

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.199/MP/2023 along with IA No. 45/2023

- Subject : Petition under Section 79 of the Electricity Act, 2003 read with Regulation 41 of the Central Electricity Regulatory Commission (Connectivity and General Network Access to inter-State Transmission System) Regulations, 2022 praying before this Commission to exercise its “Power to Relax” and thereby remove the hardship arising out of operation of the said Regulations.
- Date of Hearing : 12.7.2023
- Coram : Shri Jishnu Barua, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : Acme Solar Holdings Private Limited (ASHPL)
- Respondents : Powergrid Corporation of India Limited and 2 Ors.
- Parties Present : Shri Sujit Ghosh, Advocate, ASHPL
Ms. Ananya Goswami, Advocate, ASHPL
Ms. Mannat Waraich, Advocate, ASHPL
Shri Swapnil Verma, CTUIL
Shri Ranjeet Singh Rajput, CTUIL
Ms. Ankita Singh, CTUIL

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Petition has been filed, praying this Commission to exercise its “Power to Relax” under Regulation 41 of the Central Electricity Regulatory Commission (Connectivity and General Network Access to Inter-State Transmission System) Regulations, 2022 (‘GNA Regulations’) notified on 7.6.2022, to relax certain provisions of the said Regulations in order to obviate the hardship being caused to the Petitioner on account of the operation of the said Regulations. Learned counsel further submitted as under:

(a) The Petitioner, through its Project SPV, has set-up a 300 MW Solar Power Project at Bhadla, Rajasthan (‘the Project’) and a Power Purchase Agreement dated 21.8.2019 has also been executed between its Project SPV and Respondent No.3, MSEDCL.

(b) The Petitioner applied for Stage II Connectivity for its Project on 18.2.2022, which came to be granted vide an intimation letter dated 22.6.2020. The said letter indicated the date on which the Connectivity was granted as 21.6.2021 or the availability of ISTS, whichever is later.

(c) Subsequently, the Petitioner also applied for Long-Term Access (LTA) and the same was intimated on 21.12.2021. The Petitioner entered into the LTA Agreement dated 19.1.2022 with CTUIL, and the operationalization of its LTA

was indicated as 14.3.2022 or the commissioning of ISTS for LTA, whichever is later.

(d) Meanwhile, the Petitioner's Project got commissioned on 22.5.2022 and started scheduling the power generated therefrom under the Short-Term Open Access (STOA). However, given that the STOA schedule is accorded last priority and revision of the schedule is not allowed thereunder, the Petitioner also applied for Medium-Term Open Access (MTOA), which came to be granted vide intimation dated 9.9.2022 with a start date of 1.1.2023. However, this MTOA is also yet to be operationalized by CTUIL.

(e) On 7.6.2022, the Commission notified the GNA Regulations, which were in suppression 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 ('Connectivity Regulations'). GNA Regulations came into operation w.e.f. 15.10.2022.

(f) As per Regulation 18.1(f) of the GNA Regulations, Renewable Energy Generating Stations (REGS), where the Connectivity and LTA, have become effective, will be deemed to be granted GNA equal to the LTA and in such cases, there is no further liability or procedure to be followed by REGS. However, in cases where Connectivity and LTA have been granted but not yet effective or Connectivity is made effective but LTA is not effective, REGS would be bound to follow the procedure as laid down under Regulation 37 thereof.

(g) As per Regulation 37.3(3)(a) and 37.4(1)(d) of the GNA Regulations, in cases where LTA and MTOA have been granted in accordance with the Connectivity Regulations but either both Connectivity and LTA/MTOA are yet to become effective or Connectivity is effective and LTA/MTOA is yet to become effective as on the effective date of the GNA Regulations (i.e. 5.4.2023), entities have the option to convert the LTA/MTOA granted under the Connectivity Regulations regime or surrender such LTA/MTOA.

(h) However, in order to be covered under the ambit of Regulation 37.3(3) and 37.4 of the GNA Regulations, the Petitioner would be liable to furnish Conn BG3 amounting to Rs. 12 crore (2 lakh/MW × 300 MW each for MTOA & LTA) for the transition of its LTA and MTOA from Connectivity Regulations to GNA Regulations even though its Project has already been commissioned and the non-operationalization of LTA/MTOA cannot in any manner be attributed to the Petitioner.

(i) The intent behind furnishing Conn BG3 under the GNA Regulations is to ensure that Projects are commissioned on time as provided in the Connectivity applications and that there is no squatting of Connectivity/grid evacuation infrastructure and the grid is utilized. In the present case, the Petitioner's Project has already been commissioned on 22.5.2022.

(j) Accordingly, the Petitioner has sought to invoke the Commission's "Power to Relax" under Regulation 41 of the GNA Regulations for relaxing the provisions of Regulation 37.3(3)(d) and 37.4(1)(d) of the GNA Regulations and thereby transitioning the Petitioner to the GNA Regulations without insisting upon the submission of the Bank Guarantees, particularly, BG3.

(k) In order to be considered a deemed grantee under the GNA Regulations, the Petitioner, on 3.5.2023, submitted a format transition undertaking to CTUIL for both MTOA and LTA while requesting a deemed conversion under the GNA

Regulations. Keeping in view that the provisions of the above Regulations provide that if the entity fails to furnish the Conn BG1 and Conn BG3 within 2 months from the date of exercise of the option of conversion, its LTA/MOTA shall be considered surrendered, the Petitioner has also moved IA No.45/2023 to restrain the Respondents from taking any coercive actions, including considering the LTA and MTOA granted to the Petitioner as surrendered during the pendency of the Petition.

2. The representative of the Respondent No.2, CTUIL, submitted that the LTA and MTOA granted to the Petitioner are yet to be operationalized as certain transmission elements, on which these grants were premised upon, are yet to be commissioned. He further submitted that certain meetings are already underway with regard to the transition of the LTA and MTOA under the Connectivity Regulations to the GNA Regulations. The representative of CTUIL also added that the requirement of furnishing the Conn BG flows from the GNA Regulations, and any action taken by CTUIL against any entity in the event of failure on its part to comply with such requirement cannot be considered coercive action but amounts to regulatory action. He submitted that the Petitioner ought to submit the Conn BG as specified in the GNA Regulations, which may be subject to the outcome of the present Petition.

3. Considering the submissions made by the learned counsel for the Petitioner and the representative of the CTUIL, the Commission ordered as under:

(a) Admit. Issue notice to the Respondents.

(b) The Petitioner to serve a copy of the Petition on the Respondents immediately, and the Respondents to file their reply, if any, within a week with copy to the Petitioner, who may file its rejoinder, if any, within a week thereafter.

(c) CTUIL to submit on an affidavit within a week the status of the Transmission System which was required for the operationalization of the LTA & MTOA granted to the Petitioner.

(d) Insofar as the Petitioner's prayer for interim protection/ relief is concerned, the parties are directed not to take any coercive action until the next date of hearing. Accordingly, I.A. No. 43/2023 was disposed of.

4. The Petition shall be listed for hearing on 4.8.2023.

By order of the Commission

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