

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 244/MP/2021

- Subject : Petition under Section 79(1)(c) and Section 79(1)(f) of the Electricity Act, 2003 seeking deferment of the operationalization date of 1000 MW Long Term Access granted to Adani Renewable Energy Park Rajasthan Limited by Central Transmission Utility to match with the completion and commissioning of Solar Park and exemption from liability of paying transmission charges until such time on account of force majeure events.
- Date of Hearing : 9.3.2022
- Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : Adani Renewable Energy Park Rajasthan Limited (AREPRL)
- Respondents : Central Transmission Utility of India Limited (CTUIL) and Anr.
- Parties Present : Shri Sanjay Sen, Sr. Advocate, AREPRL
Ms. Poonam Verma, Advocate, AREPRL
Ms. Aparajita Upadhyay, Advocate, AREPRL
Ms. Sakshi Kapoor, Advocate, AREPRL
Ms. Mandakini Ghosh, Advocate, AREPRL
Shri Hemant Singh, Advocate, FBTL
Shri Lakshyajit Singh Bagdwal, Advocate, FBTL
Ms. Lavanya Panwar, Advocate, FBTL
Ms. Suparna Srivastava, Advocate, CTUIL
Shri Tushar Mathur, Advocate, CTUIL
Ms. Soumya Singh, Advocate, CTUIL
Shri Rajeev Lochan, AREPRL
Shri Ravi Shankar Sinha, AREPRL
Shri Dipak Panchal, AREPRL
Shri V. Srinivas, CTUIL
Shri Kashish Bhambhani, CTUIL
Shri Yatin Sharma, CTUIL
Shri Swapnil Verma, CTUIL
Shri Siddharth Sharma, CTUIL
Shri Ranjit Singh Rajput, CTUIL

Record of Proceedings

Case was called out for virtual hearing.

2. Learned senior counsel for the Petitioner submitted that the present Petition has been filed, *inter alia*, seeking deferment of the operationalization date of 1000 MW Long Term Access ('LTA') granted to the Petitioner to match with the completion

and commissioning of its Solar Park and for exemption from the liability of paying transmission charges until such time on account of force majeure events. Learned senior counsel mainly submitted the following:

(a) The instant Petition has been filed in terms of liberty granted by the Commission vide order dated 12.10.2021 in Petition No. 21/MP/2019 filed by the Petitioner seeking similar relief(s), which was later sought to be amended vide IA No. 74/2021 to bring on record subsequent developments/events which had altered the position of the Petitioner with respect to implementation of Solar Park and operationalization of its LTA.

(b) In the said order, the Commission observed that since the Petition No. 21/MP/2019 was filed back in the year 2019, instead of filing an IA seeking amendment to the Petition, the Petitioner ought to file a fresh Petition. Accordingly, the said Petition was withdrawn by the Petitioner with liberty to file fresh Petition incorporating all the subsequent developments.

(c) The Petitioner has been prevented, hindered and/or delayed in completing its Solar Park due to force majeure events, namely, status-quo orders passed by the Hon'ble High Court of Rajasthan in respect of land allocated to the Petitioner for development of Solar Park and outbreak of Covid-19 and resultant lockdown.

(d) In the Petition, the Petitioner has indicated the completion timeline of Solar Park as July, 2022. However, the completion of Solar Park is likely to take an additional period up to 31st March, 2023.

(e) CTUIL vide its letter dated 31.7.2021 operationalized the LTA granted to the Petitioner w.e.f. 1.8.2021 following the declaration of deemed commercial operation by Fatehgarh Bhadla Transmission Limited ('FBTL') in respect of its transmission system.

(f) Notably, FBTL's transmission system has already been put to use through an alternate arrangement and is being used by other generators/developers. Therefore, the liability of paying transmission charges for such system cannot be fasten on the Petitioner.

(g) Vide order dated 12.10.2021, the Commission had directed CTUIL not to take any coercive measures against the Petitioner till the first date of hearing of the present Petition. The said direction may be continued during the pendency of the present Petition.

3. Learned counsel for the Respondent, CTUIL submitted that CTUIL has already operationalized the LTA granted to the Petitioner w.e.f 1.8.2021 and has started raising the bilateral bills for the transmission charges on the Petitioner. Learned counsel further submitted that while CTUIL will not proceed to encash the Bank Guarantee ('BG') furnished by the Petitioner during the pendency of the present Petition, the Petitioner may be directed to make payment in terms of bilateral bills which will be subject to the outcome of the present Petition. Learned counsel added that the concerned transmission system also includes a LILO which is constructed by Power Grid Corporation of India Limited ('PGCIL') and therefore, the Petitioner may be directed to implead PGCIL as party to the Petition.

4. In response, learned senior counsel submitted that the Petitioner ought not to be insisted upon making payment against the bilateral bills raised by CTUIL during the pendency of the Petition. Learned senior counsel further submitted that the Petitioner has already furnished BG for an amount of Rs. 50 crore, which will be kept

alive during the pendency of the Petition and will cover the claims made under bilateral bills.

5. In response to the query of the Commission regarding status and scope of the Associated Transmission System ('ATS'), learned counsel for CTUIL sought liberty to file the requisite details along with its reply after obtaining the necessary instructions in this regard.

6. After hearing the learned senior counsel for the Petitioner and the learned counsel for CTUIL, the Commission ordered as under:

(a) Admit. Issue notice to the Respondents.

(b) Implead PGCIL as party to the Petition and to file revised memo of parties within a week.

(c) The Petitioner to serve copy of the Petition on the Respondents immediately, if not already served and the Respondents to file their reply, if any, by 31.3.2022 after serving copy of the same to the Petitioner, who may file its rejoinder, if any, by 15.4.2022.

(d) CTUIL will not to take any coercive measures against the Petitioner till the next date of hearing subject to the Petitioner keeping the BG alive. Meanwhile, CTUIL will continue to raise the bill(s) on the Petitioner. CTUIL will keep check on the total outstanding dues as against the amount under the BG and bring to the notice of the Commission in case the former exceeds the latter.

(e) CTUIL is directed to furnish the following details/information along with its reply:

(i) Confirm as to whether entire system of FBTL or part thereof has been put to alternate use;

(ii) Schematic diagram of the Project;

(iii) Elements of the ATS for the Petitioner;

(iv) Whether LTA start date was extended from 31.12.2017, If yes, reason thereof;

(v) Date of declaration of commercial operation of ATS (In case of multiple elements in ATS, provide date of COD of each element);

(vi) Whether ATS is being considered under Regulations 5 to 8 of the Central Electricity Regulatory Commission (Sharing of inter-State transmission charges and losses) Regulations 2020. If yes, since when is it being considered under ISTS charges pool and reasons thereof?

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

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

By order of the Commission

Sd/-

(T.D. Pant)

Joint Chief (Law)

