

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.235/MP/2021

Subject : Petition under Section 79(1)(f) read with Section 79(1)(a) and (b) of the Electricity Act, 2003 read with the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Power Projects, 2017 as amended from time to time seeking declaration of discharge from any obligation and liability to the Respondent under the Request for Selection No. SECI/C&P/WPD/1200MW/T7/RfS/022019 dated 22.2.2019, Letter of Award dated 19.6.2019 or otherwise.

Date of Hearing : 29.5.2023

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

Petitioner : Betam Wind Energy Private Limited (BWEPL)

Respondent : Solar Energy Corporation of India Limited (SECI)

Parties Present : Ms. Molshree Bhatnagar, Advocate, BWEPL
Shri Nimesh Jha, Advocate, BWEPL
Shri Rishabh Sehgal, Advocate, BWEPL
Ms. Anushree Bardhan, Advocate, SECI
Ms. Tanya Sareen, Advocate, SECI
Ms. Surbhi Kapoor, Advocate, SECI
Ms. Srishti Khindaria, Advocate, SECI

Record of Proceedings

At the outset, learned counsel for the Petitioner submitted that the Petitioner is moving two IAs in the matter – one seeking a recall of the order directing the Petitioner to implead UPPCL as a party to the Petition and the other seeking amendment to the petition for incorporating an additional prayer of return of the Earnest Money Deposit (EMD) amount submitted to SECI. Learned counsel submitted that the parties may be permitted to complete the pleadings in these IAs. Learned counsel also pointed out that the Petitioner has already deposited the amount of Rs. 12 crore to SECI as per the direction vide Record of Proceedings for the hearing dated 23.11.2021.

2. Learned counsel further submitted that, insofar as the direction to implead the UPPCL as a party to the Petition is concerned, there is no privity of the contract between the Petitioner and UPPCL and therefore, the Petitioner, in its rejoinder, had also opposed the submissions of SECI to this effect. The Commission observed that such submissions of the Petitioner had already been considered during the hearings on 16.2.2023 and 11.4.2023 and only thereafter, the direction of impleadment of UPPCL was issued and reiterated vide Record of Proceedings for the said dates. In response, learned counsel for the Petitioner submitted that, , her statement that the



Petitioner is no longer pressing for the IA seeking recall of such direction may be taken on record and the Petitioner may be permitted to file a revised memo of parties.

3. In response to the specific query of the Commission to SECI regarding the implication of non-signing of the PPA besides forfeiture of EMD, learned counsel for SECI submitted that, as per SECI, it is also entitled to appropriate the balance amount of the Performance Bank Guarantee for payment to UPPCL as per the terms & conditions of bid read with PSA for failure on the part of the Petitioner to implement the PPA after having been issued the Letter of Award. Learned counsel submitted that the PSA between SECI and UPPCL was also approved by the UP State Commission.

4. Considering the above, the Commission ordered as under:

(a) The Petitioner to implead UPPCL as a party to the Petition and file a revised memo of parties within a week without fail.

(b) IA being filed by the Petitioner seeking amendment to the Petition be registered and numbered subject to the Petitioner rectifying all defects thereof, if any.

(c) The Respondents, including UPPCL may file their response to the IA including on the merits of the amendment sought therein, within four weeks, with a copy to the Petitioner, who may file its rejoinder thereof, within four weeks thereafter.

(d) The Petitioner having already deposited the amount equivalent to EMD with SECI, the interim direction given vide Record of Proceedings for the hearing dated 23.11.2021 will be continued till next date of hearing. The Petitioner, in the meantime, will keep the Performance Bank Guarantee as furnished to SECI alive.

5. The Petition along with the IA shall be listed for hearing on 13.9.2023.

By order of the Commission

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