

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 18/MP/2018

Coram:

**Shri. P.K. Pujari, Chairperson
Dr. M. K. Iyer, Member
Shri. I.S. Jha, Member**

Date of Order: 11th of June, 2019

In the matter of:

Petition under Section 79 (1) (c) and (f) and other applicable provision of the Electricity Act, 2003 read with Regulation 32 of the Central Electricity Regulatory Commission (Grant of Connectivity, Long Term Access and Medium Term Open Access in the inter-State transmission and related matters) Regulations, 2009 against the action of the respondent in threatening to cancel the open access and encashment of bank guarantee.

And

In the matter of

Adani Green Energy Limited,
Adani House, Near Mithakhali Circle,
Navrangpura, Ahmedabad – 380 009, Gujarat

..... **Petitioner**

Vs

Power Grid Corporation of India Limited
Corporate Office: Saudamini, Plot No.2,
Sector 29, Gurgaon – 122001, Haryana

..... **Respondent**

Parties present:

Shri Buddy Ranganadhan, Advocate, AGEL
Shri Raunak Jain, Advocate, AGEL
Shri Vishvender Tomar, Advocate, AGEL
Shri Rohan Ahlawat, Advocate, AGEL
Shri Ashok , Advocate, Powergrid
Ms. Sanjana Dua, Advocate, PGCIL
Ms. Suparna Srivastava, Advocate, PGCIL
Ms. Jyoti Prasad, PGCIL



ORDER

The Petitioner, Adani Green Energy Limited (hereinafter referred to as 'Petitioner') has filed the present petition seeking the following reliefs:

- a) *Set aside Notice issued by the Respondent dated 5.1.2018 for signing the LTA and TSA within 15 days from the date of notices i.e. by 20.1.2018;*
- b) *Direct Respondent to allow reasonable time extension, of not less than 6 months, for signing the LTA and TS Agreements; and*
- c) *Direct Respondent to consider the optimised evacuation system for its projects i.e. 500 MW wind farm, 1000 MW wind farm and 750 MW solar power plant, for which connectivity already been granted, before insisting for signing the LTA and TS Agreements;*

Submissions of Petitioner

2. The Petitioner has mainly submitted as under :

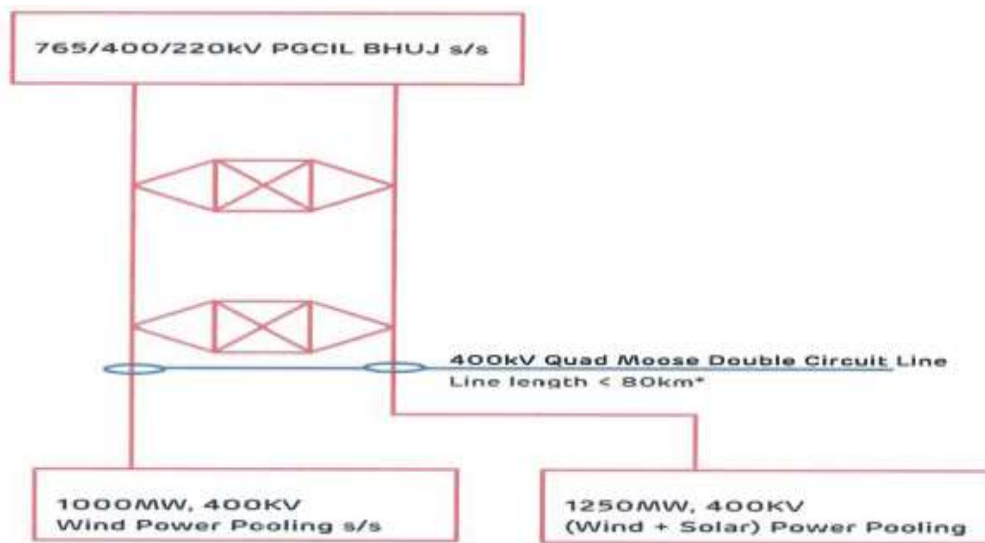
(a) The Petitioner is developing 1000 MW and 750 MW wind energy generating project and 750 MW solar energy generating project in village Khadva of Kutch district of Gujarat. The Petitioner had applied for the grant of Connectivity in 2016 under Central Electricity Regulatory Commission (Grant of Connectivity, Long-Term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 (hereinafter to be referred as Connectivity Regulations, 2009) for its proposed wind and solar power projects. The said projects was proposed to be connected at the Bhuj Pool Sub-station of PGCIL.

(b) The Petitioner also applied for LTA in accordance with Connectivity Regulations, 2009, for its proposed projects and the Petitioner also submitted the requisite Bank Guarantees for the said projects. In the 24th meeting of WR constituents regarding LTA and Connectivity applications held on 21.12.2016, the Connectivity Applications of the Petitioner were discussed and thereafter PGCIL vide its letter 31.3.2017 intimated the Petitioner about

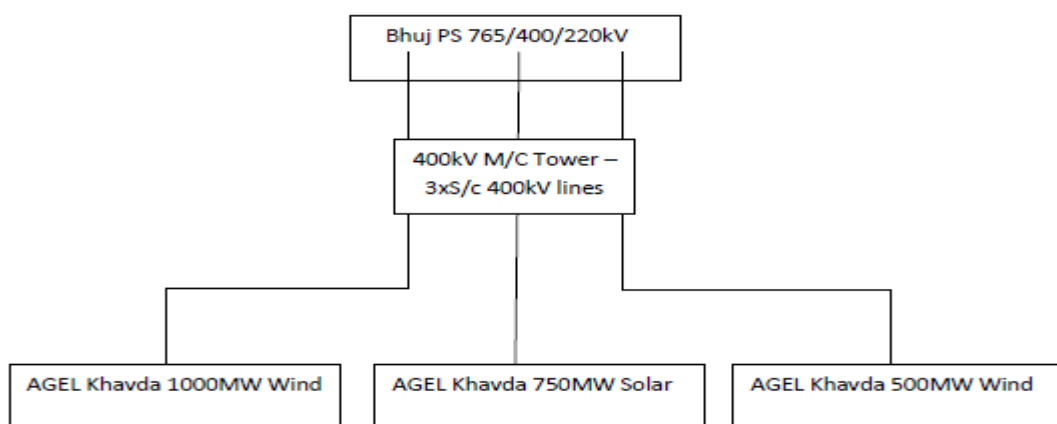


grant of connectivity to the Petitioner's proposed wind and solar power projects.

(c) In order to optimize the evacuation system, the Petitioner vide its letter dated 11.7.2017 requested PGCIL for change in connectivity scheme approved for connectivity granted to its proposed wind and solar power stations at 765/400/220 KV Bhuj Pool sub-station. The single-line diagram depicting proposal for optimization of evacuation system is as under-



This was in lieu of the existing proposal which is depicted as under:



Proposed connectivity of AGEL RE applications in Khavda area

(d) Consequently, PGCIL on 31.7.2017 circulated an Agenda for 25th WR connectivity and LTA meeting, wherein revised transmission scheme of

Petitioner's three projects totalling to 2250 MW, for which connectivity had been granted at Respondent's Bhuj Pool Sub-station at 400 kV level, was incorporated.

(e) Meanwhile, the Commission vide its order dated 29.9.2017 in the Petition No. 145/MP/2017 filed by PGCIL seeking directions for preventing underutilization of bays for Connectivity granted to Wind/Solar generation projects., issued directions to PGCIL for preventing underutilization of bays for Connectivity granted to Wind/Solar generation projects.

(f) PGCIL vide its letter dated 1.11.2017, circulated a revised agenda for 25th Meeting of Western Region Constituents. The proposal of the Petitioner regarding optimization of connectivity system for its 1000 MW and 500 MW wind farms and 750 MW solar projects, at Khavda in Kutch District of Gujarat, was deleted.

(g) PGCIL vide its letter dated 13.11.2017 granted LTA to the Petitioner and requested the Petitioner to sign LTA Agreement and TSA Agreement for sharing of Transmission charges. Details of LTA granted by the Respondent are as under-

TABLE - 1

Sr. No.	Name of Applicant	Source of Generation	Capacity (MW)	Date for Grant of Connectivity	Date of Grant of LTA	Region
1	AGEL	Wind	500	31.03.2017	13.11.2017	NR-400 ER-100
2	AGEL	Wind	1000	31.03.2017	13.11.2017	NR
3	AGEL	Solar	750	31.03.2017	13.11.2017	NR

The LTA's were granted without considering the optimisation proposal of the Petitioner.



(h) PGCIL vide its letter dated 16.11.2017 informed the Petitioner that as per clause 24(b) (i) of the Detailed Procedure of CTU, under Regulation 27(1) of the Connectivity Regulations, 2009 and in terms of the LTA intimations, the Petitioner is required to sign TSA and LTA Agreements with CTU, within one month of grant of LTA dated 13.11.2017.

(i) The Petitioner vide its letter dated 29.11.2017 requested PGCIL to extend the time for signing of the TSA and LTA Agreements in the light of fact that the Commission had issued the draft Connectivity Procedures which is under Public consultation (as per directions in Order dated 29.9.2017 in Petition No. 145/MP/2017), and once the same is notified, the existing Regulation may be amended.

(j) PGCIL vide its letters dated 30.11.2017 and 7.12.2017 requested Petitioner to depute its representative for signing of the TSA and LTA Agreements within the stipulate time period of one month, failing which LTA shall be liable for cancellation. The Petitioner vide its letter dated 7.12.2017 again requested PGCIL to extend the time for signing of LTA and TSA agreements. PGCIL vide its letter dated 5.1.2018 informed the Petitioner that the requisite Agreements need to be signed within 15 days i.e. by 20.1.2018, failing which the LTAs granted shall be revoked in accordance with the Connectivity Regulations, 2009.

(k) Since the Petitioner's project sites are located near Pakistan border, there is delay in implementation of the project due to delay in obtaining various permissions and approvals from government authorities with regard to land acquisition. If the basic permission for the allotment of the land is not granted to the Petitioner, there cannot be any question of finalising the LTA



applications. If the current lands are not allotted, the Petitioner would have to make fresh applications for LTA and connectivity etc. At that stage, PGCIL may raise dispute about the current LTA's and the attendant bank guarantees.

(l) The Petitioner is serious for implementation and commissioning of the projects and seeking reasonable extension of time due to factors entirely beyond the control of the Petitioner. Petitioner in its endeavour for timely commissioning of the projects has invested huge time and money in the projects. The efforts and investments of the Petitioner ought not be disregarded due to minor difference in the connectivity arrangement sought by the Petitioner.

(m) PGCIL vide its letter dated 31.7.2017 has itself deferred the proposal of the Petitioner regarding optimization of evacuation system till further notice. The Respondent has granted LTA to the Petitioner based on the 24th meeting of Western Region constituents, 10th Meeting of Northern Region constituents and 12th Meeting of Eastern Region constituents. Thus, without even having finalized the evacuation system, the Respondent has granted LTA to the Petitioner and has issued the notice dated 5.1.2018 calling upon the Petitioner to execute the TSA and LTA. The Petitioner is under no obligation to execute the TSA or LTA without consideration on its proposal regarding optimization of evacuation system.

(n) The Petitioner has been granted connectivity but has not utilized the same. Such assets created by Respondent do not automatically result in vesting or creating any reciprocal financial obligations on the Petitioner. Therefore, PGCIL cannot forfeit the bank guarantees submitted by the



Petitioner for obtaining connectivity. The Petitioner undertakes to extend the validity of the bank guarantees till such extension of time is granted by the Commission.

(o) On one hand, PGCIL has itself sought to process the LTA applications from RE developers as proposed in the 25th WR conn/LTA meeting, after finalization of the procedure regarding grant of connectivity to RE applicants, while on the other, without awaiting such finalization of the detailed procedure, it has now processed and granted LTA applications to the Petitioner.

3. The Petition was admitted on 18.1.2018 and the Commission issued notice to the Respondent. PGCIL has filed its reply vide affidavit dated 18.5.2018. Rejoinder to the said reply has been filed by the Petitioner vide affidavit dated 9.6.2018.

Reply of PGCIL

4. PGCIL vide its reply affidavit dated 18.5.2018 has mainly submitted as under:

(a) The Petitioner had made its LTA application for 500 MW (wind generation), 1000 MW (wind generation) & 750 MW (solar generation) on 2.6.2016, and 28.10.2016 respectively. The same was taken up for consultation in the 24th Meeting of Western Region Constituents on 21.12.2016 and 10th Meeting of Northern Region Constituents on 30.5.2017. Accordingly, LTA was granted on 500 MW (wind generation), 1000 MW (wind generation) & 750 MW (solar generation). At the time of grant of LTA vide letter dated 13.11.2017, the Petitioner was also a Connectivity grantee vide grant of Connectivity for 500 MW (wind generation), 1000 MW (wind generation) & 750 MW (solar generation) all dated 31.3.2017.



(b) In light of a large number of connectivity applications made by wind/solar generation projects, PGCIL had filed a Petition No. 145/MP/2017 before the Commission seeking regulatory interventions to ensure efficient utilization and for preventing underutilization of bays for connectivity granted to Wind/Solar generation project. The Commission vide its order dated 29.9.2017 in Petition No. 145/MP/2017 observed that a new Procedure shall be formulated and notified for processing and grant of connectivity applications for wind/solar/wind-solar generation projects in light of the difference in ownership/development model, gestation period etc. compared to conventional generation projects.

(c) Accordingly, PGCIL submitted a Draft RE Connectivity Procedure for Wind/Solar/Wind-Solar Connectivity along with comments received in stakeholder consultation. Thereafter, the Commission reviewed the Procedure and notified the Draft "Procedure for Grant of Connectivity to Projects Based on Renewable Sources to inter-State Transmission System" inviting comments by 23.4.2018. As per the direction of the Commission in Petition No. 145/MP/2017 and the provisions of Draft "Procedure for Grant of Connectivity to Projects Based on Renewable Sources to Inter-State Transmission System", it is likely that Connectivity granted to the Petitioner shall now be converted to 'Stage-I Connectivity'.

(d) There was no stay on the operation of provisions of the Connectivity Regulations, 2009 and Detailed Procedure under Regulation 27 of the Connectivity Regulations, 2009 and the same have been given effect to, except in the processing of connectivity applications which shall be



undertaken as per the Procedure to be notified by the Commission as per Order dated 29.9.2017 in Petition No. 145/MP/2017.

(e) The LTA applications are required to be made in accordance with the criteria and format stipulated in the Detailed Procedure. An application received is considered as per its relative priority for processing and is granted LTA after stakeholder consultation including the applicant. The Petitioner was a part of the consultation process and the LTA has been granted by due process and as per the material particulars of injection point, drawal point, LTA quantum (MWs), start date etc. specified in the application. The LTA grant is not a subject matter of discretion of the LTA applicant and the Petitioner has challenged the propriety and legality of the LTA grant on unsubstantiated submissions. Further, the objections raised by the Petitioner are only on connectivity and it has raised these after the grant of LTA.

(f) The Petitioner's contention as regards delay in land acquisition permission/approvals is a mere afterthought and was not raised at any stage before the grant of LTA intimations dated 13.11.2017 and reminder letter dated 29.11.2017. The LTA intimations dated 13.11.2017 cannot be called into question by the Petitioner on account of belated plea regarding delay in land acquisition permission/approvals.

(g) The observations and directions of the Commission in Petition No. 145/MP/2017 pertains specifically to Connectivity and are not in derogation of the regulatory procedure for application and grant of LTA. As such, the application of LTA is made along with appropriate application bank guarantee @ Rs. 10,000/- per MW which is liable to be extended till the



operationalization of LTA in case LTA is granted without system augmentation or to be replaced with construction phase bank guarantee @ Rs. 5 Lakhs/MW in case LTA is granted with system augmentation. LTA is accompanied with payment of transmission charges from the start date of LTA or the commissioning of associated transmission system (whichever is later). As per the directions of the Commission in Petition No. 145/MP/2017, the rights and even legitimate expectations of all the generation project developers are protected as all applicants shall be allocated connectivity on a primary or alternate location based on their readiness. In the eventuality of physical connectivity being granted on alternate location, appropriate changes shall be adopted in the LTA intimation/LTA Agreement. Accordingly, the processing of LTA applications and requiring a grantee to adhere to its obligations under the Connectivity Regulations, 2009/Detailed Procedure cannot be alleged to be 'illegal' or 'arbitrary'.

(h) On a perusal of the scope and provisions of the Draft RE Connectivity Procedure, it appears that the treatment of LTAs granted prior to the notification of the new Procedure shall be addressed if there is any impact likely on such long term customers.

(i) The Petitioner can be directed to execute the LTA Agreement in order to give effect to the provisions of the extant Regulations/Detailed Procedure and the same may not be interfered with merely on the basis of Petitioner's apprehensions or reluctance from compliance of procedural requirements pertaining to signing of LTA Agreement/submission of construction phase bank guarantee etc.



Rejoinders by Petitioner and Replies by PGCIL

5. The Petitioner vide its affidavit dated 9.6.2018 has filed its Rejoinder to the reply filed by PGCIL, wherein the Petitioner has mainly reiterated the submission made in the Petition.

6. The Commission vide RoP of hearing dated 12.12.2018 observed that the issue of refund of BGs may arise in similar cases of generators who were granted connectivity earlier but have been considered as holders of Stage-I connectivity under the Detailed Procedure dated 15.5.2018. The Commission directed PGCIL to submit list of such cases.

7. In compliance with the direction of the Commission vide RoP of hearing dated 12.12.2018, PGCIL vide affidavit dated 27.12.2018 has submitted the information as under:

a) There are a few cases wherein the applicants have either applied or have been granted LTA, though their connectivity is not ascertained with a firm location. The Detailed procedure for "Grant of connectivity to projects based on renewable sources to inter-state transmission system" notified by the Commission on 15.5.2018 (hereinafter to be referred as RE Connectivity Procedure) prescribes that connectivity shall be granted in two stages – (a) Stage-I Connectivity; and (b) Stage-II Connectivity (as per Para 2.3 of the RE Connectivity Procedure).

b) Para 7.5 of the RE Connectivity Procedure prescribes as under:

"7.5 Grant of Stage-I Connectivity shall not create any vested right in favour of any grantee in any particular location. The grantee shall be allocated bay in either primary or indicated alternate location which shall be specified at the time of grant of Stage-II Connectivity based on the then availability of bay."

Therefore, firm connectivity (i.e. by way of bay allocation) is affirmed only at the time of grant of Stage-II Connectivity.



c) Para 5.1 of the RE Connectivity Procedure prescribes the status of connectivity/LTA granted prior to the issuance of the RE Connectivity Procedure. Therefore, depending upon the category of an erstwhile LTA/Connectivity grantee, the status of connectivity granted was deemed to be Stage-II/Stage-I or was to be processed for grant of connectivity.

d) Para 10.13(ii) of RE Connectivity Procedure provides as under:

“All existing entities who have been granted LTA prior to notification of this Procedure shall be issued revised grant of LTA (inter-alia including date of start and point of connection) along with grant of Stage-II Connectivity.”

e) As per the original Detailed Procedure notified on 31.12.2009, Para 22.4 prescribed that the entity applying for LTA (whether injection or load) must satisfy one of the following conditions –

- (i) already be connected to grid, whether the State grid or the inter-State grid, or
- (ii) have already been granted permission for connectivity to the grid or
- (iii) have already applied for connectivity to the grid or
- (iv) be making application for connectivity to the grid simultaneously with this application in line with the Regulations

f) Implication of Para 22.4 of the Detailed Procedure is that connectivity is a precursor to LTA, which is also obvious technical necessity before any form of access (long, short or medium) could be put to use by an applicant.

g) Subsequent to notification of the RE Connectivity Procedure, there are some cases where an anomalous situation is occurring (or is very likely to occur) where the status of connectivity of RE generation projects/parks shall be Stage-I (i.e. without firm bay allocation). However in some cases, the same entity's LTA application has been granted or is pending processing for grant. Therefore, such cases are likely where an entity may have LTA without



any firm connectivity. The regulatory implications of such a scenario are not well captured in the present RE Connectivity Procedure for e.g. how such LTAs granted may be made effective/operationalized without firm connectivity, what recourse may be applicable against an entity who does not bear commercial liability for LC/transmission charges if the LTA is made effective/operationalized without firm connectivity, whether pending LTA applications (made prior to the notification of RE Connectivity Procedure) are to be kept on hold till the grant of Stage-II Connectivity, what should be treatment of bank guarantees submitted upon LTA grant/application etc.

h) The treatment for cases where an entity whose connectivity status is 'deemed Stage-I' but who had already been granted LTA and where such entity does not apply for Stage-II Connectivity within 24 months is not adequately provided in the RE Connectivity Procedure.

i) The cases with such anomalies have been identified by CTU as under:

TABLE - 2

List of LTA Grantees/Applicants without Ascertained Stage-II connectivity

S.No.	Name of Applicant	Region	Category	Connectivity Quantum	Connectivity proposed at	Stage-II quantum	Stage II Document Status	LTA granted / applied for	CBG Status	Remarks	Issues
1	Adani Green Energy Ltd (AGEL-Khavda)	WR	Deemed Stage-I & LTA Granted	500	Bhuj PS	0	NA	500	NA	LTAA Not signed. Matter subjudice in CERC - 18/MP/2018.	Revised LTA Is to be Issued with grant of Stage-II connectivity which has not been applied by applicant. Hence LTA grants are in abeyance for want of Stage II connectivity.
2	Adani Green Energy Ltd (AGEL-Khavda)	WR	Deemed Stage-I & LTA Granted	1000	Bhuj PS	0	NA	1000	NA	LTAA Not signed. Matter subjudice in CERC - 18/MP/2018.	
3	Adani Green Energy Ltd (AGEL-Khavda)	WR	Deemed Stage-I & LTA Granted	750	Bhuj PS	0	NA	750	NA	LTAA Not signed. Matter subjudice in CERC - 18/MP/2018.	



4	Suzlon Power Infrastructure Ltd. (Kadambur, Tamil Nadu)	SR	Deemed Stage-I & LTA Granted	300	Tuticorin-II GIS	0	NA	75	Submitted	-	Revised LTA is to be issued with grant of Stage-II connectivity which has not been applied by applicant. However the transmission system for LTA has been commissioned and LTA is due for operationalization.	
5	Suzlon Power Infrastructure Ltd. (Chandragiri, Tamil Nadu)	SR	Deemed Stage-I & LTA Granted	300	Tuticorin-II GIS	0	NA	75	Submitted	-		
6	Suzlon Power Infrastructure Ltd. (Kumarapuram, Tamil Nadu)	SR	Deemed Stage-I & LTA Granted	300	Tuticorin-II GIS	0	NA	75	Submitted	-		
7	Rajasthan Solar Park Development Company Ltd (Nokh solar Park)	NR	Stage-I granted & LTA Applied	980	Bhadla PS	0	Not defined in CERC procedure	980	NA	LTA applied and to be processed alongwith Stage-II application		
8	Orange Rajkot Wind Power Pvt. Ltd. (ORWPPL-Hajapar)	WR	Deemed Stage-I & LTA Applied	200	Bhuj PS	0	NA	200	NA	-		LTA application can only be processed along with Stage-II connectivity which has not been applied by applicant Hence, the LTA applications are on hold.
9	Regen Wind Farms (TN) Pvt. Ltd.	SR	Deemed Stage-I & LTA Applied	384	Tuticorin-II GIS	0	NA	60x4	NA	-		
10	Renew Power Ventures Pvt Ltd. (RPVPL-Bhuvad)	WR	Deemed Stage-II & LTA Applied	400	Bhachau	400	Submitted for 350 MW	350	NA	-	Non-receipt of documents for full or part St-II connectivity quantum may result in withdrawal of Stage-II Connectivity for such full/part quantum. In such cases, treatment of LTAs granted is not known.	
11	Ostro Kutch Wind Pvt. Ltd (OKWPL-Kutch)	WR	Deemed Stage-II & LTA Applied	300	Bhachau	300	Submitted for 250 MW	300	NA	-		
12	Renew Power Ventures Pvt. Ltd	SR	Deemed Stage-II & LTA Applied	400	Pugalur	400	Not submitted	400	Not required as LTA granted on transmission system under construction various system	-		



8. The Petitioner vide affidavit dated 26.2.2019 has filed reply to the PGCIL compliance affidavit and has submitted as under:

a) The Grant of Connectivity, as also the Grant of LTA by PGCIL were under the Detailed Procedure notified by the Commission on 31.12.2009 under Regulation 27(1) of the CERC Connectivity Regulations, 2009. As per clause 24(b)(i) of said Detailed Procedure, an LTA Applicant was required to sign the TSA and LTA with CTU-Power Grid, within one month from the date of intimation letter for the grant of LTA i.e. one month from 13.11.2017 in the case of the Petitioner.

b) In accordance with Clause 5.1 of the RE Connectivity Procedure, Respondent has now issued three letters dated 31.7.2018 to the Petitioner, wherein the earlier Grant of Connectivity dated 31.3.2017 to the Petitioner “shall stand revoked” and the Petitioner has been intimated “grant of Stage-I connectivity” for its Projects.

c) In view of the grant of fresh Stage-I connectivity by respondent under the RE Connectivity Procedure, the Petitioner by letter dated 25.10.2018 requested PGCIL to return the Bank Guarantees submitted by the Petitioner under the earlier Detailed Procedure. This was because the question of Connectivity Bank Guarantee (Conn-BG) under Clause 10.9 of the RE Connectivity Procedure would arise only at the stage of Transmission Agreement for Connectivity i.e. after receipt of Stage-II Connectivity. Whereas the Petitioner is only a deemed Stage-I Connectivity grantee and has 24 months to apply for Stage-II Connectivity under Clause No. 6.7 of the aforesaid RE Connectivity Procedure.



d) In reply to the aforesaid request of the Petitioner to return the BGs, respondent by letter dated 15.11.2018 admitted that the earlier Grant of Connectivity to the Petitioner vide letters dated 31.3.2017 stood “superseded” with the issue of revised intimations for Stage-I Connectivity vide respondent’s letters dated 31.7.2018. Respondent has refused to return the BGs of the Petitioner, apparently on the erroneous ground that since the LTA granted by PGCIL vide its earlier letter dated 13.11.2017 have not been annulled.

e) Though, the earlier Grant of Connectivity by letters dated 31.3.2017 has been revoked vide its letters dated 31.7.2018 and the Petitioner is a deemed Stage-I grantee, the revised LTA is yet to be issued to the Petitioner with grant of Stage-II Connectivity which has not been applied by the Petitioner as on date, for which it has 24 months to apply as per clause 6.7 of the RE Connectivity Procedure. Hence, in the opinion of the Respondent, the LTA grants are in abeyance for want of Stage-II Connectivity. This is the same reason why respondent has earlier also refused to return the BGs furnished by the Petitioner under the Detailed Procedure.

9. The Commission vide Record of Proceedings dated 14.2.2019 directed PGCIL to re-affirm the list of the generators filed vide affidavit dated 27.12.2018 and to provide the details of other generators, if any. PGCIL vide affidavit 28.2.2019 submitted that there are no further additions to the list as on date.

Analysis and Decision:

10. After hearing the learned counsels for the Petitioner and the Respondents and perusal of documents on record, the following issues arise for our consideration:



(a) Issue No.1: What should be treatment of LTA applications of the Petitioner in light of provisions of RE Connectivity Procedure?

(b) Issue No.2: Whether any direction needs to be issued to PGCIL for considering the optimised evacuation system of the Petitioner?

The above issues have been dealt with in the succeeding paragraphs.

Issue No.1: What should be treatment of LTA applications of the Petitioner in light of provisions of RE Connectivity Procedure?

11. The Petitioner has submitted that as per Clause No. 5.1 (6) of RE Connectivity Procedure, an applicant who has been granted Connectivity and LTA prior to issue of the Procedure, shall be a deemed Stage-I Connectivity grantee and shall be required to apply for Stage-II Connectivity. Further, as per Clause No. 6.7 of the RE Connectivity Procedure, the Deemed Stage-I Connectivity grantees shall have to apply for Stage-II connectivity within 24 months from the date of notification of the Procedure failing which they shall cease to be Stage-I grantees and their Application fees shall be forfeited. Further as provided under Clause 10.13 (ii) of the RE Connectivity Procedure, all existing entities who have been granted LTA prior to notification of the aforesaid Procedure shall be issued revised grant of LTA (inter-alia including date of start and point of connection) along with grant of Stage-II Connectivity.

12. PGCIL has submitted that subsequent to notification of the RE Connectivity Procedure, there are some cases where an anomalous situation is occurring (or is very likely to occur) where the status of connectivity of RE generation projects/parks shall be Stage-I (i.e. without firm bay allocation) but the same entity has been granted LTA or its application is pending for grant of LTA. Therefore, such cases are likely where an entity may have LTA without any firm connectivity. The regulatory



implications of such a scenario are not well captured in the present RE Connectivity Procedure.

13. We have considered the submission of the parties. It is noted that after notification of the RE Connectivity Procedure by the Commission, certain RE projects have been impacted who had been granted Connectivity and LTA under the Detailed Procedure notified by Commission on 31.12.2009.

14. We have perused the relevant clauses of the Detailed Procedure regarding Processing of Applications, Application for Stage-I Connectivity and Processing of Applications and Grant of Stage-II Connectivity. The relevant provision regarding Processing of Application, for the applicant who has been granted connectivity and LTA prior to issue of new procedure is extracted as under:

“5. Processing of Applications

5.1. An entity or company who has been granted Connectivity or Connectivity and LTA prior to issue of this Procedure for setting up project(s) / park based on renewable energy sources shall be treated as under after notification of this Procedure:

Sl. No.	Present Status	Status upon notification of this Procedure	Remarks
1.	<i>Solar Power Park Developer authorized by Central Government where its transmission system is under implementation</i>	<i>Stage-II Connectivity</i>	<i>Deemed grantee of Stage-II Connectivity</i>
2.	<i>Applicants who have been granted Connectivity and have signed the bay implementation agreement and have paid the initial advance as per the agreement.</i>	<i>Stage-II Connectivity subject to fulfillment of conditions in Clause 9.2.</i>	<i>Deemed grantee of Stage-II Connectivity to the extent of Connectivity applied. The documents are required to be submitted within 9 months of issue of this Procedure.</i>
3.	<i>Applicants who have been granted Connectivity and are yet to sign the bay</i>	<i>Stage-I Connectivity</i>	<i>Deemed grantee of Stage-I Connectivity</i>



	<i>implementation agreement</i>		
4.	<i>Applicants whose cases have been decided for grant of Connectivity in the meeting of the constituents and intimation thereof has not been issued</i>	<i>Intimation shall be issued for grant of Stage-I Connectivity within one week of issue of this Procedure.</i>	<i>The applicant shall submit the required documents for Stage-I Connectivity within 1 month of issue of this Procedure.</i>
5.	<i>All the other pending applications for grant of Connectivity.</i>	<i>Application shall be processed for grant of Stage-I Connectivity within 15 days of the issue of this Procedure.</i>	<i>The applicant shall submit the required documents for Stage-I Connectivity within 1 month of issue of this Procedure.</i>
6.	<i>Applicant who has been granted Connectivity and LTA</i>	<i>The Applicant shall be deemed as Stage-I Connectivity grantee and shall be required to apply for Stage-II Connectivity as per the Procedure.</i>	<i>The applicant shall submit the required documents for Stage-I Connectivity within 1 month of issue of this Procedure.</i>

The above mentioned provision prescribes the status of connectivity/LTA granted prior to the issuance of the RE Connectivity Procedure.

15. Sub clause 2.3 of Clause 2 of the RE Detailed Procedure provides as under:

“2. Applicability

2.3. Applications for Connectivity by Solar Power Park Developer, Wind Power Park Developer, Wind-Solar Power Park Developer, and Generation Projects based on renewable energy sources including hybrid projects based on renewables and storage shall be processed in two stages:

- (a) Stage-I Connectivity*
- (b) Stage-II Connectivity”*

The above mentioned procedure prescribes that Connectivity shall be granted in two stages i.e. Stage-I connectivity and Stage-II connectivity.

16. The relevant provision regarding Application for Stage-I Connectivity of this procedure provides as under:

“6. Application for Stage-I Connectivity



6.7 Deemed Stage-I Connectivity grantees shall apply for Stage-II connectivity within 24 months from the date of notification of this Procedure failing which they shall cease to be Stage-I grantee and their Application fees shall be forfeited.”

As per the above provision, the Deemed Stage-I Connectivity grantees shall have to apply for Stage-II Connectivity within 24 months from the notification of this procedure failing which they shall cease to be Stage-I grantees and their Application fees shall be forfeited.

17. After going through relevant provision of Clause 5 and 6 of the detailed procedure, we observe that the Petitioner’s case falls under provision 5.1 (6) of the RE Connectivity Procedure, since it has been granted Connectivity and LTA prior to issue of the said procedure but has not yet signed the Bay Implementation Agreement, or the LTA Agreement and shall hence be Deemed Stage-I connectivity grantee in terms of the said procedure.

18. The Petitioner being a deemed Stage-I Connectivity grantee, it can apply for Stage-II connectivity within 24 months from the notification of the RE Connectivity Procedure in terms of the clause 2.3 and 6.7 of the said procedure. Further, Clause 10.13(ii) of the RE detailed procedure provides as follows :

“10.13 LTA Application by entities covered under this Procedure:

.....

(ii) All existing entities who have been granted LTA prior to notification of this Procedure shall be issued revised grant of LTA (inter-alia including date of start and point of connection) along with grant of Stage-II Connectivity.”

Thus, in terms of above clause 10.13 (ii), the petitioner shall be issued revised grant of LTA along with Stage-II Connectivity. While granting revised LTA, the CTU shall keep in mind the provisions of Regulation 3A of the Connectivity Regulations, 2009 that has been incorporated through 7th amendment in Connectivity Regulations dated 9.1.2019 which provides as follows:



“(3A) Notwithstanding any provision to the contrary in any other Regulations or the Procedure, applicants covered under sub-clauses(aa), (cc), (f), (g) and (h) of clause (1)(b)(i) of Regulation 2 shall be grant Stage-I Connectivity by CTU by indicating one location and such other information as required under Clause (3)of this Regulation:

Provided that if the capacity in the said location is fully allocated to Stage-II grantees, the balance Stage-I grantees shall be allocated Stage-II Connectivity to an alternate location.”

19. The Statement of Reasons to Regulation 8 (3)(A) of the 7th Amendment Connectivity Regulations, 2009 provides as under:

“19.4.3. We observe that provision of alternate location was kept in the detailed procedure dated 15.5.2018 to indicate that a situation may arise that capacity at the location gets fully allocated and few grantees have to be allocated a new location. To make things clear, we have included a provision in the instant amendment that CTU shall grant Stage-I Connectivity indicating only one location. It may happen that such a location has capacity of 5000 MW but CTU gets applications for 10000 MW. CTU shall grant Stage-I Connectivity to all such applicants at the same location. Out of this 10000 MW applicants, first 5000 MW who becomes eligible for Stage-II will get confirmed at the location as per detailed procedure. Such additional Stage-I grantees who becomes eligible for Stage-II Connectivity shall be confirmed Stage-II Connectivity at alternate location. In case such Stage-I grantees have also been granted LTA, modified LTA grant shall be issued by CTU from alternate location. In case of any conflict between detailed procedure and Regulations, provisions of regulation shall prevail. The necessary changes shall be brought out in detailed Procedure in due course of time.”

20. The Petitioner being a deemed Stage-I Connectivity grantee as per the RE Connectivity procedure, it can apply for stage-II Connectivity within 24 months of the notification of this Procedure. There has been material change in the conditions when BG was provided by the Petitioner and thereafter since coming into force of the RE Connectivity Procedure. The Petitioner has 24 months to apply for Stage-II Connectivity under Clause 6.7 of the Procedure. At the same time, there may be other applicants at the same location. We, therefore, are of the considered view that there is no point in keeping the application BG alive. As and when the Petitioner applies for Stage-II Connectivity, its case shall be treated as per law. In view of this, the notice dated 5.1.2018 by the respondent for signing of LTA and TSA have become infructuous.



21. CTU has submitted a list of projects where LTA has been granted or is pending processing for grant and the applicant has deemed or granted Stage-II /Stage-I Connectivity. Category of grantees with respective stage of connectivity (deemed or granted) along with stages of LTA (granted or applied) is listed as under:

S.Nos. (as per Table 2)	Category	Issue stated by CTU
1-3	Deemed Stage-I & LTA Granted	Revised LTA is to be issued with grant of Stage-II connectivity which has not been applied by applicant.
4-6	Deemed Stage-I & LTA Granted (<i>transmission system commissioned</i>)	Revised LTA is to be issued with grant of Stage-II connectivity which has not been applied by applicant. However the transmission system for LTA has been commissioned and LTA is due for operationalization.
7	Stage-I granted & LTA Applied	LTA application can only be processed along with Stage-II connectivity which has not been applied by applicant. Hence, the LTA applications are on hold.
8-9	Deemed Stage-I & LTA Applied	
10-12	Deemed Stage-II & LTA Granted	Non-receipt of documents for full or part St-II connectivity quantum may result in withdrawal of Stage-II Connectivity for such full/part quantum. In such cases, treatment of LTAs granted is not known.

CTU/PGCIL has requested for direction/clarifications in dealing with these cases as they are not covered under RE Connectivity Procedure.

22. In our view, it would be inappropriate to give a generic direction to CTU. We would like to hear applicants who are facing problems on account of RE Connectivity Procedure before taking any decision. Nonetheless, we also direct CTU that for all other cases where the applicant is a deemed Stage-I grantee and LTA has been granted without Stage-II connectivity and no associated system strengthening for the applicant has been initiated, the CTU shall return the application BG if requested by the applicant, without approaching the Commission. Other cases shall be dealt with as and when they arise.



Issue No.2: Whether any direction needs to be issued to PGCIL for considering the optimised evacuation system of the Petitioner?

23. The Petitioner has sought direction to PGCIL for considering the optimised evacuation system for its projects i.e. 500 MW wind farm, 1000 MW wind farm and 750 MW solar power plant, for which connectivity has already been granted by PGCIL vide letters dated 31.3.2017. This was before the Grant of LTA vide letters dated 13.11.2017. The Petitioner has submitted that the respondent had circulated a revised agenda for 25th Meeting of Western Region constituents wherein Petitioner's proposal regarding optimization of connectivity system (that was included in original agenda) has been deleted. Therefore Petitioner's proposal regarding optimization is still pending as per the submission of the Petitioner and has not yet been considered by PGCIL. Thereafter, respondent has granted LTA vide letter dated 13.11.2017 without considering the optimisation proposal. The Petitioner has submitted that it is under no obligation to execute the LTA and TSA until proposal for optimisation of evacuation system is considered by the Respondent.

24. PGCIL has submitted that LTA applications are required to be made in accordance with the format stipulated in the Detailed Procedure. An application received is considered as per its relative priority for processing and is granted with stakeholder consultation including the applicant. The Petitioner has been part of the consultation process and the LTA has been granted after following due process and as per the material particulars of injection point, drawal point, LTA quantum (MWs), start date etc. specified in the application.

25. We have considered the submissions of the parties. The Petitioner is a deemed Stage-I connectivity grantee having no Stage –II connectivity, but LTA has



been granted to it. In the table enclosed by the Respondent in response to RoP of hearing dated 12.12.2018, the Respondent has shown the LTA of the Petitioner to be in abeyance for want of Stage-II connectivity.

26. In view of the decision at para (20) above, the issue has become infructuous and we are not inclined to give any direction in this regard.

Summary

27. In the light of the above discussion, the prayers of the Petitioner are disposed of as under:

a) With regard to Petitioner's prayers seeking to set aside notice dated 5.1.2018 for signing the LTA and TSA and seeking not less than 6 months' time extension to sign the LTA and TS Agreements, the issues have become infructuous.

b) The Petitioner's prayer for direction to CTU for optimized evacuation system has become infructuous.

c) The BG in respect of the Petitioner provided against LTA granted shall be returned by the CTU. The Petitioner shall be required to apply for Stage- II Connectivity and LTA as per the Procedure, which shall be treated as per law.

28. For cases where the applicant is a deemed Stage-I grantee and LTA has been granted without Stage-II connectivity, and no system strengthening for the applicant has been initiated, the CTU shall return the application BG if requested by the applicant. Such applicants shall be required to apply for Stage-II Connectivity and LTA as per procedures, which shall be treated as per law.



29. The Petition No. 18/MP/2018 is disposed of in terms of the above.

sd/-
(I.S.Jha)
Member

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

sd/-
(P.K. Pujari)
Chairperson

