

**BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION  
BAYS No. 33-36, SECTOR-4, PANCHKULA- 134112, HARYANA**

**Case No. HERC/PETITION NO. – 53 of 2022**

**Date of Hearing : 22.12.2022  
Date of Order : 26.12.2022**

**IN THE MATTER OF:**

**Petition seeking approval of source as well as the approval of the Power Purchase Agreement (PPA) to be executed with M/s Greenyana Solar Pvt. Ltd. for purchase of solar power for 25 years from 10.72 MW project located at District Sirsa, Haryana at a tariff to be determined by the Commission under section 62 of the Electricity Act, 2003**

**Petitioner**

Haryana Power Purchase Centre, Panchkula (HPPC)

**Respondent**

M/s. Greenyana Solar Private limited

**Present on behalf of the Petitioner**

1. Ms. Sonia Madan, Advocate

**Present On behalf of the Respondent**

1. Sh. Animesh Sharma, Advocate

**Quorum**

**Shri R.K. Pachnanda  
Shri Naresh Sardana**

**Chairman  
Member**

**INTERIM ORDER**

1. The case was heard on 22.12.2022, as scheduled, in the Court Room of the Commission.
2. Shri Animesh Sharma, the learned counsel appearing on behalf of the respondent filed his Vakalatnama at the time of hearing.
3. In order to impart clarity to the matter, Ms. Madan, the learned counsel for the petitioner HPPC, was asked to clarify the reason for not incorporating the ceiling clause of Rs. 2.75/kwh in the draft PPA. Further, HPPC has not filed any affidavit from the generator agreeing to the ceiling tariff of Rs. 2.75/kwh. The Commission observes that it is an important clause and should form a part of the duly executed PPA to the effect that *“The tariff determined by the Commission under Section 62 of the Electricity Act, 2003 shall be subject to the ceiling tariff of Rs. 2.75/kwh. The tariff at any point of time during the tenure of this agreement shall not exceed the ceiling tariff of Rs. 2.75/kWh, even as a consequence of any order/intervention of any statutory authority including HERC, CERC, APTEL or Court of Law. In no event shall, the purchaser be liable for any damages whatsoever (including without limitation, incidental, direct, indirect, special and consequential damages, damages for loss of profit, business interruption or other pecuniary loss) for the period prior to the date of signing of this PPA”*.

4. Ms. Madan submitted that the draft PPA, duly incorporating the ceiling tariff of Rs. 2.75/kWh, shall be submitted in the Commission within one week.
5. The Commission, further observes that recently a lot of disputes are cropping up in various forums either by HPPC or by the generators, on the issue of tariff determined by the Commission under Section 62 of the Electricity Act, 2003. In order to address this issue, the Commission is of the considered view that both the parties should explore the possibility of agreeing to an 'exit clause' wherein both the HPPC and M/s. Greenyana Solar Private Limited (Generator) will have the right to terminate this Agreement (PPA) within 45 days of the order regarding determination of tariff by the Commission under Section 62 of the Electricity Act, 2003 pursuant to the tariff petition filed by the Generator under the HERC RE Regulations, if the tariff so determined by the Commission is not acceptable.
6. In view of the above discussions, the Commission directs HPPC and the generator to submit a draft PPA incorporating the mutually agreed clauses on ceiling tariff and exit clause (in case so agreed), within one week from the date of receipt of this order.
7. The case to come up for hearing on 01.02.2023.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 26.12.2022.

Date: 26.12.2022  
Place: Panchkula

(Naresh Sardana)  
Member

(R.K. Pachnanda)  
Chairman