

APTEL Clarifies Financial Obligations for Solar Park Developers

The Appellate Tribunal for Electricity (APTEL) has upheld a regulatory order requiring Saurya Urja Company of Rajasthan Ltd. (SUCRL), the developer of the 1000 MW Bhadla Phase III Solar Park, to pay inter-state transmission charges incurred during a mismatch between infrastructure commissioning and actual power generation.

APTEL dismissed two appeals by SUCRL, affirming earlier rulings by the Central Electricity Regulatory Commission (CERC) that held the solar park developer financially responsible for charges accruing between October 2019 and February 2020, when not all solar units in the park were operational.

The judgment consolidates Appeal Nos. 116 and 177 of 2023, and was delivered by Technical Member Sandesh Kumar Sharma and Judicial Member Virender Bhat.

Developer Held Liable for Mismatch in Power Flow

SUCRL, a joint venture between the Government of Rajasthan and IL&FS Energy, had been granted Long-Term Access (LTA) for 500 MW by Powergrid Corporation of India Limited (PGCIL) in 2016. While grid infrastructure was ready by March 2019, several solar generators within the park, including units backed by Clean Solar Power and SoftBank, failed to commission on schedule.

This delay resulted in PGCIL raising transmission charges against SUCRL for the unutilized capacity, prompting the legal challenge.

SUCRL argued that it should not be liable, citing its role as a facilitator, not a generator or consumer, and challenged the validity of its 2015 undertaking to bear liability on behalf of solar developers, claiming it lacked legal consideration.

However, the Tribunal found that the undertaking was voluntarily given, contractually reinforced through LTA and transmission agreements, and backed by tangible benefits such as centralized approvals and grid access.

Regulatory Intent and Contractual Responsibility

The Tribunal stressed that CERC's amended regulations from 2015 were explicitly designed to hold Solar Power Park Developers (SPPDs) accountable for transmission liabilities during delays by individual generators. The SPPD model, it noted, operates on the premise that such developers accept financial risk in exchange for simplified project approvals and grid integration.

The Tribunal rejected SUCRL's contention that it was acting merely as an agent, noting that public-law contracts executed with PGCIL made the company directly liable.

Further, it ruled that liability for transmission charges is not strictly tied to physical use, but flows from operational LTA capacity, which activates cost obligations for grid infrastructure.

The plea for regulatory leniency was also dismissed, with the Tribunal concluding that CERC had no grounds to relax the rules in SUCRL's case, as its liability arose directly from the legal and contractual framework.

Appeals Dismissed, Charges Stand

By reaffirming the CERC orders dated June 11, 2022, and August 29, 2022, the Appellate Tribunal has clarified the financial obligations of solar park developers, especially in cases involving delays in generator commissioning.

The ruling is expected to reinforce regulatory clarity and ensure cost recovery stability for India's Inter-State Transmission System (ISTS), particularly in large-scale renewable energy zones.

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