



**Petition No. 1376 of 2018**

**BEFORE**

**THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION  
LUCKNOW**

**Date of Order: 17.12.2020**

**PRESENT:**

Hon'ble Shri Raj Pratap Singh, Chairman

Hon'ble Shri Kaushal Kishore Sharma, Member

Hon'ble Shri Vinod Kumar Srivastava, Member (Law)

**IN THE MATTER OF**

Revision in Design Energy, consequent changes in saleable design energy and also changes in the incentives towards the secondary energy according to the revised design energy owing to the situation "change in law".

M/s Jai Prakash Power Ventures Ltd.,

JA House, 63 Basant Lok,

Vasant Vihar, New Delhi – 110 057

..... **Petitioner**

1. UP Power Corporation Ltd. (through its Chairman), 7th Floor, Shakti Bhawan Extn, 14- Ashok Marg, Lucknow
2. Government of Uttar Pradesh. (through its Principal Secretary, Energy) Bapu Bhawan, Lucknow.
3. Government of Uttarakhand. (Through its Principal Secretary (Irrigation & Power), Uttarakhand

.....**Respondents**



The following were present:

1. Shri Ankit Sibbal, Advocate, JPVL
2. Shri Suren Jain, JPVL
3. Shri Deepak Raizada, SE, UPPCL
4. Shri Mohit Goyal, Consultant, Mercados

**ORDER**

**(Date of Hearing 08.12.2020)**

1. Commission during last hearing held on 4<sup>th</sup> Nov 2020 had directed UPPCL to submit their reply including the details as presented during hearing by way of an affidavit within two weeks. The Petitioner was also directed to file rejoinder, if any, before next hearing. UPPCL has filed its reply dated 20.11.2020 and Jai Prakash Power Ventures has filed its rejoinder dated 08.12.2020.

The matter came up for hearing today.

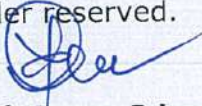
2. Sh. Deepak Raizada, representative of UPPCL submitted that there is a change in law but there is no change in the annual capacity and energy charge of the Petitioner due to the present change in law situation. The only change is brought about in the saleable design energy which is computed based on design energy. He further submitted that as per the energy bills raised by the petitioner, the Petitioner is getting overcompensated by virtue of Secondary energy incentive due to higher actual energy being generated by the Plant during last two years. He also informed that UPPCL has decided to approach CEA to revisit the Design Energy.
3. Sh. Sibbal, learned counsel of the Petitioner submitted that this change in law is different from the cases pleaded by UPPCL in their reply. He further submitted that if relief of revision in design energy is not granted by the Commission, there would be loss in recovery of energy charges.

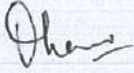





4. Sh. Suren Jain, representative of Petitioner submitted that CEA has certified design energy considering 90% dependable year with 95% availability of installed capacity. He further added that the Plant availability is being maintained at more than 99%.
5. Commission observed that it is case of arbitrage between Primary and Secondary energy. Commission also noted that original saleable energy of the project was 1545.88 MUs. The Commission also observed that any economic loss due to change in law to the Petitioner / revision in design energy need to be seen in terms of applicable provisions in PPA and UPERC Generation Tariff Regulations.
6. Commission while concluding the hearing allowed both the parties to file their written submissions within two weeks.

Order reserved.

  
(Vinod Kumar Srivastava)  
Member

  
(Kaushal Kishore Sharma)  
Member

  
(Raj Pratap Singh)  
Chairman

Place: Lucknow

Dated: 17.12.2020

100

100