

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 7/MP/2019

Coram:

Shri. P.K. Pujari, Chairperson

Dr. M. K. Iyer, Member

Shri. I.S. Jha, Member

Date of Order: 06.08.2019

In the matter of:

Petition under Regulation 32 of the Central Electricity Regulatory Commission (Grant of Connectivity, Long Term and Medium Term Open Access in inter-State transmission and related matters) Regulations, 2009 and the Detailed Procedure 2018 for directing PGCIL to *inter alia* grant revised LTA to the Petitioner.

And

In the matter of

Srijan Energy Systems Private Limited

Office No.1, Gandhi Colony,

Jaora, Ratlam,

Madhya Pradesh - 457 226

... Petitioner

VERSUS

Power Grid Corporation of India Limited.

Saudamini, Plot No.-2, Sector-29

Gurugram – 122 001, Haryana, India

... Respondent

Parties present:

Shri Buddy Ranganandhan, Advocate, SESPL

Shri Sumant Nayak, Advocate, SESPL

Ms. Kritika Angirish, Advocate, SESPL

Shri Samiron Borkataky, Advocate, SESPL

Ms. Suparna Srivastava, Advocate, PGCIL

Shri Nehul Sharma, Advocate, PGCIL

Shri Swapnil Verma, PGCIL

Shri Ranjeet S.Rajput, PGCIL

Ms. Jyoti Prasad, PGCIL



ORDER

The Petitioner, Srijan Energy Systems Limited (hereinafter referred to as "Petitioner")

has filed the present petition seeking the following reliefs:

(i) *Declare that the LTA granted to the Petitioner vide letter dated 11.07.2017 lapsed and/or ceased to be operative upon the grant of Stage-2 Connectivity vide letter dated 14.06.2018 issued by the Respondent to the Petitioner under the Revised Detailed Procedure dated 15.05.2018;*

(ii) *Declare the letter dated 14.11.2018 issued by the Respondent to the Petitioner as illegal and null and void, and set aside the decision of the Respondent contained therein to not issue revised LTA and revised timeline for Bay Implementation to the Petitioner;*

(iii) *Declare as invalid, null and void, the Letter No. C/CTU/Con St-II/WR/1200000312 dated 14-6-2018, only insofar as it purports to suggest that "..All other terms and conditions as provided in the original intimation for grant of connectivity dated 29.07.2016 shall remain the same...";*

(iv) *Direct the Respondent to grant revised LTA along with Stage-II connectivity to the Petitioner in terms of Clause 10.13 (ii) of the Detailed Procedure 2018 and in consonance with the timelines envisaged under the LOAs granted to the Petitioner herein;*

(v) *Direct the Respondent to grant the region as Western Region for 250 MW in terms of the SECI LOA in the revised LTA to be granted to the Petitioner without any additional charge;*

(vi) *Direct the Respondent to subsequently grant the region upon notification by NTPC for sale of 50 MW Power without any additional charge;*

(vii) *Direct the Respondent to return the earlier Bank Guarantee for Rs. 15 crores dated 10.10.2017 and accept the Bank Guarantee for Rs. 5 Crores submitted under the letter dated 17.10.2018 towards Phase-I of the Petitioner's project; and*

(viii) *Direct the Respondent to revise the timeline for Implementation of the Bays bearing Nos. 206 and 207 by February 2020 in consonance with the timelines of implementation of the Petitioner's 250 MW SECI Project and 50 MW NTPC Project.*



Submissions of Petitioner

2. The Petitioner has mainly submitted as under:

(a) The Petitioner is developing a wind power project in Bhuj, Gujarat, with a proposed capacity of 600-800 MW. For the purposes of connectivity from CTU, the project has been divided into two phases and the Petitioner has made significant progress in development of the Project. For Phase-I of 300 MW, the Petitioner was granted Connectivity by the Respondent on 29.7.2016 at the existing Bhuj Pooling Station and LTA was granted on 31.3.2017. The Petitioner was allocated two bays for its project and the Petitioner signed the Bay Implementation Agreement with PGCIL on 19.5.2017 and paid the corresponding fee of ₹1.38 crore. Subsequently, Petitioner signed the LTA Agreement & Transmission Services Agreement (TSA) with PGCIL on 11.7.2017.

(b) The Petitioner applied for connectivity for Phase-II of its Project on 25.1.2017 and its application was listed on the agenda of 25th Meeting of WR Constituents circulated by PGCIL on 31.7.2017. In the said agenda, it was recorded that PGCIL proposed to grant connectivity to Phase-II of the Petitioner's 300 MW project at Bhuj Pooling Station. During the discussions and evaluation of Petitioner's proposal, the Petitioner confirmed to PGCIL on 24.3.2017 and 20.4.2017 that the Petitioner will use the earlier approved dedicated double circuit line for carrying this additional capacity and revised its application to 300 MW on 17.5.2017 in line with the carrying capacity of the double circuit line. PGCIL recommended the grant of such additional connectivity in the agenda papers dated 31.7.2017 of 25th WR Constituents. In fact, such recommendation even contained proposed amendments in the technical parameters of the earlier granted connectivity sought by the Respondent.

(c) Subsequently, Ministry of New and Renewable Energy (MNRE) notified Guidelines for Implementation of Scheme for setting up of 1000 MW ISTS Wind Power Projects. The Scheme was aimed at achieving the goal of reaching 60 GW of wind power capacity by 2022. The implementation of the Scheme was assigned to SECI and PGCIL was assigned the role of providing connectivity and LTA to ISTS to facilitate evacuation of power from the Projects. Apprehending a mismatch between availability of the new sub-



station for connectivity or LTA and commissioning of wind power projects by successful bidders, MNRE vide its letter dated 15.6.2017 requested PGCIL to approach the Commission to allow grant of connectivity to successful bidders on priority basis.

(d) PGCIL approached the Commission vide Petition No. 145/MP/2017 and in pursuance of direction given by the Commission, PGCIL vide its letter dated 31.1.2018 submitted a draft of “Detailed Procedure for Grant of Connectivity to Project Based on Renewable Energy Sources to Inter-State Transmission System” (hereinafter referred to as the Detailed Procedure 2018) and the same was approved by the Commission vide its order dated 15.5.2018.

(e) As per the Detailed Procedure 2018:

- i) an entity which had been granted LTA under the earlier Detailed Procedure were to be treated merely as deemed grantee of Stage-II connectivity;
- ii) in order to be eligible for grant of Stage-II connectivity, the said entity was obliged to meet the additional requirement prescribed under clause 9.2.1; and
- iii) along with grant of Stage-II Connectivity entities which were granted LTA prior to notification of Detailed Procedure 2018 shall be issued revised grant of LTA.

(f) The Petitioner has made considerable progress in its Project and despite being an LTA grantee as regards Phase-I of its project, the Petitioner was reduced to the status of a deemed grantee of Stage-II connectivity, subject to submission of Letter of Award obtained in a competitive auction, and as far as Phase-II of the project is concerned, the Petitioner was reduced to the category of an applicant whose application is pending (sl. 5 of Clause 5.1 of Detailed Procedure 2018).

(g) In terms of the Detailed Procedure 2018, an entity who has merely applied for Stage-I and Stage-II connectivity simultaneously, but has not signed Bay Implementation Agreement or has not undertaken substantial works in relation to their project unlike the Petitioner, would be granted Stage-II connectivity, by virtue of being a successful bidder in the SECI auctions and holding an LOA from SECI, when the fact is that such bids were expressly submitted by the bidder knowing the risks surrounding uncertainty of obtaining connectivity and LTA on their own, with no responsibility to SECI as per the RfS documents for the said SECI auctions.



(h) The Petitioner is a winner in the 4th tranche of the 2000 MW e-reverse auction, held on 5.4.2018, and accordingly fell within the definition of an entity under Clause 9.2.1 of the Detailed Procedure 2018. However, until 1.6.2018, SECI had not issued the LOA in favour of the Petitioner.

(i) The Petitioner fulfilled the terms of sl.no. 2 of Clause 5.1 of the Detailed Procedure 2018. Therefore, PGCIL issued a letter dated 14.6.2018 vide which it granted Stage-II connectivity to the Petitioner and called upon the Petitioner as per clause 5.1 of the Detailed Procedure 2018, to submit the required documents for Stage-II connectivity within 9 months of issue of the Procedure. Along with the said letter dated 14.6.2018, PGCIL was also obliged under the Detailed Procedure 2018 to grant a revised LTA. However, no such revised LTA has been received. In any case, since the Petitioner had not received any intimation in relation to the target region subsequent to the award of LOA by SECI, the Petitioner was precluded from requesting PGCIL for a revised LTA at that time.

(j) The Petitioner vide its letter dated 28.6.2018 informed PGCIL that it has received LOA issued by SECI for grant of its Stage-II connectivity, and the fact of receipt of LTA has also been recorded in the minutes of the 20th JCC meeting. The Petitioner also submitted the Letter of Award vide email dated 21.12.2018 in compliance of the requirements for grant for Stage-II connectivity. Accordingly, the Petitioner has complied with its obligations as requested by PGCIL vide its letter dated 14.6.2018 and has fulfilled the requirements for grant of Stage-II connectivity for Phase-I of its project in terms of Clause 9.2.1 of the Detailed Procedure 2018.

(k) PGCIL is obliged under the Detailed Procedure 2018 to grant a revised LTA, but the same has not been granted. Subsequently, the Petitioner executed a Power Purchase Agreement (PPA) dated 4.9.2018 with SECI which was followed by a letter dated 28.9.2018 issued by SECI to MP Power Management Company Ltd., from where it came to the knowledge of the Petitioner that SECI had signed Power Supply Agreement with MP Power Management Company Ltd. for supply of 500 MW out of which 250 MW was to be procured from the Petitioner.



(l) Clause 10.13 (ii) of the Detailed Procedure 2018 explicitly provides that all the entities who have been granted LTA prior to notification of the Detailed Procedure 2018 shall be issued revised grant of LTA along with grant of Stage-II Connectivity. However, PGCIL has failed to issue revised LTA to the Petitioner. The Detailed Procedure 2018 envisages that for deemed Stage-II Grantees, the LTA shall be revised and granted along with grant of Stage-II Connectivity. Stage-II connectivity to earlier LTA holders is in turn granted upon submission of documents mentioned under Clause 9.2 of the Detailed Procedure 2018. One of the documents to be submitted is the Letter of Award (“LOA”) which is received upon being successful in an auction. The priority of the LTA is decided on the basis of the LOA that is submitted, and basis of the timeline of the LOA. Therefore, it is clear that even if LTA has been granted earlier, pursuant to the Detailed Procedure 2018 (*which reduces the status of such grantees to deemed Stage-II grantees*), upon submission of the LOA, the earlier LTA ceases to exist in law. Therefore, a new LTA has to be issued on basis of the timeline of project completion as per the LOA and the regions mentioned under the Power Supply Agreements executed by entities such as SECI. Hence, the Respondent is obliged under the Detailed Procedure 2018 to provide the revised LTA with new start and end date and target region of basis of the objective criteria set out in Detailed Procedure 2018.

(m) The Petitioner vide its letter dated 8.10.2018 and 7.12.2018 requested PGCIL to issue the revised LTA to the Petitioner in terms of Clause 10.13 (ii) of the Detailed Procedure 2018 and also requested to revise the timeline for implementation of the two Bays 206 and 207 to February 2020 in line with the timelines of implementation of the Petitioner’s 250 MW SECI Project and 50 MW NTPC Project.

(n) PGCIL vide its letter dated 14.11.2018 refused to grant a revised LTA or to revise the region as Western Region for 250 MW or to amend the timeline for bay implementation. The act of not granting a revised LTA to the Petitioner is in complete contravention of the Detailed Procedure 2018 and is completely arbitrary and high handedness on part of the Respondent. Similarly, the Respondent’s act of not granting a revised timeline for Bay Implementation is also completely arbitrary since PGCIL is clearly aware that it was only due to the Petition (145/MP/2017) preferred by it before the Commission for granting priority to bid winners, that serious aspersions were cast on the treatment that would be meted out to developers like the Petitioner who had already been



granted LTA, and owing to such a scenario of looming uncertainty, it was difficult for the Petitioner to participate in a bid and secure a project so as to meet the LTA commencement date of March 2019.

(o) Since the earlier LTA has ceased to exist, the Bank Guarantee for ₹ 15 crore submitted under the said earlier LTA also ought to be returned to the Petitioner. To this effect, the Petitioner received a letter dated 19.9.2018 from the Respondent requesting to submit additional connectivity bank guarantee (Conn-BG) in view of the Stage-II connectivity granted to Phase-II of the Petitioner's Project. The Petitioner replied vide letter dated 4.10.2018 stating that under the Detailed Procedure 2018, the Petitioner is only obliged to provide a Bank Guarantee of ₹ 5 crore for the Stage-II connectivity granted in respect of Phase-I of its 300 MW Project. In relation to Phase-II, the requirement of providing a Bank Guarantee does not arise/ exist at all since Phase-II has been granted Stage-II connectivity under the enhancement route envisaged in Clause 13(ii) of the Detailed Procedure 2018.

(p) Accordingly, the Petitioner requested PGCIL to waive the requirement of submitting a Conn-BG for Phase-II of its Project and instead, to permit the Petitioner to replace the earlier Bank Guarantee for ₹ 15 crore dated 10.10.2017 with a new Bank Guarantee of ₹ 5 crore in relation to Phase-I of Petitioner's project. However, upon not receiving any response from PGCIL, the Petitioner issued another letter dated 17.10.2018 vide which it inter alia reiterated its earlier request for grant of waiver from submission of Conn-BG for Phase 2 and stated that the Bank Guarantee for ₹ 5 crore submitted under the letter dated 17.10.2018 is in relation to Phase-I of the Petitioner's project.

3. The Petition was admitted on 31.1.2019 and notice was issued to PGCIL. In response, PGCIL has filed its reply vide affidavit dated 1.4.2019 and the Petitioner has also filed its Rejoinder vide affidavit dated 15.4.2019.

Reply of PGCIL

4. PGCIL vide its reply affidavit dated 1.4.2019 has mainly submitted as under:



(a) On 30.3.2016, the Petitioner made an online application for grant of connectivity of 300 MW and an online application dated 27.4.2016 for grant of LTA for the said 300 MW for wind farms at Kutch, Gujarat. The said applications were discussed in the 23rd Meeting of Western Region constituents for connectivity and LTA held on 1.6.2016 (also in other Meetings) and pursuant thereto, the connectivity as requested for was granted vide letter dated 29.7.2016 at the 765/400/220 kV Bhuj pooling station of the Respondent. The said connectivity was granted with effect from 31.3.2018 or from availability of transmission system under the scope of the Respondent, whichever was later.

(b) The Petitioner was required to construct the 220 kV D/c dedicated line from generation switchyard to the Bhuj pooling station with line bays at both ends. The LTA as applied for was granted to the Petitioner vide intimation dated 31.3.2017 of the Respondent on target region basis for 150 MW to Northern Region, for 90 MW to Western Region and for 60 MW to Southern Region. The said LTA was granted from 31.3.2018 or from availability of transmission system, whichever was later. The said LTA was revised to 31.3.2019 or availability of transmission system for LTA, whichever was later, in accordance with the request made by the Petitioner vide letter dated 11.7.2017.

(c) In pursuance to the LTA grant, the Petitioner executed an LTA Agreement with the PGCIL on 11.7.2017, which was to be valid till the validity of the LTA, whereby the Petitioner agreed to furnish a construction phase bank guarantee for sum of ₹15 crore as payment security mechanism for the transmission system to be built, owned and operated by PGCIL. The said bank guarantee was required to be initially kept valid for a period of six months after the expected date of commissioning of the Petitioner's generation projects/ dedicated line or the actual date of its commissioning, whichever was later, and was to be extended from time to time until the entire LTA quantum became operational and payment security mechanism was established by the Petitioner. The bank guarantee was to be encashed by PGCIL in case of adverse progress of work under the scope of the Petitioner assessed during the Joint Coordination Meetings. Accordingly, the Petitioner furnished bank guarantee of ₹15 crore. The Petitioner also signed a TSA dated 11.7.2017 for payment of transmission charges to the Respondent under the LTA granted to it.



(d) The Petitioner vide letter dated 22.2.2017 requested PGCIL to build the terminal bay at Bhuj pooling station and alternatively, to provide consultancy for inviting bids through the Respondent's approved contractors and subsequently supervise and certify the work done. The Petitioner also informed the Respondent about the revision in the project schedule from March 2018 to March 2019, subject to the readiness of the power evacuation route from Bhuj pooling station and beyond. Thereafter, the Petitioner, vide its letter dated 24.3.2017, requested the Respondent for change in date of grant of connectivity from 31.3.2018 to 31.3.2019 which was accepted and informed to the Petitioner vide letter dated 11.7.2017.

(e) In the meantime, the Petitioner, vide application dated 25.1.2017, had applied to Respondent No.1 for grant of additional connectivity of 200 MW at Bhuj pooling station from 30.6.2019. The Petitioner vide letter dated 17.5.2017 requested the Respondent that the connectivity for 200 MW applied for vide letter dated 25.1.2017 be considered for 300 MW and that this 300 MW may be considered as an extension of the earlier 300 MW connectivity granted to the Petitioner at Bhuj pooling station. It was also mentioned in the said letter that for the purpose of optimizing of transmission infrastructure, the Petitioner would be transferring the complete 600 MW on the 220kV D/C line with AL59 conductor and for the same, it proposed to establish two separate 220kV wind farm pooling sub-stations and a 220 kV line to inter-connect them.

(f) The Petitioner had been allocated two bays being Bay Nos. 219 and 222, for its project, for which it signed the Bay Implementation Agreement with the Respondent on 19.5.2017. The said Agreement required the Petitioner to pay PGCIL the amounts as set out in clause 10 thereof, including consultancy fee and part project cost. In this regard, the Petitioner paid to the Respondent ₹1.38 crore on 14.6.2017. The Petitioner's request for grant of connectivity for additional 300 MW was also included in the agenda of the 25th Meeting of Western Region constituents circulated by the Respondent vide notice 31.7.2017. In the meantime, the Respondent had filed Petition No.145/MP/2017 before this Commission, seeking the reliefs as set out hereinabove. Pursuant to the proceedings in the said Petition, particularly in the hearings dated 16.8.2017 and 18.8.2017, the above



Meeting was not convened until final Order and decision of the Commission in the Petition on 29.9.2017.

(g) The Petitioner vide letters dated 1.8.2017 and 9.8.2017 requested the Respondent to defer the requirement of construction stage bank guarantee till the time there was clarity in the matter pending in Petition No.145/MP/2017. The Respondent vide its letter dated 31.8.2017, declined the said request by stating as under:

“In this regard, it is to clarify that the aforesaid petition pertains to cases related to Connectivity/LTA which are not utilizing the bays or not making sufficient progress. The construction phase BG is an independent Regulatory requirement and is to be submitted for LTA within 3 months after signing of the LTA Agreement. Therefore, there is no reason for you to relate submission of construction phase BG to the outcome of above petition. Accordingly you are requested to fulfil the regulatory requirements of submission of BG, failure to which we shall be constrained to take necessary actions for cancellation of Grant of Connectivity/LTA in accordance with CERC Regulations & Detailed Procedure.”

(h) The above developments pertaining to the enhanced connectivity of the Petitioner were independent of the connectivity and LTA granted to the Petitioner for Phase-I of the project which was being separately monitored on a quarterly basis through the Joint Coordination Committee (JCC) Meetings of Western Region from the 14th Meeting (held on 27.12.2016) onwards. Though the Petitioner had been granted LTA with requested start date as 31.3.2018, it was modified to 31.3.2019 vide revision to the intimation dated 11.7.2017. This modified start date was also recorded in the 17th JCC Meeting of the Western Region. The Minutes of the JCC Meeting also recorded that the liability to pay transmission charges would commence in terms of the 2010 Sharing Regulations.

(i) The progress of the Petitioner’s generation project was also monitored in the 18th JCC Meeting of Western Region held on 20.12.2017 wherein the Petitioner maintained its commissioning schedule progressively from March 2019 onwards and also submitted the following:

- *Revenue land for 134 locations (for about 269 MW) under possession.*
- *Balance is forest land. Stage -1 forest clearance received for 297hectares.*
- *Bay implementation agreement has been signed and consultancy fee paid.*

(j) Similarly, the progress of the Petitioner’s generation project was also monitored in the 19th JCC Meeting of Western Region held on 28.3.2018 wherein the Petitioner



maintained its commissioning schedule progressively from March 2019 onwards and also submitted the following:

- *Revenue land for 259 locations (for about 518 MW) under possession.*
- *Defence NOC obtained for 181 locations (362MW).*
- *State Nodal Agency's developer permission obtained for 118 locations (236MW).*
- *Stage-1 forest clearance received for 297 hectares.*
- *Bay implementation agreement has been signed and consultancy fee paid.*
- *POWERGRID has provided draft bid documents, discussions & clarifications ongoing.*

(k) Like in earlier JCC Meetings, it was again emphasized that the Petitioner's liability to pay transmission charges was to commence in terms of the 2010 Sharing Regulations.

(l) In the meantime, the Commission, vide Order dated 29.9.2017, decided Petition No.145/MP/2017 filed by PGCIL with a number of directions including those relating to framing of objective criteria to be prescribed through amendment to earlier Detailed Procedure 2010 as well as for assessment of already granted connectivity based on their progress. Further, directions were also issued for framing of draft amendments to the Detailed Procedure 2010 after stakeholders' consultation, before the same could be submitted to the Commission for notification. In light of the above, PGCIL vide its letter dated 1.11.2017 informed all renewable energy generators/ developers including the Petitioner that their connectivity and LTA applications were to be processed as per the amended Detailed Procedure to be notified by this Commission. However, no change of status was notified by the Respondent to the already granted connectivity or LTAs. As per the directions of this Commission, the Respondent submitted the draft Detailed Procedure 2018 after due consultation with all stakeholders for approval and notification by this Commission.

(m) The Commission vide Order dated 15.5.2018 notified the Detailed Procedure 2018. As per the Detailed Procedure 2018, applicants who had been granted connectivity, had signed the Bay Implementation Agreement and had also paid the initial advance as per the Agreement, became deemed Stage-II connectivity grantees subject to fulfillment of conditions specified in clause 9.2 of the Detailed Procedure 2018. Thereafter, on 1.6.2018, the Petitioner was issued a LOA by SECI for implementation of 250 MW wind power project in District Kutch, Gujarat. This fact was brought to the



knowledge of PGCIL in the 20th JCC Meeting of Western Region held on 29.6.2018 and the same was also conveyed vide Petitioner's letter dated 8.10.2018 to the PGCIL. Subsequent to issuance of the LOA, the Petitioner also signed a PPA dated 4.9.2018 with SECI for supply of power from its project to the ultimate beneficiaries through SECI. It was agreed under the PPA dated 4.9.2018 that the project would be commissioned within 18 months of the effective date of 30.8.2018. Also, vide letter dated 8.10.2018, the Petitioner informed the Respondent that it had been successful in winning 50 MW bid in a recent auction by NTPC held in August 2018 and for which the letter of award was yet to be issued.

(n) In the 27th Connectivity/ LTA Meeting of Western Region constituents held on 11.6.2018 i.e. subsequent to issuance of the Detailed Procedure 2018, the following was noted and agreed regarding the connectivity of the Petitioner:

“the 300MW connectivity already granted to the Petitioner on 29.7.2016 based on Application No.1200000312 had been recognized as ‘deemed Stage-II connectivity’ as the Petitioner had already signed the Bay Implementation Agreement and had paid the initial advance as per the Agreement; and the Petitioner was to be granted 300MW Stage-I connectivity based on its Application No.1200000622 for 200MW connectivity along with its request for enhancement of 100MW vide letter dated 17.5.2017.”

Thus, it was clearly recognized that the Petitioner was a ‘deemed Stage-II connectivity grantee’ for 300 MW at Bhuj pooling station in addition to being a Stage-I connectivity grantee for additional 300 MW.

(o) As per the discussions on the status of Petitioner's connectivity in the 27th Meeting of Western Region constituents held on 11.6.2018, the Respondent, vide letter dated 14.6.2018, informed the Petitioner as under:

“Accordingly, since M/s SESPL already meets the above requirements for its 300 MW wind farms in Kutch, Gujarat (Appl. No.1200000312), M/s SESPL (Kutch wind farm) is a deemed Stage-II connectivity grantee with details as given below:

** Details for Stage-II Connectivity*

A	<i>Capacity (MW) for which connectivity is granted:</i>	<i>300MW</i>
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	<p><i>B ISTS sub-station and bay at which Connectivity is granted</i></p>	<p><i>* 765/400/220kV Bhuj PS</i> <i>* Bay type: AIS (DMT scheme)</i> <i>* Bay nos.: Main 206 & 207 Tie: NA</i></p>
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All the other terms and conditions as provided in the original intimation for grant of connectivity dated 29.07.2016 shall remain the same. Further, as per clause 5.1 of the Detailed Procedure for Grant of connectivity to projects based on renewable energy sources to ISTS, you are requested to submit the required documents for Stage-II connectivity within 9 months of issue of the procedure.”

(p) Thus, the Petitioner was informed that in terms of the Detailed Procedure 2018, it was a deemed Stage-II connectivity grantee and that the only condition subsequent for the Petitioner to comply was to submit to the Respondent within 9 months the eligibility documents under Para 9.2 of the Detailed Procedure 2018. Further, it was also submitted that the bay numbers had only been renumbered in the above letter without any significant change in the physical location of the bays. The same was clarified vide letters dated 14.11.2018 and 17.1.2019 of the Respondent. Independent of the above, the Petitioner continued to remain an LTA grantee of the Respondent and continued to be bound by the terms and conditions of the LTA Agreement and the TSA executed by it with the Respondent.

(q) The progress of the Petitioner’s generation project was again monitored in the 20th JCC Meeting of Western Region held on 29.6.2018 wherein the Petitioner maintained its commissioning schedule progressively as ‘March 2019 onwards’. In the 21st JCC Meeting of Western Region held on 28.9.2018, the Petitioner for the first time updated its commissioning schedule to ‘as per SECI-IV i.e. February, 2020 for 250 MW’ and as per LOA for the remaining 50 MW as against the earlier stated ‘March, 2019 onwards’ which it had been submitting in the previous JCC Meetings . However, all the participants of the JCC Meeting were informed that the liability to pay transmission charges was to be in accordance with the provisions of the 2010 Sharing Regulations. It was also emphasized that as per the Order and directions of this Commission in Petition No. 229/RC/2015, LTAs were to be operationalized from the start date or commissioning



of the transmission system (whichever was later) irrespective of the progress of the generation project or establishment of payment security mechanism.

(r) In light of the above developments, especially pertaining to the issuance of LOAs by SECI and NTPC that the Petitioner vide its letter dated 8.10.2018 requested PGCIL to consider the grant of revised LTA in terms of clause 10.13 (ii) of the Detailed Procedure 2018. In response to the above letter, PGCIL vide its dated 14.11.2018 informed the Petitioner as under:

“M/s SESPL was granted connectivity vide intimation, mentioned at Ref. 1 (dated 29.07.2016) and LTA vide intimations mentioned at Ref. 2 & 3 (dated 31.03.2017 & 11.07.2017 respectively) for its 300MW wind farm at Bhuj, Gujarat. The connectivity for 300MW project was granted w.e.f 31.03.2018 while LTA for 300 MW was granted w.e.f. 31.03.2019 or availability of transmission system, whichever is later.

• As per the CERC Detailed Procedure for ISTS connected RE, the subject grant of connectivity was considered as deemed Stage-II. Same was intimated to you vide letter dated 14.06.2018 (Ref. 4) and it was requested to submit the required documents for Stage-II connectivity within 9 months of issue of the procedure Accordingly, there was no need to revise the earlier LTA intimations. The contentions of M/s SESPL that grant of LTA had become null and void on account of the Hon'ble Commission order dated 29.09.2017 in petition 145/MP/2017 consequent to which they could not participate in the bids is incorrect and not acceptable. In view of the above, no occasion has arisen for the inability of M/s SESPL to sign PPAs for commencement of its LTA. Further, it is also denied that any of CTU or CERC's orders or actions have cast serious aspersions on the treatment meted out to developers who had already been granted LTA.

• In regard to change of start date of LTA, it is to mention that the transmission system required for Connectivity and LTA is under advance stage of implementation and is expected progressively by Mar' 19. Therefore, LTA will be made effective with the commissioning of identified transmission system or 31.03.2019, whichever is later. Further, implementation of bays at Bhuj PS which is under the scope of M/s SESPL may be matched with the time-line for commencement of Stage-II connectivity/LTA.

• Regarding your request for grant of 250MW LTA to Western Region, it is to mention that presently, M/s SESPL has been granted 300MW LTA with following target beneficiaries: NR: 150MW: WR: 90MW and SR: 60MW. As per the extant CERC Regulations, in case there is any change by more than 100MW in the quantum of power to be interchanged using the ISTS or change in region from which electricity is to be procured or to which supplied, a fresh application is required to be made. Hence, SESPL would have to apply afresh for the additional quantum of power to be supplied to WR along with an unequivocal consent for payment of relinquishment charges towards the change in region as determined by CERC in Petition No.92/MP/2015.

• Regarding change in allocation of bays from Bay Nos. 219 and 220 to Bay Nos.206 and 207, it is to mention that only re-numbering of bays has been done to maintain the bay sequence of entire 220kV Switchyard without any significant change in physical bay location. The same has been carried out due to major expansion requirement for installation of additional 400/220kV ICTs and 220kV line bays at Bhuj PS. Thus, delay in implementation of above bays cannot be attributed to change in bay numbers.”



(s) Thus, the Petitioners' request for change in date of LTA was rejected and it was informed that the transmission system required for connectivity and LTA was under advance stage of implementation and was expected progressively from March 2019. Therefore, LTA was to be made effective with the commissioning of identified transmission system or 31.3.2019, whichever was later, as per the LTA grant and the revisions made thereunder. The Petitioner was accordingly requested to match the implementation of bays at Bhuj pooling station with the timeline for commencement of Stage-II connectivity/ LTA. Further, since the Petitioner was now requesting for a change of region by more than 100 MW, a fresh application was required to be made in terms of Regulation 12 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 (hereinafter referred to as the 2009 Connectivity Regulations).

(t) The Petitioner, vide application dated 8.1.2019, had already applied for grant of LTA of 250 MW from 29.2.2020 based on PPA of 250 MW (between the Petitioner and SECI) and Power Sale Agreement (between SECI and MP Power Management Co. Ltd.). The Petitioner also stated that it would be filing an application for revised LTA of 50 MW at a later date upon receiving intimation from NTPC regarding the target beneficiary. PGCIL vide letter dated 14.2.2019 notified the defects in the application to the Petitioner and reverted back the same for re-submission as the same had been made under para 10.13(ii) of the Detailed Procedure 2018 even when the provision did not enable making of any such application. The Petitioner re-submitted the application on 22.2.2019 and reiterated vide its letter dated 11.3.2019 that the LTA earlier granted to it had ceased to exist and that a revised LTA was required to be granted to it under para 10.13(ii) of the Detailed Procedure 2018. Since the Petitioner again wrongly insisted upon issuance of revised LTA, it was construed that the application of the Petitioner was not in conformity with the 2009 Connectivity Regulations and the Detailed Procedure 2018 and also that the deficiencies intimated in the application were not rectified. Accordingly, PGCIL vide letter dated 20.3.2019 closed the said application as per regulation 5(A)(d) of the 2009 Connectivity Regulations and clause 6.5 of the Detailed Procedure 2018. There already was a subsisting LTA in favour of the Petitioner whereunder the transmission system implementation had already begun. As such, there could not be another LTA grant for



transfer of the same power without the Petitioner relinquishing the existing grant in accordance with the provisions of the 2009 Connectivity Regulations.

(u) The provision under Para 5.1 of Detailed Procedure 2018 recognizing the connectivity previously granted to the Petitioner under Detailed Procedure 2010 is not a hardship or a limitation as has wrongly been contended by the Petitioner; rather it is in the nature of facilitation in order to protect the '*status quo*' of entities such as the Petitioner who have already started to undertake bay implementation works prior to the notification of the Detailed Procedure 2018. As such, the Petitioner's earlier granted connectivity has been recognized as 'Deemed Stage-II Connectivity' as per Para 5.1 of Detailed Procedure 2018, thus assuring the Petitioner of the already allocated bays and assigning an umbrella cover to any progress that the Petitioner has made till the time of notification of the Detailed Procedure 2018.

(v) The Petitioner's prayer pertaining to return the earlier bank Guarantee for ₹15 crore and accept the bank guarantee for ₹5 crore submitted is not tenable. PGCIL has already clarified to the Petitioner vide letters dated 16.10.2018 and 2.11.2018 that the bank guarantees for LTA and Stage-II connectivity emanate from separate provisions of the Procedures issued under the 2009 Connectivity Regulations and are not mutually related or adjustable. While the former is the construction phase bank guarantee (required to be submitted against the grant of LTA for 300 MW), the latter is the connectivity bank guarantee that was submitted by the Petitioner while applying for enhanced connectivity of 300 MW under the Detailed Procedure 2018. The construction phase bank guarantee is not liable to be returned as contended by the Petitioner as the LTA granted to the Petitioner continues to subsist.

Rejoinder of Petitioner

5. The Petitioner in its rejoinder vide affidavit dated 15.4.2019 has reiterated the submission made earlier in the petition and further submitted as under:

(a) The Petitioner is not bound by the terms and conditions of the earlier LTA Agreement and the TSA executed by it with PGCIL. In fact, the question which is to be answered is, '*whether the earlier LTA Agreement and the TSA executed by the Petitioner with the Respondent would survive, even if the petitioner is unable to submit the*



documents as required under clause 9.2 of the Detailed Procedure 2018. The Detailed Procedure 2018 which requires an earlier LTA grantee to demonstrate its eligibility and entitlement once again for grant of even Stage-II Connectivity, would definitely not recognize the earlier LTA and TSA, in case the Petitioner is unable to submit the documents required under Clause 9.2. Thus, in a situation where the PGCIL would not recognize an earlier LTA when the grantee is unable to submit documents under Clause 9.2, PGCIL cannot state that Petitioner would continue to be bound by the terms and conditions of the earlier LTA Agreement and the TSA even after submitting the said documents.

(b) Upon notification of the Detailed Procedure 2018 and submission of LOA by the Petitioner, the Petitioner became entitled to grant of a revised LTA with a new start date and hence, in the 21st JCC Meeting of Western Region held on 28.9.2018, the Petitioner updated its commissioning schedule to 'as per SECI-IV i.e. February, 2020 for 250MW' and as per LOA for the remaining 50 MW. The Petitioner, through its project company, Kutch Wind Farm Development Pvt. Ltd. has also recently signed a PPA with NTPC for the remaining 50 MW on 25.3.2019, in terms of which the firm beneficiary is Uttar Pradesh Power Corporation Limited.

(c) In relation to the contention of the respondent that Clause 5.1 of Detailed Procedure 2018 is in the nature of facilitation in order to protect the 'status quo' of entities such as the Petitioner who have already started to undertake bay implementation works prior to the notification of the Detailed Procedure 2018, the Petitioner has submitted that, no such protection would be continued to be provided, as far as Connectivity and LTA are concerned, in case the Petitioner would not submit the documents as required under Clause 9.2 of the Detailed Procedure 2018.

(d) The date of start and point of connection, obviously, has to be in tandem with the timeline of the LOA and project location of the entity. Accordingly, the Petitioner's right to get connected to Bhuj ISTS sub-station also stems from the above clause and more so on basis of the Bay Implementation Agreement signed with Respondent. The fact that the Petitioner's application has not been made under Clause 9 or that fulfilling the eligibility requirements under Clause 9.2 is a 'condition subsequent' for the Petitioner, does not disentitle the Petitioner for grant of a revised LTA. In fact, from a bare reading of Clause



10.13(ii) of the Detailed Procedure 2018, it is difficult to imagine which other entity is it referring to if not one such as the Petitioner, *which has already been granted LTA prior to notification of this Procedure.*

(e) In relation to PGCIL's contention against returning the earlier Bank Guarantee (BG), as per the Clause 11.2 of the Detailed Procedure 2018, the Petitioner has submitted that Conn-BG is to be submitted so as to ensure that Connectivity grantee shall complete the dedicated transmission line(s) and pooling substation within 24 months from the date of intimation of bay allocation at ISTS substation. However, since the dedicated transmission systems of the Petitioner being constructed for earlier 300 MW [i.e. SESPL switchyard – Bhuj PS 200 kV D/c line] has adequate capacity to cater to evacuate of 600 MW power, there is no requirement for the respondent to ensure that the Petitioner has to complete the dedicated transmission line separately for the additional 300 MW which has been granted Stage-II connectivity. Further, under the Detailed Procedure 2018, the Petitioner is obliged to provide a Bank Guarantee of Rs. 5 Crore for the Stage-II connectivity in respect of Phase-I of its 300 MW Project. Accordingly, the Respondent ought to return the earlier Bank Guarantee for Rs. 15 Crore dated 10.10.2017 and accept the Bank Guarantee for Rs. 5 Crore submitted under the letter dated 17.10.2018 towards Phase-I of the Petitioner's project.

6. The Petitioner vide affidavit dated 17.6.2019 has filed written submission and has reiterated the submissions made in the Petition and rejoinder and the same has also been considered.

Analysis and Decision

7. After consideration of submissions of the Petitioner and the Respondent, the following issues arise for our consideration:

(a) Issue No. 1: What should be the treatment to LTA applications of the Petitioner?

(b) Issue No. 2: What should be the treatment of the request of the Petitioner for change in target region?

(c) Issue No. 3: Whether any direction is required to be issued to PGCIL for return of Bank Guarantee of Rs. 15 crore dated 10.10.2017 to Petitioner?



(d) Issue No. 4: Whether any direction is required to be issued to PGCIL for grant of revised timeline for implementations of bays?

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

Issue No. 1: What should be the treatment to LTA applications of the Petitioner?

8. The Petitioner has submitted that for the purpose of connectivity, the Petitioner's Project is divided into two phases i.e. Phase-I and Phase-II of 300 MW each. For Phase-I of the Project, the Petitioner was granted connectivity by PGCIL on 29.7.2016 at the existing Bhuj Pooling Station and LTA was granted on 31.3.2017. The Petitioner was allocated two bays for its Project and the Petitioner has signed Bay Implementation Agreement on 19.5.2017 and paid the corresponding fee of ₹ 1.38 crore on 14.6.2017. The Petitioner has submitted that despite being an LTA grantee as regards Phase-I of the Project, the Petitioner has been reduced to the status of a deemed grantee of Stage-II Connectivity under sl.no.2 of clause 5.1 of the Detailed Procedure 2018 subject to submission of documents in terms of Clause 9.2 of the Procedure.

9. The Petitioner has contended that after notification of the Detailed Procedure 2018, PGCIL vide its letter dated 14.6.2018 granted Stage-II connectivity to the Petitioner and asked it to submit the required documents for Stage-II connectivity within 9 months of issue of the Detailed Procedure 2018. The Petitioner has contended that along with the said letter dated 14.6.2018, PGCIL was also obliged to grant a revised LTA as per provisions of Clause 10.13(ii) of the Detailed Procedure 2018. The Petitioner has submitted that no such revised LTA has been received from PGCIL till date.

10. The Petitioner has submitted that it won a 250 MW bid conducted by SECI on 5.4.2018 and 50 MW bid conducted by NTPC in August 2018. The Petitioner vide its letter dated 28.6.2018 informed PGCIL that it had received LOA issued by SECI for 250 MW. Information



was given by the Petitioner to PGCIL with respect to NTPC bid on 8.10.2018. The Petitioner executed PPA dated 4.9.2018 with SECI which was followed by a letter dated 28.9.2018 issued by SECI to MP Power Management Company Ltd. (MPPMCL) wherein it was informed that out of 500 MW to be supplied to MPPMCL, 250 MW would be through the Petitioner's project.

11. The Petitioner has stated that by submitting the documents (LOA, PPA etc.) related to winning SECI bid (250 MW) and NTPC bid (50 MW), it has complied with requirements for grant of Stage-II connectivity for Phase-I (300 MW) of its project in terms of Clause 9.2.1 of the Detailed Procedure 2018 and fulfilled its obligations as required vide letter of PGCIL dated 14.6.2018. It has submitted that the LTA granted to the Petitioner ceased to exist in law, pursuant to notification of the Detailed Procedure 2018 (which reduced the status of the Petitioner to deemed Stage-II connectivity grantee).

12. The Petitioner has submitted that vide its letters dated 8.10.2018 and 7.12.2018, it requested PGCIL to issue revised LTA in terms of Clause 10.13(ii) of the Detailed Procedure 2018 and also requested to revise the timeline for implementation of the two Bays 206 and 207 to February 2020 in line with the timelines of implementation of the Petitioner's 250 MW SECI Project and 50 MW NTPC Project. However, PGCIL vide its letter dated 14.11.2018 refused to grant revised LTA or to revise the region as Western Region for 250 MW or to amend the timeline for bay implementation.

13. Per contra, PGCIL has submitted that the LTA as applied for, was granted to the Petitioner vide intimation dated 31.3.2017 on target region basis for 150 MW to Northern Region, for 90 MW to Western Region and for 60 MW to Southern Region. The said LTA was



granted from 31.3.2018 which was later revised to 31.3.2019 or availability of transmission system, whichever was later, on basis of request of the Petitioner vide letter dated 11.7.2017.

14. As regards change of start date of LTA, the Respondent has mentioned that the transmission system required for Connectivity and LTA is under advance stage of implementation and is expected to be commissioned progressively from March 19. Therefore, LTA will be made effective with the commissioning of identified transmission system or 31.3.2019, whichever is later. Thus, the Petitioner's request for change in date of LTA was rejected by the Respondent stating that it was not tenable.

15. The Respondent has further submitted that the progress of the Petitioner's generation project has been reviewed in various JCC meetings and other forums wherein the Petitioner maintained that its project was likely to be commissioned by 31.3.2019. However, in the 21st JCC Meeting of Western Region held on 28.9.2018, the Petitioner for the first time updated its commissioning schedule to '*as per SECI-IV i.e. February, 2020 for 250 MW*' and as per LOA for the remaining 50 MW as against the earlier stated 'March, 2019 onwards' which it had been submitting in the previous JCC Meetings. However, all the participants of the JCC Meeting were informed that the liability to pay transmission charges was to be in accordance with the provisions of the 2010 Sharing Regulations.

16. As per the Respondent, the Petitioner continue to remain an LTA grantee and continue to be bound by the terms and conditions of the LTA Agreement and the TSA executed by it with the Respondent. It was also emphasized that as per Order and directions of this Commission in Petition No. 229/RC/2015, LTA is to be operationalized from the start date of LTA or commissioning of the transmission system (whichever was later) irrespective of the progress of the generation project or establishment of payment security mechanism. The



Petitioner was requested to match the implementation of bays at Bhuj pooling station with the timeline for commencement of Stage-II connectivity/ LTA. Further, since the Petitioner was requesting for a change of region by more than 100 MW, a fresh application was required to be made in terms of Regulation 12 of the 2009 Connectivity Regulations.

17. The Respondent has submitted that the Petitioner, vide application dated 8.1.2019, had applied for grant of LTA of 250 MW from 29.2.2020 based on PPA of 250 MW (between the Petitioner and SECI) and Power Sale Agreement (between SECI and MPPMCL). While making application for 250 MW, the Petitioner had also informed the Respondent that it would be filing an application for revised LTA of 50 MW at a later date upon receiving intimation from NTPC regarding the target beneficiary. PGCIL vide letter dated 14.2.2019 notified the defects in the application to the Petitioner and asked for re-submission of the application since the Petitioner had made it under para 10.13(ii) of the Detailed Procedure 2018. The Petitioner re-submitted the application on 22.2.2019 and reiterated vide its letter dated 11.3.2019 that the LTA earlier granted to it had ceased to exist and that a revised LTA was required to be granted to it under para 10.13(ii) of the Detailed Procedure 2018. PGCIL vide letter dated 20.3.2019 closed the said application as per regulation 5(A)(d) of the 2009 Connectivity Regulations and clause 6.5 of the Detailed Procedure 2018. The Respondent has stated that there cannot be two LTAs for transfer of the same power without the Petitioner relinquishing the existing LTA in accordance with the provisions of the 2009 Connectivity Regulations.

18. We have considered the submissions of the Petitioner and Respondent and also perused the relevant clauses of the Detailed Procedure 2018 and the 2009 Connectivity Regulations.

19. Clause 2.3 of the Detailed Procedure 2018 provides as under:



“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”*

“2.4 An entity may apply for Stage-I and Stage-II Connectivity separately or simultaneously. The application for Stage-II may be made along with or after Stage-I connectivity application.”

Thus, Clause 2.3 prescribes that Connectivity for generation projects based on RE sources such as that of the Petitioner shall be granted in two stages i.e. Stage-I Connectivity and Stage-II Connectivity. This is a departure from the earlier Procedure wherein Connectivity was granted at one go and there were no stages in grant of Connectivity.

20. The relevant provision regarding processing of application under Detailed Procedure 2018, for an applicant who has been granted connectivity or connectivity and LTA prior to issue of the Detailed Procedure 2018 is extracted as under:

“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:”

S. 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 implementation agreement.</i>	<i>Stage-I Connectivity</i>	<i>Deemed grantee of Stage-I Connectivity.</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 Petitioner is covered under sl.no. 2 of the Clause.

21. The relevant clause regarding LTA Application by entities covered under this Procedure is extracted as under:

“10.13 LTA Application by entities covered under this Procedure:

(i) An entity shall be eligible to apply for LTA either with Stage-II Connectivity Application or after applying for Stage-II Connectivity Application. It shall be granted LTA along with grant of Stage-II Connectivity or after the grant of Stage-II Connectivity.

(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, clause 10.13(ii) provides that an entity who had been granted LTA prior to the notification of the Detailed Procedure 2018 is to be issued a revised grant of LTA along with date of start and point of connection along with grant of Stage-II Connectivity.



22. An issue to be considered by us is whether submission of documents related to winning of bids (SECI/ NTPC) fulfills the requirement of sl.no.2 of the Clause 5.1 of the Detailed Procedure 2018. Relevant extract from Clause 9.2 of the Detailed Procedure 2018 is as under:

“9.2 Eligibility for Stage-II Connectivity

Any of the following shall be eligible for grant of Stage-II Connectivity:

9.2.1 An entity which has been selected through the tariff based competitive bidding carried out by the agency designated by the Central Government or the State Government for development of renewable generation projects including hybrid projects and is either a grantee of Stage-I connectivity or has applied for Stage-I and Stage-II Connectivity simultaneously. Such entity shall be required to submit letter of award issued by designated agency for development of the renewable generation project including hybrid projects.

9.2.2 An entity who is a grantee of Stage-I Connectivity or who has applied for grant of Stage-I and Stage-II Connectivity simultaneously, and is not covered under Clause 9.2.1 above, and having achieved the following milestones:

(i) Ownership or lease rights or land use rights for 50% of the land required for the capacity of Stage-II connectivity; and

(ii) Achievement of financial closure, (with copy of sanction letter) or Release of at least 10% funds towards generation project execution supported by Auditor’s certificate regarding release of such funds through equity.

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Thus, the Detailed Procedure 2018 has recognized two categories for grant of Stage-II Connectivity.

23. We note that the two sub-clauses under Clause 9.2 differ in the sense that the sub-clause 9.2.1 deals with entities that have been selected through the tariff based competitive bidding carried out by an agency designated by Central Government (e.g. SECI/ NTPC) or State Government for development of renewable generation projects while 9.2.2 deals with the renewable generation projects not covered under 9.2.1. Entities covered under 9.2.1 are required to submit letter of award issued by designated agency for development of the renewable generation project. Entities covered by 9.2.2 are required to submit ownership or lease rights or land use rights for 50% of the land required for the capacity of Stage-II connectivity; and achievement of financial closure/ release of at least 10% funds towards generation project execution supported by Auditor’s certificate regarding release of such funds through equity.



24. In our view, the requirement under sl.no.2 of Clause 5.1 does not differentiate between Clause 9.2.1 and Clause 9.2.2. To satisfy the conditions of Clause 9.2, the Petitioner had to submit documents (either under sub-clause 9.2.1 or sub-clause 9.2.2). The option was at the hands of the Petitioner to submit the document that was possible for it to provide. Once the documents as per provisions of Clause 9.2 (irrespective of it being under clause 9.2.1 or clause 9.2.2) have been submitted, the requirement of Clause 5.1 in respect of grant of Connectivity to the Petitioner stands confirmed.

25. The Petitioner has contended that subsequent upon submission of documents under Clause 9.2.1 makes it eligible for shift in operationalization of LTA to February 2020 in line with deadlines as provided in the bidding documents of SECI/ NTPC. PGCIL has submitted that since the Petitioner was granted LTA and had also signed Bay Implementation Agreement before coming into force of the Detailed Procedure 2018, the Petitioner's LTA cannot be shifted as per bid documents.

26. Petitioner has placed reliance upon provisions of Clause 10.13(ii) of the Detailed Procedure 2018 and argued that subsequent upon coming into force of the Detailed Procedure 2018, PGCIL was required to issue revised LTA to the Petitioner (inter-alia including date of start and point of connection) along with grant of Stage-II Connectivity. The Respondent on the other hand has argued that there was no need to grant any revised LTA for case of the Petitioner as the Petitioner had already signed LTA before coming into force of the Detailed Procedure 2018. Also, since the construction of required transmission system as per requested LTA is in advanced stage of construction, the Petitioner's request is not tenable.

27. The Petitioner has also relied upon PGCIL's letter dated 14.6.2018 to argue that PGCIL had granted Stage-II connectivity to the Petitioner and had requested the Petitioner to submit



the requisite documents. The Petitioner has construed that letter of 14.6.2018 of PGCIL was a letter wherein the Petitioner was granted Stage-II Connectivity and has, therefore, requested that subsequent upon submission of documents as per Clause 9.2.1 makes it eligible for grant of revised LTA in terms of provisions of Clause 10.13(ii) of the Detailed Procedure 2018.

28. We have perused the PGCIL's letter dated 14.6.2018. The relevant extracts of the letter dated 14.6.2018 is extracted as under :

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In this regard, it is to mention that as per the CERC Detailed Procedure for Grant of Connectivity to projects based on renewable energy sources to Inter-State Transmission System, notified vide order dated 15.05.2018, applicant who have been granted connectivity and have signed the bay implementation agreement and have paid the initial advance as per the agreement shall become deemed Stage-II connectivity grantees subject to fulfilment of condition in clause 9.2 of the detailed procedure.

Accordingly, since M/s. SESPL already meets the above requirements for its 300 MW wind farms in Kutch, Gujarat (Appl. No 1200000312), M/s. SESPL (Kutch wind farm) is a deemed Stage-II connectivity grantee with details as given below:

Details for Stage-II Connectivity

A	<i>Capacity (MW) for which connectivity is granted</i>	300 MW
B	<i>ISTS sub-station and bay at which Connectivity is granted.</i>	<ul style="list-style-type: none"> • 765/400/220 kV Bhuj PS • Bay type AIS (DMT scheme) • Bay nos. Main 206 & 207 tie: NA

xxxxx

29. We observe that through the above letter, PGCIL informed the Petitioner that as per Detailed Procedure 2018, the Petitioner by virtue of having been granted connectivity, having signed Bay Implementation Agreement and having paid the initial advance, has become the deemed Stage-II connectivity grantee in terms of Detailed Procedure 2018 subject to the fulfillment of conditions in clause 9.2. We observe that PGCIL has not granted Stage-II Connectivity afresh to the Petitioner and rather only confirmed to the Petitioner that it was a



deemed Stage-II Connectivity grantee and that the Petitioner was required to submit the requisite documents for Stage-II connectivity within 9 months of the issue of the Detailed Procedure as provided in sl.no.2 of Clause 5.1. Therefore, the Petitioner's contention that it was granted Stage-II Connectivity vide letter dated 14.6.2018 is incorrect. In fact, the letter only states that the Petitioner was a deemed grantee of Stage-II Connectivity and that it requires to fulfil certain conditions as per provisions of the Detailed Procedure 2018.

30. The Petitioner has interpreted the provisions of sl.no.2 of clause 5.1 of the Detailed Procedure to mean that its status has been reduced to that of a deemed Stage-II Connectivity grantee and that it is no longer an LTA grantee. It has submitted that once it fulfilled conditions of Clause 9.2, it is eligible for issue of revised grant of LTA as per Clause 10.13(ii) of the Detailed Procedure 2018. It has argued that this provision is applicable in its case since it was an existing entity with LTA and that it was granted Stage-II Connectivity by PGCIL.

31. In our view, the contention of the Petitioner is misplaced. With coming into force of the Detailed Procedure 2018, the Connectivity status of the Petitioner became that of a deemed Stage-II grantee while there was no change in its status as regards LTA. It only had to confirm its Stage-II grantee status by furnishing details as sought for under clause 9.2 of the Procedure. As already noted, it has submitted required documents and, therefore, its status as Stage-II Connectivity grantee has been confirmed.

32. We have already concluded above that the Petitioner was not granted Stage-II Connectivity by PGCIL and was rather informed that it was a deemed Stage-II Connectivity grantee vide letter dated 14.6.2018. Therefore, the provisions of 10.13 (ii) is not applicable in case of the Petitioner, as it was a deemed Stage-II Connectivity grantee. In fact, this provision is applicable in case of only those applicants who were Stage-I grantee (with LTA) by virtue of



Detailed Procedure 2018 and were subsequently granted Stage-II Connectivity by PGCIL. In other words, it is applicable to those applicants who are covered under sl.no. 6 of clause 5.1 of the Detailed Procedure 2018 if they apply for Stage-II Connectivity and are granted such Connectivity by PGCIL. We, therefore, do not accept the argument of the Petitioner that PGCIL was required to grant revised LTA to it. The Petitioner has already been granted LTA with start date as 31.3.2019 or availability of transmission system, whichever is later. As informed by PGCIL during hearing, the transmission system is under advance stage of implementation.

33. The Petitioner has sought declaration of setting aside of PGCIL letter dated 14.11.2018 wherein PGCIL rejected the Petitioner's request for the grant of revised LTA. Since, we have already decided that the earlier LTA granted to the Petitioner subsists, the prayers of the Petitioner in this regard is rejected.

34. The Petitioner has also sought to declare PGCIL letter's dated 14.6.2018 to be void as far as it suggests that 'all other terms and conditions as provided in the original intimation for grant of connectivity dated 29.7.2016 shall remain the same...". In our view, PGCIL vide its letter dated 14.6.2018 only informed that the Petitioner is a deemed Stage-II grantee subject to submissions of documents and, therefore, it is just and appropriate to keep the same terms and conditions as provided in the original intimation for grant of connectivity dated 29.7.2016. Accordingly, the prayer of the Petitioner in this regard is rejected.

Issue No.2: What should be the treatment of the request of the Petitioner for change in target region?

35. The Petitioner has submitted that it requested PGCIL vide its several letters to grant revised LTA in terms of clause 10.13(ii) of the Detailed Procedure 2018. The Petitioner has also stated that Phase-I of its project has been successful in winning 250 MW in the 4th Tranche of the 2000 MW e-reverse auction conducted by SECI in the month of April 2018. The



Petitioner has also been successful in winning 50 MW in the NTPC auction held in August 2018 for which LOA has not been issued. SECI informed the Petitioner that it has executed a Power Supply Agreement with MPPMCL for sale of 500 MW out of which 250 MW of power was to be procured from the Petitioner. Accordingly, the Petitioner requested PGCIL for grant of revised LTA for 300 MW with 250 MW for Western Region. The Petitioner, through its project company, Kutch Wind Farm Development Pvt. Ltd. has signed a PPA with NTPC for the remaining 50 MW on 25.3.2019, in terms of which the firm beneficiary is Uttar Pradesh Power Corporation Limited.

36. PGCIL has submitted that since the Petitioner is requesting for a change of region by more than 100 MW, as per the extant provisions of 2009 Connectivity Regulations, a fresh application is required to be made. Hence, Petitioner would have to apply afresh for the additional quantum of power to be supplied to WR along with an unequivocal consent for payment of relinquishment charges towards the change in region as determined by the Commission in Petition No.92/MP/2015.

37. The Respondent has also submitted that the Petitioner, vide application dated 8.1.2019, had applied for grant of LTA of 250 MW from 29.2.2020 based on PPA of 250 MW (between the Petitioner and SECI) and Power Sale Agreement (between SECI and MPPMCL). While submitting the application, the Petitioner had also informed the Respondent that it would be filing an application for revised LTA of 50 MW at a later date upon receiving intimation from NTPC regarding the target beneficiary. PGCIL vide letter dated 14.2.2019 notified the defects in the application to the Petitioner and asked for re-submission of the application since the Petitioner had made it under clause 10.13(ii) of the Detailed Procedure 2018. The Petitioner re-submitted the application on 22.2.2019 and reiterated vide its letter dated 11.3.2019 that since the LTA earlier granted to it had ceased to exist, a revised LTA was required to be



granted under Clause 10.13(ii) of the Detailed Procedure 2018. PGCIL vide letter dated 20.3.2019 closed the said application as per regulation 5(A)(d) of the 2009 Connectivity Regulations and clause 6.5 of the Detailed Procedure 2018. The Respondent has stated that there cannot be two LTAs for transfer of the same power without the Petitioner relinquishing the existing LTA in accordance with the provisions of the 2009 Connectivity Regulations.

38. We have considered the submission of the Petitioner and the Respondent. It is noted that Petitioner was granted LTA on target region basis i.e. 150 MW to Northern Region, 90 MW to Western Region and 60 MW to Southern Region. Thereafter, the Petitioner was issued a Letter of Award (LOA) by SECI for implementation of 250 MW with target region as WR and LOA from NTPC for implementation of 50 MW with target region as NR. In view of these, Petitioner requested for revised LTA with target region as WR for 250 MW (by the time it signed PPA with NTPC on 25.3.2019 for supply of 50 MW to UPPCL, its fresh LTA application for grant of LTA was rejected by PGCIL on 20.3.2019). We note that the Petitioner has insisted to issue revised LTA on basis of provisions of Regulation 10.13(ii) of the Detailed Procedure 2018. We have already held earlier that this provision is not applicable in case of the Petitioner. Therefore, we agree with PGCIL that a fresh application has to be made by the Petitioner without referring to 10.13(ii).

39. Last proviso to the Regulation 12(1) of the 2009 Connectivity Regulations deals with cases of change in target region for more than 100 MW and the same is reproduced hereunder:

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Provided also that in cases where there has been any material change in the location of the applicant or change by more than 100 MW in the quantum of power to be interchanged using the inter-State transmission system or change in the region from which electricity is to be procured or to which supplied, a fresh application shall be made, which shall be considered in accordance with these regulations.”



40. In view of the above, the contention of the Petitioner to grant LTA as per new target region is not acceptable. The Petitioner is required to apply for LTA afresh and its case cannot be considered under 10.13(ii) of the Detailed Procedure 2018.

Issue No. 3: Whether any direction is required to be issued to PGCIL for return of earlier Bank Guarantee dated 10.10.2017 of Rs. 15 crore to Petitioner?

41. The Petitioner has submitted that since the earlier LTA has ceased to exist, the Bank Guarantee of ₹15 crore submitted under the earlier granted LTA should be returned to the Petitioner. However, PGCIL vide its letter dated 19.9.2018 requested the Petitioner to submit a Connectivity BG of ₹5 crore towards Stage-II connectivity granted to Phase-II of the project as an enhancement in the previously granted Stage-II Connectivity to Phase-I of the Petitioner's project. In response, the Petitioner vide its letter dated 4.10.2018 informed PGCIL that the Petitioner is required to provide BG of only ₹5 crore towards Stage-II Connectivity granted in respect of Phase-I of its 300 MW Project. Further, the Petitioner submitted that it is not required to submit BG towards Stage-II Connectivity for Phase-II of its Project as Stage-II connectivity has been granted under the enhancement route envisaged in Clause 13(ii) of the Detailed Procedure 2018. Accordingly, the Petitioner has prayed to replace the earlier BG of ₹15 crore with a new BG of ₹5 crore towards Phase-I of its Project.

42. PGCIL has submitted that Petitioner's contention regarding return of earlier BG for ₹15 crore and to accept BG of ₹5 crore, is not tenable since the BG for LTA and Stage-II connectivity emanate from separate provisions of the Detailed Procedure 2018 issued under the 2009 Connectivity Regulations and are not mutually related or adjustable. While the former is the Construction Phase BG (required to be submitted against the grant of LTA for 300 MW), the latter is the connectivity bank guarantee that was submitted by the Petitioner while applying for enhanced connectivity of 300 MW under the Detailed Procedure 2018. The



construction phase bank guarantee is not liable to be returned as contended by the Petitioner as the LTA granted to the Petitioner continues to subsist.

43. We have considered the submissions of the Petitioner and the Respondent. It is observed that the Petitioner's Project has been divided into two phases i.e. Phase-I and Phase-II of 300 MW each. For Phase-I of 300 MW, the Petitioner was granted Connectivity on 29.7.2016 and the LTA was granted on 31.3.2017. The Petitioner has also signed the LTA Agreement and Transmission Service Agreement with PGCIL on 11.7.2017. The relevant portion of LTA Agreement dated 11.7.2017 is reproduced as under:

"1.0

(a) ---- shall furnish a Bank Guarantee, as per format given by the CTU, from a bank for an amount of Rs 15 Crores (Rupees Fifteen Crores Only) as security mechanism for the transmission system to be built, owned and operated by ISTS licensee (the same being Rs 5 lakh per MW, currently)....."

44. A reading of above provision reveals that the Petitioner has furnished Construction Bank Guarantee for the sum of ₹15 crore as security money for the transmission system to be built by the PGCIL in pursuance to the LTA agreement entered into between Petitioner and the PGCIL, which was required to be initially kept valid for a period of six months after the expected date of commissioning schedule of the Petitioner's generation projects/ dedicated line or the actual date of its commissioning. It is also noted that the BG has to be kept valid for a period of six months after the expected date of commissioning schedule of the Petitioner's generation projects. It is also not in dispute that the Petitioner has not commissioned its Project. Therefore, the Petitioner's contention that the Petitioner is entitled for the return of BG of ₹ 15 crore is misplaced.

45. We are inclined to accept the submission of PGCIL that the BG of ₹15 crore submitted by the Petitioner was towards construction BG and another BG of ₹5 crore is connectivity BG towards enhanced connectivity sought by the Petitioner and both emanate from separate



provisions of the Detailed Procedures issued under Connectivity Regulations and can't be linked with each other. It is noted that as per clause 10.10 of the Detailed Procedure 2018, Conn-BG is required to be issued by a scheduled bank in favour of PGCIL for the amount indicated below:

Connectivity Quantum sought	Conn-BG
Upto 80 MW (only in case of connectivity in NER)	Rs.1,00,00,000/- (Rs. One Crore)
Upto 300 MW	Rs.5,00,00,000/- (Rs. Five Crore)
For every incremental 300MW	Rs.5,00,00,000/- (Rs. Five Crore)

The above table shows that a BG of ₹ 5 crore is required to be submitted for every incremental 300 MW Connectivity.

46. The Petitioner has submitted that Phase-II has been granted Stage-II connectivity under the enhancement route envisaged in clause 13(ii) of the Detailed Procedure 2018 and, therefore, the Petitioner is not required to submit any BG towards the enhanced Connectivity and that the Petitioner is required to submit the BG of ₹5 crore towards the Stage-II Connectivity of Phase-I. Clause 13 (ii) of the Detailed Procedure 2018 is reproduced as under :

“13. Application for Additional Quantum (Enhancement) of Connectivity

(ii) Stage II Connectivity grantee may apply for additional quantum of the Connectivity, if required, as per FORMAT-RCON-E. CTU shall consider the capacity of dedicated transmission line while granting the enhancement of Connectivity.”

47. It is observed that Clause 13(ii) has nowhere exempted the Connectivity Grantee from furnishing BG towards additional quantum of Connectivity sought. Since the Petitioner has sought enhancement of already granted 300 MW, Stage-II Connectivity and clause 10.10 of the Detailed Procedure 2018 mandate for the furnishing of BG of ₹5 crore for every incremental 300 MW connectivity, the Petitioner shall be required to submit BG of ₹ 5 crore towards the grant of Stage-II Connectivity to Phase-II of the Project.



48. In the light of above discussion, the prayer of the Petitioner to return the earlier BG for ₹15 crore is rejected. Further, BG dated 17.10.2018 of ₹5 crore shall be treated as Connectivity BG towards enhanced connectivity sought by the Petitioner.

Issue No. 4: Whether any direction is required to be issued to PGCIL for grant of revised timeline for implementations of bays?

49. The Petitioner has submitted that it had requested the Respondent to revise the timeline for implementation of the two revised Bays 206 and 207 to February 2020 in line with the timelines of implementation of the Petitioner's 250 MW SECI Project and 50 MW NTPC Project. Further, the Petitioner has submitted that the revision sought is well within the timeline allowed under Clause 11.2 of the Detailed Procedure 2018, which provides that Stage-II Connectivity grantees shall be required to complete the dedicated transmission line(s) and pooling sub-station(s) within 24 months from the date of intimation of bay allocation at existing or new/ under-construction ISTS sub-station. However, the Respondent has refused to amend the timeline for Bay Implementation.

50. PGCIL has submitted that delay in implementation of bays can't be attributed to re-numbering of bays, as it was done to maintain the bay sequence of entire 220 kV Switchyard without any significant change in physical bay location.

51. We have considered the submissions of the Petitioner and the Respondent. Since there is no change in physical location of bays, we do not find merit in Petitioner's claim of delay due to change in names of bays. Hence, we are not inclined to issue any direction in this regard.

52. Petition No. 7/MP/2019 is disposed of in terms of the above.

Sd/-
(I. S. Jha)
Member

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

Sd/-
(P. K. Pujari)
Chairperson

