

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.196/MP/2024

- Subject : Petition under Section 79 of the Electricity Act, 2003 and Regulations 1.5(iv), 5.2(u) and 6.5(11) of the CERC (Indian Electricity Grid Code) Regulations, 2010 read with Regulations 49(1)(f)(iii), 49(3)(a)(A)(ii)(III), 49(3)(a)(A)(iii)(II) and 56(k) of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2023 and Rule 3 of the Electricity (Promotion of Generation of Electricity from Must-Run Power Plant) Rules, 2021 seeking directions to State Load Dispatch Centre to implement the Must Run status accorded to the Petitioner's Solar Power Project in letter and spirit and to compensate the Petitioner for generation loss for unlawful and arbitrary curtailment of generation from Petitioner's Solar Project.
- Petitioner : Solairepro Urja Private Limited (SUPL)
- Respondents : Andhra Pradesh State Load Despatch Centre (APSLDC) and Ors.
- Date of Hearing : **26.12.2024**
- Coram : Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member
- Parties Present : Shri Vishrov Mukerjee, Advocate, SUPL
Shri Pratyush Singh, Advocate, SUPL
Shri Neeraj Verma, SUPL
Shri Yelamanchili Shiva Santosh, Advocate, APSLDC

Record of Proceedings

At the outset, the learned counsel for the Petitioner submitted that the present Petition had been filed in respect of the arbitrary curtailment by Andhra Pradesh State Load Despatch Centre (APSLDC/ Respondent No. 1) during the period from 18.1.2020 to December 2023 and May 2024 to July 2024. Learned counsel, while referring to the note of arguments filed on 24.12.2024, submitted that the Petitioner's 250 MW Solar Power Project located in Kadapa District, Andhra Pradesh, falls under the Jawaharlal Nehru National Solar Mission ("JNNSM Scheme") Phase II, Batch II, Tranche I of the "State Specific Bundling Scheme." Learned counsel placed reliance on the order passed by the Commission in Petition No. 287/MP/2019 and submitted that the Commission has the jurisdiction in the present matter since the Petitioner's prayer for compensation for the generation loss on account of arbitrary curtailment affects the Petitioner's tariff and is

identical to the prayer sought by Wardha power in Petition No. 287/MP/2019. He added that there ought to be some procedure regarding the curtailment, which should be followed by APSLDC. The Petitioner further submitted that they have also highlighted the violation of the provisions of IEGC in their Petition.

2. Learned counsel for Respondent, APSLDC, submitted that the matter relates to the directions issued under Section 33(1) of the Act. Learned counsel pointed out that the stay order granted by the Hon'ble High Court of Andhra Pradesh in Petition No. 342/MP/2019 is operational in full force. The Commission in Petition No. 592/MP/2020 has already deferred the proceedings in light of the submission made by the learned counsel for the petitioner during the hearing. Learned counsel further submitted that the same Petitioner in Petition No. 592/MP/2020 has now filed the present Petition on the same facts, same parties, and same prayers but only for a different period. Learned counsel further submitted that the Petitioner is trying to obtain a different order in the present matter. Learned counsel reiterated that the Commission may not be able to proceed until the stay is vacated by the Hon'ble High Court.

3. In response to a query regarding the backing down/curtailment instructions provided by the APTEL in the judgment dated 2.8.2021 in Appeal No. 197 of 2019 [NSEFI vs. TNERC], the learned counsel for the Respondents submitted that this issue involves discussion on merits and such issue cannot be addressed by the learned counsel until the issue of jurisdiction is decided. Further, the Hon'ble Supreme Court in Civil Appeal No. 4733 of 2022 has limited the implementation of the Judgment in Appeal No. 197 of 2019 qua the parties to the original proceedings, i.e., TANGEDCO. Therefore, the APTEL judgement is not applicable to the Respondents in the present matter. Learned counsel urged that the present Petition may also be tagged with Petition No. 592/MP/2020.

4. In response to the specific query of the Commission regarding the deferment of hearing in Petition No. 592/MP/2020 involving the same parties, in light of the interim stay order granted by the Hon'ble High Court of Andhra Pradesh dated 1.12.2021 in WP No. 28245 of 2021 in another similar matter, i.e., Petition No. 342/MP/2019 (Prayatna Developers Pvt. Ltd. v. AP SLDC and Ors.), the learned counsel for the Petitioner submitted that interim stay cannot apply to the present case, as the Hon'ble High Court has only stayed the proceeding of Petition No. 342/MP/2019. The issue involved in Petition No. 342/MP/2019 was with respect to the interpretation of provisions of IEGC, whereas the present Petition relates to the provisions for tariff-related issues.

5. After hearing the arguments/submissions made by the parties at length, the Commission reserved the matter for order.

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