

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 58/MP/2023

Subject : Petition under Section 79(1)(b) read with Section 79(1)(t) of the Electricity Act, 2003 and applicable laws and provisions inter alia seeking payment of compensation for breach of provisions of the Power Purchase Agreement dated 21.7.2017 executed by and between Wind Five Renergy Private Limited and PTC India Limited.

Petitioner : Wind Five Renergy Limited (WFRL)

Respondents : PTC India Limited (PTCIL) and 3 Ors.

Petition No. 215/MP/2023

Subject : Petition under Section 79(1) (f) of the Electricity Act, 2003 for adjudication of disputes between the Petitioner and the Respondents under the Power Purchase Agreement dated 21.07.2017 and Amendments thereof-entered between the Petitioner and the Respondent No.1 and the back-to-back Power Sale Agreement dated 27.06.2017 entered between the Petitioner and Respondent No. 3 and 4 and the alleged termination of PPA by Respondent No.1.

Petitioner : PTC India Limited (PTCIL)

Respondents : Wind Five Renergy Limited (WFRL) and 3 Ors.

Date of Hearing : **12.5.2026**

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

Parties Present : Shri Sanjay Sen, Sr. Advocate, WFRL
Shri Aniket Prasoon, Advocate, WFRL
Shri Aman Sheikh, Advocate, WFRL
Ms. Archita Kashyap, Advocate, WFRL
Ms. Tanya Bajaj, Advocate, WFRL
Ms. Neha Dabral, Advocate, WFRL
Ms. Anushree Bardhan, Advocate, SECI
Ms. Ritika Singh, Advocate, SECI
Shri Ravi Kishore, Advocate, PTCIL
Ms. Deepti Dash, Advocate, PTCIL
Ms. Rohini Prasad, Advocate, Bihar Discoms
Ms. Anupama Jha, Advocate, Bihar Discoms
Ms. Himani Dutta, NLDC & WRLDC

Record of Proceedings

Learned senior counsel for the Petitioner, WFRL, submitted that the Petition has been filed for seeking payment of compensation for breach of provisions of the PPA dated 21.7.2017 executed between the Petitioner and Respondent No. 1/ SECI. He made the following submissions in the matter:

(i) The Petitioner's Project was commissioned in terms of the PPA on 4.7.2019; however, scheduling of the power from the Project commenced only from 26.3.2020 for reasons beyond the control of the Petitioner.

(ii) Article 4.6 of the PPA provides for the provision of liquidated damages for delay in the commencement of power supply to the buyer. In case the commissioning is delayed beyond 6 months, the tariff discovered after the e-reverse auction shall be reduced @ 0.50 paise/kWh per day of delay in commissioning. The maximum time for commissioning the full project capacity, with encashment of PBG and reduction in tariff, is limited to 27 months from the date of LoA. Further, in case the delay continues beyond 27 months, the PPA capacity shall stand reduced to the project capacity commissioned, provided that the commissioned capacity is not below 50 MW or 50% of the allocated project capacity, whichever is higher, and the PPA for the balance capacity will stand terminated.

(iii) Further, as per Article 4.5.6, any extension of the Scheduled Commissioning Date arising due to any reason envisaged in the PPA is not allowed beyond 27 months from the date of issuance of the LoA by SECI.

(iv) The Petitioner had been duly raising monthly invoices (as per the monthly Regional Energy Account) upon PTC towards the energy supplied in terms of the PPA at Rs. 3.46 per unit. Further, PTC, having accepted the commissioning of the Project, had been releasing payments to the Petitioner at the PPA tariff of Rs. 3.46/kWh for approximately 1 (one) year, i.e., from 26.3.2020 till February 2021.

(v) However, PTC, vide email dated 15.4.2021, forwarded the letter dated 5.3.2021 of the Respondent, Bihar Discoms, to the Petitioner. In the said email, PTC informed the Petitioner that the bill provisionally admitted at the earlier rate will be modified, and the amount so calculated will be deducted from the bill of the Petitioner. Accordingly, Bihar Discoms have deducted Rs. 4.73 crore from March 2020 to January 2021. Further, it was also mentioned that since PTC had paid the bills up to February 2021 to the Petitioner, PTC has therefore not paid the January 2021 bill for an amount of Rs 2.20 crores, and the same will be adjusted accordingly.

(vi) Bihar Discoms has raised the issue of delay in commissioning by the Petitioner and the COD certificate. However, SECI in its reply has admitted that the commissioning cum COD certificate was issued on 6.8.2019. SECI has also submitted that the COD certificate did not, in any manner, certify that the regular flow of electricity had commenced on 7.8.2019 or had continued thereafter. Thus, the dual stand taken by SECI and PTC cannot co-exist.

2. Learned counsel for the Respondent, PTC, submitted that the Petitioner itself is adopting a contradictory approach whereby the Petitioner, in an earlier Petition No.

134/MP/2022 (which was later withdrawn by the Petitioner), has filed an affidavit categorically admitting that the Petitioner's Project was commissioned on 4.7.2019 after a delay of 21 days. He further sought liberty to make his detailed submissions on the next date of hearing and also to file a note of arguments in the matter.

3. Learned counsel for the Respondents, Bihar Discoms, submitted that the entire case of the Petitioner is premised on the failure to commission 50 MW capacity within 27 months from the issuance of LoA and the purported automatic termination of the PPA. She further submitted that the Petitioner's contentions are liable to be rejected. She also made a similar request for arguing the matter on the next date of hearing and sought liberty to file a short note in the matter.

4. Based on the request of the parties, the Commission permitted them to file a brief note of arguments (not exceeding 5 pages) in the matters within two weeks.

5. The matters remained part-heard and will be listed for the hearing on **16.7.2026 at 2.30 P.M.**

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