

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 109/MP/2019

Coram:

**Shri P.K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P.K.Singh, Member**

Date of Order: 5th August, 2021

In the matter of

Petition under Section 79(1)(c) read with Section 79(1)(f) of the Electricity Act, 2003 and Regulation 32 of the Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009.

And

In the matter of

ACME Phalodi Solar Energy Private Limited,
104, Munish Plaza,
20, Ansari Road, Darya Ganj, New Delhi-110 002.

ACME Raisar Solar Energy Private Limited,
104, Munish Plaza,
20, Ansari Road, Darya Ganj, New Delhi-110 002.

ACME Solar Holdings Limited,
Plot No. 152, Sector-44,
Gurugram, Haryana-122 002.

...Petitioners

Vs

1. Power Grid Corporation of India Limited,
Saudimini, Plot-2, Sector-29,
Near IFFCO Chowk,
Gurugram, Haryana-122 001

2. Fathgrah-Badla Transmission Limited,
First Floor, Urjanidhi,
Barakhamba Lane, Connaught Place,
New Delhi-110 001

3. Solar Energy Corporation of India Limited,
1st Floor, D-3 A-Wing,
Paris Platinum Building District Centre,
Saket, New Delhi-110 017

...Respondents

ORDER

The Petitioners, ACME Phalodi Solar Energy Private Limited, ACME Raisar Solar Energy Private Limited and ACME Solar Holdings Ltd. have jointly filed the present Petition with the following prayers:

“(a) *Direct the Respondents to provide definitive timeline for commissioning of the ISTS or the system for evacuation of power from the Project being developed by the SPDs and*

(i) Grant extension of the timelines of all milestones as provisioned under the PPA I and PPA II dated 06.12.2018 and TTA dated 25.09.2018 respectively for a period commencing from date of PPA till such definitive timelines provided by Respondent No. 1 and

(ii) Signing of Long Term Access Agreement (LTAA) to be kept in abeyance till such time as the definitive timelines are provided by Respondent No. 1 and 30 days thereafter i.e. time for signing of LTAA; and

(iii) Respondent No. 1 to not demand construction bank guarantee for LTA from petitioner as beneficiaries are already firmed up by virtue of the PPAs dated 06.12.2018.

(a) *In the alternative*

(i) direct the Respondent No. 1 to return the Bank Guarantee submitted by the Petitioners towards Connectivity and Long term Access (LTA) if it is not possible to provide definitive timeline for commissioning of the ISTS or the system for evacuation of power from the Project being developed by the SPDs; and allow petitioner to apply fresh connectivity and LTA applications to Bhadla II; and

(ii) Direct that the Respondent No. 1 and Respondent No. 3 to extend the timelines of all milestones as provisioned under the PPA I and PPA II dated 06.12.2018 respectively and TTA dated 25.09.2018, a period commencing from date of PPA till revised connectivity/LTA approval is received from Respondent No. 1.”

2. The matter was heard on 23.7.2021 through video conferencing. The Commission vide Record of Proceedings for the hearing dated 23.7.2021 observed that of the two issues raised in the instant Petition, the extension of timeline for scheduled COD due to force majeure conditions has already been allowed by SECI.

The second issue of alignment of the extended scheduled COD with LTA commencement date has been raised by the Petitioners in Petition No. 104/MP/2021, which was admitted on 4.6.2021. Moreover, the Petitioner during the hearing on 14.5.2020 in Petition No.484/MP/2020 submitted that a formal application would be moved to withdraw Petition No.109/MP/2019 (present Petition). The Commission further observed that since the remaining issue of alignment of scheduled COD with LTA commencement date has already been raised by the Petitioners in Petition No. 104/MP/2021, it would be appropriate for the Petitioners to withdraw the instant Petition to avoid multiplicity of proceedings, as submitted by it in Petition No.484/MP/2020. In response, the learned counsel for the Petitioners submitted that she will seek instructions from the Petitioners regarding withdrawal of the instant Petition.

3. The Petitioners, vide their affidavit dated 3.8.2021, have submitted the following:

(a) On account of continuous force majeure events including the impact of Covid-19 pandemic and status quo orders by the Hon'ble Rajasthan High Court, the Petitioners on 4.5.2020 terminated the PPAs dated 7.12.2018 executed with SECI.

(b) On 5.5.2020, Petitioners filed Petition No. 484/MP/2020 arising out of the termination of PPAs *inter alia* seeking injunction against SECI and PGCIL from invoking Bank Guarantee/Letters of Comfort provided by the Petitioners. The Commission vide Record of Proceedings for the hearing dated 14.5.2020, *inter-alia* directed SECI and PGCIL to not to take any coercive measure against the Petitioners till the next date of hearing.

(c) Subsequent to the filing of instant Petition and Petition No. 484/MP/2020, vide letters dated 15.5.2020, 21.5.2020, 20.7.2020 and 8.9.2020, SECI extended SCOD of the Projects up to 17.2.2022.

(d) As the Petitioners accepted the extension granted by SECI, the Petitioners filed an application being IA No. 50/2021 in Petition No. 484/MP/2020 seeking withdrawal of the Petition No. 484/MP/2020. The Commission, vide its order 2.7.2021 disposed of the Petition as withdrawn.

(e) Meanwhile, on 16.12.2020, PGCIL issued letter to the Petitioners extending the start date of the LTA by 5 months from 19.10.2020 to 19.3.2021 or commissioning of ISTS for LTA, whichever is later. The said extension of 5 months was provided to give effect to order of Ministry of Power dated 27.7.2020.

(f) Though SCOD of the Projects was extended upto 17.2.2022 by SECI on account of Force Majeure events, PGCIL has limited the extension of LTA till 19.3.2021 or commissioning of ISTS for LTA, whichever is later. Accordingly, on 30.3.2021, the Petitioners filed Petition No. 104/MP/2021 seeking directions to PGCIL to grant extension of time under Tripartite Transmission Agreement dated 25.9.2018, Transmission Service Agreement dated 28.1.2019 and Long Term Access Agreement dated 16.5.2019 for a period of 327 days and 5 months in alignment with the period of extension granted by SECI for commissioning of the Projects; or such further period as may be granted by SECI on account of continuing Force Majeure.

4. The Petitioners have sought permission to withdraw the present Petition with liberty to approach the Commission in future for appropriate relief in accordance with law. Considering the request, the Petitioners are permitted to withdraw the Petition No. 109/MP/2019.

5. Accordingly, the Petition No. 109/MP/2019 is disposed of as withdrawn.

Sd/-
(P.K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I.S. Jha)
Member

sd/-
(P.K. Pujari)
Chairperson