

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 340/MP/2018

Subject : Petition under Section 79 of the Electricity Act, 2003 read with Article 16.3.1 of the Power Purchase Agreements executed between the Petitioners and NTPC Limited dated 12.5.2016, seeking release of Performance Bank Guarantees arbitrarily and illegally retained by NTPC Limited and seeking extension of time and deferral of the Scheduled Commissioning Date for the commissioning of two 70 MW solar power projects in accordance with Power Purchase Agreements dated 12.5.2016 executed under the National Solar Mission Phase-II, Batch-II, Tranche-I.

Petitioners : Rising Sun Energy Private Limited (RSEPL) and Others

Respondents : NTPC Ltd. and Others

Date of hearing : 7.2.2019

Coram : Shri P.K. Pujari, Chairperson
Dr. M.K. Iyer, Member
Shri I.S. Jha, Member

Parties present : Shri Jafar Alam, Advocate, RSEPL
Shri Sahil Kaul, Advocate, RSEPL
Shri B.S. Dandona, RSEPL
Shri M.G. Ramachandran, Advocate, NTPC
Shri Shubham Arya, Advocate, NTPC
Ms. Tanya Sareen, Advocate, NTPC
Shri Nishant Gupta, NTPC
Ms. Sheela, NTPC

Record of Proceedings

Learned counsel for NTPC Limited submitted that NTPC has a back to back arrangement with distribution licensees in the State of Rajasthan to sell power through Power Sale Agreement and the distribution licensees being “necessary parties” should be impleaded in the present proceedings alongwith the Solar Park Implementation Agency (SPIA), for an effective adjudication of the matter. Learned counsel for the Petitioners had no objection in this regard.

2. Learned counsel for the Petitioners submitted that despite the Commission’s direction dated 13.12.2018, NTPC has sent a letter dated 1.2.2019 to the Petitioner for invocation of the Bank Guarantee. Learned counsel requested the Commission to continue the interim protection granted vide RoP dated 13.12.2018.

3. After hearing the learned counsels for the Petitioners and NTPC, the Commission directed the Respondents to submit the list of distribution companies to whom power would be supplied by the Petitioners. The Commission directed the

Petitioners to implead the distribution companies as parties to the Petition and to file revised memo of parties by 11.2.2019.

4. The Commission directed the Petitioners to serve the copy of the Petition and the RoP on the Respondents and the distribution companies immediately. The Respondents including distribution companies were directed to file their replies by 18.2.2019, with an advance copy to the Petitioner, who may file its rejoinder, if any, by 22.2.2019. The Commission directed that due date of filing the replies and rejoinder should be strictly complied with. No extension shall be granted on that account.

5. The Commission directed the learned counsel for NTPC to check as to whether NTPC has issued letter to the Petitioner for invocation of BG and if yes, submit the reason thereof. The Commission directed NTPC not to take any coercive measure till the next date of hearing. The Commission also directed the Petitioners to keep the Bank guarantee alive till the disposal of the Petition.

6. The Petition shall be listed for hearing on 27.2.2019.

By order of the Commission

**Sd/-
(T. Rout)
Chief (Law)**