

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.87/MP/2022**

- Subject : Petition under Sections 79(1)(c), 79(1)(d), 79(1)(f) and 79(1)(k) of the Electricity Act, 2003 read with Articles 11, 12 and 16 of the Transmission Service Agreement dated 10.1.2018 seeking declaration, extension of time period for achieving CoD of the Project and compensation on account of occurrence of force majeure and Change in Law events and other consequential reliefs.
- Date of Hearing : **11.10.2023**
- Coram : Shri Jishnu Barua, Chairperson  
Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member
- Petitioner : Fatehgarh-Bhadla Transmission Limited (FBTL)
- Respondents : Adani Renewable Energy Park Rajasthan Ltd. and 19 Ors.
- Parties Present : Shri Sanjay Sen, Sr. Advocate, FBTL  
Ms. Ruth Elwin, Advocate, FBTL  
Shri Hemant Singh, Advocate, FBTL  
Shri Lakshyajit Singh, Advocate, FBTL  
Ms. Lavanya Panwar, Advocate, FBTL  
Shri Ayush, Advocate, FBTL  
Shri Shaurya Kumar, Advocate, FBTL  
Shri Alok Shankar, Advocate, CTUIL  
Shri Kumarjeet Ray, Advocate, CTUIL  
Ms. Priyadarshini, Advocate, CTUIL  
Shri Lashit Sharma, CTUIL  
Shri Mohit Mudgal, Advocate, BRPL  
Shri Sachin Dubey, Advocate, BRPL  
Shri Mohit Jain, Advocate, BRPL  
Ms. Sakshi Kapoor, Advocate, AREPRL  
Shri Deepak Kumar, PFCCL

**Record of Proceedings**

During the course of the hearing, learned senior counsel for the Petitioner referred to the Petition and made detailed submissions on various force majeure and Change in Law claims made by the Petitioner along with the compensation & other consequential reliefs as prayed for by the Petitioner. Learned senior counsel, *inter-alia*, submitted that the Scheduled Commercial Operate Date (SCOD) of its Project as per the Transmission Service Agreement was 30.9.2019. However, its Project could achieve the Commercial Operation only on 31.7.2021 i.e. with a delay of approximately 22 months. Learned senior counsel further submitted that the aforesaid delay was on account of various force majeure events viz. (i) delay on account of the re-routing of Fatehgarh-Bhadla line due to GIB arc and consequent

delay in grant of NOC by Defence Department, (ii) delay on account of the operation of first status-quo order dated 11.5.2018 passed by the Hon'ble Rajasthan High Court in Writ Petitions filed by the farmers in respect of land allocated to Respondent to provide it to the Petitioner for its 400 kV Pooling Station, (iii) delay in providing adequate land for 400 kV Pooling Station adjacent to the Solar Park of the Respondent on account of the subsequent status quo order dated 8.9.2020 passed by the Hon'ble Rajasthan High Court, (iv) delay due to Covid-19 pandemic, and (v) delay due to intense sandstorm in the State of Rajasthan. Learned senior counsel further submitted that the Petitioner has claimed relief on account of various Change in Law events, viz. (i) re-routing of Fatehgarh- Bhadla line due to GIB Arc on account of the conditions mandated by the Chief Conservator, Forest, Jodhpur, and the Deputy Conservator, Forest, Jaisalmer, (ii) requirement to lower the height of 54 due to the stipulation contained in the NOC issued by Defence Aviation, (iii) stay orders passed by the Hon'ble Rajasthan High Court, and (iv) increase in cost due to the Covid-19 pandemic. Learned senior counsel also added that the Petitioner has also claimed relief with regard to IDC, IEDC, and loss of tariff on account of the above-mentioned force majeure and Change in Law events.

2. With regard to the Petitioner's claims towards IDC, the Commission queried the Petitioner about the computation methodology of such IDC and the net incremental IDC, if any. The Commission observed that in the event that the considerable capital towards implementation of the Project was deployed only after the original SCOD, then the actual IDC till SCOD, in such a case, would be significantly less than what the Petitioner would have factored into while placing the bid, envisaging the completion of Project by the original SCOD. Accordingly, the Commission observed that it would be pertinent to ascertain only the net incremental IDC for the period post original SCOD till the actual COD. In response, the learned senior counsel fairly stated that such details are, as such, not available on the record at present and sought the liberty to seek the necessary instructions on the above aspect.

3. Learned counsel appearing on behalf of Respondent No.15, BRPL sought liberty to file a reply in the matter.

4. Learned counsel for CTUIL submitted that, keeping in view that the sole LTTC to the TSA - Adani Renewable Energy Park Rajasthan Limited, is also an Adani Group Company, the views/comments of Northern Region beneficiaries may also be considered on the various claims made by the Petitioner in the present case. In response, learned senior counsel for the Petitioner submitted that, pursuant to the direction of the Commission, the Petitioner has already impleaded the beneficiaries of the Northern Region as parties to the Petition and has served them with a copy of the Petition way back in March 2023.

5. Considering the submissions of the learned senior counsel and learned counsel for the parties, the Commission directed the Petitioner to file the following details on an affidavit within four weeks:

- (a) The distance between the final route of the transmission system and the defence area of phalodi.
- (b) As per the affidavit dated 5.6.2023 submitted by the Petitioner, a NOC from defence (on account of the Phalodi air base) was also required on the

original route of the Petitioner. On what basis is the Petitioner is claiming NOC from the defence as a “Change in Law” when it was also originally required ?

(c) The project implementation status with actual expenditure before and at various stages of the project after the occurrence of Force Majeure/ Change in Law events.

(d) The detailed calculations for IDC and IEDC with reference to actual expenditure on projects after the occurrence of Force Majeure/ Change in Law events.

6. The Commission permitted all the Respondents, specifically the NR beneficiaries, to file their replies, if any, within three weeks with a copy to the Petitioner, who may file its rejoinder, within two weeks thereafter.

7. The matter remained part-heard and will be listed for hearing on **20.12.2023**.

**By order of the Commission**

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