

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 162/MP/2015**

Subject : Petition for computation of compensation for Change in Law events during construction period.

Date of hearing : 22.9.2015

Coram : Shri Gireesh B. Pradhan, Chairperson  
Shri A.K. Singhal, Member  
Shri A.S. Bakshi, Member  
Dr. M.K. Iyer, Member

Petitioner : Sasan Power Limited

Respondents : MP Power Management Company Limited and others

Parties present : Shri Sanjey Sen, Senior Advocate, SPL  
Shri Ruth Elwin, Advocate, SPL  
Shri Mayank Gupta, SPL  
Shri Gaurav Gupta, PSPCL  
Shri Rajiv Srivastava, Advocate, UP Discoms  
Shri Alok Shankar, Advocate, TPDDL  
Shri Gauran Singh, Advocate, TPDDL  
Shri M.G. Ramachandran, Advocate, Rajasthan Discom  
Ms. Ranjitha Ramachandran , Advocate, Rajasthan Discom  
Ms. Poorva Saigal , Advocate, Rajasthan Discom  
Shri Shubham Arya, Advocate, Rajasthan Discom  
Shri B.L. Sharma, Rajasthan Discom  
Shri Tarun Ahuja, Rajasthan Discom  
Shri G. Umaphy, Advocate, MPPMCL

**Record of Proceedings**

Learned senior counsel for the petitioner submitted as under:

(a) As on date, there is no increase in cost of implementation of R&R plan for Moher and Moher- Amlohri Extension Coal Mines, for Chhatrasal Coal Block, compensatory afforestation for Chhatrasal Coal Block and increase in declared price of land for the Chhatrasal Coal Block.

(b) As on 27.3.2015, the petitioner has incurred ₹ 264.06 crore on account of land acquisition, which exceeds the declared price of land by ₹ 178.76 crore for Moher and Moher-Amlohri Extension coal mines.

(c) The petitioner has incurred ₹3.81 crore on account of land acquisition as against the declared price of land of ₹ 57 crore for the Chhatrasal Coal Block.

(d) The petitioner has already been submitted certificate duly certified by the Auditor. The balance sheet of each unit of Sasan UMPP has been prepared by following the same accounting principles as followed for preparing the balance sheet for the end of the financial quarter/ end of the financial year.

(e) In terms of Article 13.2 of the PPA, compensation for change in law during construction period would be payable only with effect from the date the total increase or decrease exceeds ₹ 50 crore. Therefore, if the cumulative impact of capital cost is less than ₹ 50 crore, then the petitioner is not entitled for any benefit.

(f) As per Article 13.4 of the PPA, the petitioner is eligible to be paid compensation from the date on which petitioner has incurred expenditure on account of change in law. Therefore, all the expenditure is based on actual and not on accrual basis.

2. Learned counsel for the Haryana Power Purchase Centre submitted as under:

(a) The statement is based on unaudited balance sheet and there has been no audit or any review akin to an audit in relation to the capital cost of the petitioner. The certificate is not an audited capital cost but mere reiteration of the management's statement and no assurance on the statement of capital cost has been expressed.

(b) The petitioner has not considered the cost of implementation of R&R plan for the generating station in the impact of change in law events. The expenditure incurred by the petitioner for rehabilitation and resettlement for the generating station is ₹ 105.03 crore. Compared to the estimate of ₹ 170 crore, there is a reduction in the costs of around ₹ 65 crore. This should also be considered in the overall impact of change in law events.

(c) The petitioner has not provided clarification on the exemption granted to it for the acquisition of land by the Government of Madhya Pradesh, which was considered in the costs.

(d) Since, the Chhatrasal Coal Block has been de-allocated, the total estimated costs for such coal block has to be considered as reduction in the capital cost.

(e) As per Article 13.2 of the PPA, the compensation is payable with effect from the date on which the net effect of the increases and decreases is finally admitted by the Commission in excess of the amount of ₹ 50 crore. Therefore, as per the Statement, the increase in cost would not exceed ₹ 50 crore until the commissioning of final unit as on 27.3.2015.

3. Learned counsel for the UP Discoms submitted that the petitioner needs to clarify as to whether the statement of capital cost as per financing agreements for the project is accrual basis or on actual basis.

4. After hearing the learned counsels for the parties, the Commission directed the petitioner to furnish the following information, latest by 15.11.2015.

(a) Actual expenditure under different heads on cash basis excluding undischarged liabilities and capital advances duly certified by the statutory auditors. The details of undischarged liabilities and capital advances should be provided against each head separately.

(b) Detailed break up of Project cost of ₹ 19400 crore based on original appraisal for financing agreements along with copy of financing agreements.

(c) Details of items where the cost have been reduced w.r.t. declared price.

5. The Commission directed that due date of filing the information should be strictly complied with. The information filed after due date shall not be considered.

6. Subject to above, the Commission reserved order in the petition.

**By order of the Commission**

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