

CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi

Petition No. 103/MP/2021 alongwith IA No. 71/2021

- Subject** : Petition under Section 79 of the Electricity Act, 2003 along with statutory framework and the Tripartite Transmission Agreement dated 28.10.2018 executed between Power Grid Corporation of India Limited, ACME Solar Holdings Pvt Ltd and Fatehgarh-Bhadla Transmission Ltd., the Transmission Service Agreement dated 28.1.2019 executed between ACME Solar Holdings Pvt Ltd. and Power Grid Corporation of India Ltd. and the Long-Term Access Agreement dated 3.6.2019 executed between Power Grid Corporation of India Ltd. and ACME Solar Holdings Pvt Ltd. seeking directions to PGCIL to extend start date of LTA/commencement of LTA for ACME Deoghar Solar Power Pvt. Ltd., ACME Dhaulpur Powertech Pvt. Ltd. and align the same with the SCOD of the Projects, as extended by SECI.
- Petitioner** : ACME Deoghar Solar Power Pvt. Ltd. & Ors.
- Respondents** : Power Grid Corporation of India Ltd. (PGCIL) & Ors.

Petition No. 104/MP/2021 alongwith IA No. 72/2021

- Subject** : Petition under Section 79 of the Electricity Act, 2003 along with statutory framework and the Tripartite Transmission Agreement dated 25.09.2018 executed between Power Grid Corporation of India Limited, ACME Solar Holdings Pvt Ltd and Fatehgarh-Bhadla Transmission Ltd., the Transmission Service Agreement dated 28.1.2019 executed between ACME Solar Holdings Pvt Ltd. and Power Grid Corporation of India Ltd. and the Long-Term Access Agreement dated 16.5.2019 executed b Power Grid Corporation of India Ltd. and ACME Solar Holdings Pvt Ltd. seeking directions to PGCIL to extend start date of LTA/commencement of LTA for ACME Phalodi Solar Energy Pvt. Ltd., ACME Raisar Solar Energy Pvt. Ltd. and align the same with the SCOD of the Projects, as extended by SECI.
- Petitioner** : ACME Phalodi Solar Energy Pvt. Ltd. & Ors.
- Respondents** : Power Grid Corporation of India Ltd. (PGCIL) & Ors.
- Date of Hearing** : 7.12.2021



- Coram** : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Parties Present** : Shri Amit Kapur Advocate, ACME
Shri Vishrov Mukherjee, Advocate, ACME
Shri Girik Bhalla, Advocate, ACME
Ms. Suparna Srivastava, Advocate, PGCIL
Ms. Soumya Singh, Advocate, PGCIL
Shri Tushar Mathur, Advocate, PGCIL
Shri Yatin Sharma, CTU
Shri Swapnil Verma, CTU
Shri Siddharth Sharma, CTU
Shri Ranjeet Singh Rajput, CTU
Shri Mr Bhavesh Kundalia, FBTL
Shri Afak Pothiawala, FBTL

Record of Proceedings

Case was called out for virtual hearing.

2. Learned counsel for the Petitioners submitted that “ACME Deoghar and ACME Dhaulpur” and “ACME Phalodi and ACME Raisar” (in short, “the Projects”) are SPVs incorporated by ACME Solar Holdings Limited (ASHL) for developing and commissioning 2X300 MW solar power projects located in Pokhran, Rajasthan. The instant petitions have been filed seeking directions to PGCIL to extend start date of LTA/ commencement of LTA for ACME Deoghar Solar Energy Pvt. Ltd. (‘ACME Deoghar’) and ACME Phalodi Solar Energy Pvt. Ltd (‘ACME Phalodi’) and to align the same with their scheduled COD as extended by SECI.

3. Learned counsel for the Petitioners submitted that SECI by its letter dated 3.12.2021 has extended the scheduled COD of the Projects up to 18.5.2022 on account of *force majeure* events namely (i) status quo orders by Hon’ble Rajasthan High Court and (ii) outbreak of Covid-19. However, PGCIL has refused to extend the date of operationalization of LTAs to the extended SCOD. of 18.5.2022. PGCIL has extended the date of operationalization of LTA by only 5 months i.e. from 26.10.2020 to 26.3.2021 and from 19.10.2020 to 19.3.2021 respectively, or commissioning of ISTS for LTA, whichever is later. PGCIL has extended the LTA by 5 months as per Ministry of Power’s (MoP) letter dated 27.7.2020 and MoP in the same letter requested MNRE to grant extension of 5 months which was accepted by MNRE and extension was granted. Further, MNRE vide its O.M. dated 9.2.2021 allowed the implementing agencies to grant further extension beyond 5 months on case to case basis but PGCIL has refused to extend LTA commencement date in line with the revised scheduled COD which is not as per the MoP’s letter and MNRE’s O.M.

4. Placing reliance on the MoP’s order dated 23.11.2021, learned counsel for the Petitioners submitted that it provides for waiver of ISTS charges for electricity generated from solar and wind sources for projects to be commissioned up to 30.6.2025. He further



submitted that MoP on 15.1.2021 granted extension in the commencement and period of LTA in case COD of the renewable generating station is extended by competent authority on the grounds of force majeure. He submitted that in the instant case, commercial date of the project has been extended by SECI under the PPA due to force majeure events and the Petitioners are allowed to complete the project by revised scheduled COD. He requested the Commission to direct PGCIL to clear its stand/ position in the light of directions/ orders issued by the MoP in November 2021 and accordingly the matter be decided.

5. Learned counsel appearing on behalf of PGCIL submitted that waiver of transmission charges is applicable for solar power developers after their commissioning and transmission charges for any delay in commissioning of solar power projects are payable by such generators. Accordingly, the Petitioners are liable to pay transmission charges for the period of delay in commissioning of generation project and the associated transmission system or the LTA start date, whichever is earlier. MoP notification dated 15.1.2021, granting extension in the commencement and period of LTA in case COD of the generation project is extended by competent authority on the grounds of force majeure, is not in consonance with the Regulations and Detailed Procedure notified by the Commission. She further submitted that the stand of the PGCIL on the issue of waiver of transmission charges and MoP notifications is on record and PGCIL adopts the same stand.

6. The Commission directed the Petitioners and the Respondents, including PGCIL, to file their submissions in terms of MOP order/ directions on affidavit by 24.12.2021 with a copy to the other parties.

7. The matter shall be listed for final hearing in due course for which a separate notice will be issued.

By order of the Commission

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(V. Sreenivas)
Deputy Chief (Law)

