

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 160/MP/2013

- Subject : Petition under section 62, 79 (1) (a), (b), (c) and (f) and other applicable provisions of the Electricity Act, 2003 read with the Indian Electricity Grid Code notified by the Central Commission in respect of scheduling and dispatch of electricity from the Indira Gandhi Super Thermal Power Project of the petitioner at Jhajjar to respondent 1 and 2 and adjudication of disputes raised by respondent 1 and 2.
- Date of hearing : 13.5.2014
- Coram : Shri Gireesh B. Pradhan, Chairperson
Shri M. Deena Dayalan, Member
Shri A.K. Singhal, Member
- Petitioner : Aravali Power Company (P) Limited
- Respondents : BSES Yamuna Power Limited and others.
- Parties present : Ms. Anushree Bardhan, Advocate, APCPL
Ms. Swagatika Sahoo, Advocate, APCPL
Shri V.K.Padha, APCPL
Shri N.N. Sadasivan, APCPL
Shri Dhruv Mehta, Senior Advocate, BYPL & BRPL
Shri Shri Arjit Mitra, Advocate, BYPL and BRPL
Shri Dushyant Manocha, Advocate BYPL and BRPL
Shri Abhishek Srivastava, Advocate BYPL and BRPL
Shri Anupam Varma, Advocate, BYPL & BRPL
Shri Rahul Kinra, Advocate, BYPL & BRPL
Shri Vishal Anand, Advocate, BYPL & BRPL
Shri Sameer Singh, BYPL
Ms. Supriya Singh, NRLDC

Record of Proceedings

Learned senior counsel for the respondents submitted that in compliance with the direction of the Commission in Record of Proceedings dated 1.4.2014, the respondents have filed the necessary affidavits dated 12.5.2015. Learned senior counsel referred to para 5 and 6 of the affidavit of BRPL and submitted that BRPL has paid an amount of ₹ 30.16 crore for January 2014 and ₹ 25.86 crore for February, 2014. Learned senior counsel submitted that for March, 2014 as against the due amount of ₹ 21.82, only ₹ 5 crore has been paid. Learned senior counsel submitted that

the short fall of ₹ 16.79 crore will be paid by 31.5.2014 which is also in compliance with the direction of the Hon`ble Supreme Court.

2. The representative of the petitioner submitted that the bill for the month of April, 2014 has also been raised which has not been paid.

3. The Commission directed BRPL to clear the bill for April, 2014 by 31.5.2014.

4. As regards the second direction regarding arrears, learned senior counsel submitted that the total outstanding bill against BRPL from April 2011 to March, 2014 is ₹ 337 crore. Learned senior counsel submitted that in compliance with the direction of the Supreme Court, DERC has submitted an amortization schedule as per the details given in para 7 of the affidavit. Learned senior counsel also referred to the order dated 6.5.2014 passed by the Supreme Court and submitted that for consideration of the amortization schedule, the Writ Petitions are listed for hearing before Supreme Court on 3.7.2014. Learned senior counsel submitted that after the amortization schedule is approved, the respondent would be able to approach the banks and financial institutions for financing and endeavour to pay the dues of the petitioner. Learned senior counsel requested the Commission to await the decision of the Hon`ble Supreme Court.

5. Learned senior counsel submitted that due to precarious financial position of BYPL, it has not been possible to make any payment and assured that all efforts will be made to make some payment by 31.5.2014.

6. With reference to a query of the Commission regarding the outstanding dues, the representative of the petitioner submitted as under:

(a) BRPL so far has made payments in eight (8) installments amounting to a total of ₹ 60.96 crore against a total billed amount of ₹ 119.71 crore, during the period since January 2014 till date. The above includes the bills raised on BRPL dated 8.5.2014, amounting to ₹ 14.32 crore, the due date for payment of which is 31.5.2014. Accordingly, the balance dues payable by BRPL for the current billing period, since January 2014 amounts to ₹ 58.75 crore.

(b) BRPL while declaring the balance payable as ₹ 16.79 crore, as per the statement provided, has excluded from payment the bill for the month of January 2014 amounting to ₹ 27.15 crore, as well as the bill for the month of May, 2014, amounting to ₹14.32 crore.

(c) BYPL has not made any payments so far. The Distribution companies, however, continues to meet their-own other obligations, like payments to their debtors, payments to other agencies and salaries to their employees etc.

However, such essential obligations of the petitioner have been neglected by the Respondents by not making the due payments to the petitioner.

(d) The total principal dues of the company, excluding applicable late payment surcharges, payable by the respondents have accumulated to over ₹ 348 crore and ₹ 222 crore by BRPL and BYPL, respectively. The late payment surcharges on both the Discoms amounts to about ₹ 70 crore, as on 30.4.2014.

7. The representative of the petitioner submitted that considering the cost of power from Aravali it would be difficult to regulate the power in case of failure of the respondent to clear the dues by 31.5.2014 and therefore clear cut directions should be issued by the Commission to the respondents to liquidate the dues.

8. In response to the Commission's query regarding clear road map for liquidation of outstanding dues, learned senior counsel submitted that the respondents would be able to give a clear road map for payment of outstanding dues of ₹ 337 crore (BRPL) and ₹ 223 crore (BYPL) only after the amortization schedule is approved by the Supreme Court.

9. The Commission directed the respondents to make the payment of all outstanding dues corresponding to the bills for the months of January, February March and April 2014 on or before 31.5.2014.

10. The Commission directed the respondents to submit on affidavit by 15.6.2014 a road map for liquidation of the outstanding dues payable to the petitioner without awaiting for approval of the amortization schedule.

11. The Commission directed to list the petition for hearing on 10.7.2014.

By order of the Commission

Sd/-
(T. Rout)
Chief (Law)