



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION
Vidyut Niyantana Bhavan, Dinnedevarapadu Road, Kurnool - 518 002, Andhra Pradesh

WEDNESDAY, THE NINETEENTH DAY OF JUNE,
TWO THOUSAND AND TWENTY FOUR
(19-06-2024)

:Present:

Justice C.V. Nagarjuna Reddy, Chairman
Sri Thakur Rama Singh, Member
Sri P.V.R.Reddy, Member

O.P.No.17 of 2023

Between:

1. M/s ACME Solar Holdings Pvt. Ltd.
Through its Authorised Signatory
Plot No. 152, Sector 44
Gurugram, Haryana - 122002
...Petitioner No. 1
2. M/s Aarohi Solar Pvt. Ltd.
Through its Authorised Signatory
Plot No. 152, Sector 44
Gurugram, Haryana - 122002
...PetitionerNo. 2
3. M/s ACME Jaisalmer Solar Power Pvt. Ltd
Through its Authorised Signatory
Plot No. 152, Sector 44
Gurugram, Haryana - 122002
...PetitionerNo. 3
4. M/s Dayanidhi Solar Power Pvt. Ltd.
Through its Authorised Signatory
Plot No. 152, Sector 44
Gurugram, Haryana - 122002
...PetitionerNo. 4
5. M/s Niranjana Solar Energy Pvt. Ltd.
Through its Authorised Signatory
Plot No. 152, Sector 44,
Gurugram, Haryana - 122002
...Petitioner No. 5

6. M/s Vishwatma Solar Energy Pvt. Ltd.
Through its Authorised Signatory
Plot No. 152, Sector 44
Gurugram, Haryana - 122002 ...Petitioner No. 6

And:

1. Southern Power Distribution Company of Andhra Pradesh Ltd.
Through its Director,
Srinivasapuram, Tiruchanoor Road,
Tirupati, Andhra Pradesh -517503. ...Respondent No. 1
2. Transmission Corporation of Andhra Pradesh
Through the Chairperson,
Vidyut Soudha, Gunadala, Eluru Road,
Vijaywada, Andhra Pradesh - 520 004, ...Respondent No. 2
3. Andhra Pradesh State Load Despatch Centre
Through the Chairperson/Chief Engineer, 3rd Floor,
APSLDC Building, Vidyut Soudha, Gunadala,
Vijayawada, Andhra Pradesh - 520 004. ...RespondentNo. 3
4. Andhra Pradesh Power Co-ordination Committee
Through its Chief Engineer, 1 st Floor, APPCC Building,
Vidyut Soudha, 48-12-4/1, Eluru Road, Gunadala,
Vijayawada, Andhra Pradesh 520008 ..Respondent No. 4
- ... Respondents

This Original Petition has come up for hearing before us today in the presence of Sri Vishrov Mukerjee, counsel representing Sri P.S.S Bhargava, learned Counsel for the Petitioners; and Sri P.Shiva Rao, learned Standing Counsel for the respondents, that after carefully considering the material available on record and after hearing learned counsel for both the parties, the Commission passed the following:

ORDER

Multiple reliefs have been claimed in this original petition filed by a group of Companies. For convenience these reliefs are extracted here under :

- i. To direct Respondent No. 1 to pay forthwith the principal outstanding claimed amount of Rs.333,10,15,831/- forthwith (which is inclusive of the amount payable by Respondent No.1 towards unilateral deductions made on account of excess DC capacity installed by the Petitioners);
- ii. to direct Respondent No.1 to reimburse the amounts deducted/withheld from the monthly tariff bills from COD to 28.02.2023 amounting to Rs.2,11,19,74,429/- on account of excess DC capacity installed, otherwise payable to the Petitioners for the power supplied under the Power Purchase Agreements dated 05.12.2014;
- iii. to direct Respondent No.1 to pay Late Payment Surcharge of Rs. 1,37,14,39,835/- on the total outstanding amounts;
- iv. to direct Respondent No.1 not to deduct / withhold any amount from the monthly tariff payable to the Petitioners for the power supplied from their Solar Projects;
- v. to direct Respondent No.1 to pay future bills and accrued LPS in a timely manner in accordance with the Power Purchase Agreements dated 05-12-2014;
- vi. In the interim, direct Respondent No.1 to pay 75% of the outstanding claimed amount to the Petitioners forthwith;
- vii. to direct the Respondents to establish Letter of Credit in favour of the Petitioners under Article 5.4 of the PPA, read with Rule 6(1) of the LPS Rule 2022; and

- viii. to pass any other order or direction as this Hon'ble Commission may deem fit in light of facts and circumstances of the present Petition.

During the pendency of this OP, an understanding was reached between the parties on majority of reliefs claimed in this OP. As per the understanding, the petitioners removed the additional panels, erected after CoD. An offer was made on behalf of the respondents by the General Manager, PP&S and APPCC vide the letter dated 12-04-2024 which we feel appropriate to extract here under :

“Hence M/s Aarohi Solar Pvt Ltd., is hereby requested to arrange an undertaking that the amount payment in 12 instalments will be accepted without surcharge and the same will not be claimed in future and withdrawal of court cases and not placed in any forum / courts against the same for taking further action.”

For the said offer separate undertakings have been given on behalf of the petitioners. One such undertaking is vide letter dated 16-04-2024 and the relevant part of the undertaking extracted hereunder :

“ We give our acceptance for following :

- 1. Payment withheld for additional panels installed prior to commissioning shall be made in 06 instalments without surcharge and the same will not be claimed in future and placed in any forum against the same. Pending status of amount - Rs. 32,55,14,990.00*
- 2. Dayanidhi Solar undertakes that the amount of Rs. 4,81,18,468.00 withheld by APPCC/APSPDCL towards additional panels installed post COD are accepted to (sic) Dayanidhi Solar in 12 instalments without*

surcharge and the same will not be claimed in future and placed in any forum against the same.

3. *Dayanidhi Solar undertakes that it will withdraw its court cases in relation to payment of above withheld amounts towards additional panels by APPCC / APSPDCL subject to the condition that the payment of Rs. 37,36,33,459.00 is received by Dayanidhi Solar. “*

Similar undertakings have been given on behalf of all other petitioners. During the hearing, it has been informed that in Nov 2023, all the additional panels have been removed. However, it is not disputed that on 04-04-2023, notices were issued to all the petitioners to remove the additional panels within 30 days, which expired on 04-05-2023. Sri Vishrov Mukerjee, Learned Counsel for the petitioner fairly submitted that payment for additional panels installed post-COD may be restricted to 04-05-2023. Accordingly, the amount mentioned in (ii) of the undertaking dated 16-04-2024 and similar undertakings by the other petitioners would stand recomputed and corrected accordingly. That means the payment for additional panels erected post CoD shall be restricted up to 04-05-2023 only. As regards the amounts unrelated to additional panels erected post CoD which were payable in due course and were not paid, the petitioners have claimed LPS thereon. The learned counsel for petitioners fairly submitted that for those amounts, the petitioners are agreeable for waiving 50% of the LPS. Sri P. Siva Rao also fairly accepted this

offer. Thus based on the consensus reached between the parties, the OP is disposed of in the following terms:

- i. The respondent shall pay the withheld amounts for panels installed prior to commissioning of the plant (pre CoD) along with 50% of LPS in six monthly instalments.
- ii. In respect of the additional panels installed post COD (upto 4-5-2023) the withheld amount shall be paid in 12 instalments without surcharge.

Subject to the above, the OP is disposed of.

Order pronounced on this the 19th day of June, 2024.

Sd/-
P.V.R.Reddy
Member

Sd/-
Justice C.V. Nagarjuna Reddy
Chairman

Sd/-
Thakur Rama Singh
Member