

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.56/MP/2022

- Subject : Petition under Section 63 and Section 79 of the Electricity Act, 2003 read with Competitive Bidding Guidelines and Articles 11 and 13 of the Power Purchase Agreement dated 23.5.2018 executed between ReNew Wind Energy (AP2) Private Limited and Solar Energy Corporation of India Limited.
- Petitioner : ReNew Wind Energy (AP 2) Private Limited (RWEPL).
- Respondents : Solar Energy Corporation of India Limited (SECI) and 2 Ors.

Petition No.227/MP/2022 along with IA No. 55/2022

- Subject : Petition under Section 79 of the Electricity Act, 2003 seeking to set aside Transmission Charges bills raised by CTUIL and declaration that the Petitioners stands discharged from performance under Transmission Service Agreement dated 29.1.2018, LTA Agreement dated 29.1.2018 (Tranche 1), Agreement for Long Term Access dated 6.9.2018 (Tranche 2) and Bipartite Connection Agreement dated 11.1.2019 executed between ReNew Power Pvt. Ltd. and Central Transmission Utility of India Ltd. (earlier Power Grid Corporation of India Ltd.) on account of Force Majeure and impossibility of performance under the Power Purchase Agreement dated 23.5.2022 executed with Solar Energy Corporation of India Ltd and consequential relief thereto.
- Petitioner : ReNew Wind Energy (AP 2) Private Limited (RWEPL) and Anr.
- Respondents : Central Transmission Utility of India Limited (CTUIL) and 2 Ors.
- Date of Hearing : **1.5.2024**
- Coram : Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Parties Present : Shri Vishrov Mukherjee, Advocate, RWEPL
Shri Girik Bhalla, Advocate, RWEPL
Ms. Priyanka Vyas, Advocate, RWEPL
Shri M. G. Ramachandran, Sr. Advocate, SECI
Ms. Anushree Bardhan, Advocate, SECI
Ms. Surbhi Kapoor, Advocate, SECI
Shri Aneesh Bajaj, Advocate, SECI
Ms. Shirsas Saraswati, Advocate, SECI
Ms. Srishti Khindaria, Advocate, SECI
Shri Shubham Arya, Advocate, HPPC
Shri Ravi Nair, Advocate, HPPC

Shri Devyanshu Sharma, Advocate, HPPC
Ms. Suparna Srivastava, Advocate, CTUIL
Shri Tushar Mathur, Advocate, CTUIL
Shri Siddharth Sharma, CTUIL

Record of Proceedings

At the outset, the learned counsel for the Petitioner submitted that during the course of the hearing on 19.4.2024, CTUIL had sought the liberty to file a brief affidavit to place on record the issue involved in the appeal pending before the APTEL (A. No. 261 of 2022) does not cover or relate to the cases of termination of the PPA such as the present one. However, no such affidavit has been filed by the CTUIL so far. Learned counsel further reiterated and stressed that the issues involved in the appeal pending before the APTEL would have a bearing on the present case, and the Commission may consider adjourning the cases till the outcome of the said appeal.

2. Learned counsel for Respondent, CTUIL, submitted that the said affidavit is almost ready and is currently pending approval by the management of CTUIL. Learned counsel accordingly requested a short accommodation to permit the CTUIL to file the said affidavit.

3. Learned senior counsel for Respondent, SECI, in Petition No. 56/MP/2022 pointed out that the pendency of the appeal before the APTEL and issues under consideration therein and those in Petition No. 227/MP/2022, have no bearing on Petition No. 56/MP/2022. Learned senior counsel further submitted that both force majeure events, viz. Changes in the Govt. of Gujarat Policy on land allotment and the Outbreak of Covid-19, as cited by the Petitioner in justification for termination of the PPA, have already been dealt with by the Commission in its previous order(s). Learned senior counsel further submitted that the matter has already been argued at length by both sides. Learned senior counsel also submitted that vide Record of Proceedings for the hearing dated 21.3.2023, the Commission has restrained SECI from invoking the Bank Guarantee (BG) furnished by the Petitioner, and the said direction has been extended, from time to time, till date. However, keeping in view the settled law on the principles of stay on invocation of the BG in terms of catena of judgments of the Hon'ble Supreme Court as well as the APTEL, the said direction may not be extended any further and SECI is as such opposing any such further extension of the stay.

4. Learned counsel for the Petitioner submitted that keeping in view the force majeure events pleaded by the Petitioner in both the matters are common, the Commission has been taking up these matters together as per the request of the Petitioner. Learned counsel for the Petitioner also conceded that Petition No. 56/MP/2022 had been argued at length by both sides, and in the event the Commission decides to reserve the said matter for order, the Petitioner may be permitted 10 days' time to file the written submissions therein. Learned counsel strongly opposed the submission of the learned senior counsel for SECI regarding vacation of stay at the fag end of proceedings and urged that such protection ought to be extended till the outcome of the matter.

5. Considering the submissions made by the learned senior counsel and learned counsel for the parties, the Commission permitted Respondent, CTUIL, to file its affidavit as noted above within two weeks with a copy to the Petitioner, who may file

its response thereon, if any, within two weeks thereafter. The interim direction granted vide Record of Proceedings for the hearing dated 24.1.2023 will continue till the next date of hearing.

6. In Petition No. 56/MP/2022, the Commission permitted both sides to file their respective written submissions/compilation of the judgments, etc., within ten days with a copy to the other side. Subject to this, the Commission reserved the matter for order and also clarified that the interim direction issued vide Record of Proceedings for the hearing dated 21.3.2022 will continue till the outcome of the matter.

7. Petition No. 227/MP/2022 will be listed for hearing on 11.7.2024.

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