

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. : **107/MP/2021 along with I.A No. 36/2021**

Subject : Petition under Section 79(1)(c), Section 79(1)(f) of the Electricity Act, 2003 seeking directions against Power Grid Corporation of India Limited to comply with the Ministry of Power's Order bearing Reference No. 23/12/2016-R&R dated 15.1.2021 and extend the commencement of the Petitioner's Long Term Access under the LTA Agreement dated 15.10.2018 to coincide with the revised Scheduled Commissioning Date under the Petitioner's Power Purchase Agreement dated 4.9.2018

Date of Hearing : 4.6.2021

Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Pravas Kumar Singh, Member

Petitioner : AP Avikiran Solar India Private Limited (AS IPL)

Respondents : Power Grid Corporation of India Limited (PGCIL)

Parties present : Mr. Jafar Alam, Advocate, ASIPIL
Mr. Deep Rao, ASIPIL
Mr. Saahil Kaul, ASIPIL

Record of Proceedings

The matter was called out for virtual hearing.

2. Learned counsel for the Petitioner submitted that the present petition has been filed, inter alia, seeking direction to PGCIL to extend the date of operationalization of the Long Term Access ('LTA') granted under the LTA Agreement dated 15.10.2018 between the Petitioner and PGCIL, and to align the commencement and operation of LTA with the Scheduled Commercial Operation Date (SCOD) of the project with the SCOD in terms of the Power Purchase Agreement (PPA), as extended by Solar Energy Corporation of India Limited (SECI).

3. Learned counsel submitted that the Petitioner executed PPA dated 4.9.2018 with SECI for sale of 285 MW wind power from its project in Kutch, Gujarat. Thereafter, on 19.9.2018, the Petitioner was granted 285 MW LTA to the ISTS with Western Region as the target region by the CTU. LTA was to be operationalized by 29.2.2020 or upon the availability of the requisite transmission system, whichever is later. However, the commissioning of the Petitioner's project is delayed due to *force*



majeure events which were beyond the Petitioner's control. Consequently, SCOD of the project under the PPA has been extended by SECI upto 14.8.2021.

4. Learned counsel for the Petitioner submitted that the Petitioner has prayed for extension of COD upto 14.8.2021 as per SECI approval, and extension of COD and the date of operationalization of the LTA and waiver of ISTS charges and losses for the extended period based on the Ministry of Power (MOP) letter dated 15.1.2021. He further submitted that the similar issue was raised before the Commission in Petition No. 525/MP/2020 and 628/MP/2020 and the Commission vide Record of Proceedings (ROP) dated 11.8.2020 and 27.4.2021 respectively admitted the said petitions. In response to a query of the Commission, whether the MoP letter also formed the basis for seeking the similar relief in Petition No. 525/MP/2020 and 628/MP/2021, the learned counsel for the Petitioner submitted that at the time of hearing in the Petition No. 525/MP/2020 and 628/MP/2020, MoP letter had not been issued for claiming the similar reliefs as in the case of instant petition.

5. Learned counsel for the Petitioner submitted that subsequent to extension of COD by SECI, the Petitioner approached PGCIL and apprised about the extension of timelines for achieving the SCOD by SECI. However, PGCIL vide its letter dated 27.3.2021 did not take into consideration the extension of COD by SECI and stated that the LTA granted to the Petitioner shall be made effective w.e.f. 31.3.2021 and that the Petitioner shall be liable to bear all associated liabilities on the execution of the transmission system. Learned counsel submitted that on 9.5.2021, PGCIL without taking into account the MoP letter dated 15.1.2021, informed the Petitioner about the operationalization of LTA. Accordingly, the instant petition has been filed and requested the Commission to admit the instant petition, direct the PGCIL to comply with MoP letter dated 15.1.2021 and not to levy the transmission charges during the period of extension of COD. He further submitted that an Interlocutory Application No. 36/IA/2021 has also been filed seeking a relief that no coercive steps be taken against the Petitioner by invoking and/or encashing the Bank Guarantee of Rs.14.25 core furnished by the Petitioner as required under the LTA Agreement.

6. After hearing the learned counsel for the Petitioner, the Commission admitted the petition and directed to issue notice to the Respondents and directed the Petitioner to serve a copy of the petition on the Respondents in three days.

7. On the request of the Petitioner for restraining PGCIL from encashing the Bank Guarantee (BG) and taking any other coercive action against the Petitioner, the Commission observed that as the Petitioner has not raised any invoice for payment of ISTS charges and losses, there is no possibility for default of the payment by the Petitioner and consequent encashment of BG by PGCIL and as such it is not inclined to grant any interim order.

8. The Commission directed the Petitioner to submit the present status of the project and anticipated COD on affidavit by 20.6.2021 with an advance copy to the Respondents. The Commission also directed the Respondents to file reply by 30.6.2021, and the Petitioner to file its rejoinder, if any, by 12.7.2021.



9. The Commission further directed PGCIL to submit the status of Bhuj Pooling Station and associated transmission system alongwith its reply.

10. The Commission further directed the parties to comply with the directions within the timeline specified and observed that no extension of time shall be granted.

11. The Petition shall be listed for further hearing in due course for which separate notice will be issued.

By order of the Commission

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(V. Sreenivas)
Deputy Chief (Law)

