

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**I.A No.50/2021  
In  
Petition No. 484/MP/2020  
And  
Petition No. 484/MP/2020**

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

**Date of Order: 2<sup>nd</sup> July, 2021**

**In the matter of**

Application seeking withdrawal of Petition pursuant to extension of milestones including Scheduled Commissioning Date granted by Solar Energy Corporation of India Limited and issuance of interim directions for maintenance of status quo.

**And  
In the matter of**

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

ACME Raisar Solar Energy Pvt. 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.

**...Applicants**

**Vs.**

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

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

3. BSES Rajdhani Power Limited,  
2<sup>nd</sup> Floor, B-Block, BSES Bhawan,  
Nehru Place, New Delhi-110 019.

4. BSES Yamuna Power Limited,  
Shakti Kiran Building,  
Karkardoma, New Delhi-110 019.

5. Tata Power Delhi Distribution Limited,  
Cennet SCADA Building, Adjacent to PP-3 Grid,  
Near Netaji Subhas Place, Opposite to PP Jewellers,  
Pitampura, New Delhi-110 034.

### **ORDER**

The Applicants, ACME Phaldoi Solar Energy Pvt. Ltd., ACME Raisal Solar Energy Pvt. Ltd. and ACME Solar Holdings Ltd. have filed the instant Interlocutory Application (IA) seeking withdrawal of the Petition No. 484/MP/2020 with liberty to raise the issue of alignment of LTA commencement date with extended Scheduled Commissioning Date (SCOD) in Petition No. 104/MP/2021.

### **Background**

2. ACME Phalodi Solar Energy Pvt. Ltd. and ACME Raisal Solar Energy Pvt. Ltd., special purpose vehicles incorporated by ACME Solar Holdings Pvt. Ltd., are developing 600 MW (300x2 MW) Solar Power Projects at Tehsil Pokhran in the State of Rajasthan. On 6.12.2018, the Applicants, ACME Phalodi Solar Energy Pvt. Ltd. and ACME Raisal Solar Energy Pvt. Ltd., executed Power Purchase Agreement (PPA) with Respondent No. 1, Solar Energy Corporation of India Limited (SECI) for supply of 300 MW. The Applicants have filed Petition No. 484/MP/2020, *inter alia*, seeking directions to SECI and Respondent No. 2, Power Grid Corporation of India Ltd. (PGCIL) not to encash Bank Guarantees and Letters of Comfort submitted by

the Applicants and to return the same to the Applicants. The Applicants have made the following prayers in Petition No. 484/MP/2020:

*“(a) Direct SECI to return the Letters of Comfort issued by IREDA and furnished on behalf of ACME Phalodi and ACME Raisar;*

*(b) Declare and held that LTA Agreement dated 16.5.2019 and TSA Agreement dated 28.1.2019 stand terminated and no relinquishment charges or any other charges or penalties are payable by the Petitioners;*

*(c) Direct PGCIL to return the Bank Guarantees submitted by ASHL pursuant to the Tripartite Transmission Agreement dated 25.9.2018 and Long-Term Transmission Agreement dated 16.5.2019;*

*(d) In the interim, injunct SECI and PGCIL from Letters of Comfort and encashing the Bank Guarantees provided by ACME Phalodi and ACME Raisar and ASHL under the PPAs and the Tripartite Transmission Agreement dated 28.10.2018 and Long Term Transmission Agreement dated 16.5.2019.”*

3. The said Petition was admitted on 14.5.2020. After hearing the learned counsels and learned senior counsel for the Applicants, PGCIL and SECI, the Commission directed the Respondents, SECI and PGCIL not to take any coercive measures against the Applicants till the next date of hearing and the Applicants were directed to keep the Letter of Comfort and Bank Guarantee valid.

### **Submissions of the Applicants**

4. In the IA, the Applicants have mainly submitted as under:

(a) With regard to extension of SCOD, SECI vide its letters dated 15.5.2020, 21.5.2020, 20.7.2020 and 8.9.2020 has extended SCOD of the Projects to 3.3.2022 and the Applicants have accepted the same vide letter dated 2.6.2021.

(b) With regard to extension of LTA commencement date, pursuant to Ministry of Power letter dated 27.7.2020, PGCIL vide its letter dated 16.12.2020 has extended the start date of LTA by 5 months from 19.10.2020 to 19.3.2021

or commissioning of ISTS for LTA, whichever is later. In response, the Applicants vide letter dated 12.3.2021 had further requested PGCIL for extension of TSA and LTAA for alignment with the extended timelines of SCOD as granted by SECI. PGCIL did not response to letter seeking commencement of LTA to be aligned with the revised SCOD of the Project.

(c) Even though SCOD of the Projects have been extended to 17.2.2022 by SECI on the basis 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, the Applicants have filed the Petition No. 104/MP/2021, which was admitted on 4.6.2021, *inter-alia* seeking declaration that the Applicants are not liable to pay transmission charges/ losses on account of extension of SCOD by SECI due to force majeure for delay in start date of LTA with the following prayers:

*“(a) Declare that the Petitioners are not liable to pay transmission charges/losses on account of extension of SCOD by SECI due to Force Majeure for delay in start date of LTA;*

*(b) Direct PGCIL to grant extension in the timelines under Tripartite Transmission 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 Project; or such further period as may be granted by SECI on account of continuing Force Majeure; and*

*(c) As an interim measure, direct PGCIL to not take any coercive and precipitative action against the Petitioners under Tripartite Transmission Agreement dated 25.9.2018, Transmission Service Agreement dated 28.1.2019 and Long Term Access Agreement dated 16.5.2019.”*

5. The Applicants have submitted that vide letter dated 2.6.2021, they had accepted the extension of commencement of LTA without prejudice to claims under Petition No. 104/MP/2021. It has been submitted by the Applicants that only remaining issue between the parties is the alignment of the extension of SCOD granted by SECI with the LTA commencement date for which the Applicants have filed the Petition No. 104/MP/2021. It has been submitted by the Applicants that

since SECI has granted extension of SCOD, the termination notices dated 4.5.2020 stand withdrawn.

6. Against the above backdrop, the Applicants have filed present IA with the following prayers:

*“(a) Allow Petitioners to withdraw the present Petition with liberty to pursue issues under 104/MP/2021, since pursuant to extension of timelines and acceptance thereof by ACME and withdrawal of Termination Notices dated 4.5.2020, all claims with respect to Termination of the PPAs and the Tripartite Transmission Agreement dated 25.9.2018, the Transmission Service Agreement dated 28.1.2019 and the Long-Terms Access Agreement dated 16.5.2019 stand settled; and*

*(b) Direct all parties including Respondents SECI and PGCIL to maintain status quo till Petition No. 104/MP/2021 is adjudicated by this Commission.”*

7. The IA is admitted by circulation.

8. We have considered the submission of the Applicants. It has been submitted by the Applicants that since SECI has granted extension of SCOD, termination notices dated 4.5.2020 stand withdrawn and that the only remaining issue between the parties now is the alignment of SCOD extension granted by SECI with LTA commencement date. The Applicants have sought permission to withdraw Petition No. 484/MP/2020 with liberty to raise the issue of alignment of LTA commencement date with extended SCOD in Petition No. 104/MP/2021. Considering the request, the Applicants are permitted to withdraw the Petition No. 484/MP/2020.

9. Accordingly, the Petition No. 484/MP/2020 is disposed of as withdrawn and the IA No.50/2021 is disposed of in terms of the above.

**Sd/**  
**(P.K. Singh)**  
**Member**

**sd/-**  
**(Arun Goyal)**  
**Member**

**sd/-**  
**(I.S. Jha)**  
**Member**

**sd/-**  
**(P.K. Pujari)**  
**Chairperson**