

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 85/MP/2022 along with IA No.24/IA/2022

Subject : Petition under Section 79(1)(b) and (f) read with Section 63 of the Electricity Act, 2003 for adjudication and directions in regard to the Power Purchase Agreement dated 22.4.2007 with Coastal Gujarat Power Limited.

Petitioner : Punjab State Power Corporation Limited (PSPCL)

Respondents : Coastal Gujarat Power Limited (CGPL) and 9 Ors.

Petition No.123/MP/2022

Subject : Petition under Section 79(1)(b) and (f) read with Section 63 of the Electricity Act, 2003 for adjudication and directions in regard to the Power Purchase Agreement dated 22.4.2007 with Coastal Gujarat Power Limited.

Petitioners : Uttar Haryana Bijli Vitran Nigam Limited and Anr.

Respondents : Coastal Gujarat Power Limited and 8 Ors.

Petition No.246/MP/2022 along with Diary (IA) No. 393/2022

Subject : Petition under Section 79(1)(b) and (f) read with Section 63 of the Electricity Act, 2003 for adjudication and directions in regard to the Power Purchase Agreement dated 22.4.2007 with Coastal Gujarat Power Limited.

Petitioner : Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL)

Respondents : Coastal Gujarat Power Limited and 9 Ors.

Date of Hearing : 7.2.2023

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

Parties Present : Shri M. G. Ramachandran, Sr. Advocate, PSPCL & HPPC
Shri Basava Prabhu Patil, Sr. Advocate, MSEDCL
Ms. Poorva Saigal, Advocate, PSPCL & HPPC
Shri Shubham Arya, Advocate, PSPCL & HPPC
Shri Ravi Nair, Advocate, PSPCL & HPPC
Ms. Pallavi Saigal, Advocate, PSPCL & HPPC
Ms. Reeha Singh, Advocate, PSPCL & HPPC
Ms. Shikha Sood, Advocate, PSPCL & HPPC
Ms. Anumeha Smiti, Advocate, PSPCL & HPPC
Shri G. Saikumar, Advocate, MSEDCL

Shri Akash Lamba, Advocate, MSEDCL
Shri Ravi Prakash, Advocate, MSEDCL
Shri Geet Rajan Ahuja, Advocate, MSEDCL
Shri Shreshth Sharma, Advocate, CGPL & TPCL
Shri Neel Rahate, Advocate, CGPL & TPCL
Ms. Shubhi Sharma, Advocate, CGPL & TPCL
Shri Deepak Thakur, CGPL & TPCL
Shri Ashok Rajan, WRLDC
Shri Alok Mishra, WRLDC

Record of Proceedings

At the outset, learned senior counsel for Petitioners in Petition Nos. 85/MP/2022 and 123/MP/2022 submitted that the Petitioners, in these petitions, have filed IAs bearing Diary Nos. 46/2023 & 47/2023 seeking, amongst others, emergent and urgent reliefs against the Respondent No.3, WRLDC and the Respondent Nos. 1 & 2 (CGPL & TPCL) for persistent and deliberate breach of the obligations under the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 (Grid Code), the Electricity Act, 2003 ('the Act') and the Power Purchase Agreement (PPA) dated 22.4.2007. The learned senior counsel mainly submitted under:

- (a) Despite the period of supply under Section 11 directions of Ministry of Power having expired on 31.12.2022, TPCL issued a letter dated 29.12.2022 to Petitioners seeking payment of power at energy charges as determined by the Commission in Petition No. 128/MP/2022 (for Section 11 dispensation) even for the period w.e.f. 1.1.2023. In the said letter, TPCL also stated that if the Petitioners were not willing to consent to the said stipulation, it should "punch a zero (0) requisition and not attempt to draw power".
- (b) The Petitioners vide its letter dated 4.1.2023/6.1.2023 pointed out to TPCL that it is bound to schedule and supply power in terms of Articles 4.3 & 4.4 of the PPA and the provisions of the Grid Code. It was also informed that the Petitioners were not agreeable to pay for any excess tariff over the PPA tariff and that any power declared available by TPCL shall be deemed to be a declaration under the PPA and shall be requisitioned/scheduled accordingly. Further, on 10.1.2023, TPCL wrote to HPPC stating that it would not be in position to supply power as per the terms of PPA with present cost of generation.
- (c) As per the provisions of the PPA, TPCL is required to sell all available capacity upto the contracted capacity to each procurer in proportion to the each procurer's allocated capacity pursuant to the dispatch instructions. While the power is being supplied to GUVNL, no power is being made available to the Petitioners herein.
- (d) The Respondent, WRLDC has also failed to schedule the power as requisitioned by the Petitioners. On the contrary, it wrote to the Petitioners raising the issues relating to the Letter of Credit, which were immediately clarified by the Petitioners. WRLDC has failed to fulfil its statutory obligations to schedule the power to the Petitioners in accordance with the PPA thereby acting in contravention of its functions under the Act and Grid Code which mandate the RLDC to schedule such power as made available by TPCL to the Petitioners in proportion to their contracted capacity.

(e) TPCL/WRLDC is not entitled to divert any part of the contracted capacity of the Petitioners to any third party or fail to not declare availability, selectively to the Petitioners while generating and supplying electricity to other procurers under the same PPA. TPCL is bound to declare the contracted capacity of the Petitioners proportionate to the availability of generation, with such declaration of availability to other procurers.

(f) In the above circumstances, the Petitioners, in the aforesaid IAs, have sought ad-interim ex parte direction to WRLDC to schedule the quantum of power to the extent of the contracted capacities of the Petitioners in terms of the PPA and also direction to TPCL to forthwith commence supply in so far the Petitioners are concerned to the extent of the contracted capacities maintaining the proportionality of the total generation between the procurers.

2. Learned senior counsel for the Petitioner, MSEDCL in Petition No. 246/MP/2022 supported the submissions made by the learned senior counsel for PSPCL and Haryana Discoms and added that the Petitioner, MSEDCL has also filed similar IA bearing Diary No.39/2023.

3. The representative of the Respondent, WRLDC submitted that WRLDC has already filed its reply in the matters. He further submitted that the scheduling was done keeping in view the Ministry of Power's 'Guidelines for Operationalizing Optimum Utilisation of generating stations as per the requirement in the Electricity Grid dated 8.10.2021'. In response, the learned senior counsel for PSPCL & Haryana Discoms submitted that WRLDC's reliance on the aforesaid Guidelines is completely misplaced as it only refers to the un-requisitioned power and at the same time also specifically provide that the generator shall continue to have obligations and duties to make its plant available as per the PPA.

4. The learned counsel for the Respondents, CGPL & TPCL submitted that the Respondents received the copy of the aforesaid IAs through e-filing portal of the Commission only recently and further urged that prior to issuing any directions therein, the Respondents may be permitted a short accommodation to file its reply to the said IAs. The learned counsel also submitted that the Respondents will also bring out the context in which the letters, as referred to by Petitioners, were issued.

5. After hearing the learned senior counsel and learned counsel for the parties, the Commission permitted the Respondents to file their reply to the IAs filed by the Petitioners, if any, on or before 10.2.2023 with copy to the Petitioners, who may file their rejoinder thereon by 13.2.2023. Meanwhile, the IAs be registered subject to the removal of deficiency and be listed along with the main matters on next date of hearing.

6. The Petitions along with the IAs therein shall be listed for hearing on 14.2.2023 at 3.00 PM.

By order of the Commission

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