

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 334/MP/2020

Subject : Petition seeking extension of scheduled commercial operation date on account of Force Majeure Events and consequential reliefs.

Date of Hearing : 25.8.2020

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

Petitioner : Warora Kurnool Transmission Limited (WKTL)

Respondents : Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) and 13 Ors.

Parties present : Shri Amit Kapur, Advocate, WKTL
Ms. Poonam Verma, Advocate, WKTL
Ms. Aparajita Upadhyay, Advocate, WKTL
Ms. Sakshi Kapoor, Advocate, WKTL
Shri B. Vinodh Kanna, Advocate, TANGEDCO
Shri Mehul Desai, WKTL
Shri S. N Sunkari, WKTL
Ms. KS Priyadarshini, WKTL
Shri Vinay Pathak, WKTL
Shri Sachin Borade, WKTL
Ms. R. Ramalakshmi, TANGEDCO
Dr. R. Alamelu, TANGEDCO

Record of Proceedings

The matter was heard through video conferencing.

2. Learned counsel for the Petitioner submitted that the present Petition has been filed, *inter-alia*, seeking declaration that the transmission project of the Petitioner was obstructed, delayed and adversely affected due to force majeure events in terms of Transmission Service Agreement (TSA) dated 6.1.2016 and prayed for extension of the Scheduled Commercial Operation Date (SCOD) of the transmission project. Learned counsel for the Petitioner further submitted as under:

(a) The Petitioner is an inter-State transmission licensee entrusted with implementation of transmission system- 'Additional Inter-Regional AC link for import into Southern Region i.e. Warora-Warangal and Chilakaluripeta-Hyderabad-Kurnool 765 kV Link'. In terms of the TSA, the SCOD of the transmission project was 6.11.2019.



(b) Owing to various force majeure events, namely, (i) severe Right of Way issues including court proceedings initiated by land owners and stay/ injunction granted by courts, (ii) overlapping of route alignment of PGCIL's 800 kV HVDC Raigarh-Pugalur transmission system, (iii) unprecedented heavy rainfall, (iv) objection raised by Telangana State Industrial Infrastructure Corporation (TSIIC), (v) directions issued by Western Coalfields Limited and Singareni Collieries Company Limited to stop construction, (vi) delay in grant of wildlife approval from Principal Chief Conservator of Forest, (vii) issue of crossing of proposed wayside amenity and helipad on the Project line raised by National Highway Authority of India, and (viii) demonetization, the construction works of the various transmission Project elements have been obstructed and delayed. Accordingly, the Petitioner is seeking extension of SCOD of the Project.

(d) The Petitioner has also prayed for an interim relief seeking to restrain the Long-Term Transmission Customers (LTTCs) from taking any coercive actions against the Petitioner in terms of TSA including the encashment of Contract Performance Guarantee (CPG) against the Petitioner. TANGEDCO vide its letters dated 18.12.2019 and 21.3.2020 has already indicated its intention to proceed with encashment the CPG.

3. Learned counsel for the Respondent, TANGEDCO objected to the 'maintainability' of the Petition and submitted that TANGEDCO has already filed its detailed reply on the maintainability of the Petition. Learned counsel submitted that in terms of the provisions of Bid document/RfP, the Petitioner was required to make independent enquiry with respect to all required information, inputs conditions and circumstances that may have any effect on his bid, visit/survey and investigate the route of transmission lines, etc. and is not entitled to any extension in SCOD or financial compensation. He added that certain force majeure events cited by the Petitioner do not constitute force majeure events as per the provisions of the TSA. Learned counsel submitted that no case has been made by the Petitioner for grant of any relief including any interim protections.

4. In response to a specific query regarding likely COD of the transmission project, the learned counsel for the Petitioner submitted that many of the force majeure events such as pending court proceedings, objections raised by TSIIC and pendency of wildlife approval are still continuing and, therefore, the Petitioner is not in position to effectively confirm the likely COD of the Project. Learned counsel further added that lenders of the Petitioner are also in process of substituting Essel Infraproject Limited- successful bidder which acquired the Petitioner, with their nominee, Adani Transmission Limited due to continuous defaults in debt payment.

5. After hearing the learned counsel for the Petitioner and the learned counsel for the Respondent, TANGEDCO, the Commission reserved order in the matter.

By order of the Commission

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

