

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 276/AT/2021

Subject : Petition under Section 63 of the Electricity Act, 2003 for adoption of tariff for 500 MW grid connected solar PV power projects selected through competitive bidding process as per the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects (Resolution number 23/27/2017-R&R) issued by the Ministry of Power, Government of India on 3.8.2017 as amended from time to time.

Petitioners : Rewa Ultra Mega Solar Limited (RUMSL) and 2 Ors.

Respondents : Ministry of New and Renewable Energy and 2 Ors.

Petition No. 277/AT/2021

Subject : Petition under Section 63 of the Electricity Act, 2003 for adoption of tariff for 450 MW grid connected solar PV power projects selected through competitive bidding process as per the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects (Resolution number 23/27/2017-R&R) issued by the Ministry of Power, Government of India on 3.8.2017 as amended from time to time.

Petitioners : Rewa Ultra Mega Solar Limited (RUMSL) and 2 Ors.

Respondents : Ministry of New and Renewable Energy and 2 Ors.

Petition No. 278/AT/2021

Subject : Petition under Section 63 of the Electricity Act, 2003 for adoption of tariff for 550 MW grid connected solar PV power projects selected through competitive bidding process as per the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects (Resolution number 23/27/2017-R&R) issued by the Ministry of Power, Government of India on 3.8.2017 as amended from time to time.

Petitioners : Rewa Ultra Mega Solar Limited (RUMSL) and 2 Ors.

Respondents : Ministry of New and Renewable Energy and 2 Ors.

Date of Hearing : 24.3.2022

Coram : Shri I. S. Jha, Member
Shri Arun Goyal, Member



Shri P. K. Singh, Member

Parties Present : Shri Jafar Alam, Advocate, RUMSL
Shri Saahil Kaul, Advocate, RUMSL
Ms. Parichita Chowdhury, Advocate, RUMSL
Shri Venkatesh, Advocate, NTPC REL
Shri Siddharth Joshi, Advocate, NTPC REL
Shri Vineet Kumar, NTPC REL
Shri Sunit Kumar, NTPC REL

Record of Proceedings

Cases were called out for virtual hearing.

2. Learned counsel for the Petitioner, Rewa Ultra Mega Solar Limited (RUMSL) submitted that the present Petitions have been filed seeking adoption of tariff(s) discovered pursuant to the transparent competitive bid process conducted for the development of (a) 500 MW grid-connected ground mounted solar PV projects in Neemuch Solar Park, Madhya Pradesh, (b) 450 MW grid-connected ground mounted solar PV projects in Shajapur Solar Park, Madhya Pradesh, and (c) 550 MW grid-connected ground mounted solar PV project in Agar Solar Park, Madhya Pradesh respectively. Learned counsel further submitted the following:

(a) In compliance with the direction of the Commission vide Record of Proceedings ('RoP') for the hearing dated 15.2.2022, the Petitioners have placed on record the Project Agreements executed by the Petitioners with the selected bidders, including the Power Purchase Agreements.

(b) Vide the aforesaid RoP, the Petitioners were also directed to furnish a copy of intimation to the Appropriate Commission about initiation of bid process, if any. While no separate intimation was issued to the Commission about the initiation of the bid process, the Petitioners had approached the Commission vide Petition No. 91/MP/2020, Petition No. 631/MP/2020 and Petition No. 672/MP/2020 wherein the Petitioners had placed on record the relevant details of the bid process and had sought approval for certain deviation from the provisions of the Guidelines prior to issuance of final bid documents. Initiation of the bid process by the Petitioners had been recorded by the Commission in the RoP issued in the said matters.

(c) The bid documents are in line with the 'Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects' ('the Guidelines') issued by Ministry of Power, Government of India on 3.8.2017, as amended from time to time and the deviations as approved by the Commission vide combined order dated 25.4.2021 in Petition No.91/MP/2020, Petition No.631/MP/2020 and Petition No. 672/MP/2020.

3. Learned counsel for the Respondent, NTPC Renewable Energy Limited in Petition No. 277/AT/2021 submitted that the Respondent has already filed its reply and supports the prayers made therein. Learned counsel further submitted the following:

(a) Pursuant to its selection as one of the successful bidders, the Respondent has been awarded the capacity of 105 MW and 220 MW and consequently, has entered into the Power Purchase Agreements.

(b) Subsequent to the Proposal Due Date (date of assessing Change in Law) i.e. 28.6.2021, the applicable rate of GST on the renewable energy devices and parts for their manufacture has been increased from 5% to 12% in term of the Notification dated 30.9.2021 issued by Ministry of Finance, Government of India. The aforesaid increase in the rate of GST has a direct impact on the cost to be paid towards development of the project and thus, the said Notification qualifies to be Change in Law event.

(c) The issue of consideration of claim of Change in Law compensation at the stage of adoption of tariff has been considered by the Appellate Tribunal for Electricity vide order dated 12.10.2021 in Appeal No. 251 of 2021 in the matter of Green Infra Renewable Energy Limited v. RERC and Ors.

(d) In the said order, APTEL has observed that deferring such claim for later date creates lot of confusion, regulatory uncertainty and consequent difficulties in attaining financial closure. It has been observed that it is the duty of the Commission to inquire into such claim at the first opportune time and bring suitable corrections.

(e) Although the draft PPA, concerning the said proceedings, had a specific clause providing for recognition of Change in Law event during the adoption proceedings, the aforesaid findings of APTEL are applicable in all cases regardless of PPA having such specific clause.

(f) Accordingly, the Respondent is praying for grant of in-principle approval/recognition of the Notification dated 30.9.2021 issued by Ministry of Finance, Government of India as Change in Law event under the Power Purchase Agreement.

(g) In case, the Commission decides not to consider the aforesaid request in the present proceedings, the Commission may record the submissions made by the Respondent and permit to raise such claims at an opportune time.

4. After hearing the learned counsel for the parties, the Commission directed the Petitioners to confirm on an affidavit that bid documents including the Power Purchase Agreement are in line with the provisions of the Guidelines and the deviations approved by the Commission vide order dated 25.4.2021 in Petition No.91/MP/2020, Petition No.631/MP/2020 and Petition No. 672/MP/2020 and that no deviations/changes have been made in the bid documents after the bid submission date by 31.3.2020.

5. Subject to the above, the Commission reserved the order in the matters.

By order of the Commission

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