

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.358/MP/2023 along with IA No. 90/2023

- Subject : Petition under Section 79(1)(c) &(f) of the Electricity Act, 2003 read with Regulation 65 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 2023.
- Date of Hearing : **29.11.2023**
- Coram : Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : TP Saurya Limited (TPSL)
- Respondents : Rewa Ultra Mega Solar Limited (RUMSL) and 2 Ors.
- Parties Present : Shri Venkatesh, Advocate, TPSL
Shri Siddharth Joshi, Advocate, TPSL
Shri Harshvardhan, Advocate, TPSL
Shri Aditya Singh, Advocate, RUMSL

Record of Proceedings

Learned counsel for the Petitioner submitted that the instant Petition has been filed, *inter alia*, seeking condonation of delay in achieving the Financial Closure (FC) and extension in the Scheduled Commercial Operation Date (SCOD) on account of the various factors beyond the control of the Petitioner including the delay in construction and commissioning of the 400 kV ISTS evacuation infrastructure being developed by the Neemuch Transmission Limited. Learned counsel further submitted as under:

- (a) The Petitioner is developing two Solar Power Projects 160 MW and 170 MW respectively, in the Neemuch Solar Power Park and has entered into a Power Purchase Agreement dated 25.11.2021 with RUMSL and MPPMCL/IR along with other Project Agreements.
- (b) As per the agreed terms under the PPAs and the subsequent extension granted by RUMSL, the Petitioner was required to achieve FC by 8.11.2022 and SCOD by 22.11.2023. Despite the Petitioner has made its best efforts to achieve the milestone as envisaged under the PPAs within the timelines stipulated therein, on account of the consequential delays on the part of RUMSL, including fulfilling the conditions subsequent and clearing the mismatch in commissioning timelines for external evacuation infrastructure, which is imperative for the commissioning of the Projects, the Petitioner has been constrained to file the present Petition seeking an extension of SCOD.
- (c) As per Article 2.1. (b) of the PPAs (RUMSL's Condition Subsequent), RUMSL was, *inter-alia*, required to provide the necessary evacuation facilities for interconnection of the generating units & evacuation of power by the

Petitioner up to the Delivery Point as well as the internal evacuation infrastructure within the stipulated period.

(d) Admittedly, RUMSL failed to fulfil the conditions subsequent within the stipulated time and had written to the Petitioner for waiver of the timeline specified for the fulfilment of the conditions subsequent. In response, the Petitioner had also granted an extension in the timeline stipulated for the various conditions subsequent for the period ranging from 158 days to 334 days.

(e) Insofar as the external evacuation infrastructure is concerned, a letter issued by CTUIL clearly indicated that such a system will be ready only in March, 2024, and accordingly, the evacuation of power from the Petitioner's generating projects would be possible only thereafter.

(f) In view of the above, the Petitioner, by its letter dated 25.10.2023, to RUMSL, had sought the extension in achieving the SCOD at least up to 31.3.2024. However, no response has been received so far.

(g) Keeping in view that SCOD of the projects under the PPAs (i.e. 22.11.2023) has already been passed, the Petitioner has moved IA No.90/2023 and is praying for interim protection of restraining the procurers from taking any action in terms of Article 2.2(a) read with proviso to Article 2.3(e) of the PPAs till the pendency of the Petition.

2. In response to the specific query of the Commission with regard to the arrangement of the transmission infrastructure in the Solar Park being the subject matter of the bilateral agreement between the Solar Park Developer and the Solar Power Developer and the jurisdiction of the Commission to deal with such aspects, the learned counsel submitted that in the present case, the PPAs are tripartite wherein besides the Petitioner and the procurers, MPPMCL & IR, RUMSL are also parties with their obligations to make the internal evacuation infrastructure available forms part of its Conditions Subsequent. Learned counsel further pointed out that under the PPAs, RUMSL is also entitled to grant an extension in the timeline specified for achieving the SCOD.

3. Learned counsel for the Respondent, RUMSL sought liberty to file its reply to IA. Learned counsel also submitted that, as such, no letter or notice for invocation of Bank Guarantee furnished by the Petitioner under the PPAs has been issued so far and the request of the Petitioner vide its letter dated 25.10.2023 is under consideration and till the next date of hearing status quo shall be maintained.

4. Considering the submissions made by the learned counsel for the parties, the Commission ordered as under:

(a) Admit and issue notice to the Respondents.

(b) The Respondents to file their reply to the Petition and IA within two weeks with a copy to the Petitioner, who may file its rejoinders within two weeks thereafter.

5. Keeping in view the submissions made by the learned counsel for the Respondent, RUMSL, in particular, the Petitioner's request vide letter dated

25.10.2023 being under consideration by RUMSL, the Commission did not find any need to issue interim directions at this stage.

6. The Petition, along with IA, will be listed for hearing on **19.1.2024**.

By order of the Commission

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