

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 52/AT/2021

- Subject : Petition under Section 63 of the Electricity Act, 2003 for adoption of tariff for 150 MW grid connected floating Solar Power Projects selected through competitive bidding process as per the Standard Bidding Guidelines dated 3.8.2017.
- Date of Hearing : 19.3.2021
- Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
Shri Prakash. S. Mhaske, Member (Ex-officio)
- Petitioner : Solar Energy Corporation of India Limited (SECI)
- Respondents : Shapoorji Pallonji Infrastructure Capital Co. Pvt. Ltd. and 6 Ors.
- Parties Present : Shri M.G. Ramachandran, Sr. Advocate, SECI
Ms. Tanya Sareen, Advocate, SECI
Ms. Poorva Saigal, Advocate, SECI
Shri Apoorva Misra, Advocate, ReNew Solar
Ms. Nishtha Kumar, Advocate, ReNew Solar
Shri Atulya Kumar Naik, SECI
Shri Mudit Jain, SECI
Shri Apoorva Misra, SECI
Shri Ishan Nagpal, ReNew Solar
Shri Tushar Goyal, ReNew Solar

Record of Proceedings

Case was called out for virtual hearing.

2. Learned senior counsel for the Petitioner, SECI submitted that the instant Petition has been filed for adoption of tariff for 150 MW (3x50 MW) grid connected floating solar power projects selected through competitive bidding process as per the Guidelines issued by Ministry of Power on 3.8.2017. It was submitted by the learned senior counsel that pursuant to the bid process, two bidders, namely, Shapoorji Pallonji Infrastructure Capital Company Pvt. Ltd. (50 MW @ Rs.3.29/kWh through Project Company, Rihand Floating Solar Pvt. Ltd.) and ReNew Solar Power Pvt. Ltd. (50 MW each @ Rs. 3.29/kWh through Project Companies- ReNew Sun Power Pvt. Ltd. and Auxo Sunlight Pvt. Ltd.) have been selected for supply of power to UP Power Corporation Limited (UPPCL). Learned senior counsel for the Petitioner further submitted that pursuant to the bid, SECI has executed PPAs with Solar Power Developers (SPDs) and PSA with UPPCL. It was further submitted that one of the SPDs, namely, Rihand Floating Solar Pvt. Ltd. has proceeded to terminate the PPA which is being opposed by SECI and that the SPD has filed Petition No. 611/MP/2020 before the Commission for return of the Performance Bank Guarantee, which is pending for consideration.

3. In response to the Commission's specific query regarding jurisdiction of this Commission considering that the Projects and the end Procurer, UPPCL, both being located in the State of UP, learned senior counsel mainly submitted the following:

(a) PPAs and PSA entered into by SECI as the nodal agency of Central Government and as an inter-State trading licensee pursuant to the Guidelines dated 3.8.2017, are by very nature a 'composite scheme' falling within the scope of Section 79(1)(b) of the Electricity Act, 2003 (in short, 'the Act') and as elucidated by the Hon'ble Supreme Court in Energy Watchdog v. Central Electricity Regulatory Commission and Ors.

(b) Articles 6.5.5 and 6.8.4 of the PSA permit SECI to sell UPPCL's allocation of solar power to third parties including any licensee under the Act. Also, the PPAs executed with SPDs define the 'Appropriate Commission' as the Central Commission.

(c) SECI is an inter-State trading licensee in terms of the licence granted by the Central Commission and is entitled to undertake intra-State trading without the need of separate licence from the State Commission.

(d) The parties, namely, UPPCL as well as the power project developer in other cases, including where the PPAs currently provide for generation and sale of electricity only in the State of Uttar Pradesh, have duly acknowledged, accepted, acted upon and implemented various projects on the basis that the Central Commission has the jurisdiction. In this regard, reliance was placed on the orders of Commission dated 19.9.2018 in Petition No. 52/MP/2018 (Azure Power Venus Pvt. Ltd. v. SECI and UPPCL). Reference was also made to the order of the Commission dated 11.10.2017 in Petition No.95/MP/2017 (Welspun Energy Pvt. Ltd. v. SECI).

(e) SECI and UPPCL have also jointly approached the Uttar Pradesh Electricity Regulatory Commission under Section 63 and Sections 86(1)(b) and (e) of the Act read with Rule 8 of the Electricity Rules, 2005 seeking approval for development of the aforesaid solar power projects.

4. Learned counsel for the Respondents 2, 4 and 5 submitted that the Respondents support the submissions of the Petitioner, SECI and requested for adoption of tariff at the earliest to ensure viability and continuation of the Projects awarded. It was also submitted that the Commission may also take note of the fact that the tariff adoption Petition has been filed with substantial delay which may impact the Respondents' ability to achieve financial closure and subsequently on commissioning timeline. Accordingly, it was further requested that SECI be directed to consider the Respondents' request for seeking time extension for achieving financial closure and Schedule Commercial Operation Date.

5. After hearing the learned senior counsel for the Petitioner and learned counsel for the Respondents, the Commission reserved the order on the issue of jurisdiction as well as on merits.

By order of the Commission

**Sd/-
(T.D. Pant)
Joint Chief (Legal)**