



Ministry of Power Allows Option for DISCOMs to Exit PPAs After Completing Useful Life

July 05, 2021

INTRODUCTION

The Ministry of Power, Government of India (**MoP**) *vide* its Clarification dated 05.07.2021 (**Clarification**) to its Notification dated 22.03.2021 (**Notification**) has *inter alia* enabled the Distribution Companies (**DISCOMs**) to choose whether to continue or exit from the Power Purchase Agreements (**PPAs**) after the completion of a tenure of 25 years or a period specified in the PPA, subject to de-allocation by MoP.

The MoP has decided to extend an “exit option” to the DISCOMs, and subsequently provide the Central Generating Stations flexibility of selling the abandoned power in open markets.

BACKGROUND AND ANALYSIS

The DISCOMs had entered into PPAs and were continuing to distribute power in accordance with the same. Continuation of the PPAs required the parties to spend huge amounts on modifying the infrastructure. This led to increased costs and a need to revision of tariff.

The PPAs were also a source of financial burden on the Generating Companies that needed to modify their infrastructure and technology so as to comply with the Notifications issued by various Ministries, including the Ministry of Environment, Forest and Climate Change.

The decision of the MoP provides an option to the DISCOMs to choose whether to continue a PPA or exit it. However, a 6 month notice is mandatory. Besides, DISCOMs will be allowed to exit the PPAs only after the pending / outstanding dues are cleared.

In this regard, it is also noteworthy that the Hon’ble Central Electricity Regulatory Commission *vide* its Order dated 01.07.2021 in Petition No. 60/MP/2021 and 65/MP/2021 has *inter alia* held that the exit of DISCOMs from such PPAs is dependent upon de-allocation of power by the MoP.

The steps taken by the MoP will also allow Generating Companies to shut down old thermal plants, instead of having to change or modify their technology by investing huge amount of money. The Generating Companies will be able to set up new thermal plants with the latest technology and the tariffs will be fixed accordingly.

The disputes arising between DISCOMs and the Generating Companies over tariff revisions and the subsequent litigation will also decrease.

Please find link to Notification [here](#)

SKV Comments...

The MoP, by its clarification dated 05.07.2021 has inter alia allowed DISCOMs to exit from PPAs for Projects which have completed 25 years from their commercial operation date. However, in terms of the Order dated 01.07.2021 passed by the Central Electricity Regulatory Commission, the exit of DISCOMs from such PPAs is dependent upon de-allocation of power by the MoP. This is also in consonance with the principles of the applicable Tariff Regulations vis a vis government allocation.