

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 500/MP/2020

- Subject : Petition under Section 79(1)(a) and (f) of the Electricity Act, 2003 read with Article 10 of the Power Purchase Agreement dated 30.3.2016.
- Date of Hearing : 8.4.2021
- Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : NTPC Limited (NTPC)
- Respondents : M.P Power Management Company Limited (MPPMCL) and 4 Ors.
- Parties Present : Shri Venkatesh, Advocate, NTPC
Shri Ashutosh K. Srivastava, Advocate, NTPC
Shri Aditya Ajay, Advocate, NTPC
Ms. Simran Saluja, Advocate, NTPC
Shri R. R. Surana, NTPC

Record of Proceedings

Case was called out for virtual hearing.

2. Learned counsel for the Petitioner submitted the following:
- (a) NTPC has set up a 250 MW solar PV project (in short 'the Project') at Mandsaur District in the State of Madhya Pradesh. On 30.3.2016, a PPA was executed between NTPC and MPPMCL for supply of power from the Project. The Project was part commissioned in June 2017 and achieved COD on 1.9.2017.
- (b) Regulation 10 of the MP RE Regulations of 2010 notified by MPERC (Madhya Pradesh Electricity Regulatory Commission) notified the MP RE Regulations, specifies drawing/ consumption of power by RE projects during shut down period and other emergencies.
- (c) As per Article 6.2 of the PPA, NTPC is entitled to draw power for auxiliary consumption and for this purpose, the supply of power by Discom to NTPC has to be as per bilateral agreement to maintain the auxiliaries during non-generation of solar power. Treatment of such auxiliary power is to be governed by provisions of the appropriate Regulations from time to time. The MP RE Regulations had no provisions as regards supply of such auxiliary power to the solar station at the time of signing of PPA neither any bilateral agreement has been signed by Respondent No. 4 in this regard.

(d) However, from June 2017, Respondent No.4 started billing for imported energy at tariff applicable to temporary connection under HT Industrial category.

(e) Subsequently, on 15.11.2017, the 7th amendment to the MP RE Regulations was notified by MPERC and aforesaid Regulation 10 dealing with drawing/ consumption of power by RE projects during shut down period and other emergencies, was amended. The amended Regulation 10 of the MP RE Regulations provided for billing of temporary connection under HT Industrial category under 'other cases'.

(f) The amendment to Regulation 10 of the MR RE Regulations is covered under Article 10 of the PPA as 'change in law' and charges paid by NTPC ought to be reimbursed to restore NTPC to the same economic position as if the 'change in law' event had not occurred. Further, as per Articles 10.2.1 and 10.2.2, NTPC is required to approach the Commission for approval and relief of 'change in law'.

(g) MP Discoms could have billed NTPC at the tariff applicable to temporary connection under HT Industrial category only after 15.11.2017 when Regulation 10 of the MP RE Regulations were amended. Now, it has come to notice that the billing by Respondent No. 4 was being done based on an 'Executive Order' which will be submitted on record subsequently.

(i) An amended 'Memo of Parties' has been filed on 18.1.2021 and all the necessary parties have been impleaded. Learned counsel requested to take on record the amended 'Memo of Parties'.

3. After hearing the learned counsel for the Petitioner, the Commission admitted the Petition and directed to issue notice to the Respondents as per the amended 'Memo of Parties' filed by the Petitioner.

4. The Commission directed the Petitioner to serve copy of the Petition on the Respondents immediately, if not served already. The Respondents were directed to file their reply, if any, by 23.4.2021 with advance copy to the Petitioner, who may file its rejoinder, if any, by 7.5.2021. The due date for filing of reply and rejoinder shall be strictly complied with.

5. The Petition shall be listed for hearing in due course for which separate notice will be issued.

By order of the Commission
Sd/-

(T.D. Pant)
Joint Chief (Law)