

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.268/MP/2023

Subject : Petition under Section 79(1)(c) and 79(1)(f) of the Electricity Act, 2003.

Petitioner : Eden Renewable Bercy Private Limited.

Respondents : Central Transmission Utility of India Limited & Ors.

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Subject : Petition under Section 79(1)(c) and 79(1)(f) of the Electricity Act, 2003.

Petitioner : Eden Renewable Passy Private Limited.

Respondents : Central Transmission Utility of India Limited & Ors.

Date of Hearing : **25.10.2023**

Coram : Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Parties Present : Shri Venkatesh, Advocate, Eden Renewable
Shri Ashutosh Srivastava, Advocate, Eden Renewable
Shri Aashwyn Singh, Advocate, Eden Renewable
Shri Punyan Bhutani, Advocate, Eden Renewable
Shri Swapnil Verma, CTUIL
Shri Ranjit Singh Rajput, CTUIL
Ms. Priyansi Jadiya, CTUIL
Shri Yatin Sharma, CTUIL

Record of Proceedings

Citing the urgency involved, the matters were mentioned by the learned counsel for the Petitioners, and consequently, they were taken up for the hearing at the end of the cause list. Learned counsel for the Petitioners submitted that pursuant to directions of the Commission vide Record of the Proceeding for the hearing dated 22.9.2023, CTUIL in its additional affidavit dated 23.10.2023 has indicated that the surrendered 220 kV bays & capacity (600 MW) at Bhadla-II PS were offered to new applicants during the 23rd CMETS-NR meeting held on 29.8.2023 wherein the Project Nine Renewable Power Private Limited ('Project Nine'), who had applied for the connectivity at Bhadla-III PS on the land-BG basis, has opted the Stage-II Connectivity (450 MW) at Bhadla-II as per its application priority and on the said basis, the 2 nos. of 220 kV bays were agreed to be allocated at the Bhadla-II PS to Project Nine. Learned counsel submitted that CTUIL in its aforesaid affidavit has also indicated that in the joint consultation meeting held on 5.10.2023, Project Nine has submitted its non-

willingness to shift their connectivity to accommodate the Eden at Bhadla-II PS (220kV). Further, an in-principle grant of the connectivity is yet to be issued for the applications discussed in the 23rd CMETS-NR meeting including Project Nine and in such circumstances, the Petitioners could be accommodated at aforesaid vacant bays at the Bhadla-II instead of 'new applicant' Project Nine. Learned counsel also submitted that as per the earlier Connectivity Regulations as well as the extant GNA Regulations, the vested right to the connectivity only crystallises upon the grant of the Stage II connectivity which is yet to be issued to Project Nine and keeping in view the genuine difficulties being faced by the Petitioners in getting connected to the Fatehgarh-II PS in view of the Hon'ble Supreme Court's GIB order, the connectivity of the Petitioners ought to be allowed to be shifted to the Bhadla-II PS.

2. On the specific query of the Commission, the learned counsel also submitted that the Petitioners are willing to bear the costs associated with the bays that will be vacated at the Fatehgarh-II upon shifting of their connectivity to Bhadla-II and may also be permitted to take up the matter with CTUIL to explore the option of shifting of such bays/equipments to the Bhadla-II or other PS so that they do not remain stranded. Learned counsel urged that till the time the matter is under consideration by the Commission, CTUIL may be directed to maintain the status quo with regard to the further grant of/allocation of bays at the Bhadla-II PS.

3. The representative of CTUIL mainly submitted as under:

(a) In compliance with the directions of the Commission vide Record of Proceedings for the hearing dated 22.9.2023, CTUIL has filed two affidavits dated 13.10.2023 and 24.10.2023 along with the response received from the Petitioners.

(b) In terms of the directions of the Commission, a joint consultation meeting with all the 13 RE Developers, who were recently reallocated/allocated the vacated bays on 5.10.2023. In the said meeting, CTUIL had asked each developer to give their willingness to shift their connectivity from the Fatehgarh-III & Bhadla-II PS so as to accommodate the Petitioners herein. However, no developers were willing to shift their connectivity.

(c) CTUIL had also proposed the other four alternatives for the connectivity in the upcoming PS to the Petitioners. However, the Petitioners are also not willing to opt for the connectivity at the alternative locations and insist on being provided the connectivity at the Bhadla-II PS.

(d) Insofar as Project Nine is concerned, the surrendered 220 kV bays & capacity at Bhadla-II PS were offered to it during the 23rd CMETS-NR meeting held on 29.8.2023, wherein it opted for the Stage-II connectivity (450 MW) at Bhadla-II PS (who originally applied for connectivity at Bhadla-III PS on Land-BG basis) and on this basis, 2 Nos. of 220 kV bays were agreed to be allocated at Bhadla-II to Project Nine.

(e) In the joint consultation meeting held on 5.10.2023, Project Nine, however, indicated its unwillingness to shift their connectivity to accommodate the Petitioners at Bhadla II. The Project Nine stated that they have also secured LoAs from REMCL for which its Project timeline is June 2025 and considering the readiness of the Bhadla II PS and the LoA timelines, they are willing to continue at the Bhadla II PS.

(f) Insofar as the 220 kV terminal bays at the Fatehgarh-II PS are concerned, they cannot be shifted to the Bhadla-II PS as the bays at the Bhadla-II are already under construction. Moreover, these bays are at the advanced stage of completion (Oct,

23) and in case the connectivity to the Petitioners is allowed to be shifted, they will, as of now, remain stranded/unutilised. In a similar case, wherein the concerned bay(s) remained unutilised after the connectivity & LTA to the developer had been treated as surrendered (Diary No. 380/2023 – Azure Power India Pvt. Ltd. v. CTUIL), the Commission by Record of Proceedings for the hearing dated 29.9.2023 had directed the developer to submit the amount equivalent to Con BGs with CTUIL in lieu of encashment/invocation of the BGs by CTUIL.

(g) Keeping in view the various administrative and other difficulties involved, the Commission may, rather than directing to the maintain status-quo, order that any action taken by CTUIL with regard to the grant of the connectivity to Bhadla II or Fatehgarh III PS be subject to the outcome of present proceedings.

4. After hearing the learned counsel for the Petitioner and the representatives of CTUIL, the Commission ordered as under:

(a) The Petitioner to implead Project Nine as a party to the Petition and file a revised memo of parties within within two days.

(b) The Petitioner to serve a copy of the Petition on Project Nine and Project Nine may file its comments primarily on the submission of the Petitioners herein that in, facts & circumstances of the case, the shifting of the Petitioner's existing connectivity at Fatehgarh-II to Bhadla-II be prioritized over the Project Nine's from the Bhadla-III to Bhadla-II, within three days with a copy to the Petitioner, who may file its response thereon within two days thereafter.

(c) The Petitioner will also file an affidavit indicating its willingness to bear the financial liabilities arising out of the vacating the bays at the Fatehgarh II PS on shifting of their connectivity to another location within three days.

(d) In the meantime, CTUIL will maintain the status quo with regard to the grant of connectivity/allocating the bays at Bhadla II PS and reserve 2 No. 220KV bays at Badhla III PS till the next date of hearing.

5. The Petitions will be listed for hearing on **9.11.2023**.

By order of the Commission
Sd/-
(T.D. Pant)
Joint Chief (Law)