

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 14/MP/2013**

**Subject:** Petition under Section 79 of the Electricity Act, 2003 read with statutory framework governing procurement of power through competitive bidding and Articles 13.2 (b) of the Power Purchase Agreement dated 7.8.2007 executed between Sasan Power Limited and the procurers for compensation due to unprecedented, unforeseen and uncontrollable depreciation of the Indian Rupees.

Date of Hearing : 6.5.2014

Coram : Shri Gireesh B.Pradhan, Chairperson  
Shri M. Deena Dayalan, Member  
Shri A. K. Singhal, Member

Petitioner : Sasan Power Limited, Mumbai

Respondents : MP Power Management Company Ltd. & Others

Parties present : Shri J.J.Bhatt, Senior Advocate, SPL  
Shri Vishrov Mukherjee, Advocate, SPL  
Ms. Ritika Arora, Advocate, SPL  
Shri P.Venkatarao, SPL  
Shri Arun, Dhillon, SPL  
Shri N. K. Deo, SPL  
Shri Suresh Nagarajan, SPL  
Shri Shrikant Kulkarni, SPL  
Shri Padmana Bhan, SPL  
Shri Raj Verma, SPL  
Shri Sandeep S. Mysetty, SPL  
Shri Mayank Gupta, SPL  
Shri Srikant, SPL  
Shri Hari Das Maity, SPL  
Shri G.Umapathy, Advocate, MPPMCL  
Ms. Anushree Bardhan, Advocate, RRVPNL and HPPC  
Ms. Swagtika Sahoo, Advocate, RRVPNL and HPPC  
Shri S.K.Meena, Jodhpur  
Shri T.P.S.Bawa, PSPCL  
Shri Rahul Bhawan, Advocate, BRPL and BYPL  
Shri Karan Jain, Advocate, BRPL and BYPL  
Shri Alok Shankar, Advocate, TPDDL  
Shri Padamjit Singh

## Record of Proceedings

Learned senior counsel for the petitioner submitted that information sought by the Commission vide order dated 21.2.2011 has already been filed. However, no response has been received from the respondents.

2. Learned senior counsel for the petitioner submitted that Haryana Power Purchase Centre and distribution companies of Rajasthan have filed an Appeal against the Commission's order dated 21.2.2014 in the Petition No. 14/MP/2014 in the Hon'ble Appellate Tribunal for Electricity on the preliminary issue whether the Commission can entertain the petition under Section 79 (1) (c) of the Electricity Act, 2003. However, no stay has been granted by ATE.

3. Learned senior counsel for the petitioner submitted hard copies of presentations on behalf of the petitioner and KPMG for perusal of the Commission.

4. Learned counsels for the respondents requested for two weeks time to file their replies.

5. After hearing the learned senior counsel for the petitioner and learned counsels for the respondents, the commission directed the petitioner to submit on affidavit, by 25.7.2014, the following information/clarification:

(a) The petitioner is stated to have used the assumption as notified on 4.4.2007 at the time of submission of revised bid. However, the petitioner appears to have used the Annual escalation rate applicable to quoted escalable capacity charges and discount rate for levelised tariff, notified vide notification dated 22.11.2006. Reasons of using the earlier notification while submitting the revised bid and its implications may be explained .

(b) The petitioner has adopted assumptions in original bid and revised winning bid under different heads, namely, financial, operational, tax and revenue related aspects. Variations between the original bid and the revised bid and its impact on the project cost and profitability of SPL be explained.

(c) According to the petitioner, the project is being operated on BOO basis. The calculation regarding impact of post PPA cash flow and ROE be placed on record.

(d) It may be clarified whether the quantum of compensation, if allowed to meet FERV variation would be returned to the consumers after expiry of the terms of the PPA. If so, model calculation be submitted.

(e) The petitioner has revised funds IPO for the power projects. Equity and premium on equity allocated to the project and actually utilized to meet the cost of the project be placed on record.

(f) Duty, if any, on mining equipment, imposed and paid be placed for record.

(g) Income Tax rate assumed by the petitioner for the project and mines in its financial model for working the benefits under Section 80 IA of Income Tax Act, 1961 benefit and how the same has been factored for quoting the revised winning bid.

(g) The capacity of the mines be placed on record. It may be clarified whether it is envisaged to use surplus coal for other projects beyond the requirement of the project. The transfer price used for other projects be submitted as the operating cost in assumptions and energy charged/quoted for the project shows markup.

(h) Implication of delay(s) due to procurer`s obligations and its impact on the COD and capital cost of the project be explained.

(i) The details of hedging availed by the petitioner and the dates from which obligation for hedging started as per lender`s stipulation be placed on record.

(j) Draw down details of foreign loans and their utilization be placed on record. It may be clarified whether there was any substantial time gap between drawal of loan and utilization of loan and whether any amount was held up in the account due to non-utilization and its financial implication on the cost of the project.

(k) The petitioner has envisaged 15% of ROE in the revised winning bid. It has been contended in the affidavit dated 14.3.2014 that SPL is having negative ROE in the current scenario. Detailed computation in support of the statement regarding negative ROE be placed on record.

(l) With regard to capital cost envisaged in the bid, the following be clarified/explained:

(i) Details of capital outlay of the project such as on buildings, civil works, machinery, equipment, etc.;

(ii) Awarded value of contract through intermediaries. The reasons for availing the major contracts to the associated companies of Sasan Power Ltd.

- (iii) Configuration of the project, both financial and commercial;
  - (iv) Assumption taken for estimating the capital cost on account of inflation and exchange rate variation;
  - (v) Equity invested in the project including the income earned on incremental cash collected;
  - (vi) Since the project includes huge capital outlay and financial implications, whether the petitioner has constructed the bid on the basis of pre tie-up for supply of equipments. If not reasons therefor.
- (m) With regard to foreign loan, the following be clarified:
- (i) The reasons for assuming moratorium of one year for repayment of loan;
  - (ii) When as per the bidding documents, the term loans are to be revised in rupee terms, why it was decided that ECB would be availed without protecting the rupee depreciation and inflation?
  - (iii) Why CERC escalation rate has been adopted for preparing the bid which is meant for different purpose i.e for bid evaluation.
- (n) With regard to the project, the following be clarified:
- (i) Whether the financial closure achieved was in line with what was assumed at the time of the bid;
  - (ii) Time line for completion of project as per the bid documents vs actuals.

6. The Commission directed the respondents to file their replies by 8.8.2014, with an advance copy to the petitioner, who may file its rejoinder, if any, on or before 20.8.2014

7. The petition shall be listed for hearing on 28.8.2014.

**By order of the Commission**

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