

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 195/MP/2019 and IA Nos. 65/2019 and 88/2019

- Subject : Petition under Section 79 of the Electricity Act, 2003 read with Regulations 20 and 21 of the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 read with Regulation 33 A and 33 B of the Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 and Regulations 111 and 112 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 invoking jurisdiction of the Commission for resolving discrepancies arising on account of conflict between the SCOD under the PPA and date of operationalization of Connectivity and LTA.
- Petitioner : Vivid Solaire Energy Private Limited
- Respondents : Power Grid Corporation of India Limited and Ors.
- Date of Hearing : 26.11.2019
- Coram : Shri P. K. Pujari, Chairperson
Dr. M. K. Iyer, Member
Shri I.S. Jha, Member
- Parties present : Shri Sitiesh Mukherjee, Advocate, Vivid Solaire
Shri Aryaman Saxsena, Advocate, Vivid Solaire
Shri Karan Arora, Advocate, Vivid Solaire
Ms. Suparna Srivastava, Advocate, PGCIL
Shri Siddharth Sharma, PGCIL
Shri Swapnil Verma, PGCIL
Shri Ranjeet Rajput, PGCIL
Dr. V. N. Paranjape, PGCIL
Ms. Jyoti Prasad, PGCIL
Ms. Poorva Saigal, Advocate, SECI
Ms. Tanya Sareen, Advocate, SECI

Record of Proceedings

Learned counsel for the Petitioner, Vivid Solaire Energy Private Limited mainly submitted as under:

- (a) The Petitioner has been selected as successful bidder to set up 50.20 MW and 200 MW Wind Power Project in pursuance of the competitive bidding process conducted by the , Solar Energy Corporation of India Limited (SECI) for setting up of Wind Power Projects under Tranche III and Tranche IV



respectively. Accordingly, the Petitioner was issued the Letter of Awards (LoA) on 23.2.2018 and 1.6.2018.

(b) As the LoA envisaged the commissioning of the Projects within 18 months from the 'Effective date of PPA', on the basis of the LoA, the Petitioner made an application to PGCIL for grant of Connectivity and Long-term Access (LTA). Accordingly, LTA was granted with effect from 31.7.2019.

(c) In terms of the PPAs entered into with SECI, SCoD in respect of 50.2 MW and 200 MW Projects are 24.11.2019 and 29.2.2020 respectively whereas LTA is operationalized from 31.7.2019. Accordingly, the Petitioner has sought relaxation under Connectivity Regulations and the Sharing Regulations to realign the date of operationalization of Connectivity and LTA in two phases with the respective SCoD of the 50.2 MW and 200 MW Project.

(d) On 11.9.2019, PGCIL has issued Notice for Cessation of DIC on account of non-opening of Letter of Credit as per Clause 3.6 of the Billing, Collection and Disbursement (BDC) Procedure approved under the Sharing Regulations. However, PGCIL has calculated the amount of LC based on PoC charges. Whereas the LC amount has to be calculated on the basis of transmission charges in terms of Regulation 8(6) of the Sharing Regulations. This has also been recognized by the Commission in its order dated 6.8.2019 in Petition No. 172/TT/2018.

(f) There should be no transmission charges from the date of operationalization of the LTA to schedule commissioning date of Project and from the schedule commissioning date to actual commissioning of Project, the liability should be in terms of transmission charges and not in terms of PoC charges. PoC charges are to be applied only after the commissioning of Project.

(g) The Petitioner has commissioned 50.2 MW Project on 25.11.2019. However, in respect of 200 MW Project, due to certain changes in Tamil Nadu land laws, SECI has extended the SCOD of the Project by six months and accordingly Petitioner seeks liberty to file an additional affidavit to bring on record the Petitioner's plea of Force Majeure event for seeking exemption from payment of transmission charges and supporting document thereof.

2. Learned counsel for the Respondent, Power Grid Corporation of India Limited, mainly submitted as under:

(a) The Petitioner is only seeking relaxation of the provisions of the Connectivity Regulations and Sharing Regulations to realign the date of operationalization of Connectivity and LTA in two phases with the respective SCoD of 50.2 MW and 200 MW Project. The issue of transmission charges/ PoC Charges and LC amount is neither pleaded by the Petitioner nor is subject matter of the Petition.

(b) Provisions of the Regulations do not require PGCIL to look into the time-line provided in the Power Purchase Agreements executed by the Generators. It is the Generator, who comes up with the date from which it requires the Connectivity and Long-term Access. Accordingly, it is the responsibility of the generator to synchronize between the time-line between two sets of agreements i.e. PPAs and LTA agreements.



(c) During various Joint Co-ordination Committee Meetings, the Petitioner did not raise the issue of mismatch in the dates of LTA operationalization and schedule date of commissioning of the Project.

(d) There cannot be any realignment of the date of operationalization of connectivity and LTA with the schedule date of commissioning of Project on account default on the part of the Petitioner.

(e) The Petitioner is required to open LC in respect of 250.20 MW Project in terms of the provisions of the Regulations and on account of failure in opening of LC, PGCIL has issued the termination notice.

(f) In terms of the Record of Proceeding dated 6.11.2019, PGCIL was directed not to take coercive measures against the Petitioner with respect to TSA till 26.11.2019. In the meanwhile, the Petitioner has commissioned 50.2 MW Project. However, 200 MW Project is yet to be commissioned and according to the Petitioner's submissions, it is seeking further extension.

(g) The issues that required to be addressed are liability towards payment of transmission charges for the intervening period i.e. from 31.7.2019 to 26.11.2019 for the entire 250.2 MW Project and thereafter for 200 MW Project and amount of LC whether to be calculated on the basis of PoC Charges or transmission charges.

3. With regard to exemption from payment of transmission charges in respect of 200 MW Project, the Commission granted liberty to the Petitioner to file separate Petition.

4. After hearing the learned counsels for the Petitioner and the Respondent PGCIL, the Commission reserved order in the Petition.

By order of the Commission

**Sd/-
(T.D. Pant)
Deputy Chief (Legal)**

