



BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

Petition No.1198/2017, 926 of 2014 and 1176 of 2017

PRESENT:

Hon'ble Sri Suresh Kumar Agarwal, Chairman

IN THE MATTER OF : WITHDRAWAL OF PETITION NO.1198 of 2017

Petitioner:

M/s Wellspun Energy UP Private Limited
3rd Floor, PTI Building,
4, Parliament Street,
New Delhi – 110 001

Respondents:

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

ORDER
(Date of hearing 08.09.2017)

M/s Welspun Energy UP Private Limited has filed a Petition no.1198 of 2017 challenging the termination of Power Purchase Agreement dated 04.01.2011 regarding setting up of a Power Project at Mirzapur, U.P. In the petition the



petitioner has mentioned that UP Power Corporation Limited (UPCCL) has issued a notice dated 27.05.2017 for termination of PPA in which UPPCL has mentioned that the petitioner was under an obligation to procure long term coal linkage from Standing Linkage Committee (long term), Government of India, as per article 3.1.2(ii) of the PPA but despite three extensions, vide order dated 8.6.2012, 9.12.2013 and 19.12.2016 the Petitioner could not obtain the long term coal linkage. Therefore, due to non fulfillment of the condition subsequent in terms of PPA, the termination notice dated 27.05.2017 has been issued.

3. In the hearing Sri Ashish Bhardwaj, Counsel of M/s Welspun Energy U.P. Private Limited stated that UPPCL has offered them to return their Bank Guarantee if they submit an undertaking for withdrawal of pending cases and do not make any claim based on termination of PPA. The counsel of UPPCL confirmed and stated that besides the cases pending in UPERC the petitioner will have to withdraw the arbitration case also which the petitioner has filed. The Counsel for the Welspun Energy U.P. Private Limited stated that they are willing to withdraw arbitration case also. He informed the Commission that his client is willing to submit an undertaking as desired by UPPCL in order to get back their Bank Guarantee. He promised to submit the undertaking and the application for withdrawal of Petition against termination of PPA before the Commission in next 2-3 days.

2. On September 11, 2017 M/s Welspun Energy U.P. Pvt. Ltd. has submitted two letters in which they have confirmed that they have submitted the desired undertaking to UPPCL, a copy of which has been enclosed alongwith the letter. With another letter, they have submitted application for withdrawal of Petition no.1198 of 2017 pending in the Commission.

2. In view of the above, the Commission permits the withdrawal of Petition No.1198 of 2017. Further in view of the amicable agreement reached between the parties the Commission expects both the parties to honor their commitments and UPPCL will return the Bank Guarantee submitted by M/s Welspun Energy U.P. Pvt. Ltd. The Power Purchase Agreement dated 04.01.2011 stands terminated and no parties will be entitled to raise any claim regarding this PPA.



3. M/s Welspun Energy U.P. Pvt. Ltd. had earlier filed Petition No.926 of 2014 and 1176 of 2017 regarding approval of supplementary PPA. Since the original PPA stands terminated, the Petition No.926 of 2014 and 1176 of 2017 stand disposed of accordingly.

4. Petition is disposed of.

(Suresh Kumar Agarwal)
Chairman

Place: Lucknow
Dated: 14.09.2017