

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

I.A No.12/2019 in Petition No.255/MP/2017

Subject : Petition under Section 79 (1)(b) and 79 (1)(f) of the Electricity Act, 2003 read with Article 10 of the PPA seeking compensation on account of events pertaining to "Change in Law" as per the Power Purchase Agreement (PPA) dated 25.3.2011 executed between the Petitioner and the Respondent No. 2 and as per the terms of the Power Supply Agreement (PSA) dated 5.1.2011 executed between Respondent No.1 and Respondent No. 2.

Date of Hearing : 11.4.2019

Coram : Shri P.K. Pujari, Chairperson
Dr. M.K. Iyer, Member
Shri I.S. Jha, Member

Petitioner : Adhunik Power and Natural Resources Limited (APNRL)

Respondents : West Bengal State Electricity Distribution Company Limited and Others

Parties present : Shri Deepak Khurana, Advocate, APNRL
Shri Tejas V. Anand, Advocate, APNRL
Shri Smarajit Sahoo, APNRL
Shri K.Mano Raj, APNRL
Shri Vishrov Mukherjee, Advocate, WBSEDCL
Shri Aashish Anand Bernad, Advocate, PTC India
Shri Paramhans, Advocate, PTC India

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Interlocutory Application (IA) has been filed seeking directions to the Respondents to pay 75% of the compensation as claimed by the Petitioner and allowed by the Commission in other similar petition, i.e. Petition No. 156/MP/2018. Learned counsel further submitted that as per ROP dated 31.1.2019, the respondents were required to file their replies by 10.2.2019. However, WBSEDCL filed its reply on 10.4.2019. Therefore, WBSEDCL has adopted dilatory tactics. Learned counsel submitted that during the last hearing, learned counsel for WBSEDCL had submitted that he would take instructions from WBSEDCL for payment on account of Change in Law claims. However, no such instructions have been taken by it so far.

3. Learned counsel for WBSEDCL submitted that the Petitioner's reliance on the order dated 20.12.2018 in Petition No. 156/MP/2018 is misplaced. The said order was passed in respect of Section 63 PPA in contrast to the PSA in the present case which has been entered under negotiated route. Learned counsel submitted that the Petitioner has been selling power to be scheduled to WBSEDCL on the Power Exchange and the same has not been disclosed by the Petitioner.

3. In response, learned counsel for the Petitioner submitted that the Petitioner has set up a 540 MW (2x270 MW) thermal power project in the State of Jharkhand. The Petitioner has the arrangement to supply of 322.85 MW, namely (i) 188.50 MW to the State of Jharkhand under the PPA dated 28.9.2012, (ii) 100 MW to WBSEDCL under PPA dated 25.3.2011 with PTC and back to back PSA between PTC and the Petitioner dated 5.1.2011 and (iii) 100 MW to TANGEDCO under PPA dated 18.12.2013. Learned counsel submitted that due to financial constraint, the Petitioner is selling remaining untied capacity in the Power Exchange.

4. After hearing the learned counsels for the parties, the Commission reserved the order in the IA.

By order of the Commission

**Sd/-
(T. Rout)
Chief (Law)**