

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.192/MP/2023 along with Diary (IA) No. 427/2023

- Subject : Petition under Section 79, including 79 (1)(c), 79 (1)(f) and 79 (1)(k) of the Electricity Act, 2003, in order to allow the Petitioner to convert and continue its old connectivity under the new regime without the need of applying for GNA. In the alternative, if open access is to be availed by the Petitioner as a precondition for continuing its connectivity, then the same be permitted along with T-GNA_{RE}.
- Date of Hearing : **29.9.2023**
- Coram : Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : Bharat Aluminium Company Ltd. (BALCO)
- Respondents : Central Transmission Utility of India Limited (CTUIL) and Anr.
- Parties Present : Shri Buddy Ranganadhan, Advocate, BALCO
Shri Hemant Singh, Advocate, BALCO
Ms. Supriya Rastogi, Advocate, BALCO
Ms. Alchi Thapliyal, Advocate, BALCO
Shri Lakshyjit Singh Bagdwal, Advocate, BALCO
Ms. Lavanya Panwar, Advocate, BALCO
Shri Swapnil Verma, CTUIL
Shri R. S Rajput, CTUIL

Record of Proceedings

Citing the urgency involved, the matter was mentioned by the learned counsel for the Petitioner during the course of the hearing on 29.9.2023. Learned counsel submitted that the present Petition has been filed, *inter alia*, to allow the Petitioner to convert and continue its old connectivity under the new regime (General Network Access) without the need to apply for a mandatory GNA, or in the alternative if open access is to be availed of by the Petitioner as a pre-condition for continuing its connectivity, then the same may be permitted along with T-GNA_{RE}. Learned counsel submitted that the matter has already been admitted by the Commission, vide Record of Proceedings for the hearing dated 15.9.2023 and the Petitioner has moved IA (Diary) No. 427/2023 seeking urgent interim direction(s) in the matter. Learned counsel mainly submitted the following:

- (a) By the aforesaid IA, the Petitioner has sought the direction of the Respondents to permit the Petitioner to transition its connectivity up to 530 MW and avail/ apply GNA/T-GNA/GNA_{RE}/ T-GNA_{RE}, on as and when basis and to provide the requisite NOC to the Petitioner. Alternatively, the Petitioner has also prayed that in the event, the Commission is of the view that existing

connectivity cannot be transitioned without applying for open access, the Petitioner be permitted such a transition under the GNA Regulations by availing of T-GNA/T-GNA_{RE} and issuance of the necessary direction to the Respondent to provide the requisite NOC to the Petitioner in this regard.

(b) After the enactment of the GNA Regulations, 2022, there is a requirement that existing connectivity and open access granted to the entities under the previous regime be converted under the GNA Regulations, 2022, and accordingly, CTUIL issued a notice dated 13.4.2023 in this regard. As per the understanding of the CTUIL, the Petitioner can transition its existing connectivity granted under the earlier Connectivity Regulations, 2009, only by applying for a mandatory GNA under the GNA Regulations, 2022. However, as per the Petitioner, the connectivity under the new regime can be continued under Regulation 37.6 read with Regulation 17.2 of the GNA Regulations, 2022, without mandatorily applying for GNA under the GNA Regulations, 2022.

(c) CTUIL cannot require the Petitioner to have a mandatory GNA for continuing the old connectivity as a bulk consumer, more so as the same entails a continuous liability for payment of the transmission charges for availing of the GNA when such access is an option under the Electricity Act, 2003.

(d) The issue of mandatory GNA arises from the principle of ingrained connectivity in the GNA. The aforesaid principle flows from Clause 5.11 of the Explanatory Memorandum to Regulation 17.1, which applies to those bulk consumers who are seeking to connect to ISTS afresh and not in those cases where bulk consumers already have effective connectivity and are seeking to transition under a new regime.

(e) Regulation 26.1 of the GNA Regulations, 2022, provides for the entities eligible for applying to T-GNA and it is evident that a bulk consumer already connected to ISTS is eligible for applying to T-GNA. If the understanding of the CTUIL that the connectivity cannot be granted without GNA is accepted, it will lead to the absurdity that a bulk consumer cannot apply for T-GNA without applying for GNA. The Petitioner cannot be compelled to mandatorily avail GNA, in order to take the T-GNA as a captive user, the Petitioner only requires power as and when needed.

(f) The above position of the Petitioner already stands clarified by the Commission in the order dated 22.9.2023 in Petition No.11/SM/2023, wherein in paragraph 18, the Commission has observed that an entity/bulk consumer having old connectivity, under the provisions of Regulation 17.2, 'may' apply for the grant of GNA equivalent to the quantum of such connectivity. This would mean that the Commission has categorically permitted the bulk consumers already having effective connectivity under the Connectivity Regulations, 2009, to transition without having to mandatorily apply for GNA.

(g) As such, the old connectivity of the Petitioner i.e. 530 MW, will transition under the new regime without having to mandatorily apply for the GNA/GNA_{RE} to the extent of such connectivity. Consequently, the understanding of CTUIL that the quantum of 330 MW of connectivity may be surrendered by the Petitioner as it has applied for only 220 MW of GNA effective from 1.10.2024 may not be correct.

(h) The timeline to transition the existing connectivity under the GNA Regulations, 2022, is expiring on 30.9.2023. Since the Petitioner is a bulk consumer requiring power for its industrial units from the grid on a need basis, pending the main petition, the Petitioner is seeking an interim direction from the Respondents to permit the Petitioner to transition its connectivity up to 530 MW and avail/ apply GNA/T-GNA/GNA_{RE}/T-GNA_{RE} on as and when needed basis subject to the outcome of the main Petition. Alternatively, if the Commission is of the view that existing connectivity cannot be transitioned without applying for open access, the Petitioner be permitted such a transition of connectivity under the GNA Regulations by availing of T-GNA/T-GNA_{RE} subject to the outcome of the main Petition.

2. The representative of the Respondent, CTUIL, submitted that the issue raised by the Petitioner has been broadly addressed by the Commission in its order dated 22.9.2023 in Petition No. 11/SM/2023 which allows the inclusion of transitions of entities covered under Regulation 17.1(iii) whose connectivity is effective under Regulation 37.6(1) of the GNA Regulations, 2022. However, since the concerned authority/nodal agency for the grant of T-GNA/T-GNA_{RE} is RLDC, the views of RLDC may be considered while granting any relief(s) to the Petitioner.

3. The Commission observed that the Petitioner is already connected to ISTS and has applied for 220 MW GNA from 1.10.2024. Considering the submissions made by the learned counsel for the Petitioner and the representative of the Respondent, and the fact that petitioner is connected to ISTS, the Commission directed that the Petitioner is eligible to apply for the grant of T-GNA which shall be granted by RLDC as per availability of transmission system. The above interim directions will be applicable till the disposal of the main Petition. Accordingly, the Commission disposed of the I.A. (Diary No. 427/2023).

By order of the Commission

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