

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 164/MP/2021

- Subject : Petition under Section 79 of the Electricity Act, 2003 read with statutory framework for tariff based competitive bidding for transmission services, the relevant provisions of the Transmission Service Agreement dated 20.9.2016 and the applicable laws for *inter alia* seeking extension of Scheduled Commercial Operation Date of Transmission Project from 31.7.2020 till 31.12.2020, without any adverse consequences, in accordance with the relevant provisions of the Transmission Service Agreement dated 20.9.2016 and particularly the Ministry of Power's Circular dated 27.7.2020 which mandated grant of 5 months' time extension for under construction ISTS projects affected on account of COVID-19 pandemic.
- Date of Hearing : 18.11.2021
- Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : Kohim Mariani Transmission Limited (KMTL)
- Respondents : Assam Electricity Grid Corporation Limited and 7 Ors.
- Parties Present : Shri Aniket Prasoon, Advocate, KMTL
Shri Md. Aman Sheikh, Advocate, KMTL
Shri Rishab Bhardwaj, Advocate, KMTL
Shri Sunil Mittal, Advocate, KMTL
Shri Neha Mittal, Advocate, KMTL

Record of Proceedings

Case was called out for virtual hearing.

2. The learned counsel for the Petitioner submitted that the present Petition has been filed *inter alia* seeking extension of Scheduled Commercial Operation Date ('SCOD') of transmission project from 31.7.2020 till 31.12.2020 without any adverse consequences in accordance with the relevant provisions of the Transmission Service Agreement dated 20.9.2016. The learned counsel submitted that extension of time is being sought in view of the various force majeure events including outbreak of Covid-19 pandemic, delay in provision of the inter-connection facilities by the Long-Term Transmission Customers at Imphal and New Mariani sub-station which were to be constructed by Power Grid Corporation of India Limited and delay in setting up the downstream line by Department of Power, Government of Nagaland. It was submitted by the learned counsel that the Ministry of Power vide its circular dated 27.7.2020 in the context of 'Extension to TSP/Transmission Licensee for completion under construction inter-State transmission Project', has already granted an extension of five months in respect of SCOD to all the inter-State

transmission projects which were under construction as on date of lock-down i.e. 25.3.2020 and the Petitioner's case is squarely covered thereunder. The learned counsel further submitted that the Petitioner has also prayed for a liberty to file separate petition seeking compensation on account of time and cost-overrun, change in law, prolongation of cost, reduction in output and additional expenses due to covid-19 pandemic etc. on account of delay as explained in the Petition so that such claims of the Petitioner do not get barred under Order II Rule II of the Code of Civil Procedure, 1908 in future.

3. After hearing the learned counsel for the Petitioner, the Commission noted that while the Petitioner has sought extension of SCOD citing various force majeure events, the Petitioner has only sought a liberty to approach the Commission at a later date for compensation on account of time over-run and cost over-run due to delays caused by such events. The Commission observed that the Petitioner ought to have approached the Commission quantifying its claims for compensation on account of cost over-run and time over-run for the same set of force majeure events, since sufficient time has elapsed since COD of the transmission project and the Petitioner ought to be in a position to quantify the compensation claims, if any. The Commission further observed that such piece-meal approach in dealing with the reliefs of time extension and the compensation on account time overrun and cost overrun separately is not appropriate, as it does not present a complete picture thereby preventing the Stakeholders/beneficiaries and the Commission from taking a comprehensive view. Moreover, it being a TBCB project, it is all the more important that the issues are dealt with together in one go.

4. The Commission observed that the Petitioner may amend the instant Petition by including other reliefs being claimed as well on account of force majeure events and change in law, if any, so that all the issues and their implications can be decided together in one go.

5. In response to the Commission's query as to whether the Petitioner would withdraw the present Petition and file a fresh Petition seeking consolidated reliefs or would like to amend the present Petition so as to include all compensation claims, the learned counsel for the Petitioner prayed for time to seek instructions from the Petitioner company in this regard and sought liberty to file an additional affidavit on the issue.

6. Considering the request of the learned counsel for the Petitioner, the Commission directed the Petitioner to file its additional affidavit as above within two weeks.

7. The Petition will be listed for hearing on 'admission' in due course for which separate notice will be issued.

By order of the Commission

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