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To
GM(Sales)
ECL/BCCL/CCL/SECL/MCL/NCL/WCL
GM, NEC

Dear Sirs,

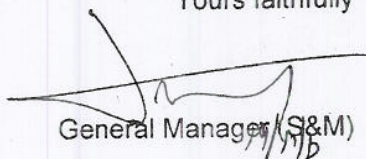
Sub : Revised guidelines of the Department of Public Enterprises regarding settlement of commercial disputes between PSU Enterprises inter se and PSU Enterprise(s) and Govt. Deptt(s) through Permanent Machinery of Arbitrators (PMA)

The provision for 'settlement of disputes' under the model FSA(s) applicable with Government/PSU TPP(s) for both existing and new plants were in accordance to the mechanism of Permanent Machinery of Arbitrators (PMA) issued by the Department of Public Enterprises, Ministry of Heavy Industries & Public Enterprises, Govt vide DPE OM No. DPE/4(10)/2001-PMA-GL-I dated 22.1.2004.

Recently, the department of Heavy Industries & Public Enterprises has modified the dispute resolution provision vide OM No. 4(1)/2011-DPE(PMA)-GL dated 12.6.2013 replacing the earlier OM No. 4(10)/2001-PM-GLI dated 22.1.2004.

Since the earlier OM dated 22.1.04 has been superseded by the new OM dated 12.6.2013, the FSA provisions under clause 15.1 for the Model applicable to existing as well as new Government/State Power Utilities including the corresponding Tapering FSA model will stand modified accordingly. The legally vetted modified provision as against the existing provision is being enclosed for informing the concerned consumers and modifying the FSA to this extent while entering into /renewing new agreements. This issues with the approval of the competent authority.

Yours faithfully


General Manager (S&M)

Copy to-
Director(Mktg)
GM(S&M-Commercial)/CIL
GM (LOA/Operation),CIL
GM (Finance),CIL S&M
• GM (Legal),CIL, S&M

**Modification in the FSA provision applicable to New SEB/Government/PSU TPPS including for the corresponding
Tapering FSA model**

Clause & Model	Existing Provision	Modified Provision
15.1 SEB Model for New Power Plants SEB Model for New Power Plants (Tapering)	<p>All differences or disputes between the Parties shall be settled/ resolved amicably. If amicable settlement is not possible, then the unresolved disputes or differences shall be settled through the process as defined under Arbitration in terms of Office Memorandum (OM) No. DPE/4(10)/2001-PMA-GLI dated 22nd January 2004 Govt. of India, Ministry of Industry, Department of Public Enterprises, New Delhi as enforced from time to time. The Arbitration shall be conducted as per the aforesaid Office Memorandum and the relevant provisions relating to Arbitration read as under:-</p> <p>"In the event of any dispute or difference relating to the interpretation and application of the provisions of the contracts, such dispute or difference shall be referred by either party to the Arbitration of one of the Arbitrators in the Dept. of Public Enterprises to be nominated by the Secretary to the Govt. of India, in charge of the Bureau of Public Enterprises. The Arbitration Act 1996 shall not be applicable to the Arbitration under this clause. The award of the Arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make a further reference for setting aside or revision of the award to the Law Secretary, Dept. of Legal Affairs, Ministry of Law & Justice, Govt. of India. Upon such reference, the dispute shall be decided by the Law Secretary or by the Special Secretary/Additional Secretary when so authorised by the Law Secretary, whose decision shall bind the parties finally and conclusively. The parties to the dispute will share equally the cost of Arbitration as intimated by the Arbitrator".</p>	<p>All differences or disputes between the Parties shall be settled/ resolved amicably. If amicable settlement is not possible, then the unresolved disputes or differences shall be settled through the process as defined under Arbitration in terms of Office Memorandum (OM) No. 4(1)/2011-DPE(PMA)-GL dated 12th June.2013 Govt. of India, Ministry of Industry, Department of Public Enterprises, New Delhi as enforced from time to time. The Arbitration shall be conducted as per the aforesaid Office Memorandum and the relevant provisions relating to Arbitration read as under:-</p> <p>"In the event of any dispute or difference relating to the interpretation and application of the provisions of the contracts, such dispute or difference shall be referred by either party for Arbitration to the Sole Arbitrator in the Dept. of Public Enterprises to be nominated by the Secretary to the Govt. of India, in charge of the Department of Public Enterprises. The Arbitration and Conciliation Act 1996 shall not be applicable to Arbitration under this clause. The award of the Arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make a further reference for setting aside or revision of the award to the Law Secretary, Department. of Legal Affairs, Ministry of Law & Justice, Govt. of India. Upon such reference, the dispute shall be decided by the Law Secretary or by the Special Secretary/Additional Secretary when so authorised by the Law Secretary, whose decision shall bind the parties finally and conclusively. The parties to the dispute will share equally the cost of Arbitration as intimated by the Arbitrator".</p>

Modification in the FSA provision applicable to Existing SEB/Government/PSU TPPS

Clause & Model	Existing Provision	Modified Provision
15.1 (SEB Model) for existing Power Plants)	<p>All differences or disputes between the Parties shall be settled/ resolved amicably in the first instance. If amicable settlement is not possible, then the unresolved disputes or differences shall be settled through Arbitration in terms of Office Memorandum (OM) No. DPE/4(10)/2001-PMA-GLI dated 22nd January, 2004 Govt. of India, Ministry of Industry, Department of Public Enterprises, New Delhi as enforced from time to time. The Arbitration shall be conducted as per the aforesaid Office Memorandum and the relevant provisions relating to Arbitration read as under:-</p> <p>"In the event of any dispute or difference relating to the interpretation and application of the provisions of the contracts, such dispute or difference shall be referred by either party to the Arbitration of one of the Arbitrators in the Dept. of Public Enterprises to be nominated by the Secretary to the Govt. of India, in charge of the Bureau of Public Enterprises. The Arbitration Act 1940 shall not be applicable to the Arbitration under this clause. The award of the Arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make a further reference for setting aside or revision of the award to the Law Secretary, Dept. of Legal Affairs, Ministry of Law & Justice, Govt. of India. Upon such reference, the dispute shall be decided by the Law Secretary or by the Special Secretary/Additional Secretary when so authorised by the Law Secretary, whose decision shall bind the parties finally and conclusively. The parties to the dispute will share equally the cost of Arbitration as intimated by the Arbitrator".</p>	<p>All differences or disputes between the Parties shall be settled/ resolved amicably in the first instance. If amicable settlement is not possible, then the unresolved disputes or differences shall be settled through the process as defined under Arbitration in terms of Office Memorandum (OM) No. 4(1)/2011-DPE(PMA)-GL dated 12th June.2013 Govt. of India, Ministry of Industry, Department of Public Enterprises, New Delhi as enforced from time to time. The Arbitration shall be conducted as per the aforesaid Office Memorandum and the relevant provisions relating to Arbitration read as under:-</p> <p>"In the event of any dispute or difference relating to the interpretation and application of the provisions of the contracts, such dispute or difference shall be referred by either party for Arbitration to the Sole Arbitrator in the Dept. of Public Enterprises to be nominated by the Secretary to the Govt. of India, in charge of the Department of Public Enterprises. The Arbitration and Conciliation Act 1996 shall not be applicable to Arbitration under this clause. The award of the Arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make a further reference for setting aside or revision of the award to the Law Secretary, Department. of Legal Affairs, Ministry of Law & Justice, Govt. of India. Upon such reference, the dispute shall be decided by the Law Secretary or by the Special Secretary/Additional Secretary when so authorised by the Law Secretary, whose decision shall bind the parties finally and conclusively. The parties to the dispute will share equally the cost of Arbitration as intimated by the Arbitrator".</p>