

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 10/MP/2021

Subject : Petition under Section 79 of the Electricity Act, 2003 read with Article 16 of the Power Purchase Agreement dated 29.12.2017 entered into between the Petitioner and the Respondents seeking that the extension of Scheduled Date of Commissioning of the Project without the levy of penalty.

Date of Hearing : 28.5.2021

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

Petitioner : Adani Green Energy (MP) Limited (AGEMPL)

Respondent : Solar Corporation of India Limited (SECI)

Parties Present : Shri Sourav Roy, Advocate, AGEMPL
Shri Prabudh Singh, Advocate, AGEMPL
Shri M. G. Ramachandran, Sr. Advocate, SECI
Ms. Tanya Sareen, Advocate, SECI
Ms. Poorva Saigal, Advocate, SECI
Shri Dipak Panchal, AGEMPL
Shri Rajeev Lochan, AGEMPL
Shri Shreedhar Singh, SECI
Shri Shubham Mishra, SECI
Ms. Aditee Nitnavare, SECI

Record of Proceedings

Case was called out for virtual hearing.

2. Learned counsel for the Petitioner submitted that the present Petition has been filed, *inter alia*, seeking declaration that the Petitioner had commissioned its Project on 3rd January, 2020 itself and for grant of consequential reliefs as per the provisions of the Power Purchase Agreement ('PPA') or in alternative, direction that the Scheduled Date of Commissioning ('SCoD') of its Project is extended to 5th March, 2020 without levy of liquidated damages by the Respondent, SECI. Learned counsel mainly submitted the following:

(a) As on SCoD of the Project i.e. 3rd January, 2020, the Petitioner had fulfilled all parameters for commissioning as all the equipment as per the rated Project capacity had already been installed and power had flown to the grid by that date. Moreover, the Chief Electrical Inspector had also granted approval for energisation for all 26 Wind Turbine Generators ('WTG') and also Gujarat Energy Development Agency ('GEDA') had provided the GEDA IDs for its WTGs. Thus, according to the Petitioner, there is no delay in the commissioning of the Project.

(b) Though under the PPA, physical verification was not required in order to establish that the Project has been commissioned, SECI insisted upon the

physical verification of all the WTGs. Accordingly, the physical verification was undertaken during 3rd/4th January, 2020.

(c) However, the physical verification of the WTGs could not take place in respect of 7 WTGs out of 26 WTGs due to the certain RoW issues and agitations by the local villagers. The Petitioner had also lodged a formal complaint with the police against the above incident.

(d) According to SECI, the Petitioner's Project has been commissioned only on 5th March, 2020 and consequently, SECI has levied the liquidated damages on the Petitioner for the period between 3rd January, 2020 and 5th March, 2020.

(e) The Petitioner is contesting the aforesaid action of SECI on the grounds that (i) the Petitioner had met all the formalities required for commissioning of its Project on 3rd January, 2020 itself and there was no requirement of physical verification of the Project in terms of the PPA, (ii) the Petitioner has complied substantially with the terms of SECI's Commissioning Procedure on 3rd January, 2020 itself, and (iii) the delay in physical verification of the Project due to RoW issues and agitation by the local villages constitutes force majeure event and entitles the Petitioner for the consequent extension.

3. Learned senior counsel for the Respondent, SECI accepted the notice and added that the Petitioner's Project was not ready for commissioning on 3rd January, 2020 as the requisite telemetry data equipment was not ready. Learned senior counsel also submitted that the buying utility, Punjab State Power Corp. Ltd. ('PSPCL') should be impleaded as party to the Petition since SECI has executed Power Sale Agreement with PSPCL for sale of power generated by the Petitioner under the PPA.

4. After hearing the learned counsel for the Petitioner, the Commission ordered as under:

- a) The Petitioner to array PSPCL as party and to file revised memo of parties.
- b) Admit. Issue notice to PSPCL.
- c) The Petitioner to serve copy of the Petition on the Respondents including PSPCL, if not already served and the Respondents, including PSPCL to file their reply, if any, by 25.6.2021 after serving to the Petitioner, who may file its rejoinder, if any, by 16.7.2021.
- d) Parties to comply with the above directions within the specified timeline and no extension of time shall be granted.

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

By order of the Commission

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