

**CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi**

Petition No. 192/MP/2021

- Subject** : Petition under Sections 79(1)(c), 79(1)(f) and 79(1)(k) of the Electricity Act, 2003, readwith Article 4.5(a) of the Power Purchase Agreement (PPA) dated 20.8.2019 executed between the Petitioner and Solar Energy Corporation of India Limited (SECI), readwith the back-to-back Power Sale Agreements (PSAs) dated 17.06.2019 and 26.6.2019 executed between SECI and BSES Yamuna Power Limited (BYPL) and Tata Power Delhi Distribution Limited (TPDDL), respectively, seeking extension of Scheduled Commercial Operation Date (SCOD) and based on the extension of SCOD sought in the instant petition, seeking consequent deferment of operationalization of Long-Term Access (LTA) granted by the Central Transmission Utility (CTU) to the Petitioner.
- Date of Hearing** : 6.10.2021
- Coram** : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner** : SBSR Power Cleantech Eleven Private Limited (SBSRPCEPL)
- Respondents** : Solar Energy Corporation of India Limited (SECI) and 2 Ors.
- Parties Present** : Shri Sanjay Sen, Senior Advocate, SBSRPCEPL
Shri Hemant Singh, Advocate, SBSRPCEPL
Shri Lakshyajit Singh Bagdwal, Advocate, SBSRPCEPL
Shri M. G. Ramachandran, Senior Advocate, SECI
Ms. Tanya Sareen, Advocate, SECI
Ms. Poorva Saigal, Advocate, SECI
Ms. Neha Singh, SECI

Record of Proceedings

Case was called out for virtual hearing.

2. Learned senior counsel for the Petitioner submitted that the instant petition has been filed for extension of scheduled COD and deferment of the operationalisation of LTA. The Petitioner executed Power Purchase Agreement (PPA) dated 20.8.2019 with SECI for



supplying 300 MW of power generated from its project. In turn, SECI has executed back-to-back Power Supply Agreement (PSA) dated 26.6.2019 with Tata Power Delhi Distribution Limited (TPDDL) for 200 MW solar power and PSA dated 17.6.2019 with BSES Yamuna Power Limited (BYPL) for 150 MW solar power.

3. Learned senior counsel for the Petitioner submitted that TPDDL's PSA was approved by the State Commission (DERC) on 31.12.2020. However, the said approval was stayed by APTEL vide interim order dated 23.2.2021 in an Appeal filed by SECI. Subsequently, vide judgment dated 2.7.2021 APTEL approved the PSA. BYPL's PSA is not approved by DERC. In case of TPDDL's PPA, the timeline of 12 months for fulfilment of obligation by the Petitioner to achieve commissioning (i.e., SCOD) of the solar power plant starts from the date of the approval of the PSA by APTEL (i.e. on 2.7.2021) and the same would end on 2.7.2022. The Petitioner is seeking extension of SCOD on the ground of delay in approval of PSA and outbreak of Covid-19 pandemic. As per the overall scheme of PPA and PSA, the obligations of parties are inter-linked. Learned counsel for the Petitioner submitted that SECI has already extended SCOD to 28.8.2021 and in the instant petition, the Petitioner is seeking extension of SCOD up to 2.7.2022 i.e. one year from the date of the approval of the TPDDL's PSA by APTEL.

4. Learned senior counsel for SECI submitted that SECI has already extended SCOD till 28.8.2021 because of the delay by State Commission and Covid-19 pandemic. He further submitted that SECI has already written a letter to MNRE on the issue of how to treat the delay in approval of the PSA by the State Commission. The reply of MNRE is awaited and he sought four weeks' time to file a detailed affidavit in this regard. He submitted that the Discoms, TPDDL and BRPL should be impleaded in the present proceedings.

5. After hearing the parties, the Commission admitted the petition and directed to issue notice to the Respondents. The Commission further directed the Petitioner to implead TPDDL and BYPL and to file revised Memo of Parties. The Commission directed the Respondents to file their reply by 5.11.2021 on affidavit with a copy to the Petitioner and the Petitioner to file rejoinder, if any, by 15.11.2021. The Commission further directed the parties to comply with the directions within the timeline specified and observed that no extension of time shall be granted.

6. The Commission observed that the extension of SCOD and deferment of operationalization of LTA are two different and independent actions flowing from two separate and independent contracts/agreements. Therefore, these issues are required to be dealt with separately and independently. Interlinking these two issues will only complicate and delay the matter. The Commission suggested that the Petitioner may consider filing a separate petition on the issue of deferment of operationalization of LTA. The learned senior counsel for the Petitioner submitted that he would seek instructions in this regard.

7. The Commission directed to the following to be submitted on affidavit by 25.10.2021:
- a. SECI to submit the status of PPA with the Petitioner and whether it has reduced its contracted capacity and encashed any Performance BG, with an advance copy to the Petitioner and the other Respondents.
 - b. CTU to submit whether it has operationalized the LTA and, if so, from which date and whether the Petitioner was granted Stage-II connectivity under Clause 9.2.1 or Clause



9.2.2 of the RE Detailed Procedure, with an advance copy to the Petitioner and the Respondents.

- c. Petitioner to submit a copy of grant of stage-II connectivity, if any and the status of the commissioning of balance 250 MW capacity of its generating project, with an advance copy to the Respondents.

8. The Petition shall be listed for 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)

