

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 77/MP/2021

- Subject : Petition under Section 79 of the Electricity Act, 2003 before the Central Electricity Regulatory Commission for (i) approval of 'Change in law' and (ii) seeking an appropriate mechanism for grant of an appropriate adjustment/compensation to offset financial/ commercial impact of change in law events on account of imposition of safeguard duty on solar cells/modules in terms of Article 12 of the Power Purchase Agreements dated 4.6.2019 between ReNew Solar Energy (Jharkhand Five) Pvt. Ltd. and Solar Energy Corporation of India Limited.
- Date of Hearing : 25.6.2021
- Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri P. K. Singh, Member
- Petitioner : ReNew Solar Energy (Jharkhand Five) Pvt. Ltd. (RSEJFPL)
- Respondent : Solar Energy Corporation of India Limited (SECI)
- Parties Present : Shri Sujit Ghosh, Advocate, RSEJFPL
Ms. Mannat Waraich, Advocate, RSEJFPL
Shri Toshin Bishnoi, Advocate, RSEJFPL
Shri M. G. Ramachandran, Sr. Advocate, SECI
Ms. Tanya Sareen, Advocate, SECI
Shri Ravi Nair, Advocate, SECI
Shri Ajay Kumar Sinha, SECI
Ms. Neha Singh, SECI
Shri Abhinav Kumar, SECI
Shri Uday Pavan Kumar Kruthiventi, SECI

Record of Proceedings

Case was called out for virtual hearing.

2. Learned counsel for the Petitioner submitted that the present Petition has been filed, *inter-alia*, seeking declaration that the imposition of safeguard duty on solar cells/ modules in terms of safeguard duty Notification dated 29.7.2020 is a Change in Law event in terms of the Article 12 of the Power Purchase Agreement ('PPA') dated 4.6.2019 and for evolving a suitable mechanism to compensate the Petitioner for increase in the expenditure incurred by it on account of the said Change in Law event.

3. Learned senior counsel for the Respondent, SECI, referred to his note of submissions and submitted that according to SECI, as per the decision of the Commission in order dated 15.4.2021 in Petition No.52/AT/2021 (SECI v. Shappoorji Pallonji Infra. Capital Pvt. Ltd. and Ors.), the present Petition might not lie before this Commission and that the Appropriate Commission may be the State Commission. Learned counsel submitted that similar to the Petition No.52/AT/2021, in the present



case also the bid process was conducted as per Standard Bidding Guidelines dated 3.8.2017 for selection of 750 MW solar PV power projects to be set-up in the State of Rajasthan and as per the RfS including the amendment dated 12.2.2019, entire power procured by SECI from the above projects has been provisioned to be sold to Rajasthan Urja Vikas Nigam Limited ('RUVNL'). It was submitted that the bid process was conducted for RUVNL and that vide amendment to RfS dated 12.2.2019, a provision permitting SECI to substitute RUVNL with any other entity in a different State for selling the power procured from the projects was deleted. Hence, as held in the order dated 15.4.2021, in the present case also, the 'Appropriate Commission' might be the State Commission. In this regard, reference was made to the paragraphs 17, 20, 21 and 23 of the order dated 15.4.2021 and definition of the 'Appropriate Commission' in the Guidelines dated 3.8.2017 and the PPA. Learned senior counsel also added that if the Commission arrives at the view that it has necessary jurisdiction to proceed with the case, then the Petitioner may be directed to implead the Rajasthan Utilities as party to the Petition.

4. In response, learned counsel for the Petitioner submitted that, as per his instructions, the last amendment to RfS was dated 4.1.2019, whereby it was specified that this Commission shall be the appropriate Commission to exercise the regulatory and adjudicatory jurisdiction in regard to matters between the solar power developer and SECI. However, if there had been a subsequent amendment to the RfS as cited by SECI, the Petitioner may be permitted to examine the issue of jurisdiction.

5. Considering the submissions made by the learned counsel for the Petitioner and learned senior counsel for the Respondent, SECI, the Commission directed SECI to share its note of submissions along with the amendments to RfS as relied upon with the Petitioner, who may file its response on the issue of the jurisdiction of the Commission within two weeks.

6. Based on the response submitted by the Petitioner, the next date of hearing will be intimated separately, if required.

By order of the Commission

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