

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 319/MP/2020

Subject : Petition under Section 79(1)(a) read with Section 79(1)(f) of the Electricity Act, 2003.

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 : NTPC Limited (NTPC)

Respondent : Electricity Department, A & N Administration

Parties Present : Shri Venkatesh, Advocate, NTPC
Shri Ashutosh K Srivastava, Advocate, NTPC
Shri Aashwyn Singh, Advocate, NTPC

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Petition has been filed, *inter-alia*, seeking adjudication of the dispute that has arisen between the Petitioner and the Respondent, Electricity Department, Andaman & Nicobar Administration regarding the applicability of interest (Rs. 1.13 crore) along with Late Payment Surcharge (LPSC) (Rs. 1.44 crore) on the arrears on account of the lower tariff paid by the Respondent for the period from April, 2013 to July, 2017. Learned counsel for the Petitioner mainly submitted as under:

- (a) On 14.7.2011, the Petitioner entered into a Power Purchase Agreement (PPA) with the Respondent for setting up a 5 MW Solar PV Power Station ('the Project') at Garacharma in South Andaman District, Andaman & Nicobar Island.
- (b) In connection to the aforesaid Project, the Petitioner had earlier filed Petition No. 381/MP/2014 before this Commission seeking adjudication of a dispute between the parties with respect to the applicability of tariff and the Commission, vide order dated 9.2.2016, held that the generic tariff determined by the Commission for Solar PV Power Project for the year 2013-14 by order dated 28.2.2013 in Petition No. 243/SM/2012 shall be applicable to the Petitioner i.e. levelised tariff of Rs. 7.87/kWh (after availing the benefits of accelerated depreciation).
- (c) Being aggrieved by the aforesaid decision, the Petitioner filed Review Petition No. 10/RP/2016 before the Commission wherein vide order dated 25.7.2017, the Commission allowed the said Review Petition and held that the Petitioner is entitled to a levelised tariff of Rs.9.35/kWh (after availing the benefits of accelerated depreciation) as determined for Solar PV Power Project for the year 2012-13 by order dated 27.3.2012 in Petition No. 35/MP/2012. Thus, by the aforesaid order, the tariff of the Petitioner's Project was revised to Rs. 9.35/kWh from Rs.7.87/kWh.

(d) Consequent to the above, the Petitioner, by way of various communications, requested the Respondent to pay the interest on the differential amount paid by it during the concerned period. However, the Respondent has denied its liability to pay the interest. The Respondent, in one of its letters dated 5.10.2019, refused to entertain the Petitioner's claims for interest/Rebate/LPSC on the ground that it may lead to invite the audit objection in near future.

(e) The interest being claimed by the Petitioner is for the difference in tariff for the period from April, 2013 to July, 2017 (i.e. payment of Rs. 7.87/kWh as against Rs. 9.35/kWh as determined by order dated 25.7.2017) and the Respondent cannot just pay the difference of tariff without providing the interest thereon. In addition, the Petitioner is also entitled to LPSC on the bills raised by the Petitioner and not paid by the Respondent within 60 days of billing date as per the provisions of the extant Tariff Regulations.

(f) Despite the Commission having issued notice in the matter way back on 11.8.2020, no reply has been filed by the Respondent till date.

(g) Keeping in view that the Petition was filed way back in year 2020, the Petitioner may be permitted to file a revised calculation of its outstanding claims against the Respondent.

2. None was present on behalf of the Respondent despite notice.

3. After hearing the learned counsel for the Petitioner, the Commission deemed it appropriate to afford one last opportunity to the Respondent for an oral hearing and filing of its reply in the matter. Accordingly, the Commission ordered as under:

(a) The Petitioner to file its revised claims on an affidavit (since a considerable period has passed), within two weeks after serving copy to the Respondent.

(b) The Respondent to file its reply, if any, within three weeks with copy to the Petitioner who may file its rejoinder, if any, within two weeks thereafter.

(c) Parties to comply with the above direction within the stipulated timelines and no extension of time shall be granted.

4. The Petition shall be listed for hearing on 8.6.2023.

By order of the Commission

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