

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 72/MP/2020

- 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(s) to compensate for the increase in capital cost and associated costs due to (a) introduction of the Central Goods and Services Tax Act, 2017, the Integrated Goods and Service Tax Act, 2017 and the State Goods and Services Acts enacted by respective States and (b) imposition and introduction of Safe Guard Duty on the import of solar cells (whether or not assembled in modules or panels) by way of Notification No.01/2018-Customs SG dated 30.7.2018 issued by the Department of Revenue, Ministry of Finance, in terms of Article 12 read with Article 16.3.1 of the Power Purchase Agreements dated 6.10.2017 between SB Energy Three 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 : SB Energy Three Private Limited (SBETPL)
- Respondents : Solar Energy Corporation of India Limited (SECI) and Anr.
- Parties Present : Ms. Molshree Bhatnagar, Advocate, SBETPL
Shri M. G Ramachandran, Senior Advocate, SECI
Ms. Poorva Saigal, Advocate, SECI
Ms. Tanya Sareen, Advocate, SECI
Shri Ravi Nair, Advocate, SECI
Ms. Neha Singh, SECI
Shri Anand K Ganesan, Advocate, RUVNL
Ms. Swapna Seshadri, Advocate, RUVNL
Shri Ashwin Ramanathan, Advocate, RUVNL

Record of Proceedings

Case was called out for virtual hearing.

2. The learned counsel for the Petitioner submitted that the Commission vide Record of Proceedings for the hearing dated 4.6.2020 had adjourned the matter sine die since the Petitioner and SECI were already in discussion for reconciliation of the Petitioner's claims arising out of Change in Law events, namely, introduction of GST Laws and imposition of safeguard duty, as per the MNRE's letters dated 12.3.2020

and 23.3.2020. The learned counsel submitted that the Petitioner's claims towards GST and safeguard duty have now been reconciled and SECI has also communicated the annuity payment method in terms of the Commission's order in Petition No. 536/MP/2020. The learned counsel further submitted that since the Petitioner was also Respondent to the said Petition, the present Petition may be disposed of in line with the order issued in Petition No. 536/MP/2020.

3. The learned senior counsel for SECI confirmed that reconciliation of the amount has been carried out between the Petitioner and SECI, which was also communicated to the distribution company. The learned senior counsel further submitted that it may also be noted that unlike the other cases, whereby the Change in Law payments as per the annuity mode had already been released prior to notification of the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 (hereinafter referred to as "Change in Law Rules"), the payments to the Petitioner in the present case are yet to start.

4. The learned counsel for the Respondent, RUVNL submitted that the Respondent has written six letters to SECI raising various issues on the reconciliation and the last one being on 5.10.2021, which is yet to be responded by SECI.

5. In response, the learned counsel for the Petitioner submitted that the Petitioner was not aware about the letters written by RUVNL raising issues on reconciliation and, accordingly, the Petitioner may be permitted to discuss such issues with RUVNL along with SECI in order to arrive at reconciled number and till such time, the matter may be adjourned.

6. Considering the request of the learned counsel for the Petitioner, which was also agreed to by the learned senior counsel for SECI and the learned counsel for RUVNL, the Commission adjourned the matter and permitted the Petitioner and SECI to reconcile the claims with RUVNL 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.

7. 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)**