



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

4thFloor, Singareni Bhavan, Red Hills, Hyderabad 500004

WEDNESDAY, THE EIGHTH DAY OF NOVEMBER,
TWO THOUSAND AND TWENTY THREE

:Present:

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

IA No.3 of 2023

In

O.P.No.17 of 2023

Between:

M/s ACME Solar Holdings Pvt. Ltd. & Ors. ...

.....Applicants/Petitioners

And:

Southern Power Distribution

Company of Andhra Pradesh Ltd. & Ors.

....Respondents

This Interlocutory Application has come up for hearing before us today in the presence of Sri Avinash Desai, learned Senior Counsel, assisted by 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 the arguments of the learned counsel for both the parties, the Commission passed the following:

ORDER

This application is filed, *inter alia*, for the following reliefs:

- (a) to direct APSPDCL to pay, forthwith, the amounts deducted towards excess DC capacity installed prior to commissioning of the projects, amounting to Rs.102.85 Crores, to the petitioners;

- (b) to direct APSPDCL not to deduct the amounts towards DC capacity installed, prior to commissioning for future invoices and make future payments for the DC capacity installed prior to commissioning i.e. 176.96 MW; and
- (c) to direct the APSPDCL to pay Late Payment Surcharge (LPS) on the total amount deducted towards excess DC capacity installed prior to commissioning of the Projects.

On 04-10-2023 it was urged by the learned counsel for the petitioners that the respondents have withheld CC charges payable to the petitioners even in respect of the DC Capacity existing on the date of COD of the five units of the petitioners. In the light of the above submission, the case has been adjourned with a direction to the respondents to file a statement, in writing, indicating the payments already made and also clarifying whether any part of the charges have been withheld on the DC capacities existing as on the date of COD of the respective units.

Accordingly, an affidavit has been filed on behalf of respondents 1 to 4, wherein the respondents have admitted that they have withheld Rs.110,52,21,525/- towards CC charges in respect of DC panels, which were in existence as on the date of COD.

This Commission has already taken a firm view in certain cases, earlier, that the respondents cannot deny payments in respect of CC charges for the energy generated by the DC panels, which were in existence as on the COD. Following the said orders, the petitioners have satisfied the elements of prima

facie case, balance of convenience and irreparable injury for granting interim order as claimed in prayer (a).

Similarly, in respect of DC capacities existing as on the COD, i.e., 176.96 MW, the respondents cannot deduct payments for future, pending disposal of the OP. Accordingly, prayer (b) is also allowed.

As regards Prayer (c), as the main OP is still pending, we are not inclined to consider the said prayer at this stage. However, the petitioners are entitled to press for this relief in the OP.

Sri P.Shiva Rao, learned Standing Counsel for the respondents, submitted that as the respondents are in deep financial crisis, they may be permitted to pay the aforesaid amount in six monthly instalments.

However, considering the facts and circumstances of the case, respondent No.1 is permitted to pay the amounts, as allowed in prayer (a), in four equal monthly instalments commencing from 01-12-2023.

Subject to the above, the I.A. shall stand disposed of.

Order passed on this the 8th day of November, 2023.

Sd/-
P.V.R. Reddy
Member

Sd/-
Justice C.V. Nagarjuna Reddy
Chairman

Sd/-
Thakur Rama Singh
Member