

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 326/MP/2024 with IA.No.80/2024

Coram:

**Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member**

Date of Order: 25.11.2024

In the matter of:

Petition under Section 79 of the Electricity Act, 2003 seeking extension of time for commissioning the 300 MW Solar Power Project from 20.10.2024 to 25.01.2025 in terms of this Hon'ble Commission's Order dated 21.04.2024 in Petition No. 283/MP/2023 and Order dated 12.07.2024 in Petition No. 192/MP/2024.

And

In the matter of:

1. ACME Solar Holdings Ltd
Plot No.152, Sector 44, Gurgaon,
Haryana-122002. Petitioner No.1
2. ACME Sikar Solar Pvt. Ltd
Plot No.152, Sector 44, Gurgaon,
Haryana-122002 Petitioner No. 2

Versus

1. Central Transmission Utility of India Limited
Plot No.2, Sector-29, Gurugram Respondent

Parties Present:

Shri BasavaPrabhu Patil, Sr. Advocate, ACME
Shri VishrovMukerjee, Advocate, ACME
Shri Girik Bhalla, Advocate, ACME
Shri Geet Ahuja, ACME
Ms. PoorvaSaigal, Advocate, CTUIL
Ms. Shirin Gupta, Advocate, CTUIL
Shri Swapnil Verma, CTUIL
Shri Ranjeet Rajput, CTUIL



ORDER

ACME Solar Holdings Ltd and ACME Sikar Solar Pvt. Ltd have filed the instant Petition under Section 79 of the Electricity Act, 2003 seeking an extension of time for commissioning the 300 MW Solar Power Project from 20.10.2024 to 25.01.2025 in terms of this Commission's Order dated 21.04.2024 in Petition No. 283/MP/2023 and Order dated 12.07.2024 in Petition No. 192/MP/2024.

2. The Petitioners have made the following prayers in the instant Petition:

Prayers in Petition No. 326/MP/2024

- i. Extend the time period for commissioning of ASSPL's 300 MW Project by three months from the present date of 20.10.2024 till 25.01.2025 i.e. 06 months from date of actual conversion of connectivity by CTUIL from LOA route to land route.*
- ii. In the interim, direct CTUIL to not take any coercive action with regard to the existing Connectivity dated 10.05.2022*
- iii. Pass such other order or orders which are deemed fit and proper in the facts and circumstances of the case.*

Prayers in IA No. 80/2024

- i. Allow the present Application and urgently list and hear the Petition (Diary) No. 526 of 2024 or at any earliest date convenient to this Hon'ble Commission;*
- ii. In the interim, direct CTUIL to not take any coercive action with regard to the existing Connectivity dated 10.05.2022.*
- iii. Pass any such other order(s) as this Hon'ble Commission deems just in the facts and circumstances of the present case.*

Submission of Petitioners

3. Petitioners have made the following submissions:

- a) Petitioner No. 1 is ACME Solar Holdings. Ltd. (ASHL), a private limited company incorporated under the provisions of the Companies Act, 1956. ASHL is the successor in interest of the erstwhile Petitioner No. 1, ACME Solar Holding Pvt. Ltd. After Order dated 12.07.2024 in Petition No. 192/MP/2024, the name of ASHPL has changed to ASHL. Therefore, ASHL has been arrayed as a Petitioner in the present Petition in the place of ASHPL. Petitioner No. 2 is ACME Sikar Solar Pvt. Ltd. (ASSPL), a SPV incorporated by ACME Solar Holdings Pvt. Ltd., Petitioner No.1,



for developing and commissioning a 300 MW solar power Project located at Tehsil and District Bikaner, Rajasthan.

- b) ACME Solar Holdings Pvt. Ltd (ASHPL), whose name has now changed to ASHL, was granted connectivity by Central Transmission Utility of India Ltd (CTUIL) based on the Letter of Award dated 14.12.2021 (LoA) issued by Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) for 300 MW capacity of Solar Power Projects. The Power Purchase Agreement dated 04.04.2022 (PPA) was executed between ASSPL and MSEDCL. Subsequently, PPA was terminated by ASSPL on 21.02.2023 due to continuous Force Majeure events for more than 180 days as per the provisions of PPA, which was upheld by the Maharashtra Electricity Regulatory Commission vide order dated 27.12.2023 in Case No. 56 of 2023.
- c) The present Petition is an extension of Petition No. 283/MP/2023 and Petition No. 192/MP/2024 filed by the Petitioners herein. Petition No. 283/MP/2023 was filed in August 2023, seeking conversion of the connectivity granted under the LoA/PPA route to the Land route. By way of an Order dated 21.04.2024, this Commission had exercised powers under Regulation 41 and Regulation 42 of the CERC (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 (GNA Regulations), to relax the provisions of Regulation 24.6 and allowed the Petitioners to convert its Connectivity granted under the LOA/PPA route to the Land route as provided for in Regulation 5.8(xi) of the GNA Regulations subject to fulfilment of certain conditions by the Petitioners. While passing the Order dated 21.04.2024, this Commission also directed the Petitioners to commission the Project within 6 months, i.e., by 20.10.2024.
- d) After passing of the Order dated 21.04.2024, the Petitioners submitted the requisite documents, i.e., documents towards possession of land (registered lease deed in the name of ASSPL for conversion of its LOA-based connectivity to land-based. However, CTUIL asked for land documents to be in the name of ASHPL (now ASHL), i.e., the connectivity applicant. CTUIL threatened to revoke the connectivity if the land documents were not provided in the name of the connectivity applicant within the timelines provided in the Order dated 21.04.2024. CTUIL, through its above action, not only created ambiguity and uncertainty over the utilisation of connectivity for the project being developed by ASSPL but also refused the conversion of the aforesaid connectivity from the LOA route to the land route. This continued to adversely impact the Project construction activities.

- e) On 13.05.2024, the Petitioners were constrained to file Petition No. 192/MP/2024, submitting that since this was a case of transfer of connectivity granted under LoA route to Land route on account of termination of PPA executed between ASSPL and MSEDCL, the land acquired by Project SPV, i.e., ASSPL may be considered towards compliance with Regulation 5.8(xi)(b) of the GNA Regulations. By way of Order dated 12.07.2024, this Commission permitted ASHPL (connectivity grantee) to submit the documents, in the name of ASSPL (SPV) for fulfilling the land requirements under Regulation 5.8(xi)(b) within a period of two weeks. However, even in the Order dated 12.07.2024, the timeline for the commissioning of the Project remained the same, as was in the Order dated 21.04.2024, i.e., 6 months from 21.04.2024. The Petitioner is now constrained to file the present Petition for an extension of time for the commissioning of the Project by three months from 20.10.2024 to 19.01.2025. The Petitioner is seeking an extension of time for the following reasons:
- i. It was only after the adjudication of Petition 192/MP/2024 that the question of whether the Petitioners' land documents submitted towards satisfying the condition subsequent to submitting the documents was settled in the Order dated 12.07.2024 and subsequently, CTUIL accepted land documents in the name of ASSPL for conversion of connectivity from the LoA route to the land route. The period lost during the pendency of Petition No. 192/MP/2024 ought to be excluded while computing the time given for the commissioning of the Project.
 - ii. Project activities were adversely affected due to non-conversion of connectivity from LOA to Land route pursuant to Order dated 21.04.2024 and CTUIL's query dated 08.05.2023. The uncertainty and ambiguity also led to an adverse impact on the loan disbursement by Power Finance Corporation (PFC) as the regulatory certainty over connectivity/evacuation is required for lenders to disburse the loan for the project. Clause 5 of the Additional Pre-Disbursement Condition (PDC) to the loan sanctioned to ASSPL for the project requires submission of documentary proof complying that the LTA Agreement is valid for the sale of power from the project on a merchant basis. It was only after Order dated 12.07.2024 that the Project loan was disbursed by PFC for an amount of Rs. 415 Crores on 02.08.2024. Therefore, the time period of 6 months must commence two weeks after the date of Order in Petition No. 192/MP/2024, i.e., when the documents submitted by ASSPL were accepted by CTUIL.

- iii. The Commission, while dealing with a similar issue of transfer of connectivity for a 300 MW solar project from LoA route to Land/BG route under the GNA Regulations 2022, vide Order dated 21.04.2024 in Petition No. 291/MP/2023 titled *Solarone Energy Pvt. Ltd. v. CTUIL*, gave a time period of 9 months for commissioning of the Project from the passing of the Order dated 21.04.2024 i.e., till 20.01.2025. Since the present Project of the Petitioners is also a 300 MW Project, similar timelines ought to have been given to the Petitioners herein. If the same timeline of 9 months was also provided to the Petitioners herein, then they would have been given time till 20.01.2025 to commission the Project.
- iv. The Second Amendment to the GNA Regulations, inserted Regulation 24.6(iii). As per the amended Regulation 24.6(iii), for cases covered under Regulation 5.8(xi)(a), i.e., where connectivity has been granted under LoA route but is subsequently converted to Regulation 5.8(xi)(b), i.e., under land route, then the SCOD shall be considered as six months from the date of approval by the CTU of such conversion from Regulation 5.8(xi)(a) to Regulation 5.8(xi)(b). After the passing of the Order dated 12.07.2024 in Petition No. 192/MP/2024, the Petitioners were given two weeks' time to submit the requisite documents for conversion of connectivity. The Petitioners submitted the requisite documents on 21.07.2024. Since then CTUIL has not raised any objection/query with regard to the status of the conversion. Therefore, it is deemed that the connectivity has been converted from the LOA route to the land route only on 26.07.2024, i.e., two weeks provided in an order dated 12.07.2024. Accordingly, by way of Regulation 24.6(iii) of the GNA Regulations 2022 (as amended by the Second Amendment), the Petitioners ought to be given 6 months from 21.07.2024.
- v. ASHL is committed to utilizing the existing connectivity through its SPV ASSPL. ASSPL has undertaken substantial project development activities, including the completion of major milestones of the projects viz., tying-up of funds for the Project and acquiring 100% of land of around 900 acres. Following is the status of project:

Project Activity	Present Status	Time required for completion
Land Acquisition	Completed. More than 1050 acres acquired by ASSPL.	Completed.
Piling	~45% completed as on 14.08.2024.	Piling will be completed by 15.10.2024.

Module Mounting Structure (MMS)	Stage-1 completed for 25 MW.	MMS installation will be completed by 30.11.2024.
Module Delivery	Revised Module Purchase Order placed to Rayzon, Grew and Vikram as ALMM was made effective w.e.f. 01.04.2024. Under production by domestic vendors. Delivery will start from 10.09.2024. Approximately 200 MW will be installed by 20.11.2024.	100% delivery of modules for 300 MW will be completed by 30.11.2024 and installation will be completed by 31.12.2024.
Inverters Delivery	Under production. Inspection planned on 15.09.2024 before dispatch to the Project site.	100% delivery envisaged by 10.10.2024 and installation by 10.11.2024.
Transmission towers	Out of 14 towers, foundation work for 6 towers is completed and approval for 02 gantry towers is under process by PGCIL. Remaining 06 towers are to be shared which are already in place.	Installation of transmission towers will be completed by 20.09.2024.
Transmission line	Ordered and under production.	Stringing will be completed by 10.10.2024.
Power Transformer	15% advance of Rs. 2.5 Crores paid to TBEA (Chinese vendor). The transformers are in the final stages of production.	Delivery expected by 30.09.2024.
Switchyard	Civil works under progress.	Completion of the switchyard, including the transformer and other equipment, will be completed by 15.11.2024.

- f) Further, the following steps undertaken by ASSPL and ASHPL (now ASHL) towards the construction of the Project:
- i. Delivery completed for Module mounting structures column (1,40,400 pieces), column extension post while 50% delivery completed for purlin and fasteners.
 - ii. Equity of Rs. 201 crores invested to date and more than Rs. 550 crores of debt are invested towards project activities.
- g) In the event such a timeline is not extended, it would be tantamount to punishing the Petitioners for no fault of theirs and the relief granted vide Order dated 21.04.2024 in Petition No. 283/MP/2023 and Order dated 12.07.2024 in Petition No. 192/MP/2024 would be rendered otiose. Further, no loss would be caused if the

timeline for the commissioning of the Project is extended since there is no squatting of connectivity and there is a visibility of project commissioning in less than 05 months from the date of filing of the petition.

- h) The Petitioners have also attached photographs of the actual site in the present Petition, which further substantiates that significant project development has happened, and it is on track for commissioning by mid-January 2025.

Submission of Petitioners in IA No. 80/2024

4. Petitioners has additionally submitted the following in IA No. 80/2024:

- a) The significant efforts and the updated progress towards the construction of the Project is as below:

Project Activity	Present Status	Time required for completion
Land Acquisition	Completed. More than 1050 acres acquired by ASSPL.	Completed.
Piling	~62% completed as on 19.09.2024.	Piling will be completed by 15.10.2024.
Module Mounting Structure (MMS)	Completed for 100MW. (Stage I completed for 130 MW)	MMS installation will be completed by 30.11.2024.
Module Delivery	Module started arriving at the site, which will be completed by the end of Nov'24-mid of Dec '24	100% delivery of modules for 300 MW will be completed by 30.11.2024 -15.12.2024, and installation will be completed by 31.12.2024.
Inverters Delivery	All 80 inverters reached the site. Make-Sungrow India, 4.4MW	Installation will be completed by 30.11.2024
Transmission towers	i. Total towers: 18 ii. Sharing towers, which are already erected -06 nos. iii. New towers erected by ASSPL till date-04 nos. iv. Pending towers: 8 nos of which foundation completed for 6 towers	Installation of transmission towers will be completed by 30.10.2024.
Transmission line	0.782 Km stringing completed out of 2.3 Kms	Stringing will be completed by 30.10.2024
Power Transformer	Factory Acceptance test (FAT) for the 1 st Transformer is completed and FAT inspection is scheduled on 13.10.2024 for the 2 nd transformer.	1 st Transformer delivery expected by 30.10.2024. 2 nd transformer delivery by 7.11.2024



Switchyard	Civil works under progress. MCR slab casting is completed, and other civil work is under process	Completion of the switchyard, including transformer and other equipment will be completed by 30.11.2024.
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Hearing on 10.10.2024

5. After hearing the arguments of both the counsels of the Petitioners and the Respondent, the Commission reserved the matters for Order. The extract of the RoP of the hearing dated 10.10. 2024 is as under:

“Learned senior counsel for the Petitioners submitted that the present Petition has been filed seeking an extension of three months to commission the 300 MW Solar Power Project from 20.10.2024 to 25.1.2025. Learned senior counsel mainly submitted as under:

(a) Earlier, the Petitioners had filed Petition No. 283/MP/2023 seeking conversion of the connectivity from the LoA route to the Land route, to utilise the connectivity dated 10.5.2022 granted to the Petitioner, ASHPL under the LoA route as the underlying PPA dated 4.4.2022 between ASSPL and MSEDCL was terminated due to force majeure event(s). The Commission vide order dated 21.4.2024 allowed the Petitioners to covert its connectivity granted LoA/PPA route to Land route as per Regulation 5.8(xi) of the GNA Regulations subject certain conditions including submissions of requisite land documents within four weeks; achieving the financial closure and release of 10% project cost under equity within three months, and achieving the commissioning of the project with six months.

(b) While the requisite documents were submitted on 6.5.2024, CTUIL vide email dated 8.5.2024 raised a query asking for land documents to be in the name of ASHPL i.e. connectivity grantee and not ASSPL (subsidiary of ASHPL), failing which connectivity will be liable to be revoked. Accordingly, the Petitioners were constrained to file Petition No. 192/MP/2024 seeking declaration that the land documents in the name of ASSPL be considered as compliance with under Regulation 5.8(xi)(b) of the GNA Regulations and permit the Petitioners to utilise the connectivity dated 10.5.2022 under the Land route.

(c) The Commission, vide order dated 12.7.2024, permitted the ASHPL to submit land documents in the name of ASSPL for complying with Regulation 5.8(xi)(b) of the GNA Regulations within a period of two weeks from the date of order (i.e. till 26.7.2024). However, the timeline for commissioning of the Project remained same as the order dated 21.4.2024 i.e. 6 months till 20.10.2024.

(d) Since no action or actual transfer of the connectivity was allowed by CTUIL till the issuance of order dated 12.7.2024, the period from 21.4.2024 to 26.7.2024 ought to be excluded and the corresponding extension ought to be given to the Petitioners for achieving the commissioning of the Project.

(e) Pending acceptance of directions passed in order dated 21.4.2024 and after CTUIL having raised queries of ASHPL’s application on 8.5.2024, loan disbursement from the lender, PFC was also impacted. Clause 5 of the Additional Pre-Disbursement Condition of the Loan Sanction Letter required submission of the documentary proof demonstrating compliance that the LTA agreement is valid for sale of power from the project on a merchant basis. It was only after the order dated 12.7.2024 and submission of all documents to CTUIL on 22.7.2024, the project loan was disbursed by PFC for an amount of Rs. 415 crores on 2.8.2024. Without such funds at appropriate time, construction activities could not have progressed.

(f) The Petitioners have already made substantial progress in completion of the project and are certain that the commissioning of the project will be achieved within three months as prayed for. In this regard, a project activity chart and site photographs were also circulated.

(g) Regulation 24.6(iii) of the GNA Regulations, as amended by way of Second Amendment) also provides that where connectivity has been granted under the LoA route, but is subsequently converted to the Land route under Regulation 5.8(xi)(b), then SCOD shall be considered as six months from the date of approval by CTUIL of such conversion.

2. Respondent CTUIL submitted that the Petitioners have wrongly pleaded that the present Petition is an 'extension' of Petition Nos. 283/MP/2023 and 192/MP/2024 whereas, it is nothing but the review of the order(s) passed by the Commission in the earlier cases. CTUIL further referring to the project activity chart circulated by the Petitioners pointed out that the Petitioners have already fallen behind the schedule / timeline as indicated by them in the Petition. CTUIL added that even after getting the relaxations in both these Petitions from the Commission, the Petitioners have failed to abide by the commissioning scheduled stipulated by the Commission and present case is nothing but the abuse of the process of law.

3. After hearing the learned senior counsel for the Petitioners and the learned counsel for CTUIL and perusing project activity chart circulated by the Petitioners, the Commission strongly disapproved the conduct of the Petitioners. The Commission observed that by the order dated 21.4.2024 in Petition No. 283/MP/2023 and order dated 12.7.2024 in Petition No. 192/MP/2024, the Commission proceeded to exercise its Power to Relax and Power to Remove Difficulties under the GNA Regulations, for allowing the dispensations as prayed for by the Petitioners, primarily in view of the substantial progress already made by the Petitioners and the Project being on the verge of commissioning. However, the Petitioners are now facing the breach of the condition of achieving the commissioning of the Project by 20.10.2024 as stipulated in the order dated 21.4.2024. The Commission observed that the chart indicating the anticipated timelines for the Project activities as circulated also raises a doubt on the ability of the Petitioners to complete the Project even in the extended period of three months as now prayed. At the same time, the Commission also contemplated that the revocation of connectivity at this fag end may not only put the fate of the Project in complete jeopardy but might also lead to inefficient utilisation of the upcoming transmission element/assets kept reserved for such Project all along. In this background, the Commission expressed that if at all the prayers of the Petitioners were to be considered, it cannot be without any consequential liability on their part.

4. In response, the learned senior counsel for the Petitioners admitted that if the Commission so deems fit, the Petitioners are willing to furnish 'reasonable compensation' as a compensation for opportunity cost, to be credited to the common transmission pool. The Commission also queried the Petitioners and CTUIL on the aspect of the 'reasonable compensation', who in turn, sought liberty to file an appropriate affidavit in this regard.

5. Accordingly, the Commission directed the Petitioners to furnish the following details / information, on an affidavit, within a week:

(a) Firm date by which the Petitioner shall commission the project;

(b) Suggestion for 'reasonable compensation' to be deposited by the Petitioner.

6. Learned counsels for the Petitioners and the Respondent, CTUIL sought time to furnish on an affidavit within a week regarding suggestion for 'reasonable compensation' to be deposited by the Petitioners.

7. Subject to the above, the Commission reserved the matter for order."

Submission of Petitioners



6. Petitioner vide affidavit dated 28.10.2024 has reiterated its earlier submission and additionally has submitted as under:
- a) Subsequent to the filing of the present Petition, continuous protests have started at the Petitioners' Project Site wherein environmentalists and local villagers are agitating against the alleged cutting of khejri trees by solar power developers, including the Petitioners. The extent of the protests and demand of the protesters demanding that solar power companies be prohibited from cutting down khejri trees has intensified since September 2024, and this has also been reported in various newspapers. Following the recent protests and owing to cutting of khejri trees even the Petitioners have received various show cause notices from District and Forest Authorities. Owing to these protests and consequential proceedings that have started against ASSPL, construction works were impacted in certain blocks of the project. Petitioners are making all efforts, including taking help from local administrations and discussion with local people of the villages and are confident that it will be resolved shortly. Therefore, the Petitioners are seeking additional time from this Commission. The Petitioners have evaluated the entire situation and are of the view that it should be able to commission the Project by 21.04.2025.
 - b) Petitioners' project is in advanced stages, and as submitted during the course of the hearing, Petitioners have completed 100% land acquisition, 100% inverters are delivered at the site, and remaining works are underway with significant progress achieved to date. Further, Letters of credit (LCs) have been opened for modules. The Petitioners have so far invested a total of Rs. 770 crores (Rs. 201 crores equity and Rs. 569 crores debt from PFC) towards the project and are committed to commissioning the project at the earliest.
 - c) The Commission, during the course of the hearing on 10.10.2024, directed Petitioner to submit a firm date of commissioning of the project considering the present status of the project. Petitioners have evaluated the whole situation considering the subsequent developments of the issues that have arisen due to protests by locals on account of Khejri trees, Petitioners undertake that the project will be commissioned on or before 21.04.2025, i.e., within 06 months from 21.10.2024 with part commissioning commencing in phases before March 2025.
 - d) This Commission sought suggestions of the Petitioners for 'reasonable compensation' for the extension in commissioning of the Project beyond 21.10.2024 till the time of actual commissioning. Petitioners have submitted the following in this regard:

- i. The connectivity is not made effective yet by CTUIL. As and when connectivity will be made effective, Petitioners will be liable to pay applicable charges towards delay in the generation project as per CERC Sharing Regulations 2020. Therefore, the interest of CTUIL is protected. Further, Petitioners are already incurring Interest during construction (IDC charges) as petitioners have already invested Rs. 770 crores in the project to date. Therefore, it is not in the interest of Petitioner to delay its project anymore as it is attracting penalties under CERC Sharing Regulations, and also, Petitioners are incurring IDC charges till the time project is operational.
- ii. Without prejudice to the foregoing submissions and without admission of any liability, make the following proposals towards reasonable compensation, which can be considered by the Commission proportionately for the capacity that remained un-commissioned:

A. Proposal No. 1 - Conn BG-2 Amount- Proportionate to the un-commissioned capacity for a delay of up to 06 months

- (a) As per Regulation 8.2 of the GNA Regulations, a connectivity grantee is required to submit Conn-BG2 based on the voltage level of the terminal bay that has been allotted to the connectivity grantee. The Commission may consider the respective amount towards Conn BG-2 as per voltage level as reasonable compensation proportionately to the un-commissioned capacity for a delay up to 06 months from the timeline given by the Commission in Orders dated 21.04.2024 and 12.07.2024.

B. Proposal No. 2 - Rs. 50,000/MW- Proportionate to the un-commissioned capacity for a delay of up to 06 months.

- (a) In the alternate to Proposal No. 1, the other way to arrive at reasonable compensation would be to impose Rs. 50,000 per MW proportionate to the uncommissioned capacity for a delay of up to 06 months. The proposal is based upon the conversion fee proposed in Regulation 11A(4)(d) of the Draft Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) (Third Amendment) Regulations, 2023 ("Draft Third Amendment to the GNA Regulations") under the proposed amendment to Regulation 11A.

- e) No prejudice is caused to CTUIL; ASHL undertakes to pay bilateral/ transmission charges that CTUIL may levy under Regulation 13(3) of the Sharing Regulations in the event the Connectivity is made effective and generation is not ready.
- f) it is possible that a Project which has been given a particular time for commissioning, may face other challenges in commissioning which are beyond its reasonable control. However, for this Commission to permit conversion of connectivity on account of termination of the underlying PPA and yet hold that the Petitioners are not entitled to any further extension may result in the project being stranded even where there is a supervening event resulting in wastage of public money and project becoming Non-Performing Asset even in cases of Projects being implemented through Renewable Energy Implementing Agencies ("REIA") such as SECI/NTPC/NHPC, in the event of the Project getting delayed due to Force Majeure Events, this Commission has consistently taken the view that in cases where the REIA has extended the SCOD, the connectivity is not disturbed and the liability for such delay due to the force majeure event is limited to the payment of transmission charges in terms of Regulation 13(3) of the Sharing Regulations.
- g) The present project was part of a bid wherein a total of 500 MW of solar projects was awarded to two developers,
- h) and respective PPAs were initially signed with MSEDCL. Further, both projects are granted connectivity in the same substation, i.e., Bikaner-II. Both the PPAs were terminated on account of the same issue and the termination of both PPAs was upheld by Ld. MERC vide common order dated 27.12.2023. Thereafter, both developers approached this Commission for the conversion of connectivity from the LOA route to the land route. The order in the ASHL petition was passed on 21.04.2024 with a direction to commission the project within 06 months; however, the other similar petition, Petition No. 77/MP/2024 (Diary No. 82/2024) with the same relief, is pending before this Commission. (This Commission may take a holistic view as ASHL is seeking only 6 months to complete and commission its project, which will be earlier than the other project whose similar petition is pending before this Commission.)
- i) On 15.07.2024, this Commission notified the Second Amendment to the GNA Regulations, and in terms of amended Regulation 24.6(1)(a)(iii), in case of conversion from LoA route to land route, the connectivity grantee is required to commission the Project either by the connectivity start date or 6 months from the date of conversion of the connectivity by CTUIL, whichever is later. Since the

Petitioners approached this Commission, by way of Petition No. 192/MP/2024, prior to notification of the Second Amendment to the GNA Regulations, the Petitioners are being denied the benefit of 6 months in terms of Regulations 24.6(1)(a)(iii). In fact, petitions of similarly placed generating companies whose PPA has been terminated due to force majeure and upheld by the Appropriate Commission are pending adjudication before this Commission.

7. Petitioners had filed an IA No. 80 of 2024 vide which Petitioners have prayed for urgently listing of main Petition and for interim direction to CTUIL to not take any coercive action with regard to the existing Connectivity dated 10.05.2022. We observe that the Petition was heard on 10.10.2024 and reserved for Orders; the prayers under IA No. 80/2024 have been addressed.

Analysis and Decision

8. Petitioners have filed the instant petition seeking an extension of time for commissioning of the project by three months, i.e., from 20.10.2024 to 25.01.2025, from the timeline as mentioned in the Order dated 21.04.2024 in Petition No. 283/MP/2024, on the following grounds:
 - i. It was only after Order dated 12.07.2024 in Petition 192/MP/2024 that the question of whether the land documents in the name of ASSPL can be utilized ASHPL(ASHL) was settled. Therefore, the period lost during the pendency of Petition No. 192/MP/2024 ought to be excluded while computing the time given for the commissioning of the Project.
 - ii. The uncertainty and ambiguity also led to an adverse impact on the loan disbursement by the PFC, as only after Order dated 12.07.2024 in Petition 192/MP/2024 the Project loan was disbursed by PFC for an amount of Rs. 415 Crores on 02.08.2024. Therefore, the time period of 6 months should commence two weeks after the date of Order in Petition No. 192/MP/2024, i.e., when the documents submitted by ASSPL were accepted by CTUIL.
 - iii. The similar timeline of 9 months, as provided by the Commission in a similar matter vide Order dated 21.04.2024 in Petition No. 291/MP/2023 titled *Solarone Energy Pvt. Ltd. v. CTUIL*, should be given to the Petitioners herein.
 - iv. As per the amended Regulation 24.6(iii), inserted vide Second Amendment to the GNA Regulations, for the cases covered under Regulation 5.8(xi)(a) i.e.,

- where connectivity has been granted under LoA route but are subsequently converted to Regulation 5.8(xi)(b) i.e., under land route, then the SCOD shall be considered as six months from the date of approval by the CTU of such conversion from Regulation 5.8(xi)(a) to Regulation 5.8(xi)(b). Accordingly, the Petitioners should be given 6 months from 21.07.2024.
- v. ASHL is committed to utilise the existing connectivity through its SPV ASSPL. ASSPL has undertaken substantial project development activities, including the completion of major milestones of the projects, viz., tying-up of funds for the Project and acquiring 100% of the land of around 900 acres.
9. CTUIL during the hearing on 10.10.2024, has submitted that the Petitioners have wrongly pleaded that the present Petition is an 'extension' of Petition Nos. 283/MP/2023 and 192/MP/2024, whereas it is nothing but the review of the order(s) passed by the Commission in the earlier cases. CTUIL further submitted that even after getting the relaxations in both of these Petitions, the Petitioners have failed to abide by the commissioning schedule stipulated by the Commission, and thus, the present case is nothing but the abuse of the process of law.
10. During the Hearing held on 10.10.2024 after hearing the learned senior counsel for the Petitioners and the learned counsel for CTUIL and perusing the project activity chart circulated by the Petitioners, the Commission observed that the chart indicating the anticipated timelines for the Project activities as circulated also raises doubt on the ability of the Petitioners to complete the Project even in the extended period of three months as prayed for now. At the same time, the Commission also contemplated that the revocation of connectivity at this fag end may not only put the fate of the Project in complete jeopardy but might also lead to inefficient utilisation of the upcoming transmission element/assets kept reserved for such Project all along.
11. Petitioners vide affidavit dated 28.10.2024 has submitted that subsequent to the filing of the present Petition, continuous protests have started at the Petitioners' Project Site wherein environmentalists and local villagers are agitating against alleged cutting of khejri trees by solar power developers including the Petitioners, accordingly, Petitioners have re-evaluated the entire situation and Petitioners are seeking additional time, i.e. by 21.04.2025 from this Commission for commissioning of the project. Petitioners further submitted that the project will be commissioned on or before 21.04.2025, i.e., within 06 months from 21.10.2024, with part commissioning commencing in phases before March 2025. Petitioners have also

annexed copies of newspaper articles reporting protests for the protection of khejri trees and the show cause notice issued to the Petitioners.

12. In compliance with ROP for the hearing held on 10.10.2024 seeking suggestions for 'reasonable compensation' to be deposited by the Petitioners, Petitioners have submitted the following proposals towards reasonable compensation, which can be considered by the Commission proportionately for the capacity that remained un-commissioned for extension up to 06 months from the timelines granted by this Commission;
- a) Respective amount towards Conn BG-2 as per voltage level of the terminal bay proportionately to the un-commissioned capacity for a delay of up to 06 months.
 - b) Alternatively, imposing Rs. 50,000 per MW proportionate to the un-commissioned capacity for a delay of up to 06 months.

13. We have considered the submissions of the Petitioners and Respondent. The following issues arise for our consideration:

Issue: Whether Petitioners be allowed an additional time over and above the timeline given by the Commission vide Order dated 21.04.2024 in Petition No. 283/MP/2023 for the commissioning of the 300 MW Power project? Whether any consequential liability for such delayed commissioning of the project be levied on the Petitioner?

We now proceed to analyse the above issues in the subsequent paragraphs.

14. We have perused the regulatory provisions applicable when the Petitioners approached the Commission in Petition No. 283/MP/2023. GNA Regulations provide as follows:

"24.6 Revocation of Connectivity

(1)

...

(c)Connectivity granted to an REGS (other than Hydro generating station) or ESS (excluding PSP) shall be revoked, if LOA or PPA on basis of which Connectivity was granted, is terminated prior to the COD of the project..."

As per above, the Regulations clearly stipulate that the Connectivity shall be revoked if the LOA or PPA on the basis of which Connectivity was granted is terminated prior to the COD of the project.

15. We have perused the Order dated 21.04.2024 in Petition No. 283/MP/2023, quoted as under:

“21. We are of the considered view that in light of MERC’s Order allowing termination of PPA on account of a Force majeure event, the termination of the PPA is not attributable to the Petitioner. Further, the Petitioner has made progress in the implementation of the project noted as per submissions of the Petitioner as follows:

“

- i. Land acquired till date: 876 acres. As per CTUIL’s Advisory dated 22.09.2022, 3 acres/MW is required for solar projects, thereby 900 acres land is required for the Project. Therefore, Petitioners have acquired 97% of the land for the Project.*
- ii. Financial Closure: Power Finance Corporation (PFC) has approved the financing for the 300 MW Project at an estimated cost of Rs. 1614.60 Crores. Final sanction letter has been issued by PFC agreeing to grant Rupee Term Loan Assistance to the extent of Rs. 1210.95 Crores with a Debt:Equity ratio of 75:25.*
- iii. EPC Contracts: Petitioners have made payment of Rs. 403.65 Crores to its EPC contractors towards the Project.*
- iv. Further, the Petitioners have ordered the Major Power Equipment:
 - (a) Modules: Order placed to ZN-shine with delivery date starting from May 2024 till July 2024.*
 - (b) Power Transformer: Order placed to TBEA Energy India Pvt Ltd for 02 nos of 150 MVA (220/33 kV) transformers with delivery dates of May and June 2024.*
 - (c) Switchyard: Order placed to Onix Renewable Ltd for erection, supply, testing and commissioning of 220/33 kV switchyard, which includes bays also with target completion date of July 2024.**
- v. The schedule of effectiveness of bay at the Bikaner II Sub-station is 01.09.2024 by which the Petitioners will also commission the Project.”*

As per the above, the Petitioner has acquired a major part of the land and has ordered the major power equipment, and wishes to commission the project by 1.09.2024.”

.....

24. We note that Petitioner has been holding on the Connectivity since May 2022, which is approximately two years. We are also aware that Connectivity is a crucial resource that should be optimally utilized. Keeping in view the MERC’s Order allowing termination of PPA on account of Force majeure event establishes the fact that the termination of the PPA is not attributable to the Petitioner. Further, substantial progress has been made in the execution of the project, which testifies to the seriousness and commitment shown by the petitioner to complete the project. Accordingly, we, in the exercise of our powers under Regulation 41 and Regulation 42 of the GNA Regulations, relax the provisions of Regulation 24.6 and allow the Petitioners to convert its Connectivity grant from the LOA route to the



Land route as provided for in Regulation 5.8(xi) of the GNA Regulations, subject to the following conditions:

a. *The Petitioner, within four weeks of the issuance of the order, shall submit the Land documents in terms of Regulation 5.8(xi) of the GNA Regulations for full 300 MW Connectivity. Failing which, CTUIL shall revoke the Connectivity granted to the Petitioner.*

b. After the termination of the PPA, the SCOD of the project mentioned under the PPA does not hold. Considering that nearly two years have elapsed since the grant of connectivity and the Petitioners have shown that considerable progress has already been made in the implementation of the project and that Petitioners have submitted that they can commission the project by 1.09.2024, we are of the considered view that 6 months from the issuance of this order shall be sufficient time to commission the project. We, accordingly, direct that the project developer shall commission its project within six (6) months of the issuance of this order. Further, the milestones of achieving Financial closure and the release of 10% project cost under equity as required under Regulation 11(A) and 11(B) of the GNA Regulations shall have to be achieved within three months of the issue of this Order. In case of failure of Petitioner(s) to achieve financial closure or the release of 10% of project cost under equity, the connectivity shall be revoked.

c. *The time to achieve various milestones has been relaxed for the Petitioner under Regulations 41 and 42 of the GNA Regulations. This relaxed timeline to achieve various milestones shall have no bearing on the liabilities under the Sharing Regulation 2020. The Petitioner shall ensure that the project is implemented in the timeframe mentioned above.*

d. *The treatment of the Bank Guarantee submitted by the Petitioner shall be as per the applicable provisions of the GNA Regulations.”*

As per the above, the Commission noted that MERC has approved the termination of PPA. As per the provision of Regulation 24.6, Petitioners' Connectivity would have been revoked. However, on an assurance from the Petitioners that substantial progress has been made and they shall commission the project by 1.09.2024, the Commission exercised the powers under Regulation 41 and Regulation 42 of the GNA Regulations, relaxed the provisions of Regulation 24.6 and allowed the Petitioners to convert its Connectivity granted from the LOA route to the Land route. Although Petitioners have submitted that they can commission the project by 1.09.2024, the Commission allowed 6 months of time from the issuance of the order for the commissioning of the project, i.e., by 20.10.2024.

16. Petitioners further approached the Commission by way of Petition No. 192/MP/2024 filed on 13.05.2024 seeking further relaxation of another Regulation for the same project to utilize land documents held in the name of the subsidiary for Connectivity granted to the parent company. Vide Order dated 12.07.2024 in Petition No. 192/MP/2024, the Commission held as under:

“2. The Petitioners have made the following prayers in the Petition:

(a) Exercise its power under Regulation 41 and Regulation 42 of the GNA Regulations 2022 and thereby declare that the Petitioners fulfil all conditions under Regulation

5.8(xi)(b) of the GNA Regulations and submission of land documents in the name of ASSPL i.e., the Project SPV are valid to utilise the Connectivity dated 10.05.2022 granted by CTUIL to ASHPL.

(b) In the interim, injunct CTUIL from revoking the Connectivity dated 10.05.2022 granted to the Petitioners, during the pendency of the present Petition;

(c) Pass such other order or orders which are deemed fit and proper in the facts and circumstances of the case.

.....

5. The Petitioners have mainly submitted as follows:

.....

l) ASSPL has undertaken substantial development activities for the project, including tying-up funds, obtaining evacuation approvals, and acquiring 100% of the land required for its 300 MW Solar Project. Notably, due to the issue raised by CTUIL vide email dated 08.05.2024 on utilisation of connectivity under land route, which has raised serious concerns on the rights of ASSPL to utilise the connectivity, ASSPL's lenders are not disbursing further funds granted to ASSPL under project loan for project activities to be implemented by ASSPL which is impacting and delaying the Project activities. Investments and progress made by the Petitioners towards the construction of the Project will be rendered stranded if they are not permitted to utilise the existing connectivity.

m) Accordingly, the Petitioners are constrained to file the present Petition inter alia praying the Commission to exercise its "Power to Relax" and "Power to Remove Difficulty" under the 2022 GNA Regulations and declare that the Petitioners fulfil all conditions to utilise its existing connectivity under Regulation 5.8(xi)(b) of the 2022 GNA Regulations for its other project under implementation in light of the Order dated 21.04.2024.

.....

28. We have taken note of Petitioner's submission that ASSPL has taken several positive steps for furthering the commissioning of the Project, - after acquiring 100% of the land and arranging the required finance as a loan for execution of the project, ASSPL has also awarded the Engineering, Procurement, and Construction (EPC) agreement for supply and services and have placed orders for major equipment like Power Transformer, and Switchyard, etc. Thus, considering the substantive progress made towards implementation of the project, the approach of the Petitioners, and the policy objectives of promoting renewables, we are of the view that the project in question, which is almost on the verge of commissioning, should be allowed to be commissioned so that the connectivity granted to ASHPL is utilized.

29. Accordingly, we, in the exercise of the powers conferred under Regulations 41 and 42 of the 2022 GNA Regulations, relax the provisions of Regulation 11A and allow ASHPL, which is the connectivity grantee, to submit the documents for fulfilling land requirements under Regulation 5.8(xi)(b) and subsequent milestones required under Regulations 11A and 26 of the 2022 GNA Regulations, in the name of ASSPL, subsidiary of ASHPL, subject to the following conditions:

a) ASHPL shall submit documents for fulfilling land requirements under Regulation 5.8(xi)(b) of the 2022 GNA Regulations within two weeks of the issuance of this order.

b) ASHPL shall submit document(s) in support of the release of 10% of the project cost through equity and document(s) in support of achieving Financial Closure for full 300 MW Connectivity, in terms of Regulation 11A of the 2022 GNA Regulations as per the timeline provided in Order 21.4.2024 in Petition No. 283/MP/2024, with a relaxation that such documents in the name of ASSPL shall be considered as valid documents towards fulfilling the requirements of Regulation 11A of the 2022 GNA Regulations.

c) *Petitioners shall commission the project within six (6) months of the issuance of Order dated 21.04.2024 in Petition No. 283/MP/2023.*

As per the above, the Commission granted another relaxation to the Petitioners by allowing ASHPL to submit the documents for fulfilling land requirements under Regulation 5.8(xi)(b) and subsequent milestones required under Regulations 11A and 26 of the GNA Regulations, in the name of ASSPL (a subsidiary of ASHPL). Such relaxation was provided, noting that *“considering the substantive progress made towards implementation of the project, the approach of the Petitioners, and the policy objectives of promoting renewables, we are of the view that the project in question, which is almost on the verge of commissioning, should be allowed to be commissioned.”* Petitioners, during proceedings of Petition No. 192/MP/2024, at no point sought any additional time to commission the project and submitted that it was on the verge of commissioning its project. The status of the project submitted by Petitioners in 192/MP/24 is quoted as follows:

“ASSPL has awarded the Engineering, Procurement, and Construction (EPC) agreement for supply and services and has placed orders for major equipment like Power Transformer and Switchyard, as under:

- i. Modules: Order placed to ZN-shine with delivery date starting from May 2024 till July 2024*
- ii. Power Transformer: Order placed to TBEA Energy India Pvt Ltd for 02 no. of 150 MVA (220/33 kV) transformers with delivery dates of May and June 2024.*
- iii. Switchyard: Order placed to Onix Renewable Ltd for erection, supply, testing, and commissioning of 220/33 kV switchyard, which includes bays also, with a target completion date of July 2024.”*

We observe that the Petitioners nowhere raised the issue of Khejri trees or delay due to the reasons now raised in the present petition when it sought relaxation on land documents.

17. Petitioners have referred to the amended Regulation 24.6(iii), inserted through the Second Amendment to the GNA Regulations effective from 15.7.2024, seeking months from 21.07.2024. In this regard, it is clarified that Petitioners' Connectivity was protected from revocation by relaxing extant Regulation 24.6 **on the ground that the Petitioners gave assurance that the project would be commissioned by 1.09.2024. Accordingly, the Petitioners ought to comply with the conditions stipulated in Order dated 21.4.2024 in Petition No. 283/MP/2024.** Petitioners cannot seek further relaxations as per amended regulations since its Connectivity was allowed to be continued for meeting specific requirements.
18. Petitioners have submitted that it was only after Order dated 12.07.2024 in Petition 192/MP/2024 that the question of whether the land documents in the name of ASSPL can be utilized ASHPL(ASHL) was settled; therefore, the period lost during

the pendency of Petition No. 192/MP/2024 ought to be excluded while computing the time given for commissioning of the Project. We observe that the Petitioners nowhere mentioned while seeking relaxation in 192/MP/2024 that it required additional time to commission the project from the date of the Order in Petition No. 192/MP/2024.

19. We disapprove of the conduct of the Petitioners, who have been filing multiple Petitions seeking relaxations from time to time on the basis of inaccurate submissions regarding the commissioning timeline of the project. We note that connectivity is a scarce resource, and retaining connectivity by the petitioners without developing the project is not in the overall interest of the power sector.

a) By way of this Petition, Petitioners are again seeking time till 21.4.2025 for commissioning its project.

20. Petitioners have submitted that Petition No. 77/MP/2024 (Diary No. 82/2024) with the same relief is pending before this Commission, which shall be dealt with in accordance with law.

21. Petitioners, vide their Affidavit dated 28.10.2024 in the instant Petition, have submitted that after the filing of the present Petition, the Petitioners are facing continuous protests at Project Site wherein environmentalists and local villagers are agitating against the alleged cutting of khejri trees by solar power developers including the Petitioners; the Petitioners have received various show cause notices from District and Forest Authorities which led to the starting of the consequential proceedings against ASSPL.

22. We have perused these newspaper articles and the show cause notices issued to the Petitioners quoted as under:

Show cause notice

1. बाबूलाल पुत्र रामसिंह जाति राजपूत साकिन जयमलसर
2. गोपालसिंह पुत्र सिमरथ सिंह जाति राजपूत निवासी जयमलसर
3. संतोष कंवर पत्नि भंवरसिंह ओमकंवर महेन्द्रसिंह करणीसिंह श्रवणसिंह पि० भंवरसिंह जाति राजपूत साकिन जयमलसर ।
4. पवनकंवर पत्नि गोविन्दसिंह ,विक्रमसिंह ,मंजूकंवर ,लालसिंह पि० गोविन्दसिंह कौम राजपूत साकिन जयमलसर

✓ ह.ए.सी.एम.ई.सीकर सोलर प्रा०सि०

नोटिस

जरिये नोटिस आपको सूचित किया जाता है कि पटवारी हल्का जयमलसर द्वारा प्रस्तुत रिपोर्ट अनुसार आप द्वारा बिना वैध अनुमति के जयमलसर के ख०न० 15/2 में 41.5 बीघा भूमि पटवारी हल्का जयमलसर की रिपोर्ट अनुसार बाबूलाल पुत्र रामसिंह हि० 1/2 गोपालसिंह पुत्र सिमरथ सिंह हि० 1/6 संतोष कंवर पत्नि भंवरसिंह ओमकंवर महेन्द्रसिंह करणीसिंह श्रवणसिंह पि० भंवरसिंह ब.हि.ब. दर हि० 1/6 पवनकंवर पत्नि गोविन्दसिंह ,विक्रमसिंह ,मंजूकंवर ,लालसिंह पि० गोविन्दसिंह ब.हि.ब. दर हि० 1/6 कौम राजपूत साकिन देह व ए.सी.एम.ई. सीकर सोलर प्रा०सि० । उक्त भूमि पर 20 खेजडियां आप द्वारा काटी गई है।

अतः आप द्वारा यह खेजडिया किस हैसियत या किसकी अनुमति से काटी गई है-इस संबंध में आप न्यायालय सहायक आयुक्त उपनिवेशन -प्रथम-बीकानेर मुकाम कोलायत के समक्ष दिनांक:-29-5-2024 को कार्यालय समय में उपस्थित होकर अपना पक्ष असालतान/ दकालतान प्रस्तुत करें ।

नोटिस आज दिनांक: 21-5-24 को मेरे हस्ताक्षर से जारी किया गया ।

तहसीलदार उपनिवेशन
गजनेर मु. कोलायत

1. OFFICE OF REGIONAL FOREST OFFICER, BIKANER (NORTH)

1.1. Notice

On 19.05.2024, illegal felling of trees was discovered in Khasra No. 15/15 of village Jaimalsar. Additionally, on 30.05.2024, unauthorized cutting of the state tree Khejri and other green trees was found on the land of Khasra No. 14 of Jaimalsar. Specifically:

- 24 Khejri trees were illegally felled from the land of Khasra No. 15/02
- 10 Khejri trees were illegally cut on the land of Khasra No. 14

Acme Sikar Solar Private Limited, Plant No. 152, Sector No. 44, Gurgaon, Haryana, is recorded as the Khatedar Lease Holder for a period of 29 years and 11 months for Khasra No. 14. It has been found that your company, Acme Solar Power Plant, has leased/purchased this and other proximal land.

In addition to the illegal felling of trees, nests of birds and newborn baby birds have been discovered inside the cut Khejri trees. It appears that Acme Solar Power Plant Company is planning to set up solar plants on a large scale, resulting in the cutting of Khejri trees. This has destroyed the natural habitat of wildlife and caused wildlife casualties.

Therefore, you are hereby notified to show cause as to why legal proceedings should not be initiated against you under the Wildlife (Protection) Act, 1972 for these actions. You are requested to appear in this office on 24.06.2024 and submit your reply. Please take note of this instruction.

This notice is issued under the seal of this office dated 20.06.2024.

To: Sorabh Munot, AGM ACME Cleantech Solutions Pvt Ltd Plot No. 152, Kanhai Colony, Sector 44, Gurugram, Haryana-122003

Notice No.: 3.7.8 **Date:** 20/06/2024

As per the notice dated 21.05.2024, Petitioner No. 2 was called on 29.5.2024 to explain in what capacity or with whose permission the khejri trees were cut by Petitioner No.2. We have perused other notices dated 20.6.2024,31.07.2024, and the issue that emerges is about cutting trees without permission. We observe that the Petitioners are expected to comply with requirements as per local laws of the land, and any non-compliance on the part of the Petitioners cannot be the grounds for seeking a relaxation.

23. The status of the project as submitted by the Petitioners in subsequent petitions is summarized below:



Sl. No.	Petition No.	Progress
1	283/MP/2023	<ul style="list-style-type: none"> • Land acquired for 876 acres. Therefore, Petitioners have acquired 97% of the land for the Project. • Financial Closure: PFC has approved the financing for the 300 MW Project at an estimated cost of Rs. 1614.60 Crores. Final sanction letter has been issued by PFC agreeing to grant Rupee Term Loan Assistance to the extent of Rs. 1210.95 Crores with a Debt:Equity ratio of 75:25. • EPC Contracts: Petitioners have made a payment of Rs. 403.65 Crores to its EPC contractors towards the Project • Petitioner has ordered the following major equipment: <ul style="list-style-type: none"> • Modules: Order placed to ZN-shine with delivery date starting from May 2024 till July 2024 • Power Transformer: Order placed to TBEA Energy India Pvt Ltd for 02 nos of 150 MVA (220/33 kV) transformers with delivery dates of May and June 2024 • Switchyard: Order placed to Onix Renewable Ltd for erection, supply, testing, and commissioning of 220/33 kV switchyard, which includes bays also with a target completion date of July 2024 • The schedule of the effectiveness of the bay at the Bikaner II Sub-station is 01.09.2024 by which the Petitioners will also commission the Project.
2	192/MP/2024	<ul style="list-style-type: none"> • Full Land, i.e., 900 acres of Land, has been acquired. • Rest all progress is the same as submitted under Petition No. 283/MP/2023.
3	326/MP/2024	<ul style="list-style-type: none"> • Land Acquisition - Completed. More than 1050 acres were acquired by ASSPL. • Piling - ~62% completed as on 19.09.2024. Piling will be completed by 15.10.2024. • Module Mounting Structure (MMS) - Completed for 100 (Stage I completed for 130 MW). MMS installation will be completed by 30.11.2024. • Module Delivery - 100% delivery of modules for 300 MW will be completed by 30.11.2024 -15.12.2024, and installation will be completed by 31.12.2024. • Inverters Delivery - All 80 inverters reached the site. Installation will be completed by 30.11.2024 • Transmission towers – Total 18 towers. 6 nos. of sharing towers already erected. 4 nos. of new tower erected by ASSPL. 8 nos of which foundation completed for 6 towers. Installation of transmission towers will be completed by 30.10.2024. • Transmission line - 0.782 Km stringing completed out of 2.3 Kms. Stringing will be completed by 30.10.2024 • Power Transformer - Factory Acceptance test (FAT) on for 1st Transformer is completed, and FAT inspection is scheduled on 13.10.2024 for the 2nd transformer. Delivery of 1st and 2nd Transformer are expected by 30.10.2024 and 7.11.2024 respectively.

		<ul style="list-style-type: none"> • Switchyard - Civil works under progress. Completion of the switchyard, including transformer and other equipment will be completed by 30.11.2024.
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24. During the hearing held on 10.10.2024, we have observed as follows:

“3. After hearing the learned senior counsel for the Petitioners and the learned counsel for CTUIL and perusing project activity chart circulated by the Petitioners, the Commission strongly disapproved the conduct of the Petitioners. The Commission observed that by the order dated 21.4.2024 in Petition No. 283/MP/2023 and order dated 12.7.2024 in Petition No. 192/MP/2024, the Commission proceeded to exercise its Power to Relax and Power to Remove Difficulties under the GNA Regulations, for allowing the dispensations as prayed for by the Petitioners, primarily in view of the substantial progress already made by the Petitioners and the Project being on the verge of commissioning. However, the Petitioners are now facing the breach of the condition of achieving the commissioning of the Project by 20.10.2024 as stipulated in the order dated 21.4.2024. The Commission observed that the chart indicating the anticipated timelines for the Project activities as circulated also raises a doubt on the ability of the Petitioners to complete the Project even in the extended period of three months as now prayed. At the same time, the Commission also contemplated that the revocation of connectivity at this fag end may not only put the fate of the Project in complete jeopardy but might also lead to inefficient utilisation of the upcoming transmission element/assets kept reserved for such Project all along. In this background, the Commission expressed that if at all the prayers of the Petitioners were to be considered, it cannot be without any consequential liability on their part.

4. In response, the learned senior counsel for the Petitioners admitted that if the Commission so deems fit, the Petitioners are willing to furnish ‘reasonable compensation’ as a compensation for opportunity cost, to be credited to the common transmission pool. The Commission also queried the Petitioners and CTUIL on the aspect of the ‘reasonable compensation’, who in turn, sought liberty to file an appropriate affidavit in this regard.”

25. As per above, we observe that since Petitioners have now agreed to commit to a firm timeline for the commissioning of this project and have, in fact, agreed to pay compensation for delay in commissioning the project as per the committed timeline, we allow additional time to the Petitioners to commission its project as a last opportunity latest by 21.4.2025 with payments of compensation as stipulated in subsequent paragraphs. The Connectivity corresponding to the capacity not commissioned by 21.04.2025 shall be revoked.
26. Petitioners have suggested the following two options for reasonable compensation as (i) Conn-BG2 applicable for the voltage level for the corresponding terminal bay or (ii) imposing Rs. 50,000 per MW, proportionate to the un-commissioned capacity for a delay of up to 06 months.
27. We have perused the Request for Selection (RfS) issued by the MSEDCL vide RfS No. MSEDCL/RE/2021/500 MW Solar/Ph-VI/T-30 dated 06.05.2021 (taken from MSEDCL website), under which the LoA dated 14.12.2021 for 300MW Solar project

was issued by MSEDCL to the ASHPL based on which Connectivity was secured by ASHPL on the LoA route quoted as under:

“3.9 Earnest Money Deposit (EMD) and Performance Bank Guarantees (PBG):

The Bidder shall provide the following Bank Guarantees to MSEDCL in a phased manner as follows:

- i.*
- ii. Performance Bank Guarantee (PBG): The Bidders selected by MSEDCL, based on this RfS shall submit the Performance Bank Guarantee (PBG) of INR 8 Lakh/MW according to the Format 6.3 B, issued in favor of MSEDCL with a validity period up to 7 months from Scheduled Commercial Operation Date, 2 days prior to signing of PPA. The Bidder shall furnish the Performance Bank Guarantees (PBGs) from any of the Banks listed at Annexure - C to MSEDCL. In case of Bank Guarantee issued by foreign branch of Bank from bank list (As given in Annexure C) in the RfS is to be endorsed by the Indian branch of the same Bank or State Bank of India.*

.....
3.14.7 The Project shall be commissioned by the Scheduled Commercial Operation Date. In case of failure to achieve this milestone, MSEDCL shall forfeit the Performance Bank Guarantee (PBG) in the following manner.

a) Delay upto Six (6) months from SCOD – MSEDCL will forfeit total Performance Bank Guarantee on per day basis and proportionate to the Capacity not commissioned.

b) In case the commissioning of the project is delayed beyond Six (6) months from SCOD :- The maximum time period allowed for commissioning of the full Project Capacity with encashment of Performance Bank Guarantee and reduction in the fixed tariff shall be limited to 21 (Twenty One) months from the date of execution of the PPA, for projects being set up in Solar park, and within a period of 24 (Twenty Four) months from the date of execution of the PPA, for projects being set up outside Solar park.

.....”

As per the above, the amount of applicable PBG was Rs. 24 Crores for the LoA of the 300MW Solar Project issued by MSEDCL. Further, in case of delay in commissioning of the project up to Six (6) months from the SCOD, PBG was to be forfeited on a per day basis in proportion to the Capacity not commissioned. We have also perused the RFS of SECI /NTPC, which has provisions for PBG of Rs. 15/lac/MW – 20 lac/MW for a delay of up to six months from SCOD.

28. As per records, Petitioner No. 1 has furnished Conn-BG1 for Rs 50 lacs, Conn-BG2 for Rs. 3 Crores, and Conn-BG3 for Rs 6 Crores. In case of non-achievement of COD by 20.10.2024 under Order dated 21.4.2024 in Petition No. 283/MP/2023 and subsequent Order dated 12.5.2024 in Petition No. 192/MP/2024, the Connectivity was to be revoked leading to encashment of such Conn-BG1, Conn-BG2, and Conn-BG3. We are of the view that options for ‘reasonable compensation’ suggested by the Petitioners as Rs 3 Crore/Rs 1.5. Crore for a delay of up to six

months from the permitted timeline is not adequate considering the fact that the Petitioners have held on to the scarce resource without utilizing the same. The Petitioners, by holding on to the Connectivity, not only kept the terminal bay reserved for itself but also kept the ISTS transmission system in its name. Accordingly, we are of the view that the compensation for the delayed commissioning shall be based on the amount of such Conn-BGs furnished by the Petitioners which would have been revoked on revocation of Connectivity. Petitioners, in its original prayer under the instant Petition, prayed for a time extension in achieving COD till 25.01.2025. However, vide Affidavit dated 28.10.2024, the Petitioners have submitted as follows:

"It is submitted that this Hon'ble Commission during the course of hearing on 10.10.2024 directed Petitioner to submit a firm date of commissioning of the project considering the present status of project. Petitioners have evaluated the whole situation considering the subsequent developments of the issues arise due to protest by locals on account of Khejri trees, Petitioners undertake that the project will be commissioned on or before 21.04.2025 i.e. within 06 months from 21.10.2024 with part commissioning commencing in phases before March 2025."

29. Considering that the prayer under the instant Petition is seeking time for commissioning the project by 25.1.2025 and the Petitioners have given an undertaking vide Affidavit dated 28.10.2024 to commission the project before 21.4.2025, we are of the view that the compensation for delay in achieving the project shall be submitted by the Petitioners as follows:

- a) An amount of 50% of (sum of Conn-BG1 +Conn-BG2+Conn-BG3, which is Rs 9.5 crores) = Rs 4.75 Crores shall be furnished by the Petitioners to the CTUIL within two weeks (14 days) of the issuance of the instant Order, as compensation towards delayed commissioning from committed date of 20.10.2024 till 20.01.2025. In case such amount is not deposited by Petitioners within the stipulated date to CTUIL, the Connectivity shall stand revoked, and Conn-BGs furnished by the Petitioners shall be encashed by CTUIL.
- b) Post 20.1.2025, charges towards compensation shall be payable on a per-day basis proportionate to the quantum which has not achieved COD calculated as (Rs Crore) = [(quantum of capacity which has not achieved COD in MW / 300 MW) X (no. of days delayed beyond 20.1.2025 / 90 days) X 4.75 Crore]. Such amount for the next 15 days shall be furnished in advance before the start of such 15 days to the CTUIL.

For example, if the full 300 MW is yet to be commissioned as on 20.1.2025, the Petitioners shall deposit Rs 79.17 lacs latest by 20.1.2025 for the 15 days starting from 21.1.2025 till 4.2.2025. Suppose by 4.2.2025 if the full 300 MW is yet to be commissioned, Petitioners shall deposit Rs. 79.17 lacs latest by 4.2.2025.

In case the compensation is not deposited by the Petitioners to CTUIL within the stipulated date, the Connectivity corresponding to capacity not commissioned shall stand revoked, and Conn-BGs furnished by the Petitioners shall be encashed for such proportionate capacity not commissioned.

30. Accordingly, we allow the Petitioners to achieve the COD of the project latest by 21.04.2025, subject to payment of the compensation as stipulated in Paragraph 29 of this Order.
31. The amount received by the CTUIL under the aforementioned compensation shall be utilized to reduce the monthly transmission charges under the Sharing Regulations 2020.
32. It is clarified that the timeline to achieve the commissioning of the project shall have no bearing on the liabilities under the Sharing Regulations 2020, which shall be applicable in terms of provisions of the said Regulations.
33. The issue is answered accordingly.
34. The dispensation given and the directions passed in instant Order are in view of the facts and circumstances of this case and shall not operate as precedence.
35. Accordingly, Petition No. 326/MP/2024, along with IA No. 80/2024, is disposed of in terms of the above.

Sd/

(Harish Dudani)
Member

Sd/

(Ramesh Babu V.)
Member

Sd/

(Jishnu Barua)
Chairperson

