



Delhi Electricity Regulatory Commission

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

No. F.11(1716)/DERC/2019-20/CF 6581/

Petition No. 61/2019

In the matter of : **Petition under Section 86 read with Section 63 of the Electricity Act, 2003 for seeking adoption of tariff for purchase of 150 MW of Wind Power through Solar Energy Corporation of India Ltd, from the Wind power developer identified under tariff based competitive bidding process and for the approval of the Power Sale Agreement dated 28.03.2018 in terms of the DERC (Renewable Purchase Obligations and Renewable Energy Certificate Framework Implementation) Regulations, 2012 read with DERC Comprehensive (Conduct of Business) Regulations, 2001.**

BSES Rajdhani Power Limited

....Petitioner

Versus

1. Solar Energy Corporation of India

2. Alfanar Energy Private Ltd.

...Respondents

Coram:

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

Appearance:

Mr. Buddy A Ranganadhan, Advocate, BRPL

Ms. Anushree Bardhan, Advocate, SECI

ORDER

(Date of Order: 08.01.2024)

1. The instant Petition has been filed by BSES Rajdhani Power Ltd. ('BRPL' for short) under Section 86 read with Section 63 of the Electricity Act, 2003 ('EA 2003' for short) seeking adoption of the tariff for purchase of 150 MW of Wind Power through Solar Energy Corporation of India Ltd ('SECI' for short, Respondent No 1) from a the Wind Power Developer Alfanar Energy Pvt Ltd (Respondent No 2), identified under tariff based competitive bidding process and, also, for the approval of the Power Sale Agreement ('PSA' for short) dated 28.03.2018 in terms of the DERC (Renewable Purchase Obligations and Renewable Energy Certificate Framework Implementation) Regulations, 2012 ('RPO Regulations' for short) read with DERC Comprehensive (Conduct of Business) Regulations, 2001 ('Business Conduct Regulations' for short). In sum, the Petitioner has made the following prayer:

- a. Adopt the tariff of Rs. 2.443/kWh plus the trading margin of Rs. 0.07/kWh (ie, a total of Rs. 2.52/kWh under Section 63 of the Electricity Act, 2003 for procurement of power by the Petitioner from the SECI and pass a suitable order in this regard;
- b. To approve the terms and conditions of the PSA dated 28.03.2018 executed between the Petitioner and Respondent No 1 (SECI).

Submissions by the Petitioner

2. The Petitioner has submitted that: -

- i. The Petitioner is a Distribution Licensee under the provisions of the EA 2003, having its area of supply in South Delhi and West Delhi.
- ii. SECI is a Central Public Sector Undertaking under the administrative control of the Ministry of New and Renewable Energy (hereinafter 'MNRE' for short). SECI was set up on 20 September 2011 in order to, inter alia, facilitate the implementation of the Jawaharlal Nehru National Solar Mission and to achieve targets set out therein. SECI is designated as a trader for the purchase and sale of wind power from various projects and is responsible for the implementation of a number of schemes of the MNRE.
- iii. On 1 October 2012, the Commission notified the RPO Regulations. Under the same, the Distribution Licensees like the Petitioner are required to procure electricity from renewable sources, or in lieu thereof, by way of its own generation or even by way of purchase from other sources or by way of purchase of Renewable Energy Certificates ('RECs' for short) or by way of a combination of any of the above methods. The RPO Regulations also provide that any long-term power purchase agreement(s) shall be made only with the approval of the Commission.
- iv. In addition to the RPO Regulations, the Commission has also notified the DERC Business Plan Regulations, 2017 ('Business Plan Regulations' for short) which, inter-alia, specify the minimum percentage of renewable power to be procured excluding procurement of hydro power.
- v. On 08 December 2017, the Ministry of Power ('MOP' for short) issued Guidelines ('MOP Guidelines' for short) for Tariff Based Competitive Transparent Bidding Process for Procurement of Power from the Grid

Connected Wind Power Projects. The said MOP Guidelines were issued under Section 63 of the EA 2003 for long-term procurement of electricity through competitive bidding process.

- vi. On 27 December 2017, the Petitioner wrote a Letter to the Department of Power, GoNCTD, requesting it to forward to SECI, the Application (made by the Petitioner in this regard) for purchase of 150 MW to SECI.
- vii. On 12 January 2018, Respondent No1 (SECI) floated its Request for Selection Document ('RfS' for short).
- viii. On 20 February 2018, Respondent No 1 (SECI) confirmed to the Petitioner the allocation of 150 MW Wind Power.
- ix. On 28 March 2018, the Petitioner signed a PSA with Respondent No 1 (SECI), wherein the Petitioner, subject to approvals from the Commission, agreed to buy 150MW of wind power from SECI at a pooled tariff of Rs. 2.443/kWh plus a trading margin of Rs. 0.07/kWh.
- x. On 31 May 2018, Respondent No1 (SECI) entered into a PSA with Respondent No. 2 (Alfanar Energy Pvt Ltd), on back-to-back basis.
- xi. On 04 April 2018, the Petitioner submitted a Letter to the Commission seeking approval of the said PSA and the same was replied by the Commission advising the Petitioner to file an appropriate Petition before the Commission. Hence the Petition.
- xii. The Petitioner submits that under Section 63 of the EA, 2003, the Commission is required to adopt the tariff that has been determined through a competitive bidding process that too in compliance of the MoP Guidelines. The Petitioner submits that respondent No 1 (SECI) has followed the said MOP Guidelines and that the PSA is the result of the said competitive bidding process.
- xiii. That the following comparative table shows that the Respondent No1 (SECI) has followed the MOP Guidelines in conducting the bidding process:

MoP Guidelines	RfS floated by SECI
Clause 1.6: These Guidelines have been formulated for procurement of wind power through transparent process of bidding under Section 63 of the Act.	Clause 1.1.4 Ministry of Power (MoP) has issued "Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Power Projects" vide

	<p>Gazette Resolution dated 08.12.2017. These Guidelines have been formulated for procurement of wind power through transparent process of bidding under Section 63 of the Electricity Act, 2003 for long-term procurement of electricity through competitive bidding process by the 'Procurer(s)'. from grid-connected Wind Power Projects (WPP) having (a) individual size of 5MW and above at one site with minimum bid capacity of 25MW for intra-state projects; and (b) individual size of 50MW and above at one site with minimum bid capacity of 50MW for inter-state projects. This Request of Selection document (hereinafter called RfS) has been prepared in line with the guidelines issued by MoP dated 08.12.2017.</p>
<p>Clause 3.1(c)(ii): The Intermediary Procurer shall enter into a PPA with the WPG(s) and also enter into a Power Sale Agreement (PSA) with the distribution licensee(s). The PSA shall contain the relevant provisions of the PPA on a back to back basis.</p>	<p>Clause 1.3.4 Buying Entities which require wind power to fulfil their non-solar RPO under respective RPO regulations will be eligible to buy wind power under this scheme. SECI shall sign PPAs with the WPDs at the respective tariffs discovered after e-reverse auction and back-to-back Power Sale Agreements (PSAs) with the Buying Entities at a pooled price of the total capacity allotted.</p>
<p>Clause 7.1 : PPA Period</p> <p>As the PPA period influences the tariff by determining the period over which the investment is returned to the investor, longer PPA is favoured for lower tariffs. The PPA period should thus be not less than 25 (twenty-five) years from the date of the Scheduled Commissioning Date (SCD) or from full commissioning of the projects, whichever is earlier.</p>	<p>Clause 1.3.2</p> <p>SECI shall enter into Power Purchase Agreement (PPA) with the WPDs for a period of 25 years from the date as per the provisions of PPA.</p>
<p>Clause 8 Bidding Process</p> <p>8.1 The Procurer shall call for the bids adopting a single stage two envelop bidding process to be conducted through Electronic mode (e-bidding). The Procurers may also opt e-reverse auction."</p>	<p>Clause 3.21(i) Structure of the Bid Selection process</p> <p>Single state, double envelope bidding followed by e-reverse auction has been envisaged under this RfS. Bidders have to submit both Techno-commercial bid and Financial bid together in response to this RfS online.</p>
<p>Clause 9.2 Qualification requirements to be met by the Bidders.</p>	<p>Qualifying Requirements for Bidders (Clause 3.5)</p>

Clause 9.2.1: Technical Criteria	Clause B : Technical Eligibility Criteria
Clause 9.2.2: Financial Criteria	Clause C: Financial Eligibility Criteria
Clause 9.1: Bid Responsiveness: The bid shall be evaluated only if it is responsive and satisfies conditions including inter alia: <ul style="list-style-type: none"> • Bidder or any of its Affiliates is not a willful defaulter to any lender. • There is no major litigation pending or threatened against the bidder or any of its Affiliates which are of a nature that could cast a doubt on the ability or the suitability of the bidder to undertake the project. 	Clause 3.5.8: The Bidder or any of its Affiliates should not be a willful defaulter to any lender, and that there is no major litigation pending or threatened against the Bidder or any of its Affiliates which are of a nature that could cast a doubt on the ability or the suitability of the Bidder to undertake the Project. The Bidder shall submit an undertaking to this effect.
Clause 17: The Commercial Operation Date (COD) shall be considered as the actual date of commissioning of the project as declared by the Commissioning Committee constituted by SNA. In case of part commissioning COD will be declared only for that part of the project capacity.	Clause 3.18: The Commercial Operation Date (COD) shall be considered as the actual date of the commissioning of the project as declared by the SNA/Commissioning Committee. In case of part commissioning, COD will be declared only for that part of project capacity.
Clause 19 : Procurers shall promote commercially established and operational technologies to minimize the technology risk and to achieve the commissioning of the Projects.	Clause 3.5.9(B): Under the provisions of this RfS, it is proposed to promote only commercially established and operational technologies to minimize the technology risk and to achieve timely commissioning of the Projects. The Bidder shall provide information about the wind turbines proposed to be installed in the project at the time of Financial Closure.

xiv. The petitioner further submits that the PSA is also aligned with the RfS issued by Respondent No 1 (SECI) as well as the MOP Guidelines as is discernible from the comparative table hereunder:

Particulars	RfS	PSA
COD	The Commercial Operation Date (COD) shall be considered as the actual date of commissioning of the project as declared by the SNA/Commissioning Committee. In case of part commissioning, COD will be declared only for that part of project capacity.	COD shall mean the actual date of commissioning of the project as declared by the Commissioning Committee constituted by the State Nodal Agency (SNA). In case of part commissioning, COD will be declared only for that part of project capacity.
Delivery/Metering	Delivery Point means the	Delivery Point shall mean the

Point	point at 220 kV or above where the power from the Wind Power Project(s) will be injected into the ISTS (including the dedicated transmission line connecting the wind power Project with the substation system). Metering shall be done at this interconnection point where the power will be injected into. For interconnection with grid and metering, the WPDs shall abide by the relevant CERC Regulations, Grid Code, and Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended from time to time.	point at 220KV or above where the power from the wind power project(s) will be injected into the ISTS. Metering shall be done at this interconnection point where the power will be injected into the ISTS i.e., the Delivery point. For interconnection with grid and metering, the WPD shall abide by the relevant CERC Regulations, Grid Code, and Central Electricity Authority Regulations as amended from time to time.
Transmission Charges	The Buying Entity will be responsible for all transmission charges and losses and any other charges as applicable under the respective regulations beyond Delivery Point and up to the Drawl Point.	Buying Entity shall be liable to bear all the transmission losses in respect of the power evacuated from the Delivery Points to its receiving substations(s)
Term	25 Years	25 Years

xvii The Petitioner claims that tariff arrived at under PSA is market aligned and is one of the most competitive in the renewable energy category. Therefore, the adoption of the PSA by the Commission is not only in the Petitioner's interest but in the consumer interest as well. Further, this also enables the Petitioner to fulfil its RPO targets.

xviii The Commission has the jurisdiction in terms of Section 63 read with Section 86 of the EA 2003 to not only approve the PSA but also adopt the competitively discovered tariff. This is on account of the fact that the PPA (entered into between SECI and the Wind Power Developer) and the PSA (entered into between the Petitioner and SECI) are back-to-back arrangements/contracts and since the beneficiary of the same (ie. the Petitioner) is within the jurisdiction of the Commission, it is the Commission which has jurisdiction over the matter. As regards the question of jurisdiction, the Petitioner refers to the decision of the Hon'ble Appellate

Tribunal for Electricity PTC vs. UERC & Ors., Appeal No. 168 of 2014 (and batch) wherein the said Hon'ble Tribunal held, *inter-alia*, as under;

"16. This Tribunal has taken a view that so long as there is nexus between the first sale and second sale, or they are back to back arrangements, the State Commission where the distribution licensee is located would have jurisdiction over the transactions."

- xix. The Petitioner seeks to draw the kind attention of the Commission to a similar case of BRPL being Petition No. 04/2019 dated 11.01.2019 wherein the Commission has already approved a similar the PSA and adopted the tariff thereon. Further, the facts of the said Petition and the present Petition are similar to the extent that in both the cases the PPA and the PSA are back-to-back arrangements and, in the said Petition, this Hon'ble Commission had held that it had the jurisdiction to not only approve the PSA but also adopt the tariff which was the result of competitive bidding.
- xx. The correlate between the PPA and the PSA (i.e., the first sale and the second sale) becomes evident from the following comparison:

Particulars	PPA	PSA
Recital	Recital F:SECI has agreed to purchase such Wind Power from WPD as an intermediary Seller and sell it to Buying Utilities on back to back basis as per the provisions of the above stated scheme, accordingly SECI has agreed to sign a Power Sale Agreement with Buying Entity(ies) to sell such power as per the provisions of the above said scheme.	Recital D:Copy of the PPA(s) shall be submitted to the Buying Entity within thirty (30) days of the signing of the PPA(s) and such PPA(s) shall become interal part of this Agreement (Buyer-Buying Entity PSA).
Term	25 years	25 years
Tariff	Rs. 2.45/kWh	Rs. 2.45/kWh
Rebate	(a) 2% if payment made with 10 days; (b) 1% if payment made after 10 days but before or upto Due Date. (c) No rebate on bills raised on account of	(a) 2% if payment made with 3 days of presentation of Bill; (b) 1% if payment made after 3 days but before or upto Due Date. (c) No rebate on bills

	Change in Law relating to taxes, duties, cess etc. and on Supplementary Bills.	raised on account of Change in Law relating to taxes, duties, cess etc and on Supplementary Bills.
LCs	Subject to opening and maintenance of Letter of Credit by the Buying Entities (as per terms of Buyer-Buying Entity PSA) in favour of the Buyer, the Buyer shall provide to the WPD, in respect of payment of its Monthly Bills and/or Supplementary Bills, a monthly unconditional, revolving and irrevocable letter of credit ("Letter of Credit"), opened and maintained which may be drawn upon by the WPD in accordance with this Article.	Buying Entity shall provide to SECI, in respect of payment of its Monthly Bills, an unconditional, revolving and irrevocable Letter of credit ("Letter of Credit"), opened and maintained by the Buying Entity, which may be drawn upon by SECI in accordance with this Article. Buying Entity shall provide SECI draft of the Letter of Credit proposed to be provided to SECI two (2) months before Scheduled Commissioning Date.
Quarterly and Annual Reconciliation	Within 30 days of the end of each quarter.	Within 30 days of the end of each quarter.
Termination		In case of termination of SECI-WPD PPA, this Agreement shall automatically terminate but only to the extent of that particular SECI-WPD PPA.
Governing law and jurisdiction	Indian Law and Courts in Delhi to have jurisdiction.	Indian Law and Courts in Delhi to have jurisdiction.

3. The Petitioner filed an Additional Affidavit filed on 09.08.2021 wherein it has submitted that:
 - i. The tariff agreed upon in the PSA was a pooled fixed tariff. However, on 28 February 2020 viz. subsequent to the filing of the instant Petition, the Hon'ble Central Electricity Regulatory Commission ('Hon'ble CERC' for short) in IA NO. 85/2019 in Petition No. 161/AT/2019 approved the individual tariff for the entire tranche of the procurement process by Respondent No 1 (SECI) including the procurement process which, it is pertinent to submit, forms the subject matter of the present Petition also. In other words, by way of its Order, the Hon'ble CERC approved the tariff discovered by each individual

successful bidder (Alfanar Company in the present case) as opposed to the pooled tariff which formed the subject matter of the PSA.

- ii. In view of the fact that the PSA entered by the Petitioner had the pooled tariff as the applicable tariff and, further, the fact that the Hon'ble CERC had adopted the tariff bidder wise, the Petitioner and the SECI then entered into a Supplemental PSA dated 02 August 2021 ('Supplemental PSA' for short) wherein the tariff agreed upon in the original PSA was modified to reflect the tariff as adopted by the Hon'ble CERC.
- iii. The said Supplemental PSA dated 02 August 2021 could not have been placed by the Petitioner at the time of filing (21 August 2019) of the Petition. Hence the said PSA was sought to be placed on record by way of an Additional Affidavit.

Submissions by Respondent No. 1, SECI

- 4. The Respondent No. 1, SECI, vide Affidavit dated 14.01.2020, 25.08.2021 and 26.07.2023, have submitted the following:
 - i. The present Petition has been filed by the Petitioner for approval for procurement of 150MW Wind Power from SECI under Power Sale Agreement dated 28.03.2018 read with Addendum dated 28.03.2018 to PSA read with Supplementary PSA dated 02.08.2021.
 - ii. Wind Power Project of Respondent No. 2- Alfanar Energy Private Limited (Alfanar Energy) established under Power Purchase Agreement (PPA) dated 31.05.2018 executed between Alfanar Energy and SECI has been identified for supply of 150 MW Wind Power to the Petitioner under the PSA.
 - iii. Commercial Operation Date (COD) of 300 MW Wind Power Project of Alfanar Energy is as under
 - a) 29.07.2020 - 88 MW
 - b) 03.08.2020 - 50.6 MW
 - c) 05.09.2020 - 29.6 MW
 - d) 12.09.2020 - 15.4 MW
 - e) 02.10.2020 - 15.4 MW
 - f) 21.10.2020 - 15.4 MW
 - g) 19.11.2020 - 20.2 MW
 - h) 30.12.2020 - 15.6 MW
 - i) 23.02.2021 - 11.4 MW

- j) 05.03.2021 - 11 MW
 - k) 26.03.2021 - 15.40 MW
 - l) 01.04.2021 - 12 MW
- iv. SECI is procuring power from the power project of Alfamar Energy under the PPA for resale of the power to the Petitioner under the PSA. In terms of the above, the power flow to the Petitioner has commenced and is continuing under the PSA.
- v. The Hon'ble CERC vide its Order dated 28.02.2020 passed in Petition No. 161/AT/2019 and IA NO. 85/2019 has adopted tariff of the individual project of each generator (bidder) including tariff of Alfamar Energy selected in pursuance of the Competitive Bidding for Tranche-III Wind Scheme, under which the power is being sold to the Petitioner, BRPL in terms of PSA dated 28.03.2018. The Hon'ble CERC in the decision dated 28.02.2020 has, inter-alia, held as under:

"23. 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.	WPD	Project Capacity (MW)	Applicable Tariff (INR/kWh)
1.	Renew Wind Energy AP2 Private Limited	100	2.44
	Renew Wind Energy AP2 Private Limited	300	2.44
2.	Green Infra Wind Energy Limited	300	2.44
3.	Inox Wind Infrastructure Services Limited-1	50	2.44
	Inox Wind Infrastructure Services Limited-2	50	2.44
	Inox Wind Infrastructure Services Limited-3	50	2.44
	Inox Wind Infrastructure Services Limited-4	50	2.44
4.	Torrent Power Limited	300.3	2.44
	Torrent Power Limited	199.5	2.44
5.	Adani Green Energy (MP) Limited	250	2.45
6.	Alfamar Company	300	2.45
7.	Betam Wind Energy Private Limited	50.2	2.45
	Total	2000	

28. SECI has prayed to adopt the trading margin of Rs. 0.07/kWh. Regulation 8(1)(d) of the Trading Licence Regulations provides as under:

"8(1)(d) For the transactions under long-term contracts, the trading margin shall be as mutually decided between the Trading licensee and the seller:"

The above provision gives choice to the contracting parties to mutually agree on Trading Margin for long-term transaction. Accordingly, the Commission cannot adopt any Trading Margin. The Petitioner shall be governed by the above provisions of the Trading Licence Regulations. In view of the above, the prayer of SECI to adopt the Trading Margin is decided accordingly."

- vi. The Commission may be pleased to approve the procurement of 150 MW Wind Power at tariff of Rs. 2.45/kWh plus Trading Margin of rs. 0.07/kWh by the Petitioner from SECI under the PSA dated 28.03.2018 read with Addendum dated 28.03.2018 to PSA read with Supplemental PSA dated 02.08.2021.

Commission Analysis

5. The Petitioner is seeking approval of the PSA dated 28.03.2018; as amended vide the Supplementary PSA dated 02 August 2021 executed between the Petitioner and Respondent No 1 (SECI) for purchase of 150 MW Wind Power on long term basis in terms of the RPO Regulations read with Conduct of Business Regulations. The Supplementary PSA reveals that the Petitioner shall pay the fixed tariff of Rs 2.45/kWh plus trading margin of Rs 0.07/kWh of the procurement of 150 MW Wind Power on long term basis and the wind power is to be supplied by Alfanar Company Ltd (Wind Power Developer).
6. The Hon'ble CERC, in the decision dated 28.02.2020 in Petition No.161/AT/2019 has adopted the tariff of each of the generators discovered in pursuance to the competitive bid process under Section 63 of the Electricity Act, 2003.
7. During the pendency of the Petition, the parties entered into a Supplementary Power Sale Agreement on 02.08.2021 incorporating certain terms and conditions agreed between them. As per Supplementary PSA dated 02.08.2021 the tariff payable by the Petitioner is as follows;

S. No.	Name of the Wind Power Developer	Quantum allocated to BRPL for resale (MW)	Applicable tariff as per SECI-WPD PPA (Rs. /kWh)	Trading Margin (Rs. /kWh)	Total Applicable Tariff payable under PSA to SECI (Rs. /kWh)
1.	Alfanar Company Ltd.	150	2.45	0.07	2.52

8. The Commission, vide its Order dated 31.12.2020, in Petition No. 65 of 2019 in the matter of TPDDL Vs. SECI had, inter-alia, passed the following direction:

"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."

9. Thereafter, Respondent No 1 (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 on 02.07.2021. Hon'ble APTEL set-aside the said order with respect to lowering the Trading Margin and, also, restored the trading margin to 7paise/kWh.
10. 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."

11. Accordingly, the Commission listed the matter on 25.05.2023, 13.07.2023, and 06.12.2023 wherein, the Commission admitted the Petition, directed the parties to submit affidavits in support of their oral contentions that the power is currently flowing from the generators, file short written submissions and reserved the Order. The Petitioner has filed their written submissions on 05.12.2023.
12. The Petitioner submitted that the terms and conditions of PSA dated 28.03.2018 and Supplementary PSA dated 02.08.2021 between SECI and the Petitioner is intended to meet the Renewable Purchase Obligation of the applicant and the fact that tariff is discovered through competitive bidding and are composite in nature, therefore, the tariff as held in Petition No.161/AT/2019 by CERC would be applicable in the instant PSA.
13. 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 PSA, for procurement of 150MW of Wind Power, dated 28.03.2018 and the Supplementary PSA dated 02.08.2021 between Petitioner and the SECI is hereby approved at a total tariff of Rs. 2.52/kWh viz. tariff of Rs. 2.45/kWh, plus Rs. 0.07/kWh as trading margin as per Hon'ble APTEL Judgement dated 02.07.2021. 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 vide its Order dated 04.05.2023.
14. Ordered Accordingly.

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