

BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION AT PANCHKULA

Case No. HERC/Petition No. 24 of 2022

Date of Hearing : 29.06.2022
Date of Interim Order : 29.06.2022

In the Matter of

Petition under Section 86(1)(b) of the Electricity Act, 2003 read with Haryana Electricity Regulatory Commission (Conduct of Business) Regulations, 2019 seeking approval of source as well as approval of the Power Purchase Agreement (PPA) dated 01.09.2011 for procurement of 43 MW power from 2000 MW Subansiri Lower Hydro Electric Project of National Hydro Power Corporation Ltd. ('NHPC') situated in Arunachal Pradesh for a period of 35 years w.e.f. commissioning of the Plant, which is scheduled for August, 2022.

Petitioner

Haryana Power Purchase Centre, Panchkula (HPPC)

Respondent

NHPC Limited

Present on behalf of the Petitioner

1. Smt. Sonia Madan, Advocate

Quorum

Shri R.K. Pachnanda
Shri Naresh Sardana

Chairman
Member

INTERIM ORDER

1. The case was heard on 29.06.2022, as scheduled, in the court room of the Commission. The learned counsel Ms. Sonia Madan appeared on behalf of the petitioner i.e. HPPC. None appeared on behalf of the respondent.
2. At the outset, the Commission observes that the Power Purchase Agreement (PPA) was signed on 01.09.2011 for procurement of 43 MW power from 2000 MW Subansiri Lower Hydro Electric Project of National Hydro Power Corporation Ltd. (NHPC) situated in Arunachal Pradesh. However, no approval / prior approval of the Commission was sought. It needs to be noted that HPPC is statutorily bound to seek prior approval of the Commission, in terms of Section 86(1)(b) of the Electricity Act, 2003 read with clause no. 21 of "The Distribution and Retail Supply License" granted to Haryana Discoms (License No. DRS – 1 of 2004 and DRS – 2 of 2004). Whereas, in the present case, approval from the Commission, is being sought vide the present petition, after a gap of about 11 years.

Further, the Commission, in suo motu proceedings (Case No. HERC/PRO-36 of 2015 in the matter of “Power procurement by the Discoms / HPPC without getting the Power Purchase Agreement (PPA) approved by the Commission”, which was heard on 25.02.2016 and an order passed on 31.03.2016, the petitioner herein, on being directed by this Commission, submitted a list of PPAs that did not have the approval of the Commission.

The Commission, after due deliberation, accorded ex-post facto approvals to the PPAs with the following observation “*The Commission directs the Distribution Licensees to ensure that all power procurement is done strictly as per PPA’s approved by the Commission. All future applications for approval of long-term procurement of power shall be as per the terms of licence and guidelines issued by the Commission. It may be noted that Licensees cannot enter into any contractual obligation with any Generator or sign any MOU / PPA without prior approval of the Commission. The Commission shall not grant approval to any PPAs which have not been submitted to the Commission till date. In case of any such occurrence, the cost of such power shall not form part of the approved power purchase cost of the Distribution Licensees*”.

3. Admittedly, till date the petitioner herein did not include the PPA dated 1.09.2011 signed for 43 MW power with Subansiri HEP (NHPC) in the list of un-approved PPA.
4. In view of the above, the Commission directs the petitioner to file a report explaining the reasons for not obtaining the approval of the Commission prior to signing of the ibid PPA, even after directions in order dated 31.03.2016 (Case No. HERC/PRO-36 of 2015).
5. Additionally, as a last opportunity, HPPC is directed to file a petition, within two weeks for seeking approval of all such cases, if any, irrespective of the SCOD of the power project (s), where PPAs have been signed, without obtaining approval of the Commission.
6. The case to come up for hearing on 14.07.2022.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 29.06.2022.

Date: 29.06.2022
Place: Panchkula

(Naresh Sardana)
Member

(R.K. Pachnanda)
Chairman