

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 254/AT/2022

Subject : Petition under Section 63 of the Electricity Act, 2003 for Adoption of Tariff discovered through Competitive Bidding Process for procurement of power from the 1200 MW Grid-Connected Solar PV Power Project at Village- Kalijal & Matuon ki dhani, Tehsil- Shiv, District- Barmer and at Village Rawadi Chak, Tehsil- Fatehgarh, District- Jaisalmer in Rajasthan as per the Standard Bidding Guidelines of Ministry of Power, GOI dated 3.8.2017 and its amendments thereof.

Date of Hearing : 22.12.2022

Coram : Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Petitioner : NTPC Limited (NTPC)

Respondents : XI Xergi Power Private Limited and Anr.

Parties Present : Ms. Sakie Jakharia, Advocate, NTPC

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Petition has been filed seeking adoption of tariff for the procurement of power from 400 MW solar PV power project discovered through competitive bid process carried out by the Petitioner as per 'Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects' issued by the Ministry of Power, Government of India dated 3.8.2017 ('the Guidelines'). Learned counsel submitted that after filing of the Petition, the Petitioner has been able to tie-up additional 200 MW with the Respondent No.2, GRIDCO Limited by way of Power Supply Agreement dated 30.9.2022 and has, consequently, entered into another Power Purchase Agreement (PPA) with Respondent No.1 on 24.11.2022 for 200 MW and thus, the total tied-up capacity now stood at 400 MW. Learned counsel further added that these details have been brought on record through the IA No. 69/2022.

2. In response to the specific query of the Commission regarding Article 12.1.1(f) of the PPA, which in departure from the Clause 5.7 of the Guidelines, provides for a pre-determined quantum of relief in case of certain Change in Law events and basis for such incorporation, learned counsel sought liberty to take necessary instructions and file a short response on this aspect. Learned counsel, however, clarified that such provision was already incorporated at RfS stage and not at a later stage.

3. Considering the submissions made by the learned counsel for the Petitioner, the Commission directed the Petitioner to file its response on affidavit within a week on the following:

(i) Basis for incorporation of Article 12.1.1(f) in the PPA which provides for pre-determined quantum of relief in respect of Change in Law events (i.e. changes in the rates of Anti-Dumping Duty, Safeguard Duty and Custom Duty etc. on Solar PV modules); and

(ii) Whether above incorporation in Article 12.1.1(f) of the PPA has been pursuant to the approval of any competent authority including Appropriate Commission under Clause 18 of the Guidelines which provides that 'in case there is any deviation from these Guidelines and/or the SBDs, the same shall be subject to approval by the Appropriate Commission'.

4. Subject to the above, the Commission reserved the matter for order.

By order of the Commission
Sd/-
(T.D. Pant)
Joint Chief (Law)