

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 374/MP/2020

Subject : Petition under Section 79(1)(f) of the Electricity Act, 2003 read with Article 17 of the Power Purchase Agreement dated 17.4.2017 executed by ACME Jaipur Solar Power Private Limited with M. P. Power Management Company Limited and Delhi Metro Rail Corporation Limited and in terms of the directions issued by the Central Government vide tis Notification bearing No. 23/43/2018-R&R dated 27.8.2018 for allowing pass through of additional expenditure incurred by the generator on account of events pertaining to 'Change in Law' along with this Commission order dated 9.10.2018.

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 : ACME Jaipur Solar Power Private Limited (AJSPPL)

Respondents : M. P. Power Management Co. Ltd. (MPPMCL) and 2 Ors.

Parties Present : Shri Sanjay Sen, Sr. Advocate, AJSPPL
Ms. Mandakini Ghosh, Advocate, AJSPPL
Shri Shreshth Sharma, Advocate, AJSPPL
Shri Saurobroto Dutta, Advocate, AJSPPL
Shri G. Umapathy, Sr. Advocate, MPPMCL
Shri Tarun Johri, Advocate, DMRC
Shri Ankur Gupta, Advocate, DMRC
Shri Sanjay V Kute, DMRC
Shri Surendra Kumar Gupta, DMRC

Record of Proceedings

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

2. During the course of hearing, learned senior counsel for the Petitioner submitted that the Change in Law Rules have no application where the other party to the agreement has already disputed/ contested the Change in Law events and where such matters have been reserved for order. The learned senior counsel submitted that in the present case, the Respondents have disputed the Change in Law claims of the Petitioner in their replies filed on an affidavit and thus, parties having already disclosed their position regarding Change in Law event. Therefore, the Change in Law Rules ought not to be applied. The learned senior counsel further submitted that the delegated legislation cannot control, add or alter the jurisdiction



vested under the statute. In this regard, the reliance was placed on the judgment of Hon'ble Supreme Court in Dr. Jagmittar Sain Bhagat & Ors. v. Dir. Health Services, Haryana & Ors. [(2013) 10 SCC 136].

3. Learned senior counsel for the Respondent, MPPMCL submitted since the matter had been reserved for order, the Commission may proceed to pass an appropriate order.

4. After hearing the learned senior counsel and learned counsel for the parties, the Commission reserved the matter for order.

By order of the Commission

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