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**Petition No 903 of 2013**

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

**Date of Order : 27.09.2013**

**IN THE MATTER OF:** Power Purchase Agreement for purchase of 240 MW of electricity on long term basis under Case - I tariff based competitive bidding procedure as per guidelines issued by Government of India (GoI).

**AND**

**IN THE MATTER OF**

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

-----Petitioner

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

-----Respondent

The following were present:

1. Sri Abhayjit Sinha, Sr. Manager, Essar Power
2. Sri Tanmaya Mehta, Advocate, Essar Power
3. Sri R.C.Agarwala, MD & CEO, NPCL
4. Sri M.G. Ramachandran, Advocate, NPCL
5. Sri Vishal Gupta, Advocate, NPCL
6. Sri Alok Sharma, Manager (Legal), NPCL
7. Sri A.K.Arora, Resident Officer, NPCL



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## Order

(Date of Hearing 27.09.2013)

1. Against the Commission's interim order, the petitioner preferred an appeal to Hon'ble Appellate Tribunal of Electricity who has disposed of their appeal vide order dated 25.9.2013 with a view that it is for the State Commission to hear the parties and decide the issues raised in this matter and pass the appropriate order in accordance with Law. In this order, Hon'ble Appellate Tribunal of Electricity has not expressed any opinion on merits.
2. At the outset, Shri Tanmaya Mehta, Advocate, Essar Power requested adjournment on the grounds that they got the order of Hon'ble Appellate Tribunal of Electricity from their website only on 26.9.2013 so they could not get adequate time to go through that and also since their Sr. Advocate Sri J. N. Mathur was out of the country.
3. Sri M.G. Ramchandran, Advocate, NPCL did not object to the petitioner's plea but categorically propounded the issue of non compliance of the Commission's interim order dated 9.9.2013 regarding submission of returnable assured performance guarantee by the petitioner as per the conditions of the PPA. He added that Hon'ble Appellate Tribunal of Electricity, in its order dated 25.9.2013, has clarified also observed that

*"On going through the interim impugned order dated 9.9.2013, it is evident that the State Commission passed an interim order as prayed for by the petitioner/Appellant by directing the Respondent to withhold the termination notice but subject to the condition to furnish the additional bank guarantees."*

Hon'ble Appellate Tribunal of Electricity has further observed that

*"In view of the statement made by the learned Counsel for Respondent, the assured performance guarantees could be deposited in the State Commission itself by the Appellant, we are not inclined to interfere with the impugned interim order at this stage especially when final hearing has been fixed by the State Commission on 27.09.2013. With regard to the submissions made by both the parties relating to the merits, we make it clear the we are not expressing any opinion"*



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4. In its order dated 9.9.2013, the Commission has directed the Petitioner to file their response in writing on reply of the Respondent which has not been filed yet. The petitioner was again directed for the same.
  5. In light of above, the Commission allows time upto 7.10.2013 for compliance of its order dated 9.9.2013 and submission of returnable assured additional performance guarantee by the Petitioner as per the conditions of the PPA.
  6. The next date of hearing shall be intimated through notice separately.

(Meenakshi Singh)  
Chairperson

Place : Lucknow  
Dated: 27.09.2013