

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:
Shri Gireesh B. Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member

DATE OF HEARING: 27.9.2016

Petition No. 304/MP/2013

Sub: Petition for adjustment of generation tariff and other consequential reliefs.

Petitioner : Godavari Green Energy Limited

Respondents : NTPC Vidyut Vyapar Nigam Ltd. and
Union of India, Ministry of New and Renewable Energy

Petition No. 312/MP/2013

Sub: Petition under Section 79 of the Electricity Act, 2003 for grant of compensatory tariff on account of depreciation in rupee.

Petitioner : Rajasthan Sun Technique Energy Private Limited

Respondents : NTPC Vidyut Vyapar Nigam Ltd.
Union of India, Ministry of New and Renewable Energy

Petition No. 313/MP/2013

Sub: Application for stay.

Petitioner : Rajasthan Sun Technique Energy Private Limited

Respondents : NTPC Vidyut Vyapar Nigam Ltd.
Union of India, Ministry of New and Renewable Energy

Petition No. 327/MP/2013

Sub: For adjustment of tariff, extension of time for execution of project and other consequential reliefs.

Petitioner : Diwakar Solar Projects Limited, Hyderabad

Respondents : NTPC Vidyut Vyapar Nigam Ltd. and
Union of India, Ministry of New and Renewable Energy

Petition No. 14/MP/2014

Sub: Petition for adjustment of tariff, extension of time for execution of project and other consequential relief.

Petitioner : KVK Energy Venture Private Limited

Respondents : NTPC Vidyut Vyapar Nigam Ltd.
Union of India, Ministry of New and Renewable Energy

Petition No. 16/MP/2014

Sub: Petition under Section 79 (1) (b) read with Section 79 (1) (f) of the Electricity Act, 2003 for adjustment of capacity utilization factor, extension of time for execution of project and other consequential relief.

Petitioner : MEIL Green Power Limited

Respondents : NTPC Vidyut Vyapar Nigam Ltd.
Union of India, Ministry of New and Renewable Energy

Petition No. 41/MP/2014

Sub: Petition for adjustment of generation tariff and other consequential reliefs.

Petitioner : Aurum Renewable Energy Limited

Vs

Respondents : NTPC Vidyut Vyapar Nigam Ltd.
Union of India, Ministry of New and Renewable Energy

Petition No. 42/MP/2014

Sub: Petition for adjustment of tariff, extension of time for execution of project and other consequential reliefs.

Petitioner : Corporate Ispat Alloys Limited

Respondents : NTPC Vidyut Vyapar Nigam Ltd.
Union of India, Ministry of New and Renewable Energy

Parties present : Shri Sanjay Karndhar, Advocate, MNRE

Shri A. Mariarputham, Senior Advocate, GGEL
Shri Raunak Jain, Advocate, GGEL
Shri Amit Arora, Advocate, GGEL
Shri Avneesh Arputham, Advocate, GGEL
Ms. Anuradha Arputham, Advocate, GGEL
Ms. Mariya Mumtaz Hashmi, Advocate, GGEL
Shri Avijeet Lala,, Advocate, GGEL
Shri Sakiya Choudhery, Advocate, DSPL, KVK, MEIL, AREL
Ms. Manpreet Kaur, Advocate ,DSPL, KVK, MEIL, AREL
Ms. Tushar Srivastav, Advocate ,DSPL, KVK, MEIL, AREL
Shri Vishal Binod, Advocate, CIAL
Shri Gautam Chawala, Advocate, CIAL
Shri Aryaman Saxena, CIAL
Shir Hasan Murtaza, Advocate, RSTEPL
Shri Suryakant, Advocate, RSTEPL
Shri N.M. Venugopal, MEIL
Shri M.G. Ramachandran, Advocate, NVVNL
Ms Anushree Bardhan, Advocate, NVVNL
Shri P Mahajan, NVVNL

Record of Proceedings

Learned counsel for the petitioners submitted that as per the direction of the Commission dated 21.7.2016, the copies of the petitions along with ROP have been served on the Distribution Companies. Learned Counsel for NVVN submitted that the petitioners are required to revise the memo of parties in order to formally implead the distribution companies.

2. The commission directed the petitioners to file revised memo of parties and serve copies of the petitions, if already not served on the distribution companies on or before 13.10.2016. The Commission further directed issue of notice to the distribution companies.

3. The Commission observed that in the light of the Full Bench judgment dated 7.4.2016 of the Appellate Tribunal for Electricity in Appeal No. 100 of 2013 & Ors, the issue regarding the exercise of regulatory powers by the Commission has been settled and directed the learned counsel of the petitioners to make submission in the light of the said judgment. Learned counsel appearing in Petition Nos. 327/MP/2013, 14/MP/2014, 16/MP/2014 and 41/MP/2014 submitted that the cases of the petitioners are distinguishable from the Full Bench Judgment. Learned Counsel further submitted that the Hon'ble Supreme Court in its judgment dated 5.7.2016 in Civil Appeal No. 5875/2012 (GUVNL Vs. Tarini Infrastructure) has held that the PPA in case of bid out projects can be reopened. Learned counsel further submitted that as in case of the Civil Appeal No. 5875/2012, the projects covered in the petitions under consideration are bid

projects, but not under Section 63 of the Act. Therefore, the Full Bench judgment is not applicable in these cases.

4. The Commission observed that MNRE vide its letter dated 17.8.2016 has informed the Commission that as the consultation mechanism adopted by MNRE is taking some time, it would be in fitment of things if the Commission takes decision on the issue of time extension in SCOD. The Commission directed the staff to share copy of the letter with the petitioners and the respondents.

5. The Commission enquired from the learned counsel appearing for MNRE regarding the possible timeline for decision on the representations of the petitioners. The Commission further expressed the view that if the Commission hears and decides the matters during the pendency of the representations of the petitioners, then there is possibility of conflict between the decision taken by the Commission and the outcome of the consultative process being undertaken by MNRE and directed the learned counsel to seek clarification from MNRE regarding implementability of the direction of the Commission in case of conflict.

6. The Commission directed MNRE to file the timeline on or before 28.10.2016 for disposal of the representations submitted by the petitioners.

7. The Commission directed the respondents and the distribution companies to file their replies by 14.10.2016 with an advance copies to the petitioners who may file their rejoinders if any, by 28.10.2016.

8. The Commission directed NVVNL to maintain status quo and not to encash the Performance Bank Guarantee of the petitioners. The petitioners were directed to keep the Performance Bank Guarantees valid taking into account the next date of hearing plus three months and claim period in line with terms and conditions of their respective PPAs.

9. The Commission directed to list these petitions for hearing on 24.11.2016.

By order of the Commission
Sd/-
(T. Rout)
Chief (Law)

~~KBC~~
By Speed-Post/Fax/E

F. No. 29/5(5)/2010-11/JNNSM/ST/CERC
Ministry of New & Renewable Energy
(Grid Solar Power Division)

Block-14, C.G.O. Complex,
Lodhi Road, New Delhi - 110003.
Date: 17th August, 2016

To
The Secretary
Central Electricity Regulatory Commission (CERC)
3rd & 4th Floor, Chanderlok Building,
36, Janpath, New Delhi - 110001.

Sub: CERC's order dated 01.08.2016, following its hearing on 21.07.2016 in Petition Nos. 304/MP/2013, 312/MP/2013, 313/MP/2013, 327/MP/2013, 14/MP/2014, 16/MP/2014, 41/MP/2014 and 42/MP/2014 filed by Developers of Solar Thermal Power projects allotted under NSM Phase-I.

Madam,

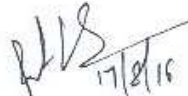
The Ministry of New & Renewable Energy (MNRE), on the directives of Central Electricity Regulatory Commission (CERC) vide its order dated 28.02.2014 on the subject petitions, is examining the issue of time-extension for commissioning, to these projects.

The Ministry had constituted an Expert Committee which gave a number of recommendations supporting these projects, so as to encourage this technology.

Considering the important role played by Solar Thermal Technology in providing a 24 x 7 renewable energy generation, and also the socio-economic impact of any such termination of projects, the Ministry of New & Renewable Energy (MNRE) has decided to consider adopting the recommendations of this Expert Committee and approach the Cabinet for approval. Comments have been received from the concerned Ministries/ Departments on the Draft Cabinet Note in this regard and the replies thereto are being prepared for incorporation in the Final Cabinet Note. Meanwhile, MNRE had also written letters to States which had requisitioned solar power from NVVN under the Bundling Scheme of Phase-I of NSM, seeking their views on the MNRE's proposal for time extension for commissioning and other reliefs for solar thermal power plants under NSM Phase-I. Some States have replied and some have not. Some States have supported MNRE's proposal while some have categorically said that they will not purchase any solar thermal power in NSM Bundling Scheme.

As the consultative mechanism adopted by MNRE is taking some time, considering the fact that CERC is in know of things and appreciates the facts of the case, it would be in fitment of things if CERC takes a decision on the issue of time extension in Scheduled Commissioning Date (SCD) also.

This issues with the approval of the competent authority.


(Ruchin Gupta)
Deputy Secretary
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Copy (for internal circulation):

1. PSO to Secretary
2. PPS to AS (IS)
3. PPS to JS (TK)