

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.272/MP/2024

Subject : Petition under Section 79 of the Electricity Act, 2003 read with applicable provisions of the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 along with Regulation 65 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 2023 seeking relief(s) against Central Transmission Utility of India Limited in connection with the in-principle grant of connectivity for 160 MW to the Petitioner herein at Davangere District in the State of Karnataka.

Petitioner : Layer Hybren Private Limited (LHPL)

Respondent : Central Transmission Utility of India Limited (CTUIL)

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Subject : Petition under Section 79 of the Electricity Act, 2003 read with applicable provisions of the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 along with Regulation 65 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 2023 seeking relief(s) against Central Transmission Utility of India Limited in connection with the in-principle grant of connectivity for 140 MW to the Petitioner herein at Davangere District in the State of Karnataka.

Petitioner : Layer Hybren Private Limited (LHPL)

Respondent : Central Transmission Utility of India Limited (CTUIL)

Date of Hearing : **13.8.2024**

Coram : Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member

Parties Present : Shri Basava Prabhu Patil, Sr. Advocate, LHPL
Shri Nitish Gupta, Advocate, LHPL
Shri Nipun Sharma, Advocate, LHPL
Shri Deepak Thakur, Advocate, LHPL
Shri Geet Ahuja, Advocate, LHPL
Shri Shubham Arya, Advocate, CTUIL
Ms. Reeha Singh, Advocate, CTUIL
Ms. Tanya Singh, Advocate, CTUIL
Shri Ranjeet Rajput, CTUIL
Shri Siddharth Sharma, CTUIL
Ms. Priyansi Jadiya, CTUIL
Shri Akshayvat Kislay, CTUIL

Record of Proceedings

The learned senior counsel for the Petitioner submitted that the present Petitions had been filed *inter alia* seeking relief(s) against the Central Transmission Utility of India Limited (CTUIL) in connection with the disputes arising in relation to the in-principle grant of connectivity of 160 MW and 140 MW at Davangere District in the State of Karnataka. Learned senior counsel mainly submitted as under:

(a) Mahindra Susten Private Limited (MSPL), through its Special Purpose Vehicles – including the Petitioner herein, is in the process of developing the 1500 MW renewable energy projects in Davangere, Karnataka, and as a part of the development activities, MSPL, for its SPVs including the Petitioner, has secured the in-principle connectivity approvals from CTUIL at Davangere ISTS sub-station.

(b) On 11.4.2024 and 15.3.2024, the Petitioner applied to the CTUIL for the grant of connectivity at Davangere S/s for the installed capacity of 160 MW (Hybrid – 50 MW of Wind and 110 MW of Solar) Project and for 140 MW (Hybrid – 40 MW of Wind and 100 MW of Solar) Project, respectively. While making the aforesaid applications and to satisfy the requirement of Regulation 5.8(xi) of the GNA Regulations, the Petitioner opted for the Bank Guarantee route (BG Route), i.e., gave BG in lieu of the land details and accordingly, also furnished the BG of Rs. 16 crores and Rs. 14 crores respectively to CTUIL.

(c) Pertinently, prior to making the aforesaid applications, the Petitioner had duly checked and verified that the Projects could be developed at Davangere region and the wind turbines could be installed at the concerned coordinates of land. The CEA Report issued in December 2022 titled '*Transmission System for Integration of 500 GW RE Capacity by 2030*' *inter alia* indicated the renewable energy potential at Davangere / Chitradurga as 2 GW each for the wind and solar energy. Also, as on 21.2.2024, the identified land for the Projects had no restriction(s) as the said region was under the "WTG Zone" as per the map uploaded on the website of NIWE.

(d) On 22.4.2024, the Petitioner issued letters to KREDL submitting its applications along with relevant documents for allotment/ approval of its above Hybrid Projects to be connected at upcoming Davangere S/s. In addition, the Petitioner also undertook various other steps towards the development of the Projects along with applying for connectivity at Davangere S/s.

(e) Subsequently, in the 30th and 31st Consultation Meetings for Evolving Transmission Schemes in Southern Region held on 17.5.2024 and 30.5.2024, respectively, CTUIL agreed to grant the connectivity to the Petitioner in respect of its 140 MW and 160 MW Projects. Pursuant thereto, CTUIL vide letters dated 30.5.2024 and 22.7.2024 granted in-principle connectivity to the Petitioner for 140 MW (Hybrid) and 160 MW (Hybrid) Projects at Davangere S/s as per the provisions of the GNA Regulations and requested the Petitioner to submit the Conn-BG within a month, failing which the Petitioner's application shall be considered as closed.

(f) In the meantime, on 19.7.2024, the Petitioner came to know that the Davangere region has been re-classified as "No WTG Zone", and the maps on the NIWE portal have been revised, imposing the restrictions on the installation of WTGs. After making the inquiries, it was noticed that the NIWE updated the Keyhole Markup Language file somewhere at the end of June 2024, and as per this updated file, the majority portion of the Davangere region has been re-classified as "No WTG Zone"

(basis the Ministry of Defence's decision) on account of which the Petitioner will not be able to install its wind turbine on the identified land. This re-classification has impacted 70% of the wind turbine locations identified by the Petitioner in the Davangere region for the development of the Projects.

(g) Although the new maps uploaded on the NIWE website show that the maps were uploaded on 8.2.2024, the same is factually incorrect. Nobody was aware of the re-classification of the Davangere region as "No WTG Zone" by NIWE, including CTUIL, as evident by the continuation of the grant of the connectivity to the Hybrid / Wind Projects at the Davangere S/s till the 32nd Consultation meeting.

(h) The aforesaid re-classification is an unforeseeable event akin to a force majeure. As a result, the Petitioner is facing complete uncertainty towards the development of the Projects on the originally identified land and would require to identify the different land co-ordinates to set up its Projects to utilise the connectivity at Davangere S/s. If the Petitioner is unable to identify/locate the land, that does not fall under 'No WTG Zone' in the vicinity of the Davangere region, the Petitioner may also have to identify and request the change of sub-station for the development of the Projects.

(i) Presently, the Petitioner is committed to the development of its Projects and utilizing the in-principle connectivity granted at Davangere S/s. However, keeping in view the aforesaid issue(s), which have become a hurdle in the development of the Projects, the Petitioner has prayed for a grant of protection from any coercive/ participative action by CTUIL, penalty, or payment of the transmission charges in terms of the Sharing Regulations, 2020 or any other Regulations along with retention of in-principle connectivity granted by CTUIL to the Petitioner at Davangere S/s.

(j) While in respect of its 140 MW Project, the Petitioner has already submitted the Conn BGs, the Petitioner is praying for an interim direction extending the timeline for submission of the Conn BGs in respect of the in-principle grant of connectivity for its 160 MW Project. As per the CTUIL's intimation dated 22.7.2024, the Petitioner is required to furnish the Conn BGs of Rs. 3.7 crores by 21.8.2024. Pertinently, upon furnishing the Conn BGs, the timelines for achieving the various milestones, viz., achieving financial closure and furnishing land documents, etc., would commence. However, owing to the aforementioned force majeure event, it is very likely that the Petitioner would not be in a position to meet those milestones in the stipulated timelines.

2. Learned counsel for the Respondent, CTUIL, submitted that these Petitions have been filed purely on an anticipation basis. Keeping in view that the Petitioner has chosen the BG route for seeking the connectivity, it would have a period of six months to furnish the identified land documents after the grant of connectivity upon it furnishing the requisite Conn BGs. Hence, the Petitioner ought to be directed to furnish the Conn BGs in respect of the 160 MW Project subject to the outcome of the present case. Learned counsel also added that since the entire case of the Petitioner is premised upon the documents of the NIWE and CEA, the Commission may also consider impleading them as parties in these cases and take into account their views as well.

3. In response to the specific query of the Commission regarding the willingness of the Petitioner to at least furnish the Conn BGs equivalent to/corresponding to the solar component, i.e., 110 MW of its 160 MW Hybrid Project, the learned senior

counsel for the Petitioner sought liberty to take necessary instructions on this aspect and requested to post these matters on 20.8.2024.

4. Considering the submissions made by the learned senior counsel and learned counsel for the Petitioner and the Respondent, CTUIL, the Commission ordered as under:

(a) The Petitioners to file the following details/ information on an affidavit within two days:

(i) Whether the Petitioner has difficulty in implementing the 110 MW Solar out of 160 MW in Petition No. 272/MP/2024?

(ii) Difficulty in submitting the Conn-BGs for the solar capacity, if any?

(b) The Respondent, CTUIL to file the following details/ information on an affidavit, within two days:

(i) Total wind RE potential envisaged for the Davangere area, the quantum of Connectivity already granted for the wind capacity at the Davangere polling station, and the likely effect of the "No WTG zone" declaration by NIWE.

(ii) The coordination carried out with the NIWE while planning the substation.

(iii) After coordination with the NIWE, submit the information regarding the date when the revision of the Wind Zone in Karnataka was notified.

5. The Petitions will be listed for hearing on **20.8.2024**.

By order of the Commission

Sd/-

(T.D. Pant)

Joint Chief (Law)