

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.41/MP/2023**

Subject : Petition under Section 79 of the Electricity Act, 2003 to challenge the Respondents' wrongful action of insisting upon additional requirements, which are contrary to contractual terms and provisions of the Power Purchase Agreement, for processing invoices and the communications of the Respondents calling upon solar/wind power generators to obtain separate connections from Distribution Companies and avail power as per prevailing tariff category during the period when their plant does not generate electricity.

Date of Hearing : 25.4.2023

Coram : Shri Jishnu Barua, Chairperson  
Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member

Petitioner : Solar Power Developers Association (SPDA)

Respondent : Solar Energy Corporation of India Ltd. and 9 Ors.

Parties Present : Shri Ankur Sood, Advocate, SPDC  
Ms. Bheeni Goyal, Advocate, SPDC  
Shri Ankit Gupta, Advocate, SPDC  
Shri Venkatesh, Advocate, NTPC  
Shri Ashutosh Shrivastava, Advocate, NTPC  
Shri Siddharth Nigotia, Advocate, NTPC

**Record of Proceedings**

Learned counsel for the Petitioner submitted that the present Petition has been filed to challenge the Respondents' wrongful action of insisting upon additional requirements, which are contrary to contractual terms and provision of the Power Purchase Agreements (PPAs) for processing invoices and the communications of the Respondents calling upon solar/wind power generators to obtain separate connections from the Distribution Companies and avail power as per prevailing tariff category during the period when their plant does not generate electricity. Learned counsel submitted that the issue regarding treatment of auxiliary power consumed by the solar power developer, as raised in the Petition, is required to be settled by the Commission in a uniform manner for all solar power producers under the Jawaharlal Nehru National Solar Mission. Learned counsel added that the Petitioner has filed the present Petition on behalf of its members, namely, Azure Power Jupiter Pvt. Ltd., Azure Power Venus Private Ltd. and Enviro Solaire Private Ltd., all of whom have established solar power project in the State of Uttar Pradesh under the PPAs executed with SECI/NTPC in terms of JNNSM.

2. In response to the specific query of the Commission regarding the Petitioner being merely an association and not an affected party, learned counsel for the

Petitioner submitted that the Petitioner has filed the present Petition in a representative capacity and filing of such Petition is permissible in law and sought a week's time to file relevant authorities/judgments in support of the aforesaid submission.

3. Learned counsel for the Respondent, NTPC raised an objection on the maintainability of the present Petition in the present form. Learned counsel submitted that an association, not being party to the PPAs, cannot seek enforcement of contractual rights arising thereof in a representative capacity. Learned counsel pointed out that none of the concerned solar power generators have been impleaded as co-petitioner to the present Petition.

4. In response, learned counsel for the Petitioner urged for a week's time to file written submissions on the above aspects and prayed that the matter may be taken up for hearing thereafter.

5. Considering the submissions made by learned counsels for the Petitioner and the Respondent, NTPC, the Commission permitted the parties to file their respective written submissions on the 'admissibility' of the matter within two weeks with copy to the other side.

6. Subject to the above, the Commission reserved the matter for order on 'admissibility'.

**By order of the Commission**

**Sd/-  
(T.D. Pant)  
Joint Chief (Law)**