



Petition No. 1540/2019

BEFORE

THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

Date of Order: 27.09.2021

PRESENT:

Hon'ble Shri Raj Pratap Singh, Chairman
Hon'ble Shri Kaushal Kishore Sharma, Member
Hon'ble Shri Vinod Kumar Srivastava, Member (Law)

IN THE MATTER OF: Petition under section 86 (1) (b) and Section 86 (1) (f) of the Electricity Act, 2003 read with Article 12 of the Power Purchase Agreement dated 03.12.2015 executed between M/s T. A. Greentech Private Limited (a Project Company formed by M/s Technical Associates Ltd.) and Uttar Pradesh Power Corporation Limited seeking approval of Change in Law events due to promulgation of GST Laws and Safeguard Duty.

1. M/s T A Greentech Private Limited
8th km, Faizabad Road, Vijaypur,
Gomti Nagar, Lucknow-226010
2. M/s Technical Associates Limited
8th Km., Faizabad Road, Vijaypur,
Gomti Nagar, Lucknow, U.P. - 226010

..... Petitioner

AND

1. Uttar Pradesh Power Corporation Limited
Shakti Bhawan, 14 Ashok Marg, Lucknow - 226001
2. The Uttar Pradesh New & Renewable Energy
Development Agency (UPNEDA)
Vibhuti Khand, Gomti Nagar, Lucknow - 226010

..... Respondents

The following were present:

1. Shri Deepak Raizada, CE, UPPCL
2. Shri Pranav Agarwal, Counsel, T.A Greentech Pvt. Ltd.
3. Shri Amarjit Singh Rakhra, Advocate, UPPCL
4. Shri Nishant Shukla, Counsel, UPNEDA
5. Representative, UPNEDA

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ORDER
(Date of Hearing 14.09.2021)

1. The Commission vide Order dated 18.06.2021 directed the Petitioner to furnish information/documents related to claimed GST & Safeguard Duty under Change in Law event. The Petitioner in compliance to the Commission Order has filed the information/documents on 30.07.2021.

The matter came up for hearing today.

2. Shri Pranav Agarwal, the counsel of the Petitioner submitted that in compliance to the Commission's order dated 18.06.2021, the details have been submitted and reply of UPPCL on its submission dated 30.07.2021 is awaited.

3. Shri Amarjit Singh Rakhra, Advocate of UPPCL submitted that they have already filed the reply on the petition. However, the claimed amount on account of Change in Law event is within the per MW cost considered by the Commission while approving the project's tariff.

4. Shri Deepak Raizada, CE, UPPCL submitted that PPA was signed on 03.12.2015 and the GST was notified on 12.04.2017 and the same was made applicable w.e.f. 01.07.2017. The Commission vide its order dated 12.02.2018 in petition no. 1120/2017 has revised the module cost at Rs. 2.65 Cr./MW after accounting for taxes and degradation along with an option to the Petitioner to quit from the PPA if the approved tariff of Rs. 5.07/kWh is not acceptable to them. Subsequently the SPPA was signed on 04.04.2018.

5. Regarding Safeguard duty, Shri Deepak, submitted based on the total module cost as per Petitioner, the cost per MW works out to be Rs. 2.61 Cr/MW which is less than the considered cost of modules as Rs. 2.65 Cr./MW by the Commission. Therefore, even if the Safeguard Duty is considered as Change in Law event, the impact of the same needs to be evaluated considering the "Principle of Restitution". He further submitted that the Petitioner has the margin/buffer for this additional cost of Safeguard duty when compared to the Commission's approved cost.

6. Further, Shri Amarjeet Singh Rakhra submitted that they have raised this point in its reply to which the Petitioner has filed rejoinder vide affidavit dated 04.11.2020.

7. The Commission asked the counsel of the Petitioner to respond to the argument of Respondents about claimed cost (i.e., Rs. 2.61 Cr./MW) is less than the considered module cost (i.e., Rs. 2.65 Cr./MW). Sh. Pranav Agarwal submitted that they would respond to this and requested the Commission time for the reply.



8. After hearing the parties, the Commission allowed the request of the Petitioner to file its reply within two weeks.

List the matter for final hearing on 16.11.2021.

(Vinod Kumar Srivastava)
Member

(Kaushal Kishore Sharma)
Member

(Raj Pratap Singh)
Chairman

Place: Lucknow

Dated: 27.09.2021

