



Petition No. 1060 of 2015

**BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW**

Date of Order: 16.06.2016

PRESENT:

1. Hon'ble Sri Indu Bhushan Pandey, Member
2. Hon'ble Sri S.K. Agarwal, Member

IN THE MATTER OF: For full payment of bills raised by the petitioner w.e.f. April, 2007.

AND

IN THE MATTER OF

M/s K.M. Sugar Mills Limited,
Motinagar, Faizabad through its Director

----- **Petitioner**

AND

1. UPPCL
Through its Managing Director
14th Floor, Shakti Bhawan,
14-Ashok Marg,
Lucknow
2. Madhyanchal Vidyut Vitran Nigam Ltd.
Lucknow through its Managing Director.
3. Executive Engineer
Electricity Distribution Division
Faizabad
4. Chief Engineer, (PPA)
U.P. Power Corporation Ltd.,
14th Floor, Shakti Bhawan,
14-Ashok Marg,
Lucknow
5. Superintending Engineer
Import Export & Payment circle
U.P. Power Corporation Ltd.,
Shakti Bhawan, 14-Ashok Marg,
Lucknow

----- **Respondents**



ORDER
(Date of Hearing 04.05.2016)

1. Petition is filed by M/s K.M. Sugar Mills Ltd. to seek full payment of its bills for the electricity supplied to MVVNL w.e.f. April 2007 in respect of PPA dated 04.01.2006. The petitioner has submitted that part payment done to it, is based on incorrect facts and improper understanding of the facts stated in PPA by UPPCL.
2. It is submitted by the petitioner that they entered into aforesaid PPA with UPPCL for supplying 20 MW surplus power from their bagasse based 1X10 MW and 1X15 MW units commissioned on 18.03.2007 and 29.04.2007 respectively. Also 132 KV transmission line for evacuation of this power was commissioned on 18.03.2007.
3. The petitioner is contesting the provision of PPA regarding 18.56 MW capacity maintaining that there never existed PPA for 18.56 MW prior to above stated PPA. Rather there never existed 18.56 MW capacity as such. So this capacity has been wrongly mentioned in the PPA.
4. The petitioner submitted that despite their several requests to concerned authorities, the matter is still not being addressed.
5. In the hearing, the petitioner reiterated that there neither the capacity of 18.56 MW existed nor transmission line for evacuating any power from this plant.
6. UPPCL rebutted the claims of the petitioner and stated that PPA dated 04.01.2006 and restated PPA dated 03.01.2007 have clearly mentioned that there existed 18.56 MW capacity prior to 2004 and maintained that UPPCL have adhered to provisions of PPAs.
7. The Commission directed the petitioner to submit on affidavit details of capacity of old Units, their year of commissioning, present status and year of discard (if any).
8. Subsequently, the petitioner filed an affidavit dated 25.05.2016 making following points:
 - i. There never existed 18.56 MW capacity plant as mentioned in PPA
 - ii. No PPA was entered into for alleged 18.56 MW capacity
 - iii. Total 7 MW (1.5MW + 2.5 MW+ 3 MW) capacity was installed for captive use only and from this 7 MW capacity neither power was supplied to UPPCL nor was there any PPA for this purpose



-
- iv. 1.5 MW capacity was commissioned in year 1963 and was discarded on 02.03.2008
 - v. 2.5 MW capacity was commissioned in the year 1987 and was discarded on 17.02.2009 and later on sold out in the year 2012
 - vi. 3 MW capacity was commissioned in year 1995 and is still running and its generation is used for self-consumption during season.
 - vii. 10 MW capacity was commissioned on 18.03.2007 and 15 MW capacity was commissioned on 29.04.2007
9. In this case the petitioner entered into PPA and restated PPA on the facts and figures submitted by petitioner himself on its own i.e. under no duress and now the petitioner himself is challenging those facts and figures and has now submitted different facts and figures on the affidavit also.
10. In view of above and considering that is the duty of the Commission to maintain the sanctity of the approved PPA, no provision of the PPA can be revisited at least retrospectively under any circumstances on the request of one of signatory to PPA.
11. However, the Commission also opines that it is also its duty to protect the interest of the stakeholders. Thus, the Commission directs that petitioner and UPPCL to enter into a fresh comprehensive PPA over riding all previous PPAs within one month and put up before the Commission for approval but there shall be no retrospective provisions in the PPA. Till then PPA already signed by the UPPCL and petitioner and approved by the Commission shall remain in force.
12. The petition is disposed of.

(S.K. Agarwal)
Member

(Indu Bhushan Pandey)
Member

Place: Lucknow
Dated: 16.06.2016