

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition (Diary) No.169/2025 along with IA (Diary) No.196/2025

Subject : Petition under Section 79(1)(b) & (f) of the Electricity Act, 2003 read with Articles 11 & 16.3 of the Power Purchase Agreements dated 13.07.2018 and 04.09.2018 executed between the Petitioner and Solar Energy Corporation of India inter-alia seeking declaration that the Petitioner is not liable to pay any compensation to SECI and recovery of the unilateral deductions from the Petitioner's monthly invoice payments.

Petitioner : Vivid Solaire Energy Private Limited (VSEPL)

Respondent : Solar Energy Corporation of India Limited

Date of Hearing : **24.4.2025**

Coram : Shri Ramesh Babu V., Member
Shri Harish Dudani, Member
Shri Ravinder Singh Dhillon, Member

Parties Present : Shri Sanjay Sen, Senior Advocate, VSEPL
Shri Deep Rao Palepu, Advocate, VSEPL
Shri Arjun Agarwal, Advocate, VSEPL
Ms. Shikha Sood, Advocate, VSEPL
Shri Mohd Munis Siddique, Advocate, VSEPL

Record of Proceedings

Learned senior counsel for the Petitioner submitted that the present Petition has been filed *inter-alia* seeking declaration that the Petitioner bears no liability to pay the compensation to the Respondent, SECI, and for the recovery of amounts unilaterally deducted from the Petitioner's monthly invoices on account of a shortfall in energy generation from the Petitioner's Wind Power Projects, which resulted from various factors beyond its control. Learned senior counsel mainly submitted as under:

- (a) In terms of Article 4.41 of the Power Purchase Agreements dated 13.7.2018 & 4.9.2018 read with the subsequent amendments thereto, the Petitioner is required to meet its minimum supply obligations.
- (b) The Respondent, SECI, by alleging the failure on the part of the Petitioner to meet its minimum energy supply requirement under the said Article, has proceeded to make a unilateral determination and demand of compensation for the purported shortfall in generation by the Petitioner.
- (c) However, the alleged shortfall in generation against which SECI has deducted the purported compensation, is attributable to prolonged and unprecedented low wind speeds in the Tuticorin Region, an event which is entirely beyond the reasonable control of the Petitioner. Wind speeds have been significantly lower than the projected levels, which have directly affected the generation capacity of the Wind Power Projects.

(d) As per Article 4.4.1 of the PPAs, the compensation is payable only in a case when the minimum energy supply obligation is solely due to reasons attributable to the Wind Power Developers. Further, the amount of compensation payable to SECI under the said Article has to first be determined by the Appropriate Commission.

(e) Further, the compensation payable under the said Article is to offset the costs associated with the low generation and supply of power under the PPAs that are actually incurred by SECI/Buying Entities. In the present case, SECI has not provided any evidence or calculation of actual loss suffered by it as a direct consequence of the shortfall in energy generation. SECI has also failed to provide the details on whether the concerned utilities have faced any monetary implications regarding RPO compliance or otherwise due to the alleged shortfall.

(f) The Petitioner is also pressing for interim direction for restraining the Respondent, SECI, from making any deductions from the Petitioner's monthly energy invoice payment and to maintain status quo with respect to the Petitioner's monthly energy invoice payments under the PPA during the pendency of the instant Petition.

2. Considering the submissions made by the learned senior counsel for the Petitioner, the Commission ordered as under:

(a) Admit and issue notice to the Respondent, subject to just exceptions;

(b) The Respondent to file its reply to the Petition as well the IA, if any, within two weeks with a copy to the Petitioner, who may file its rejoinder, if any, within a week thereafter.

(c) Insofar as issuance of interim directions is concerned, the Commission declined to issue any interim direction without hearing the Respondent, SECI.

(d) Registry is directed to register the Petition and IA after completion of all formalities.

3. The Petition along with IA will be listed for hearing on **20.5.2025**.

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