



Petition No. 1481 of 2019

BEFORE

THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

Date of Order: 26.09.2019

PRESENT:

Hon'ble Shri Raj Pratap Singh, Chairman

Hon'ble Shri Kaushal Kishore Sharma, Member

IN THE MATTER OF Power procurement and adoption of tariff for 439.9
MW wind power PSA executed on dt. 13.07.2017
between UPPCL and PTC India Ltd.

UP Power Corporation Ltd. (through its Managing Director), 7th Floor, Shakti Bhawan
Extnn, 14- Ashok Marg, Lucknow

..... **Petitioner**

The following were present:

1. Shri Shri S.K. Sinha, CE, UPPCL
2. Shri Mahendra Singh, SE, UPPCL
3. Shri Rajiv Srivastava, Advocate, UPPCL
4. Shri Anil Prakash, EE, UPPCL
5. Shri Ravi Kishore, Advocate, PTC

ORDER

(Date of Hearing 26.09.2019)

The matter came up for hearing today.

Sh. Rajiv Srivastava, Legal counsel of the Petitioner pleaded apology for delayed filing of Petition and requested for condonation of delay. The Counsel submitted



that the awarded wind power projects (under section 63 of the Electricity Act'03) supplying power to the Petitioner are also supplying power to other States and therefore, the matter of adoption of tariff would be under jurisdiction of Central Commission. He further submitted that, however, the approval of power procurement and PSA between the Petitioner and PTC, the intermediary, would be under the jurisdiction of State Commission. The Legal counsel also submitted that PTC, the intermediary has also been impleaded in the matter as per Commission Order dated 20.08.2019.

Shri Ravi Kishore, legal counsel of PTC referred to the Energy Watchdog Order dated 11.04.2017 by Hon'ble Supreme Court of India. He also requested for time to place such cases of tariff adoption by CERC on record for reference.

The Commission observed that while the 1st prayer in the current Petition is for condonation of delay in filing Petition, the Petition has been filed on 26.06.2019 after scheduled commissioning of the Project i.e. Oct'18 and almost 2 years after signing of the PSA on 13.07.2017.

Further, the SLDC has been scheduling the power in the instant matter without approval of the power procurement and PSA by the competent body or appropriate Commission.

Upon enquiry by the Commission regarding the payment made by the Petitioner to the intermediary, PTC, legal counsel of the Petitioner submitted that no payment was made by UPPCL to PTC. It was also observed that Energy Watchdog order is dated 11th April'17, yet the Petition has been filed before this Commission for tariff adoption by UPPCL, the Petitioner.

The Commission expressed its displeasure on the conduct of the Petitioner and UP SLDC, who have shown little regard for rule / law and acted upon in irregular and illegal manner in contravention to the provisions of Regulations and



Electricity Acr'03, by buying power and scheduling power respectively without approval of the appropriate Commission.

The Commission directed the following:

1. Notice be issued to UPPCL and SLDC asking them to explain why penal proceedings should not be initiated against them for buying and scheduling of power without approval of the power Procurement and PSA which are the subject matter of the instant Petition.
2. Petitioner to file supplementary affidavit with a week after fixing responsibility and action taken on responsible person for delay of 2 years in filing this petition
3. PTC legal counsel to submit cases of tariff adoption by CERC referred during the hearing.

The matter shall be heard again on 10th October, 2019.

(Kaushal Kishore Sharma)
Member

(Raj Pratap Singh)
Chairman

Place: Lucknow
Dated: 27.09.2019

