



Petition No. 1771 of 2021
BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

Date of Order: 18.04.2022

PRESENT:

Hon'ble Shri Raj Pratap Singh, Chairman
Hon'ble Sh. Vinod Kumar Srivastava, Member (Law)

IN THE MATTER OF: Petition under Section 86(1)(b) read with Section 63 of the Electricity Act 2003 and Regulation 57 of the UPERC (Conduct of Business) Regulations, 2019 and Article 11 read with Article 13.5 and Article 4.5.3 of the Power Purchase Agreement dated 20.12.2019 executed between Solar Energy Corporation of India Limited and the Petitioners seeking direction to Solar Energy Corporation of India for granting extension of timelines for completion of the project and restraining Solar Energy Corporation of India from invoking the Performance Bank Guarantees.

1. Renew Solar Power Private Limited,
10th floor DLF Square Building, DLF Phase – II M Block,
Jacaranda Marg, Gurugram, Haryana - 122002
2. Auxo Sunlight Private Limited,
138, Ansal Chambers-II, Bhikaji Cama Place,
New Delhi – 110066
3. Renew Sun Power Private Limited,
138, Ansal Chambers-II, Bhikaji Cama Place,
New Delhi – 110066

..... Petitioners

Versus

1. Solar Energy Corporation of India Limited,
D-3, 1st Floor, Wing-A, Prius Platinum Building,
District Centre, Saket, New Delhi – 110017
2. Uttar Pradesh Power Corporation Limited,
Shakti Bhawan, 14 Ashok Marg,
Lucknow, Uttar Pradesh – 226001

..... Respondents

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The following were present:

1. Sh. Sajan Poovayya, Senior Counsel, Renew Solar
2. Ms. Nishtha Kumari, Advocate, Renew Solar
3. Sh. Divyanshu Bhatt, Counsel, UPPCL
4. Sh. Shashwat Singh, Advocate, UPPCL
5. Sh. Deepak Raizada, C.E-PPA, UPPCL
6. Sh. M.G. Ramachandran, Senior Advocate, SECI
7. Ms. Sristhi Khindaria
8. Sh. Apoorva Mishra, Advocate, SECI
9. Sh. Vasav Anantharaman
10. Ms. Neha Singh

ORDER

(Date of Hearing 04.04.2022)

1. The last hearing was adjourned due to non-availability of Member (Law), in the quorum.

The matter came up for hearing today.

2. During the hearing, Sh. Sajan Poovayya counsel of Petitioner submitted that pursuant to the Commission order dated 06.10.2021, all parties have conducted the meeting, but a mutually accepted conclusion could not arrive among the parties. Further, Sh. Sajan Poovayya submitted that during the meetings, the issue of giving up all Change in Law claims has come up. These Change in Law events include those which have already occurred, post-bidding, and also those which may occur in the future, considering the SCOD extension is approved by the Commission. He further submitted that they are agreeable to forego Change in Law claims only on account of BCD effective 01.04.2022 which may have approx. 40-50 paise impact on tariff.
3. The Commission observed that if UPPCL decides to procure power through fresh bidding, it shall be required to compensate the bidder for future Change in Law events. Sh. Deepak Raizada on behalf of UPPCL submitted that in the instant matter, Petitioner has not relinquished all claim for the Change in Law event that has occurred but only related to Basic Customs Duty to which Sh. Sajan Poovayya responded in affirmation.
4. Further, Sh. Sajan Poovayya stated that as the parties have not arrived at mutually acceptable terms, therefore, he requested the Commission to exercise its regulatory power to let the parties exit the PPA. The Commission observed that the parties are always free to exit the PPA in terms of the applicable clause of the RFP



and PPA. However, the instant petition has been filed for SCOD extension, therefore, the Petitioner needs to amend the instant petition for seeking to exist from the PPA, Sh. Sajan Poovayya sought two weeks' time for amending the petition.

5. After hearing the parties, the Commission allowed the request of the Petitioner to file an amended petition within two weeks' time for admission.

List the matter for the next hearing on 19.04.2022.

(Vinod Kumar Srivastava)
Member

(Raj Pratap Singh)
Chairman

Place: Lucknow
Dated: 18.04.2022

