

**CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi**

Petition No. 192/MP/2021

- Subject** : Petition under Sections 79(1)(c), 79(1)(f) and 79(1)(k) of the Electricity Act, 2003, read with Article 4.5(a) of the Power Purchase Agreement (PPA) dated 20.8.2019 executed between the Petitioner and Solar Energy Corporation of India Limited (SECI), read with the back-to-back Power Sale Agreements (PSAs) dated 17.6.2019 and 26.6.2019 executed between SECI and BSES Yamuna Power Limited (BYPL) and Tata Power Delhi Distribution Limited (TPDDL), respectively, seeking extension of Scheduled Commercial Operation Date (SCOD) and based on the extension of SCOD sought in the instant petition, seeking consequent deferment of operationalization of Long-Term Access (LTA) granted by the Central Transmission Utility (CTU) to the Petitioner.
- Date of Hearing** : 12.1.2023
- Coram** : Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner** : SBSR Power Cleantech Eleven Private Limited (SBSRPCEPL)
- Respondents** : Solar Energy Corporation of India Limited (SECIL) and 2 Ors.
- Parties Present** : Shri M.G Ramachandran, Senior Advocate, SECI
Shri Hemant Singh, Advocate, SBSRPCEPL
Shri. Lakshyajit Singh Bagdwa, Advocate, SBSRPCEPL
Ms. Lavanya Panwar, Advocate, SBSRPCEPL
Ms. Srishti Khindaria, Advocate, SBSRPCEPL
Ms. Anushree Bardhan, Advocate, SECI
Ms. Surbhi Kapoor, Advocate, SECI
Shri Aneesh Bajaj, Advocate, SECI
Shri Buddy Ranganadhan, Advocate, BYPL
Shri Hasan Murtaza, Advocate, BYPL
Shri Venkatesh, Advocate, TPDDL
Shri Jatin Ghuliani, Advocate, TPDDL
Shri Anant Singh Ubeja, Advocate, TPDDL



Shri Mohit Manshranami, Advocate, TPDDL
Shri Kunal Veer Chopra, Advocate, TPDDL
Ms. Shefali Sobti, TPDDL
Shri Debajyoti Majumder, NLDC(POSOCO)
Shri. Alok Kumar Mishra, NLDC(POSOCO)
Ms. Neha Singh, SECI

Record of Proceedings

Case was called out for virtual hearing.

2. The learned counsel for TPDDL made the following submissions:
 - (a) TPDDL being the beneficiary of power generated by the Petitioner, is being deprived of its total tied up capacity i.e. 200 MW on account of the Petitioner's third party sale of 62.5 MW power and failure/delay in commissioning of the balance capacity.
 - (b) TPDDL has filed its reply to the amended petition. TPDDL has moved an Interlocutory Application being Diary No.17 of 2023 seeking appropriate directions to the Petitioner to comply with the terms and conditions of the PPA, PSA and supply the entire installed capacity to TPDDL including the commissioned 62.5 MW capacity instead of supplying the same in open market. The generator under the PPA has no right to opt out of supplying the contracted capacity and sell the power to third party. TPDDL urged the Commission to register and number the said application and thereafter decide the same.
 - (c) Pursuant to the PPA executed between the Petitioner and SECI, SECI had executed back to back PSA with TPDDL for 200 MW of solar power and with BSES Yamuna Power Limited (BYPL) for 150 MW of solar power. Thus, considering back-to-back nature of the contracts, rights and obligations between the Petitioner and TPDDL through SECI, the Petitioner is contractually committed to supply the allocated contracted capacity of 200 MW to TPDDL on the terms and conditions stipulated in the PPA and PSA.
 - (d) Due to failure on the part of the Petitioner to supply the contracted capacity, TPDDL is not able to fulfil its Renewable Purchase Obligation (RPO). TPDDL is agreeable to offtake the power with full implications under the terms of PPA. However, as on date neither there is any 'Change in Law' petition filed by the Petitioner nor is there any notice of 'Change in Law' given by the Petitioner. Therefore, as a buying Discom, TPDDL cannot agree to any other tariff except for as agreed in the PPA dated 20.8.2019.
3. Learned counsel for SECI submitted that if Discoms are willing to accept the 'Change in Law' as decided by the Commission, the same will be binding on Discoms. Accordingly, SECI will implement PPA and PSA in accordance with Commission's decision. He further submitted that a meeting was held on 21.12.2022, between SECI,



TPDDL, BYPL and the Petitioner wherein both the Discoms have maintained the same stand as was taken by them in the meeting held on 22.8.2022.

4. Learned counsel for BYPL sought time to file its reply to the application filed by TPDDL.

5. Learned counsel for the Petitioner sought time to file its reply to the application of TPDDL, once the IA filed by TPDDL is registered and numbered by the Commission.

6. After hearing, the Commission directed the Registry to register Diary No. 17 of 2023. The Commission further directed SECI to convene a meeting of the Petitioner, TPDDL and BYPL within 15 days to explore the possibility of an amicable solution to the issues involved in the petition and submit minutes of the meeting before the Commission prior to the next date of hearing. The Commission directed the Petitioner and SECI to file reply to the application of TPDDL on affidavit by 7.2.2023 and the applicant TPDDL to file rejoinder, if any, by 13.2.2023. The Commission directed the parties to comply with the above directions within the timelines specified and observed that no extension of time shall be granted. The Commission further directed the Respondents to file reply to the amended petition of the Petitioner, if not already filed, by 13.2.2023 and the Petitioner to rejoinder, if any, by 20.2.2023.

7. The Petition shall be listed for further hearing on 2.3.2023.

By order of the Commission

sd/-

(V. Sreenivas)
Joint Chief (Law)

