

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.93/MP/2016**

**Coram:**

**Shri Gireesh B. Pradhan, Chairperson**

**Shri A.K. Singhal, Member**

**Shri A.S. Bakshi, Member**

**Dr. M.K. Iyer, Member**

**Date of Hearing: 15.6.2016**

**Date of Order : 16.6.2016**

**In the matter of**

Petition under Section 79 of the Electricity Act, 2003 read with Article 17 of the Power Purchase Agreement dated 7.8.2007 between Sasan Power Limited and M.P. Power Management Company Limited and Central Electricity Regulatory Commission (Regulation of Power Supply) Regulations, 2010.

**And**

**In the matter of**

Haryana Power Generation Corporation Limited  
Shakti Bhawan, Panchkula-134 109, Haryana

Represented by Haryana Power Purchase Centre  
Room No. 239, Shakti Bhawan, Panchkula-134 109,  
Haryana

**....Petitioner**

**Vs**

- 1) Sasan Power Limited  
1<sup>st</sup> Floor, H-Block, North Wing  
Dhirubhai Ambani Knowledge City,  
Navi Mumbai-400 709  
Maharashtra
- 2) Western Regional Load Despatch Centre,  
Power System Operation Corporation Limited  
F-3, M.I.D.C. Area, Marol,  
Andheri (East),  
Mumbai-400093
- 3) Madhya Pradesh Power Management Company Limited

Shakti bhawan, Vidyut Nagar, Jabalpur (M.P)-482 008

- 4) Paschimanchal Vidyut Vitran Nigam Limited  
Victoria Par, Meerut,  
Uttar Pradesh- 250001
- 5) Purvanchal Vidyut Vitran Nigam Ltd.  
Hydel Colony, Varanasi,  
Uttar Pradesh- 221004
- 6) Madhyanchal Vidyut Vitran Nigam Ltd.  
4-A, Gokhale Nagar, Lucknow  
Uttar Pradesh- 226001
- 7) Dakshinanchal Vidyut Vitran Nigam Ltd.  
220, KV Vidyut Substation  
Mathura-Agra Bypass Road,  
Sikandra Agra  
Uttar Pradesh- 282007
- 8) Punjab State Power Corporation Ltd.  
Shed C-3, Shakti Vihar, Patiala,  
Punjab- 147001
- 9) Tata Power Distribution Ltd.  
Tata Power DDL House,  
Hudson Line,  
New Delhi-110009
- 10) BSES Rajdhani Power Ltd.  
BSES Bhawan, Nehru Place,  
New Delhi- 110019
- 11) BSES Yamuna Power Ltd.  
BSES Bhawan, Nehru Place,  
New Delhi- 110019
- 12) Ajmer Vidyut Vitran Nigam Ltd.  
Hathi Bhata, Ajmer,  
Rajasthan- 305001
- 13) Jaipur Vidyut Vitran Nigam Ltd.  
Vidyut Bhawan, Jaipur,  
Rajasthan- 302205
- 14) Jodhpur Vidyut Vitran Nigam Ltd.

New Power House, Jodhpur,  
Rajasthan- 342003

15) Uttarakhand Power Corporation Ltd.  
Urja Bhawan, Dehradun,  
Uttarakhand- 248001

.....Respondents

**Parties present:**

Shri M.G.Ramachandran, Advocate, HPGCL  
Ms. Ranjita Ramachandran, Advocate, HPGCL  
Ms. Anushree Bardhan, Advocate, HPGCL  
Shri Amit Kapoor, Advocate, SPL  
Shri V. Mukherjee, Advocate, SPL  
Shri N.K. Deo, SPL  
Shri Suria Kant, SPL  
Shri Rajiv Srivastava, Advocate, UPPCL  
Ms. Abiha Zaide, NLDC

**ORDER**

The petitioner, Haryana Power Generation Corporation Limited (HPGCL) represented through Haryana Power Purchase Centre, has filed the present petition seeking relief in terms of the Commission's order dated 3.6.2016 and 10.6.2016 in Petition No. 83/MP/2016 against the notices issued by Sasan Power Limited (SPL) to WRLDC for regulation of power supply and subsequent regulation of power supply effective midnight of 11.6.2016 on account on non-payment of dues. The petitioner has submitted that outstanding dues relate to the past period and there is no issue with regard to the current dues. The past dues have been raised in pursuance to the judgment dated 31.3.2016 of the Hon`ble Appellate Tribunal for Electricity in Appeal No. 233 of 2014. The petitioner has made the following prayers:

“(a) Direct Sasan Power to accept the Letter dated 9.6.2016 of the petitioner in the light of the Commission`s orders dated 10.6.2016 read with order dated 3.6.2016;

- (b) Direct Sasan Power not to regulate the power supply to the petitioner;
- (c) Direct WRLDC not to implement the regulation of power supply requested by Sasan Power.”

2. The petitioner has submitted that HPGCL vide its letter dated 9.6.2016 addressed to SPL and copy to WRLDC accepted the terms of the order dated 3.6.2016 and requested SPL not to regulate power in respect of Haryana. However, WRLDC vide its letter dated 9.6.2016 proceeded with the request of SPL and approved an implementation plan, *inter-alia* for regulation of power supply by SPL to the Haryana. The duration of regulation as per the plan is from 00:00 hrs of 11.6.2016 to 24.00 hrs of 3.7.2016. The petitioner has submitted that SPL has regulated the power supply to the extent of 100 MW with effect from midnight of 11.6.2016 for which the petitioner would suffer irreparably on account of regulation of power supply, if it continues at this time of the year.

3. During the hearing, learned counsels for the petitioner and SPL submitted that the matter has been sorted and similar direction as in the case of Rajasthan Utilities and PSPCL may be issued in case of Haryana.

4. The Commission, vide order dated 3.6.2016 issued directions with regard to the payment of dues by MPPMCL in para 15 as under:-

“15. Considering the submission of the parties, we issue the following directions:

(a) All outstanding dues on account of orders for change in law events shall be liquidated in weekly installments by 30.6.2016.

(b) The principal amount (excluding the late payment surcharge) covered under the notice dated 20.5.2016 (on account of change in COD) shall be paid in three equal monthly instalments by 5.7.2016, 5.8.2016 and 5.9.2016.

(c) As regards late payment surcharge, we direct SPL and the petitioner to make efforts to settle the issue amicably. In case of dispute, either party is at liberty to approach the Commission for adjudication and appropriate direction.

(d) In case of default in payment as per our directions in sub-para (a) & (b) above, SPL will be at liberty to act in terms of the RPS Regulations read with the provisions of the PPA.”

With regard to the other procurers, the Commission in para 16 of the order issued the following directions:

“16. Learned counsel for UP (respondent nos. 3 to 6) submitted that the arrangement made in case of MP may be extended to UP. Learned senior counsel for SPL opposed the prayer and submitted that the direction issued in case of MP cannot be extended in the case of other procurers in the absence of appropriate applications for relief. We are of the view that SPL has issued notices to other procurers on account of default in payment. However, none of the other procurers have filed petitions against the notices for regulation of power. In the absence of proper petition seeking specific relief, no direction can be issued in favour of other procurers. However, considering the fact that other procurers have been arrayed as respondents in the present petition, we direct that if other procurers approach SPL for accommodation, SPL may consider their case in the light of our directions in para 15 above.”

5. Subsequently, the Commission issued the following directions in its order dated 10.6.2016 in I.A. Nos. 18/2016 and 19.2016 filed by Rajasthan Utilities and PSPCL respectively:

“12. Consequently, we direct WRLDC not to give effect to the regulation of power issued vide SPL’s letter dated 8.6.2016 in respect of Rajasthan Utilities and PSPCL. Since the parties have not been able to agree to a payment plan for liquidation of outstanding dues, the Commission considers it appropriate to issue directions in the interest of the seller as well as the procurers (ultimately the consumers in the respective States). There is a difference between the case of MPPMCL and Rajasthan Utilities/PSPCL. In case of MPPMCL, it was directed to liquidate the entire dues arising out of Change in Law events by 30.6.2016. In case of PSPCL and Rajasthan Utilities, there are no outstanding dues for Change in Law events and only outstanding dues relate to the COD. Accordingly, we issue the following directions with regard to PSPCL and Rajasthan Utilities:

- (a) The principal amount (excluding the late payment surcharge) outstanding against Rajasthan Utilities and PSPCL (on account of change in COD) shall be paid in four equal monthly instalments by 25.6.2016, 5.7.2016, 5.8.2016 and 5.9.2016.

(b) As regards late payment surcharge, we direct SPL and Rajasthan Utilities/PSPCL to make efforts to settle the issue amicably. In case of dispute, either party is at liberty to approach the Commission for adjudication and appropriate direction.

(c) In case of default in payment as per our directions in sub-para (a) above, SPL will be at liberty to act in terms of the RPS Regulations read with the provisions of the PPA.

13. shall act in accordance with RPS Regulations in respect of PSPCL and Rajasthan Utilities if any request is received from SPL in terms of para 12(c) above.

14. The above directions are issued without prejudice to the rights of either party to pursue the remedy available to them under the Electricity Act, 2003 and shall be subject to directions/orders in various appeals pending before the Appellate Tribunal for Electricity and Hon'ble Supreme Court of India."

6. The petitioner has submitted that there are no outstanding dues for Change in Law events and only outstanding dues relate to the COD. Taking note of the submissions of the learned counsels for the petitioner and SPL to give similar direction as given in the order dated 10.6.2016, we issue the following directions with regard to the petitioner:

(a) The principal amount (excluding the late payment surcharge) outstanding against the HPGCL (on account of change in COD) shall be paid in four equal monthly instalments by 25.6.2016, 5.7.2016, 5.8.2016 and 5.9.2016.

(b) As regards late payment surcharge, we direct SPL and HPGCL to make efforts to settle the issue amicably. In case of dispute, either party is at liberty to approach the Commission for adjudication and appropriate direction.

(c) In case of default in payment as per our directions in sub-para (a) above, SPL will be at liberty to act in terms of the RPS Regulations read with the provisions of the PPA.

7. WRLDC is directed not to implement the regulation of power supply with immediate effect. However, WRLDC shall act in accordance with RPS Regulations in respect of HPGCL if any request is received from SPL in terms of para 6(c) above.

8. The above directions are issued without prejudice to the rights of either party to pursue the remedy available to them under the Electricity Act, 2003 and shall be subject to directions/orders in various appeals pending before the Appellate Tribunal for Electricity and Hon'ble Supreme Court.

9. Petition No. 93/MP/2016 is disposed of in terms of the above directions.

Sd/-  
**(Dr. M.K. Iyer)**  
Member

sd/-  
**(A.S. Bakshi)**  
Member

sd/-  
**(A. K. Singhal)**  
Member

sd/-  
**(Gireesh B. Pradhan)**  
Chairperson