

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.215/MP/2023

- Subject : Petition under Section 79(1) (f) of the Electricity Act, 2003 for adjudication of disputes between the Petitioner and the Respondents under the Power Purchase Agreement dated 21.07.2017 and Amendments thereof-entered between the Petitioner and the Respondent No.1 and the back-to-back Power Sale Agreement dated 27.06.2017 entered between the Petitioner and Respondent No.3 and 4 and the alleged termination of PPA by Respondent No.1.
- Date of Hearing : **22.9.2023**
- Coram : Shri Jishnu Barua, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : PTC India Limited (PTCIL)
- Respondents : Wind Five Renergy Limited and 3 Ors.
- Parties Present : Shri Ravi Kishore, Advocate, PTCIL
Shri Keshav Singh, Advocate, PTCIL
Ms. Rohini Prasad, Advocate, Bihar Discoms
Shri Md. Aman Sheikh, Advocate, WFRL

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Petition has been filed against Respondent No.1's unilateral and illegal termination of the Power Purchase Agreement by notice dated 10.11.2022. In the said notice dated 10.11.2022, Respondent No.1 informed about the alleged automatic termination of the PPA in terms of Article 4.6.2 of the PPA, as per which the PPA is not valid or enforceable beyond 4.7.2019 on the ground that the Project of the Respondent No.1 has not been commissioned within the stipulated period of 27 months. Learned counsel pointed out that the position of Respondent No.1 and the alleged unilateral termination is contradictory to the stand earlier taken by Respondent No.1 that its Project had been successfully commissioned on 4.7.2019 after a mere delay of 21 days. Learned counsel submitted that the crux of the dispute in the Petition relates to the date of commissioning/COD of Respondent No.1's Project and the alleged termination of the PPA by Respondent No.1. Learned counsel urged that pending the present Petition, the Respondent No.1 ought to be restrained from entering into a definite PPA with the third party, as in the event third party rights are created on the Project capacity, the present Petition may be rendered infructuous. Learned counsel requested that the present Petition may be taken up with Petition No.58/MP/2023 filed by Respondent No.1, *inter alia*, seeking payment of compensation for breach of provisions of the Power Purchase Agreement dated 21.7.2017 executed between Respondent No.1 and PTCIL.

2. Learned counsel for the Respondent, SECI and Bihar Discoms, accepted the notice and sought liberty to file their respective replies in the matter.
3. Considering the submissions made by the learned counsel for the Petitioner and the Respondents, the Commission directed as under:
 - (a) Admit. Issue notice to the Respondents.
 - (b) The Respondents to file their reply to the Petition, if any, within six weeks with a copy to the Petitioner, who may file its rejoinder, within four weeks thereafter.
 - (c) In the meantime, Respondent No.1, WFRL, will maintain a *status-quo* regarding the tie-up of its 50 MW Project capacity under the medium/long-term agreement till the next date of the hearing.
4. The Petition will be listed for the hearing on **22.12.2023** along with Petition No. 58/MP/2023.

By order of the Commission

**Sd/-
(T.D. Pant)
Joint Chief (Law)**