

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition (Diary) No. 466/2022
IA (Diary) No. 467/2022**

Subject : Petition under Section 79(1)(b) and (f) of the Electricity Act, 2003 read with Article 16.3.1 of the Power Purchase Agreement dated 29.10.2021 executed between Tunga Renewable Energy Private Limited and Solar Energy Corporation of India Limited seeking extension in the timelines for achieving Conditions Subsequent and Scheduled Commissioning Date of the 190 MW wind power project being set up by Tunga Renewable Energy Private Limited in Karnataka.

Date of hearing : 15.11.2022

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

Petitioner : Tunga Renewable Energy Private Limited.

Respondents : Solar Energy Corporation of India Limited

Parties present : Shri Jafar Alam, Advocate for the Petitioner

Record of Proceedings

The matter was mentioned today by the learned counsel for the Petitioner.

2. Learned counsel for the Petitioner submitted that the present Petition has been filed seeking *inter alia* an extension of time for achieving Conditions Subsequent (CS) and Scheduled Date of Commissioning (SCOD) for the Project on account of Force Majeure events in terms of Articles 3.2, 4.5 and 11 of the PPA. Learned counsel further submitted as under:

(a) The Petitioner is developing a 190 MW wind power project in Koppal District in the State of Karnataka with grid connectivity at the 400/220 kV ISTS Koppal sub-station pursuant to Power Purchase Agreement dated 29.10.2021 (PPA) entered into between the Petitioner and SECI.

(b) The Project was initially conceived to be set-up in the State of Gujarat. However, the implementation of the Project in Gujarat became impossible due to the various uncontrollable events including the denial of Government of Gujarat

and its agencies to grant developer permission and accordingly, the Petitioner was compelled to relocate the Project to an alternate site in the State of Karnataka with connectivity at Koppal sub-station, which also featured in the list of sub-stations specified in the Request for Selection (RfS) document issued by SECI.

(c) As per the PPA, the project was required to be commissioned by September 2022. However, due to various force majeure events including denial by the Government of Gujarat and its agencies to grant developer permissions, total uncertainty regarding grant of requisite consent and clearance by the Ministry of Defence, Government of India and the outbreak of Covid-19, the Project could not achieve SCOD. As a result of the same, the Petitioner had relocated to an alternate site outside Gujarat.

(d) Consequently, the Petitioner applied to CTUIL for grant of connectivity and Long-term Access at Koppal sub-station. However, Koppal sub-station is to be ready by June, 2024 and accordingly, the LTA granted to the Petitioner will also be operationalized from June, 2024 onwards. Whereas SCOD of the Project as per the PPA was in September, 2022.

(e) In view of the non-readiness of the Koppal sub-station, the Petitioner repeatedly requested SECI to extend the time for CS and SCOD of the Project. However, SECI vide its letter dated 3.11.2022 has refused the said request on the ground that the RfS provisions do not allow for the same.

(f) SECI having denied the extension of time for achieving CS and SCD of the Project, the Petitioner has been constrained to file IA (Diary No. 467/2022), for restraining SECI from taking any coercive steps against the Petitioner during the pendency of the Petition, including the invocation and/or encashment of Performance Bank Guarantee for amount of Rs. 38 crore furnished under the PPA.

(g) In view of the above circumstances, the Petitioner is praying for the urgent listing of the Petition and IA.

3. In response to the specific query of the Commission regarding status of the Project, the learned counsel submitted that the Petitioner has already acquired 80% of the required land and has invested approximately Rs. 124 crore in developing the Project. Learned counsel added that the Petitioner is expecting to achieve the commercial operation of the Project by June, 2024 i.e. in line with the readiness of the Koppal sub-station.

4. In response to another query of the Commission with regard to date of application for connectivity made by the Petitioner at Koppal sub-station, learned counsel submitted that the Petitioner had applied for the connectivity at Koppal sub-station within a month after the execution of the PPA.

5. After hearing the learned counsel for the Petitioner, the Commission directed the Petitioner to implead CTUIL as party to the Petition and file a revised memo of parties. The Commission further directed to list the Petition and IA for hearing, after removing all defects, on 29.11.2022.

By order of the Commission

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