

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SCO NO. 220-221, SECTOR 34-A, CHANDIGARH**

**Petition No. 63 of 2017
Date of Order: 19.02.2018**

In the matter of: Petition under Section 62 of the Electricity Act, 2003 read with Regulation 8 of the Central Electricity Regulatory Commission(Terms and Conditions for Tariff determination from renewable energy sources) Regulation 2012 (as adopted by the Hon'ble Commission) requesting the Hon'ble Commission to determine the tariff under the provisions of the said regulations with respect to 1.5 MW capacity biogas power and bio-fertilizer plant using cow-dung, press mud and poultry litter based on bio-methanation technology at Moonak, (Sangrur), Punjab setup by the petitioner.

AND

In the matter of:SAB Industries Ltd., Registered and Cooperate
Office: SCO 49-50, Sector 26, Madhya Marg,
Chandigarh.

.....Petitioner

Versus

1. Punjab State Power Corporation Limited, The Mall, Patiala-147001.
2. Punjab Energy Development Agency, Solar Passive Complex, Plot No. 1 & 2, Sector-33-D, Chandigarh.

.....Respondents

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

ORDER

The petitioner has filed the present petition under Section 62 of the Electricity Act, 2003 read with Regulation 8 of the Central

Electricity Regulatory Commission(Terms and Conditions for Tariff determination from renewable energy sources) Regulation 2012 (as adopted by the Hon'ble Commission) to determine the tariff for 1.5 MW capacity biogas power and bio-fertilizer plant using cow-dung, press mud and poultry litter based on bio-methanation technology at Moonak, (Sangrur), Punjab setup by the petitioner and also for quashing the impugned letter dated 27.09.2017 passed by PSPCL in an illegal manner and further to direct respondents to allocate the project for the purpose of entering into the PPA with PSPCL.

2. The petitioner has further submitted that the petitioner company planned to set up 1.5 MW capacity biogas power and bio fertilizer plant using cow dung, press mud and poultry litter based on bio-methanation technology at Moonak, (Sangrur), Punjab. The proposed project will qualify for generating electricity from non conventional energy sources defined under New & Renewable Sources of Energy (NRSE) Policy, 2012, announced by Government of Punjab on 26.12.2012. The State of Punjab had issued NRSE Policy, 2012 to develop and promote NRSE based technologies and energy conservation measures. In view of the object of the said policy, the petitioner had conceived the said project and as per the said policy, PEDDA is working as nodal agency on behalf of Government of Punjab for implementation of NRSE Policy. The petitioner submitted the Detailed Project Report to PEDDA vide letter dated 29.06.2017 for the approval and validation for sale of power at preferential tariff to PSPCL and for grant of applicable fiscal benefit as per NRSE Policy, 2012 from State and Central Government. Thereafter, PEDDA vide letter dated 12.7.2017 requested the petitioner to visit their office on

19.07.2017. Accordingly, petitioner visited the office of PEDDA on 19.07.2017. PEDDA have expressed their satisfaction on the project and had agreed to recommend the same in terms of NRSE Policy, 2012. The petitioner vide letter dated 04.10.2017 again requested PEDDA to expedite the matter and issue Project Allotment Approval to the petitioner at the earliest. The petitioner received a copy of letter dated 27.09.2017 issued by PSPCL to PEDDA wherein the tariff for the said project has been stated to be @ Rs.3.47 / kWh.

3. The grievance of the petitioner is that the said letter dated 27.09.2017 is legally unsustainable in the eye of law as the same shows that the respondents instead of fulfilling their obligations under Electricity Act, 2003, as well as NRSE Policy, 2012, for providing energy from clean sources, have found an escape route of purchasing Renewable Energy Certificates from the market. It is submitted by the petitioner that PSPCL had filed a petition before the Commission for carrying forward the net shortfall of 1498.56 MU from Non-Solar sources and 79.09 MU from Solar sources of energy for RPO compliance for FY 2015-16 and 2016-17. In the said petition, the Commission has held that there has been a shortfall in actual delivery of renewable energy from RE Projects to PSPCL due to less generation, resulting in constraints in meeting the specified RPO. Furthermore, the petitioner has stated that in an order dated 31.05.2017 passed by Central Electricity Regulatory Authority wherein the tariff for Biogas based generation has been arrived at Rs.7.33/kWh. The Commission has also ascertained the tariff for FY 2016-17 for Biogas based power project at Rs.7.42/kWh in its order dated 23.11.2016 passed in Suo-Motu Petition No.55 of 2016. In view

of these orders, the action of the respondents in issuing the letter dated 27.09.2017 is in contravention of the true intent of the objectives of the Electricity Act, 2003 and NRSE Policy, 2012.

4. It is submitted by the petitioner that the petitioner company has made huge investments for the said project and has already procured land for the same, placed orders for procurement of imported as well as indigenous equipments. On the assurance given by PEDA to the petitioner, the petitioner has already spent nearly Rs.11.17 crores out of the total cost of the project i.e. Rs16.50 crores as shown in the detailed project report. The respondents have erred in not following the procedure as laid down in the NRSE Policy, 2012 for the purpose of sanctioning of the project as well as its allocation. The policy 2012 specifically provides for deliberation by the Allocation Committee wherein the Committee members have also been defined but the respondents in a whimsical manner have circumvented the procedure laid down in the policy and have issued the impugned letter dated 27.09.2017. It is submitted by the petitioner that no meeting of the allocation committee was called for consideration of the project, whereas the policy provides that the allocation of more than 1 MW projects has to be done by the committee, but in the present case, the said committee has not been called upon to allocate the said project.

5. That the petitioner has made the following prayers:

- i) The petition be allowed in favour of the petitioner and fix the tariff for the electricity generation by 1.5 MW capacity biogas power and bio-fertilizer plant using cow-dung, press mud and poultry litter based on bio-methanation

technology at Moonak, (Sangrur), Punjab and also for quashing and setting aside the impugned letter dated 27.09.2017 passed by the respondent no.1 in an illegal manner and also to direct the respondents to allocate the project for the purpose of entering into the PPA with respondent no.1;

- ii) To allow applicability of the tariff in the year of commissioning on the same principles and parameters as prescribed in the Hon'ble Commission's order dated 23.11.2016 and Hon'ble CERC order dated 31.05.2017 after taking into account escalation in the fixed costs, if any;
- iii) any other relief which this Hon'ble Commission may deem just and proper in the facts and circumstances of the present case be allowed in favour of the petitioner.

Observations of the Commission:

After the perusal of the documents on record, it is evident that the Detailed Project Report submitted by the Petitioner has not been approved by PEDDA. Consequently, the approval of Project Allotment Committee of Government of Punjab has not been accorded. It is also observed that PEDDA has not signed Implementation Agreement with the petitioner and consequently PPA has also not been signed by PSPCL. The petitioner has filed the present petition under Section 62 of the Electricity Act, 2003, and Section 62 (1) (a) of the Act specifically deals with the determination of tariff for supply of electricity by a generating company to a distribution licensee. Keeping in view the facts of the case in totality, it is pertinent to

mention here that the issue of determination of tariff for supply of electricity by a generating company to a distribution licensee arises only after the signing of Implementation Agreement / Power Purchase Agreement between the parties. It transpires from the face of the present petition that it is an attempt of the petitioner to anticipate the future events, viz. the petitioner is going to install the power plant and intend to sell the generated power to PSPCL. But interestingly the present petition merely speaks of the various activities carried out by the petitioner so far for the generation of power, but there is no such agreement signed by the petitioner with PEDDA or PSPCL.

In view of the aforesaid discussion, the Commission deems fit that the present petition does not deserve due consideration of the Commission as the Commission is having no jurisdiction to entertain this petition which is premature in nature. Hence, the present petition is not maintainable for want of jurisdiction and dismissed accordingly.

**Sd/-
(Anjuli Chandra)
Member**

**Sd/-
(S.S. Sarna)
Member**

**Sd/-
(Kusumjit Sidhu)
Chairperson**

Chandigarh
Dated: 19.02.2018