

## **Record of Proceedings dated 18.06.2018**

O. P. No. 4 of 2018

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I. A. No. 1 of 2018

M/s. Clean Wind Power (Ananthpur) Private Ltd. Vs. TSDISCOMs

Petition filed seeking determination of the tariff for the wind power project of capacity of 31.5 MW.

I.A. filed for urgent hearing of the original petition.

Sri. Sakya Singh Choudary, Advocate representing on behalf of Sri. P. Somasekhar Naidu, Advocate for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondents along with Ms. Pravalika, Advocate are present. The counsel for the petitioner stated that the petitioner has been directed to file certain documents relating to balance sheet, profit and loss account, disbursement of loan etc. The same have been filed after compilation on 15.06.2018. Some of the information is also provided in excel sheets. Additionally the information is placed in the CD and is being handed over now for the benefit of the Commission.

The counsel for the respondent sought to reiterate his submissions made earlier, has also stated that the filing of additional information is of practically no use as the Commission is not required to determine the tariff of the project specifically and as the same has to undertake supply upon succeeding in the competitive bidding that may be undertaken by the licensee in future. The provisions of the Act, 2003 empower the Commission to determine the tariff, but it cannot be under section 86 (1) (f) of the Act, 2003. Though, Section 86 (1) (e) mandates encouragement of the renewable sources of energy, it does not mean that the Commission is required to determine the tariff, more so in view of the policy of the government to procure the wind power through bidding. The Commission had already notified the regulation on renewable purchase and the licensee is bound to follow the same. As stated in the counter affidavit, the DISCOM has complied with the capacity requirement in terms of the regulation. It is also his case that the petitioner has filed two writ petitions relating to the project. In one the writ petitions, the petitioner has questioned the action of the licensees and other writ petition is relating to the regulation. Therefore,

this petition cannot be proceed with being a similar relief raised before the superior forum.

The counsel for the petitioner while confirming that the petitioner has filed two writ petitions stated that one writ petition has been filed questioning the regulation issued by the Commission and the prayer therein is with regard to the regulation being contrary to the National Tariff Policy and the percentages set out therein, as the Commission is required to promote the renewable energy under section 86 (1) (e) of the Act, 2003. The other writ petition is relating to connectivity with the grid as the DISCOM is not providing synchronization and witnessing the performance of the machinery. This has become necessitated as the certificates of the machinery would expire by 30.06.2018. In the event of expiry the petitioner has to wait for certificates for one more year, which would delay the project further.

Though the petitioner obtained and initiated establishment of the project in the year 2014, there was confusion state of affairs due to formation of new state regarding the authorities to be approached. It is also stated that the actual zero date is February, 2016 and the period for completion is 24 months. However, there were land issues including the land which was acquired by it for the project subsequently got notified by the Government of India as national manufacturing location which was ultimately released only on 03.02.2017. There was also the issue of forest clearance, which was not accorded by the competent authority even though it approached several authorities including Conservator of Forest, District Collector and the Government of India. The NREDCAP now TSREDCO is not addressing the CCFO about the forest clearance, therefore, there is a delay in execution of the project.

The counsel for the petitioner sought to file detail milestone dates and reasons for delay in execution of the project upon the directions of the Commission. He also sought another date of hearing so that if any clarification is required about the figures as well as lack of information, he would like to explain the same after scrutiny by the office of the Commission of the data filed now. It is also stated that delay in construction would equally be the topic of examination by the Commission. The IDC may get affected due to delay in execution of the project. The cost estimated at that time was Rs. 46 crores.

The Commission having heard the arguments in the matter has reserved its order. It was made clear that after examination of the data, if any, is required the same will be communicated on or before 30.06.2018. The parties are at liberty to file their respective written arguments by the said date.

Sd/-  
Chairman.

O. P. No. 34 of 2018

M/s. Mytrah Abhinav Power Pvt. Ltd. Vs. TSDISCOMs & Spl. Chief Secretary

Petition filed seeking orders for granting extension of time for SCOD for (129) days

Ms. Mazag Andrabi, Advocate along with Sri. Varun Kapur, Advocate for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondents alongwith Ms. Pravalika, Advocate are present. The counsel for the petitioner stated that the PPA was signed on 25.02.2016 and the SCOD is 23.02.2017 according to PPA. However, the actual synchronization took place on 30.06.2017. The counsel for the respondents pointed out that the Commission had already agreed to extension of SCOD upto 30.06.2017. This project fits into the condition of the Commission, however, the counter affidavit is not filed by the respondents and as such, time may be given upto 30.06.2018 for filing counter affidavit. The counsel for the petitioner has agreed to file detailed statement of milestones reached in view of the observations of the Commission.

In view of the request made by the standing counsel for the respondents, the matter is adjourned.

Call on 07.07.2018 at 11.00 A.M.

Sd/-  
Chairman.

O. P. No. 35 of 2018

M/s. Mytrah Abhinav Power Pvt. Ltd. Vs. TSDISCOMs & Spl. Chief Secretary

Petition filed seeking orders for granting extension of time for SCOD for (274) days

Ms. Mazag Andrabi, Advocate alongwith Sri. Varun Kapur, Advocate for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondents alongwith

Ms. Pravalika, Advocate are present. The counsel for the petitioner stated that the PPA was signed on 08.03.2016 and the SCOD is 07.03.2017 according to PPA. However, the actual synchronization took place on 05.12.2017. There was a delay of 274 days in commissioning the plant. The counsel for the respondents sought time for filing the counter affidavit. As such, time may be given upto 30.06.2018 for filing counter affidavit. The counsel for the petitioner has agreed to file detailed statement of milestones reached in view of the observations of the Commission.

In view of the request made by the standing counsel for the respondents, the matter is adjourned.

Call on 07.07.2018 at 11.00 A.M.

Sd/-  
Chairman.

O. P. No. 36 of 2018

M/s. Gea BGR Energy System India Ltd. Vs. Spl. Chief Secretary, TSSPDCL & its  
CGM

Petition filed seeking orders for granting extension of time for SCOD for (347) days  
Sri. Challa Gunaranjan, Advocate for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the Respondents along with Ms. Pravalika, Advocate are present. The counsel for the petitioner stated that the PPA was signed on 23.02.2016 and the SCOD was on 23.02.2017 according to the PPA. There is a delay of 347 days in synchronization of the project. The counsel for the petitioner stated that there are right of way and transmission lines issues. The counsel for the respondents sought time for filing counter affidavit as the grounds for delay do not satisfy the PPA conditions, which cannot be interfered with at this stage. He agreed to file counter affidavit by 30.06.2018.

While observing that the counsel for the petitioner shall file detailed statement of milestones reached along with reasons as required by the Commission, the matter is adjourned.

Call on 07.07.2018 at 11.00 A.M.

Sd/-  
Chairman.

O. P. No. 37 of 2018

M/s. Mytrah Agriya Power Pvt. Ltd. Vs. TSDISCOMs & Spl. Chief Secretary  
Petition filed seeking orders for granting extension of time for SCOD for (420) days

Ms. Mazag Andrabi, Advocate alongwith Sri. Varun Kapur, Advocate for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the Respondents along with Ms. Pravalika, Advocate are present. The counsel for the petitioner stated that the PPA date is 08.03.2016 and the SCOD is 07.06.2017 according to PPA. The actual synchronization date is 31.07.2017. However, the synchronization is not done till date by the DISCOM. The synchronization request according to the petitioner was made on 30.04.2018 by giving undertaking, but the same is disputed by the standing counsel for the respondents. It is stated that the request is made on 11.06.2018. There is a delay of 420 days in synchronizing the project including commissioning the same. According to the counsel for the respondents the PPA stood cancelled as the period for the execution of the project has expired which includes the penalty period of 6 months. Assuming that the extension given by the government is accepted by the Commission, which is not so, even then also the period of PPA has expired. The petitioner is liable to pay liquidated damages.

The counsel for the respondents would firmly emphasize that if the petitioner wishes to have extension of SCOD, it should also filed a separate petition for redetermination of the tariff and the tariff is agreed in the PPA is not applicable. Such a prayer is not sought in the present petition, therefore, a fresh petition has to be filed on the issue. On the other hand, the counsel for the petitioner stated that the present petition may be considered for orders regarding tariff also as the petitioner cannot file a fresh petition as the present petition would act as 'res subjudice'. Upon directions of the Commission the counsel for the petitioner has agreed to place on record a statement of dates of milestones with reasons for delay.

However, as the counter affidavit is not filed by the respondents according to the counsel for the respondents, the matter is adjourned.

Call on 07.07.2018 at 11.00 A.M.

Sd/-  
Chairman.

O. P. No. 38 of 2018

M/s. Mytrah Agriya Power Pvt. Ltd. Vs. TSDISCOMs & Spl. Chief Secretary  
Petition filed seeking orders for granting extension of time for SCOD for (436) days  
Ms. Mazag Andrabi, Advocate along with Sri. Varun Kapur, Advocate for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the Respondents along with Ms. Pravalika, Advocate are present. The counsel for the petitioner stated that the PPA was signed on 23.02.2016 and the SCOD is 23.05.2017 according to PPA. However, the unit was ready for synchronization in April, 2018. Though the petitioner sought clearance of the TRANSCO for laying line and connectivity to the grid and there is no response from them that is causing delay in the project. The sanction for approving the contractor was also given beyond the date of SCOD.

On the other hand, the standing counsel for the respondents reiterated the contention that the petitioner is not entitled to any relief as it has exhausted the timelines provided in the PPA as also the purported extension of the government, which is not accepted by the Commission. The PPA has to be cancelled in view of the exhaustion of timelines and liquidated damages have to be worked out.

The counsel for the petitioner agreed to file detailed statement of dates of milestones reached along with reasons for delay upon the directions of the Commission on or before 30.06.2018. The standing counsel for the respondents shall file the counter affidavit by the said date. The matter is adjourned.

Call on 07.07.2018 at 11.00 A.M.

Sd/-  
Chairman.

O. P. No. 39 of 2018

M/s. Zuka Power Pvt. Ltd. Vs. Spl. Chief Secretary, TSSPDCL & its CGM  
Petition filed seeking orders for granting extension of time for SCOD for (188) days  
Sri. Challa Gunaranjan, Advocate for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the Respondents along with Ms. Pravalika, Advocate are present. The

counsel for the petitioner stated that the PPA was signed on 26.02.2016 and the SCOD as per the PPA is 26.05.2017. The actual commissioning of the project is on 30.11.2017. There is a delay of 188 days. The delay for the project is because of transmission system approval.

The counsel for the respondents requested time for filing counter affidavit and also stated that the delay in the project is beyond the timelines specified in the PPA.

Since the counter affidavit is yet to be filed by the respondents, the petitioner shall file detailed statement of dates of milestones provided in the petition along with the reasons for the delay in commissioning the project. Hence the matter is adjourned.

Call on 07.07.2018 at 11.00 A.M.

Sd/-  
Chairman.

O. P. No. 40 of 2018

M/s. Jilesh Power Pvt. Ltd. Vs. Spl. Chief Secretary, TSDISCOMs, CGM-TSNPDCL & TSTRANSCO

Petition filed seeking orders for granting extension of time for SCOD for (180) days

Sri. Challa Gunaranjan, Advocate for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondents along with Ms. Pravalika, Advocate are present. The counsel for the petitioner stated that the PPA was signed on 04.03.2016 and the SCOD as per the PPA is 04.06.2017. The actual commissioning of the project is in totality has not been done, but only 23 MW of the 48 MW project has been completed and synchronized in the month of December, 2017 and subsequently there is a delay of 180 days. The delay for the project is because of not providing timely synchronization to the grid and taking of peace meal connectivity, still there is 22 MW capacity is yet to be connected to the grid. Though the petitioner has given undertaking in the matter yet steps are not taken by the DISCOM.

The counsel for the respondents requested time for filing counter affidavit and also stated that the delay in the project is beyond the timelines specified in the PPA.

Since the counter affidavit is yet to be filed by the respondents, the petitioner shall file detailed statement of dates of milestones provided in the petition along with the reasons for the delay in commissioning the project. Hence the matter is adjourned.

Call on 07.07.2018 at 11.00 A.M.

Sd/-  
Chairman.

O. P. No. 41 of 2018  
&  
I. A. No. 19 of 2018

M/s. Renew Saur Shakti Pvt. Ltd. Vs. TSSPDCL

Petition filed seeking orders for granting extension of time for SCOD for (45) days

I.A. filed seeking directions to the respondent not to invoke the performance bank guarantee till the disposal of the original petition.

Ms. Swapna Seshadri, Advocate for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondent along with Ms. Pravalika, Advocate are present. The counsel for the petitioner stated that the PPA was signed on 26.02.2016 and the SCOD was on 26.05.2017 as per PPA. The project was actually commissioned on 29.05.2017 for 59 MW and on 07.07.2017 for the balance 6 MW. The issue in this case is relating to 6 MW, which went beyond the SCOD by 45 days delay in all. The counsel for the respondents stated that though part of the capacity of the project remained not commissioned within the extended SCOD agreed by the Commission, the reasons attributed by the petitioner are not relevant and appropriate.

The counsel for the respondents requested time for filing counter affidavit and also stated that the delay in the project is beyond the timelines specified in the PPA.

Since the counter affidavit is yet to be filed by the respondents, the petitioner shall file detailed statement of dates of milestones provided in the petition along with the reasons for the delay in commissioning the project. Hence the matter is adjourned.

Call on 07.07.2018 at 11.00 A.M.

Sd/-

Chairman.

O. P. No. 42 of 2018  
&  
I. A. No. 20 of 2018

M/s. Renew Saur Shakti Pvt. Ltd. Vs. TSNPDCL

Petition filed seeking orders for granting extension of time for SCOD for (39) days

I.A. filed seeking directions to the respondent not to invoke the performance bank guarantee till the disposal of the original petition.

Ms. Swapna Seshadri, Advocate for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondent along with Ms. Pravalika, Advocate are present. The counsel for the petitioner stated that the PPA was signed on 03.03.2016 and the SCOD was 03.06.2017. There is a delay of 39 days in commissioning the project, which was actually commissioned on 12.07.2017. The counsel for the respondents reiterated the contents of the counter affidavit and stated that the delay is beyond the timeline agreed by the Commission earlier. As regards the reasons afforded by the petitioner, he stated that the same do not aid the petitioner in exempting the delay of 39 days under the PPA.

The Commission required the parties to file written submissions including any explanation required to be given in the matter on or before 30.06.2018. Having heard the arguments of the parties, the matter is reserved for orders.

Sd/-  
Chairman.

O. P. No. 43 of 2018  
&  
I. A. No. 21 of 2018

M/s. Renew Saur Shakti Pvt. Ltd. Vs. TSNPDCL

Petition filed seeking orders for granting extension of time for SCOD for (9) days

I.A. filed seeking directions to the respondent not to invoke the performance bank guarantee till the disposal of the original petition.

Ms. Swapna Seshadri, Advocate for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondent along with Ms. Pravalika, Advocate are present. The counsel for the petitioner stated that the PPA was signed on 03.03.2016 and the SCOD was 03.06.2017. There is a delay of 39 days in commissioning the project, which was actually commissioned on 12.07.2017. The counsel for the respondents reiterated the contents of the counter affidavit and stated that the delay is beyond the timeline agreed by the Commission earlier. As regards the reasons afforded by the petitioner, he stated that the same do not aid the petitioner in exempting the delay of 39 days under the PPA.

The Commission required the parties to file written submissions including any explanation required to be given in the matter on or before 30.06.2018. Having heard the arguments of the parties, the matter is reserved for orders.

Sd/-  
Chairman.

O. P. No. 44 of 2018  
&  
I. A. No. 22 of 2018

M/s. Prathmesh Solarfarms Private Limited Vs. TSSPDCL

Seeking orders for granting extension of time for SCOD for (115) days

I.A. filed seeking directions to the respondent not to invoke the performance bank guarantee till the disposal of the original petition.

Ms. Swapna Seshadri, Advocate for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondents along with Ms. Pravalika, Advocate are present. The counsel for the petitioner stated that the PPA was signed on 29.02.2016 and the SCOD was on 28.05.2017 as per PPA. The project was actually commissioned on 20.09.2017. There is a delay of 115 days in commissioning the project.

The counsel for the respondents requested time for filing counter affidavit and also stated that the delay in the project is beyond the timelines specified in the PPA.

Since the counter affidavit is yet to be filed by the respondents, the petitioner shall file detailed statement of dates of milestones provided in the petition along with the reasons for the delay in commissioning the project. Hence the matter is adjourned.

Call on 07.07.2018 at 11.00 A.M.

Sd/-  
Chairman.