

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

**Dr. Pramod Deo, Chairperson
Shri V.S.Verma, Member
Shri M.Deena Dayalan, Member**

DATE OF HEARING: 14.3.2013

Petition No. 14/MP/2013

Sub: Petition under Section 79 of the Electricity Act, 2003 read with statutory framework governing procurement of power through competitive bidding and Articles 13 and 17 of the Power Purchase Agreement dated 07.08.2007 executed between Sasan Power Limited and the Procurers for compensation due to Change in Law during the Construction Period

Petitioner : Sasan Power Limited

Respondents : M.P.Power Management Company Limited and others.

Petition No. 21MP/2013

Sub: Petition under Section 79 of the Electricity Act, 2003 read with statutory framework governing procurement of power through competitive bidding and Articles 13 and 17 of the Power Purchase Agreement dated 07.08.2007 executed between Sasan Power Limited and the Procurers for compensation due to unprecedented, unforeseen and uncontrollable depreciation of the India Rupee

Petitioner : Power Grid Corporation of India Limited, Gurgaon

Respondents : M.P.Power Management Company Limited and others

Parties presents : Shri M.G.Ramchandran, Advocate, PGCIL
Shri U.K.Tyagi, PGCIL
Shri Y.K.Sehgal, PGCIL
Shri Dilip Rozekar, PGCIL
Shri Padamjit Singh, PSPCL
Shri R.B.Sharma, Advocate, BRPL

Parties present: Shri Amit Kapur, Advocate for the petitioner
Shri Vishrov Mukerjee, Advocate for the petitioner

Shri N.K.Deo, SPL
Shri P.Venkataraman, SPL
Shri G.Umapathy, Advocate, MPPMCL
Shri P.S.Solanki, AVVL, HPPC
Shri Sanjay Srivastava, BRPL
Shri Haridas Maity, BYPL
Shri Sanjay Verma, UPPCL
Shri Padamjit Singh, PSPCL

Record of Proceedings

Learned counsel for the petitioners submitted that present petitions have been filed to claim compensation on account of the changes in law during construction period and compensation due to unprecedented, unforeseen and uncontrollable depreciation of Indian Rupees. Learned counsel referred to the changes in law dealt with in the petition and requested the Commission to admit the petitions and issue notice to the Respondents.

2. Learned counsel of M.P. Power Management Company Limited (MPPMCL), the lead procurer for the project Submitted that he has not received any instructions and sought time to seek instructions in the matter.

3. The representative of Punjab State Power Corporation Limited (PSPCL), one of the procurers submitted that the petitioners were required to follow the procedure set out in Article 17 of the PPA with respect to resolution of disputes and only once the conditions therein were satisfied, petitioners could approach the CERC. The petitioners had not followed the procedure set out in Article 17 of the PPA before approaching the CERC and the present petitions are premature.

4. In response, learned counsel for the petitioner submitted that the petitioners had given a notice of dispute under Article 17 of the PPA on 15.12.2012 to the procurers. This notice was followed by a meeting of the procurers on 29.12.2012 where the petitioners made a detailed presentation setting out the various issues and disputes which needed to be resolved including changes in law during the construction period and depreciation of rupee. Learned counsel also pointed out that the presentation, which contained details of the proposals mooted by the petitioner to resolve the dispute, were handed over to the procurers after the meeting. However, the procurers refused to address the issues raised by the petitioner.

5. Learned counsel for the petitioner also referred to the subsequent correspondence dated 31.12.2012 sent to the procurers where the petitioner had reiterated its stand that the notice dated 15.12.2012 was a notice under Article 17 of the PPA and the lead procurer in its letter dated 7.1.2013 repudiated the claim of petitioner.

6. Learned counsel submitted that another meeting of the procurers was held on 27.2.2013 where the procurers did not even discuss the issues raised by the petitioners in their correspondence. In light of the aforesaid, the 30 day period under Article 17 of the PPA has expired and the petitions are not premature.

7. After hearing the learned counsels for the petitioners and MPPMCL and the representative of PSPCL, the Commission directed the petitioner to give a concrete proposal of its claim to the procurers by 22.3.2013 in terms of Article 17 of the PPA and the lead procurer should convene a meeting of procurers to discuss the proposal and file the outcome of the decision on affidavit by 10.4.2013.

8. The petitions shall be listed for hearing on 16.4.2013 for maintainability.

By order of the Commission

**SD/-
(T Rout)
Joint Chief (Law)**