

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 174/MP/2017**

- Subject : Petition under Section 79(1)(c) and 79(1)(f) of the Electricity Act, 2003 read with Regulations 32 of the CERC (Grant of Connectivity, Long-Term Access and Medium Term Open Access in inter-State Transmission and related matters) Regulations, 2009.
- Date of hearing : 16.1.2018
- Coram : Shri A.K. Singhal, Member  
Shri A.S. Bakshi, Member  
Dr. M.K. Iyer, Member
- Petitioner : Suzlon Power Infrastructure Limited (SPIL).
- Respondents : Power Grid Corporation of India Limited (PGCIL) and Others.
- Parties present : Shri Sanjay Sen, Senior Advocate, SPIL  
Shri Matrugupta Mishra, Advocate, SPIL  
Shri Hemant Singh, Advocate, SPIL  
Ms. Shikha Ohri, Advocate, SPIL  
Ms. Ankita Bafna, Advocate, SPIL  
Shri Nishant Kumar, Advocate, SPIL  
Ms. Suparna Srivastava, Advocate, PGCIL  
Ms. Jyoti Prasad, PGCIL  
Shri Swapnil Verma, PGCIL  
Ms. Swapna Seshadri, Advocate, BLP Energy  
Ms. Rhea Luthra, Advocate, BLP Energy  
Ms. Parichita Chowdhary, Advocate, BLP Energy  
Shri Shodan Babu, Advocate, SKRPL  
Ms. Aanchal Basur, Advocate, SKRPL  
Shri Shahab Ahmad, Advocate, SKRPL  
Shri Hemant Sahai, Advocate, OSWPPL  
Shri Ranjeet Singh, WWIL  
Shri Avinash Kashyap, WWIL  
Shri Waqas Ahmad, WWIL  
Shri Rishabh Dhyani, Advocate, IWTNA  
Shri Alok Shankar, Advocate, GRPL

**Record of Proceedings**

Learned senior counsel for the petitioner submitted that the present petition has been filed seeking direction to PGCIL to allow the utilization of 300 MW grid connectivity and LTA granted to the petitioner for Chandragiri Wind Farm for the 249.90 MW wind power project awarded to the petitioner in consortium with Green Infra Wind Energy



Limited (GIWEL) by Solar Energy Corporation of India (SECI). Learned senior counsel further submitted as under:

a. The petitioner obtained the investment approval for setting up the windfarms located at Chandragiri, Kumarapuram and Kadambur in Tirunelveli based upon the legal opinion sought from PGCIL in the 16<sup>th</sup> meeting of Southern Region (SR) Constituents regarding LTA and connectivity applications in SR held on 4.9.2013, on the issue whether wind power project developers are legal entities to apply for connectivity. The legal opinion obtained by PGCIL clarified that connectivity is granted to a generating station and any change in the ownership of the generating station does not affect the connectivity in any manner.

b. In its legal opinion rendered, PGCIL stated that it is a common practice of the wind developers to develop a project and subsequently transfer the generating station to a third party. There is nothing illegal in such practice and therefore, a change in the ownership of the generating station is absolutely permissible and will not affect the connectivity granted in its favour. Based on the said legal opinion, the petitioner applied to PGCIL for grant of LTA of 900 MW with LTA of 300 MW each for its windfarms located at Chandragiri, Kumarapuram and Kadambur in Tirunelveli. PGCIL vide its letter dated 9.12.2015 intimated about the grant of connectivity to the petitioner for all the three windfarms.

c. Subsequently, the petitioner executed the Transmission Service Agreement (TSA) with PGCIL for the three windfarms at Chandragiri, Kumarapuram and Kadambur for 900 MW LTA on 29.9.2016. The petitioner also executed a Long Term Open Access Agreement with PGCIL for 75 MW LTA at Chandragiri on 29.9.2016.

d. SECI invited bids vide RfS dated 28.10.2016 under MNRE Scheme for setting up of 100 MW ISTS connected wind power projects. The RfS documents acknowledges a "bidder" under Section 2 *inter alia* as a Bidding Consortium including its successors, executors and permitted assigns and lead member of the Consortium. Pursuant to the grant of connectivity and SECI bid, the petitioner entered into the consortium agreement with GIWEL on 8.1.2017. GIWEL, the lead member of the consortium as per clause 1 of the Consortium Agreement submitted the bid on behalf of the consortium on 9.1.2017. The said consortium was declared as one of the successful bidders and GIWEL had been issued the Letter of Award (LoA) on 5.4.2017.

e. Subsequently, the petitioner vide its letter dated 19.4.2017 requested PGCIL to consider 300 MW and 75 MW grant of connectivity at Chandragiri, for use by the consortium so as to go ahead with the development of the awarded wind project following the declaration as successful bidder by SECI. In response, PGCIL vide its letter dated 25.5.2017 denied the petitioner's request on the ground that the grant of connectivity and the LTA were in favour of the petitioner only. Therefore, the consortium formed by the petitioner and GIWEL seeking to utilize such connectivity would amount to transfer of connectivity from one legal entity to another.

f. The said refusal by PGCIL would derail the project implementation schedule and is contrary to the existing provisions of the 2009 Connectivity Regulations and the Procedure formulated thereunder which provides that the connectivity is granted to the



applicant in terms of “generating station”. Therefore, the grant of approval for connectivity would be valid as long as there is no change pertaining to the physical characteristics of the “generating station” per se, the change in ownership of “generating station” should not affect the legality of the permissions or the transactions conducted or likely to be undertaken relating to the generating station.

g. Clauses 17.1.1 and 17.2.4 of the TSA executed between the petitioner and PGCIL permits even assignment of the agreement. The present case only pertains to change in ownership of generating station from the petitioner to consortium. There is a clear difference between the transfer of connectivity between two generating stations and the change in ownership of same station between two entities. The connectivity permission will continue in the name of the generating station. The petitioner in no manner is trying to circumvent any approvals and the petitioner is only following the applicable protocol qua development of solar parks. Therefore, PGCIL may be directed to allow the use of connectivity granted to the petitioner to be used by GIWEL.

2. In his rebuttal, learned counsel for PGCIL submitted that in terms of the Commission’s order dated 29.9.2017 in Petition No. 145/MP/2017, transfer of connectivity can only be to a 100% owned subsidiary and if GIWEL falls under that category, then the petitioner’s request for transfer of connectivity granted to it to GIWEL may be considered.

3. Learned counsel for Orange Rajkot Wind Power Private Limited (ORWPPL) adopted the submissions made by learned counsel for PGCIL and submitted that had the intention of the petitioner been to build a project itself with the said connectivity, then the petitioner should have atleast taken a controlling shareholding in the consortium rather than holding an insignificant stake of 1% in the consortium entity. The petitioner is now seeking to transfer the connectivity for the purpose of the project intended to be developed by Green Infra Renewable Energy Limited (GIREL), which is completely unrelated to the application made by the petitioner for connectivity in the year 2014 and also against the established procedure provided under the Connectivity Regulations read with the Detailed Procedure.

4. Learned counsel for Sitac Kabini Renewable Private Limited (SKRPL) submitted that the consortium, Green Infra Renewable Energy Limited has never applied for connectivity. GIWEL had applied for connectivity but was not granted connectivity. Therefore, GIWEL, with the intention of circumventing the Connectivity Regulations and jumping the que ahead of the other applicants for connectivity entered into a consortium with the petitioner to obtain connectivity without having the need for making an application for connectivity on time and in accordance with the extant framework for grant of connectivity.

5. After hearing the learned senior counsel for the petitioner and learned counsels for the respondents, the Commission directed PGCIL to file its reply by 31.1.2018 with an advance copy to the petitioner, who may file its rejoinder, if any, by 7.2.2018. The Commission directed that due date of filing reply and rejoinder should be strictly complied with, failing which the order shall be passed on the basis of the documents available on record.



6. Subject to the above, the Commission reserved the order in the petition.

**By order of the Commission**

**Sd/-  
(T. Rout)  
Chief (Legal)**

