 | 36.10 | 522.19 |
| | | Dec-18 | 722.65 | 183.40 | 78.48 | 104.93 | 539.25 |
| | | Jan-19 | 395.15 | 76.27 | 55.11 | 21.16 | 318.88 |
| | | Feb-19 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| | | Mar-19 | 0.00 | 211.76 | 211.76 | 0.00 | |
| | 15th June 2018 till March 2019 | | 5048.40 | 1250.05 | 918.25 | 331.81 | 4010.10 |
| The coal supply resumed from March 2019 after the Orissa High Court ordered MCL to supply 100 rakes per month and with this the roll over of the lesser materilisation by MCL was not granted in the next months. Orissa High Court order also directed HNPCL to deposit Rs 12.50 Lakhs per rake in FD, which could not withdrawn without directions of the Court.<br>APTEL gave its final order in favor of HNPCL on 07.01.2020 setting aside the impugned order of APERC dated 31.01.2018.<br>Against the appeal by AP Discoms, Hon'ble Supreme court gave a stay order on APTEL order on 14.07.2020. Discoms stopped scheduling from 18th July 2020. | .In this period HNPCL faced short fall of coal from MCL to maximise it availability due to restriction of 100 rakes per month as per orders of High court. Had the court order not been there and coal supplied would have bene under FSA the coal supply would have increased. There was continuing default of the Discoms by non-payment of dues and over dues always being above Rs 250 crs. | Apr-19 | 694.05 | 293.90 | 284.56 | 9.35 | 400.15 |
| | | May-19 | 720.71 | 283.06 | 278.26 | 4.79 | 437.66 |
| | | Jun-19 | 610.98 | 317.94 | 286.23 | 31.70 | 293.04 |
| | | Jul-19 | 681.40 | 674.79 | 331.07 | 343.71 | 6.61 |
| | | Aug-19 | 720.79 | 185.55 | 65.46 | 120.10 | 535.23 |
| | | Sep-19 | 698.90 | 260.07 | 172.32 | 87.75 | 438.84 |
| | | Oct-19 | 657.04 | 224.51 | 217.15 | 7.36 | 432.53 |
| | | Nov-19 | 637.65 | 153.06 | 148.64 | 4.41 | 484.60 |
| | | Dec-19 | 715.02 | 299.32 | 292.86 | 6.47 | 415.70 |
| | | Jan-20 | 641.60 | 266.75 | 266.75 | 0.00 | 374.85 |
| | | Feb-20 | 0.00 | 233.66 | 231.43 | 2.23 | |
| | | Mar-20 | 0.00 | 176.08 | 174.11 | 1.97 | |
| | | Apr-20 | 659.60 | 169.23 | 150.04 | 19.19 | 490.37 |
| | | May-20 | 724.35 | 285.47 | 274.00 | 11.47 | 438.88 |
| | | Jun-20 | 659.78 | 408.63 | 368.41 | 40.22 | 251.15 |
| | | Jul-20 | 303.53 | 303.53 | 271.73 | 31.80 | 0.00 |
| | from March 2019 till JUly 2020 | | 9125.40 | 4535.52 | 3813.01 | 722.51 | 4999.61 |

| Events | PPA provision and default conditions | Period | Total Declared Avilability (MU) for billing= (A+B) | Declared capacity on coal (MU)- (A) = (C+D) | Dispatch Firm (MU) JMR - ( C ) | Backing down on coal availbility (MU) (D) | Deemed Availibility (MU) (B) |
|---|---|---|---|---|---|---|---|
| Hon'ble Supreme court clarified on 21.08.2020 order that there is no stay on 16.03.2018 order of APTEL, there by reinstating status quo ante.<br>AP Discoms, in gross voilation of the Supreme Court order of 20.08.2020, did not not schedule the plant till the final order of Supreme Court on 02.02.2022. | HNPCL has been declaring availability with coal during the entire period from August 2020 till February, 2022. However, Discoms over dues have continued to remain over Rs 250 crs through the period as per 10.1 (d) of continuation agreement. | Aug-20 | 246.86 | 246.86 | 0.00 | 246.86 | 0.00 |
| | | Sep-20 | 690.56 | 690.56 | 0.00 | 690.56 | 0.00 |
| | | Oct-20 | 723.62 | 723.62 | 0.00 | 723.62 | 0.00 |
| | | Nov-20 | 696.95 | 696.95 | 0.00 | 696.95 | 0.00 |
| | | Dec-20 | 719.26 | 719.26 | 0.00 | 719.26 | 0.00 |
| | | Jan-21 | 725.08 | 725.08 | 0.00 | 725.08 | 0.00 |
| | | Feb-21 | 628.56 | 628.56 | 0.00 | 628.56 | 0.00 |
| | | Mar-21 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| | | Apr-21 | 712.46 | 712.46 | 0.00 | 712.46 | 0.00 |
| | | May-21 | 719.50 | 719.50 | 0.00 | 719.50 | 0.00 |
| | | Jun-21 | 698.16 | 698.16 | 0.00 | 698.16 | 0.00 |
| | | Jul-21 | 634.26 | 634.26 | 0.00 | 634.26 | 0.00 |
| | | Aug-21 | 659.72 | 659.72 | 0.00 | 659.72 | 0.00 |
| | | Sep-21 | 695.98 | 695.98 | 0.00 | 695.98 | 0.00 |
| | | Oct-21 | 724.10 | 724.10 | 0.00 | 724.10 | 0.00 |
| | | Nov-21 | 699.13 | 699.13 | 0.00 | 699.13 | 0.00 |
| | | Dec-21 | 719.26 | 719.26 | 0.00 | 719.26 | 0.00 |
| | | Jan-22 | 515.57 | 515.57 | 0.00 | 515.57 | 0.00 |
| | | Feb-22 | 0.00 | 275.11 | 188.56 | | |
| | from Aug 2020 till Feb 2022 | | 11209.02 | 11484.13 | 188.56 | 11209.02 | 0.00 |
| Pending Orissa High Court varying its interim order for supply of 100 rakes per month, HNPCL is still constrained in declaring full availability due to actions of Discoms, in advising MCL to stop supplies. | HNPCL was contrained to build up coal and couldnot get the generation to full capacity. Discoms overdues continued to remain at higher than Rs 250 crs all the time | Mar-22 | 0.00 | 73.85 | 72.62 | 0.00 | |
| | | Apr-22 | 671.79 | 292.83 | 292.83 | 0.00 | 378.95 |
| | | May-22 | 627.51 | 425.63 | 377.25 | 48.38 | 201.88 |
| | | Jun-22 | 692.60 | 348.95 | 336.41 | 12.59 | 343.61 |
| | | Jul-22 | 720.23 | 390.12 | 378.99 | 11.12 | 330.11 |
| | from March 2022 till July 2022 | | 2712.12 | 1531.42 | 1458.10 | 72.09 | 1254.55 |
| | | Total | 30548.1 | 21254.3 | 6377.9 | 14788.6 | 10264.3 |

Note- Since there was no split order from APERC prior to 14th June 2018, we have not invoiced from March 2018 till 14t June 2018 in line with the order.