



BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW
Petition No.1310/2018

PRESENT:

1. Hon'ble Sri Suresh Kumar Agarwal, Chairman
2. Hon'ble Sri Kaushal Kishore Sharma, Member

IN THE MATTER OF: Application under Regulation 156 of the UPERC (Conduct of Business) Regulations, 2004 for urgent hearing on behalf of the RPSCL.

Petitioners :

M/s Rosa Power Supply Company Ltd.
3rd Floor, south Wingh, Reliance Centre,
Near Prabhat Colony, Off Western Express Highway,
Santacruz (East), Mumbai-400 055

Respondent:

1. U.P. Power Corporation Ltd.
(through its Chairman)
Shakti Bhawan,
14, Ashok Marg,
Lucknow-226 001 (U.P.)
2. Chief Engineer (PPA)
UP Power Corporation Ltd.,
14th Floor, Shakti Bhawan Extn.
14-Ashok Marg,
Lucknow

In the Presence of

1. Sri Vibhav Agarwal, Director, RPSCCL
2. Sri Sumit Notani, RPSCCL
3. Sri Himanshu Agarwal, RPSCCL
4. Sri Ambuj Shukla, RPSCCL.
5. Sri Vinod Asthana, CE, PPA, UPPCL
6. Sri Sanjay Verma, S.E. PPA, UPPCL
7. Sri Naeem Khan, EE, PPA, UPPCL
8. Sri Dharam Ratna, AE, PPA, UPPCL
9. CA Manish Garg, Consultant, UPPCL

ORDER

(Date of hearing 11.04.2018)

M/s Rosa Power Supply Co. Ltd. has filed petition no.1310/2018 U/s 86(1) (f) of EA 2003 read with clause 17 of the PPA dated 12.11.2006 and further read with clause 2.1 of the supplemental PPA dated 11.09.2009. Along with the petition an application for urgent hearing under regulation 156 of the UPERC (Conduct of Business) Regulations 2004 has also been filed.

2. In this petition the Petitioner has sought relief regarding deduction/adjustment of Income Tax and variable charges earlier paid by UPPCL to the Petitioner. The Petitioner has stated that UPPCL has arbitrarily and illegally adjusted/deducted Rs.624 crore on account of Income Tax from the pending outstanding dues of Rosa Power Supply Co. Ltd. on a complete misinterpretation of the Commission's orders. Further they have stated that Rs.84 crore has been deducted/adjusted against alleged excess variable charges paid to the petitioner. The Petitioner has prayed for an interim relief to direct UPPCL to not take any coercive action in terms of impugned letter dated 09.04.2018 and bill dated 07.04.2018. Further they have requested to direct UPPCL not to cause any disruption in continuing payment flow through Escrow Mechanism and stop payment, which will impact the ability of the Petitioner to operate the plant. They have also requested for direction to maintain the Status Quo.

3. In view of the urgency of the matter and the request of the petitioner the case was heard along with another review petition of the Rosa Power Supply Company Ltd. The Chief Engineer (PPA) was present on behalf of UPPCL and requested that UPPCL should be allowed time to file their reply and the case may be fixed for hearing on 17.4.2018. the representative of the Petitioner stated that if all their payments are stopeed in order to



adjust the alleged recovery they will not be able to procure coal and will have to shut down the plant.

4. After hearing both the parties the Commission directed that the matter of alleged recovery can be decided only after hearing the views of UPPCL in detail and for that they shall be given time. The Commission directed that the case be fixed for hearing on 17.4.2018 at 11.30AM. The Commission also directed that in the meantime sufficient payment should be made to the Petitioner in order to procure coal and run the plant. Discontinuation of flow of funds in the Escrow account should also be re-examined by UPPCL as escrow arrangement is under a tripartite agreement, which includes banks.

5. Fixed for hearing on 17.04.2018 at 11:30 AM.

(Kaushal Kishore Sharma)
Member

(Suresh Kumar Agarwal)
Chairman

Place: Lucknow
Dated: 12.04.2018