



Petition No 903 of 2013

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

Date of Order : 28.11.2014

PRESENT:

1. Hon'ble Sri Desh Deepak Verma, Chairman
2. Hon'ble Smt. Meenakshi Singh, Member
3. Hon'ble Sri Indu Bhushan Pandey, Member

IN THE MATTER OF: Application dated 12.11.2014 in petition no 903 of 2013.
AND

IN THE MATTER OF

Essar Power (Jharkhand) Limited (EPJL),
Prakash Deep Building, 10th Floor
7, Tolstoy Marg, New Delhi -110001

-----Petitioner

Noida Power Company Limited (NPCL)
Commercial Complex,
H-Block, Alpha-II Sector
Greater Noida - 201308

-----Respondent

The following were present:

1. Sri M. G. Ramchandra, Advocate, NPCL
2. Sri R. C. Agarwala, M.D. & CEO, NPCL
3. Sri Alok Sharma, Manager Legal, NPCL
4. Sri Rajiv Goyal, GM-Project & Power Trading, NPCL
5. Sri A.K. Arora, Resident Manager, NPCL
6. Sri Ashok Singh, Head Commercial EPJL
7. Ms. Neeha Nagpal, Advocate, EPJL
8. Sri Sanjay Sen Advocate, EPJL
9. Sri Sumant Nayak, Legal Head, EPJL

Order
(Date of Hearing 21.11. 2014)

1. Earlier application in the petition was disposed of by the Commission vide order dated 01.09.2014 as follows:

Subsequently, this application has been filed by NPCL on 16.7.2014 praying to issue directions on the aspects of the issues raised by EPJL vide letters dated 27.6.2014 & 7.7.2014. NPCL has also prayed to allow them to procure long term power from other available alternate sources on immediate basis to ensure supply to its consumers.

NPCL has stated that in compliance to the Commission's order dated 30.5.2014 the bank guarantee of Rs. 72 crores has been restored which would expire on 31.8.2014. NPCL has submitted that in the meanwhile EPJL vide letter dated 27.6.2014 and 7.7.2014 informed that:

- i. EPJL would not be able to supply in near foreseeable future.*
- ii. Due to transmission constraint, alternate supply from Mahan project would not be feasible in near foreseeable future.*
- iii. There is no reason in continuing the PPA dated 9.5.2012 in view of constraints in Ashok Karkatta Coal Block.*
- iv. Refund of Rs. 72 crores without any interest or other cost.*
- v. NPCL may approach the Commission for procurement of power from other sources.*

During the hearing, the Commission asked EPJL about their affidavit dated 2.4.2014 for commitment of supply from their 600 MW Mahan project. EPJL could only give the reasons of transmission constraints which was prima facie not accepted by the Commission. The Commission took a view that first of all EPJL has to extend its bank guarantee initially for three months, further extendable by another six months as no one could be allowed to escape from its commitments in a situation when there is shortage of power in the State.

The Commission further considered that since the process has taken more than the required period, resulting in the shortage of power for supply to the consumers of the licensed area, it would be prudent and necessary that NPCL should explore other possibilities of getting long term supply contract through the competitive route within these six months".

With the observations and conclusions as above, the application was disposed of.

2. Vide application dated 12.11.2014, NPCL has submitted that subsequent to the Commission's order dated 01.09.2014, although EPJL extended the bank guarantee for three months i.e. upto 30.11.2014 but further informed them through letter dated 6.10.2014 that due to cancelation of coal block by Hon'ble Supreme court, their

case may be considered under “Force Majeure“. NPCL has submitted that vide letter dated 14.10.2014, they informed EPJL that in view of Hon’ble Commission’s above order their claim is not tenable at this stage. RPJL has requested for final disposal.

3. During the hearing Sri M. G. Ramchandra, Advocate, NPCL requested that since the BG is expiring on 30.11.2014 and the Hon’ble Commission has taken view for its further extension of six months, EPJL may be directed for immediate extension of BG. Further, arguments were made by both the parties in the subject matter.
4. The Commission directed EPJL to extent the BG for one month for the time being .
5. The detailed order on disposal of application shall follow.

(Indu Bhushan Pandey)
Member

(Meenakshi Singh)
Member

(Desh Deepak Verma)
Chairman

Place : Lucknow
Dated: 28.11.2014