

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.223/MP/2023 along with IA No. 53/2023

- Subject : Petition under Sections 79 (1)(f) and 79(1)(c) of the Electricity Act, 2003, read with Regulation 8 and Regulation 26 of the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008 and Detailed Procedure framed thereunder and approved by this Commission, in relation to arbitrary, unlawful and mala fide acts on part of Respondent No.1 SLDC in refusing to process Petitioner's Application for Standing Clearance for grant of Short Term Open Access (STOA) for August 2023 and grant the same within timelines stipulated in the Detailed Procedure.
- Date of Hearing : **28.7.2023**
- Coram : Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : Tadas Wind Energy Private Limited (TWEPL)
- Respondents : Karnataka Power Transmission Corporation Limited (KPTCL) and Anr.
- Parties Present : Shri Sanjay Sen, Sr. Advocate, TWEPL
Ms. Ruth Elwin, Advocate, TWEPL
Ms. Neha Dabral, Advocate, TWEPL
Shri Aditya Narayan, Advocate, TWEPL
Ms. Pratiksha, Advocate, TWEPL
Shri Rakesh Shah, TWEPL
Shri Ujjwal Surana, TWEPL
Shri V. M. Kannan, Advocate, KPTCL
Shri Shahbaaz Hussain, Advocate, KPTCL
Shri Harimohann, Advocate, KPTCL
Shri Lalit Rajput, Advocate, KPTCL
Shri Gajendra Sinh, NLDC

Record of Proceedings

Learned senior counsel for the Petitioner submitted that the present Petition has been filed challenging the Respondent No.1, KPTCL's unlawful and *mala-fide* acts in refusing to process and grant the standing clearance which is mandatory for the grant of Short- Term Open Access (STOA) to the Petitioner. Learned senior counsel mainly submitted the following:

- (a) The Petitioner operates a Wind Energy based Power Plant spread across several villages in the State of Karnataka, having a cumulative capacity of 100 MW and the present Petition concerns with the arbitrary action of Respondent

No.1 in not considering the Petitioner's application for standing clearance for STOA in respect of its 80.8 MW Projects ('the Project').

(b) On 7.7.2023, the Petitioner had made an application before the Respondent No.1 for grant of the standing clearance for STOA for the month of August, 2023. However, the same has not been considered by the Respondent No.1 on the pretext that the Petitioner ought to have submitted seven separate applications for the standing clearance.

(c) Despite the Petitioner having repeatedly clarifying that there is no need for submission of seven separate applications and even NLDC having clarified so vide its email dated 7.7.2023, the Respondent No.1 has continued to insist upon submission of separate applications and is yet to grant standing clearance for the month of August, 2023.

(d) Pertinently, the Petitioner has been granted single evacuation scheme approval and single interconnection approval for the entire Project. The Project's interconnection point with the grid is at 220 kV Bidnal sub-station and the Connectivity has also been granted at 220 kV level. As such, there is no such issue of the Project being required to be considered as seven different Projects was raised, when the Petitioner was selling the power to the distribution licensee till 31.5.2023.

(e) The Respondent No.1 had itself granted the registration and also the Standing Clearance for June, 2023 and July, 2023 without any such demand being made.

(f) As regards jurisdiction, Regulation 26 of the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008 (along with subsequent amendment thereto) specifically provides that all disputes arising under the said Regulations shall be decided by the Commission based on an application made by the person aggrieved.

(g) Keeping in view that the Respondent No.1's refusal to grant the standing clearance for STOA for the month of August, 2023 will lead to the Petitioner's Project being stranded, the Petitioner has also moved IA No. 53/2023 seeking urgent reliefs, *inter alia*, praying for direction upon the Respondent No.1 to accept and consider single application for standing clearance in respect of the Project (80.8 MW) without insisting for a separate applications to be filed.

2. Learned counsel for the Respondent No.1 mainly submitted the following:

(a) The Respondent has received the copy of the Petition only yesterday and be permitted to examine and file its reply thereto.

(b) The concerned capacity of 80.8 MW, comprising of Group B to Group H, has separate metering points and accordingly, on 28.6.2023 itself, the Petitioner was asked to submit a separate application with respect to each metering point.

(c) Pursuant to the above, the Petitioner had itself made seven different applications for grant of the standing clearance for each of the above Groups without any protest. Therefore, the Petitioner cannot now turn around and contest the requirement of making seven different applications.

(d) NOAR portal as such does not accept the multiple applications with single registration and accordingly, the Petitioner was also asked to obtain separate registrations for each of the above seven groups so that seven Deviation Settlement bills can be raised as per the group-wise schedule and actual energy injected as recorded at the group meter.

(e) Initially, the Petitioner, with regard to the registration of its Project, had approached the KERC seeking urgent intervention. However, since KERC did not entertain such a request, the Petitioner thereafter approached the Hon'ble High Court of Karnataka by Writ Petition. The Writ Petition filed before the Hon'ble High Court clearly indicates each group as a separate generating station.

(f) In its interim application, the Petitioner is essentially seeking the same relief as prayed for in the main Petition i.e. directions upon the Respondent No.1 to consider its single application for the standing clearance for the month of August, 2023. It is well settled that Court cannot grant an interim relief which is in the nature of final relief.

3. The representative of the Respondent No.2, NLDC submitted that the Respondent has received the copy of the Petition only yesterday and is in process of examining the same.

4. In response, the learned senior counsel for the Petitioner clarified that the prayers made in the main Petition are not essentially one and the same as made in the IA, as contended by the Respondent No.1.

5. After hearing the learned senior counsel and learned counsel for the Respondent No.1, the Commission directed the Respondents to file their reply to the Petition and IA, covering both the aspects i.e. jurisdiction as well as the merits, within two weeks with copy to the Petitioner, who may file its rejoinder, within two weeks thereafter.

6. The Commission directed the Respondent No. 1 to file the following details along with its reply:

(a) Copy of a Regulations issued by CERC or KERC Order based on which KPTCL is insisting that group meter-wise separate registration are required for seven separate locations and for that purpose seven separate applications for standing clearance are required to be filed on NOAR so that separate seven DSM bills can be issued; and

(b) Details of other generating stations in the State of Karnataka where group meter-wise registration has been done as being insisted in the instant case.

7. Further, keeping in view that the Respondent No.1 had granted the standing clearance for STOA to the Petitioner's Project (80.8 MW) on the basis of single

application/ registration in the past, and it also imperative to avoid any eventualities leading to stranding of renewable energy based generation, the Commission deemed it appropriate to direct the Respondent No.1 to consider the Petitioner's application for the standing clearance for the month of August, 2023 on the basis of single application without insisting upon seven different applications for each group. The Commission, however, clarified that above arrangement shall be subject to outcome of the present Petition.

8. The Petition along with IA shall be listed for hearing **on 23.8.2023**.

By order of the Commission

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