

**CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi**

Petition No. 523/MP/2020

Subject	:	Petition under Section 79(1)(c) and (f) of the Electricity Act, 2003 read with Regulation 33A of the Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 seeking relaxation of the procedure set out under Clause 10.11 of Detailed Procedure for "Grant of Connectivity to Projects Based on Renewable Sources to Inter-State Transmission System".
Date of Hearing	:	6.10.2021
Coram	:	Shri P. K. Pujari, Chairperson Shri I. S. Jha, Member Shri Arun Goyal, Member Shri P. K. Singh, Member
Petitioner	:	Shapoorji Pallonji Infrastructure Capital Company Private Limited (SPICCPL)
Respondents	:	Power Grid Corporation of India Ltd. (PGCIL)
Parties Present	:	Shri Venkatesh, Advocate, SPICCPL Shri Suhael Buttan, Advocate, SPICCL Shri Abhishek Nangia, Advocate, SPICCPL Shri Jatin Ghuliani, Advocate, SPICCPL Ms. Simran Saluja, Advocate, SPICCPL Ms. Suparna Srivastava, Advocate, PGCIL Ms. Soumya Singh, Advocate, PGCIL Shri Tushar Mathru, Advocate, PGCIL Shri Pankay Latey, SPICCPL Shri Anil Kr. Meena, CTU Shri Ankush Patel, CTU Shri Swapnil Verma, CTU Shri Siddharth Sharma, CTU

Record of Proceedings

Case was called out for virtual hearing.

2. The learned counsel for the Petitioner submitted that the instant petition has been filed seeking return of the two Bank Guarantees (BG) totalling ₹10 crore (₹5 crore each) furnished by the Petitioner to PGCIL.



3. The learned counsel for the Petitioner submitted that the Petitioner, on 26.7.2018, applied for Stage-I connectivity for 500 MW solar power plants in the States of Tamil Nadu and Andhra Pradesh. On 24.8.2018, PGCIL granted Stage-I connectivity for 500 MW with respect to Tuticorin Power Plant (Tamil Nadu) and Anantpur Power Plant (A.P). Thereafter, on 30.10.2018, the Petitioner made application for Stage-II Connectivity for Tuticorin Power Plant (Tamil Nadu) and Anantpur Power Plant (A.P). PGCIL granted Stage-II connectivity for 250 MW with respect to Tuticorin Power Plant and Anantpur Power Plant on 17.1.2019. On 12.2.2019, two TSAs were executed between PGCIL and the Petitioner and two BGs of ₹5 crore each was furnished to PGCIL. Subsequently, on 11.3.2019, in pursuance of LOIs dated 17.10.2018 issued by NTPC, Power Sale Agreement (PSA) dated 11.3.2019 was executed between NTPC and Northern Power Distribution Company of Telangana ("NPDCT") and Southern Power Distribution Company of Telangana ("SPDCT"). On 20.3.2019, PPAs were executed between NTPC and special purpose vehicle (SPV) of the Petitioner for the Anantpur and Tuticorin project respectively and also furnished BGs of ₹62.5 crore each. Under the PPA, the distribution licensee is under obligation to get the PPAs as well as Trading Margin approved by the State Electricity Regulatory Commission within 60 days of signing of PPA. The learned counsel for the Petitioner has submitted that Connectivity BGs ought to be returned to the Petitioner as the PPAs with NTPC for the projects for which Connectivity was sought have been terminated for reasons not attributable to the Petitioner.

4. The learned counsel for the Petitioner submitted that as per the Connectivity Agreement, Bay No. 211 at Tuticorin-II and Bay No. 224 at NP Kunta were allocated to the Petitioner and the Petitioner was required to construct all the infrastructure upto the bays. The Commission vide RoP dated 27.8.2020 had directed PGCIL to furnish status of the bays and the information regarding the expenditure incurred for construction of the bays. However, PGCIL did not provide any information. He submitted that the Bay No.211 at Tuticorin-II PS has already been allocated to NTPC and Bay No.224 has been allotted to APGECL. The learned counsel for the Petitioner submitted that no injury/ prejudice have been caused to the Respondents because the bays have already been allotted to others. Referring to Section 56 of the Indian Contract Act, 1872, he submitted that due to circumstances beyond the control of the Petitioner, the performance of contract has become impossible. He submitted that as these contract are not negotiated contract and there being no provision for return of BG in the contract, the Commission may allow the prayer of the Petitioner on the ground of equity. He further submitted that the BGs are expiring on 31.10.2021.

5. The learned counsel for PGCIL submitted that the facts of the instant case is identical to facts in Petition No. 477/MP/2020, wherein the Commission vide order dated 26.7.2021 observed that as per clause 5.4(i) of the revised RE Detailed 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 (Connectivity BG2) shall be refunded. She submitted that the Commission has already put in place the mechanism for treatment of BGs and requested to follow similar approach in the instant petition also.

6. The Commission directed PGCIL to submit the following information on affidavit by 22.10.2021 with an advance copy to the Petitioner. The Commission further observed that no extension of time will be granted and if the information is not received by the said date, the matter will be decided on the basis of the information already on record:



- a) Status of action initiated under the revised RE Detailed Procedure, if any.
- b) Whether any expenditure has been incurred by it based upon the Connectivity granted to the Petitioner for projects at Anantpur and Tuticorin?
- c) Whether the bays (Bay No-211 at Tuticorin-II GIS PS and Bay No-224 of NP Kunta), at which Connectivity was granted to the Petitioner, have been allotted to someone else?

7. Subject to above, the Commission reserved its order in the matter.

By order of the Commission

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(V. Sreenivas)
Deputy Chief (Law)

