

CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Petition No. 79/MP/2022
Along with 34/IA/2023

Subject	Petition under Section 79 of the Electricity Act, 2003 read with the relevant provisions of the Agreement for Long Term Access without System Strengthening dated 11.9.2020, the Power Purchase Agreement dated 3.7.2020 and the other applicable laws inter alia seeking direction to the Respondent Nos. 1 and 2 to extend and/or defer the commencement of the Petitioner's Long-Term Access to coincide with the revised/extended Scheduled Commissioning Date of the Petitioner's 300 MW Solar Power Project under the Power Purchase Agreement dated 3.7.2020.
Date of Hearing	10.4.2024
Coram	Shri Jishnu Barua, Chairperson Shri Arun Goyal, Member Sh. P K Singh, Member
Petitioner	Masaya Solar Energy Private Limited (MSEPL)
Respondents	Central Transmission Utility of India Limited (CTUIL) and Ors.
Parties Present	Shri Buddy A Ranganathan, Advocate, MSEPL Shri Aniket Prasoon, Advocate, MSEPL Shri Aman Sheikh, Advocate, MSEPL Shri Vinit Kumar, Advocate, MSEPL Shri Shambhavi Sing, Advocate, MSEPL Ms. Suparna Srivastava, Advocate, CTUIL Shri Tushar Mathur, Advocate, CTUIL Ms. Kavya Bhardwaj, CTUIL

Record of Proceedings

Masaya Solar Energy Private Limited (MSEPL) has filed the instant petition seeking direction to CTUIL, Respondent No. 1, and PGCIL, Respondent No. 2, to extend and/or defer the commencement of the Petitioner's Long-Term Access (LTA) to coincide with the revised SCOD of the Petitioner's 300 MW Solar Power Project ('Project') under the Power Purchase Agreement (PPA) dated 3.7.2020 executed



between the Petitioner and the Respondent No. 3, i.e., Solar Energy Corporation of India Ltd. ("SECI").

2. In this regard, the learned counsel for the Petitioner made the following submissions:

- a) In terms of Rule 5(12) of the Electricity (Transmission System Planning, Development and Recovery of Inter-state Transmission Charges) Rules, 2021 ("2021 Rules"), the Ministry of Power, vide orders dated 23.11.2021 and 30.11.2021 granted waiver of ISTS transmission charges and losses for solar power and wind power projects having SCOD on or before 30.6.2025.
- b) The order dated 30.11.2021 also provides that if a renewable energy generation capacity project which is eligible for ISTS waiver in terms of the extant orders is granted an extension in commercial operation date by the competent authority, then the commencement and the period of LTA shall also get extended accordingly. Accordingly, SECI has extended the SCOD of the MSEPL's Project till 31.12.2023. MSEPL is now entitled to extension and/or deferment of the start date of LTA till the date of extended SCD of the Project.
- c) However, the Commission did not consider the orders dated 23.11.2021 and 30.11.2021 in two of its previous orders having identical issues as the instant petition (i.e., Spring Renewable Energy Pvt. Ltd. v. Central Transmission Utility of India Ltd. & Anr. *in an order dated 23.5.2022 in Petition No. 525/MP/2020*; and ACME Deoghar Solar Pvt. Ltd. & Ors v. Power Grid Corporation of India Ltd. & Ors. *in an order dated 8.6.2022 in Petition No. 103/MP/2021 along with IA No. 71/202 and Batch*) and did not provide any relief to the petitioners therein.
- d) The Petitioner in the ACME Deoghar case filed an Appeal No. 261 of 2022 against the order *dated 8.6.2022 in Petition No. 103/MP/2021 along with IA No. 71/202 and Batch* before the APTEL. APTEL, vide its judgment dated 8.7.2022 in Appeal No. 261 of 2022 granted ex-parte stay on the operation of the impugned order *dated 8.6.2022 in Petition No. 103/MP/2021 and Batch*. Subsequently, Fatehgarh Bhadla Transmission Limited (FBTL) thereafter filed an IA in Appeal No. 261 of 2022 seeking vacation of the order dated 8.7.2022 of APTEL, which was allowed by APTEL vide order 14.12.2023. The said order dated 14.12.2023 of the APTEL is challenged before the Hon'ble Supreme Court in Civil Appeal No. 3873 of 2024 and the Hon'ble Supreme Court vide its order dated 18.3.2024 set aside the APTEL's order dated 14.12.2023 and restored the ad-interim order dated 8.6.2022 till the disposal of pending Appeal by APTEL.

3. In response, the learned counsel for CTUIL made the following submissions:



- a) The start of the LTA can only be extended till the extension of the SCOD of the project of the Petitioner. In terms of the observation/ order of the APTEL and the Hon'ble Supreme Court, CTUIL will not take any coercive action, such as imposition of the transmission charges for the period from the start of LTA (i.e. 25.3.2022) till the SCOD of the project of the Petitioner, a decision with regard to which is pending before APTEL on being remitted by the Hon'ble Supreme Court.
- b) LC amount has to be commensurate with the Petitioner's outstanding liability towards the transmission charges. The Petitioner submitted a LC for ₹8.1 crore based on the outstanding transmission charges then, which has now gone up.
- c) The Petitioner has declared COD of 250 MW out of the 300 MW and 50 MW is yet to be commissioned. Hence, the bills shall continue to be raised till COD of the balance 50 MW as per Regulation 13(7) of the 2020 Sharing Regulations. Bill for an amount of ₹16,92,68,703/- has been raised up to 7.12.2023 on the Petitioner by the CTUIL.

4. Learned counsels for MSEPL and CTUIL proposed that the matter may be adjourned till the outcome of the pending Appeal in the APTEL.

5. Accordingly, to avoid duplication of proceedings, the Commission adjourned the matter sine die and directed the parties to revive the instant petition once the Appeal is decided by APTEL.

By order of the Commission

sd/-

(V. Sreenivas)
Joint Chief (Law)

