

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 592/MP/2020

- Subject : Petition under Regulation 1.5(iv) read with Regulation 5.2(u) and Regulation 6.5 (11) of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 read with Regulation 111 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking direction to State Load Dispatch Centre to implement the Must Run station accorded to the Petitioner's Solar Project in letter and spirit and compensate the Petitioner for the unlawful and arbitrary curtailment of generation from the Petitioner's Solar Project.
- Date of Hearing : 13.4.2021
- Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : Solairepro Urja Private Limited (SUPL)
- Respondents : Andhra Pradesh State Load Despatch Centre (AP SLDC) and 3 Ors.
- Parties Present : Shri Aniket Prasoon, Advocate, SUPL
Ms. Akanksha Tanvi, Advocate, SUPL
Shri Venkatesh, Advocate, NTPC
Shri Ashutosh Srivastava, Advocate, NTPC
Shri Abhiprav Singh, Advocate, NTPC
Shri Suhael Buttan, Advocate, NTPC
Ms. Mita Chojal, SUPL
Shri Ishpaul Uppal, NTPC

Record of Proceedings

Case was called out for virtual hearing.

2. Learned counsel for the Petitioner submitted that the instant Petition has been filed under Regulation 1.5(vi) read with Regulation 5.2(u) and Regulation 6.5(11) of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 (in short, 'the Grid Code') seeking direction to State Load Despatch Centre, Andhra Pradesh (AP SLDC) to implement must-run status accorded to its solar project in letter and spirit and to compensate the Petitioner for unlawful and arbitrary curtailment of generation from its solar project. Learned counsel mainly submitted the following:

- (a) The Petitioner has set-up a 250 MW solar PV project in Kadapa Ultra Mega Solar Power Park in the State of Andhra Pradesh after being selected under the competitive bid process conducted by the Respondent No.3, NTPC Limited under the JNNSM Phase-II Guidelines. In terms of the PPA dated 7.2.2018, NTPC is purchasing power from the Petitioner and thereafter bundling it with its

unallocated thermal power and is selling such bundled power to the distribution licensees of Andhra Pradesh ('AP Discoms').

(b) Previously, the Petitioner had filed Petition No. 176/MP/2019 seeking change in law reliefs/ compensation on account of imposition of Safeguard Duty, which was allowed by the Commission vide its order dated 5.2.2020. However, the said order has been challenged by the AP Discoms before the Hon'ble High Court of Andhra Pradesh in W.P. No. 5212/2020, *inter alia*, on the ground of jurisdiction. Hon'ble High Court of Andhra Pradesh vide order dated 28.2.2020 has stayed the Commission's order dated 5.2.2020 till the pendency of the Writ Petition.

(c) The stay order passed by the Hon'ble High Court of Andhra Pradesh will not come in way of admission of the present Petition. The present petition has been filed invoking Regulations 1.5 (iv), 5.2 (u) and 6.5 (11) of the Grid Code read with Regulation 1.10 of the Code of Technical Interface (in short 'APCTI' or 'the AP Grid Code').

(d) Regulation 1.5 of the Grid Code provides that in case of non-compliance of the provisions of the Grid Code by NLDC, RLDC, SLDC, RPC and any other person, the matter may be reported to the Commission by way of a Petition. Regulation 5.2(u) of the Grid Code provides that SLDC shall make all efforts to evacuate the available solar and wind power and treat the same as 'must run' in accordance with Regulation 6.5(11) of the Grid Code. However, the AP Grid Code does not have any provisions which requires AP SLDC to treat the solar power plants as 'must run' or to deal with AP SLDC's non-compliance of the provisions of the Grid Code.

(e) As per Regulation 1.10 of the AP Grid Code, if any clause of APCTI contradicts the provision of the Grid Code during a real situation, the provisions of the Grid Code take precedence. Therefore, in absence of any specific provisions under APCTI treating solar power plants as 'must run', AP SLDC is bound to follow the provisions of the Grid Code.

(f) AP SLDC has been curtailing the generation of power from the project based on economic considerations and not based on grid exigencies. The distribution companies are buying power from short term market and AP SLDC is not curtailing the thermal generating stations to their technical minimum.

(g) The Hon'ble Supreme Court in the case of Central Power Distribution Co. & Ors. v. Central Electricity Regulatory Commission and Anr., [(2007) 8 SCC 197] has held that the grid discipline even when there is a single State beneficiary will be within the purview of this Commission. Therefore, the Commission enjoys the jurisdiction in the present matter.

3. Learned counsel for the Respondent No.3, NTPC accepted notice and requested for four weeks' time to file reply to the Petition. Learned counsel further submitted that the Commission is already seized of a similar matter in Petition No. 342/MP/2019 (Prayatna Developers Private Limited v. AP SLDC and Ors.)

4. After hearing the learned counsel for the Petitioner and the learned counsel for the Respondent No.3, NTPC, the Commission admitted the Petition and directed to issue notice to the Respondents.

5. The Commission directed the Petitioner to serve copy of the Petition on the Respondents immediately, if not served already. The Commission directed the Respondents to file their reply by 14.5.2021 with advance copy to the Petitioner, who may file its rejoinder, if any, by 28.5.2021. The due date of filing of reply and rejoinder should be strictly complied with.

6. 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)**