

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION  
SITE NO. 3, BLOCK B, SECTOR 18-A, MADHYA MARG, CHANDIGARH**

**Petition No. 01 of 2020  
Date of hearing: 02.09.2020  
Date of Order: 15.09.2020**

Petition under Section 142 and 146 of the Electricity Act, 2003 read with rule 10 and 69 of the PSERC (Conduct of Business) Regulations, 2005, for taking necessary action against the respondent No. 1 for not complying with the order dated 13.01.2011 passed by the Commission in petition No. 29 of 2010 titled as M/s Green Planet Energy (P) Ltd. Vs State of Punjab and others and further for issuance of necessary directions to the respondent No. 01 to execute the necessary amendment regarding tariff approved by the Commission for the year of commissioning of the project in question i.e for the financial year 2019-2020 in petition No. 17 of 2019, in the PPA executed with the petitioner.

AND

In the matter of : M/s Green Planet Energy (P) Ltd. having its registered office at village Birpind, Tehsil-Nakodar, Sub Post Office, Sarinh, District Jalandhar, Punjab and having Corporate office at 2A, Welspun House, Ground Floor, Kamala City, Senapati Bapat Marg, Lower Parel Mumbai- 400013 and Project Office at S.C.F. 44-G, 1st Floor, Oriend Cinema Road, Opp Police Station, B.R.S Nagar, Ludhiana, Punjab through its Chief Executive Officer, Sh. Balwan Singh Jangra.

Petitioner....

VERSUS

1. Punjab State Power Corporation Ltd., The Mall, Patiala.
2. Punjab Energy Development Agency, (PEDA) through its Director, Solar Passive Complex, Plot. 1 & 2, Sector 33-D, Chandigarh.
3. Government of Punjab through the Secretary, Department of Science, Technology, Environment and Non-Conventional Energy, Civil Secretariat Chandigarh.

Respondents

Present: Ms. Kusumjit Sidhu, Chairperson  
Sh. S.S. Sarna, Member  
Ms. Anjuli Chandra, Member

## ORDER

M/s Green Planet Energy Pvt. Ltd. has filed the present petition under Section 142 and 146 of the Electricity Act 2003, read with Rule 10 and 69 of the Punjab State Electricity Regulation Commission (Conduct of Business) Regulations, 2005 for taking necessary action against Punjab State Power Corporation Limited (PSPCL) for not complying with the order dated 13.01.2011 passed by the Commission in Petition No. 29 of 2010 and issuance of necessary directions to PSPCL. The petitioner filed additional affidavit dated 03.06.2020 amending the prayer and prayed to:

- a) To take necessary action against PSPCL for not accepting the order dated 13-1-2011 passed by the Commission in petition No. 29 of 2010, in the interest of justice.
- b) To issue necessary directions to PSPCL to immediately execute the Amendment in the PPA dated 14-10-2009, in question, and incorporate the fixed tariff as approved by the Commission in petition No. 35 of 2012 vide order dated 19-7-2012 for the F.Y. 2012-2013 and grant the variable tariff as per the year of commissioning i.e 2019-20 in accordance with CERC order dated 13-09-2019 vide petition No. 17 of 2019 as applicable for the F.Y. 2019-2020 in accordance with commissioning of the project in the interest of justice.
- c) During the pendency of the present petition PSPCL may be directed to receive the electricity produced by the above said generating plant of the petitioner and pay for the same at the interim tariff determined by the Commission, in the interest of justice.

- d) Any other order or relief which the Commission may deem fit and proper may also be passed in favour of the petitioner.
2. After hearing the parties, petition was admitted vide order dated 10.08.2020 and notice was issued to all the respondents to file their respective reply by 18.08.2020 and rejoinder if any, by 25.08.2020. PSPCL filed its reply vide e-mail dated 14.08.2020 and the petitioner filed rejoinder dated 27.08.2020 to the reply filed by PSPCL. PEDDA filed its short reply dated 31.08.2020 through e-mail 01.09.2020.
  3. The petition was taken up for hearing on 02.09.2020. The counsel for petitioner submitted that the petitioner has accepted the generic tariff of FY 2012-13 as would be applicable in the year of commissioning (FY 2019-20) i.e. levelled fixed cost of Rs. 2.12 per kWh and variable cost of Rs. 3.71 per kWh (FY 2012-13) escalated at normative parameters upto FY 2019-20 for its 6 MW Biomass Power Project, Village Manuke Gill, Tehsil Nihal Singh Wala, District Moga. An affidavit dated 02.09.2020 to this effect was also filed by the petitioner. After hearing the parties Order was reserved.
  4. **Observations and Decision of the Commission**  
**The Commission has carefully gone through the petition, replies of PSPCL and PEDDA and the rejoinder to the reply of PSPCL filed by the petitioner. Green Planet Energy Pvt. Ltd. (GPE) has filed this petition under section 142 and 146 of the Electricity Act, 2003 read with Regulation 10 & 69 of the PSERC (Conduct of Business) Regulations, 2005 with a prayer that action be taken against PSPCL for not accepting**



the Order dated 13.01.2011 passed by the Commission in Petition No. 29 of 2010 filed by GPE and directions be issued to PSPCL to execute the Amendment in the PPA and incorporate the tariff approved by the Commission vide Order dated 13.09.2019 in Petition No.17 of 2019 (generic tariff for FY 2019-20). Vide submissions dated 03.06.2020, GPE amended the prayer and sought revised tariff with the fixed cost approved by the Commission vide Order dated 19.07.2012 in petition no. 35 of 2012 for FY 2012-13 and variable cost of FY 2019-20 granted by the Commission vide the said Order dated 13.09.2019.

The aforementioned petition no. 29 of 2010 was filed by GPE for re-determination of the tariff for its three biomass based plants of 6 MW each located at village Binjon district Hoshiarpur, village Bir Pind district Jalandhar and village Manuke Gill district Moga. The Commission in the said Order dated 13.01.2011 had held as under:-

*“As regards redetermination of tariff for the petitioner, it is seen that the petitioner has sought tariff as per the Commission’s order of 30.9.2010. However, keeping in mind the fact that none of GPE’s units have achieved the commercial operation date (COD), the Commission is of the view that GPE will be entitled to generic tariff determined by the Commission for the year in which each of its generating unit achieves COD. The same will be payable to the petitioner for a period of 13 years as prescribed in RE Regulations from COD of the respective generating units.”*

The projects situated at village Binjon district Hoshiarpur and

village Bir Pind district Jalandhar were commissioned in FY 2012-13 and FY 2013-14 respectively. The project under reference is the third 6 MW biomass based project situated at Manuke Gill, District Moga which has been commissioned on 11.08.2019.

Originally, clause 2.1.1(i) 'Energy Purchase and Sale' of the PPA signed between GPE and PSPCL on 14.10.2009 for the said project at Manuke Gill provided as under:

*“Rs.3.84/- per unit (for the year 2008-09) with 5% annual escalation upto 2011-12. At the end of the above specified escalation period, the tariff payable shall be the last escalated tariff for the year 2011-12 and shall remain in force during the remaining term of the PPA. Any enhancement in tariff after the last escalation shall be as determined and approved by the Commission.”*

Considering the above, the tariff for the project would have been Rs. 4.445 per kWh in FY 2011-12 and continued as such thereafter, if the same had not been revised in terms of Order dated 13.01.2011 in petition no. 29 of 2010.

Further, as per the Clause 10.0.0 'Commissioning of Generating Facility' of the PPA, the project was to be commissioned and synchronized with the PSPCL's grid within 395 days from the signing of the PPA i.e. by 13.11.2010. However the project was not ready as per the date listed in the PPA.

In this petition, GPE sought the implementation of Order dated 13.01.2011 in petition no. 29 of 2010 which in other words meant the generic tariff of FY 2019-20 i.e. Rs.8.64 per

**kWh comprising Rs.2.90 (Fixed Cost), Rs.5.74 (Variable Cost) for its plant which was later amended vide submissions dated 03.06.2020 as brought out hereinbefore.**

**The Commission notes that on 08.03.2017, PEDDA issued a notice for termination of the allotment letter, MOU and the IA for the project under reference and two other projects of GPE i.e. 4 MW Otto cycle projects at Binjon and Bir Pind. On 06.06.2017, PSPCL also issued termination notice of the PPAs for the aforementioned three projects. However, PEDDA vide letter dated 21.06.2017, after considering the representation dated 05.04.2017 of GPE, extended the date of commissioning of the said project including the other two projects till 31.03.2018. GPE gave a representation dated 25.07.2017 to PSPCL against the notice of termination. However, PSPCL on 26.09.2017 terminated the PPAs. But seven months later, considering the request dated 04.01.2018 of GPE, PSPCL on 26.04.2018 revoked the termination of the PPA for 6 MW biomass plant at village Manuke Gill and 4 MW Otto cycle plant at village Binjon. Further, on 12.04.2018, PEDDA extended the date of commissioning upto 30.09.2018 on the request dated 26.03.2018 of GPE. GPE on 06.09.2018 informed PSPCL that the plant is ready for generation by 15.09.2018 and requested it to give clearance to connect the transmission lines at Samadh Bhai Substation. There were some connectivity issues at the Substation end as informed by PEDDA in its submissions dated 31.08.2020. PEDDA had carried out an inspection of the project on 08.02.2019 upon which it**



transpired that the commissioning of the project is awaited due to non-connectivity of the transmission line at PSTCL end. Consequently, the date of commissioning of the project was extended upto 31.03.2019 by PEDDA vide its letter dated 12.03.2019. Subsequently, the transmission line work at the substation end was completed and CEI gave its consent on 31.05.2019. PSPCL's permission for synchronization was issued on 31.07.2019 and finally the plant was commissioned on 11.08.2019. PEDDA vide letter dated 02.09.2019 extended the date of commissioning of the project upto 11.08.2019 on the request dated 16.08.2019 of GPE.

In the hearing on 15.07.2020, both the parties agreed that the generic tariff of FY 2012-13 as would be applicable in the year of commissioning (FY 2019-20) i.e. levelled fixed cost of Rs. 2.12 per kWh and variable cost of Rs. 3.71 per kWh (FY 2012-13) escalated at normative parameters upto FY 2019-20. Accordingly, in the Interim Order dated 20.07.2020, it was recorded as under:

*“The petition was taken up for hearing on admission. During hearing, both the parties agreed to the generic tariff of FY 2012-13 as would be applicable in the year of commissioning (FY 2019-20) i.e. levelled fixed cost of Rs. 2.12 per kWh and variable cost of Rs. 3.71 per kWh (FY 2012-13) escalated at normative parameters upto FY 2019-20.*

*The counsel for both the parties seek 15 days time to file a joint affidavit in this regard along with the copy of the signed agreement. The same shall be submitted within 2 weeks.”*

In response to the aforementioned Interim Order, GPE vide email dated 22.07.2020 submitted an affidavit dated 21.07.2020 that it is accepting the generic tariff of FY 2012-13 as would be applicable in the year of commissioning (FY 2019-20) i.e. levelled fixed cost of Rs. 2.12 per kWh and variable cost of Rs. 3.71 per kWh (FY 2012-13) escalated at normative parameters upto FY 2019-20. However, PSPCL on 23.07.2020, quoting the Interim Order of the Commission dated 20.07.2020, submitted that due to miscommunication, the correct position could not be represented during the hearing and that it has not given consent to the said tariff.

On 14.08.2020, PSPCL has submitted that the project was delayed by nine years, resulting in PSPCL being unable to comply with the Renewable Purchase Obligation. It has been stated that because of this PSPCL had to purchase RECs to the tune of Rs. 57.64 crore for RPO compliance. GPE in response to this has submitted that PSPCL would have had to pay approx. Rs. 191 crore if the project had been commissioned as per the scheduled date of commissioning, which is much more than the price paid by PSPCL to purchase RECs. In the hearing held on 02.09.2020, GPE re-confirmed that it stands by its earlier affidavit dated 21.07.2020 that the tariff of FY 2012-13 as would be applicable for the year of commissioning (FY 2019-20) would be acceptable to it and submitted an affidavit to this effect again.

The Commission in its Order dated 13.01.2011 had held that GPE will be entitled to the generic tariff determined by the



**Commission for the year in which each of its generating unit achieves COD. However, due to the aforementioned delay of about nine years, both PEDDA and PSPCL had in 2017 revoked the IA and cancelled the PPA. Later PEDDA granted extensions in the date of commissioning on the condition that no revision in tariff shall be sought by GPE on the ground of extension granted by PEDDA. PSPCL also revoked the termination of the PPA.**

**It is pertinent to note that GPE has confirmed to accept the generic tariff of FY 2012-13 i.e. levelled fixed cost of Rs. 2.12 per kWh and variable cost of Rs. 3.71 per kWh to be escalated at the rate 5% per annum, which works out to Rs. 5.219 per kWh for FY 2019-20 the year in which the project was commissioned. Under the circumstances brought out above that the project was delayed by nine years albeit GPE has confirmed to accept the tariff of FY 2012-13 as would be applicable for FY 2019-20, extensions in date of commissioning having been granted by PEDDA upto the date of commissioning i.e. 11.08.2019 and PSPCL having revoked the cancellation of the PPA, the Commission is of the considered opinion that in all fairness, GPE is entitled to the aforementioned tariff. PSPCL shall also not be put to loss due to delay in commissioning of the project. The tariff of FY 2012-13 accepted by GPE is less than the tariff of FY 2019-20 and shall be applicable for the full term of the PPA. Accordingly, the tariff for the petitioner's project shall be as hereunder:**

| Levellised Fixed Cost | Variable Cost (FY 2019-20) | Applicable Tariff Rate (FY 2019-20) | Benefit of Accelerated Depreciation, if availed | Net Applicable Tariff Rate upon adjusting for Accelerated Depreciation benefit (3-4) |
|-----------------------|----------------------------|-------------------------------------|---|--|
| (Rs./kWh)             | (Rs./kWh)                  | (Rs./kWh)                           | (Rs./kWh)                                       | (Rs./kWh)  |
| 1                     | 2                          | 3                                   | 4   | 5  |
| 2.12                  | 5.219                      | 7.339                               | 0.13  | 7.209  |

The aforementioned tariff will be payable to GPE for a period of 13 years from the COD as already mentioned in the Order dated 13.01.2011 in petition no. 29 of 2010. The Fixed Cost shall remain the same and the Variable Cost shall be escalated at 5% per annum. After 13 years the tariff shall be re-determined by the Commission. A suitable amendment to this effect shall be carried out in the PPA forthwith.

As regards the issue raised by respondent PSPCL that the tenure of the PPA should be reduced from 30 years to 20 years, the same is to be decided mutually by the parties amongst themselves.

The petition is disposed of in terms of the above.

Sd/-

(Anjuli Chandra)  
Member

Sd/-

(S.S. Sarna)  
Member

Sd/-

(Kusumjit Sidhu)  
Chairperson

Chandigarh  
Dated: 15.09.2020