



**Petition No. 1089, 1090 & 1091 of 2016**

**BEFORE**

**THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION**

**LUCKNOW**

**Date of Order : 9.6.2016**

**PRESENT:**

1. Hon'ble Sri Indu Bhushan Pandey, Member
2. Hon'ble Sri Suresh Kumar Agarwal, Member

**IN THE MATTER OF:** Approval of deviation in SBD of Case-1 bidding process issued by MoP, Gol for conducting the process of long term procurement for 3800 MW power for meeting the requirement of Discoms.

- (i) Procurement of Electricity of 2800 MW Capacity under DBFOO basis from Power station using coal from concessional fuel from Coal India Ltd. or a subsidiary thereof.
- (ii) Procurement of Electricity of 500 MW Capacity under DBFOO basis from Power station using coal from Imports.
- (iii) Procurement of Electricity of 500 MW Capacity under DBFOO basis from Power station using coal from Captive Coal Blocks.

UP Power Corporation Limited  
(through its Chief Engineer (Planning))  
3<sup>rd</sup> Floor, Shakti Bhawan Extension  
14- Ashok Marg, Lucknow.

----- **Petitioner**

**The following were presents:**

1. Shri Ather Hussain Khan C.E. (Planning), UPPCL
2. Shri Deepak Raizada. S.E., UPPCL



3. Shri R.K. Sharma (Executive Director) UPPCL
4. Shri Anuj Vashistha, Sr. Manager, Deloitte
5. Shri Amit Goenka, Sr. Manager, Deloitte

**ORDER**  
**(Hearing Date 04.05.2016)**

1. The bidding process for procurement of 3800 MW Power has been initiated by UPPCL under the new bidding guidelines which have been notified by MoP, GoI vide notification no. 23/09/2014 - R&R dated 5<sup>th</sup> May, 2015 and for which the Standard Bidding Documents (Model RFQ, Model RFP and Model PSA) were issued by MoP, GoI on 08th November 2013. UPPCL has envisaged to procure
  - (i) 2800 MW capacity (out of total 3800 MW capacity requirement) based on power stations sourcing concessional fuel from Coal India Limited or a subsidiary thereof (CIL).
  - (ii) 500 MW power from stations using coal sourced through imports.
  - (iii) 500 MW power from power stations based on captive coal blocks
2. In petition nos. 1051, 1054 & 1055 of 2015, vide order dated 7.01.2016, the Commission has approved certain deviations in RFP and PSA common to all the three processes. In addition to these deviations, in case of procurement of 500 MW power from power stations based on captive coal blocks, the Commission has also decided ceiling of capacity charge of Rs. 2.81/Kwh.
3. The subject petitions have been further filed by the UPPCL for approval of some other deviations in the standard bidding documents. The issues were discussed before the Commission and as per the directions of the Commission, UPPCL has also made written submission dated 13.05.2016.



4. The deviations sought by UPPCL in the standard bidding document and approval of the Commission are as tabulated in Annexures 1,2,3 & 4.
5. The petitions are disposed of.

(Suresh Kumar Agarwal)  
Member

(Indu Bhushan Pandey)  
Member

Place : Lucknow  
Dated: 9.6.2016



**Annexure - 1**  
**List of Common deviations sought by UPPCL in the model RFP and PSA**

Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
1. RFP	<b>Appendix V – Guidelines of the Department of Disinvestment</b>	Appendix V may be omitted	Disinvestment guidelines may not be applicable in Case-1 procurement.	Approved
2. PSA	<b>Recital to PSA:</b> The Utility had resolved to procure electricity from a power generating station that would dedicate a contracted capacity of *** MW for production of electricity and supply thereof to the Utility.	The Utility had resolved to procure electricity from a power generating station that would dedicate a contracted capacity of *** MW <b>at the Point of Grid Connection for supply of electricity to the Utility .....</b>	Contracted Capacity is being offered at the Point of Grid Connection.	Approved
3. PSA	<b>Clause 3.1.2 (g)</b> - neither assign, transfer or sub-let or create any lien or Encumbrance on this Agreement, or the Supply Contract hereby granted or on the whole or any part of the Power Station nor sell, transfer, exchange, lease or part possession thereof to the extent of Contracted Capacity, save and except as expressly permitted by this Agreement or the Substitution Agreement.	<b>May be omitted.</b>	For the Utility, the Contracted Capacity under Case-1 procurement is linked to its availability at the desired point of interconnection. Accordingly, it may not require any control over the ownership of the Contracted Capacity as far as it meets the requirements under the PSA.	Not Approved



Document		Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
4.	PSA	<p><b>Clause 5.1.4 – Explanation</b> - Availability of the Power Station to its full capacity shall, in respect of any hour, mean the capacity of the Power Station to the extent it is offered by the Supplier for producing and supplying electrical energy equal to [950 (nine hundred and fifty)] kWh per mega watt of Contracted Capacity over a period of one hour, after accounting for auxiliary consumption, and transmission losses upto the Point of Grid Connection .....</p>	<p><b>Clause 5.1.4 – Explanation</b> - Availability of the Power Station to its full capacity shall, in respect of any hour, mean the capacity of the Power Station to the extent it is offered by the Supplier for producing and supplying electrical energy equal to 1000 kWh per mega watt of Contracted Capacity over a period of one hour, after accounting for auxiliary consumption, and transmission losses up to the Point of Grid Connection .....</p>	<p>The Contracted Capacity shall be at the Point of Grid Connection i.e. nearest CTU Interface. Accordingly, 100% of energy corresponding to the Contracted Capacity needs to be made available by the Supplier. The explanation in the SBD envisages that the evacuation of Contracted Capacity may take place at the generation switchyard and therefore assumes a 5% auxiliary consumption. Whereas in this case the entire Contracted Capacity is to be supplied at the nearest CTU Interface.</p>	Approved
5.	PSA	<p><b>Clause 5.2.3:</b> The Supplier shall procure .....for such eventuality.  <b>The Supplier expressly agrees to include the Covenant ..... Suspension.</b></p>	<p>The section starting from “<b>The Supplier expressly agrees to include the Covenant .... Suspension</b>” may be omitted. Accordingly the clause shall be as follows:            Clause 5.2.3 :The Supplier shall procure .....for such eventuality.</p>	<p>While Clause 5.2.3 provides for assignment of rights of Concessional Fuel to Utility, the onus of undertaking on the part of the Supplier to provide an undertaking and acknowledgement from the Fuel Supplier from the counter party (ies) of the FSA may not be practically feasible.</p>	Approved



Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
6. PSA	<p><b>Clause 5.5 - .....The Parties further agree that the obligation of the Supplier to pay the regulated charges for transmission of electricity shall be restricted to the tariffs and rates applicable on the Bid Date for and in respect of <b>80% (eighty per cent) of Contracted Capacity and any differential arising from revision of the regulated tariffs and rates thereafter shall be payable or recoverable, as the case may be, by the Utility.</b></b></p> <p>The Parties also agree that the regulated charges applicable for transmission of electricity referred to hereinabove as on the Bid Date shall be deemed to be Rs. .. (Rupees ...) for and in respect of 80% (eighty per cent) of the Contracted Capacity, which charges shall at all</p>	<p><b>Clause 5.5.....The Parties further agree that the obligation of the Supplier to pay the regulated charges for transmission of electricity shall be restricted to the tariffs and rates applicable on the Bid Date for and in respect of <b>100% (one hundred percent) of Contracted Capacity and shall be recoverable from the Utility.</b></b></p> <p>The Parties also agree that the regulated charges applicable for transmission of electricity referred to hereinabove as on the Bid Date shall be deemed to be Rs. .. (Rupees ...) for and in respect of <b>100% (one hundred percent) of Contracted Capacity</b> which charges shall at all times be due and payable by the Supplier.</p> <p><b>The Parties also agree that the regulated charges applicable for transmission of electricity from the Point of Grid Connection to</b></p>	<p>Open Capacity (20%) has been omitted from the SBD as per the deviation approved by Hon'ble UPERC. Accordingly, 80% needs to be amended to 100%. Further, transmission charges from Point of Grid Connection to Delivery Point are required to be reimbursed to the Supplier by the Utility.</p> <p>The intent to provide lower of the quoted transmission charge and the transmission charge as per applicable regulations is to disallow any Bidder to quote lower transmission charges at the Bid stage for the purpose of winning the Bid and then claim a higher transmission charge as per actuals for payment.</p>	Approved



Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
	times be due and payable by the Supplier.	<p><b>Delivery Point shall be deemed to be Rs. ....Paisa ..... (Rupees .....Paisa .....) per kWh, which represents the lower of the Bid submitted by the Supplier and the amount derived from CERC notified transmission charges of Rs. .... (Rupees .....) per MW as on the Bid Date. The Supplier accordingly represents and warrants that the transmission charge shall be revised only in proportion to the revision in regulated charges applicable for transmission of electricity from the Point of Grid Connection to Delivery Point as compared to the rate specified herein above.</b></p>		
7.	PSA	<p><b>Clause 17.4 (Clasue 17.4.1, 17.4.2 and 17.4.3) – ISO Certification</b></p>	<p><b>Clause 17.4 is not required and may be omitted.</b></p>	<p>Under Case-1 procurement, the Supplier is responsible for making available the Contracted Capacity to the Utility and in the event the Availability of the power station reduces thereby affecting the Availability of the Contracted Capacity, the fixed charges get</p>



Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
			proportionately reduced. It should be left to the Supplier's discretion to decide whether ISO certification assists in enhancing the availability of the station and its requirement.	
8. PSA	<p><b>Clause 18.2</b> - Pursuant to the provisions of this Agreement, the Supplier shall dedicate a generating capacity of *** MW to the Utility as the capacity contracted hereunder (the "Contracted Capacity") and the Contracted Capacity shall at all times be operated and utilised in accordance with the provisions of this Agreement</p>	<p><b>Clause 18.2</b> - Pursuant to the provisions of this Agreement, the Supplier shall dedicate and supply a capacity of *** MW to the Utility at the Point of Grid Connection as the capacity contracted hereunder (the "Contracted Capacity") and the Contracted Capacity shall at all times be operated and utilised in accordance with the provisions of this Agreement.</p>	Contracted Capacity is at the Point of Grid Connection.	Approved
9. PSA	<p><b>21.2.2:</b> In the event the Completion Certificate specifies ..... and b) actual costs  <b>21.2.3:</b> In the event the actual Station Heat Rate ..... and b) actual costs</p>	<b>Both Clauses 21.2.2 &amp; 21.2.3 may be omitted</b>	Provision related to establishing variation in the actual SHR vis a vis the SHR as per Completion Certificate may turn out to be impractical to implement on the part of the Utility. Further, as per the information shared by	Approved





Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
			Bidders in the pre-bid conference, the commissioning certificate does not mention the SHR value. Further, for the projects which have already achieved COD, the Bidders have opined that the Completion Certificate regarding SHR may be provided by the MD of the company itself.	
10. PSA	<p><b>Clause 31.4</b> Notwithstanding anything to the contrary .....shall be deemed to be extended accordingly. <b>Provided however, that in the event an extension is not sought hereunder, the Utility shall pay to the Supplier the Termination Payment computed in accordance with the provisions of Clauses 31.3.2.</b> For the avoidance of doubt the Parties agree.....shall apply mutatis mutandis to the extended Contract Period.</p>	<p>Provision in the Clause pertaining to payment by the Utility to the Supplier in the event that the Utility does not seek an extension is required to be omitted. <b>Accordingly amended Clause 31.4 shall be as follows:</b> 'Notwithstanding anything to the contrary.....shall be deemed to be extended accordingly. For the avoidance of doubt, the Parties agree....., shall apply mutatis mutandis to the extended Contract Period.</p>	<p>There should be no liability on the part of the Utility to pay fixed charge in case no extension is required. This provision is aligned to Case 2 document wherein the power project is constructed for the sole benefit of supply to the utility. Under Case-1 where the utility is procuring a part of the capacity from the station, such provision should not be applicable.</p>	Approved



Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
<p><b>11. PSA</b></p>	<p><b>34.1:</b> If as a result of Change in Law, the Supplier suffers an increase in costs..... the aggregate financial effect of which exceeds the higher of Rs. 1 crore (Rupees one crore) <b>and</b> 0.1% (zero point one per cent) of the Capacity Charge in any Accounting Year .....</p> <p><b>34.2 :</b> If as a result of Change in Law, the Supplier benefits from a reduction in costs ..... the aggregate financial effect of which exceeds the higher of Rs. 1 crore (Rupees one crore) <b>and</b> 0.1% (zero point one per cent) of the Capacity Charge in any accounting Year</p>	<p>The word '<b>and</b>' in both Clause 34.1 and 34.2 needs to be replaced by '<b>or</b>'.</p> <p><b>Accordingly amended Clause 34.1 and 34.2 shall be as follows:</b></p> <p><b>34.1:</b> If as a result of Change in Law, the Supplier suffers an increase in costs..... the aggregate financial effect of which exceeds the higher of Rs. 1 crore (Rupees one crore) <b>or</b>0.1% (zero point one per cent) of the Capacity Charge in any Accounting Year .....</p> <p><b>34.2 :</b> If as a result of Change in Law, the Supplier benefits from a reduction incosts ..... the aggregate financial effect of which exceeds the higher of Rs. 1 crore (Rupees one crore) <b>or</b> 0.1% (zero point one per cent) of the Capacity Charge in any accounting Year.</p>	<p>Intent of both the clauses is to compare two scenarios and choose the higher one amongst the two.</p>	<p>Approved</p>
<p><b>12. PSA</b></p>	<p><b>Defn: Point of Grid Connection</b> means the point of interconnection at which the electricity generated by the Power</p>	<p><b>Point of Grid Connection means the nearest CTU Interface where the Contracted Capacity is delivered by the Supplier to</b></p>	<p>Contracted Capacity is being requested at the nearest CTU Interface of the station.</p>	<p>Approved</p>



Document		Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
		Station is transferred to the Grid.	<b>the Utility for supply of electricity thereof.</b>		
13.	PSA	<b>Clause 11.2.1:</b> The Supplier shall complete construction of the Power Station ..... set forth in Schedule-C. The [1,050 <sup>th</sup> (one thousand and fiftieth)] day from the Appointed Date shall be the scheduled date for completion of the Power Station (the "Scheduled Completion Date") and the Supplier agrees and undertakes that construction of the Power Station shall be completed.....	<b>Amended Clause 11.2.1:</b> The Supplier shall complete construction of the Power Station ..... set forth in Schedule-C. <b>The Scheduled date for completion of the Power Station (the "Scheduled Completion Date") shall not be later than October 30, 2016 or as mutually agreed between the Parties</b> , and the Supplier agrees and undertakes that construction of the Power Station shall be completed.....	Scheduled Delivery Date for supply of Contracted Capacity by the Supplier to UPPCL is 30 <sup>th</sup> Oct. 2016.	Approved
14.	PSA	<b>Schedule E: Clause 4:</b> Scheduled Completion Date: The Scheduled Completion Date for completion of the Contracted Capacity of the Power Station shall be the [1,050 <sup>th</sup> (one thousand and fiftieth)] day from the Appointed Date.	<b>Schedule E: Clause 4:</b> Scheduled Completion Date: <b>The Scheduled date for completion of the Power Station (the "Scheduled Completion Date") shall not be later than October 30, 2016 or as mutually agreed between the Parties</b>	Scheduled Delivery Date for supply of Contracted Capacity by the Supplier to UPPCL is 30 <sup>th</sup> Oct. 2016.	Approved with amendment that "The Scheduled date for completion of the Power Station (the "Scheduled Completion Date") shall not be later than August 30, 2016 "



Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
<p><b>15. PSA</b></p>	<p><b>Clause 21.4.4:</b>The obligations of the Utility to pay Fixed Charges in any Accounting Year shall in no case exceed an amount equal to the Fixed Charge due and payable for and in respect of the Normative Availability of 90% (ninety per cent) computed with reference to the entitlement of the Utility in Contracted Capacity (the "Capacity Charge"). Provided, however, that in the event of Despatch of the Power Station beyond such [72% (seventy two per cent)], Incentive shall be payable in accordance with the provisions of Clause 21.6.1. For the avoidance of doubt, the Capacity Charge referred to herein shall be equal to and computed with reference to the maximum Availability of [72% (seventy two per cent)] of the Contracted Capacity.</p>	<p><b>Clause 21.4.4:</b>The obligations of the Utility to pay Fixed Charges in any Accounting Year shall in no case exceed an amount equal to the Fixed Charge due and payable for and in respect of the Normative Availability of 90% (ninety per cent) computed with reference to the entitlement of the Utility in Contracted Capacity (the "Capacity Charge"). Provided, however, that in the event of Despatch of the Power Station <b>by the Utility</b> beyond such <b>90% (Ninety per cent)</b>, Incentive shall be payable in accordance with the provisions of Clause 21.6.1. For the avoidance of doubt, the Capacity Charge referred to herein shall be equal to and computed with reference to the maximum Availability of <b>90% (Ninety per cent)</b> of the Contracted Capacity</p>	<p>Provision related to Open Capacity of 20% has been removed from the document. Hence any request by the Utility for dispatch beyond Normative Availability of 90% shall entitle for Incentive.</p>	<p>Approved</p>



Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
16. PSA	<p><b>Clause 21.4.5:</b> Pursuant to the provisions of Clause 21.4.4, the Supplier shall not, for and in respect of any day, be entitled to receive payment of Fixed Charge for Availability exceeding [72% (seventy two per cent)] thereof and in the event it supplies electricity to the Utility in excess of such [72% (seventy two per cent)], such excess supply shall be eligible only for payment of Fuel Charge, save and except the payment of Incentive due under the provisions of Clause 21.4.4.</p>	<p><b>Clause 21.4.5:</b> Pursuant to the provisions of Clause 21.4.4, the Supplier shall not, for and in respect of any day, be entitled to receive payment of Fixed Charge for Availability exceeding <b>90% (Ninety per cent)</b> thereof and in the event it supplies electricity to the Utility in excess of such <b>90% (Ninety per cent)</b>, such excess supply shall be eligible only for payment of Fuel Charge, save and except the payment of Incentive due under the provisions of Clause 21.4.4.</p>	<p>As per changes in Clause 21.4.5 Incentive is only payable in the event of Despatch of the Power Station results in Availability beyond 90% and such Despatch is on the basis of request from the Utility.</p>	Approved
17. PSA	<p>Clause 22.4.1: Prior to the Appointed Date, the Supplier shall have executed an agreement with a supplier of Fuel for supply of Fuel sufficient for generating electricity at no less than [55% (fifty five per cent)] of the Contracted Capacity during each</p>	<p>Clause 22.4.1: Prior to the Appointed Date, the Supplier shall have executed an agreement with a supplier of Fuel for supply of Fuel sufficient for generating electricity at no less than <b>100% (one hundred percent)</b> of the Contracted Capacity during each month for a period of at least <b>15 (fifteen)</b></p>	<ul style="list-style-type: none"> <li>• Supplier needs to ensure supply of Contracted Capacity at the Point of Grid Connection subject to Normative Availability.</li> <li>• Term of Contract is 15 years.</li> </ul>	Approved



Document		Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
		month for a period of at least [20 (twenty) years] commencing from COD .....	<b>years</b> commencing from COD .....		
18.	PSA	<b>Clause 4.1.3 :</b> The Conditions Precedent required to be satisfied by the Supplier within a period of <b>180 (one hundred and eighty) days</b> from the date of this Agreement shall be deemed to have been fulfilled when the Supplier shall have .....	<b>Clause 4.1.3 :</b> The Conditions Precedent required to be satisfied by the Supplier within a period of <b>60 (sixty) days</b> from the date of this Agreement shall be deemed to have been fulfilled when the Supplier shall have .....	Scheduled Delivery Date of supply of Contracted Capacity is 30 <sup>th</sup> Oct. 2016. The selection of Supplier and execution of PSA shall require at least 60 days after the Bid Due Date.	Approved
19	PSA	<b>Clause 14.1.1:</b> The Power Station or any..... or the Provisional Certificate (the COD). <b>The Power Station or any Unit thereof shall enter into commercial service on COD whereupon the Supplier shall be entitled to demand and collect the Tariff in accordance with the provisions of Article 21.</b> For the avoidance of doubt, the Parties expressly agree .....	The Power Station or any..... or the Provisional Certificate (the COD). <b>Notwithstanding anything to the contrary in this Agreement, the COD and the supply of power by the Supplier to the Utility shall not occur later than 30th October 2016, unless such delay is on account of Force Majeure Event or Utility Event of Default.</b> For the avoidance of doubt, the Parties expressly agree .....	Scheduled Delivery Date for supply of Contracted Capacity by the Supplier to UPPCL is 30 <sup>th</sup> Oct. 2016.  Under Case-1, the Supplier is required to supply from the Unit/Phase of the power station from which it had	Approved



Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
		with the provisions of this Agreement. <b>The Parties further agree that for determination of Tariff under Article 21, COD of the first Unit shall be deemed to be the COD of the Power Station.</b>	<b>determination of Tariff under Article 21, the COD of unit/phase of the power station, from where the power is proposed to be delivered to the Utility, shall be deemed to be the COD of the power station.</b>	proposed at the bid stage.
20 PSA	<b>Clause 14.1.2:</b> In the event COD is achieved prior to the Scheduled Completion Date, the Fixed Charge due and payable to the Supplier for the period prior to the Scheduled Completion Date shall be [70% (seventy per cent)] of the Base Fixed Charge specified in Clause 21.2.1. Provided, however, ..... Scheduled Completion Date.	<b>In the event the COD is achieved prior to the Scheduled Completion Date and if the Supplier is willing to deliver the Contracted Capacity to the Utility after having received the required open access and provided that the Utility is willing to offtake power from the Supplier from such mutually agreed date, the Supplier shall deliver the Contracted Capacity to the Utility as per the terms of the Agreement and the Fixed Charge payable to the Supplier for the period prior to the Scheduled Completion Date shall be 70% (seventy per cent)] of the Base Fixed Charge specified in Clause 21.2.1. Provided, however, ..... Scheduled Completion Date.</b>	Supply of power prior to the Scheduled Delivery Date shall only be allowed after prior mutual agreement with the utility.	Approved



Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
21 PSA	<b>Schedule E: Clause 4:</b> Scheduled Completion Date: The Scheduled Completion Date for completion of the Contracted Capacity of the Power Station shall be the [1,050 <sup>th</sup> (one thousand and fiftieth)] day from the Appointed Date.	<b>Schedule E: Clause 4:</b> <b>Scheduled Completion Date: The Scheduled date for completion of the Power Station (the "Scheduled Completion Date") shall not be later than August 30, 2016 or as mutually agreed between the Parties</b>	Scheduled Delivery Date for supply of Contracted Capacity by the Supplier to UPPCL is 30 <sup>th</sup> Oct. 2016.	Approved
22 PSA	<b>Clause 20.1.1:</b> The Supplier hereby agrees and undertakes that it shall achieve Financial Close within <b>180 (one hundred and eighty) days</b> from the date of this Agreement .....each day of delay; provided that the Damages specified herein shall be payable every week in advance and the period beyond the said <b>180 (one hundred and eighty) days</b> shall be granted only .....	<b>Clause 20.1.1:</b> The Supplier hereby agrees and undertakes that it shall achieve Financial Close within <b>60 (sixty) days</b> from the date of this Agreement .....each day of delay; provided that the Damages specified herein shall be payable every week in advance and the period beyond the said <b>60 (sixty) days</b> shall be granted only .....	This period should conform to the period specified in Clause 4.1.3 that is requested to be amended to 60 days.	Approved
23 RFP	<b>Clause 1.2.1:</b> The Utility has adopted a two –stage process..... comprising Request for Proposals. <b>The Government of</b>	<b>2<sup>nd</sup> para to be omitted. Amended Clause 1.2.1:</b> The Utility has adopted a two – stage process..... comprising Request for Proposals	Appendix – V is proposed to be omitted and deviation is sought from the Hon'ble Commission in the petition.	Approved





Document		Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
		<b>India has issued guidelines (see Appendix – V of RFP) for qualification of Bidders ..... in the form at Appendix-I.</b>			
24	RFP	<b>Appendix –I: Letter comprising the Bid: Point No. 14:</b> I/ We further certify that we are not disqualified in terms of the additional criteria specified by the Department of Disinvestment in their OM No. 6/4/2001-DD-II dated July 13, 2001, a copy of which forming part of the RFP at Appendix-V is enclosed.	<b>Point No. 14 of Appendix – I to be omitted.</b>	Appendix – V is proposed to be omitted and deviation is sought from the Hon'ble Commission in the petition.	Approved
25.	PSA	23.1 Default Escrow Account  23.1.1 The Utility and the Supplier prior to the Appointed Date, execute a default escrow agreement with the Utility's bank substantially in the form specified in Schedule-J (the "Default Escrow Agreement") for the establishment and operation of the default escrow account (the "Default Escrow Account") in favour of the Supplier. The parties agree and acknowledge that the Default Escrow Account shall be established and maintained at a bank where at least 30% (thirty per cent) of the Utility's total monthly Revenues are	23.1 Default Escrow Account  23.1.1 The Utility and the Supplier prior to the Appointed Date, execute a default escrow agreement with the Utility's bank substantially in the form specified in Schedule-J (the "Default Escrow Agreement") for the establishment and operation of the default escrow account (the "Default Escrow Account") in favour of the Supplier. The parties agree and acknowledge that the Default Escrow Account shall be established and maintained at a bank where approximate 30% (thirty per cent) of the Utility's total monthly Revenues are normally deposited (the "Default Escrow Bank").	It is limiting procurers in its banking transaction activity in term of its banking services and has practical implementation issue.	Approved



		normally deposited (the "Default Escrow Bank"). The Utility expressly agrees and undertakes that throughout the term of the Contract Period, no less than 30% (thirty per cent) of its total Revenues shall continue to be deposited at that bank or any substitute thereof that the parties may by mutual agreement determine and Revenues equivalent to 50% (fifty per cent)20 of the annual Capacity Charge (the "Maximum Monthly Payment") shall be routed every month through the Default Escrow Account in accordance with the provisions of this clause 23.1 and the Default Escrow Agreement.			
26.	PSA	23.1.2 The Utility and the Supplier shall, prior to the Appointed Date, execute a deed of hypothecation substantially in the form specified at of Schedule-K (the "Deed of Hypothecation"), whereby the Utility shall hypothecate to the Supplier an amount equal to Maximum Monthly Payment, to be deposited every month in the Default Escrow Account for discharging the liabilities arising out of and in relation to the Secured Obligations.	23.1.2 The Utility and the Supplier shall, prior to the 60 days of COD, execute a deed of hypothecation substantially in the form specified at of Schedule-K (the "Deed of Hypothecation"), whereby the Utility shall hypothecate to the Supplier an amount equal to Maximum Monthly Payment, to be deposited every month in the Default Escrow Account for discharging the liabilities arising out of and in relation to the Secured Obligations.	It is limiting procurers in its banking transaction activity in term of its banking services and has practical implementation issue.	Approved
27.	PSA	23.1.3 The Parties acknowledge and agree that during the period commencing from the 25th (twenty fifth) day	23.1.3 Delete	It is limiting procurers in its banking transaction activity in term of its banking services and has practical implementation	Approved



		of every month and until discharge of any Monthly Invoice due and payable on or prior to that day, an amount equal to 20% (twenty per cent) of the annual Capacity Charge (the “Minimum Monthly Payment”) shall be withheld in the Default Escrow Account for payment to the Supplier against such Monthly Invoice and the balance remaining shall be available to the Utility for withdrawal or transfer in accordance with the provisions of the Default Escrow Agreement.		issue	
28.	PSA	23.1.4 The Utility shall procure that the Supplier has the first priority charge on the Revenues deposited into the Default Escrow Account, in accordance with the terms of the Default Escrow Agreement and the Deed of Hypothecation, but not exceeding the Maximum Monthly Payment for and in respect of any month.	23.1.4 The Utility shall procure that the Supplier has the floating charge with the LC banker on the Revenues deposited into the Default Escrow Account, in accordance with the terms of the Default Escrow Agreement and the Deed of Hypothecation, but not exceeding the Average Monthly Payment for and in respect of any month.	It is limiting procurers in its banking transaction activity in term of its banking services and has practical implementation issue	Approved
29.	PSA	23.2 Letter of Credit  23.2.1 The Utility shall, no later than 30 (thirty) days prior to the likely date of COD, provide to the Supplier, an unconditional, revolving and irrevocable letter of credit for an amount equivalent to the Minimum Monthly Payment (the “Letter of Credit”), which may be drawn upon by the Supplier for recovery of	23.2 Letter of Credit  23.2.1 The Utility shall, no later than 30 (thirty) days prior to the likely date of COD, provide to the Supplier, an unconditional, revolving and irrevocable letter of credit for an amount equivalent to the Minimum Monthly Payment (the “Letter of Credit”), which may be drawn upon by the Supplier for recovery of payment due against the Monthly Invoice in accordance with the	It is limiting procurers in its banking transaction activity in term of its banking services and has practical implementation issue	Approved



		payment due against the Monthly Invoice in accordance with the provisions of this Agreement. The Letter of Credit shall be substantially in the form specified in Schedule-L and shall come into effect on COD, and shall be modified once every year to reflect the revision in Fixed Charge in accordance with the provisions of this Agreement.	provisions of this Agreement. The Letter of Credit shall be substantially in the form specified in Schedule-L and shall come into effect on COD, and shall be modified once every year 105% of average monthly billing of proceeding twelve months in accordance with the provisions of this Agreement.		
30.	PSA	23.2.2 The Letter of Credit shall be procured by the Utility from a bank where at least 30% (thirty per cent) of the Utility's total monthly Revenues are normally deposited, and which shall have been appointed as the Default Escrow Bank. All costs and expenses relating to opening and maintenance of the Letter of Credit shall be borne by the Utility.	23.2.2 The Letter of Credit shall be procured by the Utility from a bank where approx 30% (thirty per cent) of the Utility's total monthly Revenues are normally deposited, and which have been appointed as the Default Escrow Bank. All costs and expenses relating to opening and maintenance of the Letter of Credit shall be borne by the Utility.	It is limiting procurers in its banking transaction activity in term of its banking services and has practical implementation issue	Approved
31.	PSA	23.2.3 In the event of Utility's failure to pay the Monthly Invoice before the 27th (twenty seventh) day of the month in which the relevant payment due date occurs, the Supplier may, in its discretion invoke the Letter of Credit for recovery of the amount due, whereupon the Default Escrow Bank shall, without any reference to the Utility, pay the amount due upon the Supplier presenting the following documents, namely :  a) A copy of the Monthly	23.2.3 In the event of Utility's failure to pay the Monthly Invoice before the 27th (twenty seventh) day of the month in which the relevant payment due date occurs, subject to the condition that if payment due date has occurred earlier, the Supplier may, in its discretion invoke the Letter of Credit for recovery of the amount due, whereupon the Default Escrow Bank shall, without any reference to the Utility, pay the amount due upon the Supplier presenting the following documents, namely :  c) A copy of the Monthly	It is limiting procurers in its banking transaction activity in term of its banking services and has practical implementation issue.	Approved



		Invoice which has remained unpaid; and b) A certificate from the Supplier to the effect that the Monthly Invoice is in accordance with this Agreement and that the amount due has remained unpaid.	Invoice which has remained unpaid; and d) A certificate from the Supplier to the effect that the Monthly Invoice is in accordance with this Agreement and that the amount due has remained unpaid.		
32.	PSA	23.2.4 In the event that the amount covered by the Letter of Credit is at an time less than the Minimum Monthly Payment or is insufficient for recovery of payment due against the Monthly Invoice, the utility shall within a period of 7 (seven) days from the date on which such shortfall occurred, cause the Letter of Credit to be replenished and reinstated to the extent specified in Clause 23.2.1. For the avoidance of doubt, the parties agree that the Letter of Credit shall not be revised solely on account of revision in Fixed Charge except to give effect to such revision once every year.	23.2.4 In the event that the amount covered by the Letter of Credit is at an time insufficient for recovery of payment due against the Monthly Invoice, the utility shall before the next due date cause the Letter of Credit to be replenished and reinstated to the extent specified in Clause 23.2.1. For the avoidance of doubt, the parties agree that the Letter of Credit shall not be revised solely on account of revision in average monthly billing except to give effect to such revision once every year.	It is limiting procurers in its banking transaction activity in term of its banking services and has practical implementation issue.	Approved
33.	PSA	23.2.5 The parties may, by mutual agreement, substitute the Letter of Credit by an unconditional and irrevocable bank guarantee or any equivalent instrument as may be mutually agreed upon.	23.2.5 The parties may, by mutual agreement, substitute the Letter of Credit by any equivalent instrument/arrangement as may be mutually agreed upon.	It is limiting procurers in its banking transaction activity in term of its banking services and has practical implementation issue	Approved
34.	PSA	23.4 Payment security for Termination  The Parties agreed and acknowledge that upon	23.4 Payment security for Termination  The Parties agreed and acknowledge that upon Termination	It is limiting procurer in its banking transaction activity in term of its	Approved



		<p>Termination and on failure of the Utility to make the Termination Payment within 30 (thirty) days of demand by the Supplier, Revenues equal to the Maximum Monthly Payment, deposited into the Default Escrow Account in accordance with the provisions of this Agreement and the Default Escrow Agreement, shall be appropriated every month and paid to the Supplier until discharge of the Termination Payment and any interest thereon: For the avoidance of doubt, the Utility expressly agrees and undertakes that 30% (thirty per cent) of its total monthly revenues shall continue to be deposited into its account with the Default Escrow Bank until its liability for an in respect of the Termination Payment is fully discharged.</p>	<p>and on failure of the Utility to make the Termination Payment within 30 (thirty) days of demand by the Supplier, Revenues equal to the Average Monthly Payment, deposited into the Default Escrow Account in accordance with the provisions of this Agreement and the Default Escrow Agreement, shall be appropriated every month and paid to the Supplier until discharge of the Termination Payment and any interest thereon.</p>	<p>banking services and has practical implementation issue.</p>	
--	--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------	--



**Annexure - 2**  
**List of deviations sought by UPPCL in the model RFP and PSA specific to Linked Coal Model**

	Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
1.	RFP	<b>Appendix III – Power of Attorney:</b> Know all men ..... submission of our application for pre-qualification and submission of our Bid for the **** <b>Project proposed or being developed by the *** (the “Utility”)</b> including but not.....	Know all men ..... submission of our application for pre-qualification and submission of our Bid for the <b>“Procurement of Electricity of 2800 MW on DBFOO basis” proposed by the PaschimanchalVidyutVitran Nigam Ltd., DakshinanchalVidyutVitran Nigam Ltd., PurvanchalVidyutVitran Nigam Ltd., Madhyanchal VidyutVitran Nigam Ltd. (the “Utilities”)</b> including ....	Similar deviation was sought at RFQ stage.	Approved
2	PSA	<b>Clause 22.2.5 –</b> The total cost of transportation of imported coal .....	To be omitted under linkage PSA.	Not applicable to PSA under linkage coal.	Approved

**Annexure - 3**  
**List of deviations sought by UPPCL in the model RFP and PSA specific to Captive Coal Model**



S.No.	Document	Existing Clause no. and Provision	Requested Amendment	Rationale	Commission's View
35.	RFP	<b>Appendix III – Power of Attorney:</b> Know all men ..... submission of our application for pre-qualification and submission of our Bid for the **** <b>Project proposed or being developed by the *** (the “Utility”)</b> including but not.....	Know all men ..... submission of our application for pre-qualification and submission of our Bid for the <b>“Procurement of Electricity of 500 MW on DBFOO basis” proposed by the PaschimanchalVidyutVitran Nigam Ltd., DakshinanchalVidyutVitran Nigam Ltd., PurvanchalVidyutVitran Nigam Ltd., Madhyanchal VidyutVitran Nigam Ltd. (the “Utilities”)</b> including ....	Similar deviation was sought at RFQ stage.	Approved
36.	PSA	<b>Clause 22.2.5</b> – The total cost of transportation of imported coal .....	To be omitted under captive PSA	Not applicable to PSA under captive coal.	Approved
37.	PSA	<b>Certain Provisions related to Concessional Fuel (as listed below)</b>	<b>Provisions may be omitted/amended in PSA on captive coal.</b>	<b>Provisions related to Concessional Fuel may not be applicable for captive coal based PSA.</b>	Approved
I)		<b>Clause 3.1.1:</b> Subject to and in accordance with the provisions of this Agreement, Applicable Laws and the Applicable Permits, the Utility hereby awards to the Supplier the supply contract set forth herein <b>including the right and</b>	The words <b>“including the right and authority to utilise the Concessional Fuel”</b> may be omitted. Accordingly the amended Clause 3.1.1 shall be: Subject to and in accordance with the provisions of this Agreement,	Provision not applicable for captive coal block PSA.	Approved





		<p><b>authority to utilise the Concessional Fuel</b> for producing electricity at the Power Station for supply thereof to the Utility (the “Supply Contract”) for a period of [__ (____)] years commencing from the Appointed Date, and the Supplier hereby accepts the Supply Contract and agrees to implement the same subject to and in accordance with the terms and conditions set forth herein</p>	<p>Applicable Laws and the Applicable Permits, the Utility hereby awards to the Supplier the supply contract set forth hereinfor producing electricity at the Power Station for supply thereof to the Utility (the “Supply Contract”) for a period of [__ (____)] years commencing from the Appointed Date, and the Supplier hereby accepts the Supply Contract and agrees to implement the same subject to and in accordance with the terms and conditions set forth herein.</p>		
II)		<p><b>Clause 5.1.5 (k):</b> ‘assign, transfer or relinquish the Fuel Supply Agreement for and in respect of Concessional Fuel, if any, to the Utility, to the extent allocated or assigned for Contracted Capacity, upon Termination of this Agreement, in accordance with the provisions thereof; and</p>	<p>Clause 5.1.5 (k) may be omitted.</p>	<p>Provision not applicable for captive coal block PSA.</p>	<p>Approved</p>
III)		<p><b>Clause 5.2.3:</b> The Supplier shall procure ..... whatsoever from the Utility in the event of Termination or Suspension</p>	<p>Clause 5.2.3 may be omitted.</p>	<p>Provision not applicable for captive coal block PSA.</p>	<p>Approved</p>
IV)		<p><b>Clause 7.1 (n):</b> all its rights and interests in the Fuel Supply Agreement for supply of</p>	<p>Clause 7.1 (n) may be omitted.</p>	<p>Provision not applicable for captive coal block</p>	<p>Approved</p>



		Concessional Fuel, to the extent such Fuel is required for the Contracted Capacity, shall pass to and vest in the Utility on the Transfer Date free and clear of all liens, claims and Encumbrances, without any further act or deed on its part or that of the Utility, and that none of the Project Assets shall be acquired by it, subject to any agreement under which a security interest or other lien or Encumbrance is retained by any person on the aforesaid Concessional Fuel, save and except as expressly provided in this Agreement		PSA.	
V)		<b>Clause 9.1.3:</b> Notwithstanding anything to the contrary contained in this Agreement, in the event Performance Security is not provided by the Supplier within a period of 60 (sixty) days from the date of this Agreement, the Utility may encash the Bid Security and appropriate the proceeds thereof as Damages, and thereupon all rights, privileges, claims and entitlements of the Supplier under or arising out of this Agreement <b>and the Fuel Supply Agreement</b> shall be deemed to have been waived by, and to have ceased with the concurrence of the Supplier, and this Agreement <b>and the Fuel Supply Agreement, to the extent of Concessional Fuel required for the Contracted Capacity</b> , shall be deemed to have been terminated with the consent of the Supplier	<b>Amended Clause 9.1.3:</b> Notwithstanding anything to the contrary contained in this Agreement, in the event Performance Security is not provided by the Supplier within a period of 60 (sixty) days from the date of this Agreement, the Utility may encash the Bid Security and appropriate the proceeds thereof as Damages, and thereupon all rights, privileges, claims and entitlements of the Supplier under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Supplier, and this Agreement shall be deemed to have been terminated with the consent of the Supplier.	Provisions related to FSA and Concessional Fuel are not applicable to captive coal based PSA.	Approved
VI)		<b>Clause 18.7:</b> Any generating capacity in	<b>Amended Clause 18.7:</b> Any generating	Provisions related	Approved



		excess of the Committed Capacity and forming part of the Installed Capacity shall be deemed to be merchant capacity (the “Merchant Capacity”) which may be utilised by the Supplier in such manner as it deems fit, and the provisions of this Agreement, <b>save and except the provisions relating to Concessional Fuel</b> , shall not apply to such excess capacity. <b>For the avoidance of doubt, use of Concessional Fuel for Merchant capacity shall be governed by the provisions of Clause 22.6</b>	capacity in excess of the Committed Capacity and forming part of the Installed Capacity shall be deemed to be merchant capacity (the “Merchant Capacity”) which may be utilised by the Supplier in such manner as it deems fit, and the provisions of this Agreement shall not apply to such excess capacity	to FSA and Concessional Fuel are not applicable to captive coal based PSA	
VII)		<b>Clause 22.3.1:</b> The weighted average of the GCV of Fuel received ..... For the avoidance of doubt, the Average GCV hereunder shall be computed separately for <b>Concessional Fuel</b> , any Fuel procured under AFSA and any other Fuel, as the case may be, for the purposes of determining the Fuel Charge.	<b>Amended Clause 22.3.1:</b> The weighted average of the GCV of Fuel received ..... For the avoidance of doubt, the Average GCV hereunder shall be computed separately for <b>Fuel sourced from the captive mine/ block</b> , any Fuel procured under AFSA and any other Fuel, as the case may be, for the purposes of determining the Fuel Charge.	Fuel is being sourced from captive coal block	Approved
VIII)		<b>Clause 22.4.1:</b> Prior to Appointment date.....from Coal Mine/Blocks. <b>For the avoidance of doubt, the Parties agree that the rights of the Utility arising from such assignment shall be limited to procuring that the Concessional Fuel is used only in accordance with the provisions of this Agreement and for no other purpose.</b>	<b>Amended Clause 22.4.1:</b> Prior to Appointment date..... from Coal Mine/Blocks.	Provision of Concessional Fuel is not applicable.	Approved
IX)		<b>Clause 22.6: Use of Concessional Fuel for Buyers</b>	Entire Clause 22.6 to be omitted as it does not pertain to the captive mine/ coal block	Provisions related to Concessional Fuel are not applicable to captive coal based PSA	Approved
X)		<b>Clause 22.7 Minimum Fuel Stock:</b> The Supplier shall at all times maintain a minimum stock of <b>Concessional Fuel</b> and Fuel from AFSA, if any, which is sufficient for full production of electricity from Contracted Capacity for supply thereof to the Utility for a continuous period of 7 (seven) days (the “Minimum Fuel	<b>Amended Clause 22.7 Minimum Fuel Stock:</b> The Supplier shall at all times maintain a minimum stock of Fuel and Fuel from AFSA, if any, which is sufficient for full production of electricity from Contracted Capacity for supply thereof to the Utility for a continuous period of 7 (seven) days (the “Minimum	Concessional Fuel is not applicable.	Approved



<p><b>XI)</b></p>	<p>Stock”). <b>Clause 22.11.2:</b>The Supplier shall, no later than 1100 hours on each day, provide a statement to the Utility setting out the quantities and the average GCV of the <b>Concessional Fuel</b>, any Fuel procured under AFSA and any other Fuel.....</p>	<p>Fuel Stock”). <b>Amended Clause 22.11.2</b>The Supplier shall, no later than 1100 hours on each day, provide a statement to the Utility setting out the quantities and the average GCV of the <b>Fuel</b>, any Fuel procured under AFSA and any other Fuel, .....</p>	<p>Concessional Fuel is not applicable</p>	<p>Approved</p>
<p><b>XII)</b></p>	<p><b>Clause 23.3.1:</b>In the event the Supplier is unable to recover its Tariff ..... The Parties further agree that the Supplier shall be entitled to use <b>Concessional Fuel</b> for production of electricity and sale hereunder.</p>	<p><b>Amended Clause 23.3.1:</b>In the event the Supplier is unable to recover its Tariff ..... The Parties further agree that the Supplier shall be entitled to use <b>Fuel</b> for production of electricity and sale hereunder.</p>	<p>Concessional Fuel is not applicable</p>	<p>Approved</p>
<p><b>XIII)</b></p>	<p><b>Clause 28.9:</b>Termination of Fuel supply In the event of Termination for Force Majeure Event, the Supplier shall cease to be entitled to the supply or production of <b>Concessional Fuel</b> to the extent allocated or utilised for the Contracted Capacity, and the provisions of FSA to the extent thereof shall be held in abeyance until the use of such <b>Concessional Fuel</b> for any other purpose, utility or buyer is authorized by the Central Government</p>	<p><b>Amended Clause 28.9:</b>Termination of Fuel supply In the event of Termination for Force Majeure Event, the Supplier shall cease to be entitled to the supply or production <b>of Fuel</b> to the extent allocated or utilised for the Contracted Capacity, and the provisions of FSA to the extent thereof shall be held in abeyance until the use of such <b>Fuel</b> for any other purpose, utility or buyer is authorized by the Central Government</p>	<p>Concessional Fuel is not applicable</p>	<p>Approved</p>
<p><b>XIV)</b></p>	<p><b>Clause 30.1.1:</b>Upon occurrence of a Supplier Default, the Utility shall be entitled, subject to Applicable Laws and without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to suspend all rights of the Supplier under the Fuel Supply Agreement <b>relating to the Supplier’s right to receive Concessional Fuel</b>, produce electricity therefrom and collect revenues from sale of such electricity (the “Suspension”), save and except as provided in Clause 31.3.3.</p>	<p><b>Amended clause 30.1.1:</b>Upon occurrence of a Supplier Default, the Utility shall be entitled, subject to Applicable Laws and without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to suspend all rights of the Supplier under the Fuel Supply Agreement, produce electricity therefrom and collect revenues from sale of such electricity (the “Suspension”), save and except as provided in Clause 31.3.3.</p>	<p>Concessional Fuel is not applicable</p>	<p>Approved</p>
<p><b>XV)</b></p>	<p>Clause 31.1.1 (g): the Supplier uses the Concessional Fuel in breach of this Agreement and fails to pay Damages in accordance with the provisions of Clause 22.6.2;</p>	<p>Clause to be omitted as it does not pertain to the captive mine/ coal block</p>	<p>Provisions related to Concessional Fuel are not applicable to</p>	<p>Approved</p>



				captive coal based PSA	
XVI)		<b>Clause 31.3.3:</b> Upon Termination or expiry of the Contract Period by efflux of time, the Fuel Supply Agreement or any other arrangement for production and supply of <b>Concessional Fuel</b> shall cease to be effective and the Supplier shall have no right whatsoever to use such <b>Concessional Fuel</b> for the Power Station without the express permission or authorisation by the Central Government in this behalf. Provided, however, that the Parties may mutually agree to a further extension of the Contract Period on the terms specified in this Agreement.	<b>Amended Clause 31.3.3:</b> Upon Termination or expiry of the Contract Period by efflux of time, the Fuel Supply Agreement or any other arrangement shall cease to be effective and the Supplier shall have no right whatsoever to use such Fuel for the Power Station without the express permission or authorisation by the Central Government in this behalf. Provided, however, that the Parties may mutually agree to a further extension of the Contract Period on the terms specified in this Agreement.	Concessional Fuel is not applicable	Approved
XVII)		<b>Clause 31.5:</b> Restriction on use of Concessional Fuel	Clause to be omitted as it does not pertain to the captive mine/ coal block	Provisions related to Concessional Fuel are not applicable to captive coal based PSA	Approved
XVIII		<b>Clause 31.6.2:</b> The Utility agrees and undertakes to exercise its rights hereunder only to the extent of the Contracted Capacity <b>and the use of Concessional Fuel therefore</b> , and the Supplier may supply electricity to other Distribution Licensees and Buyers in accordance with the provisions of this Agreement.	<b>Amended Clause 31.6.2:</b> The Utility agrees and undertakes to exercise its rights hereunder only to the extent of the Contracted Capacity, and the Supplier may supply electricity to other Distribution Licensees and Buyers in accordance with the provisions of this Agreement.	Concessional Fuel is not applicable	Approved
XIX)		<b>Clause 31.8.7, 31.8.8, 31.8.9:</b> <b>Substitution upon Termination</b>	To be omitted.	Provisions related to Concessional Fuel are not applicable to captive coal based PSA	Approved
XX)		<b>Article 32- Divestment of Rights &amp; Interest</b>	To be omitted.	Provision is related to Concessional Fuel and therefore not	Approved



				applicable.	
XXI)		<b>Clause 33.2:</b> The Supplier may mortgage, pledge, assign or hypothecate the Site and Project Assets to the Senior Lenders as security for their debt, <b>save and except any allocation, linkage, entitlement, rights or title to the Concessional Fuel required for the Contracted Capacity.</b>	<b>Amended clause 33.2:</b> The Supplier may mortgage, pledge, assign or hypothecate the Site and Project Assets to the Senior Lenders as security for their debt.	Provisions related to Concessional Fuel are not applicable to captive coal based PSA	Approved
	Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
38.	RFP	<b>Appendix III – Power of Attorney:</b> Know all men ..... submission of our application for pre-qualification and submission of our Bid for the **** <b>Project proposed or being developed by the *** (the “Utility”)</b> including but not.....	Know all men ..... submission of our application for pre-qualification and submission of our Bid for the <b>“Procurement of Electricity of 2800 MW on DBFOO basis”</b> proposed by the <b>PaschimanchalVidyutVitran Nigam Ltd., DakshinanchalVidyutVitran Nigam Ltd., PurvanchalVidyutVitran Nigam Ltd., Madhyanchal VidyutVitran Nigam Ltd. (the “Utilities”)</b> including ....	Similar deviation was sought at RFQ stage.	Approved
2	PSA	<b>Clause 22.2.5 –</b> The total cost of transportation of imported coal .....	To be omitted under linkage PSA.	Not applicable to PSA under linkage coal.	Approved



#### Annexure - 4

#### List of deviations sought by UPPCL in the model RFP and PSA specific to Imported Coal Model

Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
39. RFP	<b>Appendix III – Power of Attorney:</b> Know all men ..... submission of our application for pre-qualification and submission of our Bid for the **** <b>Project proposed or being developed by the *** (the “Utility”)</b> including but not.....	Know all men ..... submission of our application for pre-qualification and submission of our Bid for the <b>“Procurement of Electricity of 500 MW on DBFOO basis”</b> proposed by the <b>Paschimanchal Vidyut Vitran Nigam Ltd., Dakshinanchal Vidyut Vitran Nigam Ltd., Purvanchal Vidyut Vitran Nigam Ltd., Madhyanchal Vidyut Vitran Nigam Ltd. (the “Utilities”)</b> including ....	Similar deviation was sought at RFQ stage.	Approved
40. PSA	<b>Certain Provisions related to Concessional Fuel</b>	Provisions may be omitted from PSA on imported coal.	These provisions related to Concessional Fuel may not be applicable for PSA based on coal from imports.	Approved
XXII)	<b>Clause 3.1.1:</b> Subject to and in accordance with the provisions of this Agreement, Applicable Laws and the Applicable Permits, the Utility hereby awards to the Supplier the supply contract set forth herein <b>including the right and authority to utilise the Concessional Fuel</b> for	The words <b>“including the right and authority to utilise the Concessional Fuel”</b> may be omitted.  Accordingly the amended Clause 3.1.1 shall be: Subject to and in accordance with the provisions of this Agreement, Applicable Laws and the Applicable Permits, the Utility hereby awards to the Supplier the supply contract set forth herefor producing electricity at the	Provision not applicable for PSA based on coal from imports.	Approved



Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
	producing electricity at the Power Station for supply thereof to the Utility (the "Supply Contract") for a period of [__ (____)] years commencing from the Appointed Date, and the Supplier hereby accepts the Supply Contract and agrees to implement the same subject to and in accordance with the terms and conditions set forth herein	Power Station for supply thereof to the Utility (the "Supply Contract") for a period of [__ (____)] years commencing from the Appointed Date, and the Supplier hereby accepts the Supply Contract and agrees to implement the same subject to and in accordance with the terms and conditions set forth herein.		
<b>XXIII)</b>	<b>Clause 5.1.5 (k):</b> 'assign, transfer or relinquish the Fuel Supply Agreement for and in respect of Concessional Fuel, if any, to the Utility, to the extent allocated or assigned for Contracted Capacity, upon Termination of this Agreement, in accordance with the provisions thereof; and	Clause 5.1.5 (k) may be omitted.	Provision not applicable for PSA based on coal from imports.	Approved
<b>XXIV)</b>	<b>Clause 5.2.3:</b> The Supplier shall procure ..... whatsoever from the Utility in the event of Termination or Suspension	Clause 5.2.3 may be omitted.	Provision not applicable for PSA based on coal from imports.	Approved
<b>XXV)</b>	<b>Clause 7.1 (n):</b> all its rights and interests in the Fuel Supply Agreement for supply of Concessional Fuel, to the	Clause 7.1 (n) may be omitted.	Provision not applicable for PSA based on coal from imports.	Approved





	Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
		<p>extent such Fuel is required for the Contracted Capacity, shall pass to and vest in the Utility on the Transfer Date free and clear of all liens, claims and Encumbrances, without any further act or deed on its part or that of the Utility, and that none of the Project Assets shall be acquired by it, subject to any agreement under which a security interest or other lien or Encumbrance is retained by any person on the aforesaid Concessional Fuel, save and except as expressly provided in this Agreement</p>			
XXVI)		<p><b>Clause 9.1.3:</b>Notwithstanding anything to the contrary contained in this Agreement, in the event Performance Security is not provided by the Supplier within a period of 60 (sixty) days from the date of this Agreement, the Utility may encash the Bid Security and appropriate the proceeds thereof as Damages, and thereupon all rights, privileges, claims and entitlements of the Supplier under or arising out of this Agreement <b>and the Fuel Supply Agreement</b> shall be deemed to have been waived by, and to have ceased with the concurrence of the Supplier, and this Agreement <b>and the Fuel Supply Agreement, to the extent of Concessional Fuel required for the Contracted Capacity</b>, shall be</p>	<p><b>Amended Clause 9.1.3:</b>Notwithstanding anything to the contrary contained in this Agreement, in the event Performance Security is not provided by the Supplier within a period of 60 (sixty) days from the date of this Agreement, the Utility may encash the Bid Security and appropriate the proceeds thereof as Damages, and thereupon all rights, privileges, claims and entitlements of the Supplier under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Supplier, and this Agreement shall be deemed to have been terminated with the consent of the Supplier.</p>	<p>Provisions related to FSA and Concessional Fuel are not applicable for PSA based on coal from imports.</p>	<p>Approved</p>



Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
	deemed to have been terminated with the consent of the Supplier			
XXVII)	<b>Clause 18.7:</b> Any generating capacity in excess of the Committed Capacity and forming part of the Installed Capacity shall be deemed to be merchant capacity (the "Merchant Capacity") which may be utilised by the Supplier in such manner as it deems fit, and the provisions of this Agreement, <b>save and except the provisions relating to Concessional Fuel</b> , shall not apply to such excess capacity. <b>For the avoidance of doubt, use of Concessional Fuel for Merchant capacity shall be governed by the provisions of Clause 22.6</b>	<b>Amended Clause 18.7:</b> Any generating capacity in excess of the Committed Capacity and forming part of the Installed Capacity shall be deemed to be merchant capacity (the "Merchant Capacity") which may be utilised by the Supplier in such manner as it deems fit, and the provisions of this Agreement shall not apply to such excess capacity	Provisions related to FSA and Concessional Fuel are not applicable for PSA based on coal from imports	Approved
XXVIII)	<b>Clause 22.3.1:</b> The weighted average of the GCV of Fuel received ..... For the avoidance of doubt, the Average GCV hereunder shall be computed separately for <b>Concessional Fuel</b> , any Fuel procured under AFSA and any other Fuel, as the case may be, for the purposes of determining the Fuel Charge.	<b>Amended Clause 22.3.1:</b> The weighted average of the GCV of Fuel received ..... For the avoidance of doubt, the Average GCV hereunder shall be computed separately for <b>Fuel being sourced from imports</b> , any Fuel procured under AFSA and any other Fuel, as the case may be, for the purposes of determining the Fuel Charge.	Fuel is being sourced from imports	Approved
XXIX)	<b>Clause 22.4.1:</b> Prior to Appointment date.....from Coal Mine/Blocks. <b>For the avoidance of doubt, the Parties agree that the rights of the Utility arising from such assignment shall be limited to procuring that the Concessional Fuel is used only in accordance with the provisions of this Agreement and for no other purpose.</b>	<b>Amended Clause 22.4.1:</b> Prior to Appointment date..... from Coal Mine/Blocks.	Provision of Concessional Fuel is not applicable.	Approved
XXX)	<b>Clause 22.6: Use of Concessional Fuel for Buyers</b>	Entire Clause 22.6 to be omitted	Provisions related to Concessional Fuel are not applicable for PSA	Approved



	Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
				based on coal from imports	
XXXI)		<b>Clause 22.7 Minimum Fuel Stock:</b> The Supplier shall at all times maintain a minimum stock of <b>Concessional Fuel</b> and Fuel from AFSA, if any, which is sufficient for full production of electricity from Contracted Capacity for supply thereof to the Utility for a continuous period of 7 (seven) days (the "Minimum Fuel Stock").	<b>Amended Clause 22.7 Minimum Fuel Stock:</b> The Supplier shall at all times maintain a minimum stock of Fuel and Fuel from AFSA, if any, which is sufficient for full production of electricity from Contracted Capacity for supply thereof to the Utility for a continuous period of 7 (seven) days (the "Minimum Fuel Stock").	Concessional Fuel is not applicable.	Approved
XXXII)		<b>Clause 22.11.2:</b> The Supplier shall, no later than 1100 hours on each day, provide a statement to the Utility setting out the quantities and the average GCV of the <b>Concessional Fuel</b> , any Fuel procured under AFSA and any other Fuel.....	<b>Amended Clause 22.11.2</b> The Supplier shall, no later than 1100 hours on each day, provide a statement to the Utility setting out the quantities and the average GCV of the <b>Fuel</b> , any Fuel procured under AFSA and any other Fuel, .....	Concessional Fuel is not applicable	Approved
XXXIII)		<b>Clause 23.3.1:</b> In the event the Supplier is unable to recover its Tariff ..... The Parties further agree that the Supplier shall be entitled to use <b>Concessional Fuel</b> for production of electricity and sale hereunder.	<b>Amended Clause 23.3.1:</b> In the event the Supplier is unable to recover its Tariff ..... The Parties further agree that the Supplier shall be entitled to use <b>Fuel</b> for production of electricity and sale hereunder.	Concessional Fuel is not applicable	Approved
XXXIV)		<b>Clause 28.9:</b> Termination of Fuel supply In the event of Termination for Force Majeure Event, the Supplier shall cease to be entitled to the supply or production of <b>Concessional Fuel</b> to the extent allocated or utilised for the Contracted Capacity, and the provisions of FSA to the extent thereof shall be held in abeyance until the use of such <b>Concessional Fuel</b> for any other purpose, utility or buyer is authorized by the Central Government	<b>Amended Clause 28.9:</b> Termination of Fuel supply In the event of Termination for Force Majeure Event, the Supplier shall cease to be entitled to the supply or production of <b>Fuel</b> to the extent allocated or utilised for the Contracted Capacity, and the provisions of FSA to the extent thereof shall be held in abeyance until the use of such <b>Fuel</b> for any other purpose, utility or buyer is authorized by the Central Government	Concessional Fuel is not applicable	Approved
XXXV)		<b>Clause 30.1.1:</b> Upon occurrence of a Supplier Default, the Utility shall be	<b>Amended clause 30.1.1:</b> Upon occurrence of a Supplier Default, the Utility shall be entitled, subject to	Concessional Fuel is not applicable	Approved



Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
	entitled, subject to Applicable Laws and without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to suspend all rights of the Supplier under the Fuel Supply Agreement <b>relating to the Supplier's right to receive Concessional Fuel</b> , produce electricity therefrom and collect revenues from sale of such electricity (the "Suspension"), save and except as provided in Clause 31.3.3.	Applicable Laws and without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to suspend all rights of the Supplier under the Fuel Supply Agreement, produce electricity therefrom and collect revenues from sale of such electricity (the "Suspension"), save and except as provided in Clause 31.3.3.		
XXXVI)	Clause 31.1.1 (g): the Supplier uses the Concessional Fuel in breach of this Agreement and fails to pay Damages in accordance with the provisions of Clause 22.6.2;	Clause to be omitted	Provisions related to Concessional Fuel are not applicable for PSA based on coal from imports	Approved
XXXVII)	<b>Clause 31.3.3:</b> Upon Termination or expiry of the Contract Period by efflux of time, the Fuel Supply Agreement or any other arrangement for production and supply of <b>Concessional Fuel</b> shall cease to be effective and the Supplier shall have no right whatsoever to use such <b>Concessional Fuel</b> for the Power Station without the express permission or authorisation by the Central Government in this behalf. Provided, however, that the Parties may mutually agree to a further extension of the Contract Period on the terms specified in this Agreement.	<b>Amended Clause 31.3.3:</b> Upon Termination or expiry of the Contract Period by efflux of time, the Fuel Supply Agreement or any other arrangement shall cease to be effective and the Supplier shall have no right whatsoever to use such Fuel for the Power Station without the express permission or authorisation by the Central Government in this behalf. Provided, however, that the Parties may mutually agree to a further extension of the Contract Period on the terms specified in this Agreement.	Concessional Fuel is not applicable	Approved
XXXVIII)	<b>Clause 31.5:</b> Restriction on use of Concessional Fuel	Clause to be omitted.	Provisions related to Concessional Fuel are not applicable to applicable for PSA	Approved



	Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
				based on coal from imports	
XXXIX)		<b>Clause 31.6.2:</b> The Utility agrees and undertakes to exercise its rights hereunder only to the extent of the Contracted Capacity <b>and the use of Concessional Fuel therefore</b> , and the Supplier may supply electricity to other Distribution Licensees and Buyers in accordance with the provisions of this Agreement.	<b>Amended Clause 31.6.2:</b> The Utility agrees and undertakes to exercise its rights hereunder only to the extent of the Contracted Capacity, and the Supplier may supply electricity to other Distribution Licensees and Buyers in accordance with the provisions of this Agreement.	Concessional Fuel is not applicable	Approved
XL)		<b>Clause 31.8.7, 31.8.8, 31.8.9:Substitution upon Termination</b>	To be omitted.	Provisions related to Concessional Fuel are not applicable for PSA based on coal from imports	Approved
XLI)		<b>Article 32- Divestment of Rights &amp; Interest</b>	To be omitted.	Provision is related to Concessional Fuel and therefore not applicable.	Approved
XLII)		<b>Clause 33.2:</b> The Supplier may mortgage, pledge, assign or hypothecate the Site and Project Assets to the Senior Lenders as security for their debt, <b>save and except any allocation, linkage, entitlement, rights or title to the Concessional Fuel required for the Contracted Capacity.</b>	<b>Amended clause 33.2:</b> The Supplier may mortgage, pledge, assign or hypothecate the Site and Project Assets to the Senior Lenders as security for their debt.	Provisions related to Concessional Fuel are not applicable for PSA based on coal from imports	Approved
41.	RFP	<b>Appendix III – Power of Attorney:</b> Know all men ..... submission of our application for pre-qualification and submission of our Bid for the **** <b>Project proposed or</b>	Know all men ..... submission of our application for pre-qualification and submission of our Bid for the <b>“Procurement of Electricity of 500 MW on DBFOO basis” proposed by the PaschimanchalVidyutVitrans Nigam</b>	Similar deviation was sought at RFQ stage.	Approved



Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View	
	being developed by the *** (the "Utility") including but not.....	Ltd., DakshinanchalVidyutVitran Nigam Ltd., PurvanchalVidyutVitran Nigam Ltd., Madhyanchal VidyutVitran Nigam Ltd. (the "Utilities") including ....			
42.	PSA	Clause 22.2.5 – The total cost of transportation of imported coal .....	To be omitted under captive PSA	Not applicable to PSA under captive coal.	Approved
43.	PSA	Certain Provisions related to Concessional Fuel (as listed below)	Provisions may be omitted/amended in PSA on captive coal.	Provisions related to Concessional Fuel may not be applicable for captive coal based PSA.	Approved
XLIII)		Clause 3.1.1: Subject to and in accordance with the provisions of this Agreement, Applicable Laws and the Applicable Permits, the Utility hereby awards to the Supplier the supply contract set forth herein including the right and authority to utilise the Concessional Fuel for producing electricity at the Power Station for supply thereof to the Utility (the "Supply Contract") for a period of [ ] ( )] years commencing from the Appointed Date, and the	The words "including the right and authority to utilise the Concessional Fuel" may be omitted. Accordingly the amended Clause 3.1.1 shall be: Subject to and in accordance with the provisions of this Agreement, Applicable Laws and the Applicable Permits, the Utility hereby awards to the Supplier the supply contract set forth hereinfor producing electricity at the Power Station for supply thereof to the Utility (the "Supply Contract") for a period of [ ] ( )] years commencing from the Appointed Date, and the Supplier hereby accepts the Supply Contract and agrees to implement the same subject to and in accordance with the terms and conditions set forth herein.	Provision not applicable for captive coal block PSA.	Approved



Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
	Supplier hereby accepts the Supply Contract and agrees to implement the same subject to and in accordance with the terms and conditions set forth herein			
<b>XLIV)</b>	<b>Clause 5.1.5 (k):</b> 'assign, transfer or relinquish the Fuel Supply Agreement for and in respect of Concessional Fuel, if any, to the Utility, to the extent allocated or assigned for Contracted Capacity, upon Termination of this Agreement, in accordance with the provisions thereof; and	Clause 5.1.5 (k) may be omitted.	Provision not applicable for captive coal block PSA.	Approved
<b>XLV)</b>	<b>Clause 5.2.3:</b> The Supplier shall procure ..... whatsoever from the Utility in the event of Termination or Suspension	Clause 5.2.3 may be omitted.	Provision not applicable for captive coal block PSA.	Approved
<b>XLVI)</b>	<b>Clause 7.1 (n):</b> all its rights and interests in the Fuel Supply Agreement for supply of Concessional Fuel, to the extent such Fuel is required for the Contracted Capacity, shall pass to and vest in the Utility on the Transfer Date free and clear of all liens, claims and	Clause 7.1 (n) may be omitted.	Provision not applicable for captive coal block PSA.	Approved



	Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
		Encumbrances, without any further act or deed on its part or that of the Utility, and that none of the Project Assets shall be acquired by it, subject to any agreement under which a security interest or other lien or Encumbrance is retained by any person on the aforesaid Concessional Fuel, save and except as expressly provided in this Agreement			
XLVII)		<b>Clause 9.1.3:</b> Notwithstanding anything to the contrary contained in this Agreement, in the event Performance Security is not provided by the Supplier within a period of 60 (sixty) days from the date of this Agreement, the Utility may encash the Bid Security and appropriate the proceeds thereof as Damages, and thereupon all rights, privileges, claims and entitlements of the Supplier under or arising out of this Agreement <b>and the Fuel Supply Agreement</b> shall be deemed to have been waived by, and to have ceased with the concurrence of the Supplier, and this Agreement <b>and the Fuel Supply Agreement, to the extent of Concessional Fuel required for the Contracted Capacity</b> , shall be deemed to have been terminated with the consent of the Supplier	<b>Amended Clause 9.1.3:</b> Notwithstanding anything to the contrary contained in this Agreement, in the event Performance Security is not provided by the Supplier within a period of 60 (sixty) days from the date of this Agreement, the Utility may encash the Bid Security and appropriate the proceeds thereof as Damages, and thereupon all rights, privileges, claims and entitlements of the Supplier under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Supplier, and this Agreement shall be deemed to have been terminated with the consent of the Supplier.	Provisions related to FSA and Concessional Fuel are not applicable to captive coal based PSA.	Approved
XLVIII)		<b>Clause 18.7:</b> Any generating capacity in excess of the Committed Capacity and forming part of the Installed Capacity shall be deemed to be merchant capacity (the "Merchant Capacity") which may be utilised by the	<b>Amended Clause 18.7:</b> Any generating capacity in excess of the Committed Capacity and forming part of the Installed Capacity shall be deemed to be merchant capacity (the "Merchant Capacity") which may be utilised by the Supplier in such manner as it deems fit, and the provisions of this Agreement shall not apply to	Provisions related to FSA and Concessional Fuel are not applicable	Approved





Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
	Supplier in such manner as it deems fit, and the provisions of this Agreement, <b>save and except the provisions relating to Concessional Fuel</b> , shall not apply to such excess capacity. <b>For the avoidance of doubt, use of Concessional Fuel for Merchant capacity shall be governed by the provisions of Clause 22.6</b>	such excess capacity	to captive coal based PSA	
<b>XLIX)</b>	<b>Clause 22.3.1:</b> The weighted average of the GCV of Fuel received ..... For the avoidance of doubt, the Average GCV hereunder shall be computed separately for <b>Concessional Fuel</b> , any Fuel procured under AFSA and any other Fuel, as the case may be, for the purposes of determining the Fuel Charge.	<b>Amended Clause 22.3.1:</b> The weighted average of the GCV of Fuel received ..... For the avoidance of doubt, the Average GCV hereunder shall be computed separately for <b>Fuel sourced from the captive mine/ block</b> , any Fuel procured under AFSA and any other Fuel, as the case may be, for the purposes of determining the Fuel Charge.	Fuel is being sourced from captive coal block	Approved
<b>L)</b>	<b>Clause 22.4.1:</b> Prior to Appointment date.....from Coal Mine/Blocks. <b>For the avoidance of doubt, the Parties agree that the rights of the Utility arising from such assignment shall be limited to procuring that the Concessional Fuel is used only in accordance with the provisions of this Agreement and for no other purpose.</b>	<b>Amended Clause 22.4.1:</b> Prior to Appointment date..... from Coal Mine/Blocks.	Provision of Concessional Fuel is not applicable.	Approved
<b>LI)</b>	<b>Clause 22.6: Use of Concessional Fuel for Buyers</b>	Entire Clause 22.6 to be omitted as it does not pertain to the captive mine/ coal block	Provisions related to Concessional Fuel are not applicable to captive coal based PSA	Approved
<b>LII)</b>	<b>Clause 22.7 Minimum Fuel Stock:</b> The Supplier shall at all times maintain a minimum stock of <b>Concessional Fuel</b> and Fuel from AFSA, if any, which is sufficient for full production of electricity	<b>Amended Clause 22.7 Minimum Fuel Stock:</b> The Supplier shall at all times maintain a minimum stock of Fuel and Fuel from AFSA, if any, which is sufficient for full production of electricity from Contracted Capacity for supply thereof to the Utility for a continuous period of 7 (seven) days (the "Minimum Fuel Stock").	Concessional Fuel is not applicable.	Approved



	Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
		from Contracted Capacity for supply thereof to the Utility for a continuous period of 7 (seven) days (the "Minimum Fuel Stock").			
LIII)		<b>Clause 22.11.2:</b> The Supplier shall, no later than 1100 hours on each day, provide a statement to the Utility setting out the quantities and the average GCV of the <b>Concessional Fuel</b> , any Fuel procured under AFSA and any other Fuel.....	<b>Amended Clause 22.11.2</b> The Supplier shall, no later than 1100 hours on each day, provide a statement to the Utility setting out the quantities and the average GCV of the <b>Fuel</b> , any Fuel procured under AFSA and any other Fuel, .....	Concessional Fuel is not applicable	Approved
LIV)		<b>Clause 23.3.1:</b> In the event the Supplier is unable to recover its Tariff ..... The Parties further agree that the Supplier shall be entitled to use <b>Concessional Fuel</b> for production of electricity and sale hereunder.	<b>Amended Clause 23.3.1:</b> In the event the Supplier is unable to recover its Tariff ..... The Parties further agree that the Supplier shall be entitled to use <b>Fuel</b> for production of electricity and sale hereunder.	Concessional Fuel is not applicable	Approved
LV)		<b>Clause 28.9:</b> Termination of Fuel supply In the event of Termination for Force Majeure Event, the Supplier shall cease to be entitled to the supply or production of <b>Concessional Fuel</b> to the extent allocated or utilised for the Contracted Capacity, and the provisions of FSA to the extent thereof shall be held in abeyance until the use of such <b>Concessional Fuel</b> for any other purpose, utility or buyer is authorized by the Central Government	<b>Amended Clause 28.9:</b> Termination of Fuel supply In the event of Termination for Force Majeure Event, the Supplier shall cease to be entitled to the supply or production of <b>Fuel</b> to the extent allocated or utilised for the Contracted Capacity, and the provisions of FSA to the extent thereof shall be held in abeyance until the use of such <b>Fuel</b> for any other purpose, utility or buyer is authorized by the Central Government	Concessional Fuel is not applicable	Approved
LVI)		<b>Clause 30.1.1:</b> Upon occurrence of a Supplier Default, the Utility shall be entitled, subject to Applicable Laws and without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to suspend all rights of the Supplier under the Fuel Supply Agreement <b>relating to the Supplier's right to receive Concessional Fuel</b> , produce	<b>Amended clause 30.1.1:</b> Upon occurrence of a Supplier Default, the Utility shall be entitled, subject to Applicable Laws and without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to suspend all rights of the Supplier under the Fuel Supply Agreement, produce electricity therefrom and collect revenues from sale of such electricity (the "Suspension"), save and except as provided in Clause 31.3.3.	Concessional Fuel is not applicable	Approved



Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
	electricity therefrom and collect revenues from sale of such electricity (the "Suspension"), save and except as provided in Clause 31.3.3.			
LVII)	Clause 31.1.1 (g): the Supplier uses the Concessional Fuel in breach of this Agreement and fails to pay Damages in accordance with the provisions of Clause 22.6.2;	Clause to be omitted as it does not pertain to the captive mine/ coal block	Provisions related to Concessional Fuel are not applicable to captive coal based PSA	Approved
LVIII)	<b>Clause 31.3.3:</b> Upon Termination or expiry of the Contract Period by efflux of time, the Fuel Supply Agreement or any other arrangement for production and supply of <b>Concessional Fuel</b> shall cease to be effective and the Supplier shall have no right whatsoever to use such <b>Concessional Fuel</b> for the Power Station without the express permission or authorisation by the Central Government in this behalf. Provided, however, that the Parties may mutually agree to a further extension of the Contract Period on the terms specified in this Agreement.	<b>Amended Clause 31.3.3:</b> Upon Termination or expiry of the Contract Period by efflux of time, the Fuel Supply Agreement or any other arrangement shall cease to be effective and the Supplier shall have no right whatsoever to use such Fuel for the Power Station without the express permission or authorisation by the Central Government in this behalf. Provided, however, that the Parties may mutually agree to a further extension of the Contract Period on the terms specified in this Agreement.	Concessional Fuel is not applicable	Approved
LIX)	<b>Clause 31.5:</b> Restriction on use of Concessional Fuel	Clause to be omitted as it does not pertain to the captive mine/ coal block	Provisions related to Concessional Fuel are not applicable to captive coal based PSA	Approved
LX)	<b>Clause 31.6.2:</b> The Utility agrees and undertakes to exercise its rights hereunder only to the extent of the Contracted Capacity <b>and the use of Concessional Fuel therefore</b> , and the Supplier may supply electricity to other Distribution Licensees and Buyers in accordance with the provisions of this	<b>Amended Clause 31.6.2:</b> The Utility agrees and undertakes to exercise its rights hereunder only to the extent of the Contracted Capacity, and the Supplier may supply electricity to other Distribution Licensees and Buyers in accordance with the provisions of this Agreement.	Concessional Fuel is not applicable	Approved



	Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
		Agreement.			
LXI)		<b>Clause 31.8.7, 31.8.8, 31.8.9:Substitution upon Termination</b>	To be omitted.	Provisions related to Concessional Fuel are not applicable to captive coal based PSA	Approved
LXII)		<b>Article 32- Divestment of Rights &amp; Interest</b>	To be omitted.	Provision is related to Concessional Fuel and therefore not applicable.	Approved
LXIII)		<b>Clause 33.2:</b> The Supplier may mortgage, pledge, assign or hypothecate the Site and Project Assets to the Senior Lenders as security for their debt, <b>save and except any allocation, linkage, entitlement, rights or title to the Concessional Fuel required for the Contracted Capacity.</b>	<b>Amended clause 33.2:</b> The Supplier may mortgage, pledge, assign or hypothecate the Site and Project Assets to the Senior Lenders as security for their debt.	Provisions related to Concessional Fuel are not applicable to captive coal based PSA	Approved
44.	RFP	<b>Appendix III – Power of Attorney:</b> Know all men ..... submission of our application for pre-qualification and submission of our Bid for the **** <b>Project proposed or being developed by the *** (the “Utility”)</b> including but not.....	Know all men ..... submission of our application for pre-qualification and submission of our Bid for the <b>“Procurement of Electricity of 2800 MW on DBFOO basis” proposed by the PaschimanchalVidyutVitrان Nigam Ltd., DakshinanchalVidyutVitrان Nigam Ltd., PurvanchalVidyutVitrان Nigam Ltd., Madhyanchal VidyutVitrان Nigam Ltd. (the “Utilities”)</b> including ....	Similar deviation was sought at RFQ stage.	Approved
2	PSA	<b>Clause 22.2.5 –</b> The total cost of transportation of	To be omitted under linkage PSA.	Not applicable to PSA under linkage	Approved



---

	Document	Existing Clause No. & provision	Requested Amendment	Rationale	Commission's View
		imported coal .....		coal.	