

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.366/AT/2024**

Subject : Petition under Section 63 of the Electricity Act, 2003 for adoption of tariff for the ISTS Grid connected Solar Photo Voltaic Projects of 3000 MW selected through Competitive Bidding Process as per the Guidelines issued by the Ministry of Power, Government of India on 28.7.2023 and its amendments thereof.

Petitioner : NHPC Limited (NHPC)

Respondents : UP Power Corporation Limited and Ors.

Date of Hearing : **10.12.2024**

Coram : Shri Jishnu Barua, Chairperson  
Shri Ramesh Babu V., Member  
Shri Harish Dudani, Member

Parties Present : Shri Rajiv Shankar Dvivedi, Advocate, NHPC  
Shri Sushant Sarkar, Advocate, NHPC  
Shri Rajesh Joshi, NHPC  
Shri Nitish Gupta, Advocate, HHPL  
Shri Deepak Thakur, Advocate, HHPL  
Shri Hemant Singh, Advocate, GICWTL  
Shri Chetan Garg, Advocate, GICWTL  
Ms. Alchi Thapliyal, Advocate, GICWTL  
Ms. Nishtha Goel, Advocate, MSEDCL

**Record of Proceedings**

Learned counsel for the Petitioner submitted that the present Petition has been filed seeking the adoption of tariff for the 3000 MW grid-connected Solar Power PV Projects discovered in the tariff based competitive bidding process conducted in terms of the “*Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects*” dated 28.7.2023 read with subsequent amendments thereto (‘the Solar Guidelines’) issued by the Ministry of Power, Govt. of India. Learned counsel further submitted that pursuant to the liberty granted by the Commission, Respondent No.5, Hazel Hybren Pvt. Ltd. (HHPL), one of the successful bidders, has filed its reply wherein it has clearly indicated that it has no objection to the contents of the Petition and the same may be considered by the Commission for the adoption of tariff as prayed for by NHPC. However, the Respondent has also raised various issues as to the extension in timelines for achieving financial closure & Scheduled Commencement Supply Date (SCSD), revision in the start date of connectivity of its Project, and declaration of Change in Law events, etc., and these issues are beyond the purview of the present tariff adoption Petition.

2. Learned counsel for Respondent No.5, HHPL, submitted that the Respondent has already filed a reply in the matter. Learned counsel further submitted that as per Clause 10.4 of the Solar Guidelines, the Petitioner was required to approach the Commission for the adoption of the tariff within 15 days of the discovery of the tariff, through e-reverse auction or otherwise, in the transparent, competitive bidding process conducted as per

the said Guidelines. However, in the present case, there is considerable delay (approx. 10 months) on the part of the Petitioner in approaching the Commission for the adoption of the tariff and, consequently, in the adoption/approval of the tariff by the Appropriate Commission, which clearly has an impact on the timelines provided for achieving the various milestones such as financial closure and SCSD of the Project. Accordingly, the Respondent has prayed for the extension in timelines for achieving such milestones corresponding to the delays on the part of the Petitioner. Learned counsel further submitted that the Respondent has also prayed for declaration and recognition of certain events, as indicated in its reply, as Change in Law events and the APTEL, in its order dated 12.10.2021 in Appeal No. 251/2021 in the matter of Green Infra Renewable Energy Ltd. v. RERC and Ors. ("Green Infra Case") has taken the view that the claims arising out of Change in Law events ought not to be deferred to a later date since it creates a whole lot of confusion & regulatory uncertainty and that if the events referred actually constitute Change in Law events as per the PPA, there is no reason why it cannot be duly recognized as Change in Law at the stage of tariff adoption, the actual impact and extent of the relief admissible to be determined at the appropriate stage. Learned counsel also added that in the event the Commission is not inclined to consider the issues/aspects raised by the Respondent in its reply at this stage, the Respondent may be permitted to approach the Commission by way of a separate Petition.

3. Learned counsel for Respondent No.8, Green Infra Clean Wind Technology Limited (GICWTL), submitted that the Respondent has also filed its reply on 9.12.2024. Learned counsel submitted that in the said reply, the Respondent has prayed for an extension in timelines for achieving financial closure and SCSD and for consideration of certain Change in Law events. Learned counsel also placed the reliance on the order of the APTEL in the Green Infra Case.

4. Learned counsel for Respondent No.2, MSEDCL submitted that MSEDCL has also filed Petition No.81/AP/2024 before the Maharashtra State Electricity Regulatory Commission (MERC) seeking approval of the adoption of tariff for long-term procurement of 1475 MW solar power from NHPC for meeting its RPO obligations and the MERC, by its order dated 15.10.2024, has opined to wait for the order of this Commission on adoption of the tariff. Learned counsel added that there ought not to be any additional impact on MSEDCL due to delay on the part of NHPC. Learned counsel sought liberty to file a reply in the matter.

5. In response to the submissions made by the learned counsel for Respondents Nos. 5 & 8, the learned counsel for the Petitioner reiterated that the various issues raised by the said Respondents are beyond the purview of the present tariff adoption case.

6. Considering the submissions made by the learned counsels for the parties, the Commission permitted the Respondent, MSEDCL, to file its reply, if any, within two weeks with a copy to the Petitioner, who may file its rejoinder, if any, within a week thereafter. Further, as requested by the learned counsel for the parties, the Commission also permitted the parties to file their respective written submissions, if any, within two weeks with a copy to the other side.

7. Subject to the above, the Commission reserved the matter for order.

**By order of the Commission**  
**Sd/-**  
**(T.D. Pant)**  
**Joint Chief (Law)**