

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 86/MP/2022**

- Subject : Petition under Section 79(1)(c) read with Section 79(1)(f) of the Electricity Act, 2003 for seeking a direction against Respondent No.1 to extend the start date of MTOA, as sought for by the Petitioner No.1 vide its letter dated 10.1.2022 and further restrain Respondent No.1 from taking any coercive and precipitative measures, including but not limited to levying any penalty/ charges etc. for non-operationalisation of 114.25 MW out of the total 240 MW, on the premise of the start date of MTOA being taken as 1.2.2022, till the final disposal of the present proceedings.
- Date of Hearing : 5.5.2022
- Coram : Shri P. K. Pujari, Chairperson  
Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member
- Petitioners : Avaada Energy Private Limited (AEPL) and Anr.
- Respondents : Central Transmission Utility of India Limited (CTUIL) and Anr.
- Parties Present : Shri Buddy Ranganadhan, Advocate, AEPL  
Shri Deepak Khurana, Advocate, AEPL  
Shri Vineet Tayal, Advocate, AEPL  
Ms. Nishtha Wadhwa, Advocate, AEPL  
Shri Kashish Bhambhani, CTUIL  
Shri Swapnil Verma, CTUIL  
Shri Siddharth Sharma, CTUIL  
Shri Ranjeet Singh Rajput, CTUIL

**Record of Proceedings**

Case was called out for virtual hearing.

2. Learned counsel for the Petitioners submitted that the present Petition has been filed, *inter alia*, seeking a direction against the Respondent No.1, CTUIL to extend the start of Medium-Term Open Access ('MTOA') sought for by the Petitioner No. 1 vide its letter dated 10.1.2022 and to restrain the CTUIL from taking any coercive and precipitative measures, including but not limited to levying any penalty/ charges, etc. for non-operationalisation of 114.25 MW of the total 240 MW, on the premise of the start date of MTOA being taken as 1.2.2022 till the final disposal of the present Petition. Learned counsel for the Petitioners mainly submitted the following:

- (a) The Petitioner No.2, a Special Purpose Vehicle of Petitioner No.1, has entered into Power Purchase Agreement ('PPA') with Respondent No. 2, Haryana

Power Purchase Centre dated 6.7.2020 for supply of 240 MW. As per the PPA, Scheduled Commercial Operation Date ('SCOD') of the Project was 6.1.2022.

(b) However, owing to the outbreak of Covid-19 pandemic and consequent disruption in the supply chain, the SCOD of the Project had been extended to 23.3.2022. As on the date, the Petitioner has been able to achieve the commercial operation of approximately 150 MW (125.75 MW by the end of January, 2022) out of the total capacity of 240 MW.

(c) For the purpose of evacuation of the power from its aforesaid Project, the Petitioner had applied for Long-Term Access ('LTA') for 240 MW w.e.f 5.1.2022, which was granted by CTUIL vide its letter dated 28.1.2021. However, subsequently, in the 18<sup>th</sup> JCC meeting of generation projects granted Connectivity/ LTA in the Northern Region held on 25.6.2021, CTUIL intimated the Petitioner that the LTA was likely to be operationalized only on 25.9.2022.

(d) Accordingly, in the interregnum, the Petitioner No.1 applied for MTOA for evacuation of power, which was granted by CTUIL for the period from 1.2.2022 to 30.11.2026. Pertinently, the Petitioner No. 1 was required to obtain MTOA due to delay in operationalisation of LTA and the same was granted against the LTA.

(e) Since the Petitioners were able to achieve the commercial operation of 125.75 MW by the end of January, 2022, the Petitioner No.1 vide its letter dated 10.1.2022 had requested CTUIL for extension of time for the part operationalisation of MTOA for the balance 114.25 MW upto 23.5.2022. However, CTUIL did not reply to the said letter.

(f) In fact, invoices for MTOA charges have already been raised by CTUIL for the period from February, 2022 to March, 2022. Accordingly, the Petitioners are also seeking an interim order restraining the Respondent No.1, CTUIL from taking any coercive and precipitative action against the Petitioners.

(g) The issue relating to the deferment of LTA commencement date in view of the extension of SCOD of the generating project is already under consideration of the Commission in number of cases and certain cases are already reserved for the order. However, in such matters, the Commission has granted the interim protection to the generating station.

3. In response to the pointed query of the Commission regarding applicable provisions under which the relief for extension of MTOA start date has been prayed for, learned counsel for the Petitioners submitted that, Petitioners have, in the Petition, referred to the Regulation 13(1)(c) of the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020 (' the Sharing Regulations, 2020'). During the hearing, the learned counsel referred to and relied upon the Regulation 13(8) of the Sharing Regulations, 2020.

4. Learned counsel for the Petitioners further submitted that the start date of the MTOA is also a matter of contractual agreement between the Petitioner and CTUIL and the aspect relating to the performance of such contract is also governed by the provisions of the Indian Contract Act, 1872. However, on a specific query of the Commission regarding pleadings to the above effect, learned counsel for the Petitioners fairly admitted that the Petition does not contain such averments on the contractual aspects.

5. Based on the request of the learned counsel for the Petitioners, the Commission permitted the Petitioners to file their short synopsis of arguments by 12.5.2022.

6. The Commission further directed the parties to file the following details/information on affidavit by 12.5.2022:

**Petitioner:**

- (a) Commissioning status of the instant Project;
- (b) Relevant provisions of Act/Regulation/Contract under which the deferment/postponement of MTOA operationalization is being sought.

**Respondent, CTUIL:**

- (a) Whether the MTOA granted for 240 MW w.e.f. 1.2.2022 has been operationalised from the due date i.e. 1.2.2022?
- (b) Whether any bilateral bill has been raised to the Petitioner w.e.f. 1.2.2022 as the Petitioner has partly commissioned 125.75 MW out of 240 MW?

7. Subject to the above, the Commission reserved the order on 'maintainability' of the Petition.

**By order of the Commission**

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