

**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 : 11.1.2022
- 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 M. G. Ramachandran, Sr. Advocate, SECI
Ms. Tanya Sareen, Advocate, SECI
Ms. Poorva Saigal, Advocate, SECI
Shri Ravi Nair, Advocate, SECI
Ms. Neha Singh, SECI

Record of Proceedings

Order was reserved in the matter. However, consequent upon issuance of Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 ('the Change in Law Rules') by the Ministry of Power, Government of India providing for a procedure dealing with the Change in Law cases, the matter is re-listed.

2. During the course of hearing, learned counsel for the Petitioner submitted that the parties to the Power Purchase Agreement i.e. the Petitioner and SECI, have already reconciled the Petitioner's Change in Law claims relating to enactment of GST Laws and that SECI has also agreed to release the payments to the Petitioner, as recorded vide Record of Proceedings for the hearing dated 9.11.2021. The learned counsel further submitted that the Petitioner is facing severe financial stress. Accordingly, the Petitioner had filed IA No. 78/2021, *inter alia*, seeking direction to SECI to release the payments as proposed vide its letter dated 22.3.2021. The learned counsel further submitted that the Change in Law Rules may not apply in the present case as the parties, namely, the Petitioner and SECI have already reconciled the claims. As regards the distribution licensee, despite being party to the

Petition, it chose not to appear before the Commission. The learned counsel submitted that the Commission, in its various orders, has already held that the obligation of SECI for making payment to the Petitioner is not subject to payment being made by the distribution licensee to SECI. Based on the above, the learned counsel requested that the Commission may consider passing a consent order in the matter or else the parties may be permitted to reconcile the claims with distribution licensee and thereafter, the matter be considered under the Change in Law Rules.

3. The learned senior counsel for the Respondent, SECI confirmed that the reconciliation of the amount has been carried out between the Petitioner and SECI, which was also forwarded to the distribution licensee, BESCO. However, so far, BESCO has not confirmed the said claims. The learned senior counsel further submitted that the Respondent along with the Petitioner will once again take up the issue of reconciliation with distribution licensee and will approach the Commission thereafter, for issuance of an appropriate order under Change in Law Rules. The learned counsel for the Petitioner also agreed to the submissions made by the learned senior counsel for SECI and prayed for short adjournment while the parties may reconcile the claims with distribution licensee and approach the Commission thereafter.

4. Considering the submissions made by the learned counsel for the Petitioner and the learned senior counsel for the Respondent, SECI, the Commission adjourned the matter and permitted the Petitioner and SECI to reconcile the claims with distribution licensee, BESCO within two weeks and approach the Commission for appropriate direction under Rule 3(8) of the Change in Law Rules and/or Section 79(1)(f) of the Electricity Act, 2003.

5. The Petition shall be listed for hearing in due course for which separate notice will be issued.

By order of the Commission

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