

**JOINT ELECTRICITY REGULATORY COMMISSION
FOR THE STATE OF GOA AND UNION TERRITORIES
GURGAON**

Quorum

Shri M.K. Goel, Chairperson

Petition No: 28/2019

Date of Hearing: 18.06.2020

Date of Order: 08.10.2020

In the matter of:

Power Sale Agreement (PSA) for Sale of 50 MW Wind Power on Long Term basis.

And in the matter of:

The Chief Engineer,
DNH Power Distribution Corporation Ltd. (DNHPDCL)
Vidyut Bhawan, 66 kV road,
Near Secretariat, Amla,
Silvassa- 396230

..... **Petitioner**

And in the matter of:

Solar Energy Corp. of India Ltd. (SECI),
1st Floor, Prius Platinum,
D-3, District Center, Saket,
New Delhi- 110017

..... **Respondent**

Present

For the Petitioner

1. Sh. C.A. Parmar, Chief Engineer, DNHPDCL
2. Sh. Pawan Mishra, CFO, DNHPDCL

For the Respondent

1. Sh. Atulya Kumar Naik, Addl General Manager (PS), SECI
2. Sh. Shibasish Das, Sr. Manager (PS), SECI

Certified
Parmar

ORDER

The petitioner filed this petition no. 28/2019 for approval of the power sale agreement (PSA) for purchase of 50 MW wind power from SECI on long term basis. He has further submitted that both the parties executed the said PSA on 29th August 2018 SUBJECT to final approval of the Commission.

The CERC adopted the tariff discovered through the transparent process of bidding under section 63 of the electricity act 2003 .However at the same time rejected the other prayer of the SECI to approve the trading margin of 07 paisa/kWh as it was of the view that it should be decided between the concerned parties with mutual consent. Obviously SUBJECT to the final approval of the concerned Commission.

The Commission has noted that Section 86 (1)(b) of the Electricity Act, 2003 has empowered it to accord its final approval to such type of power sale agreement etc. For the purpose of clarity, Section 86(1)(b) is mentioned below:

“Regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the state.”

Keeping the above provision in mind the Commission heard this petition on dated 18.06.20 and has noted that the petitioner himself is concerned about the trading margin mentioned in the power sale agreement and argued before the Commission that trading margin of 7 paisa/kWh is on a much higher side and in long term it would be detrimental to the interest of consumers. The petitioner raised several other arguments against the trading margin of 7 paise/kWh to be paid to the SECI for a period of 25 years. At the same time the Commission was also not convinced with the pleas raised by the SECI in favour of trading margin of 7 p/kWh to be paid by the petitioner to them. The Commission has heard arguments of both the parties and vide its interim order dated 23.06.20 directed them to revisit the issue of trading margin and at the same time settle it with mutual agreement along with justification for it and file an affidavit regarding mutually agreed value of trading margin within 2 weeks.

It is pertinent to mention here that this direction in the form of interim order was issued by the Commission under Section 94 of the Electricity Act for the purposes of inquiry or proceedings under this Act has the same powers as are vested in a civil court under the code of civil procedure, 1908 (5 of 1908) in respect of the following matters, namely:-

- a) Summoning and enforcing the attendance of any person and examining him on oath.
- b) discovery and production of any document or other material object producible as evidence;
- c) Receiving evidence on affidavits.
- d) Requisitioning of any public record.
- e) Issuing Commission for the examination of witnesses.
- f) Reviewing its decisions, direction and orders.
- g) Any other matter which may be prescribed.

Certified
R. Kumar

Further Section 95 of the Electricity Act, 2003 provides that all proceedings before the appropriate Commission shall be deemed to be judicial proceedings within the meaning of Sections 193 and 228 of the Indian penal code (45 of 1860) and the appropriate Commission shall be deemed to be a civil court for the purposes of Sections 345 and 346 of the code of criminal procedure, 1973 (2 of 1974).

The Commission was quite concerned regarding non filing of an affidavit by both the parties within the stipulated time and has taken a lenient view by giving a final and last opportunity to file the said affidavit by both the parties vide its order dated 02.09.2020 within 2 weeks. But till date no affidavit is filed by both the parties. For reasons which have not been explained to the Commission both the parties despite our two Orders have failed to file their affidavit. The Commission feels that despite granting such opportunity both the parties have failed to file such affidavit leading the Commission to presume that parties have failed to reach any consensus on the trading margin to be charged by the SECI from the petitioner.

In view of the above the Commission is bound to proceed to dispose off the present petition filed by DNHPDCL for approval of power sale agreement for 50 MW of wind power on long term basis from SECI. On the basis of the petition and submissions made by the parties the Commission is of the considered view that the parties despite signing the PSA, have failed to arrive at any consensus on trading margin. Hence the present petition seeking approval of the Commission for power sale agreement as mentioned above is hereby dismissed.

Ordered accordingly.

Sd/-

(M.K Goel)
Chairperson

(Certified Copy)



(Rakesh Kumar)
Secretary, JERC