

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Diary (Petition) No. 136/2021 and Diary (IA) No. 137/2021

Subject : Petition under Section 79(1)(f) read with Section 79(1)(a), (b) and (k) of the Electricity Act, 2003 seeking inter alia a declaration that the Power Purchase Agreement dated 16.3.2020 stands validly terminated and/or discharged, and seeking the release of the Performance Bank Guarantee issued to the Respondent.

Date of Hearing : 25.5.2021

Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri P.K.Singh, Member

Petitioner : Sprng Wind Energy Private Limited (SWEPL)

Respondent : Solar Energy Corporation of India Limited (SECI)

Parties present : Shri Basava Prabhu S. Patil, Senior Advocate for the Petitioner
Shri Deep Rao, Advocate for the Petitioner
Miss Samykya Mukku, Advocate for the Petitioner
Shri M. G. Ramachandran, Senior Advocate for SECI

Record of Proceedings

Date is not fixed for the case. The matter was mentioned today by the learned senior counsel for the Petitioner through video conferencing.

2. Learned senior counsel for the Petitioner submitted that the Petitioner, Sprng Wind Energy Private Limited has filed the instant Petition being Diary No. 136/2021 *inter alia* seeking declaration that the delay in execution of the Project and the eventual termination of the PPA has been on account of various force majeure events i.e. delay in the identification of a final buying entity, delay in approval of PSA, imposition of impossible conditions relating to the construction of the dedicated transmission line (DTL) and the restrictions on account of the on-going covid-19 pandemic. It was submitted that as per Article 13.5 of the PPA, the parties are entitled to terminate the PPA without any liability if any Force Majeure event lasts for more than nine months. In the alternative, the Petitioner is seeking a declaration that the PPA stands validly discharged from 24.5.2021. Learned senior counsel submitted that one of the key uncontrollable issues being that the Power Sales Agreement entered into between SECI and Kerala State Electricity Board ("KSEB") has not been approved by the Kerala Electricity Regulatory Commission even after a lapse of 23 months from the effective date of the PPA.



3. Learned senior counsel for the Respondent, SECI accepted the notice and submitted that the buying utility, KSEB should be impleaded as party to the Petition since SECI has executed Power Sale Agreement with KSEB for sale of power generated by the Petitioner under the PPA.

4. After hearing the learned senior counsels for the parties, the Commission ordered as under:

(a) The Petitioner to array KSEB as a party and file revised memo of parties.

(b) Issue notice to KSEB.

(c) The Petitioner to serve copy of the Petition and IA on the Respondent including KSEB, if not already served and the Respondent, including KSEB to file its reply by 17.6.2021, after serving copy to the Petitioner, who may file its rejoinder, if any, by 30.6.2021.

(c) Parties to comply with above directions within the specified timeline and no extension of time shall be granted.

5. Learned senior counsel for the Petitioner further submitted that the Petitioner has filed IA being Diary No. 137/2021 to restrain the Respondent from taking any coercive steps against the Petitioner including invocation of Performance Bank Guarantee. Learned senior counsel for the Respondent, SECI assured that SECI shall not encash the Performance Bank Guarantee furnished by the Petitioner till the next date of hearing. Submissions made by the learned senior counsel for SECI was taken on record. The Commission directed registry of the Commission to register the IA (Diary No. 137/2021) and accordingly disposed of the same.

6. The Petition shall be listed for hearing in due course for which separate notice will be issued.

By order of the Commission

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

