



BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

Petition No.1212/2017, 1213/2017

PRESENT:

Hon'ble Sri Suresh Kumar Agarwal, Chairman

IN THE MATTER OF : Adjudication of termination of Power Purchase Agreement
Dated 14.12.2010

Petitioner:

1. M/s Lanco Anpara Power Limited
(Bhognipur Thermal Project-Phase-III)
Registered Office:
411/9, Riverside Apartments,
New Hyderabad, Lucknow
Uttar Pradesh-226 007
2. Himawat Power Pvt. Ltd.
(Bhognipur Thermal Project-Phase-I)
Lanco House, Plot No.4,
Software Units Layout
Hightech City
Madhapur
Hyderabad

Respondents:

1. U.P. Power Corporation Ltd.
Shakti Bhawan,
14, Ashok Marg,
Lucknow-226 001 (U.P.)
Through its Managing Director



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2. Pashchimanchal Vidyut Vitran Nigam Ltd.
Hydle Inspection House, Hydle Colony
Victoria Park, Meerut

ORDER
(Date of hearing 13.10.2017)

This matter was last heard on 08.09.2017. In the order passed on 14.09.2017 the counsel for the Petitioners had stated that he will take necessary instruction from his clients as to whether they are willing to settle the issue with UPPCL in the manner in which some other developers have settled the issue of termination of PPA. Time was granted to the Petitioners to file their submissions.

2. In the hearing on 13.10.2017 the Advocate for the above named two petitioners appeared before the Commission. They have submitted rejoinders in which the Petitioners have stated various reasons for not being able to set up the power plants and meet the conditions subsequent regarding obtaining coal linkage from Government of India.

3. The Petitioners have also mentioned that now the coal for the new power plants is being provided under the SHAKTI Policy and the last date of submission of EOI under this scheme was 19.08.2017. The Petitioners also made a request to the respondents to provide a certificate required under the EOI to enable the Petitioners to register and submit EOI to participate in the auction process to obtain coal linkage for the project but the respondents failed to provide the certificate as required.

4. The Petitioners have also raised various issues challenging validity of the termination notice. In para 29 of the rejoinder they have submitted a new tariff model migrating from the current cost plus PPA tariff structure and somewhat similar to competitive tariff structure. As per this model they have offered Capacity Charge of Rs.1.98 per kWh as on 13.10.2017 with escalation/de escalation as per the policy of the competitive bidding. They have also indicated the variable charge of Rs.1.748/kWh as on 13.10.2017 considering coal sourced from SECL mines at Korba Chhattisgarh. Thus, they have offered total tariff of Rs.3.73/kWh. On the submissions of the Petitioners, the representatives of UPPCL pleaded before the Commission that since the concerned PPAs have been terminated and UPPCL intends to procure future power through competitive bidding guidelines as per the directions in the Tariff Policy 2016, therefore, they could not be given the desired certificate to bid for coal under the SHAKTI policy.



5. After hearing both the parties the Commission observed that the offer of the petitioners to supply power at lesser rates than the rates discovered in last competitive bidding is not substantiated by any document and the tariff model proposed by the Petitioners is not in vogue. UPERC can determine the tariff for Thermal Power under its Regulation or can adopt the tariff discovered through competitive bidding, therefore cannot take cognizance of any such offer. However the Commission agreed to give 15 days' time to the Petitioners to show that how they will get the linkage coal and how can they get the project financed on the rates given by them in their rejoinder. If the Petitioners are not able to demonstrate their ability to supply the power at the rates mentioned by them and arrange finances for the project, the Commission will not have any option but to concur the termination of PPAs. In the alternative, the Petitioners can submit an unconditional undertaking in the prescribed format of UPPCL and withdraw their petitions against termination of PPAs in order to get their Bank Guarantee back.

5. List on 25.10.2017.

(Suresh Kumar Agarwal)
Chairman

Place: Lucknow
Dated:....10.2017