

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 239/MP/2021

- Subject : Petition under Sections 61, 63 and 79 of the Electricity Act, 2003 read with the statutory framework and Article 11 and Article 12 of the Transmission Service Agreement dated 28.6.2017 executed between Goa Tamnar Transmission Project Limited and its Long-Term Transmission Customers *inter alia* claiming compensation due to change in law events and force majeure events, extension of the scheduled commissioning date of the transmission project on account of force majeure events adversely impacting its implementation and seeking appropriate directions.
- Date of Hearing : 24.1.2022
- Coram : Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : Goa Tamnar Transmission Project Limited (GTTPL)
- Respondents : Maharashtra State Electricity Distribution Company Limited and 10 Ors.
- Parties Present : Shri Sanjay Sen, Sr. Advocate, GTTPL
Shri Deep Rao, Advocate, GTTPL
Ms. Parichita Chowdhury, Advocate, GTTPL
Ms. Harneet Kaur, Advocate, GTTPL
Shri TAN Reddy, GTTPL
Shri Balaji Sivan, GTTPL
Shri Gaurav Kumar, GTTPL

Record of Proceedings

Case was called out for virtual hearing.

2. The learned senior counsel for the Petitioner submitted that the present Petition has been filed, *inter alia*, seeking compensation due to various force majeure and Change in Law events occurring during the implementation of its transmission Project and seeking extension to the Scheduled Commercial Operation Date ('SCOD') of the said Project due to delay caused by various force majeure events, in terms of Articles 11 and 12 of the Transmission Service Agreement dated 28.6.2017. The learned senior counsel mainly submitted the following:

(a) The implementation of the Project has been considerably delayed owing to the various force majeure events including delay in obtaining forest clearance and wildlife clearance in the States of Karnataka & Goa and delay

in conversion of land in the State of Goa, etc. SCOD for the overall Project was 13.11.2021.

(b) In respect of one of the elements, namely, LILO of one ckt. of Narendra (existing) - Narendra (New) 400 kV D/c quad line at Xeldem (in short, 'the NN Line'), which is crossing 48.3 ha of forest land in North Division of Goa, the Petitioner had submitted a proposal of diversion of forest land before the concerned Nodal Officer, Goa on 24.8.2018. However, the Petitioner is yet to receive such forest clearance.

(c) Further, in the matter of dispute arising out of the grant of wildlife clearance to the NN Line, the Central Empowered Committee ('CEC') vide its report dated 23.4.2021 to the Hon'ble Supreme Court has recommended the re-alignment of the route. In case such recommendations of CEC are accepted by the Hon'ble Supreme Court, the Petitioner will be required to construct the NN Line on recommended route after obtaining fresh forest and wildlife clearances.

(d) Similarly, there has been a considerable delay in conversion of land for construction of Xeldem sub-station in Goa. The issuance of 'Conversion Land' for the sub-station land has been kept on hold on the pretext that the said land falls under the purview of the order of the Hon'ble Supreme Court dated 4.2.2015 in Civil Appeal No. 12234-12235 of 2018. Accordingly, the Petitioner has not been able to construct the Xeldem sub-station.

(e) The Petitioner has also prayed for compensation due to various Change in Law events, namely, increase in rates applicable for compensatory afforestation, additional expenditure incurred in respect of payment of compensation for RoW in the State of Goa and additional expenditure attributable to the spread of Covid-19 pandemic.

(f) In view of the CEC recommendations and severe impact of other force majeure events and Change in Law events on the Project, various reservations and concerns have been raised by the lenders including feasibility of the Project, the Petitioner's capacity to repay loan on time and expected cash flow from Project. Therefore, the Petitioner has prayed for in-principle approval and declaratory relief in relation to various force majeure and Change in Law events as narrated in the Petition, which will provide comfort to the lenders and will ensure adequate funding for implementation and timely completion of the Project.

3. After hearing the learned senior counsel for the Petitioner, the Commission observed that since the Project of the Petitioner is still under implementation and is yet to achieve the commercial operation, the consideration of the Petitioner's request for extension of SCOD on account of force majeure events would be pre-mature. In response, the learned senior counsel submitted that in-principle approval/declaration of the various force majeure events at this stage is necessary for giving comfort to the lenders and for the Petitioner to draw the necessary finances for implementation of the Project. The learned senior counsel placed reliance on the decision of the Commission dated 20.3.2018 in Petition No. 194/MP/2017 (North Karanpura Transco Ltd. v. JBVNL and Ors.) and submitted that in the said order, the Commission has granted the declaratory reliefs in spite of the Project being still

under implementation and that the similar dispensation may also be provided in the present case. The learned senior counsel added that in case the Commission decides not to admit the matter, liberty may be granted to the Petitioner to approach this Commission at an appropriate stage.

4. In response to further query of the Commission regarding total expenditure incurred by the Petitioner till date against the estimated Project cost, the learned senior counsel submitted that as on date, the Petitioner has incurred approximately Rs. 470 crore against the estimated Project cost of Rs. 1470 crore.

5. Subject to the above, the Commission reserved the order on admissibility of the matter.

By order of the Commission

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