

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.79/MP/2023

Subject : Petition under Section 79(1)(b) and (f) and Section 63 of the Electricity Act, 2003 for adjudication and recovery of the amount payable by Tata Power Company Limited on account of the Sellers Event of Default in terms of Article 14.1(iv) as read with 14.3.4 of the Power Purchase Agreement dated 22.04.2007.

Date of Hearing : 3.8.2023

Coram : Shri Jishnu Barua, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Petitioner : Punjab State Power Corporation Limited (PSPCL)

Respondents : Tata Power Company Limited (TPCL) and 7 Ors.

Parties Present : Shri Shubham Arya, Advocate, PSPCL
Shri Ravi Nair, Advocate, PSPCL
Ms. Poorva Saigal, Advocate, PSPCL
Ms. Pallavi Saigal, Advocate, PSPCL
Ms. Reeha Singh, Advocate, PSPCL
Ms. Anumeha Smiti, Advocate, PSPCL
Shri Shreshth Sharma, Advocate, TPCL
Ms. Shubhi Sharma, Advocate, TPCL
Shri Deepak Thakur, Advocate, TPCL
Shri Neelkandan Rahate, Advocate, TPCL

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Petition has been filed for recovery of the amount payable by the Respondent No.1, TPCL on account of its failure to achieve an average availability of 65% for a period of twelve (12) consecutive months' during the period from 1.8.2020 to 31.7.2021, which constitutes a seller's event of default within the meaning of Article 14.1(iv) of the Power Purchase Agreement dated 22.4.2007 ('the PPA') as entered into between TPCL and the Petitioner along with other Procurers. Learned counsel submitted that the average availability achieved by TPCL for the period from August 2020 to July 2021 was only 62.82%, and as per Article 14.3.4 of the PPA, the Petitioner is entitled to a recovery of 20% capacity charges for the aforementioned period, which works out to Rs. 60.05 crore. Learned counsel further submitted that after following the due process under Article 14.3 of the PPA, the Petitioner, on 5.4.2022, issued a Demand Notice to TPCL in terms of Article 14.3.4 read with Articles 14.3.2 and 14.3.3 of the PPA seeking the recovery of the above amount, which has been disputed by the TPCL.

2. Learned counsel for the Respondent No.1, TPCL accepted notice and sought six weeks' time to file a reply to the Petition.

3. After hearing the learned counsel for the Petitioner and the Respondent No.1, the Commission ordered as under:

(a) Admit. Issue notice to the Respondents; and

(b) The Petitioner to serve a copy of the Petition on the Respondents immediately, and the Respondents to file their reply to the Petition, if any, within five weeks with a copy to the Petitioner, who may file its rejoinder, within four weeks thereafter.

4. The Petition shall be tentatively listed for hearing on **11.10.2023**.

By order of the Commission

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