



BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW
Petition No. 1574/2020
Date of Order: 29.05.2020

PRESENT:

Hon'ble Sri Raj Pratap Singh, Chairman
Hon'ble Sri Kaushal Kishore Sharma, Member
Hon'ble Sri V.K. Srivastava, Member (Law)

IN THE MATTER OF: Regarding payment of outstanding bills as per terms of PPA

M/s Kesar Enterprise Limited
Unit at Baheri, Distt.- Bareilly
U.P.

.....**Petitioners:**

UP Power Corporation Ltd.,
(through its Chairman),
Shakti Bhawan Extn.,
14-Ashok Marg,
Lucknow

Electricity Import Export and Payment Circle
Shakti Bhawan Extn., 11th Floor
14- Ashok Marg
Lucknow

Chief Engineer- PPA (R)
UPPCL, Shakti Bhawan Extn.,
14-Ashok Marg
Lucknow

.....**Respondents:**

In the presence of:

1. Sri D.D. Chopra, Advocate for the petitioner (on-line)
2. Sri Deepak Raizada, CE PPA-R, UPPCL (on-line)

ORDER
(Date of hearing: 27.05.2020)

1. The petitioner has 25 MW bagasse based plant at Bareilly and entered into PPA on 14.02.2011 with UPPCL for selling 10 MW surplus power from it. The petitioner further enhanced its capacity by 44 MW and further entered into Supplementary PPA on 24.08.2012 for 32 MW from new capacity.



The petitioner has its bill for the month from Jan 2019 till April 2020 amounting Rs. 54 crores (LS) lying pending for payment. The instant petition is filed to seek immediate payment of outstanding bills as per terms of PPA.

2. The petitioner has loan of amount Rs. 122.96 crores and undergoing severe cash crunch due to fall in business resulting in its inability to repay loan. The petitioner is solely dependent on generating facility for payment of its loan. The asset of petitioner has become NPA and Bank has initiated proceeding against the petitioner under "Securitisation and Reconstruction of Financial Asset and Enforcement of Security Interest Act, 2002" for recovery of outstanding amount of Rs. 122 crore along with interest.

Allahabad Bank has initiated proceeding for attachment of properties of the petitioner and has so far attached property worth Rs. 68.51 crores. The petitioner has reached an agreement with the Bank for One Time Settlement (OTS) by paying Rs. 55 crores in 6 installments for final settlement of loan. Out of this Rs 32 Crores has already been paid under OTS. The petitioner was supposed to make payment of Rs. 23 crores by 31.03.2020 to avail benefits under OTS scheme. Otherwise the OTS shall fail. However, due to COVID-19 lockdown condition the RBI has granted a moratorium upto 31.05.2020 for repaying outstanding debts else the entity shall be marked as NPA. The petitioner submits that it has no other means to make payment.

3. The petitioner has taken support of the Commission's order in petition no. 1265 and 1266 wherein sanctity of the PPA was reiterated and have sought payment of outstanding bills so as to timely settle OTS dues.

4. The Commission enquired UPPCL if they acknowledge the outstanding payment as claimed by the petitioner? If, yes, what is the timeline envisaged for making this payment?

5. UPPCL agreed that bills have been verified by the concerned official and it is due for payment also. UPPCL representative also submitted that they have been making payment to all co-generators depending upon the availability of funds. At present, due to COVID-19 lockdown conditions the revenue realization has plummeted thus affecting payments to generators. However, they are preparing roadmap for getting fund assistance from Central Government and note in this regard is getting prepared for seeking cabinet approval of the same which may take 2 weeks' time.

Further, UPPCL also argued that they are insulated from the agreement between the generator and the lender so it can not be ground for seeking preferential treatment in getting due payments.

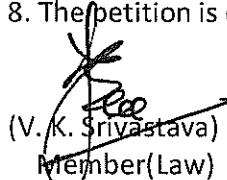
6. The petitioner submitted that as a matter of fact the lender, Allahabad Bank, itself is getting merged with Indian Bank. And if merger is done, the OTS scheme itself shall be in doldrum. Thus, requested that UPPCL to at least pay Rs. 23 crores from the total



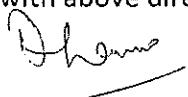
outstanding amount, may be directly to Allahabad Bank, but before 31.05.2020 and make rest of the payment later so as to keep the entity going else the company shall become NPA. Once the payment to Bank is made, the petitioner shall also be able to keep supplying power to UPPCL.

7. The Commission acknowledged the financial crisis faced by UPPCL has further aggravated due to COVID-19 lockdown condition but reiterated that it must be endeavor of UPPCL to timely recover dues from consumers and also ensure timely payments to generator. The Commission observed that this is a fit case for its intervention and directed UPPCL to consider timely payments of the acknowledged dues of outstanding bills at least to the extent of Rs. 23 Crores within next 30 days so that the petitioner remains a financially viable entity by settling its OTS dues with the Bank.

8. The petition is disposed of with above directions accordingly.


(V. K. Srivastava)
Member(Law)

Place: Lucknow
Dated: 29.05.2020


(K. K. Sharma)
Member


(R. P. Singh)
Chairman

