

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 52/MP/2019 along with IA No. 78/2021

- Subject : Petition under Section 79(1)(b) read with Section 79(1)(f) of the Electricity Act, 2003 for (i) approval of 'Change in Law'; and (ii) consequential relief to compensate for the increase in capital cost due to introduction of Central Goods and Services Tax Act 2017, the Integrated Goods and Services Tax Act, 2017 and the State Goods and Services Tax Acts enacted by respective States, in terms of Article 12 of the Power Purchase Agreement dated 2.8.2016 between Solitaire Powertech Private Limited and Solar Energy Corporation of India Limited.
- Date of Hearing : 9.11.2021
- Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : Solitaire Powertech Private Limited (SPPL)
- Respondents : Solar Energy Corporation of India Limited (SECI) and 5 Ors.
- Parties Present : Shri Nitish Gupta, Advocate, SPPL
Shri Nishant Talwar, Advocate, SPPL
Shri Utkarsh Singh, Advocate, SPPL
Shri M. G. Ramachandran, Sr. Advocate, SECI
Ms. Tanya Sareen, Advocate, SECI
Ms. Poorva Saigal, Advocate, SECI
Shri Vikas Bamrara, SPPL
Ms. Neha Singh, SECI

Record of Proceedings

Case was called out for virtual hearing.

2. The learned counsel for the Petitioner submitted that subsequent to hearing of the matter on 4.6.2020, the Petitioner and SECI have reconciled the Petitioner's Change in Law claims relating to enactment of GST Laws. The learned counsel, referring to the letter of SECI dated 22.3.2021, submitted that the admitted GST claims till Commercial Operation Date ('COD') is Rs.6,96,91,565/- and under the annuity mode of payment, the upfront lump sum amount (i.e. monthly annuity payment from COD of the project till the date of payment) to be paid works out to Rs. 1,60,82,669/-. The aforesaid lump sum amount has been calculated by assuming the date of payment to be 31.3.2021. However, since approximately 7 months have already passed from the said date, SECI may be directed to pay the upfront lump sum amount for such elapsed period. The learned counsel further submitted that the Petitioner is facing severe financial difficulties and accordingly, the IA No. 78/2021 has been filed by the Petitioner seeking direction to SECI to release the payment as proposed vide letter dated 22.3.2021. The learned counsel further added that the

Petitioner has also prayed for carrying cost, which may be considered in light of the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021.

3. The learned senior counsel for the Respondent, SECI submitted that the reconciliation of claims between the Petitioner and SECI has been completed and SECI had sent the reconciled claims to the buying entity, namely, BESCO, which has, however, neither commented upon nor objected to the said amount. The learned senior counsel requested to grant 60 days' time to SECI from the date of order for making the annuity payment in terms of order dated 20.8.2021 in Petition No. 536/MP/2020 and Ors. The learned senior counsel submitted that the arrears of upfront lump sum amount, if any, will be paid by SECI and that the Petitioner's reliance on the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 for grant of carrying cost is misplaced as the said Rules cannot have a retrospective effect. The learned senior counsel sought liberty to file a short note of submissions in the matter.

4. Considering the request of the learned senior counsel for the Respondent, SECI, the Commission directed the Respondent, SECI to upload its note of submissions during the course of the day with copy to the Petitioner.

5. Subject to the above, the Commission reserved the matter for order.

By order of the Commission

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