

Autonomous Body under MoP, will be allowed only after obtaining the approval of Ministry of Power.

**9. Procedure in cases already pending before the Arbitral Tribunals / Courts:**

In cases of disputes pending before the Arbitration Tribunals or the Courts, both of the parties [i.e. Developer and Contractor] need to agree to explore the possibilities of conciliation through the Conciliation Committee of Independent Experts. In case of such agreement, an appropriate reference shall be made to the Conciliation Committee, upon which the Committee shall proceed to examine such reference(s). The option of resolution through conciliation through CCIE would be open only in the event of the parties withdrawing from arbitration proceedings and undertaking to forego their rights to proceed for further arbitration in the subject matter. However, other legal remedies would be open to the parties in the event of the conciliation proceedings not being successful.

**10.** The Conciliation Mechanism shall be available in all the existing and future contracts. Suitable provisions of Conciliation Mechanism shall be incorporated in the contract documents entered into in the future by all CPSUs/Statutory Bodies of Ministry of Power.

**11.** CCIE is an alternate dispute resolution mechanism being put in the place by the Ministry. If the Contractor is not willing to take recourse to this process or has any reluctance in this behalf, there shall be no compulsion to take such a recourse.

This issues with the approval of Hon'ble Minister of Power and New & Renewable Energy.



**(R. P. Pradhan)**  
**Director (Hydel-II)**

1. Chairperson, CEA
2. Chairperson, CWC
3. CMDs / Chairman(s) of all the CPSUs / Statutory Bodies / Autonomous Bodies under the Ministry of Power

**Copy to:**

1. PS to Hon'ble Minister of Power & NRE
2. PS to HMoS for Power
3. Sr. PPS to Secretary (Power)
4. Sr. PPS to AS (SKG) / Sr. PPS to AS (VKD) / Sr. PPS to AS&FA
5. PPS to All Joint Secretaries in Ministry of Power
6. PPS to EA
7. All Directors / Deputy Secretaries / Under Secretaries / Deputy Directors, MoP

**Template Letter to be sent to the Concessionaire/ Contractor/ Consulting party**

From:

HOP – concerned Developer

Address .....

.....

.....

To

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

No. \_\_\_\_\_ Date: \_\_\_\_\_

**Subject: Your reference dated \_\_\_\_\_ regarding the Dispute in the project  
\_\_\_\_\_ for a meeting at the level of CMD (Developer)  
and Chairman (Contractor Agency) for settlement.**

Sir,

Kindly refer to your above cited reference on the subject cited above. It is agreed to refer the matter for consideration of the CMD, Developer and Chairmen of BOD of the Contractor for settlement of the dispute. However, in order to arrive at any proposed conciliation, it would be useful if the team from the Developer and your Company / firm discuss and crystallise the issues in advance of the proposed meeting.

2. You are, therefore, requested to discuss the issues / disputes with the Developer team led by the Contract Management Division of the Developer on a date mutually convenient.

Yours Sincerely,

( \_\_\_\_\_ )  
HOD / General Manager  
Concerned Developer

**Copy to:**

1. CMD, Developer
2. AGM(Project), Developer. It is requested that all correspondence / documents relating to the subject along with index may please be furnished to the Contract Management Division within 7 days of this letter.

F. No. 11/22/2021-Th.II  
Government of India  
(Bharat Sarkar)  
Ministry of Power  
(Vidyut Mantralay)

Shram Shakti Bhawan, Rafi Marg  
New Delhi, the 29<sup>th</sup> April, 2022

OFFICE MEMORANDUM

**Subject:** Dispute Resolution through Conciliation for Contractual Disputes in Projects implemented by CPSUs / Statutory Bodies under the administrative control of Ministry of Power – Induction of the coal-mining expert Member in the CCIE – regarding.

Ministry of Power vide OM of even number dated 29.12.2021 (Annex-I), introduced a conciliation mechanism for settlement of contractual disputes in contracts of CPSUs / Statutory Bodies under Ministry of Power executing power projects. The said mechanism envisages conciliation of contractual disputes through three Nos. of Conciliation Committee of Independent Experts (CCIEs). CCIE have been constituted by selecting one Member each from amongst the following categories:-

- I. Former Officers of the rank of Secretary / Additional Secretary to the Govt. of India.
- II. Sector Experts having substantial domain knowledge of project development and O&M of power projects.
- III. Experts in Finance with experience in senior positions of Financial Institutions.

2. In the meantime, a representation was received from a CPSU under this Ministry executing Thermal Projects that a substantial number of contractual disputes in thermal projects are attributable to disputes raised by Mine Development Operators (Contractors) of the Captive Coal Mines of the CPSUs/Project Implementing Agencies. The 3 CCIEs constituted by Ministry of Power, in its present form, need more domain expertise to conciliate the contractual disputes related to mining issues of these captive coal mines.

3. Accordingly, it has been decided to empanel one additional Member in the existing CCIE(s) having substantial domain expertise in coal-mining sector.

4. In view of the above, Clause 2(IV) is hereby added below Clause 2 (III) of this Ministry's OM of even number dated 29.12.2021:-

"2.(IV): Sector Expert having substantial domain knowledge of coal mining sector"

5. In addition, following para 2 of Clause 2 of the OM of even number dated 29.12.2021 is modified as under:

Contd...2.

M.

- [ 2 ] -

Original Clause


"Provided that one of the Members in each CCIE should be from the category mentioned at 2(II) above i.e. Sector Expert having substantial domain knowledge of project development and O&M of power projects."

replaced with

"Provided that the composition of the CCIE should be such that there shall be (a) one member from category 2(I), (b) one member from Category 2(III), and (c) one member from Category 2(II) when dealing with disputes relating to power projects or Category 2(IV) when dealing with disputes relating to captive coal mines."

6. The remaining terms & conditions of the aforesaid OM will remain unchanged.

This issues with the approval of Hon'ble Minister of Power & NRE.

  
(R. P. Pradhan)  
Director

1. Chairperson, CEA
2. Chairperson, CWC
3. CMDs / Chairman(s) of all the CPSUs / Statutory Bodies / Autonomous Bodies under the Ministry of Power

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5. PPS to All Joint Secretaries in Ministry of Power
6. PPS to EA
7. All Directors / Deputy Secretaries / Under Secretaries / Deputy Directors, MoP



F. No. 11/22/2021-Th.II

Government of India

(Bharat Sarkar)

Ministry of Power

(Vidyut Mantralay)

Shram Shakti Bhawan, Rafi Marg

New Delhi, the 18th October, 2023

**OFFICE MEMORENDUM**

**Subject: Dispute Resolution through Conciliation for Contractual Disputes in Projects implemented by CPSUs / Statutory Bodies under the administrative control of Ministry of Power — Constitution of Conciliation Committee of Independent Experts (CCIE) — Corrigendum Reg.**

In partial modification of this Ministry's OM of even number dated 29.12.2021 (copy enclosed) regarding resolution of contractual disputes in the Projects implemented by CPSUs / Statutory Bodies under the administrative control of Ministry of Power through conciliation by Conciliation Committee of Independent Experts (CCIE), following amendments are hereby made in the CCIE mechanism:-

2. Para 6 of the OM No. F. No. 11/22/2021-Th.II dated 29.12.2021 may be read as under:

*In case of any disagreement during execution of contracts, it is expected that the parties will take up the matter first with the Dispute Avoidance Mechanism (through Independent Engineer), wherever the option is available. In case of its failure, the parties may refer the matter further to the Conciliation Committee. The Conciliation process shall be conducted under Part III of the Arbitration and Conciliation Act, 1996. The Conciliation Committee would either be able to resolve and settle dispute(s) between the parties, or the process may fail. In case of failure of the conciliation process at the level of the Conciliation Committee, the parties may withdraw from conciliation process and take recourse to Arbitration proceedings or the laid down legal process of Courts. ~~However, the option of Arbitration would not be available once the conciliation mechanism has been exercised.~~ In the event of the conciliation proceedings being successful, the parties to the dispute would sign the written settlement agreement and the conciliators would authenticate the same. Such settlement agreement would then be binding on the parties in terms of Section 73 of the Arbitration and Conciliation Act, 1996*

3. Para 9 of the OM No. F. No. 11/22/2021-Th.II dated 29.12.2021 may be read as under:

*In cases of disputes pending before the Arbitration Tribunals or the Courts, both the parties [i.e. Developer and Contractor] need to agree to explore the possibilities of conciliation through the Conciliation Committee of Independent Experts. In case of such agreement, an appropriate reference shall be made to the Conciliation Committee, upon which the Committee shall proceed to examine such reference(s). In the event of the conciliation proceedings being successful, the parties to the dispute would sign the written settlement agreement and the conciliators would*

*Ld*

authenticate the same. Such settlement agreement would then be binding on the parties in terms of Section 73 of the Arbitration and Conciliation Act, 1996. The option of resolution through conciliation through CCIE would be open only in the event of the parties withdrawing from arbitration proceedings and undertaking to forego their rights to proceed for further arbitration in the subject matter. However, other legal remedies would be open to the parties. However, the parties may resume the Arbitration proceedings or take recourse to any other legal remedies in the event of the conciliation proceedings not being successful.

4. The aforementioned changes will be effective from the date of issuance of this Office Memorandum.
5. This issues with the approval of the Competent Authority.

  
(Vikrant S. Dhillon)  
Deputy Director  
Tel: 011-23705841  
Email: hydro2-mop@gov.in

1. Chairperson, CEA
2. Chairperson, CWC
3. CMDs/Chairpersons to all CPSUs/Statutory bodies/ Autonomous bodies under MoP
4. All members of CCEA - 3, 2, 2, 3.

**Copy to:**

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3. PA to SS & FA
4. Sr. PPS to AS (AT)
5. PPS to all Joint Secretaries in MoP
6. PPS to EA
7. All Directors/ DS/ US/ DD, MoP

**Copy also to:**

In-charge, NIC Cell, MoP with request to publish the instant OM on the homepage of the website of Ministry of Power.