

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 10/MP/2016**

- Subject : Petition under Sections 79 (1) (f) & 19 of the Electricity Act, 2003 read with Regulation 14 of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading license and other related matters) Regulations, 2009 seeking refund of the Late Payment Surcharge illegally retained by the Respondent No. 1 under Power Purchase Agreement dated 30.5.2011 alongwith interest and initiation of proceedings for revocation of the Inter-State Trading License of the Respondent No. 1.
- Date of hearing : 31.3.2016
- Coram : Shri Gireesh B.Pradhan, Chairperson  
Shri A.K. Singhal, Member  
Shri A.S. Bakshi, Member  
Dr. M.K. Iyer, Member
- Petitioner : Jaiprakash Power Ventures Limited
- Respondents : Global Energy Private Limited and others.
- Parties present : Shri M.G.Ramachandran Advocate, JPVL  
Shri Vishal Gupta, Advocate, JPVL  
Shri Sanjeev Goel, JPVL

**Record of Proceedings**

Learned counsel for the petitioner submitted that the present petition has been filed under Section 79 (1) (f) and 19 of the Electricity Act, 2003 seeking refund of late payment surcharge return by Global Energy Private Limited (GEPL) and for initiation of proceedings for revocation of inter-State trading licence of GEPL. Learned counsel for the petitioner further submitted that as under:

(a) Jaypee Karcham Hydro Corporation Limited (JKHCL), a subsidiary of Jaiprakash Power Venture Limited (JPVL) has implemented 1000 MW Karcham Wangtoo Hydro Electric Project in the District Kinnaur in the State of Himachal Pradesh.

(b) GEPL approached JKHCL with an offer to purchase electricity for the period from 1.7.2011 to 30.6.2012 for the purpose of resale of power to UPPCL.

(c) JKHCL agreed to sell power to GEPL for quantum ranging from 100 MW to 300 MW from July, 2011 to June, 2012. A PPA dated 3.5.2011 was entered into between JKHCL and GEPL. As per the PPA, GEPL is required to make the payment within 7 days from the receipt of the bill. If the payment is made within due date, JPL is entitled to 2% of the rebate on the bill amount or settle amount and if it is not made within due date JPL shall pay late payment surcharge of ₹1.25 per month of the outstanding bill amount.

(d) Since there was a default of payment on the part of GEPL, JPVL issued a termination notice dated 13.9.2011 to be effective from 18.9.2011 and power supply discontinued with effect from that date.

(e) JPVL vide its letter dated 6.8.2013 sought a confirmation from UPPCL whether the principal amount of ₹197.18 crore was outstanding to be paid to GEPL. GEPL vide its letter dated 25.9.2013 confirmed that ₹197.18 crore was outstanding against the PPA from GEPL to JPVL. JPVL in its letter dated 1.10.2013 informed GEPL that in terms of the PPA, applicable surcharge would also be payable. GEPL vide its letter dated 5.10.2013 informed JPVL that in terms of the discussion and agreement between GEPL and JPVL on 19.3.2013 and 21.6.2013, no surcharge was payable.

(f) In order to get payment, JPVL agreed to take payment of the principal amount without late payment surcharge. At the insistence of GEPL, JPVL gave a 'Pre-Receipt and No Dues Certificate' dated 15.10.2013 to GEPL.

(g) JPVL received the payment of ₹197.18 crore from GEPL in October, 2013. Subsequently, JPVL sought a confirmation from UPPCL vide letter dated 4.7.2015 regarding the late payment surcharge amount paid by UPPCL to GEPL. UPPCL vide its letter dated 28.8.2015 confirmed that the late payment surcharge of ₹25,34,79,302 was paid by UPPCL to GEPL on 9/10.10.2013

(i) JPVL vide its letter dated 27.10.2015 wrote to GEPL that GEPL had misappropriated an amount of ₹25,34,79,302 towards late payment surcharge received from UPPCL and requested JPVL to make payment of the late payment surcharge received from UPPCL with a compound interest @24% p.a. GEPL vide its letter dated 2.11.2015 refuted the charge of JPVL and has stated that the Pre-Receipt and No Dues Certificate dated 15.10.2013 was issued by JPVL on the basis of the mutual agreement between JPVL and GEPL after discussion on all issues.

(j) GEPL as an inter-State trading licensee having illegally retained the late payment surcharge for two years without disclosing the receipt of the same to the petitioner has committed criminal breach of trust, cheating and fraud for which the licence of GEPL should be revoked.

2. After hearing the learned counsel for the petitioner, the Commission directed to issue notice to the respondents on maintainability of the petition.

3. The Commission directed the petitioner to serve copy of the petition on the respondents by 8.4.2016. The respondents were directed to file their replies, on affidavit, by 22.4.2016 with an advance copy to the petitioner, who may file its rejoinder, if any, on or before 2.5.2016. The Commission directed that due date of filing the replies and rejoinders should be strictly complied with. No extension shall be granted on that account.

4. The petition shall be listed for hearing on 12.5.2016 on maintainability.

**By order of the Commission**

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