

**IN THE JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION AT
RANCHI**

Case No. 06 of 2022

Damodar Valley Corporation (DVC) Petitioner

Versus

NTPC Renewable Energy Ltd. (NTPC REL) & Ors.....Respondents

**CORAM: HON'BLE JUSTICE MR. AMITAV KUMAR GUPTA, CHAIRPERSON
HON'BLE MR. MAHENDRA PRASAD, MEMBER (LAW)
HON'BLE MR. ATUL KUMAR, MEMBER (TECH)**

For the Petitioner : Mr. Supriyo Bhowmick, SE (E), Commercial, DVC
For the Respondent : Mr. Mukhesh Kumar, Advocate; and Mr. Amit Raj-
Jyotikiran Energy Mumbai Pvt. Ltd.

Date- 28th February, 2023

1. The instant petition has been brought by the Petitioner-Damodar Valley Corporation (DVC) under section 86(1)(b), 86(1)(e) and section 94 of the Electricity Act, 2003 read with clause 6.29 of the JSERC (Terms and Conditions of Determination of Distribution Tariff) Regulations, 2020 for approval of Power Usage Agreement between Damodar Valley Corporation (DVC) and NTPC Renewable Energy Ltd. (NTPC REL) for the purchase of 100 MW solar power by DVC under CPSU scheme.
2. The Prayers of the petitioner-DVC are as under: -
 - (a) Approve the Power Usage Agreement (PUA) in terms of Regulation. 6.29 of JSERC (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2020, and its amendments thereof.
 - (b) Pass such other order(s) as the Hon'ble Commission may deem fit and proper keeping in view the facts and circumstances of the case.

The factual matrix of the case as submitted by the parties may be appreciated in the following manner:

Submission of the Parties

3. The petitioner submitted that the Damodar Valley Corporation (DVC) and NTPC Renewable Energy Ltd. ('NTPC REL') had executed a Power Usage Agreement (PUA) for the purchase of 100 MW solar power by DVC under Central Public Sector Undertaking (CPSU) scheme.

4. It was pointed out that this commission vide its Regulation JSERC(Renewable Energy Purchase Obligation and its compliance) Regulations, 2016 and the amendments thereof specified the year-wise RPO target and it is a regulatory obligation on the part of DVC to consume certain quantum of electricity from renewable sources of energy as a percentage of total consumption. That DVC is trying to fulfill the regulatory obligation by purchasing the renewable power.
5. It was submitted that DVC in order to bridge the gap of RPO, executed the PUA (Power Usage Agreement) with NTPC REL on 01.02.2022, for the purchase of 100MW Solar Power from NTPC REL khavda-1 Solar PV station which will come into effect from the date of signing of this PUA and shall remain operative upto twenty-five (25) years from date of declaration of commercial operation (COD)/ Schedule commissioning whichever is later of the solar PV station and it may be extended on mutually agreed terms for further period/ periods.
6. It was submitted that at the time of entering the PUA there was a gap of RPO target vis-a-vis RPO fulfillment of DVC, hence during the FY-2020-21 DVC could not fulfill its RPO targets, despite its best efforts.
7. It was submitted that on 29.01.2021, IREDA issued the Request for Selection (RfS) document being RfS No 23016/1/2020-IREDA/RfS/5000MW/012021 for the Selection of Solar Power Developers for Setting up of 5,000 MW Grid Connected Solar PV Power Projects in India (Tranche III) under Central Public Sector Undertaking (CPSU) Scheme Phase-II (Government Producer Scheme) and NTPC Limited has been declared as a successful bidder under the 'RfS No 23016/1/2020-IREDA/RfS/5000 MW/012021' dated 29.01.2021 issued by IREDA for the development 1990MW Solar Photovoltaic Power. Thereafter, IREDA issued the Letter of Award [LoA No 23016/ 1/ 2020-IREDA/RfS/5000MW/012021/960] dated 04.10.2021 to NTPC for development of a Solar PV Power Project of 1990 MW and to make available the quantum of electricity for the end use of the electrical energy by the Government/Government Entities through the Distribution Licensee.
8. It was agreed upon that the Usage Charges for the power made available by NTPC REL from Solar PV Station shall be payable by DVC (i.e. Distribution Licensee) @**Rs 2.45 /kWh**, which shall be exclusive of any other third-party charges like wheeling and transmission charges and losses, point of connection charges and losses, cross-subsidy surcharges, SLDC/RLDC

charges etc. as may be applicable.

9. It was submitted that NTPC REL shall approach CERC for getting approval for adaptation of the tariff determined under the PUA and the Power procured from the above PUA is to be utilized for sale to the DVC consumers in accordance with the ratio of renewable purchase obligation in the DVC command area of the respective state i.e. Jharkhand and West Bengal.
10. Hence, the Petitioner has filed the present petition for approval of the Agreement between Damodar Valley Corporation and NTPC Renewable Energy Ltd., in terms of Regulation 6.29 of JSERC (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2020, and the amendments thereof.
11. The Respondent JREDA submitted that the petitioner has not mentioned anywhere in the petition as to what proportion of the Solar power shall be made available to the State of Jharkhand for meeting its RPO targets.
12. The petitioner in its reply submitted that the quantum of power available under this PPA for the State of Jharkhand will be based on ratio of sales in Jharkhand to total firm sale in entire DVC for the respective period. It was added that ratio of sales in Jharkhand to total firm sale in entire DVC varies year to year based on the actuals.

Commission’s observation and findings

13. The Commission has considered the submissions made by the parties and perused the materials available on records.
14. Under Section 86 (1) (b) and 86 (1) (e) of the Electricity Act, 2003, the State Commission has the responsibility to regulate the electricity purchase and procurement process of distribution licensees, and promote co-generation and generation of electricity from renewable sources of energy. The relevant Sections of the Electricity Act, 2003 reads as under: -

“Section 86 Function of State Commission: - (1) *The state Commission shall discharge the following functions, namely: -*

(a).....

(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the

generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the state;

.....

(e) promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;

15. Hence, under section 86(1)(b) of the Act, the distribution licensee is obligated to get the Power Usage Agreement, approved by the Commission, and under section 86(1)(e) of the Act, the Commission discharges the function of promoting the generation of electricity from renewable sources and also specifies a percentage for renewable purchase by a distribution licensee.
16. It is observed that the aforesaid PUA is meant to meet the obligation of renewable purchase by the Petitioner as specified by the Commission vide the JSERC (Renewable Energy Purchase Obligation and its Compliance) Regulations, 2016.
17. In the result, it is ordered as;

ORDER

18. Considering the facts and circumstances of the case, the prayers of the Petitioner are allowed. The Commission in order to promote procurement of renewable energy by DVC to fulfill their Renewable Energy Purchase obligation and further keeping in mind Section 86 (1) (e) of the Electricity Act, 2003, approves the purchase of 100 MW of solar power from NTPC Renewable Energy Ltd. (NTPC REL) by Damodar Valley Corporation (DVC) under Central Public Sector Undertaking (CPSU) scheme.
19. The petition is disposed off, accordingly.

Sd/-
Member (T)

Sd/-
Member (L)

Sd/-
Chairperson