



Petition No. 1380/2018
BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

Date of Order: ~~17~~ 25.10.2022

PRESENT:

Hon'ble Shri Raj Pratap Singh, Chairman
Hon'ble Shri Vinod Kumar Srivastava, Member (Law)

IN THE MATTER OF: Petition under Section 86(1)(b) and 86(1)(f) of the Indian Electricity Act, 2003 seeking extension of time for setting up of 5 MW Solar PV Power Project under the power purchase agreement dated 02.12.2015 as amended on 19.5.2018 entered into between M/s Pinnacle Renewable Energy Private Limited and U.P. Power Corporation Limited.

Pinnacle Renewable Energy Private Limited (PREPL),
(Through its Managing Director),
2nd Floor, T-15, Green Park, New Delhi-110016

..... Petitioner

Versus

1. **Uttar Pradesh Power Corporation Ltd. (UPPCL),**
(Through its Managing Director),
7th Floor, Shakti Bhawan Extn., 14th Ashok Marg, Lucknow, Uttar Pradesh-226001
2. **U. P. New & Renewable Energy Development Agency (UPNEDA),**
(Through its Director),
Vibhuti Khand, Gomti Nagar, Lucknow, Uttar Pradesh-226010
3. **U.P. Power Transmission Corporation Ltd. (UPPTCL),**
(Through its Managing Director),
Shakti Bhawan, 14th- Ashok Marg, Lucknow, Uttar Pradesh-226001.

.....Respondent(s)

The following were present:

1. Shri Altaf Mansoor, Advocate, UPPCL,
2. Shri Raghavendra Singh, Counsel, UPPCL
3. Shri Deepak Raizada, CE (PPA), UPPCL
4. Shri Mahendra Singh, SE(PPA), UPPCL
5. Shri Ruchi Ranjan Rai, Counsel, PREPL

ORDER





(Date of Hearing: 20.10.2022)

1. Pinnacle Renewable Energy Pvt. Ltd., the Petitioner has filed this Petition under 86(1)(b) & (f) of Electricity Act'03 seeking time extension for setting up 5 MW Solar PV Project under the PPA dated 02.12.2015 and amended PPA dated 19.05.2018. The Petitioner also filed an IA praying quashing UPNEDA letter seeking liquidated damages and grant temporary connectivity.
2. The Commission, keeping in view the status of the project and willingness of the Petitioner, vide its Order dated 05.03.2019, allowed time extension up to 15.04.2019 subject to no further extension and imposition of liquidated damages as per PPA. The Commission also allowed interim connectivity to 33 kV Kanduni S/s on payment of cost of bay and line within next 15 days i.e., up to 20.03.2019. The Commission, during the hearing on 16.04.2019, again directed the Petitioner to deposit liquidated damages by 30.04.2019.
3. Subsequently, upon information by the Petitioner regarding filing of appeal before Hon'ble APTEL, the Commission vide its order 24.05.2019 directed to keep the matter in abeyance till the disposal of the Petitioner's appeal. On 06.06.2022, the Petitioner communicated that Appeals (No. 191 of 2019 & 238 of 2019) against this Commission order dated 05.03.2019 & 30.04.2019, respectively, have been disposed of by the Hon'ble APTEL on 19.05.2022 as under:

"12. Needless to add the interim directions on the conditions attached to the connectivity allowed including the imposition of liquidated damages, by the interlocutory orders of the Commission will not be treated as final orders on the subject, the Commission being duty bound to hear and pass necessary final orders in that regard. Needless to add further that while taking a final decision the Commission will not feel bound by the view taken by it by the previous interlocutory orders or, for that matter, by the interlocutory orders passed by this Tribunal in appeal.

13. The issues having festered for too long; it is desirable that the Commission takes the final decision on the pending matter expeditiously....."

The matter came up for hearing today.

4. Shri Ruchi Ranjan Rai, Petitioner's Counsel sought adjournment with two weeks' time to file additional submission.
5. The Commission queried the Petitioner regarding compliance of its order dated 05.03.2019 as also its order dated 17.05.2022 in Petition No. 1613/2020, filed by UPPCL under section 142, in the matter of non-compliance of the Commission order dated 05.03.2019, wherein the Commission held as follows:

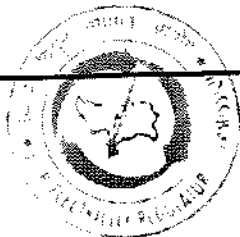




"I. Imposition of penalty of Rs. One lakh for willful non-compliance of the Commission Order dated 05.03.2019.

II. The Petitioner has been continued contravention to the direction of the Commission for the last three years, however, the Commission, **keeping a considerate view, imposes a penalty of Rs. 6000/- per day from the date of the filing of the instant Petition i.e., 13.08.2020 till compliance of the Commission's direction vide order dated 05.03.2019."**

6. The Petitioner's Council informed that they have filed an appeal against the Commission's Order dated 17.05.2022, however, there is no stay as on date.
7. The Commission observed that instant Petition was filed on 08.10.2018 and despite Hon'ble APTEL's decision to the Commission to pass final order expeditiously, Petitioner is delaying the proceedings as evident that pursuant to the Hon'ble APTEL Judgement dated 19.05.2022, it had five months to prepare its arguments/submission, if any, and seeking adjournment of hearing. The petitioner has also not shown any inclination to comply to the Commission's Orders dated 05.03.2019 and 17.05.2022 in the matter.
8. Therefore, Commission expressed its disapproval to the request for adjournment, unless the Petitioner commits to comply the Commission's Orders. The Commission directed the Council to seek instructions regarding timelines for compliance. Upon reassembling of the Court and after seeking instructions by the Council, Sh. Rai, submitted and consented that penalty amount being substantial, penalty can be adjusted from the amount outstanding with UPPCL in lieu of power supplied under the PPA.
9. Sh. Deepak Raizada on behalf UPPCL submitted that they are paying in time to the Petitioner against their monthly bills and as on date the outstanding amount of Petitioner is approx. Rs. 24 lakhs, against the penalty amount of about Rs. 50 lakhs.
10. After hearing the parties, the Commission directed UPPCL to compute penalty payable by PREPL till 29.10.2022 in terms of the Order dated 17.05.2022 and deposit the outstanding due to the Petitioner with the Commission by 30.10.2022. In case the Penalty amount being more than the outstanding, UPPCL shall deposit with the Commission, the payment due against the monthly bill of petitioner, till total leviable penalty in non-compliance to order dated 17.05.2022 is fulfilled. UPPCL shall communicate to the Petitioner while depositing any penalty amount against outstanding / monthly bill of the petitioner.





11. The Commission, with the above directions, allows Petitioner to submit additional affidavit, if any, with a copy to UPPCL within two weeks' time to respond.

List the matter for final hearing on 06.12.2022.

(Vinod Kumar Srivastava)
Member

(Raj Pratap Singh)
Chairman

Place: Lucknow
Dated: 25.10.2022

