



BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

Petition No.1171 of 2017, 1225 of 2017 & 1223 of 2017

PRESENT:

Hon'ble Sri Suresh Kumar Agarwal, Chairman

IN THE MATTER OF : Seeking Extension of the Scheduled Commercial Operation
Date of 5MW Solar PV Power Project under PPA dated 02.12.2015

Petitioners:

1. M/s Pinnacle Renewable Energy Pvt. Ltd.
T-15, 2nd Floor, Green Park Main
New Delhi – 110 016, India
2. M/s Avadh Rail Infra Limited
B-12, Industrial Area, Amausi, Opp. Amausi Aerodrome,
Lucknow-226 008
3. M/s Sudhakara Infratech Private Limited
Metro Residency 304,
Raj Bhavan Road,
Hyderabad-500 082

Respondents:

1. U.P. Power Corporation Ltd.
Shakti Bhawan,
14, Ashok Marg,
Lucknow-226 001 (U.P.)
Through its Managing Director
2. Uttar Pradesh New & Renewable Energy Development Agency
Through its Director,
Vibhuti Khand, Gomti Nagar Lucknow
Lucknow



ORDER
(Date of hearing 26.09.2017)

M/s Pinnacle Renewable Energy Pvt. Ltd. has filed a Petition no.1171 of 2017 seeking stay of Preliminary Default Notice for Termination dated 24.07.2017 and restraint on invocation of Bank Guarantee in respect of 5 MW Solar PV Power Project under the PPA dated 02.12.2015 entered into with U.P. Power Corporation Limited (UPPCL).

2. Sri Saurav Roy, Counsel for the Petitioner appeared before the Commission. He stated that his client could not move forward for setting up of the project because the tariff was not adopted and UPNEDA & U.P. Power Corporation Limited (UPPCL) were to submit the revised proposal as per the directives of the Commission which they have not done so far. Smt Namrata Kalra, Sr. Project Officer, UPNEDA informed the Commission that the decision regarding revised tariff has been taken in the Government and they will file their submission by 4th October, 2017 which will be a joint reply of UPPCL and UPNEDA. The Petitioner is apprehensive that 60 days period given in the pre termination notice has already expired and they are afraid that PPA can be terminated before a decision is communicated to the Commission by UPNEDA and UPPCL.

3. Shri DD Chopra, Advocate sought permission of the Commission to make some urgent pleadings before the Commission in the case of his client M/s Adani Green Energy (U.P.) Ltd. Sri DD Chopra mentioned that his client had filed a Writ Petition No.23551 of 2017 before the Hon'ble High Court, Allahabad (Lucknow Bench) and the Hon'ble High Court has passed an order on 22.09.2017 in which Hon'ble High Court has directed the Commission to make an earnest endeavor to consider and decide the earlier Petition No.1194 of 2017 of the Petitioner expeditiously. Since the 60 days period of pre termination notice has expired and the PPA of the Petitioner may be terminated by UPNEDA & UPPCL before filing their reply before the Commission regarding tariff, therefore the pre termination notice should be stayed.

4. Sri DD Chopra also informed that he is representing M/s Sahastradhara Energy Private Limited also and want to make the similar pleadings in regard to Sahastradhara Energy Private Limited also. The representative of M/s Awadh Rail Infra Limited and M/s Sudhakara Infratech Private Limited also informed the Commission that they have also been issued pre termination notice on 24.07.2017 and in their case they do not have any direction for not invoking the Bank Guarantee. Since their case is the similar to that of other developers therefore, their PPA should not be terminated before UPPCL & UPNEDA



file their reply before the Commission. Their Bank Guarantee should also not be encashed.

5. Since the decision in this matter hinges on the stand taken by the Government on the tariff therefore, in all fairness the Commission should look into the stand of the Government on the tariff. The Commission fixes the next date of hearing on 13th October, 2017. In the mean time UPPCL and UPNEDA will not terminate the PPA and also would not encash the Bank Guarantee in all the six cases in which the pre termination notices have been issued.

4. The final decision will be taken after receiving the reply from UPNEDA and UPPCL.

5. List on 13 October 2017.

(Suresh Kumar Agarwal)
Chairman

Place: Lucknow
Dated:....09.2017