

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 158/MP/2021 along with IA No.61/2021**

- Subject : Petition under Section 61, Section 63 and Section 79 of the Electricity Act, 2003 read with the statutory framework and Article 11, Article 12 and Article 16.3 of the Transmission Service Agreement dated 23.4.2019 executed between Lakadia-Vadodara Transmission Project Limited and its Long-Term Transmission Customers inter alia claiming compensation due to Change in Law events, extension to the scheduled commissioning date of the transmission project on account of Force Majeure events adversely impacting its implementation and declaratory relief with respect to the Petitioner's scope of work.
- Date of Hearing : 11.11.2021
- Coram : Shri P. K. Pujari, Chairperson  
Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member
- Petitioner : Lakadia-Vadodara Transmission Project Limited (LVTPL)
- Respondents : Adani Green Energy MP Limited and 7 Ors.
- Parties Present : Shri Sajan Poovayya, Sr. Advocate, LVTPL  
Ms. Parichita Chowdhury, Advocate, LVTPL  
Ms. Harneet Kaur, Advocate, LVTPL  
Shri TAN Reddy, LVTPL  
Shri Gaurav Kumar, LVTPL  
Shri Harshit Gupta, LVTPL

**Record of Proceedings**

Case was called out for virtual hearing.

2. The learned senior counsel for the Petitioner submitted that the present Petition has been filed, *inter alia*, seeking compensation due to various force majeure and change in law events occurring during the implementation of its transmission project and seeking an extension to the Scheduled Commercial Operation Date ('SCOD') of the project in view of delay caused by various force majeure events, in terms of Article 11 and Article 12 of the Transmission Service Agreement dated 23.4.2019. The learned senior counsel mainly submitted the following:

- (a) Pursuant to liberty granted by the Commission vide Record of Proceedings ('RoP') for the hearing dated 30.9.2021, the Petitioner has filed the amended Petition along with the following prayers:



- (a) Admit and allow the present Petition;*
- (b) List the present Petition for an urgent hearing;*
- (c) Hold and declare that the Petitioner was impacted by the Force Majeure events described in the Petition and is therefore, entitled to relief in accordance with Article 11 of the TSA;*
- (d) Hold and declare that the Project's SCOD stands extended by 8 months in terms of the MOP's Office Memorandum dated 27.07.2020 and the MOP's Letter dated 12.06.2021;*
- (e) Grant leave to the Petitioner to place on record additional submissions and documents for determination by this Hon'ble Commission of the actual delay caused due to the Force Majeure Events, post commissioning of the Project;*
- (f) Direct that no Liquidated Damages may be imposed on the Petitioner for the delays caused in Project's implementation due to the aforesaid Force Majeure Events under the TSA or otherwise;*
- (g) Grant the Petitioner appropriate Force Majeure relief in terms of Article 11 of the TSA;*
- (h) Hold and declare that the Petitioner was impacted by the Change in Law events described in the Petition and is therefore entitled to relief in accordance with Article 12 of the TSA;*
- (i) Grant leave to the Petitioner to place on record additional submissions and documents for determination of the actual cost impact of the Change in Law Events;*
- (j) Grant the Petitioner appropriate Change in Law relief in terms of Article 12 of the TSA;*
- (k) Grant the Petitioner in-principle approval in relation to prayers at (c) and (h) hereinabove as an interim measure;*
- (l) Direct that the Petitioner is entitled to recover Interest During Construction incurred in respect of the periods of delay that were caused due to the unforeseen and uncontrollable events as described in the Petition;*
- (m) Declare that the extra bays at Vadodara S/s do not fall within the scope of work of the Petitioner under the TSA and the scope of work for the Petitioner is limited the scope under Schedule 2 of the TSA, Article 1.2 of the RFP and the transmission license of the Petitioner;*
- (n) Set aside the minutes of the CEA meeting held on 16.03.2021;*
- (o) Declare that in case the Petitioner is directed to implement two extra bays at the Vadodara S/s, it shall be entitled to claim reimbursement for the additional expenditure incurred through an increase in tariff, as the said event will constitute a change in law event under Article 12 of the TSA; and*

*(p) Exercise regulatory powers to grant appropriate relief to the Petitioner in the facts of the present case, including by way of condoning any inadvertent errors or delays by the Petitioner, if any.”*

(b) The Petitioner has filed IA No. 61/2021, *inter alia*, seeking in-principle approval of the various force majeure and change in law events and seeking declaration regarding scope of work of the Petitioner under the TSA.

(c) Regarding the scope of work, as per Clause 1.2 of the Request for Proposal (RfP) and Schedule 2 of the TSA, the Petitioner was required to implement only two 765 kV bays each at Lakadia sub-station and Vadodara sub-station for Lakadia-Vadodara 765 kV D/c transmission line. However, the Respondent, PGCIL vide its various e-mails/ letters to the Petitioner insisted that as per the annexure to clarification on RfP and TSA dated 30.5.2019, the Petitioner is required to provide three bays in each diameter of the transmission line. The Central Electricity Authority in the minutes of the meeting held on 16.3.2021 has suggested that the implementation of the extra bays is required at Vadodara sub-station as per the provisions of the RfP.

(d) Accordingly, the Petitioner has sought declaration as to its scope of work and in case the Petitioner is directed to implement the extra bays, it shall be entitled to claim reimbursement of the additional expenditure by way of an increased tariff, said event being a Change in Law event.

(e) The Petitioner has sought condonation of delay under various force majeure events. In addition, the Petitioner has sought condonation of 166 days of delay on account of delay in conducting the bidding process and transfer of the Special Purpose Vehicle (Petitioner company) to the selected bidder, namely, Sterlite Grid Limited. Thus, the Commission may consider granting extension for the aforesaid period at this stage.

3. After hearing the learned senior counsel for the Petitioner, the Commission observed that since the project of the Petitioner is still under implementation and is yet to achieve the commercial operation, the consideration of the Petitioner's request for extension of SCOD on account of force majeure events at this stage may be premature as there are uncertainties regarding likely COD of the project, quantification of extension, events of force majeure (their overlapping or occurrence of new events etc.) as already noted in RoP for the hearing dated 30.9.2021.

4. In response, the learned senior counsel for the Petitioner submitted that while certain reliefs/ prayers regarding determination of impact of various events may be considered by the Commission only after COD of its project, the Commission may consider the prayers of the Petitioner for in-principle declaration of force majeure events and change in law events at this stage. The learned senior counsel requested that the extent to which various prayers are to be considered by the Commission in the present case may be decided by the Commission after admission of the matter.

5. However, for the reasons already noted above, the Commission decided to admit the present Petition and IA only to the extent of the Petitioner's prayers

relating to the in-principle declaration of the Change in Law events and its scope of work under RfP and TSA. For the remaining prayers, the Petitioner may approach the Commission after completion of its project.

6. In view of the above, the Commission ordered as under:

(a) Admit.

(b) The Petitioner to serve copy of the Petition on the Respondents immediately, if not already served and the Respondents to file their reply on the prayers (h) and (m) only as detailed in the amended petition if any, by 30.11.2021 after serving copy of the same to the Petitioner, who may file its rejoinder, if any, by 16.12.2021; and

(c) The Petitioner to also file the following details/ information on affidavit by 29.11.2021:

i. Legible copies of SLD of Vadodara sub-station and Lakadia sub-station under the scope of the Petitioner;

ii. Copy of Amendment No. 2 to the RfP and TSA;

iii. Copy of the minutes of the meeting taken by the Central Electricity Authority on 16.3.2021; and

iv. Copy of Survey Report submitted by BPC.

(d) Parties to comply with above directions within the specified timeline and no extension of time shall be granted.

7. The Petition along with IA shall be listed for hearing in due for which separate notice will be issued.

**By order of the Commission**

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