

- f) The variation in coal quantity and quality is factored in the above reconciliation mechanism and provides the impact of the operational efficiency while calculating the heat energy.

8.3 **Reconciliation of quantity of coal dispatched to DIL and Change in Law claim:**

- a) As specified in the Petition, during the contract period of DIL i.e., 13th April 2018 to 13th February 2019, the event (notification / circular issued by Western Coalfields Limited (WCL) / Coal India Limited (CIL)) resulting in change in price of coal occurred between RfP date to commencement of supply of power and during commencement of supply of power as outlined below:

Table: Event Resulting in change in price of coal

Sr.	Event	Remarks	Prior to 23 Dec 2018	Post 23 Dec 2018
1.	Change in Surface Transportation cost	Post bid date and before Commencement of supply	21-11-2017	
2.	Levy of Evacuation Facility Charges		19-12-2017	
3.	Change in Basic Price		08-01-2018	
4.	Change in Surface Transportation cost	Post Commencement of Supply of Power		26-12-2018

- b) Accordingly, the impact of such event resulting in variation in price, the Rate of coal has increased as compared to the rate as specified in the bid. The same is outlined below:

Table: Variation in Price of Coal due to notification issued by CIL

Sr. No.	Particulars	Bid Price	Post Bid Price	
		As on 8 Sep 2017	Prior to 23 Dec 2018	Post 23 Dec 2018
A	Basic per MT	1180.00	1228.00	1228.00
B	Crushing charges per MT	87.00	87.00	87.00
C	STC per MT	57.00	91.00	100.00
D	Evacuation charges per MT	0.00	50.00	50.00
E	Royalty (14% on basic)	165.20	171.92	171.92
F	DMF (30% on Royalty)	49.56	51.58	51.58
G	NMET (2% on Royalty)	3.30	3.44	3.44
H	Assessable value (A to G)	1542.06	1682.93	1691.93
I	GST @ 5% (H*5/100)	77.10	84.15	84.60
J	Sub Total (H+I)	1619.17	1767.08	1776.53
K	Compensation cess @ 400 per MT	400.00	400.00	400.00
L	TOTAL rate of Coal (J+K)	2019.17	2167.08	2176.53
	Difference in Rate		147.91	157.36

- c) Based on the above said Notification / Circular of WCL / CIL, the coal procured from CIL and despatch to DIL has been segregated for calculation of total incremental impact on coal cost, prior to and post 23 December 2018 and the same is outlined as below:

Table: Total incremental Impact on coal (Rs. Crores)

Particulars	Date	Date	Coal Qty	Impact of Change in Law	
			MT	Rs./MT	Rs. Crs
Impact of CIL Change in law till 23 December 2018	13-04-2018	23-12-2018	5,01,920.39	147.91	7.42
Impact of CIL Change in law between 23 December 2018 to 13 January 2019	24-12-2018	13-01-2019	65,031.59	157.36	1.02
Total	13-04-2018	13-01-2019	5,66,951.98		8.45

- d) The above impact is on the basis of original invoices raised by CIL and is without taking into consideration the variation in the price of coal on account of the grade variation whereby the actual grade at loading end as certified under the third-party analysis report varies from the declared grade at the time of original invoice.
- e) The Petitioner would like to submit that as per the Petition submitted on 17 September 2021, it was estimated that the impact of change in price of coal was Rs. 8.47 Crores, which was calculated based on the billing from CIL as per applicable prices at the time of coal delivery and payments received from DIL on the basis of prices applicable on bid date. However, quantifying the same based on the coal stock despatch to DIL as per final reconciliation, the estimated impact calculated is Rs. 8.45 Crore resulting in a difference of Rs. 0.02 Crore which is due to rounding off issue related to GCV_{EQB} and Coal quantity.

8.4 **Rationale of the debit note / credit note adjustment in the coal:**

- a) As per Clause 10.3 of DPA, in case of any variation in the price of coal on account of the grade variation whereby the actual grade at loading end as certified under the third-party analysis report varies from the particular declared grade, the same will be passed on to the DIL. However, such variance in grade is required to be certified by third party.
- b) When there is grade slippage, CIL raises a Credit note as per prices applicable for the lower grade indicating amount to be received to purchaser and on the contrary, when the certified grade is higher than the declared grade there is additional demand raised from CIL to the purchaser through the Debit note.

- c) In the present case, the methodology for calculation of debit / credit note to be passed on to DIL differs based on the following 2 instances:
- Scenario 1: Credit/Debit only on account of grade variation (No change in basic prices w.r.t bid price)
 - Scenario 2: Credit/Debit on account of grade variation and accompanied by price variation (Basic price of coal and /or taxes/duties/royalties/etc. changed from bid price):
- d) As specified in Clause 10.3.3 of the DPA, in case of the Credit/Debit is only on account of grade variation and there is no change in the price of the coal as on the date of the bid issued and the date on which the coal invoice is raised, then the whole amount of Credit / Debit as received by CIL on such quantity is passed on to DIL.
- e) However, as per Clause 10.3.4 of DPA, in case of the Credit/Debit is on account of grade variation and price variation also, then in the said case, Credit / Debit will be claimed based on the ratio of price borne by DIL and MSPGCL. The price to be borne by MSPGCL will be limited to variance in price of the coal as on the date of the bid issued and the date on which the coal invoice is raised.
- f) The illustration related to debit / credit note in both scenario is outlined in the following table:

Table: Illustration of calculation of Debit / Credit Note

Particulars	Qty	GCV as per Invoice		GCV as per CIMFR		Coal Cost as per bid	Coal Cost as per Invoice	Coal Cost as per derived grade
	MT	kcal/kg	Grade	kcal/kg	Grade	Rs./MT	Rs./MT	Rs./MT
Scenario 1 - No variation in price of coal								
Inferior Quality of coal	50000	4301-4600	G10	4130	G11	2019.17	2019.17	1,757.92
Superior Quality of Coal	50000	4301-4600	G10	4660	G9	2019.17	2019.17	2,193.33
Scenario 2 - Variation in price of coal due to Notification / Circular of WCL / CIL								
Inferior Quality of coal	50000	4301-4600	G10	4130	G11	2019.17	2167.08	1,615.30
Superior Quality of Coal	50000	4301-4600	G10	4660	G9	2019.17	2167.08	2,341.25

Particulars	Ratio to be shared		Total Amount	Total Amount passed on to DIL	Balance pass on in FAC	Note
	With DIL	with MSPGCL	Rs. Cr	Rs. Cr	Rs. Cr	Dr/Cr
Scenario 1 - No variation in price of coal						
Inferior Quality of coal	100%	0%	1.31	1.31	-	Dr
Superior Quality of Coal	100%	0%	-0.87	-0.87	-	Cr
Scenario 2 - Variation in price of coal due to Notification / Circular of WCL / CIL						
Inferior Quality of coal	93%	7%	2.76	2.56	0.20	Dr

Superior Quality of Coal	93%	7%	-0.87	-0.81	-0.06	Cr
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- g) As provided in the above table, the Debit note / (Credit note) issued by WCL will be purely on the basis of the grade variation (as billed and as received at loading point on GCV_{EQB}) and resultant impact on price of coal. However, the sharing of such Debit note / (Credit note) between DIL & MSPGCL will be on the proportion of the burden of coal cost shared by both the parties (i.e. price of coal at the time of bid to be borne by DIL and any variance to be borne by MSPGCL).
- h) Based on the above philosophy and provisions as specified in Clause 10.3 of DPA, the impact of Debit notes / (Credit notes) received from CIL is shared between MSPGCL and DIL. On the basis of such sharing the net impact of Debit note / (Credit note) on MSPGCL is Rs. (-) 62.7 Lakh and not Rs. 72 Lakh as earlier submitted by the Petitioner.
- i) MSPGCL submitted that there was inadvertent error and that there was an interpretation issue and thus a computing error due to which in earlier submission a claim of Rs. 72 Lakh was raised towards the impact of Debit note / (Credit note) received from WCL. The detail working of Debit Note / (Credit Note) is outlined in the following table:

Table: Impact of Debit / Credit Note for the Contract period

Month	Impact of Credit Notes			Impact of Debit Notes		
	Total Cr Note received	Passed on to DIL	Balance with MSPGCL	Total Dr Note received	Passed on to DIL	Balance with MSPGCL
	Rs. Crs.	Rs. Crs.	Rs. Crs.	Rs. Crs.	Rs. Crs.	Rs. Crs.
Aug'18	0	0	0	-	-	-
Oct'18	0.184	0.184	0	-	-	-
Nov'18	0	0	0	-	-	-
Dec'18	0	0	0	-	-	-
Jan'19	0	0	0	-	-	-
Mar'19	5.390	5.022	0.368	0.855	0.797	0.058
May'19	0.931	0.868	0.064	-	-	-
Jul'19			0.000	0.016	0.016	-
Oct'19	1.124	1.041	0.083	0.042	0.039	0.003
Dec'19	2.372	2.207	0.165	0.071	0.068	0.003
May'20	0.161	0.149	0.012	-	-	-
Total	10.162	9.471	0.691	0.984	0.920	0.064

- j) Even though the contract was completed on 13th January 2020, the impact of Credit note is accounted in May 2020 as certain samples were due to grade dispute which was referred to referee, whereby the final outcome of the result usually takes 6 to 9 months. In the given case, all the dispute related to grade and matter referred to referee was settled by May, 2020 and accordingly, the credit notes were issued.

8.5 Summary of the Claim

Accordingly, the total claim due to impact of change in prices of coal due to multiple events occurring during the contract period and the net impact of Debit note / (Credit Note) is Rs. 7.821 Crores as outlined in the following table and requests the Commission to allow to recover the same under FAC Mechanism.

Table: Total impact to be allowed to pass through in FAC					
Particulars	Date	Date	Coal Qty	Impact of Change in Law	
			MT	Rs./MT	Rs. Crs
Impact of CIL till 23 December 2018	13-04-2018	23-12-2018	5,01,920.39	147.91	7.424
Impact of CIL between 23 December 2018 to 13 January 2019	24-12-2018	13-01-2019	65,031.59	157.36	1.023
Total	13-04-2018	13-01-2019	5,66,951.98		8.447
Impact of Debit Note					0.064
Impact of Credit Note					-0.691
Total Impact					7.821

- 8.6 In view of the aforesaid, it is submitted that the Commission may allow the above claim related to change in price during the contract period and impact of Debit note / (Credit Note) and accordingly allow MSPGCL to recover the same under FAC mechanism.

Commission's Analysis and Ruling:

9. The Commission notes that the present Petition has been filed by MSPGCL on 17 September, 2021 seeking approval of Change in Law claims related to Coal Tolling arrangement with DIL under Case -IV Phase-I for the period of April, 2018 to January, 2019.
10. MSEDCL contended that as per the provisions of MERC (State Grid Code) Regulations, 2020 (Grid Code Regulations), MSPGCL was supposed to file its Petition before the Commission with its claim for "Change in Law" (CIL) within a period of one month from the date of first occurrence of such event. However, MSPGCL had not approached the Commission within the time as specified in the Grid Code Regulations. It was also

contended that these rates were necessary for the purpose of revision in price for incorporation in the merit order stack of the generation.

11. MSPGCL argued that the Grid Code Regulations are notified in September, 2020 and hence are applicable prospectively from September, 2020. However, the claim of MSPGCL for Case-IV (Phase-I) is pertaining to period from April, 2018 to January, 2019. MSPGCL further submitted that the estimated revision was already considered while submitting the rates to SLDC for the purpose of MoD. MSPGCL also submitted that it has already brought the issue of CIL on account of the Case -IV bidding in its MYT Petition wherein the Commission had directed MSPGCL to submit a separate Petition.
12. The Commission notes the submission of MSPGCL regarding the exemption vide the Order dated 23 March, 2020 passed by Hon'ble the Supreme Court in Suo Motu Petition No.3/2020 wherein limitation period of all proceedings, before all judicial/ quasi-judicial was extended until further Orders.
13. With regards to the delay in submission of Change in Law petition, the Commission notes that Grid Code Regulations, 2020 were notified on 2 September, 2020 in the official Gazette and are in force from the date of its Notification. These Regulations cannot be applied in the present case retrospectively.
14. The Commission also notes the submission of MSPGCL that the impact of CIL which was computed as Rs.0.06 / kWh, has already been added to the MoD rate. Thus, scheduling of the DIL's Unit during the Contract period was done considering the possible impact of such increase in variable charge. Hence, the Commission does not see any default on the part of MSPGCL since the MoD rate has been appropriately modified as per the provisions for effecting the Change in Law event.
15. The Commission further notes that MSPGCL had submitted the issue of coal tolling arrangement and the CIL claim in its MYT Petition which was filed on 30 November, 2019. The relevant abstract of the MYT Order dated 30 March, 2020 is as under:

“ 2.1.12 MSPGCL submitted that under coal shortage scenario, stations near mines viz, Chandrapur and Khaperkheda could afford to use cost plus coal supplied by WCL and stations located far off from the mines were considered for supply of linkage cost in order to optimize the generation cost. Further, Coal Tolling was considered by MSPGCL as per detailed procedures/ approach provided by MOP. MSPGCL submitted that while the coal could not be supplied under tolling arrangement as envisaged, however, to the extent the coal was supplied to the selected bidders, MSEDCL has gained form the resultant low cost offered by the bidders in comparison to the cost of generation from MSPGCL stations considered for tolling.

2.1.13 MSPGCL submitted that it has completely passed on the benefits of coal tolling to MSEDCL being the difference in approved energy charge of Nashik and Bhusawal units

vis-à-vis the price discovered in tolling process. In case the coal would have been utilised in MSPGCL stations, the cost would have been considered in tariff being the actual landed cost of fuel. In case of bids for tolling, such instances require consideration towards change in law aspects in accordance with the MoP Guidelines regarding Case-IV, which may have to be paid after final reconciliation. It is for such incremental costs arising out of Change in Law after reconciliation, that MSPGCL has pleaded in the Petition for consideration by the Commission.”

16. The Commission in the MYT Order dated 30 March, 2021 in Case No. 296 of 2019 has ruled as under:

“2.1.22 As regards the coal tolling arrangement, MSPGCL has submitted that as per MoP Guidelines regarding Case-IV, the claim for Change in Law is to be passed on to MSEDCL and requested the Commission to allow MSPGCL to raise the supplementary bills once the final reconciliation is completed. The Commission is of the view that the objective of coal tolling arrangement is to optimise the cost of generation and therefore before passing on the Change in Law adjustments for tolling arrangement, it needs to be ensured that the overall costs of power supplied under tolling arrangement is lower than the cost of generation from MSPGCL stations considered for tolling. Hence, it would not be appropriate to allow MSPGCL to raise the supplementary bills for Change in Law without carrying out prudence check. MSPGCL may approach the Commission separately for approval of Change in Law claims for coal tolling arrangements with complete details and impact on tariffs for power supplied under coal tolling arrangement.”

17. In view of the above, the Commission is inclined to accept the submission of MSPGCL regarding the maintainability of the Petition on issue of delay in filing the Petition raised by MSEDCL. Accordingly, the Commission decides to adjudicate the Petition and frames and addresses the following three issues in the case to be decided based on the submissions made by the parties:

18. **Issue a: Whether the claim made by MSPGCL qualifies for “Change in Law” and whether relief can be granted in the present matter?**

18.1 The Commission notes MSPGCL’s submission that after following due E-tendering process, it had issued Letter of Award to M/s Dhariwal Infrastructure Ltd for 185 MW against one Unit of Nashik Thermal Power Plant on 20 December, 2017.

18.2 After the bid submission date i.e., 08 September 2017, there were following changes in the price of coal on account of revision of the charges by the Coal India Limited:

- a) Surface Transportation Charges (w.e.f. 22.11.2017),
- b) Evacuation facility charges (w.e.f.19.12.2017),
- c) Change in Basic price of coal (w.e.f. 08.01.2018),
- d) Change in Surface Transportation Charges (w.e.f. 26.12.2018).

18.3 The Commission notes that there are four components on which MSPGCL has claimed the Change in Law as under:

a) Surface Transportation Charges:

- i) MSPGCL submitted that the rate of the Surface Transportation Charges as on the date of Bidding (i.e., 8 September, 2017) was Rs. 57 per MT.
- ii) After the Bid submission date, the rate of the Surface transportation charges was increased to Rs. 91 per MT vide the Notification dated 22 November, 2017.
- iii) The Commission notes that there is increase of Rs. 34 per MT in the Surface transportation charges after the submission of the Bid.
- iv) This change in the rate of Surface Transportation charges was after the submission of the Bid and prior to actual commencement of supply.
- v) MSPGCL has submitted that as per Case IV Guidelines, any increase in cost of coal, duties and taxes on coal after bid submission date shall be borne by the Buyer during the contract period. Therefore, this is Change in Law and hence the claim for adjustment of additional costs (“Change in Law”) to be borne by MSPGCL is to be passed on to MSEDCL, either through Fuel Adjustment Surcharge bills or as additional claim in truing up process.

b) Evacuation facility Charges:

- i) MSPGCL submitted that the Evacuation Facility charges were not applicable as on the bidding date and hence it was considered as zero at the time of Bid submission.
- ii) The Evacuation Facility Charges were notified as Rs. 50 per MT vide the Notification dated 19 December, 2017.
- iii) This levy of the Evacuation facility charges were notified after the submission of the Bid and prior to actual commencement of supply.
- iv) The Commission notes that there is increase in cost of Rs. 50 per MT on account of Evacuation Facility Charges after the submission of the Bid.

c) Change in Basic Price of Coal:

- i) MSPGCL submitted that the rate of the Basic cost of the Coal as on the date of Bidding (i.e., 8 September, 2017) was Rs. 1180 per MT.
- ii) After the Bid submission date, the Basic cost of the Coal was increased to Rs. 1228 per MT vide the Notification dated 8 January, 2018.
- iii) The Commission notes that there is increase of Rs. 48 per MT in the Basic cost of Coal after the submission of the Bid date 8 September, 2017.

- iv) This change in the Basic Cost of Coal was after the submission of the Bid and prior to actual commencement of supply.
- v) MSPGCL has submitted that as per Case IV Guidelines, any increase in cost of coal, duties and taxes on coal after bid submission date shall be borne by the Buyer during the contract period. Therefore, this is Change in Law and hence the claim for adjustment of additional costs (“Change in Law”) to be borne by MSPGCL is to be passed on to MSEDCL, either through Fuel Adjustment Surcharge bills or as additional claim in truing up process.

d) Change in Surface Transportation charges:

- i) MSPGCL submitted that the rate of the Surface Transportation Charges as on the date of Bidding (i.e., 8 September, 2017) was Rs. 57 per MT.
- ii) After the Bid submission date, the rate of the Surface transportation charges was increased to Rs. 91 per MT vide the Notification dated 22 November, 2017. Therefore, there was increase of Rs. 34 per MT in the Surface Transportation charges after the submission of the Bid 8 September, 2017.
- iii) This change in the rate of Surface Transportation charges was after the submission of the Bid and prior to actual commencement of supply.
- iv) The Surface Transportation Charges were again increased to Rs. 100 per MT vide the Notification dated 26 December, 2018 after the commencement of actual date of commencement of supply of power.
- v) The Commission notes that there was increase of Rs. 9 per MT in the Surface transportation charges after first enhancement of the rate. Therefore, the total Increase in the Surface Transportation charges effective after 26 December, 2018 was Rs. 43 per MT.
- vi) MSPGCL has submitted that as per Case IV Guidelines, any increase in cost of coal, duties and taxes on coal after bid submission date shall be borne by the Buyer during the contract period. Therefore, this is Change in Law and hence the claim for adjustment of additional costs (“Change in Law”) to be borne by MSPGCL is to be passed on to MSEDCL, either through Fuel Adjustment Surcharge bills or as additional claim in truing up process.

18.4 The Events resulting the Change in the price of Coal on account of all the four factors above is as under:

Sr.	Event	Remarks	Prior to 23 Dec 2018	Post 23 Dec 2018
1.	Change in Surface Transportation cost	Post bid date and before	21-11-2017	

2.	Levy of Evacuation Facility Charges	Commencement of supply	19-12-2017	
3.	Change in Basic Price		08-01-2018	
4.	Change in Surface Transportation cost	Post Commencement of Supply of Power		26-12-2018

18.5 MSEDCL has in principle, not objected to the claim of CIL of MSPGCL on account of these Notifications or revisions in the charges by Coal India Limited on account of these four factors.

18.6 The Commission notes that all these Notifications are notified after the submission of the Bid date 8 September, 2017.

18.7 The Change in Law Provisions of MYT Regulations, 2019 is reproduced below:

“2.(15) "Change in Law" means occurrence of any of the following events:

- a. enactment, bringing into effect or promulgation of any new Indian law; or*
- b. adoption, amendment, modification, repeal or re-enactment of any existing Indian law; or*
- c. change in interpretation or application of any Indian law by a competent court, Tribunal or Indian Governmental Instrumentality, which is the final authority under law for such interpretation or application; or*
- d. change of any condition or covenant by any competent statutory authority in relation to any consent or clearances or approval or License available or obtained for the Project; or*
- e. any change in taxes or duties, or introduction of any taxes or duties levied by the Central or any State Government.” [emphasis added]*

18.8 The Commission also notes that as per Case IV Bidding Guidelines, issued by MoP, any increase in cost of coal, duties and taxes on coal after the Bid submission date shall be borne by the Buyer during the contract period. The relevant abstract of the Case -IV Guidelines dated 20 February, 2017 issued by MoP is as under:

“8.2

viii Any increase in cost of coal, duties, and taxes on coal shall be borne by the Buyer during the Contract period.”

18.9 The Commission notes that the bids were called vide RfP dated 4 August, 2017 and the last date of submission was 8 September, 2017. It is pertinent to note that after resorting to e-tendering process on National e-Bidding DEEP portal by MSPGCL, it had issued Letter of Award to DIL on 20 December, 2017. Accordingly, the CIL events specified above in paragraph 18.2, 18.3 are after the bid submission date.

18.10 Therefore, the Commission is inclined to accept the submission of MSPGCL that the change in the basic price of coal cost, evacuation facility charges and the surface transportation charges were after the submission of the Bids by the Bidders. Therefore, the Commission in-principle accepts the Change in Law claim of MSPGCL.

19. Issue b: If the claims made by MSPGCL qualifies for “Change in Law” then what should be the amount of claim to be allowed?

19.1 The Commission is of the view that the objective of coal tolling arrangement is to optimize the cost of generation and therefore before passing on the Change in Law adjustments for tolling arrangement, it needs to be ensured that the overall costs of power supplied under tolling arrangement is lower than the cost of generation approved by the Commission from MSPGCL stations considered for tolling. Hence, it would be appropriate to allow MSPGCL to raise the supplementary bills for CIL only after the prudence check.

19.2 MSEDCL also in its submission has stated that the intention of coal tolling arrangement under Case IV bidding is to optimize utilisation of coal. MSEDCL stated that it is necessary for MSPGCL to substantiate the operational efficiency of the Power Station selected under Case IV bidding as compared to its existing Power Stations which was replaced and to demonstrate the savings in cost of generation. Merely showing the savings in per unit cost of generation does not showcase the correct benefit derived from the coal tolling arrangement. Therefore, separate assessment may be done for the benefit derived due to operational efficiency / parameters of DIL as compared to Nashik TPS excluding the cost of fuel which is a pass through in any case.

19.3 Accordingly, the Commission has analyzed the details on the operational parameters provided by the MSPGCL and also analyzed the impact on tariff for power supplied under coal tolling arrangement.

19.4 It is observed that the Bidding parameters of DIL against the Nashik TPS were efficient as shown below:

Norms	Unit	MYT Regulations, 2015	Quoted by DIL	Nashik TPS
Station Heat Rate	KCal/kWh	2400	2400	2783
Auxiliary Consumption	%	8.5% +0.5%	9%	11%

19.5 It is observed that quoted SHR of DIL Unit was equal to the normative SHR for equivalent Unit size and was much less than the Nashik TPS which was the replacement Plant. Also, Auxiliary Consumption of DIL was also equal to the normative auxiliary

consumption of equivalent Power Station Capacity but was much less than the Nashik TPS.

- 19.6 The Commission notes that the actual SHR of DIL during the contract period (i.e., April-2018 to January-2019) was 2455 kcal/kWh, which was significantly lower than SHR of Nashik TPS (i.e., 2783 kcal/kWh). However, SHR considered for reconciliation is 2400 kcal/kWh, which is as submitted in the bid and is equivalent to the norms as specified in MYT Regulations, 2015.
- 19.7 Therefore, the actual reconciliation of heat energy has been carried out on the basis of efficient operational norms (i.e., SHR and Auxiliary Consumption as per Bid & GCV_{EQB}). Thereafter on the basis of reconciled heat energy the coal quantum is determined.
- 19.8 The Commission also agrees with the submission of MSPGCL that due to consideration of equilibrated GCV for reconciliation purpose, it has resulted into more energy to be supplied by IPP to MSEDCL in lieu of transfer of coal as compared to energy if the coal quality is considered as GCV at ARB basis.
- 19.9 Accordingly, the reconciliation is tabulated as under:

Particulars	Units	DIL Apr-Jun	DIL Jul-Sep	DIL Oct-Jan	Total	Remarks
No. of days		76	92	105	273	
No. of hours in a day		24	24	24	24	
Actual Generation as per bill	MUs	326.02	134.40	316.65	777.06	Actual energy accounted at Delivery point
Auxiliary Consumption		9.00%	9.00%	9.00%	9.00%	As per bid
Gross Generation	MUs	358.26	147.69	347.96	853.91	
Station Heat Rate	kcal/kWh	2,400	2,400	2,400	2,400	As per bid
Overall Heat Generation	G Cal	8,59,826.70	3,54,448.35	8,35,114.62	20,49,389.67	Heat required for electricity generation
Specific Oil Consumption	ml/kWh	0.5	0.5	0.5	0.5	As per MYT Regulations, 2015
Calorific Value of Oil	kcal/l	10,000	10,000	10,000	10,000	
Heat from Oil	Gcal	1,791.31	738.43	1,739.82	4,269.56	Heat offset by Oil
GCV of Coal	kCal/kg	4026.20	3972.11	3748.96	3901.66	GCV _{EQB} at loading point
Supplied quantity of Coal before transit Loss	MT	2,17,850.41	1,17,305.98	2,31,795.59	5,66,951.98	Coal supplied at loading end
Transit loss	%	0.80%	0.80%	0.80%	0.80%	As per MYT Regulations, 2015
Supplied quantity of Coal	MT	2,16,107.61	1,16,367.53	2,29,941.23	5,62,416.37	Coal adjusted with transit loss
Heat from Coal	GCal	8,70,091.40	4,62,225.01	8,62,039.75	21,94,356.15	Heat Expected from Supplied coal at specified GCV
Extra Heat deficit/(surplus)	Gcal	(12,056.00)	(1,08,515.09)	(28,664.95)	(1,49,236.04)	
Coal quantity to be	MT	-2,994.39	-27,319.23	-7,646.11	-38,249.39	

Particulars	Units	DIL Apr-Jun	DIL Jul-Sep	DIL Oct-Jan	Total	Remarks
adjusted @ given GCV						
Coal quantity to be adjusted (Grossed up)	MT	-3,018.54	-27,539.55	-7,707.78	-38,557.86	
Units to be adjusted	MUs	-4.61	-41.48	-10.96	-57.04	

19.10 As is outlined in the above table, the efficient operational parameter has been considered for calculation of Heat from the coal dispatch to DIL under Case IV Phase I. Also, based on the reconciliation, a surplus coal quantity available equivalent to 57.04 MUs was derived. The Commission notes the submission that against this surplus quantity, DIL has already supplied additional surplus energy from 12 May, 2020. MSEDCL has also agreed to the submission of MSPGCL during the hearing.

19.11 Based on above reconciliation variation in Price of Coal due to notification issued by Coal India Limited are computed as under:

Sr. No.	Particulars	Bid Price	Post Bid Price	
		As on 8 Sep 2017	Prior to 23 Dec 2018	Post 23 Dec 2018
A	Basic per MT	1180.00	1228.00	1228.00
B	Crushing charges per MT	87.00	87.00	87.00
C	STC per MT	57.00	91.00	100.00
D	Evacuation charges per MT	0.00	50.00	50.00
E	Royalty (14% on basic)	165.20	171.92	171.92
F	DMF (30% on Royalty)	49.56	51.58	51.58
G	NMET (2% on Royalty)	3.30	3.44	3.44
H	Assessable value (A to G)	1542.06	1682.93	1691.93
I	GST @ 5% (H*5/100)	77.10	84.15	84.60
J	Sub Total (H+I)	1619.17	1767.08	1776.53
K	Compensation cess @ 400 per MT	400.00	400.00	400.00
L	TOTAL rate of Coal (J+K)	2019.17	2167.08	2176.53
	Difference in Rate		147.91	157.36

19.12 Based on the notification / Circular of WCL / Coal India Limited, the coal procured from Coal India Limited and dispatch to DIL has been segregated for calculation of total incremental impact on coal cost, prior to and post 23 December 2018 and the same is outlined as below:

Particulars	Date	Date	Coal Qty	Impact of Change in Law	
			MT	Rs./MT	Rs. Crs
Impact of CIL till 23 December 2018	13-04-2018	23-12-2018	5,01,920.39	147.91	7.42
Impact of CIL between 23 December 2018 to 13 January 2019	24-12-2018	13-01-2019	65,031.59	157.36	1.02

Total	13-04-2018	13-01-2019	5,66,951.98	8.45
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19.13 Therefore, the actual impact of change in price of coal is Rs. 8.45 Crores based on the coal quantity dispatch to DIL under Case IV Phase I.

19.14 Further the Commission notes the submission of MSPGCL that the impact of Debit notes / (Credit notes) received from CIL is shared between MSPGCL and DIL. On the basis of such sharing the net impact of Debit note / (Credit note) on MSPGCL is Rs. (-) 62.7 Lakh and not Rs. 72 Lakh as earlier submitted in the Petition. MSPGCL submitted that the difference in the amount is due to error in consideration of negative / positive sign for (Credit note) / Debit note.

19.15 Accordingly, the Commission allows the total claim of Rs 7.821 Crores due to impact of change in prices of coal due to multiple events occurring during the contract period and the net impact of Debit note / (Credit Note) as outlined in the following table:

Table: Total impact to be allowed to pass through in FAC:

Particulars	Date	Date	Coal Qty	Impact of Change in Law	
			MT	Rs./MT	Rs. Crs
Impact of CIL till 23 December 2018	13-04-2018	23-12-2018	5,01,920.39	147.91	7.424
Impact of CIL between 23 December 2018 to 13 January 2019	24-12-2018	13-01-2019	65,031.59	157.36	1.023
Total	13-04-2018	13-01-2019	5,66,951.98		8.447
Impact of Debit Note					0.064
Impact of Credit Note					-0.691
Total Impact					7.821

19.16 The Commission notes that the actual impact of the Change in law is less than Rs. 0.12/kWh. The effective variable charge of DIL was Rs. 2.88/kWh as against the variable charge of Rs. 3.05 to Rs. 3.85 during April, 2018 to January, 2019 for Nashik TPS.

19.17 Therefore, the Commission allows MSPGCL's claim of Rs. 7.821 Crores as Change in Law as per sub-clause 'e' of "Change in Law" definition under MYT Regulations, 2019.

20. Issue c: What would be the recovery mechanism for the amount allowed as a pass through?

20.1 The amount of Rs. 7.821 crore is for the period of FY 2018-19. Allowing recovery of such expenses immediately may cause adverse impact on end consumers. Therefore, to avoid such burden on end consumers, the Commission deems it fit to allow this amount as Change in Law and directs that the recovery of such expense to be included in its ARR during the upcoming Mid Term Review (MTR) Petition.

20.2 Accordingly, MSPGCL may claim the amount of Rs. 7.821 crore in its MTR Petition.

20.3 The Commission, therefore, allows the amount of Rs. 7.821 crore as a Change in Law claim to MSPGCL for DIL Case IV Phase -I coal tolling arrangement.

21. Hence, the following Order:

ORDER

1. **The Case No. 127 of 2021 is partly allowed.**
2. **The Commission allows the amount of Rs. 7.821 crore as a Change in Law claim to MSPGCL for DIL Case IV Phase -I coal tolling arrangement.**
3. **MSPGCL may claim this amount in its upcoming MTR Petition.**

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I. M. Bohari)
Member

Sd/-
(Sanjay Kumar)
Chairperson

