

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 261/MP/2020

Subject : Petition seeking release of Bank Guarantee issued in favour of Respondent No.1 owing to frustration of the Long-Term Access Agreement dated 19.10.2012 between the Petitioner No.1 and Respondent No.1 in exercise of powers under Regulation 33A of the Central Electricity Regulatory Commission (Grant of Connectivity, Long-Term Access and Medium-Term Open Access in Inter-State Transmission System and related matters) Regulations, 2009.

Date of Hearing : 6.8.2020

Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member

Petitioners : Dirang Energy Limited (DEL) and Anr.

Respondents : Power Grid Corporation of India Limited (PGCIL) and Anr.

Parties present : Shri Gopal Jain, Sr. Advocate, DEL
Shri Sayan Ray, Advocate, DEL
Shri Samrat Sengupta, Advocate, DEL
Ms. Jyoti Prasad, PGCIL

Record of Proceedings

The matter was heard through video conferencing.

2. Learned senior counsel for the Petitioners submitted that the instant Petition has been filed, *inter-alia*, seeking release of Bank Guarantee issued in favour of Respondent No.1, Power Grid Corporation of India Limited (PGCIL) owing to frustration of the Long-Term Access Agreement dated 19.10.2012 executed with PGCIL in exercise of power conferred under Regulation 33A of the Central Electricity Regulatory Commission (Grant of Connectivity, Long-Term Access and Medium-Term Open Access in Inter-State Transmission System and related matters) Regulations, 2009 (in short 'Connectivity Regulations'). Learned senior counsel further submitted as under:

(a) In terms of the Memorandum of Agreement (MoA) entered into with Government of Arunachal Pradesh, the Petitioners were allotted Gongri Hydro Electric Project (in short, 'the Project') for development on BOOT basis. In order to evacuate power from the Project, the Petitioners applied to PGCIL for grant of Long-Term Access and consequently entered into Long-Term Access Agreement (LTAA) and Transmission Service Agreement with PGCIL.



(b) However, work of the Project was delayed on account of various reasons including frequent interruption by nearby villagers creating law and order situations, lack of on-site security and failure to obtain necessary clearances, etc., which were not attributable to the Petitioner. Regardless, Government of Arunachal Pradesh, vide its Termination Notice dated 1.3.2018, had terminated MoA.

(c) The said Termination Notice was challenged by the Petitioners before the Hon'ble Guwahati High Court in W.P (C) 207 (AP)/2018. Hon'ble Guwahati High Court vide its order dated 26.6.2018 has, in the interregnum, directed status-quo to be maintained in respect of the Termination Notice and its consequent effects.

(d) The Commission in its order dated 7.1.2020 in Petition No. 159/MP/2019 in the case of Toramba Renewable Energy India Private Limited v. PGCIL and Ors. has already granted similar relief to the aggrieved party therein on similar ground in exercise of its power conferred under Regulation 33A of the Connectivity Regulations.

3. The representative for the Respondent, PGCIL accepted the notice and sought time to file reply to the Petition. She further submitted that LTA granted to the Petitioner has not been operationalized and the entire transmission system envisaged for evacuating the power from Hydro Electric Projects has been de-notified.

4. After hearing the learned senior counsel for the Petitioner and the representative of the Respondent, PGCIL, the Commission admitted the Petition and directed to issue notice to the Respondents.

5. The Commission directed the Petitioners to serve copy of the Petition on the Respondents immediately, if not already served. The Respondents were directed to file their reply by 28.8.2020 with advance copy to the Petitioners who may file their rejoinder, if any, by 11.9.2020.

6. The Commission directed the Petitioners to furnish the following details/information on affidavit by 28.8.2020:

(a) Latest status of Gongri Hydro Electric Project and dedicated transmission lines i.e. Saskang-Rong- Gongri (132 KV) TL and Gongri-Dinchang (220 KV) TL under the scope of the Petitioner as per LTAA;

(b) Whether any request has been made to PGCIL for relinquishment of LTA granted?

7. The Commission further directed PGCIL to submitted the following information on affidavit on or before 28.8.2020:

(a) Current status of Associated Transmission identified in LTAA required for transmission of power from the Petitioner`s project; and

(b) Whether Associated Transmission System has been awarded and if so, whether any investment has been made thereon?



8. Learned senior counsel for the Petitioners submitted that during the pendency of the present Petition, PGCIL may be restrained from invoking/encashing the Bank Guarantee furnished by the Petitioners. Considering the request of the learned senior counsel, the Commission directed the Respondent, PGCIL not to encash the Bank Guarantee furnished by the Petitioners till the next date of hearing.

9. The Commission directed that the due date of filing of reply, rejoinder and additional details/information should be strictly complied with.

10. The Petition shall be listed for hearing in due course for which separate notice will be issued.

By order of the Commission

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

