

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 477/MP/2020

Subject : Petition under Section 79 (1)(c) and (f) of the Electricity Act, 2003 for adjudication of dispute arising out of the action of Power Grid Corporation of India Limited in directing the Petitioners to submit a fresh Bank Guarantee upon grant of Stage-II Connectivity against the Letter of Award dated 17.6.2019 issued by Solar Energy Corporation of India Limited for development of 300 MW ISTS connected Wind Power Projects in the State of Karnataka instead of utilising the Bank Guarantee bearing no. 002BG01190330001 for an amount of Rs. 5,00,00,000/- already submitted by the Petitioners pursuant to the revoked Stage-II Connectivity dated 7.1.2019.

Date of Hearing : 28.5.2021

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

Petitioners : 1. ReNew Power Private Limited (RPPL)
2. Auxo Solar Energy Private Limited
3. Ostro Energy Private Limited
4. Ostro Kannada Power Private Limited

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

Parties Present : Shri Sanjay Sen, Sr. Advocate, RPPL
Ms. Mazag Andrabi, Advocate, RPPL
Ms. Shubhi Sharma, Advocate, RPPL
Ms. Mandakini Ghosh, Advocate, RPPL
Ms. Suparna Srivastava, Advocate, PGCIL
Shri Tushar Mathur, Advocate, PGCIL
Shri Ishan Nagpal, RPPL
Shri Vasav, RPPL
Ms. Jyoti Prasad, PGCIL

Record of Proceedings

Case was called out for virtual hearing.

2. Learned senior counsel for the Petitioners submitted that the present Petition has been filed, *inter alia*, seeking direction to the Respondent No.1, PGCIL to (i) release Bank Guarantee ('BG') of Rs. 5 crore furnished by the Petitioner No.1 under Clause 1.0(a) of the Transmission Agreement for Connectivity dated 28.2.2019, or (ii) utilise the said BG against the fresh Transmission Agreement that will be executed by the Petitioners after grant of Stage-II connectivity against Letter of

Award ('LoA') dated 17.6.2019 issued by Solar Energy Corporation of India Limited ('SECI'). Learned senior counsel mainly submitted the following:

- (a) Pursuant to participating in a bid process conducted by NTPC, the Petitioner No.1 was issued LoA dated 19.10.2018 (in short, 'NTPC LoA') for development of 300 MW ISTS connected Wind Power Project. Against the said LoA, the Petitioner No.1 had also obtained Stage-II connectivity at 220 kV Hiriyr Sub-station ('Hiriyr S/S') and had entered into Transmission Agreement for Connectivity dated 28.10.2019 by furnishing BG of Rs.5 crore thereunder.
- (b) On the basis of the PPA entered into with Petitioner No. 2 (a wholly owned subsidiary of Petitioner No.1), NTPC entered into back-to-back Power Supply Agreement ('PSA') with Telangana Discoms. As per the terms of PPA and PSA, Telangana Discoms were required to obtain approval of the State Electricity Regulatory Commission within a stipulated time. However, owing to failure of Telangana Discoms to obtain such approval within the stipulated time, the Petitioners had no option but to terminate the PPA entered into with NTPC.
- (c) Subsequently, the Petitioner No.3, (wholly owned first tier subsidiary of Petitioner No.1) successfully participated in the bid process conducted by SECI and was issued LoA dated 17.6.2019 (in short, 'SECI LoA') for development of 300 MW ISTS connected wind power project. Accordingly, the Petitioner No.1 requested PGCIL to allow utilization of Stage-II connectivity granted to it by the Petitioner No.3. However, PGCIL, while declining such request, recommended to file fresh application at Hiriyr S/S against the SECI LoA.
- (d) Accordingly, the Petitioner No.1, by withdrawing its Stage-II connectivity granted against NTPC LoA, once again applied for grant of Stage-II connectivity at Hiriyr S/s against SECI LoA and requested PGCIL to either (i) release the BG submitted under Transmission Agreement; or (ii) allow the Petitioner No.1 to use the same BG for Stage-II connectivity applied against the SECI LoA.
- (e) PGCIL in its reply to the Petition has stated that though the Petitioners have withdrawn the Stage-II connectivity for implementing the project under NTPC LoA, they sought fresh connectivity at the same sub-station under the SECI LoA, albeit with a different subsidiary company and since the regulatory implications for treatment of the connectivity BG in such a scenario have not been prescribed in the Detailed Procedure, any action with respect to the BG of Rs.5 crore submitted by Petitioners can be taken as per the directions of this Commission.
- (f) PGCIL has acknowledged that intention of Petitioner No.1 is to remain connected to the ISTS at the same point at which connectivity was granted to it earlier, although for a Project under a different LoA as issued by SECI; that proactive steps appear to have been taken by the Petitioner No.1 under the Bay Implementation Agreement, and that no financial loss may be likely to the stakeholders in case the bay through which Stage-II connectivity was allocated earlier to the Petitioner No.1, is utilised by another entity under the direction of the Commission.
- (g) The Petitioner No.1 has already received the intimation for grant of Stage-II connectivity at Hiriyr S/S against its fresh application made in respect of SECI LoA. Also, the Petitioners have made significant progress in respect of its dedicated transmission line and 2 No. of 220 kV AIS bays at Hiriyr S/S,

originally planned for the project under NTPC LoA, which the Petitioners now intend to use for their project under SECI LoA.

3. Learned counsel for the Respondent No.1, PGCIL mainly submitted the following:

(a) Vide Record of Proceeding for the hearing dated 23.6.2020, the Commission has already clarified that in respect of BG to be furnished for Stage-II connectivity against SECI LoA, the Petitioners would require to comply with the applicable Regulations/ Detailed Procedure framed thereunder and it cannot be linked to existing BG.

(b) Subsequent to the filing of reply by PGCIL, the Commission has approved the Revised Detailed Procedure for Grant of Connectivity to projects based on renewable energy sources to inter-State transmission system (in short, 'the Revised Procedure') vide order dated 20.2.2021, which, *inter alia*, provides for the provisions to deal with the scenario as involved in the present case.

(c) As per clause 5.1(2) of the Revised Procedure, any action including revocation of Stage-II connectivity or encashment of BG initiated after the issuance of the Revised Procedure shall be in accordance with the provisions thereof. As per clause 5.1(3) of the Revised Procedure, Conn-BG submitted under the pre-revised Procedure shall be treated as connectivity BG1 for Rs. 50 lakh and connectivity BG2 for the balance amount. Further, as per clause 5.4.(i) of the Revised Procedure, in the event of encashment of such BGs, if the associated bays(s) at the ISTS sub-station is being constructed by Stage-II grantee itself, amount corresponding to connectivity BG1 shall be forfeited and balance amount being treated as connectivity BG2 shall be refunded.

4. In response, learned senior counsel for the Petitioners submitted that even under the Revised Procedure, BG of Rs. 50 lakh will be subject to forfeiture for no fault of their own. It was submitted that the cancellation of PPA with NTPC and consequently, Stage-II connectivity against NTPC LoA was due to delay on the part of Telangana Discoms to secure the State Commission's approval within the stipulated time.

5. Learned senior counsel for the Petitioners also submitted that in case BG amount to the tune of Rs. 50 lakh (being connectivity BG1) is subject to forfeiture as per the Revised Procedure, CTU may be directed to accept such amount by way of an alternative mode of payment such as cheque or demand draft instead of encashment of BG of Rs. 50 lakh as furnished by the Petitioners. Learned senior counsel further submitted that encashment of BG reflects adversely in its credit rating. In response, the learned counsel for PGCIL submitted that BG encashment shall be governed by Revised Procedure. Learned counsel for PGCIL further submitted that BG amount of 50 lakh through demand draft or through RTGs can be accepted by CTU, if the Commission so directs. The Commission observed that in case the Petitioner deposits the requisite amount of Rs 50 lakh with CTU, it need not encash the Bank Guarantee.

6. After hearing the learned senior counsel for the Petitioners and learned counsel for the Respondent, PGCIL, the Commission reserved the matter for order.

By order of the Commission

Sd/-

(T.D. Pant)

Joint Chief (Law)