

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**I.A. No. 95/2017
in
Petition No. 145/MP/2017**

**Coram:
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M. K.Iyer, Member**

Date of Order: 18th of January, 2018

In the matter of

Interlocutory Application seeking clarification of the order dated 29.9.2017 in Petition No. 145/MP/2017 in relation to directions issued by the Commission inter-alia with regard to granting of physical connectivity for wind or solar projects, by way of allocation of bay, only upon commissioning of the dedicated transmission line and the wind generating station for directions to calculate excise duty on coal.

**And
In the matter of**

Orange Sironj Wind Power Pvt. Ltd.
301 B, 3rd Floor, D 21 Corporate Park,
Sector-21, Dwarka,
New Delhi-110075

....Applicant

Versus

Power Grid Corporation of India Limited
'Saudamini', Plot No.2,
Sector-29, Gurgaon, Haryana-122001

....Respondent

The following were present:

Shri Hemant Sahai, Advocate, OSWPPL
Shri Aniket Prasoan, Advocate, OSWPPL
Shri Sahil Kaul, Advocate, OSWPPL
Ms. Himangini Mehta, Advocate, OSWPPL
Shri Pawan Gupta, OSWPPL
Shri Ankush Malik, OSWPPL
Ms. Suparna Srivastava, Advocate, PGCIL
Shri Swapnil Verma, PGCIL

ORDER

The Applicant, Orange Sironj Wind Power Private Limited (OSWPPL), has filed this Interlocutory Application with the following prayers:

“(a) Clarify that the directions issued in para 114 of the order dated 29.9.2017 passed by this Commission in Petition No. 145/MP/2017 ought not to be construed as a stay on collection of bay by way of the execution of a Bay Implementation Agreement between the Respondent and the Applicant; and

(b) Clarify that the directions issued in para 114 of the order dated 29.9.2017 passed by this Hon'ble Commission in Petition no. 145/MP/29017 do not prevent the Respondent from granting an allocation of a bay at its substation, subject to final approval for physical connectivity upon submission of evidence relating to readiness of the Applicant's generating station and associated dedicated transmission line.”

2. The Applicant has submitted that with a view to set up a wind farm of 200 MW capacity at Thuthkudi, Tamil Nadu, the Applicant submitted an application for grant of connectivity for a capacity of 200 MW to PGCIL on 21.7.2016. The Connectivity was granted by PGCIL vide its communication dated 25.1.2017 with the Point of Connectivity at Tirunelveli PS at 230 kV and physical connectivity with effect from 31.3.2019. The Petitioner has further submitted that PGCIL vide its letter dated 14.2.2017 had advised the Petitioner to construct the 230 kV D/C dedicated transmission line from the wind power project to the 400/230 kV GIS pooling station of PGCIL.

3. The Petitioner has further submitted that PGCIL filed Petition No. 145/MP/2017 before the Commission seeking directions for preventing under-utilization of bays for connectivity granted to wind/solar generation projects. The Commission vide para 114 of its order dated 29.9.2017 has directed as under:-

“114. In order to address the problem flagged in the petition, the Commission is of the view that Connectivity for Wind or Solar Projects shall be granted considering preparedness of the applicants as required under Detailed Procedure of Connectivity Regulations. Further, the applicants who have been granted connectivity shall be provided physical connectivity by way of allocation of bay only on commissioning of dedicated line and the wind generating station. Given that the capacities in the substations (existing as well as the one planned in Tirunelveli and Bhuj) being adequate to accommodate all the applicants as on the date of the petition, the aforesaid arrangement will not extinguish the connectivity rights of any generator and will only make optimum utilisation of this scarce national resource”.

4. The Petitioner has submitted that subsequent to the issue of order, the Petitioner sent a letter dated 3.10.2017 to PGCIL with a draft consultancy offer and draft agreement for construction of single circuit bay suitable for evacuation of wind capacity up to 300 MW at the Tirunelveli GIS. The Petitioner has further submitted that on 4.10.2017, the Petitioner's project with a capacity of 200 MW was selected under the competitive bid process carried out by Solar Energy Corporation of India (SECI). On 3.11.2017, SECI issued the Letter of Award (LOA) to the Petitioner according to which the project would have to be commissioned within 18 months from the date of issue of LOA i.e. by 3.5.2019. The Applicant vide its letters dated 23.10.2017 and 24.11.2017 requested PGCIL to provide draft consultancy offer and draft agreement for construction of single circuit bay for evacuation of power from its project. PGCIL vide its letter dated 30.11.2017 informed the Petitioner that as per the order of the Commission dated 29.9.2017 in Petition No. 145/MP/2017, PGCIL is required to frame the objective criteria to be presented by way of an amendment to the Detailed Procedure and subsequent to the notification of the amendment, the offer alongwith the draft agreement for the consultancy would be shared with the Petitioner.

5. The Petitioner has submitted that the connectivity approval granted to the Applicant by way of communication dated 25.1.2017 expressly states that the Applicant

is bound to complete the construction of the dedicated transmission system including the terminating bays at both the ends i.e. the generation switchyard as well as the sub-station bay, by the date from which connectivity is sought/granted. The Applicant has been granted connectivity with effect from 31.3.2019 and accordingly, in terms of PGCIL's own connectivity approval, it is incumbent upon the Applicant to complete the construction and operationalization of the associated bays on or before the date from which physical connectivity is sought by 31.3.2019. The Applicant has submitted that the LOA was granted on 3.11.2017 and in terms of the LOA granted to the Applicant, the project has to be completed within a period of 18 months from the grant to the said LOA i.e. on or before 3.5.2019. The Applicant has submitted that any delay in execution of the Agreement and allocation of a bay to the Applicant for the purpose of ensuring timely completion of the bays would violate the terms of the connectivity approval granted to the Applicant and would also disrupt the timelines of the various elements of the present project, as mentioned in the various agreements/documents.

6. During the course of hearing on 20.12.2017, learned counsel for the Applicant submitted that PGCIL be directed to provide the Applicant with the consultancy offer and draft agreement for construction of single circuit bay suitable for evacuation of wind capacity installed at Tirunelveli GIS as the Applicant would be required to carry out the construction of both end bays along with the EHV line till PGCIL sub-station. Learned counsel further submitted that supply and construction of GIS bay would be a critical activity and the Applicant has to commence the supply and construction of bay at the earliest.

7. Learned counsel for PGCIL submitted that as per the Commission's direction dated 29.9.2017 in Petition No. 145/MP/2017, PGCIL had uploaded on its website the objective criteria to be prescribed through amendment to Detailed Procedure on 14.12.2017 for inviting comments/suggestions from the stakeholders by 6.1.2018. Therefore, offer along with draft agreement for subject consultancy work would be shared with the Applicant subsequent to notification of the amendments to the Detailed Procedure. Learned counsel further submitted that in the proposed amendment to the Detailed Procedure, PGCIL has categorised the connectivity into Phase-I and Phase-II and has prescribed the method of gradually proceeding from Phase-I to Phase-II. If prior to the notification of the Detailed Procedure, some preparatory steps are taken by the Applicant, it should not come in PGCIL's way of giving effect to the Detailed Procedure.

Analysis and Decision

8. The Applicant has prayed that the Commission's directions in para 114 of the order dated 29.9.2017 in Petition No. 145/MP/2017 should not be construed as a stay on allocation of bay by way of execution of the Bay Implementation Agreement and should not prevent the PGCIL from granting the allocation of a bay at a sub-station subject to final approval of physical connectivity. In Para 114 of the said order, the Commission had directed that the Applicants who have been granted connectivity shall be provided physical connectivity by way of allocation of bay only on commissioning of dedicated transmission lines and wind generating station. The Applicant through this IA is virtually seeking a direction in supersession of the order of the Commission in Para 114, which cannot be allowed.

9. During the hearing, it transpired that the Applicant requires the details of the bays alongwith draft terms and conditions of the Consultancy Agreement for floating the NIT by the Applicant. From the submission of the learned counsel for the Applicant and PGCIL during the hearing, it emerges that it is the responsibility of the Applicant to construct the bay at the sub-station of PGCIL. The Applicant intends to execute the bay through awarding consultancy to PGCIL. For this, the Applicant needs the bidding documents for floating the NIT for execution of the bay at the sub-station. Learned counsel for PGCIL clarified during the hearing that the draft documents could be shared subject to the terms and conditions to be prescribed in the amended Detailed Procedure. We note that PGCIL has committed to submit the draft amendment to the Detailed Procedure alongwith the comments received thereon to the Commission by 31.1.2018. We expect that the amendment to the Detailed Procedure would be issued in the month of February, 2018.

10. Considering all the aspects, we direct PGCIL to share the draft bidding documents with the Applicant for the purpose of floating the NIT by the Applicant for the execution of bay at the sub-station of PGCIL, subject to the terms and conditions to be notified through the amendment to the Detailed Procedure in the light of our observations in Para 114 of the order dated 29.9.2017 in Petition No. 145/MP/2017.

11. The IA is disposed of in terms of the above.

Sd/-
(Dr. M. K. Iyer)
Member

sd/-
(A. S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member