



Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 110017.

F.11(2058)/DERC/2022-23/7610

Petition No. 75/2022

In the matter of: **Petition u/S 86(1)(b) of the Electricity Act, 2003 and other enabling provisions for seeking approval of the Supplementary Power Sale Agreement to be executed between Tata Power Delhi Distribution Ltd. vs Solar Energy Corporation India and SBSR Power Cleantech Eleven Private Ltd.**

M/s Tata Power Delhi Distribution Ltd.

...Petitioner

Versus

1. Solar Energy Corporation of India Limited

2. SBSR Power Cleantech Eleven Pvt. Ltd.

...Respondents

Coram:

Hon'ble Justice (Retd.) Jayant Nath, Chairperson

Appearance:

1. Mr. Anand Srivastava, Advocate, TPDDL
2. Ms. Anushree Bardhan, Advocate, SECI

ORDER

(Date of Order: 30.05.2024)

1. The instant Petition has been filed by Tata Power Delhi Distribution Ltd. (TPDDL) seeking approval from the Commission to execute Supplementary Power Sale Agreement (hereinafter SPSA) between Tata Power Delhi Distribution Ltd. (TPDDL) vs Solar Energy Corporation of India (SECI). The Petitioner has made the following prayer in its Petition:

- a. To approve the Supplementary Power Sale Agreement to be executed by and between Tata Power Delhi Distribution Limited and Solar Energy Corporation of India Ltd.

2. The Petitioner has submitted that:

- i. The Petitioner herein is a distribution licensee in terms of Section 14 of the Electricity Act, 2003 ("Act") read with the Delhi Electricity Reforms Act, 2000

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("DERA, 2000") and is operating in North, North-West areas of Delhi in terms of the distribution license issued by the Commission.

- ii. The SECI is a company incorporated under the Companies Act, 1956. Respondent is Central Public Sector Undertaking under the Administrative control of the Ministry of New and Renewable Energy (MNRE). SECI was set up on 20.09.2011 to facilitate the implementation of Jawaharlal Nehru National Solar Mission (NSM) for the development, promotion and commercialization of solar energy technologies in the country and to achieve targets set out in the NSM. SECI has also been instrumental developing grid connected solar power capacity in India and plays the role of Intermediary procurer in line with the provisions of the Guidelines for Tariff Based Competitive Bidding Process of Procurement of Power from the Grid Connected Solar Power Projects, issued by the Ministry of Power, vide resolution dated 03.08.2017.
- iii. On 10.01.2019 SECI issued RfS for selection of SPDs for procurement of 1200 MW Solar Power. SBSR Power Cleantech Eleven Private Limited (SBSR) was declared as a successful bidder against the aforementioned RfS and was issued Letter of Award ("LOA") dated 05.03.2019.
- iv. On 22.03.2019, SECI wrote to Power Grid Corporation of India Limited ("PGCIL") stating that SECI has concluded the bidding process for the selection of 1200 MW ISTS-connected solar power projects (ISTS-III) and the proposed mapping of power from the selected projects vis-à-vis the States. It is imperative that the proposed mapping of power with respect to SBSR for Delhi is 300 MW, out of which TPDDL was allocated 200 MW. PGCIL vide its letter dated 29.03.2019 wrote to SECI wherein it had stated that PGCIL has examined the mapping for the transfer of power from selected solar projects (ISTS-III) to different constituents in ER and NR and found the same to be generally in order. Pursuant to the above, SECI executed a Power Purchase Agreement dated 20.08.2019 ("Original PPA") with SBSR for the procurement of 300 MW Solar Power.
- v. The Petitioner entered into a Power Sale Agreement dated 26.06.2019 ("Original PSA") with SECI for sale of 200 MW of solar power on a long-term basis. As per the terms of the Original PSA, SECI was to enter into Power Purchase Agreements with selected Solar Power Developers ("SPDs") for procurement of 1200 MW solar power or the total capacity of projects

selected under the provisions of Request for Selection (RfS), if it is less than 1200 MW, on a long-term basis.

- vi. The Article 4.1.1 of the Original PSA provides that Original PSA can be amended or supplemented by a written agreement between the parties and shall become effective upon approval of the Appropriate Commission, if necessary.
- vii. Subsequently, as per regulatory mandate, the Petitioner filed Petition No. 65 of 2019 on 19.09.2019 seeking approval of Original PSA signed between Petitioner and Respondent. The Respondent had filed Petition No. 204/AT/2019 before Hon'ble Central Electricity Regulatory Commission ("CERC") under Section 63 of the Act for adoption of pooled tariff of Rs. 2.585/kWh plus trading margin of Rs. 0.07/ kWh upon commissioning of individual projects. The Hon'ble CERC vide its order dated 20.11.2019 declined to adopt pool tariff. The Hon'ble CERC adopted the tariff discovered through the tariff based competitive bid process for the individual power projects. However, with respect to trading margin Hon'ble CERC held that contracting parties can mutually agree on the trading margin.
- viii. On 07.01.2020 Petitioner filed I.A. No. 01 of 2020 in Petition No. 65 of 2019 to bring on record the order of Hon'ble CERC's dated 20.11.2019. That the Commission vide its Order dated 31.12.2020 approved the Original PSA, however, fixed the trading margin to Rs 0.02/kWh.
- ix. Respondent being aggrieved by the Order dated 31.12.2020 of the Commission filed an appeal before Hon'ble Appellate Tribunal for Electricity ("APTEL") being Solar Energy Corporation of India Limited vs. Delhi Electricity Regulatory Commission & Ors. Appeal No. 52 of 2021. The Hon'ble APTEL vide its judgment dated 02.07.2021 set aside the Order dated 31.12.2020 of the Commission to the extent wherein it has fixed the trading margin of Rs 0.02/kWh and reinstated Rs.0.07/kWh as the trading margin for the Original PSA.
- x. SECI vide its letter dated 18.08.2020 wrote to TPDDL wherein it stated that Hon'ble CERC vide its order dated 19.02.2020 has adopted individual tariff through transparent bidding process. In line with the Hon'ble CERC Order,

SECI proposed to amend Article 1.1.1 of the Original PSA based on the mapping approved by PGCIL and supply power to TPDDL. Further, vide the said letter SECI also provided draft supplementary Power Sale Agreement. However, SECI has inadvertently referred to Hon'ble CERC Order dated 19.02.2020 in Petition No.162/AT/2019, whereas the adoption of tariff and trading margin with respect to Original PSA relates Hon'ble CERC Order dated 20.11.2019 in Petition No.204/AT/2019.

- xi. Pursuant to the mutual agreement on trading margin and amendment in the Original PPA, SECI wrote to TPDDL vide its letter dated 09.06.2022 wherein it shared draft Supplementary Power Sale Agreement (SPSA) for the sale of solar power on long term basis from 200 MW SBSR Solar Project. The amendment sought in the Original SPSA vide draft SPSA is reproduced herein below:

S. No	Clause as Per Original PSA	Amended Sought Vide Supplementary Power Sale Agreement	Justification
1.	Article 1.1.1: From SCD the Buying Entity shall pay the Maximum Possible fixed tariff of Rs. 2.61/kWh plus trading margin of Rs. 0.07 / kWh fixed up to commissioning of the cumulative awarded capacity/accepted cumulative capacity by SECI under the RfS.	Article 1.1.1: From SCD the Buying Entity namely TPDDL shall pay the individual tariff as specified in Schedule-2 to this Supplemental Agreement of the project from where the supply of electricity is sold by SECI to TPDDL and in addition to the same a trading margin of Rs. 0.07 per kWh for the entire term of this agreement.	The amendment in the said clause is in line with the Hon'ble CERC's Order dated 20.11.2019, Hon'ble APTEL Order dated 02.07.2021 and to reflect the mutual agreement between the parties in terms of the Hon'ble CERC's Order dated 20.11.2019
2.	Article 1.1.2: Weighted average tariff as per schedule-2 plus trading margin of Rs 0.07 per kWh (Rupees Seven Paisa per kWh) shall be applicable upon Commissioning of the cumulative awarded capacity/accepted cumulative capacity by SECI under the RfS for balance term of this Agreement for the	Article 1.1.2: The Buying Entity namely TPDDL shall make the Tariff Payments to SECI as per Schedule-2 plus trading margin of Rs 0.07 per kWh (Rupees Seven Paisa per kWh) upon Commissioning of the respective Projects for the term of this Agreement for the energy made available by SECI to TPDDL as per the provisions of this Agreement.	The amendment in the said clause is in line with the Hon'ble CERC Order dated 20.11.2019, Hon'ble APTEL Order dated 02.07.2021 and to reflect the mutual agreement between the parties in terms of the Hon'ble CERC's Order dated 20.11.2019

S. No	Clause as Per Original PSA	Amended Sought Vide Supplementary Power Sale Agreement	Justification
	energy supplied as per provisions of this Agreement.		
3.	<p>Clause 2.11.3: (The provisions of Article 4.4.1 of the PPA shall be applicable mutatis mutandi to this Agreement) SECI, in any Contract Year except for the first year of operation, shall not be obliged to purchase any additional energy from the SPD beyond 522.63 Million kWh (MU). If for any Contract Year, it is found that the SPD has not been able to generate minimum energy of 403.85 Million kWh (MU) till the end of 10 years from the SCD and 380.09 Million kWh (MU) for the rest of the Term of the Agreement, on account of reasons solely attributable to the SPD, the non-compliance by SPD shall make the SPD liable to pay the compensation provided in the respective PSA as payable to Buying Entity(ies) by Buyer to enable Buyer to remit the amount to Buying Entity(ies). For the first year of operation, the above limits shall be considered on pro-rata basis. In case of part commissioning of the Project, the</p>	<p>Clause 2.11.3: (The provisions of Article 4.4.1 of the PPA shall be applicable mutatis mutandi to this Agreement) SECI, in any Contract Year except for the first year of operation, shall not be obliged to purchase any additional energy from the SPD beyond 522.63 Million kWh (MU). If for any Contract Year, it is found that the SPD has not been able to generate minimum energy of 403.85 Million kWh (MU) till the end of 10 years from the SCD and 380.09 Million kWh (MU) for the rest of the Term of the Agreement, on account of reasons solely attributable to the SPD, the non-compliance by SPD shall make the SPD liable to pay the compensation provided in the respective PSA as payable to Buying Entity(ies) by Buyer to enable Buyer to remit the amount to Buying Entity(ies). For the first year of operation, the above limits shall be considered on pro-rata basis. In case of part commissioning of the Project, the above limits shall be considered on pro-rata basis till the commissioning of full capacity of the Project. The lower limit will, however be relaxable by Buyer to the extent of grid non-availability</p>	<p>The only amendment made in this particular provision is that amount of penalty of the corresponding buying entities is to be determined by the 'Appropriate Commission' instead of 'State Electricity Regulatory'.</p>

S. No	Clause as Per Original PSA	Amended Sought Vide Supplementary Power Sale Agreement	Justification
	<p>above limits shall be considered on pro-rata basis till the commissioning of full capacity of the Project. The lower limit will, however be relaxable by Buyer to the extent of grid non-availability for evacuation which is beyond the control of the SPD (as certified by the SLDC/RLDC). This compensation shall be applied to the amount of shortfall in generation during the Contract Year. The amount of such penalty shall be as determined by the respective State Electricity Regulatory Commission of the corresponding Buying Entity/ any such Authority, and such penalty shall ensure that the Buying Entity (ies) is/are offset for all potential costs associated with low generation and supply of power under the PPA. However, the minimum compensation shortfall in energy terms, calculated at PP A tariff. This compensation shall not be applicable in events of Force Majeure identified under PPA with SECI affecting supply of solar power by SPD.</p>	<p>for evacuation which is beyond the control of the SPD (as certified by the SLDC/RLDC). This compensation shall be applied to the amount of shortfall in generation during the Contract Year. The amount of such penalty shall be as determined by the Appropriate Commission/ Authority, and such penalty shall ensure that the Buying Entity(ies) is/are offset for all potential costs associated with low generation and supply of power under the PPA. However, the minimum compensation payable to SECI by the SPD shall be 25% (twenty-five percent) of the cost of this shortfall in energy terms, calculated at PPA tariff. This compensation shall not be applicable in events of Force Majeure identified under PPA with SECI affecting supply of solar power by SPD.</p>	

Further, the SPSA also stipulated amendment in Schedule-II of the Original PSA. The proposed Schedule-II is reproduced below:

Sl. No.	Name of the Bidder	Project Capacity (MW)	Applicable tariff as per SECI-SPD PPA (Rs./kWh)	Quantum allocated to TPDDL for resale (MW)	Maximum Energy (Million kWh)	Minimum Energy (Million kWh) till 10 Year from SCD	Minimum Energy (Million kWh) beyond 10 years from SCD
1.	SBSR Power Cleantech Eleven Private Limited	300	2.61	200	522.63	403.85	380.09
Total				200	522.63	403.85	380.09

- xii.

The Petitioner vide its letter dated 17.06.2022 requested the Commission to allow the Petitioner to execute the Draft SPSA with SECI. The said letter also highlighted the amendments to be incorporated in the Original PSA, vide the SPSA.

xiii.

However, vide its letter dated 28.10.2022 the Commission directed the Petitioner to file a Petition before the Commission for approval of SPSA as per DERC Comprehensive (Conduct of Business) Regulations, 2001.

xiv.

That upon the approval of the Commission, the Petitioner shall be executing SPSA with the Respondent for procuring power as per its allocated quantum of procurement from the Project from time to time.
3.

The Petitioner has filed an Additional Document on 21.06.2023 to place on record the following documents which have inadvertently not been placed with the Petition and are necessary for effective adjudication of the instant Petition;

i.

Hon'ble CERC vide Order dated 20.11.2019 passed in Petition No. 204/AT/2019 has adopted tariff discovered through the tariff based competitive bid process for the individual power project. Further, with respect to trading margin Hon'ble CERC held that contracting parties have a choice to mutually agreed on trading margin.

ii.

Order dated 31.12.2020 Order dated passed by the Commission in Petition No. 65/2019 wherein the Commission approved the Power Sale Agreement dated 26.06.2019 entered between the Petitioner and the Respondent No. 1 and fixed the trading margin.

- iii. Order dated 02.07.2021 passed by the Hon'ble Appellate Tribunal for Electricity (APTEL) in Appeal No. 52 of 2021 wherein the APTEL set aside the order dated 31.12.2020 of the Commission in Petition No. 65/2019.

Submissions by the Respondent

- 4. The Respondent No. 1, (SECI) vide Affidavit dated 14.05.2024, have submitted the following:
 - i. On 26.06.2019, TPDDL executed the PSA along with Addendum to the PSA with SECI for procurement of 200 MW Solar Power.
 - ii. The tariff based competitive bidding was held for ISTS Tranche-III Solar Scheme for procurement of an aggregate capacity of 1200 MW, SECI had issued the RfS dated 10.01.2019 for selection of SPD under the said ISTS Tranche-III Solar Scheme inviting the Bid for the above capacity. The RfS Document has been issued as per the Guidelines notified by Government of India.
 - iii. In pursuance to the Competitive Bidding, the following Bidders were declared successful for the capacity and the tariff mentioned herein:

S.No.	Bidders	Allotted Capacity (MW)	Tariff (INR/kWh
1.	ReNew Solar Power Private Limited	300	2.55
2.	Azure Power India Private Limited	300	2.58
3.	Eden Renewable Cite (P) Ltd.	300	2.60
4.	SBSR Power Cleantech Eleven (P) Ltd.	300	2.61
		1200MW	

- iv. The Solar Power Project of Respondent No.2 SBSR Power Cleantech Eleven Private Limited (hereinafter 'SBSR') under the PPA dated 20.08.2019 signed between SBSR and SECI has been identified for supply of solar power to TPDDL under the PSA. As per the PPA, the location of the power project is in the State of Rajasthan.
- v. The above identification of supply Solar Power from the power from SBSR's project to TPDDL is consistent with the mapping of the power projects to the buying utilities (TPDDL and other DISCOMs) based on the Long-Term Open Access Availability to the inter-state transmission system from the place of generation to the State Periphery of the respective Buying Utility. The decision of such mapping and identification of SPDs vis a vis the Buying Utility

is decided in coordination with the Powergrid Corporation of India Limited (hereinafter Powergrid).

- vi. The Hon'ble CERC in the decision dated 20.11.2019 passed in Petition No. 204/AT/2019 filed under Section 63 of the Electricity Act for the adoption of tariff for ISTS Tranche-III Solar Scheme, under which the power is being sold to the TPDDL in terms of PSA, has adopted tariff of the individual projects of each generator (bidder) selected in pursuance of the Competitive Bidding of the above scheme. The Central Commission has not approved the pooled tariff/Weighted Average Tariff. The relevant extract of the Order dated 20.11.2019 is as under:

"27. ...

Accordingly, in terms of Section 63 of the Act, the Commission adopts the following tariff for the Projects as agreed to by the successful bidders, which shall remain valid throughout the period covered in the PSAs and PPAs:

Sl.No.	SPD	Project Capacity (MW)	Applicable Tariff (INR/kWh)
1.	ReNew Solar Power Private Limited	300	2.55
2.	Azure Power India Private Limited	300	2.58
3.	Eden Renewable Cite (P) Ltd.	300	2.60
4.	SBSR Power Cleantech Eleven (P) Ltd.	300	2.61
	Total	1200	

28. the Petitioner has prayed to adopt the tariff at the pooled rate of Rs. 2.585/kWh. Since the tariff at the pooled rate of Rs. 2.585/kWh is not the tariff discovered through competitive bid process, we are not inclined to adopt the tariff at the pooled rate. We are adopting the tariff discovered through the tariff based competitive bid process for the individual power project as mentioned in the para 27."

- vii. The aspects namely the applicable tariff and trading margin stand decided by the Central Commission in terms of (a) adoption of Tariff under Section 63 read with Section 79 (1)(b) of the Electricity Act, 2003; and (b) the trading margin being also in terms of Regulation 8(1)(d) of Trading License Regulations, 2020 in exercise of Section 178 of Electricity Act, 2003.
- viii. TPDDL had filed Petition No. 65/2019 before the Commission seeking approval of PSA dated 26.06.2019 executed between SECI and the TPDDL.

The Commission vide its Order dated 31.12.2020 had disposed of the Petition No. 65 of 2019 in the matter of TPDDL Vs. SECI with following direction. The relevant part of the order is extracted below:

“24. In view of the aforesaid discussions, a Trading Margin of 2 paise/kWh is allowed to SECI; and the PSA dated 26/06/2019 is approved subject to the condition that the applicable tariff shall be as approved by CERC with a trading margin of 2 paise/kWh. Consequently, the clauses of Article 1 of the PSA related to applicable Tariff shall be modified accordingly. It is also held that the Order dated 20/11/2019 of CERC has bearing in respect of Tariff for procurement of solar power for which the Petitioner TPDDL has entered into PSAs with SECI.....”

The Hon'ble Tribunal vide Judgement dated 02.07.2021 passed in Appeal No. 52/2021 has set aside the above Order dated 31.12.2020 of the Commission to the extent Trading Margin of Rs. 0.07/kWh agreed by the parties was reduced.

- ix. In pursuance to the decision of this Commission in the above Order that the applicable tariff shall be as approved by the Central Commission, SECI and TPDDL have proposed to execute the Supplementary PSA, inter-alia, providing as under:

1.0 The Article 1 and 2 of the PSA dated 26.06.2019 shall stand substituted as under:

ARTICLE 1: APPLICABLE TARIFF

1.1.1 From SCD, the Buying Entity namely TPDD shall pay the individual tariff as specified in Schedule-2 to this Supplemental Agreement of the project from where the supply of electricity is sold by SECI to TPDDL and in addition to the same a trading margin of Rs. 0.07 per kWh for the entire term of this agreement.

1.1.2 The Buying Entity namely TPDDL shall make the Tariff payments to SECI as per Schedule-2 plus trading margin of Rs. 0.07 per kWh (Seven paisa per kWh) upon Commissioning of the respective projects for the term of this Agreement for the energy made available by SECI to TPDDL as per the provisions of this Agreement.

2.0 The Schedule-2 of the PSA shall stand substituted as under: List of SPD and applicable tariff.

S.No.	Name of Bidder	Project Capacity (MW)	Applicable Tariff as per SECI SPD PPA (Rs./kWh)	Quantum allocated to TPDDL for Resale (MW)	Maximum Energy (Million kWh)	Minimum Energy (Million kWh)till 10 years from SCD	Minimum Energy (Million kWh) beyond10 years from SCD
1.	SBSR	300	2.61	200	522.63	403.85	380.09
	Total			200	522.63	403.85	380.09

3.0 Subject to the above substitution, the parties agree that all the terms and conditions contained in the PSA dated 26.06.2019 shall continue to be effective and enforceable as before.

4.0 The terms of the Supplemental Agreement shall be read as a part of the PSA dated 26.06.2019 entered into between the parties for all intent and purposes.

- x. As on date 150 MW out of 300MW from SBSR has been commissioned and proportionate sale (100MW) is being made to TPDDL. The balance 150MW is a subject matter of a proceedings before the Central Commission being Petition No. 192/MP/2021 in the matter of M/s SBSR Power Cleantech Eleven Private Limited vs. SECI and others and Petition No. 235/MP/2023 in the matter of TPDDL vs. M/s SBSR Power Cleantech Eleven Private Limited and others. The above two petitions are pending. The Commission may be pleased to approve the Supplementary PSA to be executed between TPDDL and SECI to the PSA dated 26.06.2019.

Commission's Analysis:

5. The Petitioner TPDDL, u/s Section 86(1)(b) of Electricity Act, 2003 in terms of DERC Comprehensive (Conduct of Business) Regulations, 2001 has filed the instant Petition seeking approval of the Supplementary Power Sale Agreement (SPSA) to be executed with the Respondent No.1, SECI.
6. The PPA signed between SECI and SBSR and as also the PSA signed between the Petitioner and SECI are back to back arrangement/contracts. The Hon'ble CERC in the decision dated 20.11.2019 in Petition No. 204/AT/2019 filed under Section of the Electricity Act for the adoption of tariff ISTS Tranche-III Solar Scheme, under which the power is being sold to the TPDDL in terms of PSA, has adopted tariff of the individual projects of each generator (bidder) selected in pursuance of the Competitive Bidding of the above scheme.
7. The Commission vide its Order dated 31.12.2020 had disposed of IA No. 1 of 2020 in Petition No. 65 of 2019 in the matter of TPDDL Vs. SECI with the following directions. The relevant part of the order is extracted below:
- “24. In view of the aforesaid discussions, a Trading Margin of 2 paise/kWh is allowed to SECI; and the PSA dated 26/06/2019 is approved subject to the condition that the applicable tariff shall be as approved by CERC with a trading margin of 2 paise/kWh.

Consequently, the clauses of Article 1 of the PSA related to applicable Tariff shall be modified accordingly. It is also held that the Order dated 20/11/2019 of CERC has bearing in respect of Tariff for procurement of solar power for which the Petitioner TPDDL has entered into PSAs with SECI. Therefore, the Tariff as approved by CERC with a trading margin of 2 paise/kWh shall be applicable also to the PSAs approved by this Commission vide Orders dated 01/03/2019 in Petitions No. 24 of 2019 and 25 of 2019

The Petition is disposed of accordingly with the direction to the Petitioner to submit duly signed copy of PSAs modified as indicated above to the Commission within a period of one month."

- 8. Thereafter, SECI filed an Appeal No. 52 of 2021 before the Hon'ble APTEL against the Commission's order dated 31.12.2020 in Petition No. 65 of 2019 whereby the Commission had reduced the Trading Margin in respect of the Appellant from Rs. 0.07/unit to Rs. 0.02/unit. On 02.07.2021, Hon'ble APTEL has passed its judgement in the abovementioned appeal and set-aside the order dated 31.12.2020 passed by this Commission with respect to lowering the Trading Margin and restored the trading margin to 7paise/kWh.
- 9. The Commission filed Civil Appeal bearing No. 6310 of 2021 against the Hon'ble APTEL's Judgement dated 02.07.2021 in Appeal No. 52 of 2021 before the Hon'ble Supreme Court. The Respondent No 1 (SECI), filed two IAs bearing Nos. 102603/2022 and 77402/2023 praying that the Petitions on the subject pending before the Commission may be disposed of subject to the final outcome of the instant Civil Appeal filed by the Commission. The said IAs were disposed of on 04.05.2023 by the Hon'ble Supreme Court with the following directions:

"Having heard learned counsel for the respective parties and in the facts and circumstances of the case, we direct the appellant- Delhi Electricity Regulatory Commission to decide and dispose of the petitions filed before it for approval of procurement of renewable power in other schemes involving SECI, as stated in para 9 of the present Application, in accordance with law and on its own merits, however, subject to the ultimate outcome of the present proceedings. IAs stand disposed of."
- 10. Accordingly, the Commission listed the matter on 30.05.2023, 13.07.2023, and 01.05.2024 wherein, the order was reserved.
- 11. Further, it has been submitted by the Respondent No. 1, SECI, vide its Affidavit dated 14.05.2024, that as on date 150 MW out of 300MW from SBSR has been commissioned and proportionate sale (100MW) is being made to TPDDL. The

balance 150MW is a subject matter of proceedings before the Central Commission.

12. In view of the foregoing discussion and also the fact that Hon'ble APTEL vide its Judgement dated 02.07.2021 in Appeal No. 52 of 2021 has set aside the Order of the Commission dated 31.12.2020 in IA No. 1 of 2020 in Petition No. 65 of 2019 wherein the Commission had reduced the trading margin from Rs. 0.07/kWh to Rs. 0.02/kWh, the Commission grants approval to the Supplementary PSA to be executed between Petitioner and the SECI for 200 MW power from SBSR at a total tariff of Rs.2.68/kWh viz. tariff of Rs. 2.61/kWh plus Rs. 0.07/kWh as trading margin. However, the trading margin of Rs. 0.07/kWh shall be subject to the final outcome in the Civil Appeal No. 6310 of 2021, as directed by the Hon'ble Supreme Court of India vide its Order dated 04.05.2023.
13. Further, as the sale of balance 100 MW under the PSA dated 26.06.2019 executed between the Petitioner and Respondent No.1 is yet to start and as submitted by Respondent no. 1 that it is a subject matter of proceedings before the Central Electricity Regulatory Commission, the parties are directed to inform this Commission through an Affidavit regarding commencement of the sale of the aforesaid balance 100MW to the Petitioner within 30 days of its so commencing.
14. Ordered Accordingly.

Sd/-
(Justice (Retd.) Jayant Nath)
Chairperson