



Petition No 784 of 2012

BEFORE

THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

Date of Order : 29.04.2013

PRESENT:

1. Hon'ble Shri Shree Ram, Member
2. Hon'ble Smt. Meenakshi Singh, Member

IN THE MATTER OF: Annual Maintenance Charges of Dedicated Transmission Line.
AND

IN THE MATTER OF

M/s Dwarikesh Sugar Industries Ltd. ,
Dwarikesh Puram, P.O. Afzalgarh,
Bahadarpur , District - Bijnor

-----Petitioner

1. U.P. Power Corporation Ltd.,
(through its Chairman)
Shakti Bhawan, 14 Ashok Marg, Lucknow.
2. Chief General Manager (PPA),
Power Purchase Agreement Directorate, U.P. Power Corporation Ltd.,
14th Floor, Shakti Bhawan Extension, Lucknow.

----- Respondent

The following were present:

1. Sri S.P.Pandey, S.E.(PPA), UPPCL
2. Sri D.D. Chopra, Advocate, Dwarikesh Sugar
3. Sri R.K. Modwell, Dwarikesh Sugar.
4. Sri Nitin Kapoor, Add. Mgr. Legal Dwarikesh Sugar

Order

(Date of Hearing 05.02.2013)

1. The subject petition was dismissed by the Commission vide order dated 24.02.2013 with the following observations:

In this case, there is no separate execution agreement between the Petitioner and the executing agency for the construction of transmission lines. The PPA does not have any such clause for indemnifying the Petitioner in case of delay in construction of the transmission line. Therefore, in view of Hon'ble APTEL's observations, Commission's above cited orders and provisions of agreed PPA, the issue of increase in cost of dedicated transmission line and annual maintenance charges raised by the Petitioner, does not stand admissible at the platform of this Commission.



2. Against the Commission's order, the petitioner preferred an appeal No. 77 of 2012 to Hon'ble APTEL. Vide order dated 18.2.2013, Hon'ble APTEL has set aside the Commission's order dated 24.2.2013 and remanded the matter to the Commission to decide the merits of the dispute i.e. the issue of AMC deduction. Hon'ble APTEL has directed the Commission to deal with the issue of deduction of AMC bills from the energy bills with reference to the dispute raised by the petitioner on the basis of the material placed by both the parties as well as the submissions made by them and pass appropriate order in accordance with law as expeditiously as possible.
3. During the hearing, the petitioner has submitted a copy of Annual Maintenance Contract dated 16.2.2013 agreed between them and UPPCL. The contract ceases the cost of the dedicated transmission line as Rs. 7,93,38,340 which has been agreed by both the parties as reconciled cost of dedicated transmission line on which AMC has to be paid.
4. Sri S.P. Pandey on behalf of UPPCL and Sri D.D. Chopra, Advocate on behalf of M/s Dwarikesh Sugar Ind. Limited submitted that they have signed the Annual Maintenance Contract only when the dispute on cost of dedicated transmission line and AMC has been removed. They added that the reconciled cost of dedicated transmission line Rs. 7,93,38,340 and AMC as per the contract has been fully paid.
5. Since, both the parties have agreed in writing as per the Annual Maintenance Contract dated 16.2.2013 and accordingly the cost of dedicated transmission line Rs. 7,93,38,340 has been agreed and AMC has been paid, the Commission does not find any issue to further ponder upon. However, it is necessary to elucidate that, in future, the AMC charges shall be deducted strictly under the provisions of PPA, Regulations and the Annual Maintenance Contract.
6. Therefore, the petition, remanded by Hon'ble APTEL, stands disposed of with the observations as above.

(Meenakshi Singh)
Member

(Shree Ram)
Member

Place : Lucknow
Dated: 29.04.2013