

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**I.A. No. 57/2016
in Petition No. 304/MP/2013**

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

Date of hearing : 3.1.2017

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

Petitioner : Godavari Green Energy Limited.

Respondents : NTPC Vidyut Vyapar Nigam Ltd. and others.

Parties present : Shri A. Mariarputham, Senior Advocate, GGEL
Shri Amit Arora, Advocate, GGEL
Ms. Anuradha Arputham, GGEL
Shri Avneesh Arputham, GGEL
Shri M.G. Ramachandran, Advocate, NVVNL
Ms. Anushree Bardhan, Advocate, NVVNL

Record of Proceedings

Learned Senior Counsel for the petitioner submitted that the petitioner has filed the Interlocutory Application seeking stay of the compensation Bill dated 12.10.2016 issued by NTPC Vidyut Vyapar Nigam Ltd (NVVNL) during pendency of the dispute. Learned counsel for the petitioner further submitted as under:

(a) While the matter of policy is being reconsidered by the MNRE and the Commission is also fully seized of the issue of DNI and low CUF, NVVNL has raised a compensation claim for short supply of solar energy vide bill dated 12.10.2016 for an amount of Rs.14,07,84,950 for the period of financial years 2013-14 to 2015-16.

(b) The demand raised by NVVNL vide letter dated 12.10.2016 alleging that "Godavari Green Energy Limited (GGEL) has not met the minimum generation thus making it liable for compensation", is void in the eyes of law. As per clause 4.4.1 of the PPA dated 10.1.2011, "GGEL is liable to pay compensation, if it has not been able to generate minimum solar energy of 98.55 MUs in a contract year

on account of the reasons solely attributable to GGEL". It is the case of the petitioner that shortfall in generation is on account of the DNI and low CUF which is under consideration before the MNRE and the Commission.

(c) The petitioner was receiving regular payments till September, 2016. However, NVVNL withheld two bills raised by the petitioner for the months of October and November, 2016 for the energy generated and supplied through NVVNL due to which working of the petitioner has been affected and the petitioner is incurring monthly running liability of Rs. 18.55 crore.

2. Learned counsel for NVVNL submitted that since the petitioner did not generate minimum energy of 98.55 MUs as per the PPA during the years 2013-14, 2014-15 and 2015-16 NVVNL invoked clause 4.4.1 of the PPA, and raised the bill for compensation vide letter dated 12.10.2016. Learned counsel requested for time to file a detailed reply to the IA. Learned counsel for NVVNL suggested that pending adjudication of the dispute, the withheld amount for the months of October and November, 2016 may be released if the petitioner provides bank guarantee in favour of NVVNL for the commensurate amount.

3. Learned Senior Counsel for the petitioner submitted that due to cash crunch, it is not possible for the petitioner to provide bank guarantee in order to release payment of the bills raised for the months of October and November, 2016. Learned Senior Counsel further submitted that NVVNL has not indicated the amount due from the petitioner on account of compensation which is payable to the distribution companies in terms of the PSA. Learned Senior Counsel submitted that the bill for the month of December 2016 shall be raised on NVVNL on 6.1.2017 and NVVNL may be directed to release the payment after adjusting the compensation claims.

4. After hearing the Learned Senior Counsel for the petitioner and learned counsel for NVVNL, the Commission directed that after the bill for the month of December 2016 is raised by the petitioner on 6.1.2017, NVVNL shall adjust the compensation amount raised vide bill dated 12.10.2016 and release the balance amount to the petitioner, by 7.1.2007. Subsequently, the petitioner can seek release of the balance withheld amount by furnishing the bank guarantee for the commensurate amount.

5. The petitioner is directed to implead Discoms as parties to the IA and serve copy of the IA on them immediately.

6. The Commission directed NVVNL to file its reply to the I.A. on affidavit, on or before 10.1.2017 with an advance copy to the petitioner who may file its rejoinder, if any by 16.1.2017. The Commission directed that the reply of NVVNL shall also include the details of compensation amount payable by NVVNL to the distribution companies in terms of the PSA on account of shortfall in the generation by the petitioner, without

linking the cases of other SPDs. The Commission directed that the due date of filing the reply should be strictly complied with. No extension shall be granted on that account.

7. The IA shall be listed for hearing on 19.1.2017.

By order of the Commission

**SD/-
(T. Rout)
Chief (Legal)**