

**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 : **18.12.2023**
- Coram : Shri Jishnu Barua, Chairperson
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 Nehul Sharma, Advocate, FBTL
Ms. Alchi Thypliyal, Advocate, FBTL
Ms. Neha M Dabral, Advocate, FBTL
Shri Shaurya Kumar, Advocate, FBTL
Shri Bhavesh Kundalia, FBTL
Shri Alok Shankar, Advocate, CTUIL
Shri Maulik Khurana, Advocate, CTUIL
Ms. Sakshi Kapoor, Advocate, AREPRL
Shri Mohit Mudgal, Advocate, BRPL
Shri Sachin Dubey, Advocate, BRPL
Shri Mohit Jain, Advocate, BRPL
Shri Swapnil Verma, CTUIL
Shri Ranjeet Rajput, CTUIL
Ms. Kavya Bhardwaj, CTUIL

Record of Proceedings

Learned senior counsel for the Petitioner submitted that the Petitioner has already made detailed submissions on the various force majeure and Change in Law claims along with the compensation and other consequential reliefs as prayed for by the Petitioner during the course of the hearing on 11.10.2023. However, vide Record

of the Proceedings for the said hearing, the Commission had sought certain additional information/details from the Petitioner including the detailed calculation for IDC and IEDC with reference to actual expenditure on Project after the occurrence of force majeure/Change in Law events. Learned senior counsel submitted that the Petitioner, vide its affidavit dated 12.12.2023, has furnished the information/details as called for. Learned senior counsel further referred to the said affidavit and pointed out the detailed calculation of IDC and actual expenditure at various stages of force majeure events.

2. However, upon perusing the detailed calculation of IDC as furnished by the Petitioner, the Commission observed that the said details, as such, do not disclose the IDC factored into by the Petitioner up to the Scheduled Commercial Operation Date (basis on the deployment of the entire capital during the original construction period up to SCOD). The Commission further observed that a delay in the Project implementation timeline would have also led to the delay in the deployment of capital – thereby shifting the liability of IDC towards fag end of the Project Implementation – and therefore, in order to arrive at net incremental IDC amount between the original SCOD and actual COD, it would be necessary to ascertain and deduct such IDC as already factored into by the Petitioner up to SCOD. In response, learned senior counsel submitted that the IDC claim of the Petitioner is only for the extended period i.e. from SCOD up to the actual COD. Learned senior counsel, however, added that the Petitioner will furnish additional details as may be required by the Commission.

3. Learned counsel for Respondent No.15, BSES Rajdhani Power Ltd. (BRPL) submitted that the Respondent, BRPL, had filed its reply in the matter.

4. Learned counsel for the BRPL submitted that once the claims of the Petitioner are allowed, beneficiaries of the other regions, besides the Northern Region, may also be affected and therefore, if the Commission deems fit they also may be heard in the present case. In response, learned senior counsel submitted that pursuant to the direction of the Commission, the Petitioner has already impleaded the beneficiaries of Northern Region as party to the Petition. However, the present proceedings cannot be turned into a national-level hearing by impleading the beneficiaries of all the regions.

5. Considering the submissions made by the learned senior counsel and learned counsel for the Parties, the Commission permitted the Petitioner to file the following information on the affidavit within three weeks:

(a) As per the affidavit dated 12.12.2023, there was no Defence Aviation Airport in the original route. Clarify if there was no Defence Aviation Airport in the original route of the line, why the Petitioner has sought NOC under the Indian Aircraft Act for construction of 765 kV D/c Fatehgarh-Bhadla Transmission Line as per the guidelines of "Procedure for issue of NOC for construction of Aerodromes, Helidromes, Transmission Lines, Buildings and other structures around IAF Aerodromes".

(b) How far was Phalodi Airbase from the original route of the transmission line of the Petitioner?

- (c) A copy of the NOC granted by the Defence Department for the original route of the transmission line.
 - (d) Amount of IDC/IEDC factored by the Petitioner while quoting the bid. Amount of IDC/IEDC up to the SCoD of the project i.e. 30.9.2019 and amount of IDC/IEDC during the extended period (i.e. SCOD to deemed COD)
 - (e) Detailed calculation of IDC and IEDC amounting to Rs. 55.54 crore and 4.75 crore respectively as claimed in the Petition.
 - (f) Reasons for declaration of the deemed COD in respect of its project and what is the date of actual COD of the project.
 - (g) Legible copy of Annexure to the CEA energization certificate dated 5.7.2021.
 - (h) RLDC 'on load' certificate for all elements of its project.
 - (i) SLD of transmission scheme with upstream & downstream interconnecting transmission system along with the present status of upstream and downstream interconnected transmission system.
6. The Commission directed CTUIL to submit on affidavit within three weeks the status of payment of transmission charges in respect of the transmission system covered under the present Petition.
7. The Commission also once again permitted all the Respondents, especially the Northern Region beneficiaries to file their reply to the Petition, if any, within two weeks with a copy to the Petitioner, who may file its rejoinder within two weeks thereafter.
8. The Petition shall be listed for hearing on **16.2.2024**.

By order of the Commission
Sd/-
(T.D. Pant)
Joint Chief (Law)