

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No. 56/MP/2019
Petition No. 57/MP/2019
Petition No. 58/MP/2019**

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

Date of Order: 13.01.2020

In the matter of:

Petition under Section 79(1)(c) of the Electricity Act, 2003 read with Regulation 27 and 33A 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 for time extension of achieving financial closure as provided under Clause 9.3.2 of the Detailed Procedure issued by the Central Commission for 'Grant of Connectivity to projects based on Renewable sources to the inter-State Transmission System' dated 15.5.2018.

And

In the matter:

Vaayu Renewable Energy (Sironj) Private Limited
1102 (3), 11th Floor, Fortune Terrace,
New Link Road, Andheri West,
Mumbai- 400053

.....PETITIONER

Versus

Power Grid Corporation of India Limited
Saudamini, Plot No-2,
Sector-29, IFFCO Chowk, Gurgaon
Haryana – 122001

.....RESPONDENT

Petition No 57/MP/2019

In the matter:

Vaayu Renewable Energy (Kaveri) Private Limited
Hare Krishna Residency Society,
North South Road No.8, Ville Parle (West)
New Link Road, Andheri West,



Mumbai- 400049

.....PETITIONER

Versus

Power Grid Corporation of India Limited
Saudamini, Plot No-2,
Sector-29, IFFCO Chowk, Gurgaon
Haryana – 122001

.....RESPONDENT

Petition No 58/MP/2019

In the matter:

Vaayu Renewable Energy (Krishan) Private Limited
Hare Krishna Residency Society,
North South Road No.8, Ville Parle (West)
New Link Road, Andheri West,
Mumbai- 400049

.....PETITIONER

Versus

Power Grid Corporation of India Limited
Saudamini, Plot No-2,
Sector-29, IFFCO Chowk, Gurgaon
Haryana – 122001

.....RESPONDENT

Parties Present

Shri M.G. Ramachandran, Sr. Advocate, Vaayu Renewable
Shri Shubham Arya, Advocate, Vaayu Renewable
Ms. Tanya Sareen, Advocate, Vaayu Renewable
Ms. Anushree Bardhan, Advocate Vaayu Renewable
Shri Ashish Srivastav, Vaayu Renewable
Ms. Suparna Srivastav, Advocate, PGCIL
Ms. Sanjana Dua, Advocate, PGCIL
Ms. Jyoti Prasad, PGCIL
Shri Ranjeet Rajput, PGCIL
Shri Swapnil Verma, PGCIL
Dr. V. N. Paranjape, PGCIL
Shri Siddharth Sharma, PGCIL
Shri S. M. Fahad, PGCIL

Order

The Petitioners, Vaayu Renewable Energy (Sironj) Private Limited, Vaayu



Renewable Energy (Kaveri) Private Limited, Vaayu Renewable Energy (Krishan) Private Limited (hereinafter collectively to be referred as “ Petitioners”) have filed the present Petitions for seeking extension of time by 8 months to achieve the financial closure as provided under the Central Electricity Regulatory Commission (Grant of Connectivity, Long Term and Medium Term Open Access in Inter State Transmission and related matters) Regulations, 2009 (hereinafter to be referred as Connectivity Regulations) read with Clause 9.3.2 of the Detailed Procedure dated 15.5.2018. The Petitioners have made the following prayers:

- a) Grant to the Petitioner the extension of time by 8 months to achieve the financial closure as provided under the Connectivity Regulations read with the Detailed Procedure and the timeline specified under Clause 9.3.2 of the Detailed Procedure and consequently the extension in achieving timelines as mentioned in Annexure 3 to the Transmission Agreement by 8 months; and
- b) Restrain the Respondent from en-cashing the Bank Guarantee dated 16.8.2018 furnished by the Petitioner till the decision in the present petition.

2. The detail of the Petitions filed by the Petitioners are as under :

S.No.	Petition No.	Project	Connectivity	
			Phase I	Phase II
1.	56MP/2018 Vaayu Renewable Energy (Sironj) Private Limited	300 MW : Wind Generation Project at RohaSumri, Kutch District in Gujarat	Applied: 25.5.2018 Granted:17.7.2018	Applied:12.6.2018 Granted : 19.7.2018
2.	57/MP/2018 Vaayu Renewable Energy (Kaveri) Private Limited	250 MW : Wind Generation Project at Meghpar, Kutch District in Gujarat	Applied: 25.5.2018 Granted:17.7.2018	Applied:7.6.2018 Granted :19.7.2018
3.	58/MP/2018	300 MW : Wind arm and	Applied: 25.5.2018	Applied:8.6.2018



	Vaayu Renewable Energy (Krishan) Private Limited	Generation Project at Ratidya, Kutch District in Gujarat	Granted:17.7.2018	Granted :19.7.2018
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Submissions of the Petitioners

3. Pursuant to the grant of the Stage II Connectivity, the Petitioners have executed, Transmission Agreement for Connectivity and have also furnished bank guarantee of ₹ 5 crore each to the Respondent in respect of each of its wind farm projects to be developed in the Kutch district in the State of Gujarat.

4. The Petitioners have taken substantial steps for establishing their wind farm projects and have already acquired more than 50% of the land required for their wind farm projects under the order of District Collector under Gujarat Land Policy, 2004 dated 11.6.2004.

5. The Revenue Department, Govt. of Gujarat vide its letter dated 25.7.2018 instructed the District Collectors to process application for allotment of revenue lands received from the Project Developers selected for setting up the Wind Farm Projects under the bid process initiated by the Gujarat Urja Vikas Nigam Limited (GUVNL) and to keep all other applications pending till the finalization of the New Land Policy by the Government of Gujarat.

6. Pursuant to Govt. of Gujarat letter dated 25.7.2018, the Association of Non-Conventional Energy Developers made several representations to Govt. of Gujarat, Ministry of New and Renewable Energy (MNRE) and Solar Energy Corporation of India (SECI) and requested to resolve the issue pertaining to revenue land allotment. Further, MNRE vide its letter dated 7.8.2018 issued advisory to Govt. of Gujarat that



Revenue Department may be advised to process all applications relating to land allotment and accord various clearance for RE projects on priority irrespective of bidding agencies. Further, in accordance with the advisory issued by MNRE, the Revenue Department, Govt. of Gujarat vide its letter dated 12.9.2018 directed the District Collect to process the land allocation applications only of those companies who have won bids invited either by GUVNL or Solar Energy Corporation of India or other agencies of the Govt. of India supported by letter of the effect from GEDA and other applications to be kept on hold till the issuance of new policy.

7. Despite the several representations, directions and discussions made by the Petitioners, the Government of Gujarat did not process the Petitioner's applications for the allotment of remaining land under the then prevailing Land Policy for allotment of revenue land.

8. The Government of Gujarat notified New land Policy on 25.1.2019. The New Land Policy should have been applied prospectively. The Govt. of Gujarat is not allotting the revenue lands even for the projects for which the application for allotment of revenue land was filed and were kept pending in abeyance by the District Collector vide letter dated 25.7.2018 pending notification of the New land Policy. The New land policy is proposed to be considered only for the projects of maximum capacity of 1000 MW and above. The restriction imposed by new Land Policy upon allotment of revenue lands for the Wind Farm Projects of a capacity less than 1000 MW and also further not considering the allotment of revenue lands for the projects which has already been granted Stage-II approval and where the revenue lands have been allotted substantially to the extent of more than 50% have resulted in a situation where the Petitioner has been delayed in fulfilling the conditions



specified in Stage-II Grant, namely, achievement of the financial closure. The impact on the Petitioner's project in regard to the achievement of the financial closure has been on account of the above supervening reasons and events and not on account of any delay or default or failure or otherwise any factor attributable to the Petitioner. The Petitioner has in right earnest proceeded to establish the Wind Farm Projects, acquired substantial part of the land i.e. more than 50% of the total land required by Orders of the District Collector for allotment of the revenue lands and furnished the requisite Bank Guarantee to the Respondent.

9. Pursuant to New Land Policy dated 25.1.2019, the Petitioners had to proceed with alternative of acquisition of private lands in place of originally envisaged acquisition of revenue lands to fulfill the conditions specified in Stage II grant. The Petitioner kept waiting for New land Policy for the period between 25.7.2018 to 25.1.2019. Further, the acquisition of land from private parties involves more detailed process of negotiation and finalization and also considerable higher expenditure for setting up the Wind Farm Projects. The Petitioners are in process of pursuing the acquisition of land from private parties in regard to balance land required for the projects.

10. The Petitioners kept informed the Respondent about their project status in the Joint Coordination Committee Meetings conducted by CTU and has also been submitting on a regular basis the quarterly reports of the development in the establishment of the Wind Farm Projects to the Respondent.

11. Due to the above mentioned supervening events, the Petitioner is not able to maintain the time frame specified in Clause 9.3.2 of the Detailed Procedure pertaining to the achievement of the financial closure within the period of 9 months



from the Grant of Stage-II Connectivity. Therefore, the Petitioners may be granted an extension of eight months for fulfilling the conditions specified in detailed procedure.

12. The financial viability of the project depends upon achieving economy of scale and therefore, there is need for establishing a project in the minimum range of 300 MWs. For this, the Petitioner has to identify the entire land required for the entire 300 MW project to get the financial closure. The lenders and financial institution will not undertake financial appraisal for such a large project without 100% land for the project being tied up.

13. The cost of the project is also linked to the expenditure which is incurred on the associated infrastructure required for the evacuating the electricity from the project, i.e. the substation and transmission lines etc, which constitute a significant amount of expenditure for the project under construction. In order to make the Project financially viable, the Petitioner would require 100% of the land to set up the 300 MW project by acquiring private land for the balance footprints.

14. The Detailed Procedure notified by the Commission is procedural nature and does not prohibit the Commission to exercise powers to extend the time for completion of the conditions such as the financial closure. The Detailed Procedure has been evolved by the Commission for implementation of the Connectivity Regulations. The Commission had decided on the time frame for the purpose of such implementation and has the inherent powers to consider and grant extension of time for fulfilling any condition, if the circumstances of the case so warrants. The timeline specified under Clause 9.3.2 of the Detailed Procedure can, therefore, be extended by the Commission in the present case where the Petitioner has been affected by the events which were beyond any control of the Petitioner and the



Petitioner is not in any manner acted contrary to the Regulations.

15. The Petitions were admitted on 4.4.2019 and the notices were issued to PGCIL to file its reply. PGCIL has filed its reply vide affidavit dated 2.5.2019

Submissions of PGCIL vide affidavit dated 2.5.2019

16. PGCIL had filed Petition No. 145/MP/2017 seeking regulatory interventions to ensure efficient utilization and for preventing underutilization of bays for connectivity granted to Wind/Solar generation projects. The Commission vide its order dated 29.9.2017 issued detailed direction pertaining to processing of the pending application for connectivity in respect of wind power developers as under :

“99..... The Commission is of the view that merely because a connectivity grantee has not participated in the bid or has not been selected in the bid cannot be held against him. If a wind power generator acquires connectivity and takes no actions towards project development for a long period of time, the connectivity granted cannot be allowed to continue ad infinitum. Therefore, there is a need to assess the progress on the basis of certain objective criteria. CTU is directed to frame objective criteria to be prescribed through amendment to Detailed Procedure after seeking comments from the stakeholders and submit to the Commission within a period of two month from the date of issue of this order.

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115. In order to ensure optimum planning and utilization of transmission system including bays by CTU, the Commission in exercise of its regulatory power under Section 79 (1) (c) of the Act directs the following:

(a)

(c) All applicants who have been granted connectivity shall be allowed physical connection at the sub-station based on their readiness for physical connectivity with the bays.

(d) The stipulation at para (c) based on the readiness for physical connection by the wind power generators/developers will not prejudicially affect the interest of any other wind power generator since, only those generators which have physically commissioned their projects in the area and are accommodated within the capacity of the sub-station shall get physical connectivity. Reserving the bay for a wind power developer/generator which is not ready for commissioning will result in under-utilization of bays which should be avoided at all cost in national interest.



.....”

17. In pursuance of aforesaid directions, PGCIL vide its letter dated 31.1.2018 submitted the Draft Detailed Procedure to the Connectivity Regulations, which was approved by the Commission vide its order dated 15.5.2018. The Detailed Procedure was notified by the Commissions to obviate any sub-optimal utilization in future of the connectivity granted to various applicants and to ensure that the renewable projects whose development was delayed over a long period of time, did not continue with the connectivity ‘ad infinitum’. This inter-relation between the granted connectivity and project development was the fundamental premise on which the Detailed Procedure, 2018 with two-stage connectivity was notified.

18. There is no scope for relaxation in project development timelines for reasons within or beyond the control of the generator/developer, until the entire object of optimal utilization of connectivity granted was to stand defeated and there once again could be blocking of available infrastructure in the ISTS sub-station for use by other entity(s). In other words, any relaxation, for any reason whatsoever, in the prescribed timelines with regard to achieving of the required milestones for a granted connectivity was to result in restoring the status quo ante which had existed prior to the passing of detailed directions by this Commission in Petition No.145/MP/2018 and notification of the Detailed Procedure, 2018.

19. Regulation 33 A of the Connectivity Regulation vests power to the Commission to relax the provision of Connectivity Regulation. However, the Detailed Procedure, 2018 notified neither contemplates nor permits any relaxation of its provisions in so far as compliance of prescribed timelines qua connectivity grant to



renewable projects is concerned. As such, the said power is not available for its invocation or exercise so as to permit a renewable power project developer to retain the connectivity for the period that the project implementation is being delayed for any reason attributable or not attributable to it.

20. The Appellate Tribunal vide its order dated 20.4.2015 in O.P No. 1,2 and 4 of 2013 has categorically held that the provision of power to relax must not be used in a manner that would defeat the intent and purpose of any Regulation. Thus, the power to relax vested in Commission under Regulation 33A is not available for its exercise so as to relieve the renewable power projects from the “rigours” of timeline compliances pertaining to connectivity grant under the Detailed Procedure, 2018.

21. It is a settled position in law that inherent powers are to be exercised by an authority when the matter sought to be taken care of by exercise of inherent power is not covered by any other specific provision and exercise of those powers would not in any way be in conflict with what has been expressly provided in the Code or be against the intention of the legislature. Thus, in a case like the present one where a specific provision vesting the power to relax in this Commission is available in the Connectivity Regulations, the inherent powers cannot be invoked, particularly in view of the strict and mandatory operation of the provisions of the Detailed Procedure, 2018.

22. The grant of Stage-II connectivity is a grant based on the stipulated principles of priority and the rights of one party are therefore often ‘rivalrous’ with those of others. In other words, if the Petitioner is allowed to retain its Stage-II connectivity despite not having complied with the mandatory requirements of the Detailed



Procedure, 2018, it may impede or impinge upon the rights of other entities who are ready to fulfill the procedural requirements and claim priority in terms of bay allocation.

23. The Petitioner, vide its letter dated 31.12.2018, informed about the change in law by the Government of Gujarat as regards revenue land allotment to developers on wind power projects and that the same was having a severe impact on timely procurement of the land. The Petitioner stated that the uncertainties in land allotment would adversely affect schedules for financial closure of the projects since land allotment was a pre-condition for financial closure. The Petitioner, vide the above letter however did not put forth any request for extension of time for submission of document required as per Clause 9.3.2 of the Detailed Procedure but instead requested the Respondent to use its good offices to pursue the Ministry of New and Renewable Energy, Ministry of Power and the Government of Gujarat to resolve the revenue land allotment matter, which was neither the concern nor under the purview of the Respondent as per the prevailing Regulations.

24. In view of the strict timelines under Clause 9.3.2 of the Detailed Procedure, 2018 and the settled principles of law, if the power to relax is exercised by the Commission, then it will lead to the same issue of mismatch which existed prior to the framing of the Detailed Procedure, 2018 and was the underlying reason for the framing of the said Detailed Procedure, 2018.

Information sought by the Commission

25. The Commission vide RoP dated 9.7.2019 directed the Petitioners and the Respondent to file the following information.



Information from the Petitioner

- a) Reason, why the Petitioner has not applied for all foot prints of land at the time of allocation of those land which have been allocated to it; and
- b) Detailed plan for achieving timeline in case its request for grant of time extension is permitted.

Information from the Respondent

- a) Details of applicants seeking stage-II Connectivity at the same location; and
- b) How many such cases are there where Stage-II grantee has not come up with submissions of documents as per clauses 9.3.1 or 9.3.2 of the Detailed Procedure made under Connectivity Regulations within nine months from the date of grant of Stage-II Connectivity.

26. In response to the query sought by the Commission vide RoP dated 9.7.2019, the Petitioner vide its affidavit dated 25.7.2019 has submitted as under :

(i) The Petitioner has submitted that they had applied for land for the entire foot prints required for the Project as early as by January, 2018. Prior to filing of application for Stage-II connectivity, the Petitioner had received Land Allotment Orders of about 50% of land required for the project) from the District Collector, Kutch, Government of Gujarat under the Gujarat Land Policy, 2004 dated 11.06.2004. Regarding land, Ownership or lease rights or land use rights for 50% of the land required for the project was sufficient enough for applying for the Stage-II connectivity.

(ii) After grant of Stage-II Connectivity, the petitioner pursued to get the allotment of revenue land for balance foot prints for which applications had been filed as early as in December, 2017 and January, 2018. The Petitioner had made several attempts to get the revenue land allocation for balance foot



prints required. Further, even after several representations, directions and discussions, the Government of Gujarat did not process the applications made by the Petitioner under the then prevailing Land Policy for allotment of revenue land.

(iii) The new land policy of the Gujarat Government issued on 8.3.2019 permits allotment of revenue land only to following category of applicants:

i. Companies who have won wind bids invited either by GUVNL or Solar Energy Corporation of India or other agencies of the Government of India, Supported by a letter to that effect from GEDA.

or

ii. Wind Turbine manufacturers or their 100% subsidiaries, and their associate companies appearing in the Revised List of Models and Manufacturers of Wind Turbine (RLMM) as approved by the National Institute of Wind Energy (NIWE).

(iv) The petitioner does not fall in any of the above categories. Since the issue of the new land policy, the above mentioned category of applicants have been seeking revenue land allocation in the area, whereas the Petitioner was not in a position to do so. Incidentally, several projects (totaling 4000MW-5000MW capacity) are coming up in the Bhuj area who are SECI Bid Winners who are getting the revenue land allotted on priority. Therefore, many of the locations micro sited by the Petitioner for the project have been secured by other developers.

(v) Subsequent to filing of the present Petition, SECI has invited bids under Tranche-VIII for 1800 MW Wind Power dated 26.6.2019 where it is stipulated that the delivery points for the projects shall be chosen by the bidder only out of the specified ISTS substations restricting freedom of Bidders to choose appropriate sub-stations. The sub-stations presently specified do not include the Bhuj Pooling Sub-station where the Petitioner holds connectivity.



This development is preventing the petitioner from participating in the SECI Bids. Therefore, the petitioner had sought for revocation of Stage-II connectivity and return of its Bank Guarantee during the hearing on 9.7.2019.

27. In response to the query sought by the Commission vide RoP dated 9.7.2019, PGCIL vide its affidavit dated 31.7.2019 has submitted as under :

a) **Details of applicants seeking stage-II Connectivity at the same location** : At present, there are no pending applications for the grant of Stage-II Connectivity at Bhuj(WR) where connectivity to the Petitioner's project has been granted. Therefore, vacation of bays by the Petitioner Stage-II grantee may not immediately result in allocation of the same to the other entity. The vacated bays will be available for allocation the new Stage-II connectivity applicant in the ordinary course. The Petitioner has furnished composite table indicating the details of grant of Stage- II connectivity to the location of Petitioner's connectivity.

b) **How many such cases where Stage-II grantee has not come up with submissions of documents as per clauses 9.3.1 or 9.3.2 of the Detailed Procedure made under Connectivity Regulations within nine months from the date of grant of Stage-II Connectivity**: The Petitioner has furnished the detail in this regard. There are total 57 applicants, out of which 2 are Deemed Stage-II grantee, 10 applicants are required to submit documents under clause 9.3.2 and 45 applicants are required to submit documents under clause 9.3.3. None of the 57 applicants have submitted the documents.

28. In response to the submission by PGCIL in compliance of RoP dated



9.7.2019, the Petitioners vide affidavit dated 14.8.2018 have submitted as under :

a) The Petitioners have been put in a impossible position of not getting the revenue land because of categorization and condition imposed subsequently and further on account of substantial extent of revenue land being allocated to other developers in the vicinity where the Petitioners were in process of finalizing private lands at a considerable high cost. The Petitioners are not being able to set up the projects even in the private lands identified by the Petitioner in view of the fact that other developers being allocated revenue land in the same vicinity. Both the projects cannot coexist without proper availability of wind velocity as per Micrositing Guidelines issued by MNRE for the project.

b) Several projects (totaling to 4000MW- 5000 MW capacity) are being set up in Bhuj area which are SECI Bid Winners/ GUVNL Bid Winners / Wind Turbine Manufacturers are getting the revenue lands allotted on priority. Therefore, many of the locations identified by the Petitioners in accordance with the Micrositing Guidelines issued by MNRE for the project will no longer be available as the revenue locations nearby have been allocated to the other bidders.

c) The Petitioners are not being able to implement the Project as envisaged for the reasons beyond their control and on account of above mentioned unforeseen and supervening events, despite the Petitioners have made bonafide and earnest efforts. The petitioners have already been subjected to substantial financial prejudice for the investment made and time spent during all these periods. On the other hand, with the allocation of



revenue lands to other developers which fulfill conditions subsequently imposed vide letter dated 8.3.2019 and which are establishing the projects in the near vicinity, there will be increase in demand for connectivity. The bays capacity available at the Bhuj sub-station can be effectively utilized by PGCIL, including by allocation of bays and capacities to those developers who have currently been given agreements with respect to Bhuj-II sub-station, which is yet to be implemented by PGCIL.

d) There is no financial loss of any nature whatsoever to PGCIL. In any event, the Petitioner has been prevented from implementing the Projects on account of supervening events.

e) The BG's furnished by the Petitioners may be returned. The Petitioners are willing to surrender the Stage-II connectivity to the bays of Bhuj sub-station granted by PGCIL with liberty to apply for fresh Stage I and Stage II Connectivity at a later date as per then prevalent terms and conditions contained in the detailed procedure.

Analysis and Decision

29. The Petitioners have submitted non-allotment of revenue land by the Govt. of Gujarat is an event beyond the control of the Petitioners due to which the Petitioner have been prevented from complying with the timeframe specified under clause 9.3.2 of the Detailed procedure, 2018 for the achievement of financial closure within a period of nine months from the date of grant of Stage-II Connectivity. The New Land Policy dated 25.1.2019 issued by the Govt. of Gujarat puts a restriction on allotment of revenue lands for the Wind Farm Projects of a capacity less than 1000 MW. The new land policy is applicable only to those person/unit/company who wants



to develop a renewable park like Solar park/ Wind Park/Wind-Solar Hybrid Park in the State of Gujarat and such developer must have the experience of generating minimum 250 MW and/or solar renewable power, as a facility or a project developer. Therefore, the Petitioners have been left in precarious situation after making substantial investment in the acquisition of more than 50% land required for its projects. After the declaration of new land policy, the Petitioners have been left with the alternative of private land for the balance land required for the project. Further, the Petitioners have been placed in an unviable position of being not able to set up the project even in the private lands identified by the Petitioners in view of other developers being allotted revenue lands in the same vicinity. Both the projects cannot co-exist without proper availability of wind velocity as per Micrositing guidelines issued by Ministry of New and Renewable (MNRE). Further, several projects are being set up in Bhuj area which are SECI bid winners/ GUVNL bid winners/ Wind Turbine Manufacturers. These projects are getting the revenue land allotted on priority, due to which many of the locations identified by the Petitioners in accordance with micrositing guidelines issued by MNRE will no longer be available as the revenue locations nearby have been allocated to the other bidders. During the hearing dated 5.9.2019, the Petitioners have submitted that on account of above mentioned supervening events, the Petitioners are not being able to implement the Projects and therefore, the Petitioners have no other option but to surrender the connectivity altogether and prayed for return of Bank Guarantee furnished by the Petitioners.

30. PGCIL has submitted that the progress of entities that had been granted connectivity was monitored regularly in JCC Meetings held on quarterly basis. During 22nd JCC meeting held on 20.12.2018, all the Stage-II grantees under Detailed



Procedure, 2018 were reminded of their obligation to submit all documents under clause 9.3.2 of the Detailed Procedure. The grant of Stage-II connectivity is a grant based on the stipulated principles of priority and the rights of one party are therefore often 'rivalrous' with those of others. Therefore, if the Petitioners are allowed to retain its Stage-II connectivity despite not having complied with the mandatory requirements of the Detailed Procedure, 2018, it will impede or impinge upon the rights of other entities who are ready to fulfill the procedural requirements and claim priority in terms of bay allocation.

31. We have considered the submissions of the parties. It is noted that prior to New land Policy, the Petitioners have been granted more than 50% of the land required for their projects Further, the Petitioners had also applied for allotment of balance revenue land required for their projects. We observe that the government policies quoted by Petitioner are regarding revenue land. However, the Petitioners have the option of acquiring other lands, such as private land.

32. The Petitioners have, in its Petition, made a prayer for extension of time for 8 months to complete balance activities. However, during the hearing on 5.9.2019, the Petitioners have submitted that they shall not be able to implement the Projects and they have no other option but to surrender the connectivity and has prayed for return of Bank Guarantee furnished by the Petitioners.

33. Clause 9.3.3 of the Detailed Procedure requires the Stage II grantee to fulfill the conditions enshrined in clause 9.3.1 or clause 9.3.2 and in the event of failure to fulfill the conditions of clause 9.3.1 or clause 9.3.2, as the case may be, Stage II Connectivity shall be revoked by CTU. Clause 9.3.3 of Detailed Procedure dated 15.5.2018 is reproduced as under :



“9.3.3 In the event of failure to achieve above milestones as listed in Clause 9.3.1 or Clause 9.3.2 above, as applicable, Stage-II connectivity shall be revoked by the CTU under intimation to the grantee.”

34. It is noted that the Petitioners were granted Stage-II Connectivity on 19.7.2018 and as per Detailed Procedure dated 15.5.2018, the Petitioners were required to complete the financial closure by 18.4.2018, which the Petitioners have failed to achieve and therefore, the Stage II Connectivity granted to the Petitioners is revoked.

35. It is noted that the construction at Bhuj sub-station is at advanced stage and there is no pending application for grant of Stage-II Connectivity at Bhuj (WR), where connectivity to the Petitioner's projects have been granted. As we have decided that the Stage-II Connectivity granted to the Petitioners is revoked, the Connectivity BG is liable to be encashed.

36. The Detailed Procedure dated 15.5.22018 stipulates encashment of BG under clause 11.2, as under :

“The 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. If the grantee fails to complete the dedicated transmission line within the stipulated period, the Conn-BG of the grantee shall be encashed and Stage-II connectivity shall be revoked. The payment received in terms of these provisions shall be adjusted in the POC pool.”

37. Clause 1 (f) The Transmission Agreement for Connectivity executed between the Petitioners and PGCIL reads as under:

“The Bank Guarantee shall be encashed by Powergrid in case of failure of Stage II Connectivity grantee to complete the dedicate transmission line and pooling sub stations within 24 months from the date of intimation of bay allocation at existing or new/ under construction ISTS sub-stations or in case of non-fulfillment of conditions to be met by Stage II Connectivity grantee in terms of Clause 9.3.3 of RE Connectivity Procedure.”



38. As per clause 11.2 of Detailed Procedure dated 15.5.2018 ,the Connectivity BG can be encashed only in the event the Stage II Connectivity grantee fails to complete the dedicated transmission line within 24 months from the date of intimation of bay allocation.

39. Thus, there is provision for the encashment of BG, if Stage II connectivity grantee fails to complete the dedicated transmission line within 24 months from the date of intimation of bay allocation. However, in the instant case, the Petitioners have submitted that they shall not be able to implement the project and are surrendering the connectivity. Therefore, without waiting for 24 months period, PGCIL shall encash the BG furnished by the Petitioners.

40. We also note that CTU has furnished the list of 57 Stage-II grantees including deemed Stage-II grantees who have not submitted the documents yet. CTU is directed to monitor the timeline of submission of documents by Stage-II grantees in coordination with bidding agency(ies), taking into consideration the extended timeline provided by bidding agency, if any.

41. Petitions No. 56/MP/2019, 57/MP/2019 and 58/MP/2019 are disposed of in terms of the above.

Sd/-
(I. S .Jha)
Member

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

Sd/-
(P. K. Pujari)
Chairperson

