

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 268/MP/2021

Subject : Petition under Sections 79(1)(b) and 79(1)(f) of the Electricity Act, 2003 read with Article 12 of the long-term Power Purchase Agreement dated 17.10.2019 entered into between M/s Powerica Limited and Solar Energy Corporation of India Limited for approval of Change in Law events and consequential compensation.

Date of Hearing : 24.1.2022

Coram : Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Petitioner : Powerica Limited

Respondents : Solar Energy Corporation of India Limited (SECI) and Anr.

Parties Present : Shri Divya Chaturvedi, Advocate, Powerica
Shri Ajay Bhargava, Advocate, Powerica
Shri Saransh Shaw, Advocate, Powerica
Shri Parveen Arora, Advocate, Powerica
Ms. Aishwarya Kaushiq, Advocate, Powerica
Shri M. G. Ramachandran, Sr. Advocate, SECI
Ms. Tanya Sareen, Advocate, SECI
Ms. Neha Singh, 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 seeking approval of Change in Law event and consequential relief of compensation to the Petitioner for increase in its Project cost due to revision of Goods and Services Tax applicable on renewable energy devices and manufacturing parts for wind mills and wind operated electricity generators, notified by the Ministry of Finance, Department of Revenue vide its Notifications No.8/2021 dated 30.9.2021. Learned counsel submitted that the Petitioner has already issued a Change in Law notice to the Respondent, SECI on 29.10.2021 providing the details regarding occurrence of Change in Law, its impact on tariff and computation, etc., in compliance of the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 ('Change in Law Rules'). However, no response has been received from SECI till date.

3. Learned senior counsel for the Respondent, SECI submitted that the Scheduled Commercial Operate Date ('SCOD') of the Petitioner's Project is 5.9.2022 and, therefore, it is pre-mature to invoke the Change in Law Rules at this stage. Learned senior counsel placed reliance on Rules 3(2), 3(3) and 3(7) of the Change in Law Rules and submitted that recovery of proposed impact in tariff or charges due to Change in Law is to start only from billing cycle and that the Petitioner is to

approach the Commission within thirty days from coming into effect of recovery of impact of Change in Law event. Learned senior counsel for SECI submitted that meetings had been conducted with all the projects developers including the Petitioner in this regard and he further added that certain supporting documents are yet to be submitted by the Petitioner.

4. Learned counsel for the Petitioner submitted that while SCOD of the Project has been extended to 5.9.2022, the 1st Phase of its Project is likely to achieve commercial operation by 30.1.2022 whereas the 2nd phase of the Project is likely to achieve commercial operation by 31.3.2022. In response, learned senior counsel for SECI submitted that in that case, SECI will examine the Petitioner's claims provided the Petitioner submits all requisite documents. Learned counsel for the Petitioner requested that in case, the Commission decides to direct the Petitioner to approach the Commission in terms of Rule 3(7) of Change in Law Rules, the filing fees paid by the Petitioner be adjusted against the Petition to be filed under the said Rules.

5. After hearing the learned counsel for the Petitioner and learned senior counsel for the Respondent, the Commission reserved the order on admissibility of the matter.

By order of the Commission

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