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Spectrum PPA expired on  
18 04 2016

BEFORE THE HON'BLE ANDHRA PRADESH ELECTRICITY REGULATORY  
COMMISSION

At its office at 4th Floor, Singareni Bhavan, Red Hills, Hyderabad

O.P.No. of 2019

In the matter of: Short Term Purchase of Gas Power by Discoms from Spectrum  
Power Generation Limited (SPGL) in the State of Andhra Pradesh.

Between:

M/s GMR Vemagiri Power Generation Ltd.  
GMR Vemagiri Power Generation Ltd.,  
Having its registered office at Skip House,  
25/1, Museum Road, Bangalore,  
Rep. by its Manager-Corporate Relations,  
Kalyan Chakravarthy S/o Y. Raja Rao.

..... Petitioner

AND

1. Southern Power Distribution Company of Andhra Pradesh Ltd.,  
D. No. 19-13-65/A, Tiruchanoor Road  
Tirupathi, Chittoor District, Andhra Pradesh

.....Respondent No 1

2 Eastern Power Distribution Company of Andhra Pradesh Ltd.,  
Corporate Office, P&T Colony, Seethammadhara,  
Visakhapatnam

.....Respondent No 2

3. M/s Spectrum Power Generation Limited  
Plot No 241/A, 8-2-293/A/241/A, 4<sup>th</sup> Floor,  
Road No. 36, Jubilee Hills,  
Hyderabad- 500033

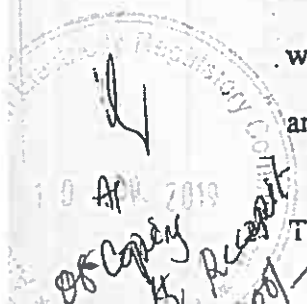
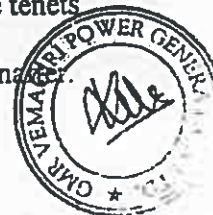
.....Respondent No. 3

**PETITION FILED ON BEHALF OF GMR VEMAGIRI POWER GENERATION  
LIMITED U/SEC. 86(1) & (2) OF ELECTRICITY ACT, 2003**

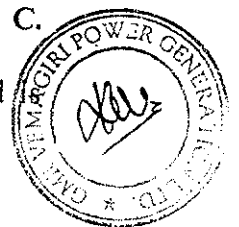
The Applicant Most Respectfully Submit:

1. M/s. GMR Vemagiri Power Generation Limited (hereinafter referred to as  
"GVPGL") is filing the present Petition seeking to challenge the short-term purchase  
of power by the Respondent No 1 & 2 from the Respondent No 3, *inter-alia*, as being  
without the sanction of law, arbitrary, against public interest and contrary to the tenets  
and objectives of Electricity Act, 2003, apart from the grounds elaborated hereinafter.

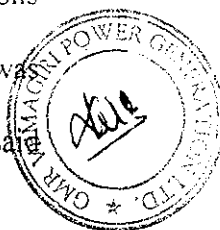
The brief facts for the purpose of the present application are stated thus:



3. That GVPGL is an Independent Power Producer (IPP) and a Company incorporated under the provisions of the Companies Act, 1956, set up specifically for the purpose of setting up a 370 Megawatt Gas Based Power Plant at Vemagiri in the State of Andhra Pradesh. Thereafter GVPGL entered into a Power Purchase Agreement (PPA) with the then APSEB on 31.03.1997 for supply of 370 MW power from the power plant proposed to be set up at Vemagiri. A copy of the relevant extracts of Power Purchase Agreement is annexed herewith as **Annexure A**.
4. The Power Purchase Agreement (PPA), *inter-alia*, guaranteed operation of the power plant at 80% PLF (Plant Load Factor) and the said amount was to be paid on a 'deemed generation' basis irrespective of whether any generation was made or not. This Power Purchase Agreement was in line with similar Power Purchase Agreements entered earlier by the then APSEB with a few other power plants including the Respondent 3 herein.
5. The said clauses relating to guaranteed operation of the plant at 80% of plant load factor (on deemed generation basis) was highly critical for the purpose of ensuring that private sector participants would invest huge capital amounts into setting up of power plants, as they would then be assured of a guaranteed off-take. Pursuant to such assurances, representations and covenants held out by the State in public domain, GVPGL set up a power plant with a capacity of 387.625 MW by investing a total amount of around Rs.1200 Crores during the relevant time with state of the art facilities to provide better efficiency with the latest Gas Turbine technology. On the strength of the PPA, the Ministry of Petroleum and Natural Gas ("MoPNG") on 05.06.2000 allocated 1.64 MMSCMD of natural gas (under Administered Price Mechanism) to GVPGL on firm basis. A copy of the said letter of MOPNG is annexed herewith as **Annexure B**. Pursuant to such allocation, the Gas Authority of India Ltd., ("GAIL") entered into a Gas Supply Agreement dated 31.08.2001 with GVPGL for supply of gas till 31.03.2020. A copy of the Gas Supply Agreement dt. 31.08.2001 and amendment dt. 29.01.2003 is annexed herewith as **Annexure C**. Subsequently existing Gas Supply Agreement was renewed on 30.08.2018 and valid till 05.07.2021.



6. After the investments were made by GVPGL and when the plant was close to its Commercial Operations Date ('COD') i.e. 16.09.2006, the availability of gas was discovered to be lesser than what was originally projected. Accordingly, there was a shortage in the quantity of gas that was to be supplied in consideration to the various firm allotments made by MoPNG and the Gas Supply Agreements executed by GAIL.
7. It is respectfully submitted that on any equitable or rationale principle, upon such shortage visiting the Gas Supply arrangement, it would be apposite that the available gas ought to have been apportioned amongst the allotted members, rateably and proportionately. This, in fact, are generally the guidelines by MOPNG and practiced by GAIL in relation to various power projects across the country.
8. Pursuant to the consent granted, the PPA was amended on 18.06.2003 ("First Amendment") incorporating Natural Gas as primary fuel and in case of unavailability of primary fuel, other fuels such as Naptha/LSHS as the alternative fuel was also incorporated. Accordingly, Article 1.2.27 of the PPA was amended and this Hon'ble Commission vide its Order dated 12.03.2003 in OP No. 12 of 2002 granted consent to the said amendment. Copy of the amendment dated 18.08.2003 to the PPA dated 31.03.1997 are being attached herewith as Annexure D.
9. Realizing that the obligations cast under the Power Purchase Agreements would obligate the then APSEB and the State and its entities to pay the minimum amounts to the IPPs on account of the concept of 'deemed generation', tremendous pressure was built upon the then non-commissioned plants like Konaseema, GVK-II & Gauthami including GVPGL (new IPPs) to agree for deletion of alternative fuel clause. Based on the representations made with regard to appropriate ameliorative steps being taken by the State in future and yielding to the larger public interest, only GVPGL out of 4 new IPPs had consented to an amendment of PPA incorporating deletion of alternate fuel clause, placing complete faith in the representations and proposed future actions of the Government of Andhra Pradesh and its power utilities. Accordingly, PPA was amended again in 2007, *inter-alia*, deleting the alternate fuel clause. Vide the said



amendment; the term of the PPA was further extended for another 8 years from original 15 years till 15.09.2029. Copy of the amendment dated 02.05.2007 to the PPA dated 31.03.1997 is being attached herewith as **Annexures E**.

10. Consistent with the representations held out to the IPPs, the then Government of Andhra Pradesh vide letter dated 06.12.2004 recommended to MoPNG and GAIL to ensure a pro-rata supply of available gas to all the gas based IPPs in the State. Thus, the gas was to be supplied to all the firm allottees on pro-rate manner which would have ensured an equitable distribution of the natural and national resource of natural gas to all the allottees justly. After pressurizing GVPGL to a position of amending the Power Purchase Agreement in deleting Alternative Fuel Clause the then Government of Andhra Pradesh, having either failed to exert similar pressure upon the previously commissioned projects i.e Lanco, SPGL, GVK-I and Reliance Power Samalkot ("old IPPs") and new IPPs or to discriminatively favor them, could not ensure any amendment of the PPAs for such old & new IPPs including the PPA of Respondent 3 herein. A copy of recommendations letter dated 06.12.2004 is annexed herewith as **Annexure F**.
11. This resulted in a peculiar situation where the old & new IPPs continued to have the deemed generation benefit and GVPGL has been constrained to abide by the deleted alternate fuel clause in the amended PPA. It is respectfully submitted that this situation entirely resulted out of the actions of Respondent No 1 & 2 in exercising their dominant position with regard to GVPGL which was at the final stage of completion.
12. With the aforesaid developments, the Discoms continued to remain bound by the 'deemed generation' obligations in relation to the old IPPs. Taking a complete commercial view and at all odds with the constitutional spirit/duty enjoined upon the State, the then Government of Andhra Pradesh rescind from its previous recommendations of a pro-rata allotment amongst all firm allottees (vide its letter dated 06.12.2004) and changed tracks to look at its pure commercial interest and recommended to MOPNG and GAIL vide its letter dated 22.11.2005 inter suggesting that the allotment be made firstly to old IPPs including Respondent 3 and



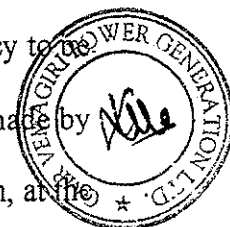


only after the obligation of achieving 80% PLF of those plants are met additional gas, if any, was directed to be supplied to the new IPPs including GVPGL. The letter addressed by the Government of Andhra Pradesh through its Hon'ble Minister inter alia recorded as follows:

*"State government have subsequently reviewed the implications of pro-rata allocation of the available gas. If Pro-rata allocation of the available gas is made to all the projects, the generation from the existing 4 projects would fall down appreciably and Government of Andhra Pradesh/APTRANSCO will have to pay about Rs. 333 Crores up to 31.12.2006 towards deemed generation without availing full generation from these 4 existing projects. This additional burden of about Rs. 333 Crores can be avoided if the available gas is first supplied to the existing 4 gas based projects to the extent required for achieving threshold PLF."*

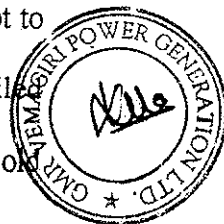
A copy of letter dated 22.11.2005 is annexed herewith as Annexure G.

13. On 05.12.2005 MoPNG accepted the recommendations of GoAP and decided to curtail APM Gas to all 4 New IPPs. As a result of GoAP's decision, GVPGL was deprived of its vested share of APM Gas on a pro-rata basis despite having firm APM Gas allocation. A copy of the Letter dated 05.12.2005 is annexed herewith and marked as Annexure H.
14. It is submitted that the said recommendations are wholly repugnant to the duty enjoined upon the State in the manner of dealing with national and natural resources. These resources have now been emphatically held by the Hon'ble Supreme Court to be owned by the State in public trust for the general benefit of citizens at large. The concept of public trusteeship has now been well recognized and the Hon'ble Supreme Court has also held specifically in relation to the subject of natural gas in *Reliance Natural Resources Ltd. and Ors v Reliance Industries Ltd. and Anr. (2010) 7 SCC 1* that, the State must attend to its duties of public trusteeship with fairness and non-discrimination for ensuring an equitable and proper discharge of its trustees role.
15. The State ought to therefore take into account various elements of public interest and not merely its private commercial interest while recommending and dictating the policy to be adopted in the manner of allocation of natural resources. The recommendation made by the State, to allocate gas exclusively to the old IPPs including Respondent 3 herein, at the



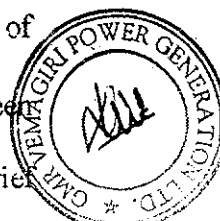
cost of supply to be made ratable to all the firm allottees would be entirely unconscionable as it is dictated by commercial considerations rather than the constitutional principles of fairness, rationality and objectivity which are required to be observed by all state machineries including the Respondents 1 & 2. However, in view of the then representations held by the State and its entities, that they would work out appropriate remedial measures in respect of the new IPPs, GVPGL was impressed upon not to precipitate any issue, as the State undertook to prevail upon MOPNG of Union of India to allocate gas on a priority basis to the new IPPs including GVPGL.

16. GVPGL invested in the State based on the statements made by GoAP with regard to availability of gas in the State of Andhra Pradesh. Further, the project was entirely dependent upon the State support as regards supply of gas and purchase of power. However, when there was shortage of natural gas GoAP recommended to MOPNG for continuation of gas supply through GAIL to the old IPPs by diverting the gas which was allotted to new IPPs. As regard the new IPPs which were under construction, GoAP recommended that the allotment of gas to the new IPPs was to be made as and when additional gas was available. This recommendation of GoAP has put the new IPPs including GVPGL to a serious financial stress.
17. In furtherance of GVPGL efforts to engage with the State and MoPNG, to alter the priorities with regard to allocation of natural gas, GVPGL along with all the new IPPs owners, had engaged in a series of steps with MOPNG and its Empowered Group of Ministries ("EGOM") for giving a priority to the Gas Based Power Plants over other sectors such as Fertilizers, CGD etc., or to at least bring it on parity for ensuring allocation of gas. Also the prospects relating to discoveries in Krishna-Godavari basin allocated to Reliance ('KG-D6'), fuelled the hope of the GVPGL that additional gas would soon be available for the purpose of operating the GVPGL's plant.
18. In the meantime, GAIL continued supplying the APM Gas to the four old IPPs even though GVPGL's power plant achieved Commercial Operations Date on 16.09.2006. As the matters in relation to APM gas had settled by then and GVPGL was persuaded not to challenge such action on various representations and hopes held out, GVPGL reconciled to the position that during the currency of the Power Purchase Agreement with the on



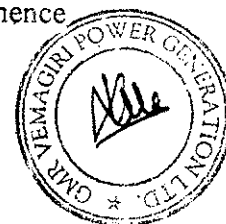
IPPs, such gas would continue to be supplied on a priority basis. In the meantime, after expiry of PPA of Respondent 3 Plant, GVPGL proposed supply of power from Domestic Gas sourced from KG Basin under Deep Water Policy dated 21.03.2016 notified by GoI, but the same was not considered by Respondent No 1 & 2. A copy of deep water gas policy dated 22.03.2016 is annexed herewith as **Annexure I**.

19. GVPGL had a legitimate expectation that continuation of the said policy would mean that after the expiry of the term of the PPA of the old IPPs, there would not be Deemed Generation obligations on the power utilities of the State. Consequently GVPGL becomes entitled for supply of APM gas under its existing GSA to enable GVPGL to supply power to Discoms under the existing PPA.
20. It is pertinent to mention that GVPGL's PPA executed originally on 31.03.1997 is valid till 15.09.2029, whereas the PPA executed with the Respondent 3 herein expired on 18.04.2016. Once such PPAs are expired, the State and Respondent No 1 & 2 were under no obligation to renew the PPA of the Respondent 3, as demonstrated in the case of Reliance Power Samalkot by not exercising any of the options as per PPA Provisions. The PPA of the Respondent 3 only provided for a clause for renewal at APSEB's option. Similarly, APSEB had an option of exercising a buyout right of the power plant from the Respondent. Both these possibilities are only optional and exercisable at the will of APSEB and there is no obligation upon them to resort to one or the other. On the other hand, the State of Telangana refused to renew PPAs of all 4 old IPPs. As such, PPAs of all 4 old IPPs are legally not in existence including that of Respondent No 3. In spite of such a situation (though there is no obligations to buy the power), the Respondent No 1 & 2 are continuing to purchase power from Respondent No 3 on a short-term basis..
21. On account of the continued priority being given to the old IPPs, a situation has now resulted where the said plants continue to operate on short term basis and avail the benefit of payment, in spite of no obligations of repayment of Loan and other Capital expenditures under the expired PPA of Respondent 3 an element of R&M expense have been projected but yet to be implemented. However, GVPGL's total investment of around Rs.1200 crores has not seen any tangible returns as its Power Plant has been completely shut down from the period of COD i.e., 16.09.2006 till date, except for brief



intermittent periods of Feb.2008-May, 2008; Dec.2008-March, 2009; April 2009-Feb.2013; April 2013 and April 2015. Huge capital outlay and expenditure employed in a vital infrastructure industry for the nation has gone unutilized and this has also resulted in GVPGL not being able to either generate power or provide employment or other GDP benefits for the nation including taxes. GVPGL is thus resting only on the hope of gas supplies commencing after the completion of the State's contractual obligation in relation to the PPAs with the old IPPs.

22. As stated earlier, the PPA with Respondent herein expired on 18.04.2016, however to GVPGL's surprise and consternation, AP Discoms (Respondents 1 & 2 herein) instead of being relieved of various onerous conditions which were continued only in relation to the old IPPs (while being amended in relation GVPGL), decided for some irrational, incomprehensible and strange reason to continue availing power on short term basis from the Respondent No 3 herein, instead of resuming supply of gas to GVPGL and availing cheaper power from GVPGL, whose PPA continues to be in subsistence till 2029.
23. Aggrieved by the aforesaid discriminatory actions of the Respondents No 1 & 2 herein, GVPGL immediately approached the concerned authorities by addressing communications dated 05.05.2017 and 10.05.2017, *inter-alia*, specifying the following:-
  - a. PPA of Respondent No 3 has expired and the Capital Cost for the Plants have already been recovered;
  - b. Sub optimal efficiency of the plant operated by Respondent No 3 compared to that of efficient GVPGL's plant;
  - c. Lower Station Heat Rate of Petitioner and other similarly situated plants would save up to Rs. 0.22/unit;
  - d. Respondent No 3 has higher Capacity Charges in comparison to GVPGL;
  - e. Advantages under GVPGL's PPA include No 'alternate fuel' clause hence Capacity Charge paid on basis of actual generation.;



Copies of the communications dated 05.05.2017 and 10.05.2017 addressed by GVPGL to the State authorities are annexed herein as **Annexure J** and **Annexure K** respectively.

24. It is pertinent to mention that vide a communication dt. 27.07.2017 addressed by the Chief General Manager of Respondent No 1 to the Secretary, APERC, that was available on the website of this Hon'ble Commission, it was communicated, *inter-alia*, that the PPA of Respondent No 3 expired on 18.04.2016 and it is decided that Respondent No 1 will not procure power from the old IPPs whose PPAs have expired. In the said communication, it was also noticed that several other new IPP's including GVPGL are in commercial operation in the state, thereby indicating that the Respondents No 1 & 2 were exploring the feasibility of utilizing the power plants of GVPGL and other such entities whose PPA's are in subsistence as on today. A copy of letter dt. 27.07.2017 along with relevant extract of resource plan is being filed herewith as **Annexure L**.
25. Notwithstanding such representations, when the Respondent No 1 & 2 herein did not act upon the same, GVPGL was further surprised to learn that they have approached this Hon'ble Commission seeking its consent for availing continued power supply from the Respondent No 3 till 31.03.2020 i.e., on a short term basis and the same is approved by APERC vide Tariff Order for FY 2019-20 ignoring the fact that a portion of the gas being made available to Respondent No 3 originally belongs to GVPGL under the allocation policy of MoPNG and diverted vide letter dated 05.12.2005.
26. GVPGL learnt that, the Hon'ble Commission vide order on Tariff for Retail Supply of Electricity during FY 2019-20 dated 22.02.2019 granted its consent to procure power, for short-term, from, *inter-alia*, to procure power from the Respondent No 3 herein at a fixed cost of Rs. 0.92 and variable cost of Rs. 2.39 making a total of Rs. 3.31 per unit for the financial year 2019-20. A copy of the order on Tariff for Retail Supply of Electricity during FY 2019-20 dated 22.02.2019 is annexed herein as **Annexure M**. GVPGL submits that the said actions of the Respondent 1 & 2 are, *inter-alia*, without the authority of law, not backed by sanction and against the tenets of open -competition and level playing field.



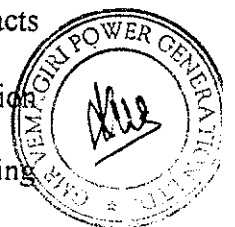
27. While so, even as GVPGL harbored a hope that GVPGL's request for supplying gas to its power plant and availing power supply from it on far more beneficial terms should fall on a reasonable consideration with the Respondent No 1 & 2 herein, the Respondent No 1 & 2 herein, in a blatant and flagrant display of favoritism towards the Respondent No 3 continued to purchase power from them.

28. GVPGL also addressed a representation dated 22.02.2019 to the Principal Secretary, Infrastructure and Energy Dept, Govt. of AP, highlighting, *inter-alia*, the following important issues:

- i. GVPGL has a valid PPA with the Discoms till 2029;
- ii. GVPGL has a legitimate right on the allocated quantity of APM gas presently being supplied to Respondent No 3 and others in the State of AP which was earlier withdrawn by GoAP considering certain commercial advantage of Respondent No 1 & 2. Therefore, it is obligatory on part of GoAP to resume APM gas supplies to GVPGL having valid PPA & GSA.
- iii. Resume supply of APM gas to GVPGL from old IPP's;
- iv. Plant of GVPGL being more efficient, could be used to supply power at much cheaper tariffs, as compared to Respondent No 2 hence no rationale exists for extending PPA's of old IPPs without considering GVPGL's case;
- v. The proposal for renewal of extending old PPA of Respondent No 3 without honoring the existing PPA of GVPGL would amount of violation of the level playing field, doctrine of public trust and the legitimate expectations of GVPGL;
- vi. Extension of old PPA's of Respondent No 3 and Lanco over a period of 15 & 10 years respectively would saddle the Respondent No 1 & 2 and eventually the consumers with an additional financial burden of Rs. 2,825 crore as compared to sourcing power from GVPGL;

A copy of the representation dated 22.02.2019 issued by GVPGL to Principal Secretary, Infrastructure and Energy Dept, Govt. of AP is filed as **Annexure N**.

29. GVPGL submits that GoAP, till date, has neither considered nor replied to the aforesaid representation made by GVPGL. GVPGL submits that in the light of the aforesaid facts and circumstances, GVPGL is constrained to approach this Hon'ble Commission challenging the actions of the Respondents No 1 & 2 in undertaking steps for buying

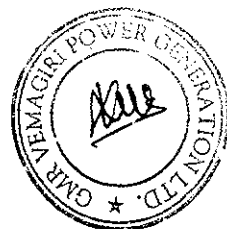


power from Respondent No 3 under short term purchase as approved in the ARR 2019-20 and though the cost of power offered by GVPGL is much cheaper than the cost of Respondent No 3's power.

30. GVPGL is filing the present petition challenging the procurement of power on a short-term basis by the Respondent No 1 & 2 from Respondent No 3 on the following among other grounds:

#### Grounds

- a. The Respondent No 1 & 2, which are instrumentalities of the State are duty bound to attend to their duties of public trusteeship with fairness and non-discrimination for ensuring an equitable and proper discharge of its trustees role. In continuing to procure short-term power from the Respondent No 3, the Respondent No 1 & 2 are acting in contravention of the public trust doctrine.
- b. The said actions of Respondent No 1 & 2 are against public interest and the public exchequer) as the Cost of procurement of Power from the Respondent No 3 is higher compared to GVPGL's power (being offered with the APM gas supply) by Rs 0.40 /Kwh on prevailing gas price. As such, there is no rationale to continue procurement of power from the Respondent;
- c. The said actions of Respondent No 1 & 2 are violative of the principles of level playing field.
- d. Further, there is no commercial justification for procurement of short-term power from the Respondent No 3 as:
  - i. After expiry of the Respondent No 3 PPA, Respondent No 1 & 2 have approached this Hon'ble Commission vide its letters dated 05.5.2017 and 10.5.2017 and informed the Respondents No 1 & 2 its willingness to supply power at much lower cost as compared to the tariff of Respondent No 3 if the available APM Gas is diverted to GVPGL's plant. The said offer of GVPGL has not been considered by the Respondent No 1 & 2 till date;





- ii. The Capacity Charge of Rs. 0.92/Kwh as approved by this Hon'ble Commission vide its order on Tariff for Retail Supply of Electricity during FY 2019-20 dated 22.02.2019. GVPGL Capacity Charge is only Rs 0.699/Kwh and cheaper by Rs 0.22/Kwh compared to the Respondent No 3 Capacity Charge of Rs 0.92/Kwh as approved by Hon'ble Commission;
  - iii. The Variable Cost approved by this Hon'ble Commission vide its order on Tariff for Retail Supply of Electricity during FY 2019-20 dated 22.02.2019 for the Respondent No 3 is Rs 2.39/Kwh whereas for GVPGL for the same gas price Variable Cost will be Rs 2.21/Kwh.
  - iv. There is no contractual obligation or legal duty cast upon the Respondent No 1 & 2 to procure power from the Respondent No 3 on short term, when options to procure cheaper power from GVPGL is available;
  - v. Respondent No 1 & 2 benefit by way of additional energy units (around 80 MUs) when procured from GVPGL by virtue of higher efficiency and cheaper cost for the same gas as consumed by Respondent No 3.
  - vi. GVPGL craves leave to urge such other grounds at the time of hearing.
31. GVPGL submits that as the actions of the Respondent No 1 & 2, in continuing to avail short-term power supply from the Respondent No 3 is in violation of various constitutional principles of public trusteeship and level playing field, apart from being in contravention of the ethos of Electricity Act, 2003 and Tariff Policy, GVPGL is constrained to approach this Hon'ble Commission seeking stay of ongoing procurement of short term power by Respondent No 1 & 2 from the Respondent No 3.
32. GVPGL submits that the present Petition seeking a direction to the Respondent No's 1 and 2 to stop the ongoing procurement of Short term power from Respondent No. 3 is positioned on larger public interest and is in the interest of the public exchequer.



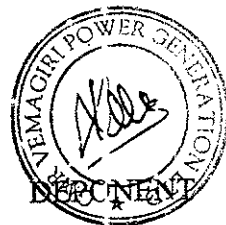


**PRAYER**

In the light of the above stated facts and circumstances of the case, it is most respectfully prayed that this Hon'ble Commission may be pleased to:-

- a. Issue a direction to stop the ongoing procurement of Short term power by the Respondent No 1 & 2 from Respondent No 3.
- b. Issue directions under section 86 (2) of the Electricity Act, 2003 to Respondent No 1 & 2 to send recommendations to GoAP for sending necessary recommendations to MoPNG, Government of India to resume the APM/Non-APM/Pre-NELP gas from Respondent No 3 to GVPGL.
- c. Grant such other relief as this Hon'ble Commission may deem fit in the facts and circumstances of the instant case.

In the interregnum, this Hon'ble commission may be pleased to forthwith stop short-term procurement of power from Respondent No. 3 and initiate steps for procuring power on a reasonable/ rationale/ competitive basis by giving preference to the Petitioner pending disposal of the present petition.





**BEFORE THE HON'BLE ANDHRA PRADESH ELECTRICITY REGULATORY  
COMMISSION**

At its office at 4th Floor, Singareni Bhavan, Red Hills, Hyderabad

**O.P.No.            of 2019**

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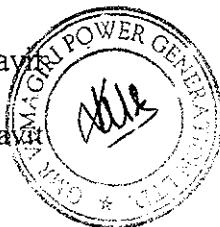
.....Respondent No. 3

**VERIFICATION AFFIDAVIT**

I, Kalyan Chakravarthy S/o Y. Raja Rao, age 40, Occ: Manager-Corporate Relations, GMR Vemagiri Power Generation Ltd., R/o 6-3-866/1/G1, Green Lands, Begumpet, Hyderabad-500 016; do solemnly affirm and state on oath as follows:

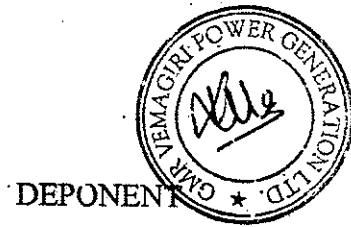
1. I am the Manager-Corporate Relations of the GMR Vemagiri Power Generation Ltd., therefore, competent and authorized by the Intervention Petitioner to affirm, swear, execute and file this submissions in the present proceeding.

2. I have read and understood the contents of the accompanying reply affidavit drafted pursuant to my instructions. The statements made in the accompanying affidavit



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now shown to me are true to my knowledge and derived from official records made available to me and based on information and advice received which I believe to be true and correct.

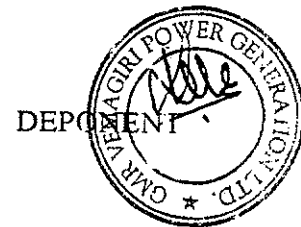
Solemnly affirmed and signed on this the  
8<sup>th</sup> day of April, 2019 at Hyderabad



VERIFICATION

I, Kalyan Chakravarthy S/o Y. Raja Rao, age 40, Occ: Manager-Corporate Relations, GMR Vemagiri Power Generation Ltd., R/o 6-3-866/1/G1, Green Lands, Begumpet, Hyderabad-500 016; solemnly affirms at Hyderabad on 5<sup>th</sup> day of April, 2019 that the contents of the above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.

ADVOCATE



**BEFORE THE HON'BLE ANDHRA PRADESH ELECTRICITY  
REGULATORY COMMISSION**

At its office at 4<sup>th</sup> Floor, Singareni Bhavan, Red Hills, Hyderabad

**RUNNING INDEX**

Sl.No.	Description of Document	Date of Document	Date of filing of Document	Page No.
1.	Copy of the relevant extracts of power purchase agreement <b>Annexure A</b>	-04-2019	-04-2019	1-59
2.	Copy of letter of MOPNG <b>Annexure B</b>	05-06-2000	-do-	60
3.	Copy of the Gas Supply Agreement and Amendment <b>Annexure C</b>	31-08-2001 29-01-2003	-do-	61-86
4.	Copy of the amendment to the PPA <b>Annexure D</b>	18-08-2003	-do-	87-91
5.	Copy of the amendment to the PPA <b>Annexure E</b>	02-05-2007	-do-	92-108
6.	Copy of recommendation letter <b>Annexure F</b>	06-12-2004	-do-	109-110
7.	Copy of GOAP letter <b>Annexure G</b>	22-11-205	-do-	112-114
8.	Copy of the Letter of NMOPNG <b>Annexure H</b>	05-12-2005	-do-	115-117
9.	Copy of Deep Water Gas Policy of GOI <b>Annexure I</b>	21-03-2016	-do-	118-120
10.	Copy of communication addressed by GVPGL to the State Authorities <b>Annexure J</b>	05-05-2017	-do-	121-122
11.	Copy of communication addressed by GVPGL to the State Authorities <b>Annexure K</b>	10-05-2017	-do-	123-124
12.	Copy of Letter addressed by Chief General Manager, APSPDCL to Secretary, APERC along with relevant extract of resource plan <b>Annexure L</b>	27-07-2017	-do-	125-127
13.	Copy of Order for Retail supply tariffs <b>Annexure M</b>	2019-20	-do-	128-131
14.	Copy of the representation issued by GVPLGL to Principal Secretary, Infrastructure and Energy Dept. Govt. of AP <b>Annexure N</b>	22-02-2019	-do-	132-151

Place: Hyderabad  
Date: -04-2019

Counsel for ~~Respondent~~ Petitioner



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Ann. A

**POWER PURCHASE AGREEMENT**  
**FOR SHORT GESTATION LIQUID FUEL BASED POWER PROJECT**  
**OF 468 MWs AT VEMAGIRI East Godavari Dist., A.P.**

between

**ANDHRA PRADESH STATE ELECTRICITY BOARD**

and

**M/s. ISPAT POWER LIMITED, Mumbai**

Dated as of Thirty First March, 1997

*Amul*

*A*





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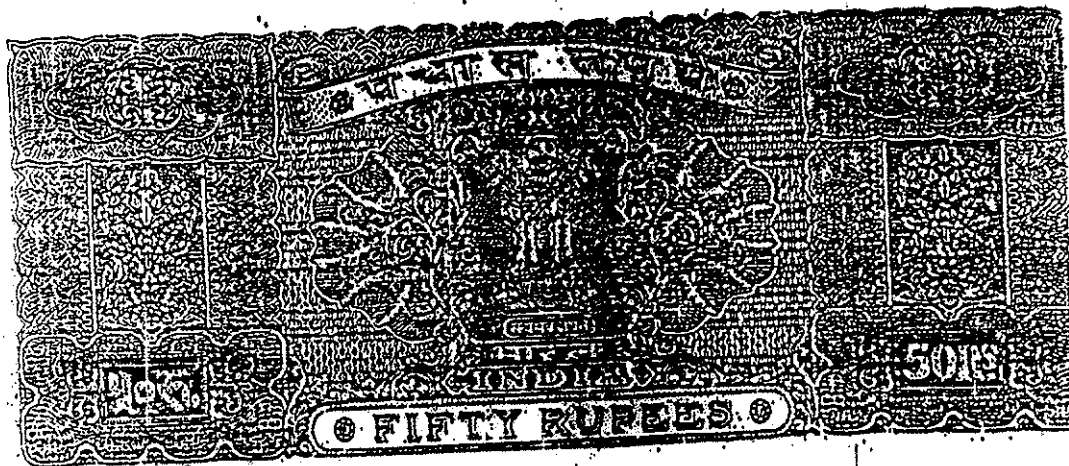
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A. R. R. R.



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डी. गोविंद रामाराव

परमाना धारक मुद्रांक विवेका, 181, डॉ. विनायक स्ट्रीट,

काळमादेवी, मुंबई-२, क्रमांक 22/1/1997 दिनांक

संवत् १९१७/१९१८ श्रीमती

चाना त. २५/३/१९९७ ग्राहक मुद्रांक केर विवेका.

रसीद

परमाना धारक मुद्रांक विवेका

25 MAR 1997

**POWER PURCHASE AGREEMENT  
FOR SHORT GASTATION LIQUID FUEL BASED POWER PROJECT  
OF 468 MWs at VEMAGIRI, East Godavari Dist., A.P.  
between  
ANDHRA PRADESH STATE ELECTRICITY BOARD  
and  
M/s.ISPAT POWER LIMITED**

This Power Purchase Agreement (this "Agreement"), entered into on this 31<sup>st</sup> day of March, 1997, between Andhra Pradesh State Electricity Board, constituted under the Indian Electricity (Supply) Act, 1948 and having its office at Vidyut Soudha, Hyderabad - 500 049 (hereinafter referred to as the "Board", which expression shall, unless repugnant to the context or meaning thereof include its successors and assigns), as Party of the first part, and M/s.ISPAT POWER LIMITED, a company incorporated under the Indian Companies Act, 1956 and having its registered office at Ispat House, B.G.Kher Marg, Worli, Mumbai - 400 018 (hereinafter referred to as the "Company", which expression shall, unless repugnant to the context or meaning thereof, include its successors and assigns), as Party of the second part;

WHEREAS the Government of Andhra Pradesh (hereinafter called "GOAP") announced a policy for attracting private sector investments in power sector and in line with the Government policy, the Board invited bids for short.

B. L. NARULA  
PRESIDENT  
**ISPAT POWER LIMITED.**  
ISPAT HOUSE  
B.G. KHER MARG, WORLI,  
MUMBAI-400 018.

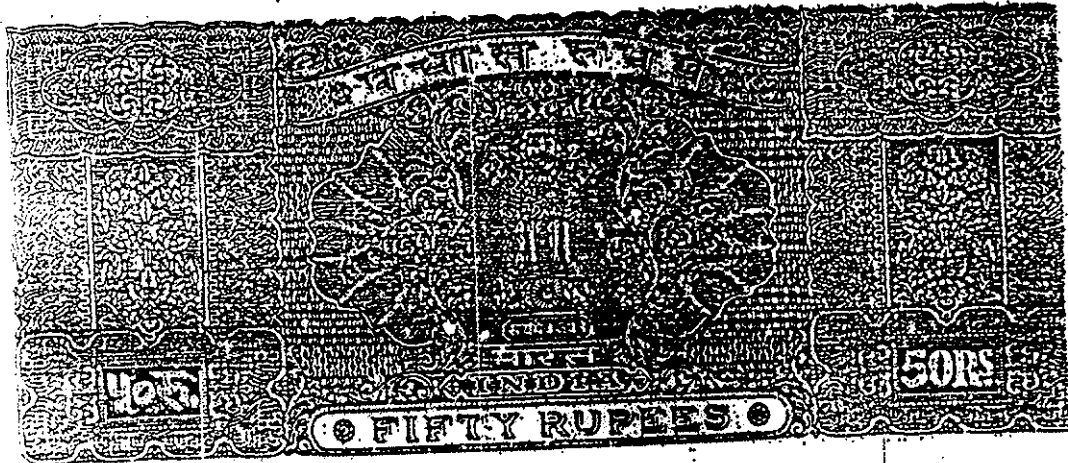
J. P. THIRUGARATHY

J. P. THIRUGARATHY  
Vidyut Soudha, Hyderabad - 500 049  
INDIA



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डी. गोविंद रामाराव

25 MAR 1997

परवाना धारक मुद्रांक विभाग, १२३, डॉ. विनायक स्टीड,  
 काळवांदी, मुंबई-२, क्रमांक २२५ दिनांक \_\_\_\_\_  
 तयारी/बी/आमती Ispat power Ltd.  
 पाना नं ३०/ मासिक मुद्रांक वेब विभाग.

परवाना धारक मुद्रांक विभाग

gestation power projects. M/s Nippon Denro Ispat Limited, Ispat House, B.G.Kher Marg, Worli, Mumbai - 400 018 has submitted a bid to design, finance, construct, complete, own and operate a liquid fuel based power station of 468 MW capacity (hereinafter referred to as "Project") at Vemagiri, East Godavari Dist., in Andhra Pradesh, India. The Board accepted the bid by the M/s Nippon Denro Ispat Limited, and they were selected by the Board and duly approved by the GOAP to establish the said Project;

WHEREAS, M/s. Nippon Denro Ispat Ltd. incorporated a new company under the Indian Companies Act, 1956 with the name "M/s. Ispat Power Limited" and its Registered Office at Ispat House, B.G.Kher Marg, Worli, Mumbai - 400018 (hereinafter referred to as the "Company", which expression, shall, unless repugnant to the context or meaning thereof, include its successors and assigns) to develop, finance, construct, complete, own and operate the Project;

WHEREAS, the aforesaid Company proposes to develop, finance, construct, complete, own and operate the Project and agrees to sell the capacity and energy generated by the Project to the Board and the Board agrees to purchase such capacity and energy in accordance with the terms and conditions of this Agreement;

B.L. NARULA  
 PRESIDENT  
 ISPAT POWER LIMITED.  
 ISPAT HOUSE  
 B.G. KHER MARG, WORLI,  
 MUMBAI-400 018.

J. PARTHASARATHY  
 CHAIRMAN  
 A.P. STATE ELECTRICITY BOARD  
 MOYUT SOUDA, HYDERABAD - 500 043  
 INDIA.

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WHEREAS, it has been agreed that the Project would be executed by the Company with reasonable expedition and economy, subject to all Indian laws, rules, regulations and orders having the force of law;

NOW, THEREFORE, in consideration of the premises and mutual covenants and conditions set forth herein, it is agreed by and between the Parties as given below :

*B. L. Narula*  
B. L. NARULA  
PRESIDENT

ISPAT POWER LIMITED.  
ISPAT HOUSE  
B.G. KHER MARG, WORLI,  
MUMBAI-400 019.

*J. Parthasarathy*  
J. PARTHASARATHY  
CHAIRMAN  
AP STATE ELECTRICITY BOARD  
MOUNT ROAD, HYDERABAD - 500 046  
INDIA

## ARTICLE 1

### DEFINITIONS

- 1.1 Definitions: For the purposes of this Agreement,
- 1) **Ambient Reference Conditions :** means the site reference conditions established pursuant to paragraph 1.2 (in the case of open cycle operation) or paragraph 2.2. (in the case of combined cycle operation) of Schedule F for determination of Installed Capacity.
  - 2) **Authority:** means the Central Electricity Authority referred to in Article 3 of the Indian Electricity (Supply) Act, 1948 or any governmental successor entity entrusted with its functions and capacities.
  - 3) **Availability Declaration:** has the meaning ascribed to in Schedule D.
  - 4) **Auxiliary Consumption:** Auxiliary Consumption shall be (i.) 1 (one) % for open cycle operations up to Scheduled Date of Completion of the last Unit or the Project COD, whichever is earlier and (ii) 3 (three) % for combined cycle operations after Scheduled Date of Completion of the last Unit or the Project COD, whichever is earlier. Provided that the figures given above shall be increased by 0.5% during the Stabilization Period.
  - 5) **Billing Date:** means the fifth day after the last day of each Billing Month.
  - 6) **Billing Month:** means each of (A) the period commencing on the Commercial Operation Date of the first Generating Unit and ending on (and including) (i) the tenth day of the calendar month in which the Commercial Operation Date of the first Generating Unit occurs or, (ii) if the Commercial Operation Date of the first Generating Unit occurs on or after the tenth day of the calendar month, the tenth day of the next calendar month; and (B) thereafter, the period commencing on the eleventh day of the calendar month and ending on (and including) the tenth day of the next calendar month.
  - 7) **Board Default :** has the meaning ascribed to it in Article 9.1.
  - 8) **Business Day :** means any day on which banks are open for business in Andhra Pradesh.
  - 9) **Calorific Value (Gross) or GCV of Fuel:** means, for the purpose of calculating the Energy Charge for each Billing Month, the weighted

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average gross calorific content of one designated unit of Fuel, consumed, as recorded, determined in each case for the relevant period on the basis of such sampling methods, frequency and tests as are internationally accepted and may be mutually agreed upon between the Parties on or before the date of Financial Closing.

- 10) Capacity Charge: shall have the meaning ascribed to it in Article 3.2 hereof.
- 11) Capital Cost: means the total expenses required for developing, financing, designing, manufacturing, delivering, and erecting the Project, quoted as Rs. 1437 crores.
- Explanation : For the avoidance of doubt, the Company shall be solely responsible for, and shall obtain all clearances required to be obtained under Law from the Authority with respect to the Capital Cost.
- 12) Cause : in relation to the failure to issue, or renew or the revocation or amendment of any Permit means any fact or circumstance, which legally entitles the issuing Government Agency, or the Board, as the case may be, to withhold issuance of, revoke or amend such Permit due to any failure of the Company or any of the lenders, investors or Contractors (in whose name the Permit has been or is to be issued) to make timely application for, or to abide by any terms and conditions of any Permits that were in effect on the date of this Agreement or such later date of issuance of such Permit.
- 13) Commercial Operation Date or COD: means, with respect to each Generating Unit, the date on which such Generating Unit is declared by the Company to be operational; provided that the Company shall not declare a Generating Unit to be operational until such Generating Unit has completed its performance acceptance test in accordance with Schedule F (Test Procedures).
- 14) Contractor: means (i) in the case of the Company, the EPC contractor, the operator under the operation and maintenance agreement, and other contractors and suppliers to the Company specifically excluding suppliers of Fuel and transporters of Fuel, and (ii) in the case of the Board, any contractors and suppliers to the Board.
- 15) Cumulative Available Energy : has the meaning ascribed thereto in Schedule D.
- 16) Current Rate of Exchange: means, the applicable TT selling rate (s) as published by the State Bank of India at 12:00 hours on the Metering Date or if the Metering Date is not a Business Day, then the applicable



rate as published by the State Bank of India at 12:00 hours on the Business Day immediately following the Metering Date. Provided that if such rate is no longer quoted or if both Parties agree to change such rate, the Parties shall agree to a reasonable alternative reference rate that reflects the rate at which the relevant foreign currency could be purchased with Indian rupees at such time.

- 17) Current Rate of Exchange (Actual) : means, the applicable TT selling rate(s) as published by the State Bank of India (or such other reference rate as may be agreed pursuant to paragraph 16 above) at 12:00 hours on the date of payment of the monthly bills / supplementary bills by the Board.
- 18) Declared Capacity : has the meaning ascribed to it in Schedule D.
- 19) Due Date of Payment: means, with respect to any monthly tariff bill, the date on which the amount of such monthly tariff bill becomes due for payment, which date (A) in the case of any monthly tariff bill for any Billing Month, shall be the later of thirty (30) days from the Metering Date or twenty five (25) days from the date of its presentation to the designated officer of the Board; and (B) in the case of any supplementary bill, shall, subject to Article 5.5, be thirty (30) days from the date of its presentation to the designated officer of the Board.
- 20) Emergency: means a condition of or affecting the Board's electrical system which threatens the safe and reliable operation of such system or which is likely to result in disruption of safe, adequate and continuous electric service by the Board or to endanger life or property, which condition is materially adversely affected by the continued delivery of energy from the Project.
- 21) Energy Charge : shall have the meaning ascribed to it in Article 3.3 hereof.
- 22) Energy Unit: means one Kilo Watt Hour (KWH) of electrical energy.
- 23) Financial Closing: means the signing of the Financing Documents and their approval by the Authority, the GOI and/or the GOAP, to the extent required by Law, and the fulfilment or waiver of all conditions precedent to the initial availability of funds thereunder and the receipt of commitments for such equity as required by the Company in order to satisfy the requirements of the lenders.
- 24) Financing Documents: means the loan agreements, notes, indentures, security agreements, letters of credit, and other documents relating to the financing of the Project and the Capital Cost or any part thereof.

- 25) **Force Majeure:** has the meaning ascribed to it in Article 10.1.
- 26) **Foreign Debt :** means any debt that shall be denominated by any lender to the Company in currencies other than Indian rupees under the Financing Documents.
- 27) **Fuel:** means gas, naphtha, low sulphur heavy stock or furnace oil, and the like, that is intended to be used as primary fuel, by one or more units of the Project to generate power from the Project or in case of unavailability of Naphtha any of the above as alternate fuel.
  - a) **Fuel Linkage :** has the meaning ascribed to it in Article 7.2(g).
- 28) **Fuel Supply Agreement:** means the agreement entered into between the Company and a supplier and/or transporter of Fuel in order to supply and/or deliver Fuel for the Project.
- 29) **GOAP :** means the Government of Andhra Pradesh and its successors.
- 30) **GOI:** means the Government of India and its successors.
- 31) **Generating Unit or Unit :** means one gas or steam turbine generator and the equipment and facilities ancillary thereto.
- 32) **Government Agency:** means any local, state government in India or the Government of India or any department, instrumentality or agency thereof or any corporation (to the extent acting in a legislative, judicial or administrative capacity and not as a contracting party with the Company) or commission under the direct or indirect control of such local or state government or the Government of India or any political subdivision thereof or any court, tribunal or judicial body within India.
- 33) **Grid System :** means the interconnected electrical transmission and distribution system of the state of Andhra Pradesh including the Inter Connection Facility and all other transmission lines and other equipment in the state of Andhra Pradesh on the Board's side of the Inter Connection Point.
- 34) [Intentionally left blank]
- 35) **Installed Capacity:** means the maximum electrical generating capacity of the Project or a Generating Unit, as the case may be, in megawatts ("MW") as measured at the generator terminals, determined from time to time pursuant to the tests given in Schedule F, subject to adjustments for the Ambient Reference Conditions.

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Explanation 1 : Where the output of one or more Generating Units of the Project or of the Project as a whole, in final tests to be specified by the Board is higher than the output initially guaranteed by the manufacturer/supplier thereof, the output initially guaranteed by the manufacturer/supplier will be the installed Capacity thereof, as from the date of such final tests. However, where the output of one or more Generating Units of the Project or of the Project as a whole, in final tests to be specified by the Board is lower than the output initially guaranteed by the manufacturer/supplier thereof, that lower output alone will be the installed Capacity thereof.

Explanation 2 : The installed Capacity furnished in the Bid is taken as the nominal capacity and for installed Capacity as determined as per Explanation 1 above, a tolerance limit of plus or minus 5% is permitted.

- 36) **Inter Connection Facility:** means all the facilities to be installed by or for the Board on the Board's side of the Inter Connection Point to enable the Board to receive and utilize power from the Project in accordance with this Agreement.
- 37) **Inter Connection Point:** means the point or points where the Project connects to the 220 kv transmission line of the Grid System of the Board in the Project switch yard.
- 38) **Law:** has the meaning ascribed to it in Article 11.
- 39) **Metering Date:** means (A) the midday of the tenth day of the calendar month in which Commercial Operation Date of the first Generating Unit occurs or if the Commercial Operation Date of the first Generating Unit occurs on or after the tenth day of the calendar month, the tenth day of the next calendar month; and (B) the midday of the tenth day of each calendar month, thereafter.
- 40) **Misdeclaration of Availability:** has the meaning as ascribed to it in Schedule D.
- 41) **Net Electrical Energy:** means the Energy Units actually delivered by the Project as metered at the Inter Connection Point, which point shall be the only point at which such Net Electrical Energy shall be metered under this Agreement.
- 42) **Non-Political Force Majeure Event:** means any event of Force Majeure specified in Article 10.1 other than a Political Force Majeure Event and Non-Political Force Majeure shall be construed accordingly.

- 43) Permits: means all formal and informal permits, licences, visas, clearances, rights and any other authorisations and approvals from the Board or any Government Agencies which are required to develop, design, finance, construct, insure, own and operate the Project in accordance with this Agreement, including without limitation to those listed in Schedule E.
- 44) Plant Load Factor or PLF : means the ratio, expressed as a percentage, of the number of KWH of Cumulative Available Energy in any Tariff Year, as computed at the generator terminals in accordance with Schedule D, to the maximum KWH of energy that could theoretically be generated by the Project during that Tariff Year based on 8760 hours multiplied by the Installed Capacity, computed at the generator terminals.
- 45) Plant Load Factor (Incentive) or PLF(I) : means the ratio, expressed as a percentage of the number of KWH of generation as computed at the generator terminals in any Tariff Year, by adding the Auxiliary Consumption to the Net Electrical Energy as metered at the Interconnection Point, to the maximum of KWH energy that could theoretically be generated by the Project during that Tariff Year based on 8760 hours multiplied by the Installed Capacity, computed at the generator terminals.

$$PLF(I) = \frac{NEE \times (1) + \{1 - (A/100)\}}{8760 \times IC \times 1000}$$

Where :

NEE : Net Electrical Energy (kwhr)  
A : Auxiliary Consumption (%)  
IC : Installed Capacity (MWs)

- 46) Political Force Majeure Event: means any event of Force Majeure described in Article 10.1(i) and Political Force Majeure shall be construed accordingly.
- 47) Project: means the combined cycle power station proposed to be established at Vemagiri, East Godavari Dist. in Andhra Pradesh, India, consisting of 2 (two) Generating Units based on Naphtha as Fuel and 1 (one) steam Generating Unit, having a nominal installed capacity of 468 Mega Watts computed at Ambient Reference Conditions.

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- 48) Project COD: means, the Commercial Operation Date of the last Generating Unit.
- 49) Promoter Group: means M/s. ISPAT POWER LIMITED (which includes its successors and assigns), and other associated firms and companies, all of whom have authorised M/s. ISPAT POWER LIMITED to represent them.
- 50) Prudent Utility Practices : means those practices, methods, techniques and standards, as changed from time to time, that are generally accepted internationally for use in electric utility industries taking into account conditions in India, and commonly used by the international electric utility industry to operate and maintain power stations and associated equipment of the size, service and type of the Project; adjusted as necessary to take into account (A) site conditions (B) conditions affecting the Grid System, (C) requirements of Law and (D) operation and maintenance guidelines of the manufacturers of the plant and equipment incorporated in the Project.
- 51) Ramp-up Rate: means the rate at which each Unit can be asked to increase its generation as specified by the Company in Schedule A, supported by the manufacturer's specifications.
- 52) Ramp-down Rate: means the rate at which each Unit can be asked to decrease its generation as specified by the Company in Schedule A, supported by the manufacturer's specifications.
- 53) Scheduled Bank : means any Bank, at Hyderabad indicated by the Board and reasonably acceptable to the Company/ and the parties providing financing for the Project.
- 54) Scheduled Date of Completion: means, the following dates with respect to each Generating Unit:

Unit	Scheduled Date of Completion
1. First	20 months
2. Second	22 months
3. Third and last	23 months

Provided that the Scheduled Date of Completion of the last Unit shall be extended day-for-day for any - delay - directly arising from i) a Force Majeure (( Article 10.4), ii) Board Default or failure of the Board to complete the Inter Connection Facilities eight (8) weeks before the Scheduled Date of Completion of the first Unit or any other reason for

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which an extension in such date is provided hereunder (including pursuant to Article 7.2).

Explanation : In case of a delay in achieving the Scheduled Date of Completion of the last Unit, the Company shall pay as liquidated damages to the Board, a sum equal to Rs. 50,000 per day for the first one hundred and eighty (180) days of delay and Rs. 350,000 per day for delays in excess of one hundred and eighty (180) days, for each 100 MW of capacity bid or any part thereof, payment for which shall be due thirty (30) days from the Scheduled Date of Completion of the last Unit and every thirty (30) days thereafter or, if earlier, upon the termination of this Agreement provided for hereunder.

- 55) Scheduled Outage : has the meaning ascribed to it in Schedule D.
  - 56) Stabilization Period: means, in respect of each Generating Unit, each ninety-day period commencing on the COD of the said Generating Unit.
  - 57) Station Heat Rate: shall be 2755 kilo calories per KWH up to Scheduled Date of Completion of the last Unit or the Project COD, whichever is earlier and shall be 1900 kilo calories per KWH after Scheduled Date of Completion of the last Unit or the Project COD, whichever is earlier.
- Explanation : Station Heat Rate means the quantum, in Kilo Calories, of input heat energy required by the Project to generate one Energy Unit.
- 57a) Synchronisation : means the electrical connection of a Generating Unit to the Grid System by means of Inter Connection Facility for the Project.
  - 58) Tariff Year: means, prior to the Project COD, the period between the COD of the first Generating Unit and the Project COD, and thereafter, each period of one year from the Project COD.
  - 59) Technical Limits: means the limits and constraints described in Schedule A hereto relating to the operation and maintenance of the Project.
  - 60) Working Capital Rate : means the interest rate (or the weighted average of the interest rates) at which the Board or the Company, as the case may be, raises its working capital requirements in rupees or, if none, the rate which is offered from time to time by the State Bank of India (or its successors) for working capital facilities to most creditworthy

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State Electricity Boards/ independent power companies in India as the case may be.

- 1.2 All other words and expressions, used herein and not defined herein but defined in the Indian Electricity (Supply) Act, 1948 and set out in Schedule B applicable to this Agreement shall unless the context otherwise requires, have the meanings, respectively, assigned to them as attached hereto as Schedule B.
- 1.3 Unless otherwise stated, all other references made in this Agreement to "Articles" and "Sections", and "Schedules" shall refer, respectively, to Articles of, Sections of, and Schedules to, this Agreement. The Schedules to this Agreement form part of this Agreement and will be of full force and effect as though they were expressly set out in the body of this Agreement. Headings are for ease of reference only.
- 1.4 In this Agreement, unless the context otherwise requires (A) the singular shall include plural and vice versa; (B) words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organisations or other legal entities; (C) a reference to any party includes that party's successors and permitted transferees and assigns, (D) a reference to this Agreement or any other agreement or document shall be construed as a reference thereto as from time to time amended, novated or replaced, (E) a reference to any Law shall be construed as a reference to such Law as from time to time amended or re-enacted and (F) references to times of day are references to Indian Standard Time.

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## ARTICLE 2

### SALE AND PURCHASE OF CAPACITY AND ENERGY

#### 2.1 Sale and Purchase of Capacity

From and after the Commercial Operation Date of the first Generating Unit, subject to the provisions of this Agreement, the Company shall sell, and the Board shall purchase, for the consideration of the Capacity Charge, all the available capacity of the Project.

#### 2.2 Sale and Purchase of Energy

From and after the Commercial Operation Date of the first Generating Unit, subject to the provisions of this Agreement, the Company shall sell, and the Board shall purchase, for the consideration of the Energy Charge, the Net Electrical Energy of the Project.

#### 2.3 Sale and Purchase of Power before COD of a Generation Unit

The Company shall sell, and the Board shall purchase, all Energy Units generated by any Generating Unit during testing prior to the COD of such Generating Unit, for the consideration of the Energy Charge.

#### 2.4 Despatch Rights of the Board

The Board shall have the right to dispatch the Project at any capacity within the Availability Declaration of the Company and the Company shall comply therewith subject as provided in Schedule D. Any request by the Board for increase or decrease in the generation by the Company shall not violate the declared Ramp-up and Ramp-down Rates. The dispatch procedures shall be as specified in Schedule D.

#### 2.5 Shutdown

Except when the equipment of the Project is under forced shutdown, such equipment or any ancillaries, auxiliaries or works in relation thereto shall not be taken out for maintenance, testing or overhaul resulting in outages or reduced generation except as required by Prudent Utility Practices or in accordance with such schedules of outages as are established in accordance with Schedule D. The Company shall take all reasonable steps to bring back the equipment of the Project that is under forced shutdown to normal operations as early as may be reasonably practicable.

13. *Amended*

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## 2.6 Scheduling and Co-ordination

The detailed schedule of construction, operation and maintenance of the Project and the procedures for co-ordination between the Company and the Board are specified in Schedule D:

## 2.7 Power Supplies by the Board

Upon the Company's request, the Board shall provide the Company with power as and when required for the purpose of the construction of the Project and following the completion of the Inter Connection Facility up to and including the synchronisation of the first Generating Unit, for start-up, testing and commissioning of the Project. The Board shall bill the Company for such power at a price equal to the Board's applicable published tariff. Thereafter, the Board shall provide power as and when required, for start-up and maintenance of the Project. The Board shall bill the Company for any such power at the rate as the Energy Charge computed under Article 3.3 and such billed amounts shall be set off from the next monthly bill.

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## ARTICLE 3

## CAPACITY AND ENERGY PAYMENTS

## 3.1 Capacity Charge

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The Board shall pay for the capacity of the Project in respect of any Tariff Year a Capacity Charge calculated in the manner described in Article 3.2 in respect of the Cumulative Available Energy provided by the Project, up to (but not exceeding) an amount of Cumulative Available Energy which is equivalent to a PLF of 80%.

## 3.2 Computation of Capacity Charge

The Capacity Charge will be the sum of the following amounts, in Rupees, estimated in accordance with Article 5.2(b) for purposes of monthly billing and adjusted pursuant to Article 5.2(c) for each Tariff Year, and subject in either case to the limitation that the total of such amounts shall not exceed an amount corresponding to a PLF of 80%:

- (i) Foreign Debt Service Charge (FDSC) of US\$ 0.0158 per unit of Cumulative Available Energy payable in rupees converted at the Current Rate of Exchange; provided that such Foreign Debt Service Charge shall be payable only in respect of the period ending on the 8<sup>th</sup> (eighth) annual anniversary of the COD of the last generating unit.
- (ii) Other Fixed Charges (OFC) of Rs. 0.54 per unit of Cumulative Available Energy which shall be fixed for the term of this Agreement.

## 3.3 Energy Charge

## (a) Computation of Energy Charge:

The Energy Charge will be computed based on the following formula:

$$U = EU \cdot (hC) / (g(1-A/100))$$

where:

U is the Energy Charge in Rs. in respect of a Billing Month (or in the case of any bill for Energy Units generated by a Generating Unit prior to its COD, in respect of the period to which such bill relates);

EU is the total number of Energy Units delivered at the Inter Connection Point in respect of such Billing Month measured on the Metering Date for such Billing Month (or in the case of any bill for Energy Units generated by a Generating Unit prior to its COD, in respect of the period to which such bill relates);



h is the Station Heat Rate in Kcal/KWH as per Article 1.1 (57);  
 C is the cost of Fuel in Rs. per unit of Fuel; as delivered at the Fuel metering point at the site  
 g is the GCV of Fuel in Kcal/unit of Fuel;  
 A is a number equal to the Auxiliary Consumption expressed as a percentage of gross generation as per Article 1.1 (4).

Provided that the cost of Fuel "C" shall be calculated in Rupees (with any amount denominated in any other currency being converted into rupees at the current rate of exchange (actual) ) and shall equal the sum of

- (i) Basic weighted average cost of Fuel in case of indigenous fuel and in case of imported fuel, the weighted average CIF value plus in each case, finance and procurement costs.
- (ii) Taxes, duties, cesses and other Government Agency levies ; and
- (iii) Handling, storage, transportation and Importation charges

Provided that the Board has the right to review and approve the Fuel Supply Agreement through the Fuel Supply Committee in accordance with and subject to Schedule I.

(b) Minimum Fuel Off-take Charges

The Board shall reimburse the Company for charges paid in respect of its failure to take delivery of minimum levels of Fuel, but only if and to the extent that the Company's failure to take such Fuel is due to the Board's issuance of Despatch instructions requiring that the Project be operated at a level less than the level of Declared Capacity set forth in any then-applicable Availability Declaration, or the Board's failure or inability to accept delivery of Net Electrical Energy from the Project (whether due to Force Majeure events or otherwise);

Provided that the Board shall reimburse such minimum Fuel off-take charges to the company only to the extent that :

- (i) Such minimum fuel off-take charges were incurred in accordance with the Fuel Supply Agreement;
- (ii) the Company exercised any right to elect, under the terms of the Fuel Supply Agreement, to "carry forward" the Fuel in question (i.e. to receive such Fuel at a later date) or to store such Fuel at any Fuel storage facilities of the Company or of the Fuel supplier, which are available under the Fuel Supply Agreement; and

(iii) the Company took all reasonable steps available to it and such steps identified by the Board (such as on-sale of Fuel to the Board or other able purchasers identified by the Board) to reduce the amount of liability, any added costs of which the Board shall upon prior notice by the Company have agreed in writing to pay to the Company.

3.4 Monthly Fuel Price Adjustment

The Energy Charge, as per the above formula, will be modified monthly on account of variations in EU, C and g.

3.5 Computing the PLF and PLF(I)

For the purposes of clarification, it is understood and agreed that in computing the PLF and PLF(I), from the Commercial Operation Date of the first Generating Unit and prior to the Project COD, Installed Capacity shall mean the sum of the Installed Capacities of each Generating Unit which has declared commercial operation. Commencing on the Project COD, Installed Capacity shall mean the sum of the respective Installed Capacities of all the Generating Units. For a Tariff Year which includes the occurrence of the COD of one or more Generating Unit(s), the Installed Capacity for computing the PLF and PLF(I) will be determined on a time and megawatt weighted proportionate basis.

3.6 Disincentives

In case the Project is unable to achieve a PLF of 68.5% for a Tariff Year, then the Company will pay to the Board a penalty as a percentage of the Other Fixed Charge paid to the Company in such Tariff Year as given below:

PLF (%)	Penalty (%)
68.5%	Nil
Below 68.5% to 60.5%	2% for every 1% shortfall in PLF (i.e. for a PLF of 60.5%, the penalty will be 16% of the Other Fixed Charge)
Below 60.5% to 50.5%	3% for every 1% shortfall in PLF (i.e. for a PLF of 50.5%, the penalty will be 16% + 30% = 46% of the Other Fixed Charge)
Below 50.5%	Same as for 50.5% i.e. 46% of the Other Fixed Charge

Penalty

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Provided that in case of a Tariff Year which involves the Stabilisation Period of a Generating Unit, the PLF for applying the penalty will be adjusted using a minimum threshold of 51.37% in place of 68.5% for such Stabilisation Period on a time and megawatt weighted basis (and each other threshold specified above, shall be adjusted downwards by the same proportion).

### 3.7 Incentives

In case the Project achieves a PLF(I) greater than 80% for a Tariff Year, then the Board will pay to the Company an incentive for the additional units of actual generation in excess of a PLF(I) of 80% as a percentage of the Other Fixed Charge in such Tariff Year as given below:

PLF(I) (%)	Incentive (%)
80%	Nil
Above 80% upto 85%	2% for every 1% increase in PLF(I) (i.e. for a PLF(I) of 85%, the incentive will be 10% of the Other Fixed Charge)
Above 85% upto 90%	3% for every 1% increase in PLF(I) (i.e. for a PLF(I) of 90%, the incentive will be 10% + 15% = 25% of the Other Fixed Charge)
Above 90%	Same as for 90% i.e. 25% of the Other Fixed Charge

### 3.8 Claims for Taxes on Income

Any advance income tax payable for the Project in any month supported by a certificate of a chartered accountant approved by the Board (such approval not to be unreasonably withheld or delayed) shall be reimbursed by the Board. After the tax assessment is completed for any year, and the liability thereon is determined by the taxation authorities in India, the excess or shortfall in the tax liability so determined will be adjusted in the supplementary bill (as defined in Article 5.5) for the succeeding month or on the due date of payment thereof, whichever is later, subject to Article 3.9. Tax to be reimbursed will be calculated on the income from the Project only, and calculated on the assumption that the Company is engaged solely in the ownership, design, financing, construction, operation and maintenance of the Project and will not include tax reimbursements of the previous year.

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**3.9 Minimisation of Liability due to Taxes on Income**

The Company shall take all reasonable steps to ensure that its liability due to taxes on income in respect of its income from the Project is minimised, by obtaining or by suitable arrangement, all permissible benefits, rebates, concessions and the like, in accordance with Law. The Company, however, is not required, under this Article 3.9, to pass on to the Board any benefits, rebates, concessions and the like in taxation obtained by it as a result of any tax planning or otherwise, not connected with the income, expenditure and operations of this Project.

**3.10 Claims for Taxes and Duties Levied on Generation and/or Sale of Electricity**

Any taxes or duties or impost or cesses or levies on the generation and/or sale of electricity by any Government Agency levied on the Project will be reimbursed by the Board to the Company in the succeeding month after the payment of such taxes or duties by the Company to such Government Agency, based on a supplemental bill, duly supported by proof of payment of such taxes to be furnished by the Company to the Board. In case, such Government Agency refunds any excess tax or duty paid by the Company, such excess will be adjusted in the supplementary bill for the succeeding month after the receipt of such refund by the Company.

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#### ARTICLE 4

#### METERING

##### 4.1 Installation

Main energy meters of 0.2 class accuracy shall be installed at the 220 KV points of supply by the Company and check meters at the same point and of the same accuracy shall be installed by the Board. Each of these will be a pair of export and import meters. The main energy meters shall be the property of the Company and the Company shall be responsible for the cost of inspection, maintenance, calibration, and replacement thereof. The check energy meters shall be the property of the Board and the Board shall be responsible for the cost of inspection, maintenance, calibration and replacement thereof.

##### 4.2 Inspection: Sealing; No Interference

All the meters shall be jointly inspected and sealed on behalf of both Parties and shall not be interfered with except in the presence of the duly authorised representatives of both Parties. If one Party does not attend any inspection, check, calibration or test on the main or check meters required pursuant hereto after receiving such notice from the other Party as may be reasonable in the circumstances, then, notwithstanding anything to the contrary expressed herein, the other Party shall be entitled to proceed on its own and the results obtained shall be used for the purposes hereof.

##### 4.3 Quarterly Checks

All meters shall be checked for accuracy on a quarterly basis by both Parties and shall be treated as working satisfactorily so long as the errors are within the limits prescribed for meters of the class. Meter readings of the main meters will form the basis of billing; so long as the quarterly checks thereof are within the prescribed limit as per IS specifications. If the check meters are found to be defective during the quarterly checks they will be immediately calibrated and/or replaced if found necessary.

##### 4.4 Errors in Main Meters

Where the quarterly check indicates errors in the main meters beyond the prescribed limit as specified in IS specifications but no such error is noticed in the check meters, billing for the month will be done on the

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basis of the check meters and the main meters will be calibrated immediately or replaced if necessary.

#### 4.5 Errors in Main Meters and Check Meters

If during the quarterly test checks, both the main meters and the corresponding check meters are found to be beyond permissible limits of error as per the IS specifications, both the meters shall be immediately calibrated and the correction applied to the generation of energy registered by the main meter to arrive at the correct generation of energy for billing purposes for the period of the month up to the time of such test check. Billing for the period thereafter until the next monthly meter reading shall be as per the calibrated main meter.

#### 4.6 Calibration

All the main and check meters shall be calibrated upon installation and once in every six months thereafter jointly by both Parties i.e., January and July irrespective of the calibrations which might have been done where necessary, during the quarterly checks. All calibrations shall be undertaken at the loads and power factor specified in, and otherwise in accordance with IS specifications. Both Parties shall endeavour that recalibration is done as often as possible and the errors are adjusted as close to zero as possible. However, if the meters show errors consistently, the main meters, check meters or both shall be replaced.

#### 4.7 Errors Found During Calibration

If the errors found at the time of semi-annual calibration are beyond permissible limits as per IS specifications, the same procedures applicable to the quarterly test checks shall be followed or the main meters/ check meters or both shall be replaced.

#### 4.8 Corrections in Billing

Corrections in billing, whenever necessary, shall be applicable to the period between the previous monthly meter reading and the date and time of the test calibration in the current month when the error is observed and this correction shall be for the full value of the absolute error. For the purpose of the correction to be applied, the meter shall be tested at 100, 50, 20 and 10 percent load at unity power factor and 0.5 power factor. Of these eight values, the error at the load and power factor nearest the average monthly load served at the Inter-Connection Point during the period shall be taken as the error to be applied for correction.

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4.9 Defects

If both the main and check meters fail to record or if any of the potential transformer fuses are blown out, then the energy will be computed on a mutually agreeable basis for that period of defect. The main meters and the check meters shall be replaced.

4.10 RSS Meter

For the purpose of test and calibration, the rotating sub-standard (RSS) meter shall be calibrated and sealed by the Chief Electrical Inspector to the GOAP. This RSS meter shall be calibrated once in every six months at the Chief Electrical Inspector's Laboratory in Andhra Pradesh.

4.11 Conduct of Tests

All the tests on the main and check meters shall be jointly conducted by the authorized staff of both Parties. The result and correction so arrived at mutually will be applicable and binding on both Parties.

4.12 Monthly Reading

Monthly meter readings shall be taken (and an acknowledgement thereof signed) by the duly authorized representatives of both Parties on each Metering Date and, if the readings indicate a level of inaccuracy greater than the prescribed limits, all meters shall be immediately tested in accordance with this Article. If either Party fails to take such reading at the required time, inspite of reasonable notice giving reasonable time, then the reading taken by the other Party shall be used for the purposes hereof.

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**ARTICLE 5**  
**BILLING AND PAYMENT**

**5.1 Payments for Power Generated prior to the COD of a Generating Unit**

The Board shall pay to the Company monthly payment of the Energy Charge only for all Energy Units generated prior to the Commercial Operation Date of such Generating Unit. Each monthly payment shall be made on the fifth working day following the date of submission of a bill by the Company.

**5.2 Monthly Tariff Bills**

- (a) On or before each Billing Date, commencing with the first Billing Date following the Commercial Operation Date of the first Generating Unit, the Company shall furnish a monthly tariff bill to the Board, in the form specified in Schedule H, for the Billing Month, which bill will include monthly Capacity Charges and Energy Charges (including fuel price adjustment charges, duly supported by supporting data) and shall show where applicable any adjustments as specified in relevant clauses of this Agreement. Each bill for a Billing Month shall be payable by the Board on the Due Date of Payment.

- (b) The Company shall calculate the monthly Capacity Charge for each Billing Month as follows:

Monthly Capacity Charges = FDSC Payment + OFC Payment  
where:

FDSC Payment =  $FDSC \times (Installed\ Capacity \times 0.8 \times Monthly\ Settlement\ Periods \times 1000) \times Current\ Rate\ of\ Exchange$

OFC Payment =  $OFC \times (Installed\ Capacity \times 0.8 \times Monthly\ Settlement\ Periods \times 1000)$

Installed Capacity shall mean the sum of Installed Capacities of each Unit the Commercial Operation Date for which has occurred, adjusted in respect of the occurrence of the Commercial Operation Date of one or more Units in the Billing Month on a time and megawatt weighted proportionate basis.

Monthly Settlement Periods shall mean the total number of Settlement Periods in the Billing Month (i.e., 24 hours \* no. of days), reduced however by the Settlement Periods (if any) during which an event of Political Force Majeure affecting either Party or a Non-Political Force Majeure event affecting the Board or a Force Majeure event affecting the Fuel supplier under Article 10.5(e) has been declared (in respect of which the payment due shall be calculated in the manner set forth in Article 10.5 and paid as a Supplementary Bill).

- (c) At the end of each Tariff Year, in case the PLF is less than 80 % for that Tariff Year, the Company shall refund to the Board as a credit against the amounts due in the next monthly tariff bill(s), an amount which shall be the sum of the Monthly Capacity Charges paid during such Tariff Year pursuant to Article 5.2(b) multiplied by a fraction, the numerator of which shall be the percentage by which the PLF was less than 80%, and the denominator of which is 80%.

### 5.3 Adjustments for foreign exchange variation:

For each Billing Month, there shall be added or subtracted, as the case may be, from the Monthly Capacity Charges calculated in accordance with Article 5.2 as part of the monthly tariff bill, an amount (the "Foreign Exchange Adjustment") reflecting the variation in foreign exchange rates between the rates used in calculating the FDSC Payment for the preceding Monthly Bill and the rates in effect on the actual date of payment of the monthly tariff bill by the Board, calculated as follows:

$$\text{Foreign Exchange Adjustment} = \text{FDSC Payment} * (\text{CRE(A)} - \text{CRE})$$

Where

FDSC Payment is as defined in Article 5.2(b);

CRE(A) is the Current Rate of Exchange (Actual) and

CRE is Current Rate of Exchange.

### 5.4 Payment of incentives and disincentives

Incentives and disincentives shall be calculated as per Article 3.7 and 3.6 respectively and shall be payable annually. In case the Board is required to pay incentives to the Company, the Company shall raise a supplementary bill for the same at the end of the Tariff Year. At the end of the Tariff Year, in case the Company is required to pay the Board on account of disincentives, the Company shall adjust the same as a credit in the next month's monthly tariff bill.

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#### 5.5 Supplementary Bills

For payments due to the Company for reimbursement of taxes on income, incentives or taxes and duties levied on generation and/or sale of electricity, payments for periods of Political Force Majeure affecting either Party or Non-Political Force Majeure affecting the Board or any other adjustments or payments due to the Company hereunder, the Company shall present a supplementary bill, in such form as may be mutually agreed upon by the Board and the Company, (duly supported by supporting data). Each supplementary bill shall be payable by the Board on the Due Date of Payment, except in case of supplementary bill for taxes on income. At least thirty (30) days prior to the date when income tax is required to be paid by the Company, the Company shall submit to the Board a supplementary bill for the same. This bill shall be payable by the Board within twenty-five (25) days of its presentation to the Board by the Company or at least five (5) days before the date on which the tax is required to be paid by the Company, whichever is later.

#### 5.6 Amounts Due to the Board

Any amounts which may be due to the Board from the Company pursuant to Article 3.6 will be computed by the Company in the month following the close of each Tariff Year and shown as a credit in the bill for such month. Any amounts which may be due to the Board from the Company pursuant to Articles 3.8 and 3.10 will be shown as a credit in the supplementary bill for such month. A net credit in any supplementary bill will be deducted by the Board from the payments due to the Company under any monthly bill.

#### 5.7 Billing Disputes

Notwithstanding any dispute as to all or any portion of any bill submitted by the Company to the Board, the Board shall pay the full amount of the bill provided that the amount of the bill is based on (a) a meter reading that has either been signed by both Parties or certified by the Company with respect to the Board's refusal to sign within three (3) days of the meter reading date and (b) the provisions of this Agreement. The Board shall notify the Company of any disputed amount, and the Company shall rectify the defect or otherwise notify its rejection of the disputed amount, with reasons, within five (5) days of the reference by the Board, failing agreement on which the provisions of Article 14 shall apply with respect thereto. If the resolution of any dispute requires the Company to reimburse the Board, the amount to be reimbursed shall bear interest at the Working Capital Rate applicable to the Board from the date of payment by the Board to the date of reimbursement. The Board may not

dispute any amount after sixty (60) days following the Due Date of Payment therefor.

#### 5.8 Direct Payment

The Board has the right subject to two (2) Business Days notice to the Company, to make direct payment of any bill by cheque or draft at the same bank at which the Letter of Credit shall be opened on or prior to the Due Date of Payment and when such direct payment is made in full, the Company shall not present the same bill to the Scheduled Bank against the Letter of Credit or Escrow Account as the case may be.

#### 5.9 Letter of Credit

On or before the date thirty (30) days prior to the Scheduled Date of Completion of the first Generating Unit, and at all times thereafter, the Board shall cause to be in effect an irrevocable revolving letter of credit issued in favour of the Company by a Scheduled Bank (the "Letter of Credit"). Each letter of credit shall:

- (a) On the date it is issued, have a term equal to the longest period obtainable by the Board on a commercially reasonable basis from any Scheduled Bank but not less than one year;
- (b) Be transferable to any lender under the Financing Documents;
- (c) Be payable upon the execution and presentation, by an officer of the Company of a sight draft on the Due Date of Payment or such earlier date as is specifically authorized by the Board, to the issuer of such Letter of Credit supported by a certified copy of the bill for which payment is sought and a statement that such bill remains unpaid on the date of presentation and in the case of a monthly tariff bill rendered pursuant to Article 5.2, a meter reading statement accepted and signed by both parties or a certification from the Company that the Board failed to sign the meter reading statement within three days of the meter reading date; and,
- (d) On the date it is issued, have an aggregate revolving stated amount equal to the sum of one month's Capacity Charge based on PLF of 100% and one month's Energy Charge based on a generation equal to a PLF of 100% (the "LC Amount").

The LC Amount shall be determined (i) in the case of the Capacity Charges, for the initial Letter of Credit, based on the Current Rate of Exchange applicable (rather than on the Metering Date) on the date seven (7) days prior to the date of issuance of the Letter of Credit, which amount shall be adjusted thereafter upon each renewal of the Letter of Credit based on the average of the Current Rates of Exchange (Actual) applicable during each

month in the preceding six (6) months; and (ii) in the case of the Energy Charges, for the initial Letter of Credit, based on the Fuel costs applicable on the date seven (7) days prior to the date of issuance of the Letter of Credit and the methodology in Article 3.3 and thereafter, based on the average monthly Energy Charges (assuming a PLF of 100%) for the preceding six (6) months, adjusted to take account of any escalation in Fuel Costs provided for under the Fuel Supply Agreement.

- (e) Be immediately reinstated to the LC Amount following a valid drawing by the Company without limit to the amount of valid drawings thereunder and
- (f) Otherwise be in form and substance reasonably acceptable to the Company and the lenders.

Not less than thirty (30) days prior to the expiration of any Letter of Credit, the Board shall provide a new or replacement Letter of Credit. Every bill shall be presented at the said Scheduled Bank for payment under the Letter of Credit and shall become payable on the Due Date of Payment applicable thereto.

#### 5.10 Escrow Account

To provide additional security to the Company for the Board's obligation hereunder, the Board shall also open an escrow account with any of the Board's Scheduled Banks, which account shall be maintained by such bank as agent for the company, and which shall be pledged as security to the Company and its Lenders for payment of all sums due to the Company by the Board under this Agreement as further set forth herein. Such account shall be opened on or before the date thirty (30) days prior to the Scheduled Date of Completion of the first Generating Unit. Such account shall be funded with revenues from payments due to the Board from customers comprising one or more circles/areas used by the Board for its administrative convenience. The Board shall cause all payments due to the Board from such customers to be deposited in such escrow account aggregating an amount equal to not less than 120% of the LC Amount as specified in Article 5.9. Such instruction shall be irrevocable during the term of this Agreement subject to the right of the Board to substitute other circles/areas with the concurrence of the Company and its Lenders. The Board shall not act in any manner as may negatively affect the inflow of the revenues into this account and shall take such steps as may be necessary to assure the flow of the specified level of revenues in such account (including adding or substituting customers and undertaking collection efforts) during the term of this Agreement. Provided that the Board is in compliance with its obligations under this Agreement with respect to payment of all sums



when due to the Company, through the Letter of Credit or otherwise, the Board shall be entitled to withdraw funds from the Escrow Account each month to be used for such purposes as the Board may designate. In the event of the Board's failure to pay any sums due to the Company on the Due Date of Payment through the Letter of Credit or otherwise when any sum is due to the Company, or in case of non-renewal of the Letter of Credit as required under Article 5.9, the company, by notice in writing to the bank holding the Escrow Account, may require such bank not to honour any of the cheques, hundies and requisitions presented to it by the Board or any other drawals on the account until after the claim of the Company is first discharged out of the revenues accumulated in the Escrow Account. An agreement among the Board, the Company and the Bank (the "Escrow Account Agreement") shall be executed in order to give effect to this Article 5.10, the details of which shall be in form and substance reasonably acceptable to the Company and its Lenders.

#### 5.11 Rebates; Late Charges

For payment of Tariff bills (excluding supplementary bills) a rebate of 2.5% shall be allowed if payment is made, whether by cheque or by specific authorisation to draw on the Letter of Credit, within three (3) days after the date of presentation of bill. Where such payments are made on or before the Due Date of Payment but after the above three day period, a rebate of 1% shall be allowed.

Any payment made beyond the Due Date of Payment shall include a late charge in an amount equal to the greater of (a) the product of (i) the amount of such bill and (ii) the Working Capital Rate applicable to the Company then in effect, calculated on the basis of the number of days the payment was overdue, and (b) the amount of any liability incurred by the Company for penal interest on Debt arising out of the Board's failure to make such payment on the Due Date of Payment, provided that the Company shall furnish documentary evidence to the Board demonstrating such liability.

#### 5.12 State Government Guarantee

As support for the Board's obligations under this Agreement, GOAP shall provide the State Government Guarantee (the "GOAP Guarantee").

#### 5.13 Order of Precedence

The Company shall present its monthly tariff bills and any supplementary bills to the Board for direct payment by the Board as per this Article. In case of non-payment, or partial payment of the bill by the Board, the Company shall take recourse to the Letter of Credit under

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Article 5.9 on or prior to the due date of payment or upon specific authorization by the Board to draw on the Letter of Credit prior to such date. In case of the claim of the Company not yet being fully satisfied, the Company shall take recourse to the Escrow Account as per the Escrow Account Agreement for the un-paid amount plus interest accrued for delayed payment as per Article 5.11. In case of default of payment by the Board still persisting, the Company shall take recourse to the invoking of the GOAP guarantee as per Article 5.12 for claiming and releasing the unsatisfied claims. This provision is without prejudice to any other right or remedy of the Company arising out of this Agreement.

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## ARTICLE 6

## DURATION OF AGREEMENT

## 6.1 Term of the Agreement

Subject to the terms of this Agreement, this Agreement shall become effective upon the execution and delivery thereof by the parties and shall continue in force from the date of such delivery until the completion of a period of fifteen (15) years from the Project COD unless earlier terminated as provided herein, and not later than one hundred and eighty (180) days prior to the expiry of the initial term of this Agreement, the Agreement may be renewed for such further period and on such terms and conditions as may be mutually agreed upon between the Parties.

6.2 This Article shall survive any Termination of this Agreement. If the Parties do not mutually agree to renew this Agreement or otherwise upon the expiry of the initial term of this Agreement, the Board shall have the first option to purchase the Project at the Terminal Value plus any Transfer Costs and Transfer Taxes (as defined in Schedule G) and as determined by the Independent Appraiser defined in Schedule C.

Such option shall be exercisable during the sixty (60) day period immediately preceding the expiration of the initial term of this Agreement and the Company shall notify the Board of its acceptance or rejection of the option within such sixty (60) day period or fifteen (15) days after the date of Board's offer whichever is later. If the Board's offer is not accepted by the Company within such period, the Company may solicit offers of purchase from third parties or sell power from the Project to third parties as per applicable Law, provided that the Board shall have the first right of refusal with respect to any bonafide offer received by the Company which the Company wishes to accept, exercisable within thirty (30) days of receipt by the Company of such offer (which shall within five days of such receipt be provided to the Board by the Company) upon mutually satisfactory terms of payment. If the Board does not exercise such right or the Parties cannot agree to the terms of payment, the Company may dispose of the Project as it thinks fit subject to prevailing Law.

6.3 Notwithstanding any other provision of this Agreement, in the event that Financial Closing has not occurred within 12 months of the signing of this Agreement, either Party may upon 30 days notice to the other party terminate this Agreement without liability or obligation whatsoever

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unless (in case of any termination by the Board) Financial Closing shall occur within such 30 day notice period, in which case such notice shall be deemed to have been withdrawn; provided that (i) the Company shall have used its reasonable endeavours to achieve such Financial Closing and (ii) the Party seeking such termination shall then be in compliance with its obligations under this Agreement. In the event of such termination, the Security Deposit provided by the Company pursuant to Article 15.10 shall be cancelled and/or returned to the Company without being drawn upon by the Board, only if the Board is satisfied that the Company used its reasonable endeavours to achieve Financial Closing.

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## ARTICLE 7

### UNDERTAKINGS

#### 7.1 Covenants of the Company

The Company hereby covenants and agrees with the Board to:

- (a) use all reasonable efforts to construct the Project in accordance with the construction contract and to operate the Project in accordance with Prudent Utility Practices;
- (b) work without liability with, and co-operate in good faith with, the Board with respect to all of the Board's obligations and rights hereunder;
- (c) use all reasonable efforts to obtain all Permits;
- (d) adhere to the Technical Limits as set out in Schedule A;
- (e) use all reasonable efforts to cause the date of Financial Closing to occur within Six (6) months of the date of signing of this Agreement and furnish to the Board periodic progress reports (not less than monthly) regarding the same and in any case cause Financial Closing to occur not later than twelve (12) months from the date of signing of this Agreement;
- (f) shall not, without the consent of the Board, reduce the amount paid in at Financial Closing by the Promoter Group as the main promoters of the Company and in the development, construction and operation of the Project efficiently during the subsistence of this Agreement;
- (g) if the Inter Connection Facilities are completed by the date which is eight weeks prior to the Scheduled Date of Completion of the first Generating Unit and the first Generating Unit is not synchronised on or before the Scheduled Date of Completion of the first Generating Unit, pay to the Board interest on the actual cost of the Inter Connection Facilities constructed only for the purposes of the Project (as established by the Board to the reasonable satisfaction of the Company), such interest being calculated on a daily basis and being equal to the interest charged in respect of any loans raised by it and applied towards meeting such cost and being payable from the Scheduled Date of

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Completion of the First Generating Unit until the earlier of the date of such synchronisation or the date when such synchronisation would have occurred but for any delay arising from an event of Force Majeure. The Company's payment obligation under this Article shall not be affected by application of Article 10.4.

- (h) provide to the Board a copy of the Financing Documents and the shareholder subscription agreements relating to the Promoter Group's equity commitment to the Project within one month of the Financial Closing and promptly, as they are entered into, provide to the Board copies of instruments creating any liens or encumbrances on any of the assets of the Project.
- (i) cause the Project COD to occur not later than the Scheduled Date of Completion of the last Unit, as per Article 1.1.54.

#### 7.2 Covenants of the Board

The Board hereby covenants and agrees with the Company to:

- (a) (1) make all reasonable efforts for making arrangements (including financing and construction) for the Inter Connection Facility so that the Interconnection Facility is completed eight weeks before the Scheduled Date of Completion of the first Generating Unit of the Project and if the Inter Connection Facility has not been completed on or before such date or the date such Interconnection Facility would have been completed but for any delay arising from an event of Force Majeure, and an Independent Engineer designated by the Company and reasonably acceptable to the Board, has certified that the Project is ready to begin the process of interconnection, the Board shall pay to the Company as liquidated damages for such delay an amount equal to 80% of the Capacity Charge calculated in the manner described in Article 5.2(b), substituting, however, for the Installed Capacity, the capacity of the first Generating Unit required to be installed as per the EPC Contract, from the later of the Scheduled Date of Completion of the First Generating Unit and the date falling six weeks after the first Generating Unit is ready to begin the process of interconnection (as certified by the Independent Engineer) until earlier of the date falling six weeks after the date upon which the Inter Connection Facility is completed or the COD of the first Generating Unit, provided that the Board's payment obligations under this Article shall not be affected by application of Article 10.4. Within thirty (30) days of the COD of the first Unit, the Company shall refund to the Board,

the excess, if any, of the payments described above over the payments which would have been made based on the Installed Capacity as determined in testing and commissioning the first Unit.

- (b) work, without liability, with, and co-operate in good faith with the Company with respect to all of the Company's obligations and rights hereunder; and,
- (c) make all reasonable good faith efforts to assist the Company in obtaining clearances for procurement of land, and sourcing of water, and such other clearances as may be required at the State level.
- (d) provide electricity in accordance with Article 2.7 for construction, start-up, testing and commissioning and make reasonable efforts to facilitate the conduct of testing and commissioning procedures in accordance with Schedule F;
- (e) use its reasonable efforts to design, construct, operate and maintain the Inter Connection Facilities in accordance with specifications to be determined by mutual agreement of the Parties as per Article 15.5.
- (f) make all reasonable efforts to obtain the issuance of the GOAP Guarantee [as executed by the GOAP] substantially in the form attached hereto as Schedule J within sixty (60) days of the date of execution hereof or as soon thereafter as practicable, provided that the Scheduled Date of Completion of the last Unit and all prior dates for the Company's performance hereunder shall be deemed to be extended day-for-day for each day of delay reckoned from 61<sup>st</sup> day in the issuance of GOAP Guarantee.
- (g) make all reasonable efforts to assist the Company to obtain the issuance of the Fuel Linkage i.e., the required Permits from the GOAP and the GOI allocating to the Project the right to obtain and use quantities of Naphtha to generate electricity at a PLF of 100% (the "Fuel Linkage"), subject to any actions of the Company, which may be required in connection therewith, within sixty (60) days of the date of execution of this Agreement or as soon thereafter as practicable provided that the Scheduled Date of Completion of the last Unit and all prior dates for the Company's performance hereunder shall be deemed to be extended day-for-day for each day of delay reckoned from 61<sup>st</sup> day in the issuance of the Fuel Linkage.

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## ARTICLE 8

### REPRESENTATIONS AND WARRANTIES

#### 8.1 Representations and Warranties of the Company

The Company represents and warrants that:

- i) The Company is a company duly organized and validly existing under the laws of India and has all requisite legal power and authority to execute this Agreement and carry out the terms, conditions and provisions hereof;
- ii) This Agreement constitutes the valid, legal and binding obligation of the Company, enforceable in accordance with the terms hereof except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar law affecting creditors' rights generally and except to the extent that the remedies of specific performance, injunctive relief and other forms of equitable relief are subject to equitable defenses, the discretion of the court before which any proceeding may be brought, and the principles of equity in general;
- iii) The Company has duly paid all rents, royalties and all public demands including provident fund dues, gratuity dues, employees state insurance dues, income tax, sales tax, corporation tax and all other taxes and revenues payable to any Government Agency and that at present there are no arrears of such dues, rents, royalties, taxes and revenues due and outstanding and that no attachments or warrants have been served on the Company in respect of sales tax, income tax, Government revenues and other taxes;
- iv) There are no actions, suits or proceedings pending or, to the Company's knowledge, threatened, against or affecting the Company before any court or administrative body or arbitral tribunal that might materially adversely affect the ability of the Company to meet and carry out its obligations under this Agreement; and
- v) The execution and delivery by the Company of this Agreement has been duly authorized by all requisite corporate action, and will not contravene any provisions of, or constitute a default



under, any other agreement or instrument to which it is a party or by which it or its property may be bound.

## 8.2 Representations and Warranties of the Board

The Board represents and warrants that:

- i) The Board is a statutory corporation duly organised and validly existing under the laws of India and has all requisite legal power and authority to execute this Agreement and to carry out the terms, conditions and provisions hereof;
- ii) This Agreement constitutes a valid, legal and binding obligation of the Board, enforceable in accordance with the terms hereof except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganisation, moratorium or other similar laws affecting creditors' rights generally and except to the extent that the remedies of specific performance, injunctive relief and other forms of equitable relief are subject to equitable defenses, the discretion of the court before which any proceeding may be brought, and the principles of equity in general;
- iii) There are no actions, suits, or proceedings pending or, to the Board's knowledge, threatened against or affecting the Board before any court or administrative body or arbitral tribunal which might materially adversely affect the ability of the Board to meet and carry out its obligations under this Agreement; and
- iv) The execution and delivery of this Agreement by the Board has been duly authorized by all requisite corporate action, and will not contravene any provision of, or constitute a default under, any other agreement or instrument to which it is party or by which it or its property may be bound

## 8.3 Mutual Covenants

Each Party will (except to the extent the subject of a bonafide dispute) duly pay all rents, taxes, cesses, fees, revenues, assessments, duties, other outgoings and other amounts owing by it and will observe all the rules and regulations pertaining to the same and will not do or omit to do or (to the extent within its control) suffer to be done anything the purpose of which is to adversely affect or prejudice the interest and rights of the other Party hereunder in any manner whatsoever.

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## ARTICLE 9

### DEFAULT AND TERMINATION

#### 9.1 Board Default

The occurrence and continuation of any of the following events shall constitute a Board Default, unless any such event occurs as a result of a Company Default as defined in Article 9.2 or any breach by the Company of its obligations hereunder:

- (a) Any failure of the Board to make any payment (s) required to be made to the Company under this Agreement, which continues for a period of sixty (60) days or more from the Due Date of Payment; or any failure of the Board to make any payment (s) in excess of Rs. 30 Crores required to be made to the Company under this Agreement, which continues for a period of thirty (30) days or more from the Due Date of Payment; provided in either case that :

- (i) the Company has furnished a bill to the Board for such payment as provided in Article 5;
- (ii) to the extent the Letter of Credit is outstanding or as the case may be the Escrow Account is in operation, the Company shall have presented such bill for payment under the Letter of Credit or Escrow Account as provided under Article 5 of this Agreement;

- (b) The Board repudiates this Agreement or evidences in any manner its intention not to perform its obligations under, or to be bound by, this Agreement;

- (c) The transfer, pursuant to law, of either the Board's rights and obligations under this Agreement or all or a substantial portion of the assets or undertakings of the Board, or the dissolution of the Board, pursuant to law, including by way of merger, consolidation, liquidation, reconstitution or reorganisation unless the transferee or successor:

- (i) expressly assumes the obligations of the Board under this Agreement and subject to (iii) below, those liabilities and obligations are guaranteed by the GOAP pursuant to the GOAP Guarantee;

- (ii) is either the owner/operator of a substantial part of the transmission system of Andhra Pradesh and/or is the

purchaser/seller of a substantial part of the bulk supplies of electricity in Andhra Pradesh, has a credit rating (as determined by an independent credit rating agency) at least equivalent to that of the Board and is otherwise capable of performing the obligations of the Board under this Agreement.

- (iii) to the extent that the GOAP Guarantee remains in effect, the GOAP without interruption guarantees the performance of the transferee or successor on the same terms and conditions as the GOAP Guarantee or such other guarantees or commercial security are provided for the obligations of the resulting entity, successor or transferee that in the reasonable business judgement of the Company and the sole and absolute judgement of the Company's lenders if any, provides equivalent assurance of performance.
- (iv) the transferee or successor shall have provided to the Company security for its payment obligations hereunder which, in the reasonable business judgement of the Company and the sole and absolute judgement of the Company's lenders if any, is at least equivalent to the security constituted by the Letter of Credit and the Escrow Account Agreement as defined in Article 5.10.
- (d) The failure of the Board to observe or perform any obligation expressed to be assumed by it in Article 5.10 or the Escrow Account Agreement, which failure is not remedied within thirty (30) days of notice thereof from the Company or, in the case of any default in making of any payment from the Escrow Account, referred to therein, such longer period as is represented by the number of days until the Due Date of Payment, plus the cure periods referred to in Article 9.1 (a);
- (e) The GOAP repudiates the GOAP Guarantee, the GOAP shall be in material breach of its obligations under the GOAP Guarantee, or the GOAP Guarantee shall cease to be a legal or binding obligation of the GOAP other than by reason of the Company's failure to materially comply with its terms;
- (f) The serious breach by the Board of any material term of this Agreement (other than with respect to Articles 9.1 (a) through (e) above), where the Board shall fail to cure such breach within ninety (90) days of notice thereof by the Company.



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## 9.2 Company Default

The occurrence and continuation of any of the following events shall constitute a Company Default, unless any such event occurs as a result of a Board Default as defined in Article 9.1 or any breach by the Board of its obligations hereunder:

- (a) Any failure of the Company to make any payment(s) required to be made to the Board under this Agreement, which continues for a period of sixty (60) days or more; or any failure of the Company to make any payment(s) in excess of Rs. 30 Crores required to be made to the Board under this Agreement, which continues for a period of thirty (30) days or more; either directly or through a credit to the Board in the bills, as per Article 5;
- (b) The Company repudiates the Agreement or evidences in any manner its intention not to perform its obligations under, or to be bound by this Agreement;
- (c) The transfer, pursuant to law, of either the Company's rights and/or obligations under this Agreement or all or a substantial portion of the Company's assets or undertakings, or the dissolution of the Company, pursuant to law, including by way of merger, consolidation, liquidation, reconstitution or reorganisation, unless:
  - (i) the transferee or the successor expressly assumes the obligations of the Company under this Agreement,
  - (ii) such transfer or dissolution does not affect adversely the ability of the resulting entity to perform its obligations under this Agreement, in the sole and reasonable opinion of the Board;

or such transfer or dissolution constitutes or is the direct result of a Change in Law or event of Political Force Majeure

- (d) The Company abandons the construction or operation of the Project, other than as a result of Force Majeure, for a period of forty-five (45) consecutive days or more.
- (e) The Company
  - (i) fails to commence construction by (i) issuing a notice to proceed to the construction contractor, (ii) commencing substantial continuing work on the foundation for the first

generating unit and/or (iii) delivering to the site and commencing installation of major components of the project within ten (10) months of the signature of this agreement, provided that such period shall be extended as provided in Article 10.4 for delay in the achievement of such date which is caused by a Force Majeure event, or

- (ii) fails to achieve Project COD on or before the Scheduled Date of Completion plus six months as extended in accordance with Article 1.1.54
- (f) The Project fails to issue an Availability Declaration providing for Declared Capacity which is in excess of 50% of the Installed Capacity for a continuous period of one hundred and twenty (120) days (excluding any period of major overhaul undertaken in accordance with the manufacturer's recommendations, any period of Force Majeure; any act or omission of the Board or any Emergency directly causing or contributing to the shortfall in the Declared Capacity).
- (g) The failure of the Company either:
  - (i) to demonstrate in tests conducted in accordance with Schedule F (including any permitted retests) that the Project has an Installed Capacity of at least 90% of the output initially guaranteed by the manufacturer or supplier of the Generating Units as at Project COD.
  - (ii) to maintain thereafter during the term of this Agreement, reliable capacity equal to 98.5% of the Installed Capacity as at Project COD as such reliable capacity shall be determined by testing pursuant to paragraph 2.7 of Schedule D and the Company is not able to demonstrate such reliable capacity in any subsequent retest during the next succeeding twelve (12) months.
- (h) The Company commits a breach of Article 7.1 (f).
- (i) The serious breach by the Company of any material term of this Agreement (other than with respect to Articles 9.2 (a) through (h) above), where the Company shall fail to cure such breach within ninety (90) days of notice thereof by the Board.

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### 9.3 Remedies of the Company

Upon the occurrence and continuance of a Board Default set forth in Article 9.1 above and the failure of the Board to cure such default within the applicable cure periods, if any, specified in Article 9.1, the Company shall, at its option, have the right to

- (i) elect to terminate this Agreement by issuing a termination notice in accordance with procedures set forth in Article 9.5, or
- (ii) receive damages or have recourse to such other remedies as are available under Law.

### 9.4 Remedies of the Board

Upon the occurrence and continuance of a Company Default set forth in Article 9.2 above and if the Company fails to cure such default within the applicable cure periods, if any, specified in Article 9.2, the Board shall, at its option, have the right to

- (i) elect to terminate this Agreement by issuing a termination notice in accordance with procedures set forth in Article 9.5, or
- (ii) receive damages or have recourse to such other remedies as are available under Law.

### 9.5 Termination Procedures

- (a) In the event that the Board gives a termination notice to the Company in accordance with Article 9.4, the following procedures and cure periods shall be observed and shall have expired, respectively, prior to this Agreement actually being terminated and of no further effect (the date of such termination being the Termination Date):

- (i) A termination notice issued in respect of a Company Default under Article 9.2(c) shall result in the Termination Date occurring on the twentieth (20th) day from the date of receipt by the Company of such termination notice without any further requirement for further action by the Board or any opportunity to cure by the Company. In case of a termination notice received in respect of any other Company Default under Article 9.2, the Company may within ninety (90) days from the date it receives the termination notice attempt to either

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- (A) cure the Company Default which gave rise to the termination notice, or
- (B) transfer, sell and/or assign the Project to the Board, the lenders or any third-party purchaser, in which case, if such sale is effected (which shall only be with the prior consent of the Board which consent will not be unreasonably withheld), then such new owner of the Project shall have a full additional ninety (90) day period to cure the Company Default.

The Board shall not be deemed to have unreasonably withheld its approval if in the sole and reasonable opinion of the Board, the new owner does not possess equivalent financial-standing and technical capability to that of the Company as on the Commercial Operation Date of the first Generating Unit. If such new owner fails to so cure the Company event of default within such ninety (90) day period, or if the Board fails to provide its consent to such new owner, then the subparagraph (ii), below shall apply.

- (ii) for a period of ninety (90) days from the date on which the lenders are able to fully exercise their right to possess the Project or effectively gain control over operation of the Project in accordance with the Financing Documents (subject to the Board's right under sub-section (iv) and Article 9.6), the lenders shall be entitled to attempt to cure any Company Default (including, Without Limitation, by selling or transferring the Project to a third party, which shall only be with the prior consent of the Board which consent will not be unreasonably withheld, who shall have ninety (90) days from the date of transfer to attempt to cure the Company Default if such sale by itself does not effect such cure). If the lenders or such third party are unable to cure such Company Default by the end of the applicable periods specified above, then the Termination Date shall occur at the expiration of such period;
- (iii) If a cure is effected in accordance with the procedures described in (i) and (ii) above, on notification to the Board by the Company and reasonable verification by the Board, the termination notice shall be and will be deemed to be withdrawn on the date of such cure
- (iv) Notwithstanding anything contained in Article 9.5(a)(i) and (ii) above to the contrary, at all times during the

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continuance of a Company Default and during which the Company maintains actual possession and control over the Project, the Company shall use its reasonable efforts to operate and maintain the Project as generally required hereunder.

- (v) If the Project is sold to any third party in accordance with the provisions of this Article 9.5, then such third party shall become a party hereto in place of the Company and the Board shall execute such documents as may reasonably be required by the Company, the lenders or such third party to give effect to the substitution of such third party as a party hereto in place of the Company.
- (vi) The Board shall, if so requested by the Company, give an undertaking to the lenders or any agent or trustee acting on their behalf in such form as they may reasonably require to perform the obligations set out in this paragraph (a).
- (b) In the event that the Company gives a termination notice to the Board in accordance with Article 9.3, the Board may within ninety (90) days from the date it receives the termination notice attempt to cure the Board Default which gave rise to the termination notice. However, such cure period of ninety (90) days shall be reduced to thirty (30) days in case of a termination notice due to a Board Default under Article 9.1 (a). If such cure is effected, on notification to the Company by the Board and on reasonable verification by the Company, the termination notice shall be and will be deemed withdrawn, or otherwise the Termination Date shall occur at the expiry of such period.
- (c) Any Party which has been served with a notice of termination under Article 9.4 shall use all reasonable endeavours to cure the Company Default or the Board Default as the case may be, as soon as practicable. Both Parties shall, save as otherwise provided herein, continue to perform their respective obligations under this Agreement and shall not, whether by act or omission impede or otherwise interfere with any Party's endeavours to cure the Company Default or the Board Default, as the case may be, during such cure.

#### 9.6 Right to Operate the Project

Notwithstanding anything in Article 9.5 (a) (i) and (ii) or otherwise in this Agreement to the contrary, if the Board gives a termination notice under

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Article 9.4 with respect to a Company Default, during the applicable cure period in Article 9.5(a), neither the Company nor the Lenders under the Financing Documents nor any third party to which the Project has been sold or transferred in accordance with Article 9.5(a) are using all reasonable endeavours in the assessment of the Board to cure such Company Default as soon as reasonably practicable, the Board shall have the right, but not the obligation, if for reasons of the security or integrity of the Board's system or security of supply, the Board considers it necessary, upon seventy-two (72) hours notice to the Company (a "Step-in Notice"), subject to the lender's consent, to require the operator to operate the Project or, where the operator is unwilling or unable to do so, to operate the Project itself in accordance with Prudent Utility Practice for such period(s) up to the date of any transfer of the Project pursuant to a Buy-out or otherwise, as the Board deems necessary, at the expense of the Company. During such period of step-in, the Board's payment obligations to the Company shall be restricted to the payment of 65 % of Capacity Charges computed in the manner described in Article 5.2(b) except that such charges shall be based (rather than on the Installed Capacity) on the capacity which could reasonably be made available, by the Board having regard to the condition of the Project, but the Board shall be responsible for all costs of Fuel. The rights of the Board under this Article 9.6 shall cease upon the earliest of the cure of such Company Default, the transfer of the Project to a third party pursuant to Article 9.5 (a) and the occurrence of the Termination Date.

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## ARTICLE 10

### FORCE MAJEURE

#### 10.1 Force Majeure Events

For the purposes of this Agreement, Force Majeure means any act, event or circumstance, or combination of acts, events or circumstances, which materially and adversely affects the affected Party's performance of its obligations pursuant to the terms of this Agreement, but only if and to the extent that such acts, events or circumstances are not within the affected Party's reasonable control, were not reasonably foreseeable and could not have been prevented or overcome by the affected Party through the exercise of reasonable skill or care. Any act, event or circumstance or combination thereof meeting the description of Force Majeure that has the same effect upon the performance of any Contractor, which directly, materially and adversely affects the performance by the Company or the Board respectively of their obligations in whole or in part under this Agreement shall constitute Force Majeure with respect to the Company or the Board respectively. Where such performance is affected in part, after applying any damages or compensation from the parties involved or insurance to remedy the effect of such event, the affected Party shall not be relieved of the performance of that part which is not so materially and adversely affected. Force Majeure shall comprise the following acts, events and circumstances to the extent that they or their consequences satisfy the above requirements.

- (i) Political Force Majeure Events, which shall comprise the following acts, events and circumstances.
  - (1) Act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, civil commotion, act of terrorism or sabotage, in each case occurring inside or directly involving India;
  - (2) Any act, failure to act, restraint or regulation, of any Government Agency (excluding actions that constitute remedies or sanctions lawfully exercised as a result of breach by the Company of any Law which is neither expropriatory nor discriminatory in nature), comprising:

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- (a) any act, omission, regulation or restraint constituting a Change in Law (as defined in Article 11.2);
  - (b) any Change in Permits (as defined in Article 11.3); or
  - (c) the expropriation by any Government Agency or compulsory acquisition of any shares in, or assets or rights of, the Company or its Contractors.
- (3) Strikes, lockouts or other labour difficulties, which are politically motivated (rather than motivated primarily by a desire to improve compensation or working conditions of those involved) or are caused in whole or part by another event of Political Force Majeure or are part of a nation-wide or regional strike, or other generalised labour action occurring within India; (excluding such events which are site specific and attributable to the Company);
- (4) Radioactive contamination or ionising radiation or chemical contamination originating from a source in India or resulting from another Political Force Majeure Event;
- (5) Any act, event or circumstance of a nature analogous to the foregoing;
- ii) Non-Political Force Majeure events comprising the following acts, events and circumstances;
- (1) Flood, cyclone, lightning, earthquake, drought, storm or any other extreme effect of the natural elements;
  - (2) Epidemic, or plague;
  - (3) Fire or explosion.
  - (4) Strikes, lockouts or other labour difficulties not included in Article 10.1(i) (3); (excluding such events which are site specific and attributable to the Company)
  - (5) Catastrophic failure of major components or equipment excluding however, normal wear and tear or inherent defects or flaws in materials or equipment;
  - (6) Air crash, shipwreck or trainwreck or loss of or damage to any major component of the Project arising in the course of

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marine transit other than due to the fault of the transporting party;

- (7) Any act, event or circumstance of a nature analogous to the foregoing.

Provided, however, that for the avoidance of doubt, lack of funds shall not be construed as an event of Force Majeure.

#### 10.2 Notification Obligations, etc.

- (a) Any Party claiming a Force Majeure event shall formally notify in writing in the manner specified in (b) below and seek to satisfy the other Party of the existence of such a Force Majeure event and shall use its reasonable endeavour to resume performing its normal obligations as soon as possible after the cessation of such a Force Majeure event.
- (b) The Party claiming Force Majeure shall give notice to the other Party of any event of Force Majeure as soon as reasonably practical after becoming aware of its existence, but not later than five (5) days after the date on which such Party knew or should reasonably have known of the commencement of the event of Force Majeure. Notwithstanding the above; if the event of Force Majeure results in a breakdown of communications rendering it not reasonably practicable to give notice within the applicable time limit specified herein, then the Party claiming Force Majeure shall give such notice as soon as reasonably practicable after the reinstatement of communications, but not later than seven (7) days after such reinstatement.
- (c) The Party claiming Force Majeure shall give notice to the other Party of:
- The cessation of the relevant Force Majeure act, event or circumstance; and,
  - The cessation of the effects of such Force Majeure events on the enjoyment by such Party of its rights or the performance by it of its obligations under this Agreement;
- as soon as practicable after becoming aware thereof.
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### 10.3 Mitigation: Co-operation: No obligation to settle Strikes

Any Party claiming Force Majeure shall use its reasonable efforts to mitigate and overcome the effects of any act, event or circumstance of Force Majeure as soon as practicable after the occurrence of a Force Majeure event, including through the expenditure of reasonable sums of money, and to co-operate with the other Party to develop and implement a plan of remedial and reasonable alternative measures to remove the event of Force Majeure; provided, however, that no Party shall be required under this provision, to settle any strike or other labour dispute on terms it reasonably considers to be unfavourable to it. The Party claiming Force Majeure shall furnish weekly written reports to the other Party with respect to its progress in overcoming the effects of the act, event or circumstance of Force Majeure together with such supporting documentation and information as the other Party reasonably requires regarding the claim of Force Majeure.

### 10.4 General Consequences of Force Majeure

Subject to the other provisions of this Agreement, no Party shall be in breach of its obligations under this Agreement due to its failure of delay in performing its obligations hereunder to the extent that such failure or delay has been caused by one or more acts, events or circumstances of Force Majeure, for so long as such act, event or circumstance or its effects are continuing and any dates specified herein for such performance shall be extended to the extent necessary to compensate for the delay which shall be on a day-for-day basis (unless the circumstances justify a longer or shorter period); provided that if the Party claiming Force Majeure fails to give notice thereof to the other Party within the period and in the manner specified in Article 10.2(b), such Party shall only be entitled to relief on account thereof from the date it gives such notice.

### 10.5 Financial Consequences of Force Majeure

- (a) The Company shall not be entitled to claim any adjustments for increased costs incurred as a result of an event of Force Majeure except to the extent provided in Article 11
- (b) Except as provided in this Article 10.5, an act, event or circumstance of Force Majeure shall not excuse the payment obligations of either Party which shall be determined in accordance of the terms of this Agreement.
- (c) Payments to the Company by the Board in respect of periods of Political Force Majeure shall be limited as follows:

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(i) In case of any event of Political Force Majeure affecting either Party as per Article 10.1(i) (2) occurring after the COD of the first Unit claimed by the affected party, the Board shall pay, for each Settlement Period for which such Force Majeure is in effect, Capacity Charges, until the earlier of the (x) the date the effects of such Political Force Majeure event cease to exist and (y) 180 days from the date of commencement of such event. The Capacity Charges shall be computed in the manner described in Article 5.2(b) except such charges shall be calculated for the period only described above and shall be based (rather than on the Installed Capacity) on the average Availability Declaration of the past 180 days (excluding from such 180 day period any period of Force Majeure or Scheduled Outages) or such lesser period in case the relevant data is not available for a period of 160 days.

(ii) On the occurrence of any other Political Force Majeure event affecting either Party as per Article 10.1(i), occurring after the COD of the first Unit, claimed by the affected party, the Board shall pay, for each Settlement Period for which such Force Majeure is in effect, 75 % of Capacity Charges, until the earlier of the (x) the date the effects of such Political Force Majeure event cease to exist and (y) one hundred and eighty (180) days from the date of commencement of such event. The Capacity Charges shall be computed in the manner described in Article 5.2(b) except such charges shall be calculated for the period only described above and shall be based (rather than on the Installed Capacity) on the average Availability Declaration of the past 180 days (excluding from such 180 day period any period of Force Majeure or Scheduled Outages) or such lesser period in case the relevant data is not available for a period of 180 days.

(d) Non-Political Force Majeure affecting the Board after Project COD

In case of any Non-Political Force Majeure event affecting the Board as per Article 10.1(ii) occurring after the COD of the first Unit, the Board shall pay, for each Settlement Period for which such Force Majeure is in effect, 65% of the Capacity Charges, until the earlier of the (x) date the effects of such Non-Political Force Majeure event cease to exist and (y) one hundred and eighty (180) days from the date of commencement of such event. The Capacity Charges shall be computed in the manner described in Article 5.2(b) except such charges shall be



calculated for the period only described above and shall be based (rather than on the Installed Capacity) on the average Availability Declaration of the past 180 days (excluding from such 180 day period any period of Force Majeure or Scheduled Outages) or such lesser period in case the relevant data is not available for a period of 180 days.

- (e) In case of Political Force Majeure Events described under Article 10.1(i)(2) affecting the Fuel supplier or transporter, which prevents delivery of Fuel to the Project and for which the Fuel supplier or transporter is excused under Fuel Supply Agreement(s), the Board shall pay for each settlement period for which such Force Majeure is in effect 65% of the Capacity Charges, commencing, however, on the date 30 days after the date on which a notice of commencement of such event is delivered by the Fuel supplier or transporter to the Company under the Fuel Supply Agreement(s) as communicated to the Board and the Board having satisfied itself that the Company made best efforts to provide alternate fuel supplies during this 30 day period, until the earlier of the (X) date the effects of such Force Majeure Event cease to exist and (Y) one hundred and eighty (180) days from 31<sup>st</sup> day of commencement of such event. The Capacity Charges shall be computed in the manner described in Article 5.2(b) except such charges shall be calculated for the period only described above and shall be based (rather than on the Installed Capacity) on the average Availability Declaration of the past 180 days (excluding from such 180 days period any period of Force Majeure or Scheduled Outages) or such lesser period in case relevant data is not available for a period of 180 days.

#### 10.6 Termination for Force Majeure

- (a) Either Party may issue a notice of termination of this Agreement if (i) an event of Political Force Majeure as described in Article 10.1(i) has continued for more than one hundred and eighty (180) days or (ii) the Company following damage to the Project resulting from such event fails or is unable to or elects (subject to Article 10.7) not to restore the Project. Such notice shall become effective twenty (20) days from the date of issuance thereof (the "Termination Date").
- (b) The Board may issue a notice of termination of this Agreement if the effects of a Non-Political Force Majeure Event as described in Article 10.1 (ii) affecting the Board or Force Majeure affecting Fuel supplier or transporter as described in Article 10.5(e) have continued for more than one hundred and eighty (180) days and



the Company may issue a notice of termination of this Agreement of the effects of a Non-Political Force Majeure Event as described in Article 10.1(ii) affecting the Board or Force Majeure affecting Fuel supplier or transporter as described in Article 10.5 (e) have continued for more than two hundred and seventy (270) days.. Such notice shall become effective twenty (20) days from the date of issuance thereof (the "Termination Date").

- (c) Either Party may issue a notice of termination of this Agreement if (i) the effects of a Non-Political Force Majeure Event as described in Article 10.1(ii) affecting the Company has continued for more than one hundred and eighty (180) days or (ii) the Company following damage to the Project resulting from such event fails or is unable to or elects (subject to Article 10.7) not to restore the Project. Such notice shall become effective twenty (20) days from the date of issuance thereof (the "Termination Date").

Provided that in case of a Non-Political Force Majeure event affecting the Company, Article 12 shall not apply to such termination and the Agreement shall terminate at the end of the cure period specified in Article 10.6 (c) without any liability to either Party.

#### 10.7 Obligation to Restore Project

The Company shall not be entitled to relief under this Article 10 unless, following the occurrence of any damage or destruction of the Project arising from any event of Force Majeure, the Company shall have used all reasonable efforts to commence the restoration of such Project as soon as reasonably practicable taking into account the circumstances of the Force Majeure and thereafter has diligently pursued such restoration, unless (i) the damage or destruction to the Project constitutes a total or constructive loss or (ii) the Project would be incapable following such repair of resuming operation at the levels required under the Agreement; or (iii) such loss is not insured against in whole or in part and the Company is unable despite its best efforts to raise the necessary financing (taking into account any payments received by the Company under this Agreement).



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## ARTICLE 11

### CHANGE IN LAW

#### 11.1 Definition of Law

For the purposes of this Agreement, "Law" means the constitution of India and any act, rule, regulation, directive, notification, order or instruction having the force of Law enacted or issued by any competent legislature, or Government Agency.

#### 11.2 Definition of Change in Law

For the purposes of this agreement, "Change in Law" means

- (i) any enactment or issue of any new Law;
- (ii) any amendment, alteration, modification or repeal of any existing Law or any new or modified directive or order thereunder;
- (iii) any change in the application or interpretation of any Law by a competent legislature or Government Agency in India which is contrary to the existing accepted application or interpretation thereof, in each case coming into effect after the date of this Agreement, provision for which has not been made elsewhere in the Agreement.

#### 11.3 Definition of Change in Permits

For the purpose of this Agreement, "Change in Permits" means

- (i) any failure or refusal to grant or renew any Permit (other than for Cause) or;
- (ii) the imposition (other than for Cause) of any material requirement in connection with the issuance of any Permit or the renewal, extension or modification of any Permit after such Permit was issued, in either case subsequent to the date of this Agreement;
- (iii) the imposition (other than for Cause) of a requirement for a Permit which did not exist as of the date of this Agreement; or
- (iv) the revocation or cancellation (other than for Cause) of any Permit;

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Provided that any such change establishes requirements that are materially more restrictive than the most restrictive requirements (A) in effect as of the date of this Agreement, (B) specified in any applications for any Permit filed by the Company or other documents filed in connection with such applications by the Company on or before the date of this Agreement; or (C) agreed to by the Company in any Financing Document or in any agreement with any Contractor, supplier of Fuel or transporter of Fuel, provision for which has not been made elsewhere in this Agreement.

11.4 Additional / Reduced Expenditures or Other Increased / Reduced Costs due to a Change in Law or Change in Permits

- (a) Within sixty (60) days after the COD of the first Generating Unit or the end of any Tariff Year, the Company shall determine after accounting for the net economic effects on the Company during the period prior to the COD of the first Generating Unit or, as the case may be, such Tariff Year of any Changes in Law or Changes in Permits, based on an accounting conducted by an independent chartered accountant reasonably acceptable to the Board. If as a result of such accounting, the Company suffers an increase in costs or a reduction in after-tax cash flow or any other net economic burden which it would not have experienced but for such Changes in Law or Changes in Permits (taking into account the reasonable costs of financing of any capital improvement in the period prior to the COD of the first Generating Unit or, as the case may be, such Tariff Year), the aggregate economic effect of which exceeds the equivalent of Rupees three (3) crores per 100 MW or pro-rata for any part thereof during the period prior to the COD of the first Generating Unit and Rupees one (1) crore per 100 MW or pro-rata for any part thereof during the period after the COD of the first Generating Unit, during any Tariff Year (excluding cost adjustments in respect of Changes in Law or Changes in Permits from any prior period), the Company may notify the Board of any proposed amendments to this Agreement required to put the Company in the same economic position it would have occupied in the absence of such cost increase, reduction in the net after-tax cash flow or any other economic burden. Such notice shall be accompanied by a certification of the Company's Independent chartered accountant and a reasonably detailed explanation of certification of an officer of the Company respecting the basis for such net economic burden increase. The amount of any net economic burden claimed by the Company shall be net of any insurance proceeds received in respect thereof.

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- (b) Within sixty (60) days after the COD of the first Generating Unit or the end of any Tariff Year, if after accounting as provided in subsection (a) for the net economic effects on the Company during the period prior to the COD of the first Generating Unit or, as the case may be, such Tariff Year of any Changes in Law or Changes in Permits, the Company experiences a reduction in costs or an increase in after-tax cash flow or any other net economic benefit which it would not have experienced but for such Changes in Law or Changes in Permits, the aggregate economic effect of which exceeds the equivalent of Rs. 3 crore per 100 MW or pro-rata for any part thereof during the period prior to the COD of the first Generating Unit or Rupees one (1) crore per 100 MW or pro-rata for any part thereof, following the COD of the first Generating Unit, during any tariff Year, the Company shall provide to the Board results of such accounting together with a certificate of the independent chartered accountant and the Board, in response thereto, may notify the Company of any proposed amendments to this Agreement required in its good faith judgement to put the Company in the same economic position it would have occupied in the absence of such cost reduction, increase in the net after-tax cash flow or any other economic benefit. Such notice shall be accompanied by a reasonably detailed explanation of a certification of an officer of the Company respecting the basis for such decrease.
- (c) Only increased costs which are necessarily and unavoidably incurred in complying with or as a direct result of the Changes in Law or Changes in Permits taking into account, all reasonable steps which may be taken by the Company to minimise such increased costs, shall be considered as increased costs for the purposes of this Article.
- (d) As soon as practicable during the period prior to the COD of the first Generating Unit or any Tariff Year after the Company becomes aware of any Change in Law or Change in Permits which could reasonably be expected to give rise to an increase/reduction in costs or reduction/increase in after-tax cash flow pursuant to paragraph (a) and (b), the Company shall provide an interim notice thereof to the Board describing, to the extent possible, the expected effect on the costs and the cash flow of the Company. The Company shall consult with the Board regarding such increased expenditures and the Company shall use all reasonable efforts to implement the Board's recommendations, if any, to minimise such increased

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expenditures consistent with Prudent Utility Practices and the Company's obligations under this Agreement. If prior to the end of any Tariff year the Company demonstrates on the basis of a certification of its chartered accountant that any Change in Law or Change in Permits would result in the Company's being unable to meet its payment obligations to its lenders under the Financing Documents on a current basis, then in addition to the Company's rights under sub-section (a) but notwithstanding the time period for exercising such rights specified therein, the Company shall be entitled to propose amendments to this Agreement as provided in subsection (a) and the Parties shall consider such proposal as provided in subsection (e) below, provided that any benefits which the Company is eligible to receive under subsection (a) shall be reduced by any benefits received by the Company prior to the end of the relevant period under this subsection.

- (e) Within thirty (30) days after receiving any proposal pursuant to paragraph (a), (b) or (d), the Parties shall meet and agree on either amendments to this Agreement or alternative arrangements to implement the foregoing. If no such agreement has been reached within ninety (90) days after any meeting pursuant to Article 11.3 (a), (b) or (d), as the case may be, the proposals of the Parties shall be submitted to the independent chartered accountant referred to in paragraphs (a), (b) and (d), as the case may be.

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## ARTICLE 12

### BUYOUT

12.1 Buyout Events: For the purpose of this Agreement, each of the following shall be a Buyout Event:

- (a) The occurrence of a Termination Date as a result of a termination notice issued by the Board pursuant to a Company Default which becomes effective in accordance with Article 9.5(a);
- (b) The occurrence of a Termination Date as a result of a termination notice issued by the Company pursuant to a Board Default which becomes effective in accordance with Article 9.5(b);
- (c) The occurrence of a Termination Date as a result of any event of Political Force Majeure pursuant to Articles 10.6 (a);
- (d) The occurrence of a Termination Date as a result of an event of Force Majeure pursuant to Article 10.6 (b).

#### 12.2 Remedies to the Company

If a Buyout Event under Article 12.1(b),(c) or (d) occurs, the Company may require the Board to purchase the Project upon giving the Board a notice of the same (the "Buyout Notice") at the "Buyout Price" as defined in Schedule G.

#### 12.3 Remedies of the Board

In case of a Buyout Event described in Article 12.1(a), (c) or (d) (and in case of a Buyout Event described in Article 12.1(a), subject to the lenders cure rights as set forth in Article 9.5), the Board shall have the right to purchase the Project upon giving the Company notice of the same (the "Buyout Notice") at a "Buyout Price" as defined in Schedule G.

#### 12.4. Buyout Price

The Buyout Price shall be as determined in Schedule G.

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#### 12.5 Independent Appraiser

The Buyout Price shall be determined in accordance with Schedule G by an internationally recognised accounting firm listed in Schedule C hereto (the "Independent Appraiser") appointed in accordance with paragraph 4 (a) of Schedule G. All fees and expenses of any technical or other consultants which the Independent Appraiser reasonably believes are necessary to retain, shall be paid by the Party other than the Party validly claiming the Buyout Event.

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No. L-12011/2/00-GP(xxiii)  
Government of India  
Ministry of Petroleum & Natural Gas

Shastri Bhawan, New Delhi  
Dated June 05, 2000

To

M/s Vemagiri Power Generation Ltd.,  
Generation Ltd.,  
"Nirmal", 7<sup>th</sup> Floor,  
Nariman Point,  
Mumbai 400021.

Repeat:-  
M/s Vemagiri Power

Plot No.62, Road No.3,  
Banjara Hills,  
Hyderabad-500034.

Subject: Allocation of natural gas to M/s Vemagiri Power Generation Ltd. for 492 MW combined cycle power project at Vemagiri in Andhra Pradesh.

Dear Sirs,

I am directed to convey the decision of the Government to the allocation of 1.64 MMSCMD of natural from the ONGC fields in K.G. Basin on firm basis to M/s Vemagiri Power Generation Ltd. for 492 MW combined cycle power project at Vemagiri in Andhra Pradesh. The above allocation will be subject to the following conditions:-

- (i) M/s Vemagiri Power Generation Ltd. shall pay the relevant transportation charges; and
- (ii) M/s Vemagiri Power Generation Ltd. shall enter into the gas supply agreement with GAIL within 60 days from the date of issue of this letter.
- (iii) The above power plant proposed to be set up at Vemagiri (A.P.) shall necessarily have dual fuel capability and would not be dependent on natural gas alone.

Yours faithfully,

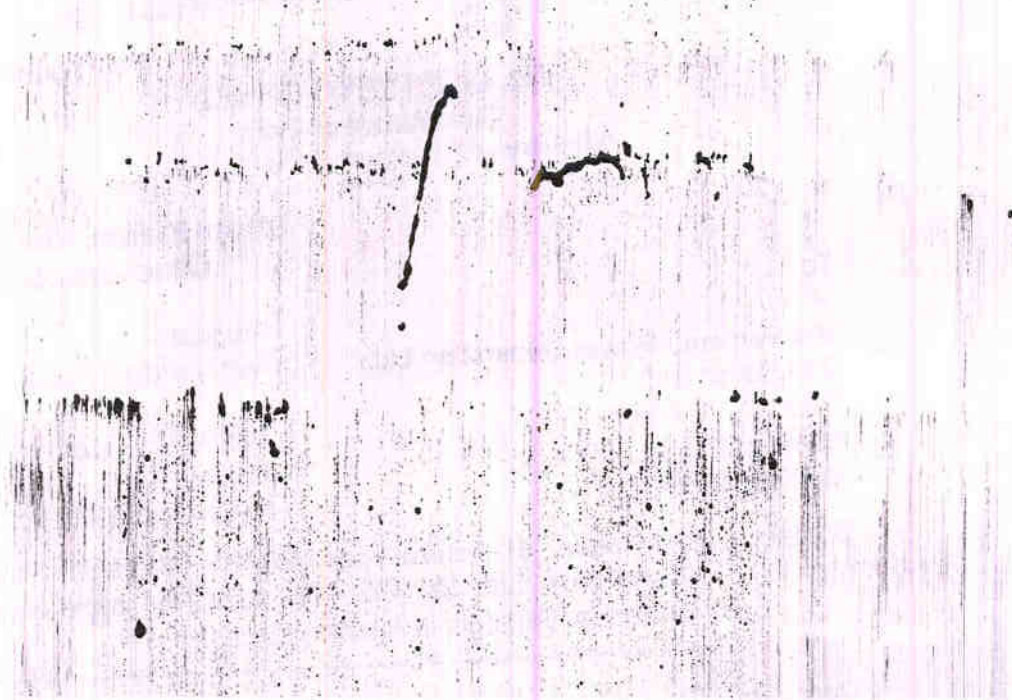
(I.S.N. Prasad)

Deputy Secretary to the Government of India  
Tel.No.3381029

Copy for information and necessary to:-

1. Shri H.P. Chandna, Director (Planning), GAIL
2. Shri A.B. Soni, Director (Operations), ONGC, New Delhi.
3. Spare copy (2 Nos.).





The following information was obtained from the records of the Department of the Interior, Bureau of Land Management, for the year ending December 31, 1964.

The total number of acres of public land in the State of California is 10,000,000. The total number of acres of public land in the State of California is 10,000,000.

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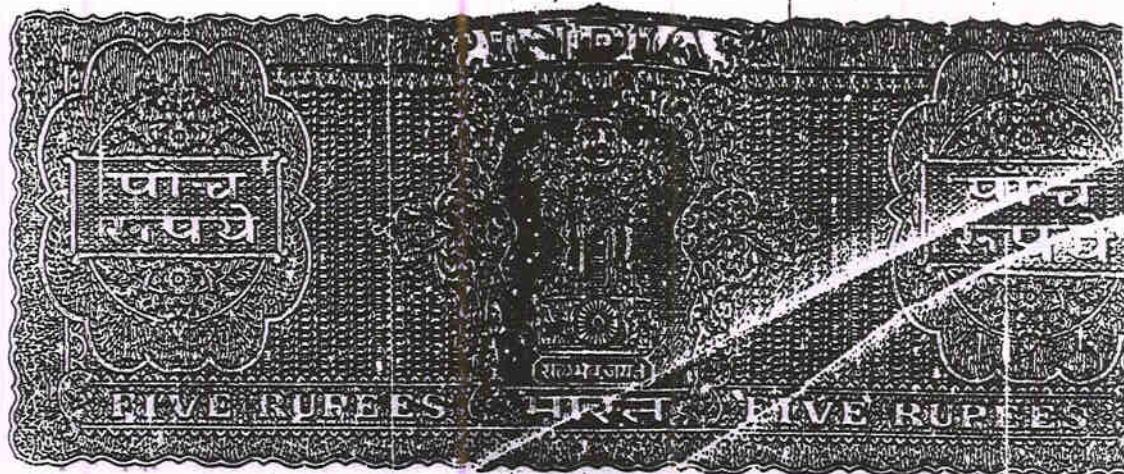
The total number of acres of public land in the State of California is 10,000,000. The total number of acres of public land in the State of California is 10,000,000.



10,000,000



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 This CONTRACT made on 31-08-2001 at New Delhi between M/S GAS AUTHORITY OF INDIA LIMITED, a Government of India Undertaking established under the Companies Act, 1956 having its Registered Office at 16, Bhikaiji Cama Place, New Delhi - 110066, hereinafter called "THE SELLER" (which expression shall, where the context so requires or admits of, be deemed to include its successors or assigns) of the one part and M/s VEMAGIRI POWER GENERATION LIMITED, having its Registered Office at "Nirmal", 7<sup>th</sup> Floor, Nariman Point, Mumbai-400021, hereinafter called "THE BUYER" (which expression where the context so requires or admits of, be deemed to include its successors or assigns) of the other part.

Whereas the BUYER desires to purchase and receive 'Natural Gas' from the SELLER and the SELLER agrees to sell and deliver to the BUYER Natural Gas as produced in its natural state or after stripping of heavier components, for other uses, hereinafter referred to as 'GAS' obtained from the field/fields of ONGCL located at Tatipaka, Parsarlupudi, Kesnapalli, Mcrri and other nearby fields and in and around fields and Ravva offshore, as fuel for the power plant of the BUYER located at Vemagiri, East Godavari District in the State of Andhra Pradesh, on the terms and conditions stated hereunder which have been mutually agreed to between the SELLER and the BUYER.

NOW THIS DEED WITNESSES AS FOLLOWS






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ARTICLE-1 DEFINITIONS AND INTERPRETATIONS.

The following words shall have the meaning assigned respectively against each one of them in this CONTRACT :-

1.01. "Time" shall be stated in "Hours" and shall mean "Indian Standard Time".

1.02. "Day" means a period of twenty four (24) consecutive hours beginning and ending at 0600 hours and the reference date for any such day shall be the date on which such day starts at 0600 hours.

1.03. "Week" means a period of seven (7) consecutive days beginning at 0600 hours from a day.

1.04. "First fortnight" means a period commencing at 0600 hours on first day of month and ending on 0600 hours on sixteenth day of the month and a "second fortnight" from 0600 hours on sixteenth day of the month to 0600 hours on the first day of the succeeding calendar month.

1.05. "Month" means a period beginning at 0600 hours on the first day of a calendar month and ending at 0600 hours on the first day of the succeeding calendar month.

1.06. "Year" means a period of three hundred and sixty five (365) consecutive days or three hundred and sixty six (366) consecutive days when such period includes a twenty-ninth (29th) day of February.

1.07. "Year" "Month" and "Day" wherever used in this CONTRACT imply that of English calendar.

1.08. "Standard Cubic Metre" of GAS means a quantity of GAS required to fill one (1) cubic metre of space when the GAS is at an absolute pressure of seven hundred and sixty (760) millimetres of mercury and a temperature of fifteen (15) degrees Celsius.

1.09. "ASTM" means the American Society of Testing Materials and "ANSI" means American National Standard Institute.

1.10. "GAS" OR "NATURAL GAS" means gas produced from gas wells, gas condensate wells or oil wells, and the residue gas remaining after processing such gas for the removal of liquefiable hydrocarbons and impurities therefrom, to meet gas specifications given in Annexure-I.

1.11. "CONTRACT" means the contract alongwith Annexure-I, II & III.

1.12. "Kilo Calorie" shall means the amount of heat required to raise the temperature of one (1) kilogram of water by one (1) degree Celsius at fifteen (15) degrees Celsius.

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1.13. "Heating Value" shall mean the number of kilo calories evolved by complete combustion at a constant pressure of one (1) standard cubic meter of GAS with air and with the temperature of GAS, air and products of combustion at fifteen (15) degree Celsius and all the water formed by combustion being condensed to liquid state.

1.14. Words imparting the singular only also include plural and vice-versa where the context so requires.

1.15. ONGCL means Oil & Natural Gas Corporation Ltd., a public limited company established under the Indian Companies Acts, 1956 with its registered office at Jeevan Bharti, Tower II, 124 Connaught Circus, New Delhi-110001.





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## ARTICLE-2 PERIOD OF CONTRACT



2.01. This CONTRACT shall come into force from the date it is signed and shall remain valid for a period upto 31.12.2010 (Thirty First December, Two Thousand Ten). The supply of GAS under this CONTRACT would commence on 31.12.2004 (Thirty First December Two Thousand and Four) or from any earlier date that may be mutually accepted by the SELLER and the BUYER and shall continue for a period ending on 31.12.2010 (Thirty First December, Two Thousand Ten).

2.02 (i) For the purpose of the CONTRACT the BUYER shall make a security deposit of Rs 5,65,80,000/- (Rupees Five Crores Sixty Five Lakhs Eighty Thousand only) to the SELLER. The BUYER shall also arrange to submit a Bank Guarantee for Rs 16,97,40,000/- (Sixteen Crores Ninety Seven Lakhs Forty Thousand) from any of the nationalized/scheduled banks at New Delhi in favour of the SELLER at the time of signing of the CONTRACT in GAIL's proforma.

2.02(ii) The SELLER shall pay a simple interest at the rate of 7%(Seven Percent) per annum to the BUYER on the amount of security deposit as per the provisions of Article 2.02 (iii) & 2.02 (iv) below.

2.02(iii) The BUYER has indicated the schedule of implementation of key activities of their plant as per Annexure-II to the CONTRACT. The BUYER shall provide the documentary proof to the SELLER of the completion of each of the activities. In case any of the above activities is not completed within the date indicated in Annexure-II, allocation of natural gas shall be liable for cancellation without waiting for the last activity. Further, the SELLER shall have the right to terminate the CONTRACT and forfeit the security deposit as well as the amount of Bank Guarantee without prejudice to other rights under the CONTRACT.

2.02(iv) The amount of deposit along with interest due as per Article 2.02(ii) and Bank Guarantee shall be refunded/discharged by the SELLER on commencement of supply of GAS; however, subject to provision of Article 2.02(iii) mentioned above and opening of Irrevocable L/C as stipulated in Article 11.01 hereinafter.

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**ARTICLE-3 EXTENSION OF PERIOD OF CONTRACT**

3.01 If any of the parties hereto should desire an extension of the period of CONTRACT it shall give to the other a prior notice in writing of its such intention at least Six months before the expiry of the period stipulated in Article 2.01 where upon the period shall be extended on such terms and conditions as may be mutually agreed upon. Provided further that the renewal agreement shall be finalized and executed between the parties atleast three months before the expiry of the period stipulated in Article 2.01.

*[Signature]*

*[Signature]*



**ARTICLE 4 DELIVERY OF GAS**

4.01 GAS shall be delivered to the BUYER at the Gas Metering Station that shall be located at BUYER's premise at Vernagiri, East Godavari District, in the State of Andhra Pradesh. GAS will be transported from the down stream flange of the pipeline at the outlet of the Gas Metering Station herein referred to as point of delivery by means of pipeline to be provided and maintained by the BUYER.

4.02 Gas Metering Station needed for the same shall be set up/constructed and maintained by the SELLER. Land and building needed for the purpose of such Gas Metering Station shall be provided by the BUYER free of cost. The SELLER may use the said location for effecting deliveries to any other parties in the area.

4.03 In addition to the price of GAS mentioned in Article 10, the BUYER shall pay to the SELLER monthly transmission charges of Rs 3,46,14,137/- (Rupees Three Crores Forty Six Lakhs Fourteen Thousand One Hundred Thirty Seven Only) per month for the facilities provided by the SELLER for supply of GAS to the delivery point located at the BUYER's premises. Provided further, the BUYER shall also pay to the SELLER additional monthly transmission charges, to be indicated by SELLER, towards Gas Dehydration Unit (GDU) proposed to be installed and operated by SELLER in order to maintain the security and integrity of the pipeline facilities for ensuring uninterrupted GAS supply from the date such GDU is installed and operated to be intimated by the SELLER. The BUYER shall also pay to the SELLER additional transmission charges, if any, in case the SELLER is required to replace/revamp the existing pipeline and allied facilities wholly/partly for supply of gas to the BUYER at the point of delivery. The above monthly transmission charges / additional monthly transmission charges shall be increased by 3 (Three) percent on yearly rest basis with effect from 1.4.2005. During the currency of the CONTRACT irrespective of the Total/Partial/Non-supply/drawal of quantity of GAS as per Article 5.01 hereinafter to the BUYER during the month(s), the BUYER agrees to pay above monthly transmission charges and taxes thereof to the SELLER in addition to the payment of invoice for supply of GAS to be raised as per Article 10 and Article 11. Provided further in case monthly transmission charges are not paid by the BUYER within 3 (Three) working days of presentation of invoice, the SELLER will present the invoice for the same to the Bank against Letter of Credit and draw the amount. The BUYER will make arrangements with the Bank in a manner that in such an eventuality the full L/C amount gets automatically reinstated.

4.04 The BUYER shall make all proper and adequate arrangement for receiving GAS at the outlet of Gas Metering Station at its own risk and cost taking all precautions as per guidelines of Oil Industry Safety Directorate (OISD). Should any defect in the BUYER's intake arrangement arise, the same shall be rectified by the BUYER. The SELLER shall have an option to stop supply of GAS as soon as any defect is noticed in the BUYER's intake arrangements. The BUYER shall still be liable to pay for minimum guaranteed offtake of GAS in accordance with Article 5.02 hereinafter irrespective of the fact of stopping supply of GAS by the SELLER on account of defect in the BUYER's intake arrangements.

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4.05 For effecting deliveries as aforesaid the SELLER shall install and maintain at its own risk and cost the piping control and regulation and metering equipment in the aforesaid Gas Metering Station and all other accessories. The said equipment so installed by the SELLER shall remain the property of the SELLER and the SELLER shall have the right to remove such equipment at any time within twelve (12) months after the expiry of the contract. The SELLER shall have the right to use the BUYER's land and utilities essentially required for installation, operation and maintenance of Gas Metering Station and allied equipment required for supply of GAS on payment of such charges for utilities only as may be mutually agreed.

4.06 The title to GAS shall pass from the SELLER to the BUYER at the point of delivery of GAS to the BUYER. The delivery point shall be at the down stream flange of the pipeline at the outlet of the Gas metering station.

4.07 The SELLER shall under the normal circumstances of the supply of GAS and normal off-take by the other buyers make endeavor to maintain gauge pressure upto 27(Twenty Seven) Kilograms per square centimeters at point of delivery, subject to availability of the corresponding matching pressures from ONGCL. However, in cases where the pressure of the GAS received by the SELLER from ONGCL are not sufficient to warrant supply of GAS at a gauge pressure upto 27(Twenty Seven) Kilograms per square centimeters at point of delivery, the SELLER shall provide the estimates of cost of compression of GAS to be borne by the BUYER in addition to the price under Article 10 hereinafter and monthly transmission charges/additional monthly transmission charges under Article 4.03 herein above. In case the compression cost to be borne by the BUYER is mutually agreed between the SELLER and the BUYER, the SELLER shall install, maintain and operate the GAS Compressors to compress the GAS to the pressure as stated hereinabove else the BUYER shall make arrangement to compress the GAS to pressure required by the BUYER at their end.



**ARTICLE-5 QUANTITY OF GAS**

5.01 Subject to availability of GAS and SELLER's ability to supply the same to the BUYER, the SELLER agrees to sell and deliver the GAS at the aforesaid point of delivery to the BUYER as per requirement of the BUYER subject to the maximum of 1640000 (One point Six Four Million) standard cubic meters per day. Provided further for first year of GAS supply or for period upto 30.12.2005, which ever is earlier, the BUYER shall give to the SELLER monthly forecast of the quantity of GAS required for each month atleast month in advance. The BUYER shall build/ maintain dual fuel capabilities in their plant for meeting their fuel requirement through alternative fuel as and when GAS is not available for supply to the BUYER and would not be dependent on natural gas alone.

5.02 For first year of GAS supply or for period upto 30.12.2005, which ever is earlier the BUYER guarantees to pay to the SELLER for actual quantity of the GAS supplied by the SELLER to the BUYER subject to the minimum of 80% of the monthly forecast quantities. Thereafter the BUYER shall pay to the SELLER for the actual quantity of GAS supplied by the SELLER to the BUYER subject to minimum of 80% of the monthly quantity on the basis of the quantities mentioned in clause 5.01, hereinafter referred to as minimum guaranteed offtake (MGO). The BUYER guarantees to buy during every month minimum guaranteed quantity of GAS equivalent to the quantity obtained by multiplying 80% of the daily maximum quantity mentioned in clause 5.01 by the number of days in the month. Upon the BUYER failing to lift the aforesaid minimum guaranteed quantities of GAS during any month, the BUYER undertakes to pay for the said minimum guaranteed monthly quantity for such month. In case the SELLER is unable to supply 80% of the maximum contracted quantity of GAS mentioned in clause 5.01 on any day(s) during any month the minimum guaranteed quantity for the month shall be worked out by adding the actual quantity of GAS supplied on such day(s) and the quantity obtained by multiplying 80% quantity of GAS mentioned in clause 5.01 by remaining number of day(s) during such month and the BUYER undertakes to pay for such minimum guaranteed quantity or for actual quantity of GAS supplied during the month whichever is higher.

5.03 The BUYER shall draw and SELLER shall supply daily the quantity of GAS agreed to in Article 5.01 and 5.02 above at an uniform rate spread over a period of 24 (Twenty four) hours.





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ARTICLE - 6 QUALITY OF GAS

6.01 The quality of GAS to be delivered to the BUYER will conform to the specifications laid down in Annexure-I hereto which shall form part of this CONTRACT.

6.02 If GAS delivered by the SELLER to the BUYER fails, at any time, to conform to the quality specifications provided in Annexure-I hereto, the BUYER shall notify the SELLER or his authorized representative of such deficiency in writing and the SELLER shall then take immediate steps to remedy such deficiency within reasonable time.

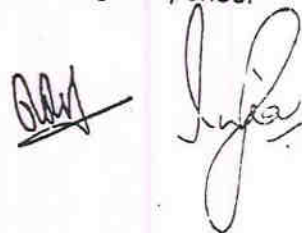
 

**ARTICLE - 7 SHUT DOWN AND STOPPAGE OF SUPPLY**

7.01. The schedule annual shut down of gas supply on the one side from the SELLER's end and on the other side at the BUYER's end shall be limited to all 15 (Fifteen) days in a year for each side. The party desiring a shutdown for the purpose shall give notice in writing to the other party atleast fifteen (15) days prior to the proposed date of shutdown. As far as possible the SELLER and the BUYER shall try to synchronise their shutdown periods. During such shutdown the provisions of clause 5.02 shall not be applied.

7.02. The BUYER shall inform the SELLER immediately about any accident and/or defects in installations of the BUYER calling for the complete or partial stoppage of supply of gas. Provided that in all such cases, the BUYER shall undertake immediate steps to rectify the defects for commencing normal intake of gas. Provided that in all such cases, the provisions relating to payment of minimum guaranteed offtake by the BUYER contained in clause 5.02 shall apply.

7.03. The SELLER shall, likewise, inform the BUYER immediately about any accident and/or defects in installations of the SELLER and gas pipeline calling for the complete or partial stoppage of supply of gas. Provided that in all such cases, the SELLER shall undertake immediate steps to rectify the defects for commencing normal supply of gas. Provided that in all such cases, the provisions relating to payment of minimum guaranteed offtake by the BUYER contained in clause 5.02 shall not be applicable for the duration of stoppage of supply during this period.





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## ARTICLE- 8 MEASUREMENT & CALIBRATION

8.01. The volume of GAS supplied under the CONTRACT shall be measured by flow meter installed at the GAS Metering Station of the SELLER. The GAS composition and net calorific value of GAS shall be as measured at SELLER's terminal or ONGC Terminal and the same shall be applicable for this CONTRACT. The BUYER shall be permitted to install its check flow meter as not to interfere with the operation of the instruments of the SELLER. In case the variation in the measurement of the flow between the SELLER's flow meter and the BUYER's flow meter is within  $\pm 2$  (Two) percent, the reading of SELLER's instrument shall be taken as final. If the variation exceeds  $\pm 2$  (Two) percent, the final value shall be arrived at as per the detailed procedure laid down in Article 8.04 below. The measurement shall include all corrections in installations practices recommended for accurate metering of GAS by the AGA Gas Measurement Committee Report No.3/7 by American Gas Association (AGA) and shall be binding on the parties hereto.

8.02. The flow meter at SELLER's installation shall be proved at a frequency to be mutually agreed upon.

8.03. In case the BUYER has any doubt on the proper working of the flow meter of the SELLER it shall inform the same to the SELLER in writing and may request for checking/calibration of the flow meter. The cost of such special test shall be borne by the SELLER if the percentage of inaccuracy is found to be more than limits stated in Article 8.01 above, but the cost of such special test shall be borne by the BUYER if the percentage of inaccuracy is within limits stated in Article 8.01 above.

8.04. If on calibration, the SELLER's meter registers a variation of more than  $\pm 2$  (two) percent or if the SELLER's meter is out of service, the following procedure in order of priority whichever is feasible for arriving at the computation of GAS during the period between the last calibration and the present one shall be followed:

- i) by using the recording by the check meter of the BUYER if installed and accurately registering; or
- ii) if 8.04(i) is not possible by correcting the error if the percentage of error is ascertainable by calibration, test or mathematical calculation; or
- iii) if neither 8.04(i) nor 8.04(ii) is possible by estimating the volume of GAS delivered by comparison with deliveries during period under similar conditions when the SELLER's meter was registering accurately.

8.05. The period to which the above corrections will apply will be as under;

- i) If any period during which the SELLER's meter has gone wrong is known or agreed upon that will be the period to which the correction is to be applied.


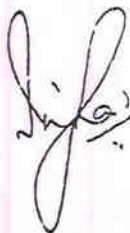
*[Signature]*

*[Signature]*

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ii) If the period is not known the correction shall be made for a period equal to half of the time elapsed since the date of the preceding calibration test, provided the correction period does not exceed sixteen (16) days.

8.06. in any case, if at the time of calibration the meter error exceeds half percent it will be re-calibrated.

8.07. Upon the written request of the BUYER, the SELLER shall permit the BUYER to examine relevant records, charts and calculations from its metering and measuring equipment. The SELLER shall preserve all such charts, records and calculations till such time the payment covered by the invoice of the SELLER has been paid by the BUYER. And likewise upon the written request of the SELLER, the BUYER shall permit the SELLER to examine relevant records, charts and calculations from its check meter. The BUYER shall preserve all such charts, records and calculations for a minimum period of thirty days from the date of presentation of invoice by the SELLER. Provided in the event of dispute regarding billing/payment such records shall be preserved by the BUYER, till the dispute is finally settled.



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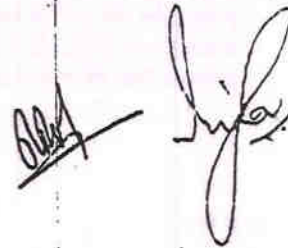
**ARTICLE- 9 FORCE MAJEURE**

9.01 Neither party hereto shall be liable for failure to perform or for delay in performing any provision (s) of the **CONTRACT** other than those provided for payment of GAS supplied, sold, purchased hereunder, if such failure or delay is caused for results from a Force Majeure.

9.02. The term Force Majeure in this **CONTRACT** means act of God, war, revolt, riot, tempest, flood, earthquake, lightning, direct, indirect consequences of war (declared/undeclared), sabotage, fire, hostilities, natural calamities, national emergency, civil disturbances or commotion, embargo or any law or promulgation, regulation or ordinance or executive order whether Central or State or local or Municipal authorities, failure of ONGC to supply GAS to the SELLER, and explosion in the BUYER's/SELLER's plant/installation. Upon occurrence or termination of such an event the party rendered unable to fulfil the contractual obligation as aforesaid shall notify the other party in writing within 24 (Twenty four) hours of the beginning and ending, giving full particulars and satisfactory evidence thereof.

9.03. Providing that in case such period of Force Majeure lasts for more than 3 (three) months, the parties shall consult each other with a view to agreeing to what action should in the circumstances be taken.



9.04. Provided the BUYER will make payment to the SELLER for actual quantity of gas supplied during the period of Force Majeure.



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**ARTICLE-10 PRICE OF GAS**

10.01 Present price of 1000 (One Thousand) Standard Cubic meters of GAS w.e.f 1.10.1997 is applicable as per Government Pricing Order No. L-12015/3/94-GP dated 18.9.1997 (Annexure III). After 31.3.2000 the SELLER shall have right to fix the price of GAS which may be as per directive, instruction, order, etc. of the Government of India etc which is likely to be market related in accordance with current policy of liberalization of the Government of India and the BUYER shall pay to the SELLER such price of GAS. Provided further, the price of GAS so fixed is exclusive of Royalty, Taxes, Duties, Service/Transportation (Transmission) charges and all other statutory levies as applicable at present or to be levied in future by the Central or State Government or Municipality or any other local body or bodies payable on purchase of GAS from ONGCL/Other Producer(s) by the SELLER or on sale from SELLER to the BUYER and these shall be borne by the BUYER over and above the aforesaid price.




**ARTICLE - 11 BILLING AND PAYMENT**

11.01. The BUYER shall open and maintain at its cost an irrevocable standby revolving Letter of Credit with any nationalized /scheduled bank, one month in advance of the date of commencement of GAS supply mentioned in Article 2.01 herein covering the value of 16 (Sixteen) days supply of gas at maximum contracted quantity as per article 5.01 plus monthly transmission charges / additional transmission charges payable as per Clause 4.03 in favour of the SELLER and continue to maintain at its cost the aforesaid irrevocable standby revolving Letter of Credit for entire period of the CONTRACT. If the BUYER does not open the irrevocable revolving letter of Credit as stipulated above, the SELLER shall have unrestricted right to, not to commence the supply of GAS till opening of such irrevocable revolving letter of Credit. Provided further provision of Article 5.02 shall continue to be applicable during the period of such discontinuation.

11.02. The SELLER shall raise invoice for the first fortnight covering the actual quantity at the price of GAS applicable from time to time as defined in Article 10 plus monthly transmission charges payable as per Clause 4.03 of the CONTRACT. The SELLER shall raise the invoice for second fortnight for the actual quantity of GAS supplied subject to the provision of Article 5.02. The invoice for the second fortnight will have adjustments done for calorific value as provided in Article 10. The SELLER will raise the invoices for each fortnight and the BUYER agrees to pay the invoices so raised in full within 3 (Three) working days of presentation of the said invoice. If for any reasons, the payment is delayed or any disallowance is made from the invoice, the SELLER will present the invoice for full payment or for the amount not paid as the case may be to the Bank against the letter of credit and draw the amount. The BUYER will make arrangements with the bank in a manner that in such an eventuality the full L/C amount gets automatically reinstated.

11.03. In case of any discrepancy/dispute, the BUYER shall lodge a claim with the SELLER within the period of 14 (Fourteen) days from the date of receipt of the related invoice. To the extent the claims admitted by the SELLER, the SELLER shall issue a credit note in favour of the BUYER and adjust the same in the next invoice to be raised. The SELLER undertakes to settle the claim of the BUYER within a period of 30 (Thirty) days from the receipt of such claim, if found acceptable. Failure of the BUYER to put forward any claim within the time above specified shall be an absolute waiver of any claim as also the BUYER's right to refer the matter to arbitration.



11.04. The BUYER shall always, during pendency of the CONTRACT, keep a revolving Letter of Credit (L/C) operative as stipulated in clause 11.02 above. In case L/C is not operative and payment is delayed an interest at the rate of 24% p.a. shall be applicable for all delayed payments. Delayed payment means any payment not received within the period provided in Clause 11.02 above. In case of default in making payments by the BUYER, without prejudice to other rights under the CONTRACT the SELLER shall be at liberty to stop supply of GAS without any further notice and such supplies may not be resumed till all payments are made and L/C restored. The provisions of Clause 5.02 would be applicable for billing and payment for the period during which the supply of GAS is stopped on account delayed payment or L/C not being reinstated by the BUYER.

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11.05. In case of any doubt or clarification by the BUYER whether a particular Cess or Tax or Fee(s) or Duty or Levy or Assessment etc. or any change thereto is effective or imposed, as the case may be, the BUYER shall take-up the matter directly with the concerned Central and/or State Governments or local authority or any such other body and/or bodies without withholding the payments thereto due to the SELLER under this CONTRACT and shall inform the SELLER regarding the decision of such authorities with documentary evidence. The BUYER shall not make the SELLER a party to any dispute that the BUYER may have with Centre or State Governments or Local authority or any such other body or bodies.



**ARTICLE - 12 TRANSFER OF RIGHTS**

12.01 The BUYER may transfer or assign its rights and obligations under this CONTRACT to any other associated company or corporation by giving prior notice to the SELLER of such transfer or assignment provided further all its rights and obligations under this CONTRACT for supply of GAS shall stand transferred to such associated company or corporation to whom BUYER transfers its rights and obligations. Provided further that the BUYER shall first make all payments in full including interest, if any, before such transfer or assignment. The said assignment (or) transfer shall be with the prior written consent of the SELLER.

12.02 Notwithstanding anything above, the SELLER shall have right to reject the said assignment (or) transfer of the CONTRACT without assigning any reason. Further, if at any stage during the period of the CONTRACT, it is found that the assignment (or) transfer of the CONTRACT of GAS supply is a 'Sale' (or) against the spirit of the CONTRACT, the SELLER shall have the right to stop/suspend the GAS supply and refer the matter to Ministry of Petroleum & Natural Gas/ Gas Linkage Committee for cancellation. However, if assignment (or) transfer is sought during the implementation of activities enumerated in Annexure II hereto, the matter shall be referred to Ministry of Petroleum & Natural Gas/ Gas Linkage Committee for decision.



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**ARTICLE - 13 ARBITRATION**

13.01. The provision of the Arbitration and Conciliation Act, 1996 and the rules made thereunder and any statutory modifications thereof, shall be deemed to form part of this CONTRACT.

13.02. Unless otherwise specified any dispute or difference whatsoever arising out of this CONTRACT which is not settled by mutual consultations, shall be referred to a sole arbitrator selected by the BUYER from a panel of three arbitrators proposed by the SELLER. The venue of Arbitration shall be New Delhi, by whatever name or status it is called.

13.03. The decision of the sole Arbitrator, shall be final and binding on both parties to the dispute. The Arbitrator, shall decide by whom and in what proportion all costs incurred in the Arbitration, including the fees payable to the Arbitrator, shall be borne. The Arbitrator, may, with the consent of the parties, extend the time from time to time, for making and publishing his award, as the case may be.





**ARTICLE - 14 LAWS GOVERNING THE CONTRACT**

14.01 The CONTRACT shall be governed by the Indian Laws, rules and regulations, notifications, etc. and Courts of Delhi shall have exclusive jurisdiction over any dispute(s) arising out of this CONTRACT.

**ARTICLE - 15 RESALE AND RESTRICTION ON USE OF GAS**

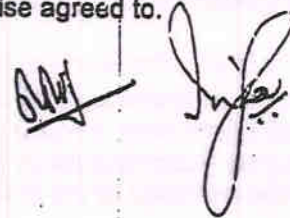
15.01. The BUYER shall not be entitled to sell GAS to any other party nor will use it for any other purpose other than those contemplated in this CONTRACT unless mutually agreed to in writing by the BUYER and the SELLER.

**ARTICLE - 16 PREVIOUS CORRESPONDENCE**

16.01. All discussions and meetings held and correspondences exchanged between the BUYER and the SELLER in respect of the CONTRACT and any decisions arrived at therein in the past and before the coming into force of the CONTRACT are hereby superseded by the CONTRACT and no reference of such discussions or meetings or past correspondence will be entertained by either the SELLER or the BUYER for interpreting the CONTRACT or otherwise.

**ARTICLE - 17 AMENDMENTS**

17.01 Any amendment to any of the clauses of the CONTRACT will be proposed and sent in writing to the other party proposing such amendment and if both the SELLER and the BUYER agree to such amendment then the same shall be incorporated in the CONTRACT and shall become binding on the parties as such from the date the agreement is reached unless otherwise agreed to.





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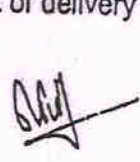

**ARTICLE - 18 INDEMNITIES**

18.01. The delivery of GAS being a continuous process, once the GAS passes the point of delivery, the BUYER shall be deemed to be in exclusive possession and control of the said GAS & fully liable and responsible for its arrangements, appurtenance and properties. Accordingly the BUYER covenants and agrees to fully protect, indemnify and hold the SELLER, its employees, agents and successors and assigns harmless against any and all claims, demands, actions, suits, proceedings and judgements and any and all liabilities, costs, expenses, damages or losses growing out of or resulting from or incidental to or in connection therewith which may be made or brought against the SELLER whether by the BUYER, its employees, agents or successors and assigns or by third parties on account of damages or injury to property or person or loss of life resulting from or arising out of the installation, presence; maintenance or operation of the intake arrangements, appurtenances and properties of the BUYER or others relating to the possession and handling of any GAS supplied and further defend the SELLER at BUYER's sole expense in any litigation involving the SELLER.

18.01(a) Provided further the BUYER shall continue to maintain, install and operate all such equipments/appurtenances for the safety of the operation of its gas pipeline and plant from the point of delivery in its premises as are applicable under relevant safety code(s)/standard(s). The SELLER shall have free access to such information(s) of the BUYER's facilities.

18.02. Likewise, before the point of delivery the SELLER shall be in control and exclusive possession of GAS and shall be fully liable and responsible for its arrangements appurtenances and properties. Accordingly the SELLER covenants and agrees to fully protect, indemnify and hold the BUYER, its employees, agents and successors and assigns harmless against any loss or damage and all claims, demands, actions, suits, proceedings and judgements and any and all liabilities, cost, expenses, damages or losses arising out of or resulting from or incidental to or in connection therewith which may be made or brought against the BUYER whether by the SELLER, its employees, agents or successors and assigns or by third parties on account of damage or injury to property or person or loss of life resulting from or arising out of the installation, presence, maintenance, or operation of the supply arrangements appurtenance and properties and GAS Metering Station of the SELLER and the possession and handling of any GAS received and further defend the BUYER at SELLER's sole expense in any litigation involving the BUYER.

18.03. The SELLER shall be totally responsible for all Insurance coverage relating to person, third party, the GAS supply etc. upto the point of delivery of GAS. Likewise, the BUYER shall be responsible for the above from the point of delivery of GAS and thereafter.



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ARTICLE- 19 CONSENT

The BUYER hereby expressly declares and admits that the above provisions have been read and understood to their satisfaction and is executing this CONTRACT out of their free will and consent.

ARTICLE -20 ADDRESS OF PARTIES

20.01. The address of the parties hereto unless changed by written notification to be given atleast 15 days in advance by registered letter prior to proposed date of change, shall be as follows:

THE SELLER

Executive Director (Mktg & Plg)  
Gas Authority of India Ltd.  
16, Bhikaji Cama Place,  
NEW DELHI - 110 066

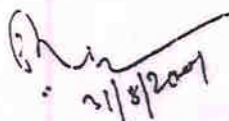
THE BUYER

Managing Director  
M/s Vemagiri Power Generation Limited  
Plot No 62, Road No 3,  
Banjara Hills, Hyderabad-500034(A.P)

IN WITNESS WHEREOF the parties hereto acting through their properly constituted representative have set their hands to cause this CONTRACT signed and executed for and on their behalf:

WITNESS

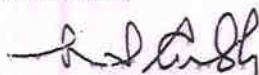
FOR & ON BEHALF OF THE SELLER


  
21/8/2007

  
I. N. JHA  
Executive Director  
(Marketing & Planning)  
Gas Authority of India Ltd.  
16, Bhikaji Cama Place  
New Delhi - 110 066

WITNESSES

FOR & ON BEHALF OF THE BUYER

  
21/08/01

  
R. RAM MOHAN  
DIRECTOR


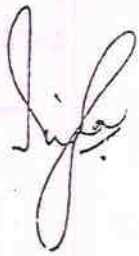
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ANNEXURE - I

**SPECIFICATION OF GAS.**

The GAS shall have the following limits of composition at the delivery point:

- |  |                                 |
|--|---------------------------------|
| i) Methane   | : Not less than 75% by volume   |
| ii) Other Gaseous Hydrocarbons   | : Not more than 20% by volume   |
| iii) Non-combustible gases other than Hydrocarbons including Nitrogen, Carbon-dioxide. | : Not more than 8% by volume.   |
| iv) Total Sulphur content as H <sub>2</sub> S  | : 10 ppm vol. (Max)             |
| v) Moisture content  | : No free water will be present |


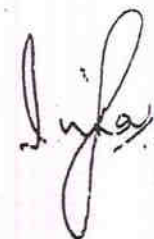
 



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ANNEXURE - II

Sl No	Activity	Date
1.	Purchase of Land/Site Development	31.07.2002
2.	Placement of Order for Equipment's	31.12.2002
3.	Completion of Main Civil Works and Erection	31.8.2004
4.	Commencement of Drawal of Gas	31.12.2004

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ANNEXURE - II

(S No 25)

NO: L-12015/3/94-GP  
Government of India  
Ministry of Petroleum and Natural Gas

New Delhi, Dated: September 18, 1997

To,

1. Shri C.R. Prasad,  
Chairman and Managing Director,  
GAIL,  
New Delhi.
2. Shri B.C. Bora,  
Chairman and Managing Director  
ONGC,  
New Delhi.
3. Shri N.N. Gogoi,  
Chairman and Managing Director,  
OIL,  
New Delhi.

Sub: Natural Gas Prices.

Sir,

I am directed to state that in supersession of all previous letters of the Government of India on the above subject, the prices of natural gas have been revised as follows w.e.f. October 1, 1997:

- i. From October 1, 1997 to March 3, 2000, the consumer price of gas at landfall points would be linked to the price of a basket of LS/HS Fuel Oils as shown in the table below:

Range of LS/HS FO Price

Year	General Price	Concessional Price for the North-Eastern States
1997-98	55%	30%
1998-99	55%	40%
1999-2000	5%	45%

- ii. The price would be determined and notified by GAIL with the approval of the Ministry for every quarter depending upon the average price of the basket of Fuel Oils based on the figures obtained from Platt's Oilgram for the previous quarter.



general prices would vary between the floor price of Rs. 2150/MCM and the ceiling price of Rs. 2820/MCM and the concessional price for the North-Eastern States would have a floor price of Rs. 1200/MCM and the ceiling price of Rs. 1700/MCM. A discount of Rs. 300/MCM would also be available for existing consumers in the North-East on a case to case basis and the concessional price and the discount of Rs. 300/MCM would be available on a case to case basis to the new units in the North-Eastern States set up during 1997-2002 for a period of five years. Clarifications/guidelines regarding the manner of fixation of the gas price would be issued separately by this Ministry.

iii. The consumer price of gas as above would be linked to a calorific value of 10,000 kilo calories/cu.mtrs. The existing linkage between price and calorific value would be retained till gas prices can be denominated in terms of calories would be expedited by the Ministry of Petroleum and Natural Gas in consultation with ONGC, OIL and GAIL.

iv. The consumer price of gas will be reviewed at the end of the first three years (1997-2000) with a view to achieving 100% Fuel Oil parity prices over the 4th and 5th years.

v. ONGC/OIL/GAIL is permitted to sell gas from marginal isolated fields to be developed in future, at market driven prices.

vi. Over the period October 1, 1997 to March 31, 2000, the transportation charge payable to GAIL along the HBJ pipeline would be Rs. 1150/MCM. The transportation charge will increase by 1% for every 10% increase in the consumer price index. This increase will be paid to GAIL out of the Gas Pool Account. The transportation charge will be linked to the calorific value of 3500 kcal/cu.mtr. till such time as it could be denominated in terms of calories. The transportation charge will be reviewed after years.

vii. In addition to the price as fixed above, the transportation charges and royalty, taxes, duties and other statutory levies on the production, transportation and sale of natural gas will be payable by the consumers.

viii. Out of the consumer prices collected by GAIL, GAIL will retain the amount required to pay for the higher cost of gas purchased from the JVCs.

ix. An amount of Rs. 250 crores per year will also be deducted by GAIL from the consumer prices collected and the same shall be credited to the Gas Pool Account to continue to compensate OIL for concessional gas price in the North-East; to continue providing a marketing margin to GAIL, to compensate GAIL/OIL for increases in the operating cost on account of inflation and for utilisation on R&D for exploration and exploitation of small fields. Any balance amount left in the Gas Pool Account after taking care of the above requirements would be transferred to the Central Exchequer. For the purpose of compensating OIL for concessional gas price in the North-East, the producer price of

(2)

and

*[Signature]*



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OIL will be Rs.1900/MCM which will be increased by 1% for a 10% change in the consumer price index. The Gas Pool Account be administered by a Committee with the following members:

JSRFA, Ministry of Petroleum and Natural Gas - Chairman

JS (Exploration), Min. of Petroleum and Natural Gas - Member

Director (Natural Gas), Ministry of Petroleum and Natural Gas - Member

x. GAIL shall pass on to ONGC and OIL in proportion to the supplied by them, on a net back basis the entire proceeds sales of gas of ONGC and OIL, after making deductions under pa (viii) & (ix) above.

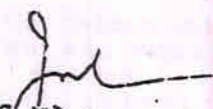
xi. The producer price of gas payable to ONGC/OIL w.e. 1.1.1996 till 30.9.1997 will be Rs.1650/MCM. The increment be paid out of the Gas Pool Account.

xii. Contractual issues relating to the gas supply contract GAIL including minimum guaranteed offtake, penalty for non-supply etc. will be reviewed by the Ministry of Petroleum and Natural Gas in consultation with the Gas Linkage Committee.

2. Any provisions of the earlier gas pricing orders not specifically revised above will continue to be in force.

3. Kindly acknowledge receipt of this letter.

Yours faithfully,

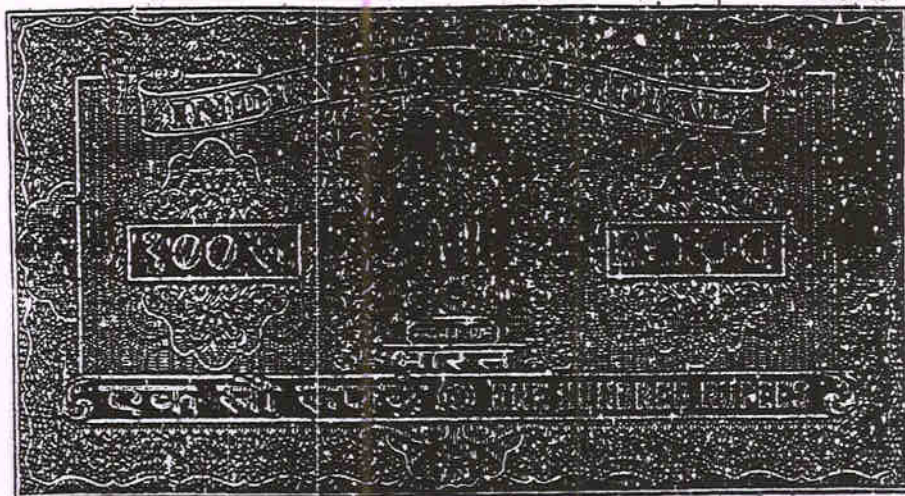
  
(I.S.V. Prasad)  
Deputy Secretary (NG)



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100Rs.



S.No. 14554 DATE 17/1/03

SOLD TO B. Srinivasulu

S/o W. Srinivasulu

FOR WHOM S. Srinivasulu

02704

Stamp Vendor C No 54/22, L.No. 30/2002  
M.Nr. 7-1-921, 287, S R. Nagar,  
HYDERABAD-500 038.

**AMENDMENT AGREEMENT TO THE POWER PURCHASE AGREEMENT  
FOR THE GAS BASED POWER PROJECT OF 377 MW  
AT VEMAGIRI, EAST GODAVARI DISTRICT**

This Amendment Agreement is entered into to amend the Power Purchase Agreement dated the 31<sup>st</sup> day of March 1997, at Hyderabad on this day of 18<sup>th</sup> June, 2003 (here in after referred to as "this agreement").

**BETWEEN:**

1. Transmission Corporation of Andhra Pradesh Limited constituted under the section 13 of Andhra Pradesh Electricity Reforms Act, 1998 (Act, 36 of 1998) and successor to erstwhile APSEB (hereinafter referred to as "Board") and having its office at Vidyut Soudha, Hyderabad - 500 082 (hereinafter referred to as the "APTRANSCO" which expression shall, unless repugnant to the context or meaning thereof include its successors and assigns), as Party of the first part,

FOR VEMAGIRI POWER GENERATION CO.

*B. Srinivasulu*  
VICE CHAIRMAN

*P. M. K. GANDHI*  
P. M. K. GANDHI  
Director (Operations & Maintenance)  
AP TRANSCO, Ltd.

2. M/s Vemagiri Power Generation Limited (VPGCL), a company incorporated under companies act, 1956 and having its Corporate Office at Skip House, 25/1 Museum Road, Bangalore - 560 025 (hereinafter referred to as the "Company" which expression shall, unless repugnant to the context or meaning thereof include its successors and assigns), as Party of the second part;

3. Whereas, the Government of Andhra Pradesh (here in after called "GOAP") announced a policy for attracting private sector investments in power sector and in line with the Government policy, the erstwhile Board invited bids for short gestation power projects. M/s Nippon Denro Ispat Limited (Now Ispat Industries Limited), participated in tenders and submitted a bid to design, finance, construct, complete, own and operate a liquid fuel based power station of 468 MW capacity at Vemagiri, East Godavari District in Andhra Pradesh, India. The erstwhile Board accepted the bid by M/s Nippon Denro Ispat Limited (Now Ispat Industries Limited) and they were selected by the erstwhile Board and duly approved by the GOAP to establish the said Power Project.

4. Whereas, M/s Nippon Denro Ispat Limited (Now Ispat Industries Limited) incorporated a new company under the Indian Companies Act, 1956 with the name "M/s Ispat Power Limited, with its Registered Office at Ispat House, BG Kher Marg, Worli, Mumbai to develop, finance, construct, complete, own and operate the Project, to execute 468 MW Project at Vemagiri and this newly formed company accordingly entered into PPA signed on 31.3.97.

5. M/s Nippon Denro Ispat Limited (Now Ispat Industries Limited), who originally received the Letter of Intent to setup the Power Project, have furnished to the APTRANSCO Relinquishment deeds, relinquishing their rights, claims and demands in the Project to be established at Vemagiri. Accordingly M/s Ispat Power Limited, the Generating Company who signed PPA on 31.03.1997 will develop, finance, construct, complete, own and operate the 468 MW Project at Vemagiri.

6. Whereas, M/s Ispat Power Limited proposed to develop, finance, construct, complete, own and operate the Project and agreed to sell the capacity and energy generated by the Project to the erstwhile Board and the erstwhile Board agreed to purchase such capacity and energy in accordance with the terms and conditions of the Power Purchase Agreement.

7. Whereas, M/s Ispat Power Limited resolved to change their name as M/s Vemagiri Power Generation Limited and substituted their new name and registered the change of name with the Registrar of Companies, Mumbai duly submitting the resolution as required.

8. Registrar of Companies vide certificate No.11-104977 dated 11.12.98 issued a fresh certificate of incorporation No.11-104977 on the name of M/s Vemagiri Power Generation Limited.

9. Whereas, Central Electricity Authority, New Delhi vide Lr.No.F.No.2/AP/61/96-PAC/368-391, dated 14.1.99 accorded Techno Economic Clearance for the 492 MW Combined Cycle Power Plant of the Company at an estimated completed cost of US \$ 248.020 Million + F.s.638.223 Crores at a foreign exchange rate of Rs.42.6 per US \$.

PMG

P. M. K. GANDHI  
Director (Finance and Accounts)

FOR VEMAGIRI POWER GENERATION LTD.

VICE CHAIRMAN



10. Whereas, consequent to change of name M/s Ispat Power Limited requested APTRANSCO to correspond in the name and style of M/s Vemagiri Power Generation Limited (hereinafter referred to as "Company"). M/s Ispat Industries Limited submitted an Indemnity Bond indemnifying APTRANSCO that in the event of failure on the part of M/s Vemagiri Power Generation Limited to adhere to all or any of the conditions contained in the Letter of Intent together with PPA, they shall be held liable for any consequences of non-fulfilment of the conditions. M/s Vemagiri Power Generation Limited gave an Undertaking Bond stating that they shall undertake and complete the scheme as per the terms and conditions set by the APTRANSCO in LOI and as per conditions in the PPA entered into by M/s Ispat Power Limited. M/s Vemagiri Power Generation Limited requested APTRANSCO and GOAP to recognize the new name.

11. Whereas, GOAP in their letter No.664/Pr.1/1/96 dated 15.10.99 accorded approval for change of name of the Company from M/s Ispat Power Limited to M/s Vemagiri Power Generation Limited under section 15(A) of Electricity Supply Act, 1948 with the terms and conditions governing the original award of power Project and obligations of IPP under PPA remaining unaltered.

12. Whereas, M/s Vemagiri Power Generation Limited in their letter dated 2.5.2000 to the Government of Andhra Pradesh stated that they confirm their acceptance to match the terms applicable to Gautami Power Limited with respect to capacity charge, FDSC, OFC, repayment period, station heat rate, incentives and other benefits and requested the GOAP to recommend to GOI for allotment of Natural Gas.

GOAP in letter dated 19.5.2000 communicated that since M/s Vemagiri Power Generation Limited agreed to match the terms applicable to Gautami Power Project with respect to capacity charge, FDSC, OFC, repayment period, station heat rate, incentives and other benefits, it was agreed to accept the offer of M/s Vemagiri Power Generation Limited and to recommend for allotment of Gas to GOI.

13. Whereas, Ministry of Petroleum & Natural Gas, GOI in letter dated 5.6.2000 has allocated 1.64 MMSCMD of Natural Gas from KG Basin on firm basis to M/s Vemagiri Power Generation Limited.

14. Whereas, GOAP advised developers either to restrict their plant capacity according to the Gas allotted or to execute the project in two stages with available Gas and balance capacity after the additional gas allotment or to join with some other project/Gas allottee and implement the project as per Gas availability.

15. Whereas, M/s Vemagiri Power Generation Limited has chosen the second option to execute the project in two Stages as per Gas availability as below:

Stage I	--	370 MW with available Gas of 1.64 MCMD
Stage II	--	150 MW after obtaining Gas

*P.M.K.*  
P. M. K. CANNAN  
Director (Power) & Secretary  
APTRANSCO

For VEMAGIRI POWER GENERATION LTD.  
*B. S.*  
VICE CHAIRMAN

Whereas, the GOAP through their letter dated 15.12.2000 have allowed the Company to implement the Project in two stages of 370 MW in stage I and 150 MW in Stage II.

Whereas, it is the responsibility of the developer to secure the additional gas required for Stage II of the Project with a capacity of 150 MW. The permission to proceed with Stage II of the Project will be given by GOAP, only after the developer gets the required 100% gas allocation and the implementation schedule of Stage II of the Project approved by APTRANSCO with reference to its load requirements and evacuation facilities to be in place.

Whereas, the GOAP in letter dated 8.1.2001 permitted the Company under section 18(A) of the Electricity (Supply) Act 1948 to establish operate and maintain 520 MW Gas based Power Project to be implemented in two stages near Vemagiri, East Godavari District in Andhra Pradesh State.

16. Now whereas, M/s VPGL in letter dated 3.10.2001 intimated that the GMR Group and its Associates have now joined this Project as strategic investors and developers. The proposed equity holding in the Project is as detailed below:

GMR Group and its Associates	--	63%
Ispat Group and its Associates	--	37%

17. Now the Amendment Agreement to Power Purchase Agreement is for the capacity of 370 MW project under Stage I. However, all commercial terms and conditions governing Stage II of the Project shall be the same as per terms and conditions of this Amendment Agreement.

18. Draft Amendment to the PPA was sent to APERC for consent under section 21(4) of APER Act, 1998 on 5.12.2001. APERC conducted public hearing on 19.12.2002. APTRANSCO submitted its remarks on the objections raised during the public hearing. APERC issued consent to the Draft Amendment to the PPA vide its order dated 12.4.2003 for stage-I of capacity of 370 MW.

19. Now therefore, it is agreed between APTRANSCO and the Company that this Amendment Agreement to the Power Purchase Agreement dated 31.3.97 is entered as detailed hereunder:

- (a) The Power Purchase Agreement dated 31.3.97 shall stand amended as indicated in the attached Annexure.
- (b) All other terms and conditions of Power Purchase Agreement dated 31.3.97 and all other obligations of both the parties shall be binding on both the parties and are effective from the date of this Amendment Agreement dated the 18<sup>th</sup> day of June, 2003.

PML

P. M. K. GANDHI  
Director (Operations)  
APTRANSCO  
Hyderabad

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For VEMAGIRI POWER GENERATION LTD.

B. S. Srinivas  
VICE CHAIRMAN



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IN WITNESS whereof this Amendment Agreement to the Power Purchase Agreement is executed by the parties hereto, on the day, month and year herein above written through the hands of.

For and on behalf of  
TRANSMISSION CORPORATION OF ANDHRA PRADESH LIMITED

WITNESS:

- 1) *V. Venkatesh* 18/6/03  
V. Venkatesh  
2) *R. Lakshmi*  
(T. PRA BHAKAR)  
SEI ELC

*M. K. C. Srinivas*  
P. M. K. C. Srinivas  
Director (Commercial) & General Manager  
APTRANSCO  
HYDRA

For and on behalf of  
M/s VEMAGIRI POWER GENERATION LIMITED

WITNESS:

- 1) *G. K. Lenka*  
G. K. Lenka  
2) *R. Narayana*  
R. Narayana

*S. Srinivas*  
V. Srinivas  
VEMAGIRI POWER GENERATION LTD.

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AMENDMENT AGREEMENT TO POWER PURCHASE AGREEMENT

FOR THE GAS BASED POWER PROJECT  
OF 370 MW AT VEMAGIRI, EAST GODAVARI DISTRICT

BETWEEN

EASTERN POWER DISTRIBUTION COMPANY OF ANDHRA PRADESH  
LIMITED

AND

SOUTHERN POWER DISTRIBUTION COMPANY OF ANDHRA PRADESH  
LIMITED

AND

CENTRAL POWER DISTRIBUTION COMPANY OF ANDHRA PRADESH  
LIMITED

AND

NORTHERN POWER DISTRIBUTION COMPANY OF ANDHRA PRADESH  
LIMITED

AND

M/s VEMAGIRI POWER GENERATION LIMITED

Dated 02-05-2007

*Initials*

*P. H. P.*  
CHIEF GENERAL MANAGER  
PROJECTS (APSDCL)  
TIRUPATI.

*Ch. J.*  
CHIEF GENERAL MANAGER (General)  
APSDCL, Red Hills,  
HYDRABAD - 500 004.

For Vemagiri Power Generation Ltd.

*[Signature]*  
Authorized Signatory 2/5/07

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FORVING

G. JYOTHI  
S.V. L.No. 2/2005 RL 1/07  
H.No. 25/3RT, S.R. Nagar,  
Hyderabad-38. Ph. 65656939

AMENDMENT AGREEMENT TO THE POWER PURCHASE AGREEMENT  
FOR THE GAS BASED POWER PROJECT OF 370 MW  
AT VEMAGIRI, EAST GODAVARI DISTRICT

This Amendment Agreement is entered into at Hyderabad on this 2<sup>nd</sup> day of May 2007 to amend the Power Purchase Agreement dated the 31<sup>st</sup> day of March 1997 (as amended by the Amendment Agreement to the Power Purchase Agreement dated the 13, 2003.) (hereinafter referred to as the "Amendment Agreement").

BETWEEN:

Eastern Power Distribution Company of Andhra Pradesh Limited, constituted under the sub-section (6) of section 23 of Andhra Pradesh Electricity Reform Act, 1998 (Act. 30 of 1998) and having its registered office at Sai Shakthi Bhavan, Near Saraswathi Park, Vishakhapatnam - 530 020 (hereinafter referred to as "APEPDCL"); Southern Power Distribution Company of Andhra Pradesh Limited, constituted under the sub - section (6) of section 23 of Andhra Pradesh Electricity Reform Act, 1998 (Act, 30 of 1998) and having

*[Handwritten signatures and initials]*



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its registered office at H.No. 193-13 (M), Upstairs, Renigunta road, Tirupathi - 517501 (hereinafter referred to as "APSPDCL"); Central Power Distribution Company of Andhra Pradesh Limited, constituted under the sub-section (6) of section 23 of Andhra Pradesh Electricity Reform Act, 1998 (Act, 30 of 1998) and having its registered office at H.No. 11-64-660, 3<sup>rd</sup> Floor, Singareni Bhavan, Khairatabad, Hyderabad- 500 004 (hereinafter referred to as "APCPDCL"); Northern Power Distribution Company of Andhra Pradesh Limited, constituted under the sub-section (6) of section 23 of Andhra Pradesh Electricity Reform Act, 1998 (Act, 30 of 1998) and having its registered office at H.No. 1-1-303 & 304 Opp. "NIT" Petrol Pump, Chaitanyapuri, Hanamkonda, Warangal - 506004 (hereinafter referred to as "APNPDCL") (hereinafter each of APEPDCL, APSPDCL, APCPDCL and APNPDCL are, as the context may require, individually referred to as "APDISCOM" and collectively referred to as the "APDISCOMS" which expressions shall, unless it be repugnant to the context or meaning thereof include its successors and assigns), as parties of the first part, and

2. M/s Vemagiri Power Generation Limited, a company incorporated under companies act, 1956 and having its Corporate Office at Skip House, 25/1, Museum Road, Bangalore - 560 025 (hereinafter referred to as the "Company" which expression shall, unless repugnant to the context or meaning thereof include its successors and assigns), as party of the second part.

#### Recitals

1. Whereas, the Company had entered in a Power Purchase Agreement dated March 31, 1997 which was amended on June 18, 2003 by the Amendment Agreement to the Power Purchase Agreement.
2. Whereas, the rights and obligations of Transmission Corporation of Andhra Pradesh Limited, a body constituted under the section 13 of Andhra Pradesh Electricity Reforms Act, 1998 (Act, 30 of 1998) and successor to erstwhile Andhra Pradesh State Electricity Board and having its registered office at Vidyut Soudha, Hyderabad - 500 082 (hereinafter referred to as the "APTRANSCO") under the Power Purchase Agreement dated March 31, 1997 and the Amendment Agreement to the Power Purchase Agreement dated June 18, 2003 (hereinafter Power Purchase Agreement dated March 31, 1997 and the Amendment Agreement to the Power Purchase Agreement dated June 18, 2003 are collectively referred to as the "PPA") have been transferred to the APDISCOMS pursuant to a transfer scheme formulated by the Government of Andhra Pradesh and issued vide the notification bearing number [G.O.Ms No.58 Energy (Power-III), dated 07-06-2005] by the Energy Department, Government of Andhra Pradesh as published in the Andhra Pradesh Gazette on June 3, 2005 (hereinafter the notification is referred to as the "Third Transfer Scheme").
3. Whereas, the APDISCOMS have agreed to discharge all the obligations of APTRANSCO under the PPA as provided herein and in accordance with the Third Transfer Scheme.

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4. Whereas, the parties are desirous of amending the PPA on the terms and conditions set forth herein and in terms of the Third Transfer Scheme. The proposed amendments duly initiated by APDISCOMs and the Company and submitted to Andhra Pradesh regulatory Electricity Commission (APERC) on 6.6.2006 for consent. APERC conducted public hearings on 17.7.2006 and 27.7.2006. APDISCOMs submitted responses/clarifications on the objections raised before and after public hearings. APERC issued consent to the proposed amendments and subsequent modifications vide its orders dated 30.12.2006 and amendment order dated 30.03.2007 in O.P.No. 19 of 2006.

NOW THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. In terms of the Third Transfer Scheme, APDISCOMS confirms and agrees that the APDISCOMS shall be deemed for all purposes to be a signatory to the PPA with the same force and effect as if APDISCOMS had been original signatories thereto, and the APDISCOMS agree to be bound by all terms and conditions thereof and discharge all obligations thereunder and hereunder.
2. The parties acknowledge and agree that the APDISCOMS have replaced APTRANSCO in all respects with regard to the PPA and shall execute such other or further documents and / or take such steps, as are necessary and / or incidental, in order to give full and complete effect to such transfer of contracts, deeds, agreements and other instruments of whatever nature to the APDISCOMS.
3. Subject to Clause 2 hereof and pending the execution of such other or further documents as envisaged under Clause 2 hereof, the parties hereto are entering into this Amendment Agreement to the PPA as detailed hereunder:
  - (a) The PPA shall stand amended as mentioned hereunder and as indicated in the attached Annexure attached hereto, which Annexure shall constitute an integral part of this Amendment Agreement.
  - (b) The PPA shall stand modified or amended to the extent provided herein. All other terms and conditions of PPA and all other obligations of the parties shall continue to be binding on the parties. This Amendment Agreement and the PPA shall together constitute one and the same agreement and the provisions of this Amendment Agreement shall form an integral part of the PPA. However, notwithstanding the foregoing, should any provisions of this Amendment Agreement be at variance or in conflict with any of the provisions of the PPA, the provisions of this Amendment Agreement shall prevail.

Witnessed by  and  on this day of  2006.

IN WITNESS, whereof this Amendment Agreement is executed by the parties hereto, on the 2<sup>nd</sup> day of May 2007 herein above written through the hands of,

For and on behalf of  
EASTERN POWER DISTRIBUTION COMPANY OF ANDHRA PRADESH LTD

*[Signature]*  
Chief General Manager (Comm)  
APCPDCL, Redhills,  
HYDERABAD-500 002

For and on behalf of  
SOUTHERN POWER DISTRIBUTION COMPANY OF ANDHRA PRADESH LTD

*[Signature]*  
CHIEF GENERAL MANAGER  
PROJECTS (APSPDCL)  
HYDERABAD

For and on behalf of  
CENTRAL POWER DISTRIBUTION COMPANY OF ANDHRA PRADESH LTD

*[Signature]*  
M. NAKARATHNAM  
Chief General Manager (Comm)  
APCPDCL, Redhills,  
HYDERABAD-500 002

For and on behalf of  
NORTHERN POWER DISTRIBUTION COMPANY OF ANDHRA PRADESH LTD

WITNESS:

- 1) *[Signature]*  
2) *[Signature]*

WITNESS:

- 1) *[Signature]*  
2) *[Signature]*

For Vemagiri Power Generation Limited

For and on behalf of  
M/s VEMAGIRI POWER GENERATION LIMITED

For Vemagiri Power Generation Ltd  
*[Signature]*  
Authorized Signatory



## ANNEXURE

**AMENDMENT AGREEMENT BETWEEN APDISCOMS AND M/s VEMAGIRI  
POWER GENERATION LIMITED TO AMEND THE POWER PURCHASE  
AGREEMENT DT.31.3.1997 AND AMENDMENT AGREEMENT DT.18.6.2003**

SL NO	PPA CLAUSE REF	EXISTING PROVISION	PROPOSED AMENDMENT
1	1.1.27	Fuel: means Natural Gas that is intended to be used as primary fuel by one or more units of the Project to generate power from the Project or in case of unavailability of primary fuel, Naptha or Low Sulphur heavy stock and the like as alternate Fuel. a) [Intentionally left blank]	Fuel: means Natural Gas only. a) [Intentionally left blank]
2	1.1.44	Plant Load Factor or PLF: means the ratio, expressed as a percentage, of the number of KWH of Cumulative Available Energy in any Tariff Year arrived at as per Article 5.2(c) and as computed at the generator terminals in accordance with Schedule D less energy units equivalent to 8% of the installed capacity of 370 MW, which works out to 162.06 million energy units (KWH) at Generator terminals to the maximum KWH of energy that could theoretically be generated by the Project during that Tariff Year based on 8760 hours multiplied by the installed Capacity, computed at the generator terminals, provided that if the PLF as computed is negative number, then PLF shall be taken as zero.	Plant Load Factor or PLF: means the ratio, expressed as a percentage, of the number of KWH of Cumulative Available Energy in any Tariff Year arrived at as per Article 5.2(c) and as computed at the generator terminals in accordance with Schedule D less Committed Incentive Energy expressed in KWH to be supplied by the Company in accordance with Article 3.2(A) to the maximum KV/H of energy that could theoretically be generated by the Project during that Tariff Year based on 8760 hours multiplied by the installed Capacity, computed at the generator terminals, provided that if the PLF as computed is negative number, then PLF shall be taken as zero.
3	1.1.54	Schedule Date of Completion: Means, the following dates with respect to each Generating Unit.  <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>Unit</p> <p>Scheduled Date of Completion (SDOC) from the date of signing of Amendment Agreement</p> <p>Gas Turbine (First Unit) 28 months</p> <p>Steam Turbine (Last Unit) 31 months</p> </div> <div style="width: 45%;"> <p>Unit</p> <p>Scheduled Date of Completion (SDOC) from the date of signing of Amendment Agreement dated 18.6.2003</p> <p>Gas Turbine (First Unit) 31.03.2008</p> <p>Combined Cycle (Last Unit) 31.03.2003</p> </div> </div>	Scheduled Date of Completion: means, the following dates with respect to each Generating Unit.  <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>Unit</p> <p>Scheduled Date of Completion (SDOC) from the date of signing of Amendment Agreement dated 18.6.2003</p> <p>Gas Turbine (First Unit) 31.03.2008</p> <p>Combined Cycle (Last Unit) 31.03.2003</p> </div> <div style="width: 45%;"> <p>Unit</p> <p>Scheduled Date of Completion (SDOC) from the date of signing of Amendment Agreement dated 18.6.2003</p> <p>Gas Turbine (First Unit) 31.03.2008</p> <p>Combined Cycle (Last Unit) 31.03.2003</p> </div> </div>

V. Kumar D.K.

S. Ch. S. S.



SL NO	PPA CLAUSE REF.	EXISTING PROVISION	PROPOSED AMENDMENT
		<p>Note 1 : The COD of the project shall have been achieved in all respects by the SDOC of the Project. In case the Project COD is not achieved within 90 days from the date of COD of the first Generating Unit, the charges payable will be combined cycle energy charges only.</p> <p>Provided that the Scheduled Date of Completion of the last Unit shall be extended day for day for any delay directly arising from (i) a Force Majeure (Article 10.4) (ii) APTRANSCO Default or failure of the APTRANSCO to complete the Inter Connection Facilities three (3) months before the Scheduled Date of Completion of the first Unit.</p> <p>Explanation: In case of a delay in achieving the Scheduled date of completion of the last unit the Company shall pay as liquidated damages to the APTRANSCO, a sum equal to Rs. 50,000 per day for the first one hundred and eighty (180) days of delay and Rs. 3,50,000 per day for delays in excess of one hundred and eighty (180) days, for each 100 MW of capacity or any part thereof, payment for which shall be due thirty (30) days from the Scheduled Date of Completion of the last Unit and every thirty (30) days thereafter or if earlier upon the termination of this Agreement provided for hereunder.</p>	<p>Note 1 : The COD of the Project shall have been achieved in all respects by the SDOC of the Project. In case the Project COD is not achieved within 90 days from the date of COD of the first Generating Unit, the charges payable will be combined cycle energy charges only.</p> <p>Provided that the Scheduled Date of Completion shall be extended day for day for any delay directly arising from (i) a Force Majeure (provided in Article 10.4) (ii) APDISCOMs Default or failure of the APDISCOMs to complete the Inter Connection Facilities three (3) months before the Scheduled Date of Completion of the first Unit (iii) non-availability of Fuel for commercial operation till 31.3.2008 (iv) time required for commissioning as per the construction schedule of the Project due to non-availability of Fuel.</p> <p>Explanation: In case of a delay in achieving the Scheduled Date of Completion of the last unit, the Company shall pay as liquidated damages to the APDISCOMs, a sum equal to Rs. 50,000 per day for the first one hundred and eighty (180) days of delay and Rs. 3,50,000 per day for delays in excess of one hundred and eighty (180) days, for each 100 MW of capacity or any part thereof, payment for which shall be due thirty (30) days from the Scheduled Date of Completion of the last unit and every thirty (30) days thereafter or, if earlier, upon the termination of this Agreement provided for hereunder.</p>
1.	2.1	<p><b>Sale &amp; Purchase of Capacity:</b> From and after the Commercial Operation Date of the first Generating Unit, subject to the provisions of this Agreement, the Company shall sell, and the APTRANSCO shall purchase, for the consideration of the Capacity Charge, all the available capacity of the Project.</p> <p>Note: In case the Project COD occurs beyond ninety days of the COD of Unit 1, the Capacity Charge payable shall be limited to ninety days only from the</p>	<p><b>Sale &amp; Purchase of Capacity:</b> From and after the Commercial Operation Date of the first Generating Unit, subject to the provisions of this Agreement, the Company shall sell, and the APDISCOMs shall purchase, for the consideration of the Capacity Charge, all the available capacity of the project limited to Installed Capacity of 370 MW.</p> <p>Note: In case the Project COD occurs beyond ninety days of COD of Unit 1, the Capacity Charge payable shall be limited to ninety days only from the COD of Unit 1.</p>

Witness P.K.A

6/11/08

4/11/08

1/11/08



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SL NO	FPA CLAUSE REF.	EXISTING PROVISION	PROPOSED AMENDMENT
		COD of Unit 1.	<p>Notwithstanding anything to the contrary contained in this Agreement, the Company shall not be required to or obligated in any manner whatsoever to sell or otherwise provide to APDISCOMs any capacity over and above the Installed Capacity by the Project at any point of time during the term of this Agreement. The Company shall be free to dispose off capacity not exceeding 17.525 MW (the "Excess Capacity") over and above the Installed Capacity to any third party as it deems fit, without requiring any further approval from APDISCOMs for disposal of excess capacity.</p> <p>Provided this disposal of Excess Capacity shall be subject to</p> <p>(a) The Company complying with all applicable laws, rules and regulations made there under;</p> <p>(b) The Company shall not declare Excess Capacity to third party without providing an Availability Declaration up to installed capacity to the APDISCOMs; and</p> <p>(c) The Company shall always inform along with Availability Declaration the capacity committed to third party out of the Excess Capacity for each Settlement Period.</p>
5.	3.2	<p><b>Computation of Capacity Charge</b> The Capacity Charge will be the sum of the following amounts, in Rupees, estimated in accordance with Article 5.2(b) for purposes of monthly billing and adjusted pursuant to Article 5.2 (c) for each Tariff Year, and subject in either case to the limitation that the total of such amounts shall not exceed an amount corresponding to a PLF of 30%.</p> <p>(i) Foreign Debt Service Charge (FDSC) of US\$ 0.008 (US\$ zero point zero zero six) per unit of Cumulative Available Energy payable in rupees converted at the Current Rate of Exchange, provided that such Foreign Debt Service Charge shall be payable only in respect of the period ending on</p>	<p><b>Computation of Capacity Charge</b> The Capacity Charge will be the sum of the following amounts, in Rupees, estimated in accordance with Article 5.2(b) and 5.2 (e) for purposes of monthly billing and adjusted pursuant to Article 5.2 (c) for each Tariff Year, and subject in either case to the limitation that the total of such amounts shall not exceed an amount corresponding to a PLF of 30%.</p> <p>(i) Foreign Debt Service Charge (FDSC) of US\$ 0.008 (US\$ zero point zero zero six) per unit of Cumulative Available Energy payable in rupees converted at the Current Rate of Exchange, provided that such Foreign Debt Service Charge shall be payable only in respect of the period ending on the 11<sup>th</sup> (eleventh) annual anniversary of the COD of the last Generating Unit.</p>

VAD: [Signature]

[Signature]

[Signature]

[Signature]



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SL NO	PPA CLAUSE REF.	EXISTING PROVISION	PROPOSED AMENDMENT
		<p>the 11<sup>th</sup> (eleventh) annual anniversary of the COD of the last Generating Unit.</p> <p>(ii) Other Fixed Charges (OFC) of Rs. 0.699 (Rupees zero point six nine nine) per unit of Cumulative Available Energy which shall be fixed for the term of this Agreement.</p>	<p>Provided that the shortfall, if any, in payment of FDSC per unit on account of unavailability of Fuel till 31.03.2008 or till such a later date, when full availability of natural gas of 1.64 MMSCMD is available for a full month for the first time shall be paid to the Company in the Tariff Years immediately succeeding the 11<sup>th</sup> (eleventh) annual anniversary of the COD of the last Generating Unit till such time that a shortfall in FDSC, on account of such unavailability of Fuel, is recovered by the Company.</p> <p>Such payment shall be made for aggregate of shortfall in Energy Units (KWH) for the period upto 31.3.2008, or till such a later date, when full availability of natural gas of 1.64 MMSCMD is available for a full month for the first time, by which the PLF is lower than 80% on account of unavailability of Fuel.</p> <p>(ii) Other Fixed Charges (OFC) of Rs. 0.699 (Rupees zero point six nine nine) per unit of Cumulative Available Energy which shall be fixed for the term of this Agreement.</p>
5	3.2(A)	<p>The Company shall supply in a Tariff Year (after Project COD) at the Generator terminals energy units equivalent to 5% of the installed Capacity of 370 MW, which works out to 182.06 million units over and above the PLF of 80% to the APTRANSCO (hereinafter referred to as the "Committed Incentive Energy").</p> <p>APTRANSCO shall deem the initial energy units delivered by the Company subject to a maximum of energy units equivalent to 5% of the installed capacity of 370 MW, which works out to 182.06 million units in a Tariff Year (after Project COD) at the Generator terminals as the Committed Incentive Energy.</p> <p>APTRANSCO shall pay the Company for the Committed Incentive Energy at a fixed rate of Rs.0.0699 per Energy Unit [10% (ten percent) of the Other Fixed Charge stated in Article 3.2] (hereinafter referred to as "Committed</p>	<p>The Company shall supply in a Tariff Year (after Project COD) at the Generator terminals energy units equivalent to 5% of the installed Capacity of 370 MW, which works out to 182.06 million units over and above the PLF of 80% to the APDISCOMs (hereinafter referred to as the "Committed Incentive Energy").</p> <p>APDISCOMs shall deem the initial energy units delivered by the Company subject to a maximum of energy units equivalent to 5% of the installed Capacity of 370 MW, which works out to 182.06 million units in a Tariff Year (after Project COD) at the Generator terminals as the Committed Incentive Energy.</p> <p>APDISCOMs shall pay the Company for the Committed Incentive Energy at a fixed rate of Rs.0.0699 (Rupees zero point six nine nine) per Energy Unit [10% (ten percent) of the Other Fixed Charge stated in Article 3.2] (hereinafter referred to as "Committed Incentive</p>



SL NO	PPA CLAUSE REF.	EXISTING PROVISION	PROPOSED AMENDMENT
		Incentive Charge*)	Charge*) Provided however that notwithstanding anything to the contrary stated hereinabove, the obligation to supply Committed Incentive Energy is applicable with effect from and including the Tariff Year in which Fuel is available, for a PLF of 85% or above. If the Company achieves PLF(1) between 80% to 85% then the Incentive would be paid at the Committed Incentive Energy Rate of Rs.0.0699 per unit.
7	3.3	<p><b>Energy Charge</b> (a) Computation of Energy Charge The Energy Charge will be computed based on the following formula:</p> $U = Eu \cdot (hC/g) \cdot (1-A/100)$ <p>Where: U is the Energy Charge in Rs. in respect of a Billing Month (or in the case of any bill for energy units generated by a Generating Unit prior to its COD, in respect of the period to which such bill relates). Eu is the total number of Energy Units delivered at the Inter Connection Point in respect of such Billing Month measured on the Metering Date for such Billing Month (or in case of any bill for energy units generated by a Generating Unit prior to its COD, in respect of the period to which such bill relates). h is the Station Heat Rate in Kcal/ KWH as per Article 1.1.(57). C is the cost of Fuel in Rs. per unit of Fuel; as delivered at the fuel metering point at the site. g is the GCV of Fuel in Kcal/unit of Fuel; A is a number equal to the Auxiliary Consumption expressed as a percentage of gross generation as per Article 1.1 (4).</p>	<p><b>Energy Charge</b> (a) Computation of Energy Charge The Energy Charge will be computed based on the following formula:</p> $U = Eu \cdot (hC/g) \cdot (1-A/100)$ <p>Where: U is the Energy Charge in Rs. in respect of a Billing Month (or in case of any bill for energy units generated by a Generating Unit prior to its COD, in respect of the period to which such bill relates). Eu is the total number of Energy Units delivered at the Inter Connection Point in respect of such Billing Month measured on the Metering Date for such Billing Month (or in the case of any bill for energy units generated by a Generating Unit prior to its COD, in respect of the period to which such bill relates). h is the Station Heat Rate in Kcal/ KWH as per Article 1.1.(57). C is the cost of Fuel in Rs. per unit of Fuel; as delivered at the fuel metering point at the site. g is the GCV of Fuel in Kcal/unit of Fuel; A is a number equal to the Auxiliary Consumption expressed as a percentage of gross generation as per Article 1.1 (4).</p>

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SL NO	PPA CLAUSE REF.	EXISTING PROVISION	PROPOSED AMENDMENT
		<p>Provided that</p> <p>Case-I: "C" is the cost of Natural Gas which is primary fuel, delivered at the metering point is inclusive of cost of Gas and transportation charges, and other taxes as per the invoice given by GAIL.</p> <p>Case-II: In the event of purchase of Natural Gas from sources other than GAIL, the cost "C" shall be the cost as per GAIL price or the cost of alternative fuel supplier whichever is less.</p> <p>Case-III: "C" is the cost of Alternate Fuel shall be as decided by the Fuel Supply Committee.</p> <p>Provided that the APTRANSCO has the right to review and approve the Fuel Supply Agreement through the Fuel Supply Committee in accordance with and subject to Schedule I.</p> <p>(c) Minimum Fuel Off-take Charges The APTRANSCO shall reimburse the Company for charges paid in respect of its failure to take delivery of minimum levels of primary fuel only, but only if and to the extent that the Company's failure to take such Fuel is due to the APTRANSCO's issuance of Despatch Instructions requiring that the Project be operated at a level less than the level of Declared Capacity set forth in any then applicable Availability Declaration, or the APTRANSCO's failure or inability to accept delivery of Net Electrical Energy from the Project (whether due to Force Majeure events or otherwise).</p> <p>Provided that the APTRANSCO shall reimburse such minimum Fuel Off-take Charges to the Company only to the extent that:</p> <p>(i) such minimum fuel off-take charges were incurred in accordance with the Fuel Supply Agreement.</p>	<p>Provided that</p> <p>Case-I: "C" is the cost of Fuel delivered at the metering point is inclusive of cost of Gas and transportation charges, and other taxes as per the invoice(s) given by GAIL.</p> <p>Case-II: In the event of purchase of Fuel from sources other than GAIL, the cost "C" shall be the cost as per GAIL price or the cost of alternative fuel supplier whichever is less.</p> <p>(b) Minimum Fuel Off-take Charges The APDISCOMs shall reimburse the Company for charges paid in respect of its failure to take delivery of minimum levels of Fuel, but only if and to the extent that the Company's failure to take such Fuel is due to the APDISCOMs issuance of Despatch Instructions requiring that the Project be operated at a level less than the level of Declared Capacity set forth in any then applicable Availability Declaration, or the APDISCOMs failure or inability to accept delivery of Net Electrical Energy from the Project (whether due to Force Majeure events or otherwise).</p> <p>Provided that the APDISCOMs shall reimburse such minimum Fuel Off-take Charges to the Company only to the extent that:</p> <p>(i) such minimum fuel off-take charges were incurred in accordance with the Fuel Supply Agreement.</p> <p>(ii) the Company exercised any right to elect, under the terms of the Fuel Supply Agreement to "carry forward" the Fuel in question (i.e. to receive such Fuel at a later date) or to store such Fuel at any Fuel storage facilities of the Company or of the Fuel supplier, which are available under the Fuel Supply Agreement; and</p> <p>(iii) the Company took all reasonable steps available to it and such steps identified by the APDISCOMs (such as on-sale of Fuel to the APDISCOMs or other able purchasers identified by the APDISCOMs) to reduce the amount of liability, any added costs of which the APDISCOMs shall upon prior notice by the Company have agreed in writing to pay to the Company.</p>

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		<p>(ii) the Company exercised any right to elect, under the terms of the Fuel Supply Agreement, to "carry forward" the Fuel in question (i.e., to receive such Fuel at a later date) or to store such Fuel at any Fuel storage facilities of the Company or of the Fuel supplier, which are available under the Fuel Supply Agreement; and</p> <p>(iii) the Company took all reasonable steps available to it and such steps identified by the APTRANSCO (such as on-sale of Fuel to the APTRANSCO or other able purchasers identified by the APTRANSCO) to reduce the amount of liability, any added costs of which the APTRANSCO shall upon prior notice by the Company have agreed in writing to pay to the Company.</p>	<p>(c) Notwithstanding anything to the contrary contained in this Agreement, for the period from the date of Synchronisation of the Project to 31.3.2008, if the Company is required to pay transportation charges for Fuel even during the periods when Fuel has not been supplied by the Fuel Supplier, APDISCOMs shall pay and/or reimburse such transportation charges which the Company is liable to pay to the Fuel Supplier.</p>																				
8	3.6	<p><b>Disincentives:</b> In case the Project is unable to achieve a PLF of 68.5% for a Tariff Year, then the Company will pay to the Board a penalty as a percentage of the Other Fixed Charge paid to the Company in such Tariff Year as given below:</p> <table border="1"> <thead> <tr> <th>PLF (%)</th><th>Penalty (%)</th></tr> </thead> <tbody> <tr> <td>68.5%</td><td>Nil</td></tr> <tr> <td>Below 68.5% to 60.5%</td><td>2% for every 1% shortfall in PLF (i.e. for a PLF of 60.5%, the penalty will be 16% of the Other Fixed Charge)</td></tr> <tr> <td>Below 60.5% to 50.5%</td><td>3% for every 1% shortfall in PLF (i.e. for a PLF of 50.5%, the penalty will be 16% + 30% = 46% of the Other Fixed Charge)</td></tr> <tr> <td>Below 50.5%</td><td>Same as for 50.5% i.e. 46% of the Other Fixed Charge.</td></tr> </tbody> </table> <p>Provided that in case of a Tariff Year which involves the Stabilisation Period</p>	PLF (%)	Penalty (%)	68.5%	Nil	Below 68.5% to 60.5%	2% for every 1% shortfall in PLF (i.e. for a PLF of 60.5%, the penalty will be 16% of the Other Fixed Charge)	Below 60.5% to 50.5%	3% for every 1% shortfall in PLF (i.e. for a PLF of 50.5%, the penalty will be 16% + 30% = 46% of the Other Fixed Charge)	Below 50.5%	Same as for 50.5% i.e. 46% of the Other Fixed Charge.	<p><b>Disincentives:</b> In case the Project is unable to achieve a PLF of 68.5% for a Tariff Year, then the Company will pay to the APDISCOMs a penalty as a percentage of the Other Fixed Charge paid to the Company in such Tariff Year as given below:</p> <table border="1"> <thead> <tr> <th>PLF (%)</th><th>Penalty (%)</th></tr> </thead> <tbody> <tr> <td>68.5%</td><td>Nil</td></tr> <tr> <td>Below 68.5% to 60.5%</td><td>2% for every 1% shortfall in PLF (i.e. for a PLF of 60.5%, the penalty will be 16% of the Other Fixed Charge)</td></tr> <tr> <td>Below 60.5% to 50.5%</td><td>3% for every 1% shortfall in PLF (i.e. for a PLF of 50.5%, the penalty will be 16% + 30% = 46% of the Other Fixed Charge)</td></tr> <tr> <td>Below 50.5%</td><td>Same as for 50.5% i.e. 46% of the Other Fixed Charge.</td></tr> </tbody> </table> <p>Provided that in case of a Tariff Year which involves the Stabilisation Period of a Generating</p>	PLF (%)	Penalty (%)	68.5%	Nil	Below 68.5% to 60.5%	2% for every 1% shortfall in PLF (i.e. for a PLF of 60.5%, the penalty will be 16% of the Other Fixed Charge)	Below 60.5% to 50.5%	3% for every 1% shortfall in PLF (i.e. for a PLF of 50.5%, the penalty will be 16% + 30% = 46% of the Other Fixed Charge)	Below 50.5%	Same as for 50.5% i.e. 46% of the Other Fixed Charge.
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Sl NO	PPA CLAUSE REF.	EXISTING PROVISION	PROPOSED AMENDMENT
		of a Generating Unit, the PLF for applying the penalty will be adjusted using a minimum threshold of 51.37% in place of 68.5% for such Stabilisation Period on a time and megawatt weighted basis (and each other threshold specified above, shall be adjusted downwards by the same proportion).	Unit, the PLF for applying the penalty will be adjusted using a minimum threshold of 51.37% in place of 68.5% for such Stabilisation Period on a time and megawatt weighted basis (and each other threshold specified above, shall be adjusted downwards by the same proportion)  Explanation: Provided that the Company shall not be liable for any penalty under this clause to the extent it is due to lower PLF arising out of non-availability of Fuel.
9	New clause 5.2 (e)		It is agreed that, if as a result of partial availability of Fuel (availability of natural gas less than 1.64 MMSCMD for a full month for the first time), the Company is unable to attain a PLF of 80%, APDISCOMs will be liable to pay monthly Capacity Charge to the extent of Availability Declaration only at the rate per unit calculated on the basis provided in Clause 3.2(i) and (ii). This clause shall be in operation till 31.3.2008 or till such a later date, when full availability of natural gas of 1.64 MMSCMD is available for a full month for the first time.
10	6.1	<b>Term of the Agreement</b> Subject to the terms of this Agreement, this Agreement shall become effective upon the execution and delivery thereof by the parties and shall continue in force from the date of such delivery until the completion of a period of fifteen (15) years from the Project COD unless earlier terminated as provided herein, and not later than one hundred and eighty (180) days prior to the expiry of the initial term of this Agreement, the Agreement may be renewed for such further period and on such terms and conditions as may be mutually agreed upon between the parties.	<b>Term of the Agreement</b> Subject to the terms of this Agreement, this Agreement shall become effective upon the execution and delivery thereof by the parties and shall continue in force from the date of such delivery until the completion of a period of twenty three (23) years from the Project COD unless earlier terminated as provided herein, and not later than one hundred and eighty (180) days prior to the expiry of the initial term of this Agreement, the Agreement may be renewed for such further period and on such terms and conditions as may be mutually agreed upon between the parties.
11	1(3)	If the Inter Connection Facilities are completed by the date which is three (3) months to the Scheduled Date of Completion of the first Generating Unit and the first Generating Unit is not synchronised on or before the Scheduled Date of Completion of the first Generating Unit, pay to the Board	If the Inter Connection Facilities are completed by the date which is three (3) months prior to the Scheduled Date of Completion of the first Generating Unit and the first Generating Unit is not synchronised on or before the Scheduled Date of Completion of the first Generating Unit, otherwise than on account of unavailability of Fuel till 31.3.2008, pay to the APDISCOMs

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SL NO	PPA CLAUSE REF.	EXISTING PROVISION	PROPOSED AMENDMENT
		interest on the actual cost of the Inter Connection Facilities constructed only for the purpose of the Project (as established by the Board to the reasonable satisfaction of the Company), such interest being calculated on a daily basis and being equal to the interest charged in respect of any loans raised by it and applied towards meeting such cost and being payable from the Scheduled Date of Completion of the first Generating Unit until the earlier of the date of such synchronisation or the date when such synchronisation would have occurred but for any delay arising from an event of Force Majeure. The Company's payment obligation under this Article shall not be affected by application of Article 10.4.	Interest on the actual cost of the Inter Connection Facilities constructed only for the purpose of the Project (as established by the APDISCOMs to the reasonable satisfaction of the Company), such interest being calculated on a daily basis and being equal to the interest charged in respect of any loans raised by it and applied towards meeting such cost and being payable from the Scheduled Date of Completion of the first Generating Unit until the earlier of the date of such synchronisation or the date when such synchronisation would have occurred but for any delay arising from an event of Force Majeure. The Company's payment obligation under this Article shall not be affected by application of Article 10.4.
12	9.2 (f)	The Project fails to issue an Availability Declaration providing for Declared Capacity which is in excess of 50% of the Installed Capacity for a continuous period of one hundred and twenty (120) days (excluding any period of major overhaul undertaken in accordance with the manufacturer's recommendations, any period of Force Majeure, any act or omission of the Board or any Emergency directly causing or contributing to the shortfall in the Declared Capacity).	The Project fails to issue an Availability Declaration providing for Declared Capacity which is in excess of 50% of the Installed Capacity for a continuous period of one hundred and twenty (120) days (excluding any period of major overhaul undertaken in accordance with the manufacturer's recommendations, any period of Force Majeure, any act or omission of the APDISCOMs, any period of unavailability of Fuel, or any Emergency directly causing or contributing to the shortfall in the Declared Capacity)
13	Schedule D 3.4 (i)	Despatch Rights Generation of Net Electrical Energy with alternate fuel shall be with prior approval of APTRANSCO. In despatching the Project, the Company shall follow the directives of the APTRANSCO to back down generation and to resume generation of Net Electrical Energy in each case consistent with the Project's Technical Limits, Prudent Utility Practices, the recommendations of the manufacturers of major equipment, this Agreement and other arrangements between the Company and the APTRANSCO regarding communication and co-ordination of operations (each such directive being called a "Dispatch	Despatch Rights In despatching the Project, the Company shall follow the directives of the APDISCOMs to back down generation and to resume generation of Net Electrical Energy in each case consistent with the Project's Technical Limits, Prudent Utility Practices, the recommendations of the manufacturers of major equipment, this Agreement and other arrangements between the Company and the APDISCOMs regarding communication and co-ordination of operations (each such directive being called a "Dispatch Instruction"). (The APDISCOMs shall not be required to reimburse the Company for any incremental costs or damages in respect of Dispatch Instructions issued in compliance with the foregoing and with the following provisions.)

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Sl. NO	PPA, CLAUSE REF.	EXISTING PROVISION	PROPOSED AMENDMENT
			<p>of loss in Capacity Charges incurred whether there has been a shortfall in gas supply or not.</p> <p>(b) This claim for loss in Capacity Charges shall include the loss in Capacity Charge incurred upto the month in which 1.64 MMSCMD gas is received. The claim shall also include variations in supply of gas till end of March 2008.</p> <p>(c) The Parties shall within ninety (90) days of the claim being made by the Company amend the Agreement, only by way of increasing the term of the Agreement beyond twenty three (23) years. Till such time the Company receives 1.64 MMSCMD of gas for a full month, for the first time, the Company shall not be deemed to be in default or breach of this Agreement for any shortfall in generation.</p> <p>It is agreed by the parties that in case the supply of Fuel during the period between the Project COD and 31.3.2008 is higher than the projected availability of fuel as mentioned above, the following shall apply.</p> <p>The Parties shall, within ninety (90) days of the submissions made by the Company or claims made by the APDISCOMS for reduced loss in Capacity Charges incurred by the Company, amend the Agreement by reducing the term of the PPA.</p>
15	Schedule I - Fuel Supply Committee	--	<p>Schedule I - Fuel Supply Committee</p> <p>[Intentionally left blank]</p>
16	New Clause	--	<p>Schedule I shall stand deleted and all references to Schedule or any other matter contained in Schedule I and referred to in the Agreement shall stand deleted.</p>
17	New Clause	--	<p>This Amendment Agreement and the PPA shall together constitute one and the same agreement and the provisions of this Amendment Agreement shall form an integral part of the PPA. However, notwithstanding the foregoing, should any provisions of this Amendment Agreement be at variance or in conflict with any of the provisions of the PPA,</p>

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P.R.P.

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SL NO	PPA CLAUSE REF.	EXISTING PROVISION	PROPOSED AMENDMENT
			the provisions of this Amendment Agreement shall prevail.

EASTERN POWER DISTRIBUTION COMPANY OF ANDHRA PRADESH LIMITED

For and on behalf of

Chief General Manager  
APEDCL, Red Hills,  
HYDERABAD-500 004.

SOUTHERN POWER DISTRIBUTION COMPANY OF ANDHRA PRADESH LIMITED

For and on behalf of

*[Signature]*  
Chief General Manager  
APSDCL, Hyderabad.

CENTRAL POWER DISTRIBUTION COMPANY OF ANDHRA PRADESH LIMITED

For and on behalf of

*[Signature]*  
M. NARASIMHULU  
Chief General Manager (Comm)  
APCPDCL, Red Hills,  
HYDERABAD-500 004.

NORTHERN POWER DISTRIBUTION COMPANY OF ANDHRA PRADESH LIMITED

For and on behalf of

WITNESS:

- 1) *[Signature]*  
2) D. J. JANA RDHANA R 40  
20/1/02

WITNESS:

- 1) *[Signature]*
- 2) *[Signature]*

For VemagiriPowerGeneration-200407.doc

M/s VEMAGIRI POWER GENERATION LIMITED

For and on behalf of

For Vemagiri Power Generation Ltd

*[Signature]*  
Authorized Signatory 11/02



DEEPAK KUMAR PANWAR I.A.S.  
Principal Secretary to Government



Energy Department  
A.P. Secretariat, Hyderabad - 500 022  
Tel: (O) 040 - 23453305, (R) 23402604  
Fax : 040 - 23453452  
E-mail : prlsecy\_engy@ap.gov.in

D.O.Lr.No.052/PSP/Energy/2004

Dated: 6-12-2004.

Dear Sri *Srinivasan*,

**Sub:- Supply of Natural Gas by GAIL to the existing and emerging Gas based power projects in Andhra Pradesh - Reg.**

**Ref:- Your D..Lr.No.L-12011/6/2003-GP, dated 01.12.2004.**

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Kindly refer to your letter cited above in which you have asked the views of the State Government on the criteria to be adopted to distribute the gas for the existing and emerging power projects in Andhra Pradesh. While firming up the views the Government has examined the following relevant factors:

- (1) GAIL, who is the supplier of gas, has set the following guidelines for supply of available gas to the LPPs.
  - If gas is available, full supply to firm allocations and surplus gas on prorata basis to fall back customers.
  - If gas availability is less than firm allocation, supply on prorata basis to firm allocations and no supply to fall back consumers.

GAIL has been following the above guidelines all through the years.

- (2) Similarly, when an upcoming consumer having GSA with GAIL, sought drawl of gas, GAIL fulfilled its obligation under GSA by supplying the gas to the new consumer from the available gas by adopting the prorata basis mechanism. It has never shown differentiation between the old and new consumers. For example GAIL had followed the same principle while starting gas supplies to Lanco Power Project and Reliance Energy Power Projects in AP.
- (3) GAIL had even placed on record, the mechanism of supply of gas on prorata basis, in its submissions through affidavits before High Court of Andhra Pradesh against writ petitions filed by BSES & GVK Industries and before APERC against petition filed by APTRANSCO.

THE UNIVERSITY OF CHICAGO  
DIVISION OF THE PHYSICAL SCIENCES  
DEPARTMENT OF PHYSICS

PHYSICS 311  
LECTURE 10  
SPECIAL RELATIVITY



PHYSICS 311  
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- (4) GAIL, in its counter affidavit dated 28<sup>th</sup> October, 2004 filed before APERC against the review petition filed by APTRANSCO on alternate fuel provision, has categorically stated that the firm allocation is subject to availability of gas as per GSA and in case of deficit availability of gas, the supplies to such allocatees are made on prorata basis based on Policies/Court Orders.
- (5) GAIL, in its counter affidavit filed before High Court of Andhra Pradesh against the Writ Petition No.15535/2004 filed by BSES on supply of 0.30 MSCMD of gas, has expressly stated that it has reviewed and taken decision to supply the 0.30 MSCMD of gas to all the consumers on equitable basis to meet the huge shortfall of supply in the firm allocations.
- (6) GAIL, in its counter affidavit filed before the High Court of Andhra Pradesh against the Writ Petition No.1415/2003 filed by GVK Industries on allocation of Natural Gas on "first-come-first-served principle", has stated that the available gas to be supplied uniformly to all the consumers in the same ratio and proportion in which their allocations stand.
- (7) High Court of Andhra Pradesh, while giving its judgement on the above referred petition (W.P.No.1415/2003), observed that
- GAIL had denied having any policy to supply the available gas on First-come-first-served principle"
  - There was no directive from GLC to adhere to policy of first-come-first-served.
  - State is required to treat all industries and sectors equally and there cannot be any policy to permit the authorities to allocate gas by pick and choose method. Even if such policy exists, the same cannot answer the test of Article 14 of the Constitution of India.
- (8) Upcoming four IPPs will come into operation in 2005-2006 with a capacity of 1499 MW. GAIL has entered into agreement with these IPPs also for a firm allocation of 6.30 MCMD and a fall back of 0.40 MCMD, totaling to 6.70 MCMD. Given the production profile of ONGC, such supply may not fructify, unless there is focused action to ensure supply as per the agreements. Once these power projects commence commercial operations in 2005-06, APTRANSCO will have to pay the full fixed charges i.e., about Rs.1025 Crores per annum for the entire capacity, even if gas is not supplied, and this will be an unbearable and unjustified burden on the consumers of the State.





(9) In order to protect the interests of the Government, negotiations were held by the State Government with these four IPPs and they have agreed to the following:

- (1) Use of alternative fuel as included in the definition of the "fuel" in the PPAs will not be permitted before 1<sup>st</sup> January 2007.
- (2) In case of unavailability of natural gas before 1<sup>st</sup> January 2007, there will not be any liability on APTRANSCO on account of "fixed cost".
- (3) The Companies will implement the project in line with the "Scheduled Date of Completion" as per PPA. However, the Scheduled Date of Completion may be extended on a day for day basis depending upon the unavailability of natural gas before 1<sup>st</sup> January, 2007.
- (4) The Companies will agree to incorporate the above amendments in the PPAs.

The IPPs have agreed to the above arrangement after taking into confidence their respective Financial Institutions. The IPPs have agreed to the above changes duly keeping in view the existing policy of supply of available gas on prorata basis.

In view of the above facts/factors, GoAP recommends that the existing criteria for supply of available gas on prorata basis amongst the IPPs in A.P. may be retained.

*With regards.*

Yours sincerely,

*O/C*

*D.K. Panwar*  
(D.K. PANWAR)

*DA*  
*2/12*  
Sri M.S. Srinivasan,  
Additional Secretary,  
Government of India,  
Ministry of Petroleum & Natural Gas,  
Shastri Bhawan,  
New Delhi-110 001.



[The text in this section is extremely faint and illegible due to heavy noise and bleed-through from the reverse side of the page. It appears to consist of several paragraphs of handwritten or typed text.]



Date: 22/11/05

D.O.Lr.No.7129/Energy (Pr.) Dept.,2005

Ref: 1. D.O.Lr.No. 52/PSP/Energy/2004, dt. 6.12.2004 from  
Sri D.K.Panwar, IAS., addressed to Sri M.S.Srinivasan,  
Addl. Secy., Ministry of Petroleum & N.G.  
2. D.O.Lr.No. 52/PSP/Energy/2005, dt. 21.6.2005 from  
Dr.Y.S Rajasekhara Reddy, Hon'ble Chief Minister  
3. D.O.Lr.No. 7127/Pr.1/2005, dt. 5.10.2005 from Dr.Y.S.Raja-  
sekhara Reddy, Hon'ble Chief Minister

GAIL has entered into further agreements with 4 new gas based projects (total capacity 1499 MW) for supply of 6.7 MCMD. Thus the total allocation of gas for the 8 projects is 11.55 MCMD. Since GAIL is not in a position to honour its commitments as per Gas Supply Agreements entered,

Contd..

THE HISTORY OF THE CITY OF BOSTON

The city of Boston, situated on a neck of land between the harbor and the bay, has a history of more than three centuries. It was first settled by Englishmen in 1630, and has since that time been a center of commerce and industry. The city has grown from a small fishing village to a metropolis of over a million inhabitants. It has been the seat of many important events in the history of the United States, and has played a prominent part in the development of the nation. The city is known for its many historic landmarks, including the Old State House, the Faneuil Hall, and the Boston Common. It is also famous for its many museums, including the Museum of Science and the Museum of Fine Arts. The city is a beautiful and vibrant place, and is a true gem of the Northeast.



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Government of Andhra Pradesh vide letters dated 17.7.2004 and 5.8.2004 requested for your kind intervention and the Prime Minister of India respectively to direct GAIL/ONGC to augment the supply of Natural Gas as per agreed allocations to the four existing IPPs and the four upcoming IPPs in Andhra Pradesh.

I am grateful to you for convening meeting on 17<sup>th</sup> October, 2005 to sort out these critical problems of our State. You have discussed this matter with officials of the Ministry of Petroleum and Natural Gas, ONGC, GAIL and Government of Andhra Pradesh. In this connection, I wish to mention the following points for your kind consideration and necessary instructions to the concerned.

The State Government have originally recommended that the available gas may be supplied on a pro-rata basis to all power projects having firm allocations, including the 4 new projects. As indicated in the reference 1<sup>st</sup> cited, this stand was taken by the State Government in order to protect the interest of the Government and negotiations held with the upcoming four IPPs. The developers at that time agreed not to use alternate fuel before 1<sup>st</sup> January, 2007 and that TRANSCO will not be liable before 1<sup>st</sup> January, 2007 on account of fixed cost. The Companies have agreed to incorporate the amendments in the PPAs. However, the companies have not signed the amended PPAs.

In your letter dt. 14.12.2004 it was indicated that additional gas of 0.5 MMSCMD would be made available from September, 2005 and another 2.0 MMSCMD from second quarter of 2006. Further, the additional gas from Rava 2, Annapurna and Reliance fields is expected from third quarter of 2007, with which the requirements of consumers in KG basin could be met.

State Government have subsequently reviewed the implications of pro-rata allocation of the available gas. If pro-rata allocation of the available gas is made to all the 8 projects, the generation from the existing 4 projects would fall down appreciably and Government of Andhra Pradesh/APTRANSCO

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will have to pay about Rs. 333 crores upto 31.12.2006 towards deemed generation without availing full generation from these 4 existing projects. This additional burden of about Rs. 333 crores can be avoided if the available gas is first supplied to the existing 4 gas based projects to the extent required for achieving threshold PLF.

In view of the above implications, Hon'ble Chief Minister has written to on 21.6.2005 and 5.10.2005 to Hon'ble Prime Minister (copy marked to you) Copies of the letters are enclosed for ready reference. It was requested:

- to supply the available gas to the 4 existing projects to the extent required for achieving threshold PLF and to allocate the balance quantity proportionately to the up-coming four projects
- to allow Dual fuel capabilities clause only for use of Naphtha for short periods when gas supply is disrupted
- to direct ONGC/GAIL to honour the agreements for gas supply and the increased cost due to non-supply be borne by GAIL/Developer
- to initiate immediate steps to augment the gas supply to all the 8 IPPs of the State as decided in the meeting convened on 28.9.2004 by the Principal Secretary to Prime Minister

I, therefore, request you once again to issue necessary instructions to the concerned on this matter. I shall be grateful for favourable action for augmenting gas supply to power utilities in Andhra Pradesh to the maximum possible extent.

With regards,

Yours sincerely,

*Md. Ali Shabber*

(MOHAMMED ALI SHABBER)

Dr. Mani Shankar Ayyar,  
Union Minister for Petroleum & N.G.,  
Government of India,  
New Delhi.

*revenue cut policy*



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Annexure H

No.I.-12011/E/03-GP (PI)  
Government of India  
Ministry of Petroleum & Natural Gas

Shastri Bhawan, New Delhi-1  
Dated the 5<sup>th</sup> December, 2005

Shri S.V. Prasad,  
Principal Secretary, Energy,  
Government of Andhra Pradesh, Hyderabad.

The Chairman & Managing Director  
ONGC, New Delhi

The Chairman & Managing Director  
GAIL (India) Limited, New Delhi

The Director General,  
DGH, New Delhi.

Subject:- Record Note of discussion of the meeting held between Shri S.C. Tripathi, Secretary, Ministry of Petroleum & Natural Gas and Shri Mohd. Ali Shabber, Minister of Information and Public Relations, Energy and Coal, Government of Andhra Pradesh, on 29<sup>th</sup> November, 2005 at New Delhi regarding shortage of gas supply in KG basin.

Sir,

I am directed to forward herewith a copy of the record note of discussion of the meeting held between Shri S.C. Tripathi, Secretary, Ministry of Petroleum & Natural Gas and Shri Mohd. Ali Shabber, Minister of Information and Public Relations, Energy and Coal, Government of Andhra Pradesh, on 29<sup>th</sup> November, 2005 at New Delhi regarding shortage of gas supply in KG basin, for information and necessary action.

Yours faithfully,

Encl.: As above.

(S.B. Mandal)

Under Secretary to the Govt. of India  
Tel.No.23382583

Copy for Information to:

1. PPS to Secretary (P&NG),
2. PS to Spl. Secretary (P&NG),
3. PA to JS(AT), MoP&NG,
4. PA to Dir(SS), MoP&NG,



THE  
GOVERNMENT OF  
INDIA  
MINISTRY OF  
DEFENCE  
OFFICE OF THE  
SECRETARY  
NEW DELHI

SECRETARY  
MINISTRY OF DEFENCE  
OFFICE OF THE SECRETARY  
NEW DELHI  
10-11-1954  
TO THE  
CHIEF OF THE  
ARMY STAFF  
NEW DELHI  
FROM THE  
SECRETARY  
MINISTRY OF DEFENCE  
OFFICE OF THE SECRETARY  
NEW DELHI  
SUBJECT: *[illegible]*

*[illegible text]*

*[illegible text]*

*[illegible text]*

*[illegible text]*



Record Note of discussion of the meeting regarding shortage of gas supply in KG basin held on 29.11.2005

Mr. Mohammed Ali Shabbir, Minister for Information & Public Relations, Energy & Coal, Government of Andhra Pradesh met Secretary (P&NG) on 29.11.2005 in Shastri Bhawan Office regarding shortage of gas supply in KG basin. The Minister also handed over a copy of his d.o letter written to Minister (P&NG) dated 22.11.2005 (copy enclosed).

2. The Andhra Minister stated that the Andhra Pradesh Government had originally recommended for a pro-rata supply of the available gas to all the existing and upcoming new projects against their firm allocations. This recommendation was based on the understanding with the upcoming 4 IPPs that they would not use alternate fuel before 1<sup>st</sup> January 2007 and that APTRANSCO will not be liable before 1<sup>st</sup> January 2007 on account of fixed cost. However, the IPPs have not signed the amended PPAs.

4. State Government have subsequently reviewed the implications of pro-rata allocation of the available gas and has found that in such a scenario Government of Andhra Pradesh/APTRANSCO will have to pay about Rs 330 crore upto December 2006 towards deemed generation from the four existing projects. Therefore, the State Govt. have represented to the Honble Prime Minister as well as to the Minister (P&NG) as follows:-

- (i) To supply the available gas to the 4 existing projects to the extent required for achieving committed PIF and to allocate the balance quantity proportionately to the upcoming 4 projects.
- (ii) To allow dual fuel capabilities clause only for use of naphtha for short periods when gas supply is disrupted.
- (iii) To direct ONGC/GAIL to honour the agreements for gas supply and the increased cost due to non-supply be borne by GAIL/developer.







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- (iv) To initiate immediate steps to augment the gas supply to all the 8 IPPs of the State as decided in the meeting convened on 28.9.2004 by the Principal Secretary to Prime Minister.

On the above points, Secretary (P&NG) responded as follows:-

- (a) Regarding point 3(i), MOP&NG would like to be guided by the views of the State Government and, therefore, gas supply to the existing power projects will not be curtailed. Gas supply to the upcoming 4 IPPs can only be given when additional gas becomes available.
- (b) Regarding point 3(ii) on the provision of dual fuel capabilities, it is for the State Government and the Regulator to take a view and to consider whether they would allow the new IPPs to use dual fuel capabilities for power generation till additional gas becomes available.
- (a) With regard to point 3(iii), this Ministry has no objection if legal recourse is resorted for any breach of agreements for gas supply by ONGC or GAIL. However, this is a matter which is to be examined on its legal merits.
- (b) On point 3(iv) for augmentation of gas supply to the extent of 0.5 MMSCMD by September 2005 and 1.5 to 2.0 MMSCMD by 2<sup>nd</sup> quarter of 2006, as agreed early by ONGC, MOP&NG will seek the latest prognosis from ONGC which is to be certified by DGH.

Secretary (P&NG) further observed that it is unfortunate that GAIL is not able to meet the commitments of gas supply based on which investments were committed by the new IPPs. This has resulted in loss of face and credibility in the public eye. GAIL should examine all possible alternatives to honour gas supply commitments, including import of LNG through EXMAR or imports as per GAIL, to salvage its credibility. As this is a matter of serious concern, we may ask GAIL to discuss this matter in their Board.



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Annexure I

(TO BE PUBLISHED IN THE GAZETTE OF INDIA,  
EXTRAORDINARY, PART 1, SECTION 1)

**GOVERNMENT OF INDIA  
MINISTRY OF PETROLEUM AND NATURAL GAS**

New Delhi, Dated : 21<sup>st</sup> March, 2016

**Marketing including pricing freedom for the gas to be produced from Discoveries in Deepwater, Ultra Deepwater and High Pressure-High Temperature areas.**

No. O-22013/27/2012-ONGC-VI(VI-III) - The Government of India hereby notifies the Marketing including pricing freedom for the gas to be produced from Discoveries in Deepwater Ultra Deepwater, and High Pressure-High Temperature areas as hereunder :-

A) i) For all the discoveries in deep water/ultra deep water/high temperature-high pressure areas which are yet to commence commercial production as on 01.01.2016 and to all future discoveries in such areas, the producers will be allowed marketing freedom including pricing freedom subject to a ceiling price on the basis of landed price of alternative fuels.

ii) The ceiling shall be based on the prices of substitute fuels where prices are publicly available, and the method of calculation shall be communicated transparently. To ensure transparency and simplicity in calculation, a simple mark-up of 5% shall be applied to the FOB prices of imported fuels to arrive at the landed price where published landed prices are not available.

iii) The landed price-based ceiling will be calculated once in six months and applied prospectively for the next six months. The price data used for calculation of ceiling price in US \$ per mmbtu (GCV) shall be the trailing four quarters data with one quarter lag.

iv) The ceiling price in US \$ per mmbtu (GCV) shall be calculated as, lowest of the (i) Landed price of imported fuel oil (ii) Weighted average import landed price of substitute fuels and (iii) Landed price of imported LNG.

v) The landed price of imported fuel oil is defined as:

Twelve months simple average of daily prices quoted by Platts for Arab Gulf Fuel Oil 180 CST plus a mark-up of 5% towards freight, insurance etc.,



vi) The weighted average import landed price of substitute fuels is defined as follows:

$$0.3 \times \text{landed price of imported coal} + 0.4 \times \text{landed price of imported fuel oil} + 0.3 \times \text{landed price of imported naphtha}$$

For this purpose, the landed price of imported coal is defined as:

Twelve months simple average of daily prices quoted by Platts for coal import.

For this purpose, the landed price of imported fuel oil is defined as:

Twelve months simple average of daily prices quoted by Platts for Arab Gulf Fuel Oil 180 CST plus a mark-up of 5% towards freight, insurance etc.

For this purpose, the landed price of imported naphtha is defined as:

Twelve months simple average of daily prices quoted by Platts for Arab Gulf Naphtha plus a mark-up of 5% towards freight, insurance etc..

vii) The landed price of imported LNG is defined as:

Twelve months simple average of daily prices quoted by Platts in 'LNG Daily' for West India DES price.

Director General of Petroleum Planning and Analysis Cell (DG, PPAC) under the Ministry of Petroleum and Natural Gas will notify the periodic revision of gas price ceiling under these guidelines.

B) For the purpose of this special dispensation of providing marketing freedom, fields having at least 2/3<sup>rd</sup> of the total number of appraisal and development wells in that field in deep water/ultra deep water/high pressure-high temperature area shall be considered as eligible for the special dispensation for the entire output from such fields. The classification will be as (a) Deep water areas: Areas having water depth between 400 meters and 1500 meters (b) Ultra-Deep water areas: Areas having water depth greater than 1500 meters (c) High Pressure-High Temperature Areas: Areas having shut-in well head pressure greater than 690 bars, bottom hole temperature greater than 150 degree centigrade. While considering the number of wells, the number of wells will be rounded off to the previous lower number of wells in case of decimals and the wells will mean the sub-surface geological location coordinates in the discovery reservoirs and the water depths will be vertically above the sub-surface geological locations (as per bathymetry).

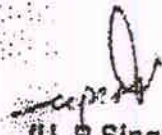


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C) The proposed guidelines would be applicable to future discoveries as well as existing discoveries which are yet to commence commercial production as on 01.01.2016. However, in case of existing discoveries which are yet to commence commercial production as on 01.01.2016, if there is pending arbitration or litigation filed by the contractors directly pertaining to gas pricing covering such fields, this policy guideline shall be made applicable only on the conclusion/ withdrawal of such litigation/ arbitration and the attendant legal proceedings.

D) All gas fields currently under production will continue to be governed by the pricing regime which is currently applicable to them.



(U P Singh)

Additional Secretary to the Government of India

OF

The following is a list of the names of the persons who have been appointed to the various offices of the County of ...

...

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0/c

**GMR Vemagiri Power Generation Limited**

GMR/GVPG/L/2017/MoP/DEL/023  
05<sup>th</sup> May 2017

Shri Ajay Jain  
The Principal Secretary (Energy, Infra & Investments)  
Government of Andhra Pradesh

**GMR**

Corporate Office:  
Airport Building 302, 1st Floor  
New Sakinaka Bhawan  
New Udaan Bhawan Complex  
Near Terminal 3, IGI Airport  
New Delhi-110037  
CIN U23201KA1997PLC032964  
+91 11 49852200  
www.gmrgroup.in

Request for allocation/ recommendation by APPCC of APM & Non APM gas to  
GVPG/L by diverting from old IPPs in Andhra Pradesh.

Dear Sir,

We refer to the Retail Tariff Order of APERC for 2017-18. The Hon'ble APERC have disallowed the dispatch of old gas based Plants like Lanco Kondapally and Spectrum, whose PPAs have expired, due to high unit fixed cost. Retail Tariff Order also mentions that AP DISCOMs are taking up the proposal for renewal of PPA of M/s LANCO Kondapally for the period of 10 years.

It is ironic and grossly unequitable that whereas around 1500 MW of gas based power plants with valid PPAs are stranded for lack of gas supply and facing bankruptcy, APPCC is proposing to use the APM gas to operate and pay fixed charges to power plants which have run their full term of the PPA and recovered their entire capital and return.

It is submitted that the following power plants, having the benefit of APM gas supply, has run their full term of the PPA-

Project	Capacity (MW)	Gas Allocated (MMSCMD)	Gas supply in 2016-17 (MSCMD)
GVK-Stage-I	216	1.10	0.61
Spectrum	208	1.43	0.62
Lanco	355	1.96	0.72
Reliance#	220	0.84	0
<b>Total</b>	<b>999</b>	<b>5.33</b>	<b>1.95</b>

# PPA expiring in October 2017.

At the same time, the following power plants which were set up based on a competitive bid out PPA, have been stranded for lack of gas for years now and are on the brink of bankruptcy-

Project	Capacity (MW)	Gas requirement (MMSCMD) @ 80% PLF	CoD Date	Years till CoD Date	Period of Idling till date (Years)
Vemagiri	370	1.48	16.09.2006	11	7
GVK Stage II	220	0.88	14.04.2009	8	4
Konaseema	445	1.78	05.06.2009	8	4
PPS Plant	464	1.86	30.06.2010	7	4

It is submitted that the APM gas of 1.5 MMSCMD, if allocated to these stranded power plants, would enable the plants to operate at around 25% PLF and help to partly service its



Regd. Office:  
Skp House, 25/L, Museum Road,  
Bangalore 560 025  
Plant Office:  
Vemagiri, Kadapa Mandal,  
East Godavari Dist., A.P. 533125.





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GMR

We would also like to point out that:

- The Fixed charge per unit as submitted in the ARR for one of older plants is rightly calculated at Rs. 1.40 / unit taking into account the lower gas availability and lower PLF, which is higher than the fixed cost of newer IPPs.
- The new IPPs are much more efficient with lower heat rates. For example, the Gross heat rate of GVPGL is 1850 Kcal/kWH as compared to approximately 2050 Kcal/kWH for the older plants. This translates to around a lower energy cost of Rs. 0.22 / unit.

Considering a gas supply of 1.5 MMSCMD, the aggregate financial impact of both the above points is around Rs. 160 crore per annum i.e. Rs. 1600 crore over a period 10 years in terms of saving to Discoms and therefore to the consumers at large.

In light of the foregoing, we would sincerely urge you to seek reallocation of the APM gas supply to the new power plants having valid PPA with APDISCOMS and offtake power from them. This would be in the interest of the state, the consumers and the IPPs which have invested in the state based on PPA bid and have already lost their entire net worth and sunk into deeper indebtedness for no fault of theirs.

We look forward to your confirmation and urgent action in the matter.

Thanking you

For GMR Vemagiri Power Generation Limited

*Arumunda Saha.*

Authorized Signatory



Copy to:

1. Chairman and Managing Director, AP Transco
2. Chairman, Andhra Pradesh Power Coordination Committee
3. Secretary, Andhra Pradesh Electricity Regulatory Commission

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GMR Vemagiri Power Generation Limited o/c

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Plant Office:  
Vemagiri, Kadlam Mandal,  
East Godavari Dist.  
A.P - 533125  
CIN U23201KA1997PLC032964  
T +91-883-2452313 - 317  
F +91-883-2452312  
W www.gmrgroup.in

GMR/GVPGL/2017/MoP/DEL/028

10<sup>th</sup> May 2017

The Chairman  
Andhra Pradesh Power Co-ordination Committee,  
Vidyut Soudha  
Hyderabad-500082

**Subject: Request for allocation/ recommendation by APPCC of APM & Non APM gas to GVPGL by diverting from old IPPs in Andhra Pradesh.**

Dear Sir,

We take reference to the Retail Tariff Order of APERC for 2017-18. The Hon'ble APERC have disallowed the dispatch of old gas based Plants like Lanco Kondapally and Spectrum, whose PPAs have expired. We have also noted that APDISCOMs have stopped off-take of power from these two power plants from 7<sup>th</sup> April'17.

As such, the APM gas which was being consumed by LANCO & SPECTRUM power plants is available for re-allocation.

GVPGL having valid long term PPA upto year 2029 with AP&TS DISCOMs, has legitimate right to receive the above said gas.

Further, we are also concerned to note that APDISCOMs are planning to renew the expired PPA of these plants with threshold PLF of 80% even though APM gas is available for only 40% PLF. In our view due to following reasons the allocation of gas out of expired PPAs should be considered for allocation to GVPGL

1. Capital Cost for old PPA plants have already recovered.
2. Sub optimal efficiency of old PPA plants
3. Higher Capacity Charges in comparison to VPGL
4. Advantages under GVPGL PPA - "No Alternate Fuel" provisions.



Regd. Office:  
Skip House, 25/1, Museum Road,  
Bengaluru 560 025



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GMR

We hereby summarize the financial benefits that will accrue to AP Discoms by alternatively operating the GVPGL plant with the available APM Gas.

Particulars		LANCO	Spectrum	GVPGL
Capacity	MW	362	208	370
Approx. PLF for which gas is available	%	40%	40%	
PPA Extension	Yrs	10.00	15.00	
Mus Generated for PPA Term	Mus	12684	10932	
Per Unit Fixed Cost	Rs/kWh	1.42	1.42	1.08
Incremental Cost per unit in Comparison to VPGL	Rs/kWh	0.34	0.34	
Additional Fixed Charge during PPA term	Rs Crs	431	371	
Variable Cost	Rs/kWh	2.05	2.16	1.90
Incremental Variable Cost in comparison to VPGL	Rs/Unit	0.15	0.26	
Incremental Fuel cost for PPA term	Rs Crs	189	281	
Total Incremental Fixed Cost and Fuel Cost for PPA Term	Rs Crs	621	652	
Total benefits to DISCOM by opting VPGL	Rs Crs			1272

=> Annex 15A

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Therefore, the diversion of APM/ non APM gas from old PPA plants to new PPA plants will save DISCOMs an amount more than Rs. 1272 Crs and there is no rational to extend old PPAs without considering GVPGL..

We would therefore request you to kindly recommend to MoPNG for re-allocation of APM and Non-APM gas from old and expired PPA power plants to more efficient power plant of GVPGL having a valid PPA till Sept'2029.

Thanking you

For GMR Vemagiri Power Generation Limited

*[Signature]*  
Authorized Signatory



Copy to:

1. Pri. Secretary- Energy, GoAP
2. Secretary-APERC
3. CMD, AP TRANSCO
4. JMD, AP TRANSCO
5. CE- IPC & PS, AP TRANSCO





**SOUTHERN POWER DISTRIBUTION COMPANY OF A.P. LIMITED**  
19-13-65/A, Vidyut Nilayam, Srinivasapuram, Tirupati ([www.apspdcl.in](http://www.apspdcl.in))

From  
The Chief General Manager,  
Operation, APSPDCL, 19-13-65/A,  
Vidyut Nilayam, Srinivasapuram,  
Tirupati - 517501.

To  
The Secretary, APERC,  
11-4-660, 4<sup>th</sup> Floor,  
Singareni Bhavan, Red Hills  
Lakdikapul, Hyderabad-04.

Lr No. CGM/Opn./SPDCL/TPT/RAC/F; ID.No. 415/2017 dt. 27-07-2017

Sir,

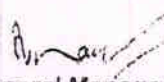
Sub:- APSPDCL/TPT - Seeking approval for revised Load forecast and Resource Plan for the 3<sup>rd</sup> & 4<sup>th</sup> Control periods along with actual capital expenditure incurred for 3<sup>rd</sup> control period - Submitted - Regarding.

Ref:- 1) Lr.No.CGM/Opn/SPDCL/TPT/RAC/F.Res.Plan/DNo.384/16 dt.30.12.2016  
2) Lr.No.CGM/Opn/SPDCL/TPT/RAC/F.Res.Plan/DNo.45/17 dt.20.02.2017

\*\*\*

In compliance to the directions of the Honourable Commission, the licensee have submitted the Resource Plan along with load forecast and Capex for 3<sup>rd</sup> control period vide references cited. Due to recent developments in the state in the energy availability and some other factors, the licensee herewith submitting revised Load forecast and Resource Plan for the 3<sup>rd</sup> & 4<sup>th</sup> Control periods along with actual capital expenditure incurred for 3<sup>rd</sup> control period for kind consideration of the Honourable Commission.

Yours faithfully,

  
Chief General Manager  
Operation

Encl:- As above - 6 nos. copies

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11/5/17

*Handwritten notes:*  
Sn/PPD  
11/5/17

120-126

**SOUTHERN POWER DISTRIBUTION COMPANY  
OF A.P LIMITED**

19-13-65/A, Vidyut Nilayam, Srinivasapuram, Tirupati ([www.apspdcl.in](http://www.apspdcl.in))



**Load Forecast and Resource Plan**

**27<sup>th</sup> July, 2017**



Ant-M

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### 3.1.4 Independent Power Producers (IPP)

In Gas IPP's, Lanco's PPA with the licensee expired on 01.01.2016; Spectrum's PPA with the licensee expired on 18.04.2016. After the expiry of PPA with Lanco, Spectrum and BSES, the licensee has decided not to procure power from them.

The following IPP's are under commercial operation in the State:

Project Name	Installed Capacity (MW)	Year of Commissioning
GVK Extension	220	101
Vemagiri	370	171
Gautami	464	214
Konaseema	444	205
Total	1,498	691*

\* 40% Gas is considered subject to April gas price

### 3.1.5 Non-Conventional Energy Sources (NCE)

The expected installed capacities of NCE projects in the state from FY 2017-18 to FY 2023-24 is given below:

NCE Category	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
NCE - Bio-Mass	157	157	157	157	157	157	157
NCE - Bagasse	121	121	121	121	121	121	121
NCE - Municipal Waste to Energy	6	6	42	57	63	63	63
NCE - Industrial Waste based power project	22	22	29	29	29	29	29
NCE - Wind Power	3,566	4,066	4,266	4,566	4,566	4,566	4,566
NCE - Mini Hydel	86	86	106	106	106	106	106
NCE - NCL Energy Ltd	8	8	8	8	8	8	8
NCE - Solar	601	601	601	601	601	601	601
NCE - Solar Parks	1,100	2,050	2,250	3,250	3,250	3,250	3,250
Total NCE	5,666	7,116	7,580	8,895	8,901	8,901	8,901

GoAP has targeted to set up 3,250 MW solar capacity through Solar Parks in Kurnool, Kadapa and Anantapur districts with the support of Govt. of India. As a part of this, GoAP has entered MoU with NTPC on 16.09.2014 for setting up of 1000MW solar park in Anantapur dist. Subsequently as per the directions of GoAP, APDISCOMs had entered PPAs with M/s NTPC for purchase of solar power from



THE UNIVERSITY OF CHICAGO  
DEPARTMENT OF CHEMISTRY  
LABORATORY OF PHYSICAL CHEMISTRY  
CHICAGO, ILLINOIS 60637

EXPERIMENTAL DATA	
DATE	10/10/70
TIME	10:00
TEMPERATURE	25.0
PRESSURE	1.0
CONCENTRATION	0.1
WAVELENGTH	400
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CALCULATED DATA	
DATE	10/10/70
TIME	10:00
TEMPERATURE	25.0
PRESSURE	1.0
CONCENTRATION	0.1
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WAVELENGTH	1000

THE UNIVERSITY OF CHICAGO  
DEPARTMENT OF CHEMISTRY  
LABORATORY OF PHYSICAL CHEMISTRY  
CHICAGO, ILLINOIS 60637

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# **Retail Supply Tariffs 2019-20**



## **ORDER on Tariff for Retail Sale of Electricity during FY2019-20**

**22<sup>nd</sup> February, 2019**

**Andhra Pradesh  
Electricity Regulatory Commission**

4<sup>th</sup> Floor, Singareni Bhavan, Red Hills, Lakdi-ka-pul, Hyderabad 500 004

year, is split into fixed and variable components (FC-₹1.40 and VC-₹2.18 for JNNSM Phase-I and FC-₹1.00 and VC-₹2.50 for JNNSM Phase-II) based on the information obtained subsequently by the Commission on the sources of bundled power during FY2017-18 and upto to the end of December, 2018. The difference of the fixed cost estimated by the Commission and that estimated by the licensees is that due to the difference in consideration of dispatch of bundled power and adoption of single part tariff by the licensees and two-part tariff by the Commission.

- 309 The attention of the licensees is drawn to the letter dated 28<sup>th</sup> August 2006 of Ministry of Power, GoI where in it is clarified that the State Commission may determine whether a distribution licensee in the State should enter into PPA or procurement process with such generating companies based on the tariff determined by CERC. Hence, if any power procurement falls under above clarification with respect to CGSs after state bifurcation, may filed before the Commission for considering appropriately.
- 310 The licensees have filed a two-part tariff of ₹ 3.89 per unit (FC-₹1.00 and VC-₹2.89) for Godavari Gas Power Plant (GGPP, the erstwhile GVK) and estimated the fixed cost for GGPP at ₹ 79.78 Cr. But the Commission considered the fixed cost for GGPP at ₹ 79.53 Cr. at a unit rate of ₹ 2.99 (FC - ₹0.79 per unit and VC - ₹ 2.20 per unit) as permitted vide orders in I.A. No. 14 of 2018 in O.P. No. 60 & 61 of 2017 dated 30.06.2018.
- 311 The licensees have filed fixed costs for APGPCL at ₹6.47 Cr. and the Commission approved at ₹4.25 Cr.
- 312 The licensees have filed a two-part tariff of ₹ 3.54 per unit (FC - ₹0.96 and VC - ₹2.58) for LANCO Koridapalli and estimated the fixed cost at ₹121.74 Cr. But the Commission considered the fixed cost for LANCO at ₹ 112.49 Cr. at a unit rate of ₹3.29 (FC - ₹0.96 per unit and VC - ₹2.33 per unit) as permitted vide orders in I.A. No. 16 of 2018 in O.P. No. 8 of 2018 dated 08.08.2018.
- 313 The licensees have filed a two-part tariff of ₹ 3.68 per unit (FC - ₹0.92 and VC - ₹2.76) for Spectrum and estimated the fixed cost at ₹ 96.24 Cr. But the Commission considered the fixed cost for Spectrum at ₹86.86 Cr. at a unit rate of ₹3.31 (FC - ₹0.92 per unit and VC-₹2.39 per unit) as permitted vide orders in I.A. No. 15 of 2018 in O.P. Nos. 60 & 61 of 2018 dated 01.08.2018.
- 314 The licensees have filed fixed costs for Sembcorp (formerly Thermal Powertech) and KSK Mahanadi power plants at ₹ 292.02 Cr. and ₹447.98 Cr. respectively as the tariffs for both were discovered through bid-based route for which the Commission already gave approval and hence the fixed costs as filed by the licensees are considered.



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## ANNEXURE - 03

APPROVED STATION / SOURCE WISE POWER PURCHASE COST FOR FY2019-20

[illegible]



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Item	Description	Unit	Quantity	Unit Cost	Total Cost	Material		Labor		Overhead		Total
						Material	Labor	Material	Labor	Material	Labor	
1	Concrete	cu yd	100	1.20	120.00	80.00	40.00	20.00	20.00	20.00	20.00	140.00
2	Rebar	lb	500	0.50	250.00	150.00	100.00	50.00	50.00	50.00	50.00	350.00
3	Formwork	sq ft	200	2.00	400.00	200.00	200.00	100.00	100.00	100.00	100.00	500.00
4	Gravel	cu yd	150	1.50	225.00	100.00	125.00	60.00	65.00	60.00	65.00	350.00
5	Sand	cu yd	100	1.00	100.00	50.00	50.00	25.00	25.00	25.00	25.00	150.00
6	Water	gal	1000	0.05	50.00	25.00	25.00	10.00	10.00	10.00	10.00	50.00
7	Oil	gal	100	0.50	50.00	25.00	25.00	10.00	10.00	10.00	10.00	50.00
8	Paint	gal	100	1.00	100.00	50.00	50.00	25.00	25.00	25.00	25.00	150.00
9	Tools	set	10	10.00	100.00	50.00	50.00	25.00	25.00	25.00	25.00	150.00
10	Transportation	hr	100	1.00	100.00	50.00	50.00	25.00	25.00	25.00	25.00	150.00
11	Insurance	yr	1	100.00	100.00	50.00	50.00	25.00	25.00	25.00	25.00	150.00
12	Permit	fee	1	100.00	100.00	50.00	50.00	25.00	25.00	25.00	25.00	150.00
13	Profit	%	10	10.00	100.00	50.00	50.00	25.00	25.00	25.00	25.00	150.00
14	Tax	%	10	10.00	100.00	50.00	50.00	25.00	25.00	25.00	25.00	150.00
15	Total				1000.00	500.00	500.00	250.00	250.00	250.00	250.00	1000.00



132 N  
GMR Vemagiri Power Generation Limited

GMR/GVPGL/2019/DEL/0011

Date: 22<sup>nd</sup> February 2019

GAR

Corporate Office:  
New Shakti Bhawan, Building No. 302  
New Udaan Bhawan Complex  
Near Terminal 3, IGI Airport  
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+91 11 49882200  
www.gmrgroup.in

To,

Annexure

The Principal Secretary to Government,  
Energy, Infrastructure & Investment Dept.,  
Government of Andhra Pradesh,  
Secretariat, Velagapudi,  
Amravati

Subject: Regarding resumption of APM natural gas supply to GMR Vemagiri Power Generation Limited (GVPGL).

Reference:

1. Government of AP letter D.O.Lr.No. 052/PSP/Energy/2004 dated 06.12.2004
2. Government of AP letter D.O.Lr.No. 7129/Energy (Pr.I) Dept./2005 dated 22.11.2005
3. Ministry of Petroleum and Natural Gas letter No.1.-12011/6/03-GP dated 05.12.2005
4. GVPGL letter No. GMR/GVPGL/2017/MoP/DEL/023 dated 05.05.2017
5. GVPGL letter No. GMR/GVPGL/2017/MoP/DEL/028 dated 10.05.2017

Dear Sir,

1. This has reference to our letters dated 05.05.2017 and 10.05.2017 on the subject of resuming the supply of APM natural gas to GMR Vemagiri Power Generation Ltd. (GVPGL).
2. As you may be aware, GVPGL has a long-term Power Purchase Agreement (PPA) for the supply of 370 MW of power to the Distribution Companies (DISCOMs) in the State of Andhra Pradesh and the State of Telangana. PPA was signed in the year 1997, initially for a period of 15 years and thereafter, in 2007, the PPA was amended to extend up to 2029.
3. In the meantime, upon the recommendation of the Government of Andhra Pradesh, the Ministry of Petroleum and Natural Gas was pleased to allocate 1.64 MMSCM of APM Natural Gas to GVPGL. Accordingly, a Gas Supply Agreement (GSA) was signed between GVPGL and Gas Authority of India Limited (GAIL) for the supply of 1.64 MMSCMD of APM natural gas on firm basis, which is valid till 05.07.2021. However, despite the signing of the GSA, the APM natural gas was never supplied to GVPGL.



Registered Office:  
Skip House, 25/1, Museum Road,  
Bengaluru - 560 025  
Plant Office:  
Vemagiri, Kadiam Mandal,  
East Godavari Dist., A.p - 533125

Energy



229 133

GA

4. In this regard, it may be noted that in 2001-2002, the Government of Andhra Pradesh already had four (4) gas based independent Power Plants (IPPs), namely Lanco, GVK-1, Spectrum and RPL, Samalkot (Old IPPs) having a combined PPA capacity of 999 MW. All these four IPPs also had PPAs with the DISCOMs in the State of Andhra Pradesh.
5. Thereafter, four (4) new IPPs with a combined capacity of 1499 MW were proposed to be setup in the State of Andhra Pradesh, including the IPP to be setup by GVPGL. In these circumstances, with the new IPPs being added, it was decided by the Government of Andhra Pradesh that the allocated APM natural gas under the GSA would be supplied from the available gas by adopting the pro-rata basis mechanism. Letter dated 06.12.2004 from the State Government in this regard is enclosed herewith as ANNEXURE-1.
6. However, in 2005, the Government of Andhra Pradesh changed its stand and sent a letter (letter dated 22.11.2005 in this regard is enclosed herewith as ANNEXURE-2) requesting the Ministry of Natural Gas and Petroleum to supply APM Natural Gas to the existing four (4) IPPs for the purpose of achieving the threshold Plant Load Factor in respect of the said IPPs. In the Government's view, it would avoid an additional liability of INR 333 crores towards Deemed Generation without availing full generation from the existing IPPs. It was also proposed that the balance quantity of gas may be allocated proportionately for the upcoming four (4) IPPs.
7. The request made by the State Government was, eventually, accepted by the Ministry on 05.12.2005 (letter dated 05.12.2005 from the Ministry in this regard is enclosed herewith as ANNEXURE - 3). As a result of this decision, GVPGL was completely deprived of its legitimate share of APM natural gas on pro-rata basis despite the existence of a firm GSA with GAIL.
8. Eventually, with the diversion of APM natural gas from the old IPPs for a brief period, GVPGL was able to somehow achieve COD on 16.09.2006. However, pursuant to the COD, the plant remained stranded until April 2009, except for brief periods in between when the plant was able to operate with the diversion of natural gas from old IPPs.
9. Thereafter, the Ministry of Petroleum and Natural Gas decided to allocate natural gas to GVPGL from Reliance Industries Limited, KG-D6 Fields in NELP Regime in April 2009. However, due to depletion of gas reserves coupled with change in gas utilization policy by the Government of India, the flow of gas from Reliance Industries Limited completely stopped from March 2013. It is a matter of great concern that the plant remained stranded since then due to the unavailability of gas, except for brief periods where the plant was operated with e-bid RLNG.



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10. In the meantime, as you may be aware, the PPAs of all the old IPPs expired by the year 2017. In particular, the PPAs with Lanco and Spectrum expired on 01.01.2016 and 18.04.2016 respectively. However, despite the same, the DISCOMs in the State of Andhra Pradesh sought the permission of the Andhra Pradesh Electricity Regulatory Commission (APERC) to continue purchasing power from Lanco and Spectrum on a short-term basis. Moreover, the said DISCOMs also initiated the process of renewing the PPAs with Lanco and Spectrum for an additional period of 10 – 15 years.
11. In these circumstances, vide letters dated 05.05.2017 and 10.05.2017, GVPGL requested the Government of Andhra Pradesh and the Andhra Pradesh Power Co-ordination Committee to resume APM gas supply to the new IPPs having valid PPAs with the DISCOMs as this would result in a saving of about INR 1,272 crores for the state exchequer over a period of 10 – 15 years. Letters dated 05.05.2017 and 10.05.2017 from GVPGL in this regard are enclosed herewith as ANNEXURE – 4 and ANNEXURE – 5 respectively.
12. Additionally, it was also apprised to the State Government that GVPGL Plant being more efficient, could be used to supply power at much cheaper tariffs as compared to Lanco and Spectrum. In such circumstances, it was submitted that there was no rationale behind extending the old PPAs without considering GVPGL's case.
13. Moreover, the proposal for renewing the PPAs of Lanco and Spectrum would not only violate GVPGL's legitimate expectations to receive APM natural gas but also be highly discriminatory, particularly since GVPGL already has a valid long-term PPA up to the year 2029 and the project has been lying stranded for several years now. Further, it is estimated that if the PPAs with Lanco and Spectrum are further extended on long-term basis, the DISCOMs and eventually, the consumers would be saddled with an additional financial burden of around INR 2,825 crores as compared to sourcing power from GVPGL as is evident from (ANNEXURE- 6).
14. In addition to the above, GVPGL further highlighted that the gas previously supplied to the old IPPs ought to be resumed to GVPGL Plant, inter alia for the following reasons:
  - (i) Capital Cost for old IPPs had already been recovered;
  - (ii) Sub-optimal efficiency of old IPPs;
  - (iii) Higher capacity charges in comparison to GVPGL; and
  - (iv) Advantages under GVPGL PPA because of the "no alternative fuel" provisions.
15. However, till date, there has been no response from the authorities on this issue. Moreover, even after the expiry of the PPAs, the DISCOMs in the State of Andhra Pradesh are continuing to procure power from Lanco and Spectrum on short-term basis at a higher tariff as compared to GVPGL.



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GMA

16. Additionally, on 27.03.2018, the APERC passed an order on the Tariff for Retail Sale of Electricity during the financial year 2018-19 and approved the tariff for sourcing power from Lanco and Spectrum on short-term basis. Moreover, in the tariff filing to APERC for the financial year 2019-20, the DISCOMs have again proposed to procure power from Lanco and Spectrum.

17. In this regard, a comparison of the cost of power supply from Lanco and Spectrum vis-à-vis GVPGL is demonstrated hereunder:

Components	Units	LANCO	SPECTRUM	GVPGL
Fixed Cost	Rs/kWh	0.96	0.92	0.70
Variable Cost	Rs/kWh	2.33	2.39	2.21
Total cost	Rs/kWh	3.29	3.31	2.91

18. Further, a comparison of cost of power supply with the revised APM gas prices (w.e.f 1<sup>st</sup> Oct 2018 to 31<sup>st</sup> March 2019) is also provided hereunder:

Components	Units	LANCO	SPECTRUM	GVPGL
Fixed Cost	Rs/kWh	0.96	0.92	0.70
Variable Cost	Rs/kWh	2.68	2.75	2.54
Total cost	Rs/kWh	3.64	3.67	3.24

Thus, taking into account APERC's approved rates for 2018-19 for Lanco & Spectrum, GVPGL's tariff is cheaper by Rs. 0.40/ Unit and Rs.0.43/ year based on the latest gas price.

19. In addition to cheaper tariffs, GVPGL will also deliver the following benefits:

1. Higher quantity of Energy (Kwh) per MMSCMD of gas consumed due to better efficiency of machine;
2. No deemed generation charges under PPA for GVPGL whereas all other 7 IPPs have Deemed Generation provision. Pertinently, the liabilities of the Distribution Companies on account of Deemed Generation costs for old IPPs under the expired PPAs are also over; and
3. APTRANSCO will avoid payment of R&M Capex projected by old IPPs.

20. In this regard, as stated above, GVPGL also has a legitimate right on the allocated quantity of APM gas presently being supplied to Old IPPs (i.e. Lanco and Spectrum) and the decision to not resume the gas supply to GVPGL in spite of a valid long-term PPA is highly discriminatory. It is, therefore, obligatory to give priority to GVPGL having valid PPA & GSA by resuming APM gas supplies.



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21. It may also be relevant to consider that GVPGL has invested about INR 1,150 crores in the project and has operated for approximately 4 years in a span of 13 years since its commissioning in 2006. Significantly, as is evident from ANNEXURE - 7, GVPGL has incurred a loss of about INR 1.485 crores till date, assuming a minimum average Plant Load Factor of 80%.
22. In view of the above facts and circumstances, we request you to take necessary action to resume APM gas supplies to GVPGL from old IPPs (i.e. Lanco and Spectrum). We also remain available to provide a detailed representation to the State Government on these issues, if required.

Thanking you in anticipation for an early action.

Yours Sincerely,

For GMR Vemagiri Power Generation Limited,

*Arunendu Saha*  
Arunendu Saha  
(Authorized Signatory)

Copy to:

1. Chairman & Managing Director-APTRANSCO
2. JMD- APTRANSCO-Finance, Commercial, IPC, HRD & IT

232 137

ANNEXURE - 1

Annexure - 1

166

DEEPAK KUMAR PANWAR I.A.S.  
Principal Secretary to Government



107

Energy Department  
A.P. Secretariat, Hyderabad - 500 022  
Tel: (C) 040 - 23453305, (R) 23402604  
Fax : 040 - 23455452  
E-mail : prlsecy\_engy@ap.gov.in

D.O.Lr.No.052/PSP/Energy/2004

Dated: 6-12-2004.

Dear Sri Srinivasan,

Sub:- Supply of Natural Gas by GAIL to the existing and emerging Gas based power projects in Andhra Pradesh - Reg.

Ref:- Your D.O.Lr.No.L-12011/6/2003-GP, dated 01.12.2004.

\*\*\*

Kindly refer to your letter cited above in which you have asked the views of the State Government on the criteria to be adopted to distribute the gas for the existing and emerging power projects in Andhra Pradesh. While firming up the views the Government has examined the following relevant factors:

(1) GAIL, who is the supplier of gas, has set the following guidelines for supply of available gas to the IPPs.

If gas is available, full supply to firm allocations and surplus gas on prorata basis to fall back customers.

If gas availability is less than firm allocation, supply on prorata basis to firm allocations and no supply to fall back consumers.

GAIL has been following the above guidelines all through the years.

(2) Similarly, when an upcoming consumer having GSA with GAIL, sought drawl of gas, GAIL fulfilled its obligation under GSA by supplying the gas to the new consumer from the available gas by adopting the prorata basis mechanism. It has never shown differentiation between the old and new consumers. For example GAIL had followed the same principle while starting gas supplies to Lanco Power Project and Reliance Energy Power Projects in AP.

(3) GAIL had even placed on record, the mechanism of supply of gas on prorata basis, in its submissions through affidavits before High Court of Andhra Pradesh against writ petitions filed by BSES & GVK Industries and before APERC against petition filed by APTRANSCO.



- (4) GAIL, in its counter affidavit dated 28<sup>th</sup> October, 2004 filed before APERC against the review petition filed by APTRANSCO on alternate fuel provision, has categorically stated that the firm allocation is subject to availability of gas as per GSA and in case of deficit availability of gas, the supplies to such allocatees are made on prorata basis based on Policies/Court Orders.
- (5) GAIL in its counter affidavit filed before High Court of Andhra Pradesh against the Writ Petition No.15535/2004 filed by BSES on supply of 0.30 MSCMD of gas, has expressly stated that it has reviewed and taken decision to supply the 0.30 MSCMD of gas to all the consumers on equitable basis to meet the huge shortfall of supply in the firm allocations.
- (6) GAIL in its counter affidavit filed before the High Court of Andhra Pradesh against the Writ Petition No.1415/2003 filed by GVK Industries on allocation of Natural Gas on "first-come-first-served principle", has stated that the available gas to be supplied uniformly to all the consumers in the same ratio and proportion in which their allocations stand.
- (7) High Court of Andhra Pradesh, while giving its judgement on the above referred petition (W.P.No.1415/2003), observed that
- GAIL had denied having any policy to supply the available gas on "first-come-first-served principle"
  - There was no directive from GLC to adhere to policy of first-come-first-served.
  - State is required to treat all industries and sectors equally and there cannot be any policy to permit the authorities to allocate gas by pick and choose method. Even if such policy exists, the same cannot answer the test of Article 14 of the Constitution of India.
- (8) Upcoming four IPPs will come into operation in 2005-2006 with a capacity of 1499 MW. GAIL has entered into agreement with these IPPs also for a firm allocation of 6.30 MCMD and a fall back of 0.40 MCMD, totaling to 6.70 MCMD. Given the production profile of ONGC, such supply may not fructify, unless there is focused action to ensure supply as per the agreements. Once these power projects commence commercial operations in 2005-06, APTRANSCO will have to pay the full fixed charges i.e., about Rs.1025 Crores per annum for the entire capacity, even if gas is not supplied, and this will be an unbearable and unjustified burden on the consumers of the State.



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(9) In order to protect the interests of the Government, negotiations were held by the State Government with these four IPPs and they have agreed to the following:

- (1) Use of alternative fuel as included in the definition of the "fuel" in the PPAs will not be permitted before 1<sup>st</sup> January 2007.
- (2) In case of unavailability of natural gas before 1<sup>st</sup> January 2007, there will not be any liability on APTRANSCO on account of "fixed cost".
- (3) The Companies will implement the project in line with the "Scheduled Date of Completion" as per PPA. However, the Scheduled Date of Completion may be extended on a day for day basis depending upon the unavailability of natural gas before 1<sup>st</sup> January, 2007.
- (4) The Companies will agree to incorporate the above amendments in the PPAs.

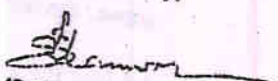
The IPPs have agreed to the above arrangement after taking into confidence their respective Financial Institutions. The IPPs have agreed to the above changes duly keeping in view the existing policy of supply of available gas on prorata basis.


In view of the above facts/factors, GoAP recommends that the existing criteria for supply of available gas on prorata basis amongst the IPPs in A.P. may be retained.

with regards.

Yours sincerely,

O/C

  
(D.K. PANWAR)

  
Sri M.S. Srinivasan,  
Additional Secretary,  
Government of India  
Ministry of Petroleum & Natural Gas,  
Shastri Bhawan,  
New Delhi-110 001.

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ANNEXURE - 2

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Mohammed Ali Shabbir  
MINISTER FOR INFORMATION & PUBLIC RELATIONS,  
ENERGY AND COAL  
Government of Andhra Pradesh



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Email min\_16pr@ap.gov.in

25/3/2005/13/12/13/12

Date 22/11/05

D.O.Lr.No.7129/Energy (Pr. & Dept./2005

Dear Dr. Mani Shankar garu,

31/3/05  
13/12/05

- Ref: 1. D.O.Lr.No. 52/PSP/Energy/2004, dt. 5.12.2004 from  
Sri D.K.Panwar, IAS, addressed to Sri M.S.Srinivasan,  
Addl. Secy., Ministry of Petroleum & N.G.  
2. D.O.Lr.No. 52/PSP/Energy/2005, dt. 21.6.2005 from  
Dr.Y.S. Rajasekhara Reddy, Hon'ble Chief Minister  
3. D.O.Lr.No. 7127/Pr./2005, dt. 5.10.2005 from Dr.Y.S.Raja  
sekhara Reddy, Hon'ble Chief Minister

Kind attention is invited to the references cited. This matter relates to the supply of natural gas to the power projects in Andhra Pradesh. GAIL has entered into Gas Supply Agreements with four existing gas based projects (total capacity 999 MW) for supply of Natural Gas of 4.85 MCMD. However, the actual quantity of gas supplied by GAIL is 3.526 MCMD and the generation from these projects is less than 70% of their capacity. This gas shortage has resulted in consumers having to pay higher tariff due to (i) increased cost of power procured from alternative sources and (ii) payment of full fixed charges for the total declared capacity of the IPPs, even though the energy produced is less due to inadequate gas supply. The additional cost of power due to short supply of gas is around Rs. 300 crores every year.

GAIL has entered into further agreements with 4 new gas based projects (total capacity 1499 MW) for supply of 6.7 MCMD. Thus the total allocation of gas for the 8 projects is 11.55 MCMD. Since GAIL is not in a position to honour its commitment as per Gas Supply Agreements entered

Contd



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Government of Andhra Pradesh vide letters dated 17.7.2004 and 5.8.2004 requested for your kind intervention and the Prime Minister of India respectively to direct GAIL/ONGC to augment the supply of Natural Gas as per agreed allocations to the four existing IPPs and the four upcoming IPPs in Andhra Pradesh.

I am grateful to you for convening meeting on 17<sup>th</sup> October, 2005 to sort out these critical problems of our State. You have discussed this matter with officials of the Ministry of Petroleum and Natural Gas, ONGC, GAIL and Government of Andhra Pradesh. In this connection, I wish to mention the following points for your kind consideration and necessary instructions to the concerned

The State Government have originally recommended that the available gas may be supplied on a pro-rata basis to all power projects having firm allocations, including the 4 new projects. As indicated in the reference 1<sup>st</sup> cited, this stand was taken by the State Government in order to protect the interest of the Government and negotiations held with the upcoming four IPPs. The developers at that time agreed not to use alternate fuel before 1<sup>st</sup> January, 2007 and that TRANSCO will not be liable before 1<sup>st</sup> January, 2007 on account of fixed cost. The Companies have agreed to incorporate the amendments in the PPAs. However, the companies have not signed the amended PPAs.

In your letter dt 14.12.2004 it was indicated that additional gas of 0.5 MMSCMD would be made available from September, 2005 and another 2.0 MMSCMD from second quarter of 2007. Further, the additional gas from Rava 2, Annapurna and Reliance fields is expected from third quarter of 2007, with which the requirements of consumers in KG basin could be met.

State Government have subsequently reviewed the implications of pro-rata allocation of the available gas. If pro-rata allocation of the available gas is made to all the 8 projects, the generation from the existing 4 projects would fall down appreciably and Government of Andhra Pradesh/APTRANSCO



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will have to pay about Rs. 333 crores upto 31.12.2006 towards deemed generation without availing full generation from these 4 existing projects. This additional burden of about Rs. 333 crores can be avoided if the available gas is first supplied to the existing 4 gas based projects to the extent required for achieving threshold PLF.

In view of the above implications, Hon'ble Chief Minister has written to on 21.6.2005 and 5.10.2005 to Hon'ble Prime Minister (copy marked to you). Copies of the letters are enclosed for ready reference. It was requested:

- to supply the available gas to the 4 existing projects to the extent required for achieving threshold PLF and to allocate the balance quantity proportionately to the up-coming four projects
- to allow Dual fuel capabilities clause only for use of Naptha for short periods when gas supply is disrupted
- to direct ONGC/GAIL to honour the agreements for gas supply and the increased cost due to non-supply be borne by GAIL/Developer
- to initiate immediate steps to augment the gas supply to all the 8 IPPs of the State as decided in the meeting convened on 28.9.2004 by the Principal Secretary to Prime Minister

I, therefore, request you once again to issue necessary instructions to the concerned on this matter. I shall be grateful for favourable action for augmenting gas supply to power utilities in Andhra Pradesh to the maximum possible extent.

With regards,

Yours sincerely,

Mohammed Ali Shabber  
(MOHAMMED ALI SHABBER)

Dr. Mani Shankar Aiyar,  
Union Minister for Petroleum & N.G.,  
Government of India,  
New Delhi.

239 143  
No. I.-12011/6/G3-GP (PI)  
Government of India  
Ministry of Petroleum & Natural Gas

ANNEXURE - 3

Shastri Bhawan, New Delhi-1  
Dated the 5<sup>th</sup> December, 2005

Shri S.V. Prasad,  
Principal Secretary, Energy,  
Government of Andhra Pradesh, Hyderabad.

The Chairman & Managing Director  
ONGC, New Delhi

The Chairman & Managing Director  
GAIL (India) Limited, New Delhi

The Director General,  
DGH, New Delhi.

Subject:- Record Note of discussion of the meeting held between Shri S.C. Tripathi, Secretary, Ministry of Petroleum & Natural Gas and Shri Mohd. Ail Shabber, Minister of Information and Public Relations, Energy and Coal, Government of Andhra Pradesh, on 29<sup>th</sup> November, 2005 at New Delhi regarding shortage of gas supply in KG basin.

Sir,

I am directed to forward herewith a copy of the record note of discussion of the meeting held between Shri S.C. Tripathi, Secretary, Ministry of Petroleum & Natural Gas and Shri Mohd. Ail Shabber, Minister of Information and Public Relations, Energy and Coal, Government of Andhra Pradesh, on 29<sup>th</sup> November, 2005 at New Delhi regarding shortage of gas supply in KG basin, for information and necessary action.

Yours faithfully,

Encl.: As above.

*S.B. Mandal*

(S.B. Mandal)

Under Secretary to the Govt. of India  
Tel.No.23382583

Copy for Information to:

1. PPS to Secretary (P&NG),
2. PS to Spl. Secretary (P&NG),
3. PA to JS(AT), MoP&NG,
4. PA to Dir(SS), MoP&NG,



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Record Note of discussion of the meeting regarding shortage of gas supply in KG basin held on 29.11.2005

Mr. Mohammad Ali Shabbir, Minister for Information & Public Relations, Energy & Coal, Government of Andhra Pradesh met Secretary (P&NG) on 29.11.2005 in Shastri Bhawan Office regarding shortage of gas supply in KG basin. The Minister also handed over a copy of his d.o letter written to Minister (P&NG) dated 22.11.2005 (copy enclosed).

2. The Andhra Minister stated that the Andhra Pradesh Government had originally recommended for a pro-rata supply of the available gas to all the existing and upcoming new IPPs against their firm allocations. This recommendation was based on the understanding with the upcoming 4 IPPs that they would not use alternate fuel before 1<sup>st</sup> January 2007 and that APTRANSCO will not be liable before 1<sup>st</sup> January 2007 on account of fixed cost. However, the IPPs have not signed the amended PPAs.

4. State Government have subsequently reviewed the implications of pro-rata allocation of the available gas and has found that in such a scenario Government of Andhra Pradesh/APTRANSCO will have to pay about Rs.330 crore upto December 2006 towards deemed generation from the four existing projects. Therefore, the State Govt. have represented to the Hon'ble Prime Minister as well as to the Minister (P&NG) as follows:-

- (i) To supply the available gas to the 4 existing projects to the extent required for achieving threshold PLF and to allocate the balance quantity proportionately to the upcoming 4 projects.
- (ii) To allow dual fuel capabilities clause only for use of naphtha for short periods when gas supply is disrupted.
- (iii) To direct ONGC/GAIL to honour the agreements for gas supply and the increased cost due to non-supply be borne by GAIL/developer.



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- (iv) To initiate immediate steps to augment the gas supply to all the 8 IPPs of the State as decided in the meeting convened on 28.9.2004 by the Principal Secretary to Prime Minister.

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On the above points, Secretary (P&NG) responded as follows:-

- (a) Regarding point 3(i), MOP&NG would like to be guided by the views of the State Government and, therefore, gas supply to the existing power projects will not be curtailed. Gas supply to the upcoming 4 IPPs can only be given when additional gas becomes available.
- (b) Regarding point 3(ii) on the provision of dual fuel capabilities, it is for the State Government and the Regulator to take a view and to consider whether they would allow the new IPPs to use dual fuel capabilities for power generation till additional gas becomes available.
- (a) With regard to point 3(iii), this Ministry has no objection if legal recourse is resorted for any breach of agreements for gas supply by ONGC or GAIL. However, this is a matter which is to be examined on its legal merits.
- (b) On point 3(iv) for augmentation of gas supply to the extent of 0.5 MMSCMD by September 2005 and 1.5 to 2.0 MMSCMD by 2<sup>nd</sup> quarter of 2006, as agreed early by ONGC, MOP&NG will seek the latest prognostics from ONGC which is to be certified by DGH.

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Secretary (P&NG) further observed that It is unfortunate that GAIL is not able to meet the commitments of gas supply based on which investments were committed by the new IPPs. This has resulted in loss of face and credibility in the public eye. GAIL should examine all possible alternatives to honour gas supply commitments, including import of LNG through EXMAR or imports as NG, to salvage its credibility. As this is a matter of serious concern, we may ask GAIL to discuss this matter in their Board.



GMR/GVPGIL/2017-MoP DEL. 013  
05<sup>th</sup> May 2017

Request for allocation/ recommendation by APPCC of APM & Non APM gas to GVPGL by diverting from old IPPs in Andhra Pradesh.

Dear Sir,

We refer to the Retail Tariff Order of APERC for 2017-18. The Hon'ble APERC have disallowed the dispatch of old gas based Plants like Lanco Kondapally and Spectrum, whose PPAs have expired, due to high unit fixed cost. Retail Tariff Order also mentions that AP DISCOMs are taking up the proposal for renewal of PPA of M/s LANCO Kondapally for the period of 10 years.

It is submitted that the following power plants, having the benefit of APM gas supply, has run their full term of the PPA and recovered their cost:

Power Plant	Gas Allocated	Gas supply in 2016-17
1. Bhatinda	1.00	1.00
2. Faridkot	1.00	1.00
3. Ludhiana	1.00	1.00
4. Patiala	1.00	1.00
5. Sangrur	1.00	1.00
6. Tarn Taran	1.00	1.00
7. Yamunanagar	1.00	1.00
8. Bathinda	1.00	1.00
9. Faridkot	1.00	1.00
10. Ludhiana	1.00	1.00
11. Patiala	1.00	1.00
12. Sangrur	1.00	1.00
13. Tarn Taran	1.00	1.00
14. Yamunanagar	1.00	1.00
15. Bathinda	1.00	1.00
16. Faridkot	1.00	1.00
17. Ludhiana	1.00	1.00
18. Patiala	1.00	1.00
19. Sangrur	1.00	1.00
20. Tarn Taran	1.00	1.00
21. Yamunanagar	1.00	1.00
22. Bathinda	1.00	1.00
23. Faridkot	1.00	1.00
24. Ludhiana	1.00	1.00
25. Patiala	1.00	1.00
26. Sangrur	1.00	1.00
27. Tarn Taran	1.00	1.00
28. Yamunanagar	1.00	1.00
29. Bathinda	1.00	1.00
30. Faridkot	1.00	1.00
31. Ludhiana	1.00	1.00
32. Patiala	1.00	1.00
33. Sangrur	1.00	1.00
34. Tarn Taran	1.00	1.00
35. Yamunanagar	1.00	1.00
36. Bathinda	1.00	1.00
37. Faridkot	1.00	1.00
38. Ludhiana	1.00	1.00
39. Patiala	1.00	1.00
40. Sangrur	1.00	1.00
41. Tarn Taran	1.00	1.00
42. Yamunanagar	1.00	1.00
43. Bathinda	1.00	1.00
44. Faridkot	1.00	1.00
45. Ludhiana	1.00	1.00
46. Patiala	1.00	1.00
47. Sangrur	1.00	1.00
48. Tarn Taran	1.00	1.00
49. Yamunanagar	1.00	1.00
50. Bathinda	1.00	1.00
51. Faridkot	1.00	1.00
52. Ludhiana	1.00	1.00
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54. Sangrur	1.00	1.00
55. Tarn Taran	1.00	1.00
56. Yamunanagar	1.00	1.00
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69. Tarn Taran	1.00	1.00
70. Yamunanagar	1.00	1.00
71. Bathinda	1.00	1.00
72. Faridkot	1.00	1.00
73. Ludhiana	1.00	1.00
74. Patiala	1.00	1.00
75. Sangrur	1.00	1.00
76. Tarn Taran	1.00	1.00
77. Yamunanagar	1.00	1.00
78. Bathinda	1.00	1.00
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96. Sangrur	1.00	1.00
97. Tarn Taran	1.00	1.00
98. Yamunanagar	1.00	1.00
99. Bathinda	1.00	1.00
100. Faridkot	1.00	1.00
101. Ludhiana	1.00	1.00
102. Patiala	1.00	1.00
103. Sangrur	1.00	1.

# PPA expiring in October 2017

Project	Capacity (MW)	Gas requirement (MMSCMD) @ 80% PLF	CoD Date	Years till CoD Date	Period of idling till date (Years)
Vengaloor	370	1.48	16.09.2006	11	7
Perkashin	220	0.88	14.04.2009	8	4
Konaseema	445	1.78	05.06.2009	8	4
Chittur	464	1.86	30.06.2010	7	4

It is submitted that the APM gas of 1.5 MMSCMD, if allocated to these stranded power plants, could enable the plants to operate at around 25% PLF and help to partly service



Regd. Office:  
53/1, House, 25/1, Government Road,  
Bangalore 550 025  
Plant Office:  
1, 2, 3, 4, 5, 6, 7, 8, 9, 10,  
East Godavari District, A.P. 533, 001

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We would also like to point out that

- The fixed charge per unit as submitted in the ARR for one of older plants is rightly calculated at Rs. 1.40 / unit taking into account the lower gas availability and lower PLF, which is higher than the fixed cost of newer IPPs
- The new IPPs are much more efficient with lower heat rates. For example, the Gross heat rate of GVPGL is 1850 Kcal/kWH as compared to approximately 2050 Kcal/kWH for the older plants. This translates to around a lower energy cost of Rs. 0.22 / unit

Considering a gas supply of 1.5 MMSCMD, the aggregate financial impact of both the above points is around Rs. 160 crore per annum i.e. Rs. 1600 crore over a period 10 years in terms of saving to Discoms and therefore to the consumers at large

In light of the foregoing, we would sincerely urge you to seek reallocation of the APM gas supply to the new power plants having valid PPA with APDISCOMS and offtake power from them. This would be in the interest of the state, the consumers and the IPPs which have invested in the state based on PPA bid and have already lost their entire net worth and sunk into deeper indebtedness for no fault of theirs

We look forward to your confirmation and urgent action in the matter

Thanking you

For GMR Vemagiri Power Generation Limited

*Aravind Saha*

Authorized Signatory



Copy to

1. Chairman and Managing Director, AP Transco
2. Chairman, Andhra Pradesh Power Coordination Committee
3. Secretary, Andhra Pradesh Electricity Regulatory Commission



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ANNEXURE-5

GMR Vemagiri Power Generation Limited

o/c

C R

Head Office:  
Vemagiri, Guntur District,  
East Godavari Dist.,  
A.P. 511125  
Tel: 0863 2552111-112  
Fax: 0863 2552112  
www.gmrpl.com

GMR/VPG 2017 MoP/DEL 028

10<sup>th</sup> May 2017

The Chairman  
Andhra Pradesh Power Co-ordination Committee,  
Vidyal Soudha  
Hyderabad-500082

Subject: Request for allocation/ recommendation by APPCC of APM & Non APM gas to GVPGL by diverting from old IPPs in Andhra Pradesh.

Dear Sir,

We take reference to the Retail Tariff Order of APERC for 2017-18. The Hon'ble APERC have disallowed the dispatch of old gas based Plants like Lanco Kondapally and Spectrum, whose PPAs have expired. We have also noted that APDISCOMs have stopped off-take of power from these two power plants from 7<sup>th</sup> April'17.

As such, the APM gas which was being consumed by LANCO & SPECTRUM power plants is available for re-allocation.

GVPGL having valid long term PPA upto year 2029 with AP&TS DISCOMs, has legitimate right to receive the above said gas.

Further, we are also concerned to note that APDISCOMs are planning to renew the expired PPA of these plants with threshold PLF of 80% even though APM gas is available for only 40% PLF. In our view due to following reasons the allocation of gas out of expired PPAs should be considered for allocation to GVPGL.

1. Capital Cost for old PPA plants have already recovered.
2. Sub optimal efficiency of old PPA plants
3. Higher Capacity Charges in comparison to VPGL
4. Advantages under GVPGL PPA - "No Alternate Fuel" gas issue.



15 MAY 2017  
15/5/17



Regd. Office  
Shop House, 25/1, Masetti Road  
Bangalore 560 025

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We hereby summarize the financial benefits that will accrue to AP Discoms by alternatively operating the GVPGL plant with the available APM Gas

Particulars		LAPCO	Spectrum	GVPGL
Capacity	MW	362	208	370
Approx PLF for which gas is available	%	40%	40%	
PPA Extension	Yrs	10.00	15.00	
Mus Generated for PPA Term	Mus	12684	10932	
Per Unit Fixed Cost	Rs/kWh	1.42	1.42	1.08
Incremental Cost per unit in Comparison to VFGL	Rs/kWh	0.34	0.34	
Additional Fixed Charge during PPA term	Rs Crs	431	371	
Variable Cost	Rs/kWh	2.05	2.16	1.90
Incremental Variable Cost in comparison to VPGL	Rs/Unit	0.15	0.25	
Incremental Fuel cost for PPA term	Rs Crs	189	281	
Total Incremental Fixed Cost and Fuel Cost for PPA Term	Rs Crs	621	652	
Total benefits to DISCOM by opting VPGL	Rs Crs		1272	

Therefore, the diversion of APM/ non APM gas from old PPA plants to new PPA plants will save DISCOMs an amount more than Rs. 1272 Crs and there is no rational to extend old PPAs without considering GVPGL..

We would therefore request you to kindly recommend to MoPNG for re-allocation of APM and Non-APM gas from old and expired PPA power plants to more efficient power plant of GVPGL having a valid PPA till Sept'2029.

Thanking you

For GMR Vemagiri Power Generation Limited

Authorized Signatory

Copy to:

1. Prt. Secretary- Energy, GoAP
2. Secretary-APERC
3. CMD, AP TRANSCO
4. JMD, AP TRANSCO
5. CH-IPC &PS, AP TRANSCO



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## Annexure- 6

<b>Savings to Government of Andhra Pradesh calculated based on renewal of PPA for LANCO &amp; SPECTRUM, while operating GVPGL</b>				
<b>Particulars</b>	<b>Units</b>	<b>LANCO</b>	<b>SPECTRUM</b>	<b>GVPGL</b>
Installed Capacity	MW	361.92	205.19	370
PLF	%	54%	55%	
Approx. Gas Available	MMSCMD	0.65	0.60	
PPA Extension	Years	10.00	15.00	
Mus Generated for PPA Term	MUs	10775	14882	
Additional Generation by GVPGL for PPA Term	MUs	845	1207	
Domestic Natural Gas Price	\$/mmbtu	3.36	3.36	3.36
Fixed Cost	Rs/kWh	1.67	1.09	0.699
Incremental Fixed Cost in comparison to GVPGL	Rs/kWh	0.97	0.39	
Additional Fixed Cost for PPA term	Rs Crs	1047	580	
Variable Cost	Rs/kWh	2.74	2.75	2.54
Incremental Variable Cost in comparison to GVPGL	Rs/kWh	0.20	0.21	
Additional Variable Cost for PPA term	Rs Crs	215	307	
Total Cost	Rs/kWh	4.41	3.84	3.24
Total Increment FC + VC for PPA term	Rs Crs		2148.29	
Cost saving due to additional generation from GVPGL (Assuming Exchange Price Rs 4/Kwh)	Rs Crs		677.11	
Total benefit to Discoms by opting GVPGL	Rs Crs		2825.40	





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Annexure- 7

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GVPGL losses due to curtailment of APM Gas by Government of Andhra Pradesh					
Years	Days	Exchange Rate (USD to INR)	MUs @ 80% PLF	GVPGL Fixed Cost (Rs/Kwh)	Fixed Cost (Rs Crs)
2013-14	365	60.50	2592.96	1.06	275.37
2014-15	365	61.15	2592.96	1.07	276.38
2015-16	366	65.46	2600.06	1.09	283.86
2016-17	365	67.09	2592.96	1.10	285.62
2017-18	365	64.45	2592.96	0.88	227.40
2018-19*					
Till 31.12.18	275	70.00	1953.60	0.70	136.56
Total	2101		14925.50		1485.20







**BEFORE THE HON'BLE ANDHRA  
PRADESH ELECTRCITY  
REGULATORY COMMISSION**

O.P.No.                      of 2019

In the matter of:

Short Term Purchase of Gas Power by  
Discoms from Spectrum Power  
Generation Limited (SPGL) in the State of  
Andhra Pradesh.

**Between:**

M/s GMR Vemagiri Power Generation  
Ltd.

..... Petitioner

AND

Southern Power Distribution Company  
of Andhra Pradesh Ltd. & Ors

..... Respondents

**PETITION FILED ON BEHALF OF**  
**GMR VEMAGIRI POWER**  
**GENERATION LIMITED**

Filed By:

**GORANTLA SRI RANGA PUJITHA**  
**Counsel for the Petitioner**

Address: 8-2-601/B/301, G.P. Residency,  
Road No. 10, Banjara Hills, Hyderabad –  
500034.

Mobile: 9949097937

Dt. 10.04.2019