

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.268/MP/2020

Subject : Petition under Section 79(1)(b) and (f) of the Electricity Act, 2003 seeking reimbursement of amount incurred towards taxes and duties and arranging open access for the purpose of supply of contracted capacity of 100 MW from Noida Power Company Limited/PTC in terms of APP dated 6.4.2018 read with PPA executed on the same date.

Petitioner : SKS Power Generation (Chhattisgarh) Limited

Respondents : Noida Power Company limited and anr.

Date of Hearing: **20.4.2023**

Coram : Shri Jishnu Barua, Chairperson
Shri I.S. Jha, Member
Shri Arun Goyal, Member
Shri Pravas Kumar Singh, Member

Parties Present: Shri Hemant Singh, Advocate, SPGCL
Shri Lakshyajit Singh Bagdwal, Advocate, SPGCL
Shri Chetan Garg, Advocate, SPGCL
Ms. Alchi Thapliyal, Advocate, SPGCL
Ms. Lavanya Panwar, Advocate, SPGCL
Shri M.G.Ramachandran, Senior Advocate, NPCL
Shri Vishal Gupta, Advocate, NPCL
Shri Tenzen Taswi, Advocate, NPCL
Shri Alok Sharma, NPCL
Shri Abhishek Anand, NPCL
Shri Ravi Kishore, Advocate, PTC
Shri Keshav Singh, Advocate, PTC
Shri Dhruv Tripathi, Advocate, PTC

Record of Proceedings

At the outset, the learned Senior counsel for the Respondent NPCL pointed out that since the Petitioner is undergoing Corporate Insolvency Resolution Process, the learned counsel for the Petitioner may be directed to place on record, the affidavit of IRP, authorizing his appearance in the matter. In response, the learned counsel for the Petitioner submitted that the authorization of IRP has been obtained and the same shall be placed on record.

2. During the hearing, the learned counsel for the Petitioner submitted that it has entered into PPA with the Respondent PTC, for supply of 100 MW power, with back to back arrangement for supply of power to the Respondent NPCL. He also submitted that amount of Rs. 9.61 crore (till 31.7.2019) on account of taxes/duties and Rs.2.51



crore (upto 30.9.2019) towards transmission charges for MTOA of 108 MW are due for payment by the Respondent NPCL. The learned counsel further submitted that the payment for 8 MW has also been withheld by the Respondent NPCL on the premise that it has agreement for a contracted capacity of 100 MW only with PTC.

3. The learned Senior counsel for the Respondent NPCL, submitted that all payments have been made in terms of the provisions of the PPA. He also pointed out that under the PPA and APP (agreement for power purchase) dated 6.4.2018, the payment of MTOA charges was limited to the contracted capacity of 100 MW at the delivery point. He further submitted that the claim of the Petitioner for Electricity Duty and GST was not tenable in view of the provisions of APP.

4. The Commission, after hearing the parties, directed the parties to furnish the following additional information, after serving copy to each other, on or before **25.5.2023**.

Respondents

(a) Whether the tariff of Rs. 4.25 was inclusive of the taxes, duties & other levies etc.

Petitioner

(b) Affidavit of IRP (as in para 1 above).

(c) The quantum of power- viz. 100 MW or 108 MW or any other, based on which regulated charges applicable for transmission of electricity under clause 5.5 of the APP was considered to be Rs. 75,97,20,000.00 and the calculation to arrive at such charges.

(d) The quantum of power, on which, the Petitioner is claiming taxes, levies & electricity duty. The calculations for Rs. 9,61,97,079/- and Rs. 4,42,61,599/- along with documentary proof to be submitted.

(e) The tariff rate at which, the Petitioner has raised the bills on the Respondents.

5. At the request of the learned counsels, the Commission permitted the parties to file their written submissions, on or before **12.6.2023**.

6. Matter is Part-heard. The Petition shall be listed for hearing on **12.7.2023**.

By order of the Commission

**Sd/-
(B. Sreekumar)
Joint Chief (Law)**

