

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 282/MP/2021**

- Subject : Petition under Section 79(1) (b), Section 79 (1)(f) and Section 79 (1)(k) of the Electricity Act 2003, read with Articles 11.5.3,11.5.4,12.1, 24.3 and 24.4 of the Pilot Agreement for Procurement of Power (PAPP) dated 26.10.2018 executed between the Petitioner (RKM) and the Respondent (PTC) seeking payment of the outstanding amount on account of (i) monthly supply bills; (ii) late payment surcharge; (iii) additional interest; and for furnishing of Letter of Credit as payment security mechanism.
- Date of Hearing : 14.3.2023
- Coram : Shri Jishnu Barua, Chairperson  
Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member
- Petitioner : RKM Powergen Private Limited (RKMPPL)
- Respondents : PTC India Ltd. (PTCIL) and 4 Ors.
- Parties Present : Shri Hemant Singh, Advocate, RKMPPL  
Ms. Supriya Rastogi, Advocate, RKMPPL  
Shri Ravi Kishore, Advocate, PTCIL  
Shri Dhruv Tripathi, PTCIL

**Record of Proceedings**

Learned counsel for the Petitioner submitted that the present Petition has been filed, *inter-alia*, seeking directions upon the Respondent No. 1 for releasing the outstanding payment accrued in favour of the Petitioner on account of non-payment of monthly power supply bills, late payment surcharge along with the applicable interest and for furnishing of Letter of Credit as payment security mechanism in terms of the Pilot Agreement for Procurement of Power ('PAPP') dated 26.10.2018 executed between the Petitioner and the Respondent No.1. Learned counsel submitted that vide Record of Proceedings for the hearing dated 15.12.2022, the Petitioner and PTCIL were directed to reconcile the outstanding amount under the PAPP and according to the Petitioner, the total outstanding amount, as on date, is about 135 crore and the Petitioner may be permitted to file its additional affidavit to place on record the aforesaid details. Learned counsel further submitted that one of the grounds for non-payment of outstanding dues as raised by the Respondent, PTCIL in its reply is that PAPP and Pilot Power Supply Agreement ('PPSA') as entered into between the PTCIL and Telangana Discoms is on back-to-back basis and non-receipt of such payment from Telangana Discoms under the PPSA. Learned counsel further submitted that PTCIL has also filed Petition No.141/MP/2022 against the Telangana Discoms for payment of outstanding dues and accordingly, both these matters may be taken up together.

2. Learned counsel for the Respondent, PTCIL reiterated that the PTCIL has already released approximately 85% of the outstanding amount to the Petitioner and the balance amount has been kept for adjustment against the third-party sale by the Petitioner. Learned counsel submitted that pursuant to the direction of the Commission vide Record of Proceedings for the hearing dated 15.12.2022, PTCIL had again asked the Petitioner to furnish the details of the third-party sale to enable PTCIL to crystallise the amount for reconciliation. However, the Petitioner did not provide the details of third party sale whereas the Petitioner, in the petition itself, has stated that it was constrained to sell power to third parties. Learned counsel pointed out that as per Article 12.2.1 of the PAPP, in the event the Petitioner is unable to recover its tariff through Letter of Credit furnished by PTCIL/Telangana Discoms, then the Petitioner is entitled to sell the whole or part of the contracted capacity to any buyer for recovery of its dues and Article 12.2.2 further provides that in the event the power is sold to third parties in terms of Article 12.2.1, then the same does not extinguish the right of the Petitioner to recover “any balance” dues which could not be recovered by selling to third parties. Learned counsel, accordingly, submitted that the details of third party sale by the Petitioner is essential for carrying out the reconciliation of the balance outstanding amount and that the Petitioner ought to be directed to provide such details to the Respondent.

3. In response, learned counsel for the Petitioner submitted that the third-party sale by the Petitioner was independent from the capacity tied-up under the PAPP and it was not from the capacity meant for the Respondent(s).

4. After hearing the learned counsel for the parties, the Commission observed that despite the specific direction to the Petitioner and PTCIL to reconcile the outstanding amount under the PAPP forming the subject matter of this Petition and to file an affidavit indicating status of such amount including amount under dispute, the parties are yet to reconcile such amount – the contentious issue being adjustment of revenue from ‘third party sale’ by the Petitioner during the concerned period. Accordingly, the Commission deemed it appropriate to give one more opportunity to the parties to reconcile the outstanding amount under the PAPP forming the subject matter of this case and accordingly, directed the Respondent, PTCIL to conduct a joint meeting with the Petitioner and Telanaga Discoms in this regard not later than two weeks from the date of this Record of Proceedings. The Commission also directed the Petitioner to furnish the details of third-party sale as requested by PTCIL/Telangana Discoms for the purpose of reconciliation of outstanding dues and in the event, the Petitioner maintains that the revenue earned from third-party sale, in this case, is not required to be adjusted in terms of the provisions of PAPP, the parties may indicate such adjustment/amount under the ‘disputed amount’. The Commission also directed the parties to file minutes of the aforesaid meeting on an affidavit within two weeks thereafter.

5. The Petition along with Petition No. 141/MP/2022 shall be listed for hearing on 22.6.2023.

**By order of the Commission**

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