

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 84/MP/2014

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri A.K. Singhal, Member

Shri A.S. Bakshi, Member

Date of Hearing: 23.9.2014

Date of Order: 9.6.2016

In the matter of

Petition under Section 79 of the Electricity Act, 2003 read with statutory framework governing procurement of power through competitive bidding and Article 17 of the Power Purchase Agreement dated 7.8.2007 executed between Sasan Power Limited and the procurers for recovery of amounts claimed by Sasan Power Limited in terms of monthly bills.

And

In the matter of

Sasan Power Limited
C/o. Reliance Power Limited
3rd Floor, Reliance Energy Centre
Santa Cruise East, Mumbai

.....Petitioner

Vs

- 1) MP Power Management Company Limited
Shakti Bhawan
Jabalpur-482008
Madhya Pradesh
- 2) Pashimanchal Vidyut Vitran Nigam Limited
Victoria Park
Meerut-250001
Uttar Pradesh
- 3) Purvanchal Vidyut Vitran Nigam Limited
Hydel Colony
Bhikaripur
Post-DLW
Varanasi-2210014
Uttar Pradesh



- 4) Madhyanchal Vidyut Vitran Nigam Limited
4A-Gokhale Marg
Lucknow-226001
Uttar Pradesh
- 5) Dakshinanchal Vidyut Vitran Nigam Limited
220 kV Vidyut Sub-Station
Mathura Agra By-pass Road
Sikandra, Agra-282007
Uttar Pradesh
- 6) Ajmer Vidyut Vitran Nigam Limited
Hathi Bhata
City Power House
Ajmer-305001
Rajasthan
- 7) Jaipur Vidyut Vitran Nigam Limited
Vidyut Bhawan
Jaipur- 302 005
Rajasthan
- 8) Jodhpur Vidyut Vitran Nigam Limited
New Power House
Industrial Area
Jodhpur-342003
Rajasthan
- 9) Tata Power Delhi Distribution Limited
Grid Sub-station Building
Hudson Lines
Kingsway Camp
New Delhi-110009
- 10) BSES Rajdhani Power Limited
BSES Bhawan
Nehru Place
New Delhi-110019
- 11) BSES Yamuna Power Limited
Shakti Kiran Building
Karkardooma
Delhi-110096
- 12) Punjab State Power Corporation Limited
The Mall
Patiala-147001
Punjab

13) Haryana Power Purchase Centre
Room No. 239
Shakti Bhawan, Sector-6
Panchkula-134109
Haryana

14) Uttarakhand Power Corporation Limited
Urja Bhawan, Kanwali Road
Dehradun-248001
Uttarakhand

Parties Present:

- 1) Shri G. Umapathy, Advocate, MPPMCL
- 2) Ms. Swapna Seshadri, Advocate, PSPCL
- 3) Ms. Anushree Bardhan, Advocate, HPPC/Rajasthan Discom
- 4) Shri Bipin Gupta, Advocate, Rajasthan Discom
- 5) Shri S.K. Bansal, Advocate, Rajasthan Discom
- 6) Ms. Sunidhi Sharan

ORDER

The present petition has been filed by Sasan Power Limited seeking a declaration that the First Contract Year of the project ended on 31.3.2013 and further seeking a direction to the respondent to pay the monthly bills in accordance with the terms of the PPA.

2. The petitioner has submitted that the commissioning of first unit of Sasan UMPP with a tested capacity of 101.38 MW on 31.3.2013 is valid and binding on the respondents since the respondents have unequivocally accepted the same. Accordingly, the contract years and the respective tariff in Schedule 11 of the PPA will have to be determined with reference to the commissioning of first unit with a tested capacity of 101.38 MW on 31.3.2013. The petitioner has further submitted that in terms of Schedule 11 of the PPA, the respondents have to pay the tariff for the First Contract Year for 31.3.2013, for the Second Contract Year for the period from 1.4.2013 to 31.3.2014 and for the Third Contract Year for the period from

1.4.2014 to 31.3.2015. The petitioner has submitted that even though the project was in the Second Contract Year during 1.4.2013 to 31.3.2014, the respondents have refused to make payment at the quoted tariff for the Second Contract Year in accordance with the provisions of the PPA.

3. The petitioner has further submitted that Petition No. 85/MP/2013 after being remanded by the Appellate Tribunal for Electricity vide order dated 20.6.2016 in Appeal No. 149 of 2013 was heard by the Commission and the order was reserved.

4. The petitioner has submitted that there was no court order or directions since staying the declaration of COD of the first unit as 31.3.2013. However, the procurers instead of making payment for monthly bill raised bills disputes and were making part payment. In the circumstances, the petitioner has approached the Commission for declaration of the First Contract Year as ending on 31.3.2013 and for directions to the respondents to pay monthly tariffs in term of the PPA.

5. We have considered the submission of the petitioner. The present petition was filed during the pendency of the Petition No. 85/MP/2013 in which the declaration of COD of first unit of Sasan UMPP was challenged. The petition was listed for hearing on 3.7.2014. During the hearing, learned counsel for MPPMCL submitted that the petition was premature since the question of COD of Sasan UMPP raised in Petition No. 85/MP/2013 was under consideration. However, the Commission admitted the petition and issued notice to the respondents. The Commission vide order dated 8.8.2014 decided the issue of COD and directed that COD of first unit would be reckoned on 16.8.2013. MPPMCL, the lead procurer, in its affidavit dated 23.9.2014 submitted that in view of the order of the Commission

dated 8.8.2014, the COD had to be reckoned with effect from 16.8.2013 and the petition had become infructuous. The Commission heard the petition on 23.9.2014 and after taking note of the submission of the parties reserved the order. The petitioner filed Appeal No. 233 of 2013 in the Appellate Tribunal for Electricity challenging the Commission's order dated 8.8.2014 and sought interim direction to the Commission not to pass any order in the present petition during the pendency of the appeal. The Appellate Tribunal for Electricity (Appellate Tribunal) in its order dated 27.10.2014 issued the following interim directions:

"It is submitted that an Application has been filed in I.A. No. 84 of 2014 before the Central Commission with reference to the billing dispute, and this has been heard and reserved for Orders. The applicant has filed IA 372 of 2014 seeking for a direction to the Central Commission, not to pass any Order in that petition since the Appeal is pending.

In view of the circumstances, mentioned in IA No. 372 of 2014, the Central Commission is directed not to pass any Order in the said Petition in IA No. 84 of 2014 pending disposal of this Appeal before this Tribunal. With these observations, IA 372 of 2014 is disposed of."

6. In view of the above directions of Appellate Tribunal, the present petition was kept pending till the disposal of the Appeal No. 233 of 2014. The Appellate Tribunal in its judgment dated 31.3.2016 in Appeal No. 233 of 2014 has upheld the COD of first unit of the Sasan UMPP as 31.3.2013 with a de-rated capacity of the unit at 101.38 MW.

7. In view of the judgment of the Appellate Tribunal, the present petition has become infructuous and is accordingly disposed of.

sd/-
(A. S. Bakshi)
Member

sd/-
(A. K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson

