

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

DEUTSCHE TELEKOM AG

Petitioner,

- against -

THE REPUBLIC OF INDIA

Respondent.

Civil Action No. 1:21-cv-01070-RJL

**PETITIONER’S STATEMENT OF POINTS AND AUTHORITIES IN
SUPPORT OF ITS MOTION TO LIFT THE STAY**

Petitioner Deutsche Telekom AG (“DT”) respectfully submits this statement of points and authorities in support of its Motion to Lift the Stay entered by the Court on July 25, 2022 in the above captioned matter to confirm an international arbitral award (“Award”) against Respondent Republic of India (“India”).

Petitioner is mindful of the need to conserve judicial resources and recognizes that the parties to this proceeding have already responded to the Court’s request to address whether certain appeals pending in the D.C. Circuit Court of Appeals merit deferring a ruling in this case.¹

1. *See* Petitioner’s Response to the Order of the Court (ECF No. 32); Respondent’s Response to the Order of the Court (ECF No. 33); Petitioner’s Response to Respondent’s Response (ECF No. 34); and Respondent’s Response to Petitioner’s Response (ECF No. 35); *see also* Minute Order dated May 24, 2023 (“the parties shall also address whether it makes sense to defer ruling on this case until the consolidated appeals . . . are resolved.”).

However, for the sake of good order and the avoidance of doubt, Petitioner respectfully moves this Court to lift the stay in order to ensure that such relief is formally *sub judice* in accordance with the Federal Rules. *See* Fed. R. Civ. P 7(b) (“A request for a court order must be made by motion.”); *Woodruff v. DiMario*, 197 F.R.D. 191, 195 (D.D.C. 2000) (finding that “plaintiff has inexplicably failed to bring the matter before the court on a proper motion” and thus that “the court has no occasion to rule on the plaintiff’s ‘request.’”).

In support of its Motion, Petitioner refers to its prior submissions and reiterates that the stay should be lifted because the original basis for the stay—India’s challenge to the Award in Switzerland—has been disposed of: India’s attempt to revise the award was rejected by the Swiss Federal Supreme Court. *See* Swiss Federal Supreme Court Judgment dated March 8, 2023 (ECF No. 28-1); *see also* Deutsche Telekom’s Notice of Foreign Judicial Decision (ECF No. 28). Indeed, upon the Swiss Federal Supreme Court’s decision, India informed this Court that it agreed “that the Court may lift the stay and proceed to rule on Respondent’s pending Motion to Dismiss.” Joint Status Report dated May 23, 2023 (ECF No. 31).

Further, nothing in the pending appeals before the D.C. Circuit² justify prolonging the current stay. As set forth in further detail in DT’s submissions, none of those appeals will decide any issue that is dispositive in the present proceedings. *See* ECF No. 32 at 6-9; ECF No. 34 at 2- 5.

2. *Blasket Renewable Investments, LLC v. Kingdom of Spain*, Civil Case No. 21-3249 (RJL), 2023 WL 2682013 (D.D.C. Mar. 29, 2023), *appeal filed* No. 23-07038 (D.C. Cir. Mar. 31, 2023); *NextEra Energy Glob. Holdings B.V. v. Kingdom of Spain*, Civil Action No. 19-cv-01618 (TSC), 2023 WL 2016932 (D.D.C. Feb. 15, 2023), *appeal filed* No. 23-07031 (D.C. Cir. Mar. 20, 2023), and *9REN Holding S.A.R.L. v. Kingdom of Spain*, Civil Action No. 19-cv-01871 (TSC), 2023 WL 2016933 (D.D.C. Feb. 15, 2023), *appeal filed* No. 23-07032 (D.C. Cir. Mar. 21, 2023).

DT finally notes that this Court has previously observed that “the adjournment of enforcement proceedings impedes the goals of arbitration[,]’ . . . a stay of confirmation should not be lightly granted.” *Rusoro Mining Ltd. v. Bolivarian Republic of Venezuela*, 300 F. Supp. 3d 137, 149 (D.D.C. 2018), quoting *Chevron Corp. v. Rep. of Ecuador*, 949 F.Supp.2d 57, 71 (D.D.C. 2013) and *Europcar Italia, S.p.A. v. Maiellano Tours, Inc.*, 156 F.3d 310, 317 (2d Cir. 1998).

For those reasons, DT respectfully requests that an order be entered granting its Motion to Lift the Stay.

Dated: October 30, 2023
Washington, D.C.

Respectfully submitted,

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