

BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION AT PANCHKULA

Case No. HERC/Petition No. 68 of 2024

(Remand back Petition No. 9 of 2016)

Date of Hearing : 07.05.2025

Date of Interim Order : 13.05.2025

IN THE MATTER OF:

Judgement dated 03.09.2024 passed by Hon'ble APTEL in Appeal No. 208 of 2017 (Virender Rawal and ors. vs. HERC & HPPC) against the order of the Commission dated 19.09.2016 in Petition No. 9 of 2016.

And

In the matter of

Petition No. 9 of 2016 seeking approval of the Power Purchase Agreement filed with 13 Nos. Solar Power Developers for procurement of 165 MW power in pursuance to a Competitive Bidding Process.

Petitioner

Haryana Power Purchase Centre, Panchkula (HPPC)

Original Respondent

Nil

Respondents (Appellants in the appeal before Hon'ble APTEL)

1. Sh. Virender Rawal, VPO Kabri, Panipat, Haryana -132103
2. Sh. Karan Singh, VPO Pasina Kalan, Teh. Bhopali, Panipat, Haryana - 132108
3. Ms. Anita Singh, VPO Didwara, Teh. Safidon, District Jind, Haryana -126112
4. Ms. Geeta Rani, House no 1245, Sector 31, Gurgaon, Haryana - 122001
5. Sh. Deepak Goyal, 1/7468, Gali no 15, East Gorakh Park, Shahdara, Delhi - 110032
6. Sh. Jile Singh, House no 153, Hewo Apartment, Sector-15, Gurugram, Haryana - 122001

Present on behalf of the Petitioner (HPPC)

1. Shri Nishant Sharma, Advocate
2. Shri Gaurav Gupta, Xen, HPPC

Present on behalf of the Respondents

1. Ms. Aerika Singh, Advocate on behalf of respondent nos 1,2,4,5 and 6.
2. Sh. Parteek Singh on behalf of respondent no. 3.

Quorum

**Shri Nand Lal Sharma
Shri Mukesh Garg**

**Chairman
Member**

ORDER

1. The case was heard on various dates viz. 13.01.2025, 20.02.2025, 26.03.2025 and finally on 07.05.2025, as scheduled, in the court room of the Commission.
2. At the outset, the Commission observes the judgement of the Hon'ble Appellate Tribunal for Electricity (APTEL) dated 03.09.2024, wherein the APTEL has observed as under: -
"26. Hence, we find the impugned order of the Commission absolutely erroneous which cannot be sustained. The same is hereby set aside. The appeal stands allowed. The case

is remanded back to the Commission with the direction to issue a fresh order thereby approving the PPAs signed between the appellant and the 2nd respondent.”

3. The Commission observes that Hon'ble APTEL, in its ibid order has issued direction to issue fresh order approving the PPA signed between the appellant (the project developers) and 2nd respondent (HPPC), whereas no signed PPA exists between the appellant (s) and 2nd respondent and only Letter of Intent (LOI) was issued by HPPC. Further, in the ibid order of Hon'ble APTEL, no direction has been given w.r.t. the tariff at which the PPA is to be approved.
4. Ms. Sonia Madan, the learned counsel appearing on behalf of HPPC submitted that a civil appeal bearing no. 12223/2024 has been filed before Hon'ble Supreme Court praying to set aside the impugned judgement of Hon'ble APTEL dated 03.09.2024. Ms. Madan further averred that in case the project developers are agreeing to sign PPA with HPPC at the tariff discovered in the upcoming bidding process, then they will not press for stay on impugned order dated 03.09.2024.
5. Ms. Aerika Singh, the learned counsel appearing on behalf of respondent nos. 1, 2, 5 and 6 as well as Sh. Parteek Singh representative of respondent no. 3 fairly conceded that in order to arrive at a logical conclusion to the ongoing disputes, the proposal of HPPC is acceptable to them and they are willing to match the lowest discovered tariff in the latest bidding conducted by HPPC i.e. Rs. 2.99/kWh and as such, the Hon'ble Commission may approve the PPA between the parties with tariff being the lowest discovered tariff i.e. @ Rs. 2.99/kWh. It has been further pleaded that the respondents, who have agreed to match the lowest tariff discovered in the upcoming bidding of HPPC may be allowed to form / incorporate a new project company in terms of Clause 2.9 of the NIT No. 54/CE/HPPC/LTP dated 26.05.2015.
6. Ms. Aerika Singh, also making appearance on behalf of respondent no 4 (Ms. Geeta Rani), vehemently argued for implementation of the order of Hon'ble APTEL dated 03.09.2024 with tariff of Rs. 5/kWh. In order to take a view on the same, the Commission, vide its interim order dated 26.03.2025, directed them to file the following information/documents, duly substantiated by the payment proof:

Sr no	Particulars	Details
1	Capacity of the project	
2	Date of allotment	
3	Estimated cost at the time of allotment	
4	Expenditure incurred so far	
5	Details of expenditure of land	
6	Date of purchase/lease of land	
7.	In case of land taken on leave, period of lease, year-wise cost incurred and lease period still pending	
8.	Expenditure on civil work	
9.	Expenditure incurred on procurement of modules	
10	Any other expenditure incurred on the project	

7. The Commission observes that R-4 (Ms. Geeta Rani) has not filed the information/documents directed in the interim order dated 26.03.2025. Ms. Aerika Singh,

Advocate appearing on behalf of respondent no 4, expressed its inability to submit the requisite information and relied heavily on the order of Hon'ble APTEL dated 03.09.2024 for approval of PPA with tariff of Rs. 5/kWh and the following information/documents submitted earlier: -

- a) A company by the name of "Royalton Solar Private Limited" was got incorporated by the respondent no. 4. However, its present status is "strike-off".
 - b) The following unconditional and irrevocable bank guarantees were submitted by the respondent no. 4 in the favour of the Chief Engineer HPPC which were extended from time to time and the following amounts were kept aside in the bank account of the respondent no.4/ company in the hope that Respondent would be allowed to set up the power plant and generate the power at the tariff discovered through competitive bidding: -
 - i. Oriental Bank of Commerce's BG No. 09870001316 dated 05.02.2016 amounting to Rs.3,00,000/- (Rupees Three Lakhs Only)
 - ii. Oriental Bank of Commerce's BG No. 09870001616 dated 05.02.2016 amounting to Rs.6,00,000/- (Rupees Six Lakhs Only).
 - iii. Oriental Bank of Commerce's BG No. 09870001416 dated 05.02.2016 amounting to Rs.9,00,000/- (Rupees Nine Lakhs Only).
 - iv. Oriental Bank of Commerce's BG No. 09870001516 dated 05.02.2016 amounting to Rs.12,00,000/- (Rupees Twelve Lakhs Only).
 - v. Oriental Bank of Commerce's BG No. 1280000215 dated 04.09.2015 for Rs. 10,00,000/- (Rupees Ten Lakhs Only)
 - c) A DPR Consultant was hired by the respondent no. 4 / company and a DPR report was got prepared for the site in question.
 - d) The land was taken on lease.
 - e) The Director of Royalton Solar Private Limited had also visited China for understanding the process of working of the solar power plant and gain information regarding the various types of solar panels.
 - f) A proposal was received by respondent no. 4 from M/s Ultimate Sun Systems Private Limited. The said proposal was accepted. The passing of the order dated 19.09.2016 in Petition No. 09 of 2016 resulted in the cancellation acceptance.
 - g) The staff and consultants were also hired by the respondent for the execution of the project. Due information regarding the progress of the project was given by respondent no. 4 to HPPC vide letter dated 14.10.2016.
8. The Commission has considered the submissions of the parties and observes that R-4 has not made any significant progress towards the installation of allotted 1 MW solar power plant. The bank guarantee given by R-4 was already restored vide ibid order of this Commission dated 19.09.2016. Further, in absence of the direction of the Hon'ble

APTEL w.r.t. the tariff at which the PPA is to be approved, the Commission is of the considered view that the tariff discovered in the bidding process concluded in 2015-2016, is of no relevance for the projects which were neither commissioned in the year 2015-16 nor any significant progress was made. This fact is further substantiated by the willingness of other respondents to enter into PPA with HPPC at the lowest discovered tariff in the latest bidding conducted by HPPC i.e. Rs.2.99/kWh, which negates the claim of R-4 towards higher tariff of Rs. 5/kWh. Accordingly, as a corollary to the dictum of the Hon'ble APTEL, PPA with R-4 can also be approved at the tariff being the lowest latest discovered tariff i.e. @ Rs.2.99/kWh.

9. The Commission further observes that the civil appeal bearing no.12223/2024 filed by HPPC before Hon'ble Supreme Court praying to set aside the impugned judgement of Hon'ble APTEL dated 03.09.2024 has neither been decided nor any stay on the implementation of the same, has been granted. Accordingly, the Commission has proceeded to approves to execute the PPA between the parties including R-4, with tariff being the lowest latest discovered tariff i.e. @ Rs.2.99/kWh. Further, the respondents may, if so desires, be allowed to form/ incorporate a new project company in terms of clause 2.9 of the NIT No.54/CE/HPPC/LTP dated 26.05.2015, as prayed for by them.
10. The present petition is disposed of in terms of the above order.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 13.05.2025.

Date: 13.05.2025
Place: Panchkula

(Mukesh Garg)
Member

(Nand Lal Sharma)
Chairman