

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 9/MP/2024

Coram:

Shri Jishnu Barua, Chairperson

Shri Arun Goyal, Member

Shri P. K. Singh, Member

Date of Order: 12.05.2024

In the matter of:

Petition under Section 79 of the Electricity Act, 2003 read with Regulation 42 of the CERC (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 praying before this Commission to exercise its powers to “Remove Difficulty” on account of the difficulties arising in giving effect to Regulation 11A(4) read with Regulation 11A(1) of the GNA Regulations, 2022 which was inserted in the GNA Regulations, 2022 vide CERC (Connectivity and General Network Access to the inter-State Transmission System) (First Amendment) Regulations, 2023 issued by this Commission on 01.04.2023.

And

in the matter of:

ACME Cleantech Solutions Private Limited,

104, Munish Plaza, 463 7/20

Ansari Road, Daryaganj, New Delhi-110002

..... **Petitioner No.1**

ACME Sun Power Private Limited,

104, Munish Plaza, 463 7/20

Ansari Road, Daryaganj, New Delhi-110002

..... **Petitioner No.2**

Versus

Central Transmission Utility of India Limited (CTUIL)

First Floor, Saudamini, Plot No. 2, Sector– 29

Near IFFCO Chowk Metro Station, Gurgaon, Haryana-122001

.....**Respondent**



Parties Present:

Shri Buddy Ranganadhan, Advocate, ACME
Ms. Mannat Waraich, Advocate, ACME
Ms. Ananya Goswami, Advocate, ACME
Ms. Shefali Tripathi, Advocate, ACME
Shri Siddharth Sharma, CTUIL

ORDER

The petitioners, ACME Cleantech Solutions Private Limited and ACME Sun Power Private Limited, have filed the instant Petition seeking the Commission to exercise its powers to “Remove Difficulty” under Regulation 42 of the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 (hereinafter referred to as “GNA Regulations, 2022”) to remove difficulty arising in giving effect to Regulation 11A(4) read with Regulation 11A(1) of the GNA Regulations, 2022 which was inserted in the GNA Regulations, 2022 vide CERC (Connectivity and General Network Access to the inter-State Transmission System) (First Amendment) Regulations, 2023 issued by this Commission on 01.04.2023.

2. The Petitioner has made the following prayers in the Petition:

- i. *Admit the Petition;*
- ii. *Exercise its power under Regulation 42 of the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 and accordingly direct Respondent No. 1 to accept the Letter of Award issued to the Petitioner No. 1 i.e., ACME Cleantech Solutions Private Limited and return the Bank Guarantee dated 21.09.2023 furnished by the Petitioner No. 2 and convert the connectivity granted to it on BG route to LOA route;*
- iii. *Exercise its power under Regulation 42 of the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 and accordingly direct Respondent No. 1 to allow the Petitioner No. 1 to partially convert the connectivity of 600 MW granted earlier to Petitioner No. 1 at Fatehgarh Phase-II PS to 350 MW Solar and return the Bank Guarantee of proportionate amount of Rs. 35 crores and convert the connectivity granted to it on BG route to LOA route for such partial quantum of 350 MW;*
- iv. *Direct the Respondent not to take any coercive action in the meanwhile till the pendency of present petition.*



Submissions of the Petitioners:

3. The submission of the Petitioners has been segregated in respect of the issue pertaining to Prayer No. (ii) and Prayer No. (iii) of the petition for clarity.

Submission of Petitioners pertaining to Prayer No. (ii)

4. The Petitioners have submitted as follows:
 - (a) On 22.09.2023, Petitioner No. 2 (referred to as “ACME SUN” hereinafter) submitted an application to CTUIL under GNA Regulations, 2022 for a grant of Connectivity for 400 MW (through BG route) for the Solar Power Plant in Bhatgam, Devbhumi Dwarka, Gujarat. Petitioner also submitted a Bank Guarantee of Rs. 40 Crores (Rs. 10 Lakhs/MW) to CTUIL under Regulation 5.8(xi)(c) of the GNA Regulations. CTUIL, vide its Intimation Letter dated 17.11.2023. granted in-principle Connectivity for 400 MW to ACME SUN at the Jam-Khambaliya substation.
 - (b) SJVN issued a Request for Selection of RE Power Developers (‘SPDs’) for the supply of 1500 MW Firm and Dispatchable Power from ISTS-Connected Renewable Energy (RE) Power Projects with energy storage systems in India under tariff-based competitive bidding vide RfS No. SJVN/CC-Delhi/REIA/2023/FDRE-1 dated 20.06.2023 (“RfS”).
 - (c) SJVN, vide letter dated 10.11.2023, had given a “GREENSHOE OPTION,” in terms of the tender provision under RfS document, to ACME CLEANTECH, which was accepted by ACME CLEANTECH on the same day whereby ACME CLEANTECH gave its consent/confirmation to the additional Contracted Capacity of 750 MW under the GREENSHOE Provision at a tariff rate of 4.38.
 - (d) On 24.11.2023, SJVN issued a Letter of Award (“LOA”) to Petitioner No. 1 (referred to as “ACME CLEANTECH” hereinafter) for a contracted capacity of 250 MW having the blended project capacity/installed capacity of 225 MW (AC) Solar Component at Barmer, Rajasthan, and 350 MW Wind Component & 63 MWh ESS Component at Jamnagar, Gujarat.
 - (e) On 27.11.2023, ACME CLEANTECH, in terms of Clause 4.1.6 of the RfS and Clause 11 of the LOA dated 24.11.2023, expressed its intention to execute the project through its



Special Purpose Vehicle (SPV), i.e., the Petitioner No. 2 herein, ACME SUN. SJVN vide letter dated 30.11.2023 accepted the execution of the project through ACME SUN.

- (f) ACME CLEANTECH, vide a separate letter dated 27.11.2023, requested SJVN for an amendment in the LOA dated 24.11.2023 for revision of installed capacities/configuration for 250 MW FDRE Project as “contracted capacity of 250 MW (AC) having the blended project capacity/installed capacity of 250 MW (AC) Solar Component at Jaisalmer, Rajasthan, and 350 MW Wind Component & 63 MWh ESS Component at Jamnagar, Gujarat” and the same was accepted by SJVN vide its letter dated 30.11.2023.
- (g) SJVN, vide its letter dated 05.12.2023, awarded an additional contracted capacity of 320 MW to ACME CLEANTECH under GREENSHOE OPTION and requested ACME CLEANTECH to submit the details of FDRE Configuration in respect of the said revised Contracted Capacity latest by 12.12.2023. ACME CLEANTECH, vide its letter dated 07.12.2023, consented to the additional contracted capacity of 320 MW awarded under the GREENSHOE option with an FDRE Configuration of 350 MW (AC) solar component, 450 MW wind component, and 81 MWh ESS Component.
- (h) On 14.12.2023, SJVN issued a LOA to ACME CLEANTECH under GREENSHOE OPTION for a contracted capacity of 320 MW having the blended project capacity/installed capacity of 350 MW (AC) Solar Component at Jaisalmer, Rajasthan, 400 MW Wind & 81 MWh ESS Component at Jamnagar, Gujarat and 50 MW Wind Component at Kutvh & Bhuj, Gujarat.
- (i) On 22.12.2023, SJVN Limited issued a letter to ACME CLEANTECH (in response to a letter dated 19.12.2023 of ACME CLEANTECH) acknowledging that the project awarded to the ACME CLEANTECH under the “GREENSHOE Option” shall be executed by its Special Purpose Vehicle (SPV), i.e., ACME SUN.
- (j) On 26.12.2023, the ACME SUN issued a letter to the Respondent vide which the ACME SUN requested for conversion of 400 MW connectivity granted on the BG Route to the LOA Route on the basis of LOA granted to its Parent Company, i.e., ACME CLEANTECH and consequently, release the BG of Rupees 40 Crores (Rs. 10 Lakhs/MW) submitted by the ACME SUN. The Respondent on 23.01.2024, rejected the request made by the ACME SUN since the LOA being submitted by the ACME SUN is in the name of ACME



CLEANTECH and, therefore, cannot be considered under the Regulation 11A (4) of the GNA Regulations.

- (k) The proviso to Regulation 15.1 of the GNA Regulations, 2022 permits the utilization of connectivity from a parent company, i.e., ACME CLEANTECH, to its subsidiary companies and vice versa. Therefore, the GNA Regulations 2022 also do not prohibit the utilization of connectivity between a parent company and its subsidiary.
- (l) In case the LoA is not accepted by CTUIL and the ACME SUN is constrained to continue to secure the Connectivity through its Bank Guarantee, it will then be mandatorily required to submit either PPA executed by ACME SUN with SJVN or 50% land documents within 180 days, failing which the connectivity shall be revoked. Further, till 180 days, the BG will not be returned to ACME SUN despite having a valid LOA from REIA in place, and it will cause unwarranted financial hardship on the Petitioners in a case where the law duly envisages that LoA issued to a Parent Company can be utilized by a Subsidiary Company. It is further submitted that signing of PPA may take more than 180 days as it is completely dependent upon SJVN to first sign a Power Sale Agreement (“PSA”) with buying entities followed by the signing of PPA with Petitioners and hence, it is completely beyond the control of Petitioners.
- (m) SJVN issued an Amendment dated 11.01.2024 to LOA dated 14.12.2023 changing the configuration of contracted capacity of 320 MW as 300 MW (AC) Solar Component at Jaisalmer, Rajasthan, 400 MW Wind & 81 MWh ESS Component at Jamnagar, Gujarat and 50 MW Wind Component at Kutvh & Bhuj, Gujarat.

Submission in respect of the prayer No. (iii)

5. The Petitioners have submitted as follows:

- (a) On 29.11.2023, ACME CLEANTECH submitted an application to CTUIL for a grant of connectivity for 600 MW (through BG route) for setting up of solar power project in Bhikhsar, Jaisalmer, Rajasthan, and submitted a Bank Guarantee of Rs. 60 Crores (Rs. 10 Lakhs/MW) to CTUIL under Regulation 5.8(xi)(c) of the GNA Regulations,2022. ACME CLEANTECH indicated the location of the nearest substation as Fatehgarh-II PS.
- (b) ACME CLEANTECH, vide its letter dated 20.12.2023, requested CTUIL to partially convert the connectivity of 600 MW granted earlier to ACME CLEANTECH at Fatehgarh



Phase-II PS under BG route to 350 MW Solar under LOA route based on the LoA dated 14.12.2023 issued by SJVNL to ACME CLEANTECH. Further, a request was also made vide the said letter to reduce the current Land BG for the remaining 250 MW to Rs. 25 Crore and consider the connectivity application dated 16.12.2023 as withdrawn.

- (c) CTUIL, vide its letter dated 26.12.2023, rejected the request of the ACME CLEANTECH for partial conversion of its connectivity application from the Land BG route to the LOA route, stating that the provision 11 (A) (4) does not provide for partial conversion of connectivity.
- (d) The actions of CTUIL in not accepting ACME CLEANTECH's request for partial conversion of the Connectivity without making any reference to any explicit restrictions regarding such partial conversion under GNA Regulations, 2022 as well as the Amended GNA Regulations, render such rejection arbitrary and devoid of merits.
- (e) The BG route provided in GNA regulations for securing connectivity requires submission of either LOA/PPA or 50% Land documents within 180 days from the grant of connectivity. It is further submitted that the entities participating in the bid and securing LOA may get capacity equal to or less than the connectivity quantum granted to them under the BG route, and in such cases, entities would submit LOA for the capacity that it won under the bid to CTUIL for conversion of connectivity of such quantum granted to it under the BG route to the LOA route while the balance connectivity quantum will still remain under BG route for which it will have to either submit separate LOA or 50% land document within 180 days of grant.
- (f) No prejudice shall be caused to the Respondent if ACME CLEANTECH is allowed by this Commission to convert their connectivity partially, since the remaining connectivity shall remain secure with the remaining Bank Guarantee already submitted to CTUIL.
- (g) The Petitioners have placed reliance on the Judgement of the Supreme Court in *Madeva Upendra Sinhai and Ors. v. Union of India & Ors*, (1975) 3 SCC 765 whereby the Supreme Court observed that "Power to Remove Difficulty" can be exercised to the extent it is necessary for applying or giving effect to the legislation and in doing so, the authority exercising the power to remove difficulty may slightly tinker with the legislation without flouting the basic structure and primary features of the regulations.



- (h) It is a well-settled principle of law as established by judicial precedents that an authority can exercise its discretionary power to “remove difficulty” where the statute provides for the same. The present case is fit and just case for exercising the discretion as vested in this Commission under Regulation 42 of the GNA Regulations, 2022, inasmuch as the Petitioners are facing huge financial hardship and injustice in as much as despite complying with the procedure and rigors for no fault of its own, CTUIL is refusing to accept the LOA being furnished by the Petitioners and as a consequence of the same, the Petitioners’ Bank Guarantee is not being returned, and there is a threat of revocation of connectivity after 180 days.
6. The Petitioners vide additional affidavit dated 23.02.2024 has submitted as follows:
- a. Petitioners, at the time of filing of petition, had prayed before this Commission “*to partially convert the connectivity of 600 MW granted earlier to Petitioner No. 1 at Fatehgarh Phase-II PS to 350 MW Solar and return the Bank Guarantee of proportionate amount of Rs. 35 crores and convert the connectivity granted to it on BG route to LOA route for such partial quantum of 350 MW*”, however, the 350 MW Solar Capacity granted vide LOA dated 24.11.2023 was later revised to 300 MW Solar Capacity vide LOA dated 11.01.2024. Therefore, the Petitioners requested for conversion of 300 MW Solar Capacity out of 600 MW connectivity and the consequent return of BG of Rs. 30 Crores.
- b. On 07.02.2024, ACME CLEANTECH requested that Respondent CTUIL to partially convert 300 MW out of the 600 MW connectivity applied on BG Route vide Application No. 22000000387 dated 29.11.2023 to LOA Route.

Hearing dated 14.2.2024:

7. The Commission admitted the Petition. The relevant extract of the RoP of the hearing dated 14.2.2024 is as under:

“3. Considering the submissions made by the learned counsel for the Petitioner and the representative of CTUIL, the Commission admitted the matter and directed the Respondent, CTUIL, to file its brief reply in the matter, if any, within a week with a copy to the Petitioner, who may file its rejoinder, if any, within a week thereafter. The Petitioner was also permitted to file the CTUIL’s letter dated 23.1.2024, as referred to during the course of the hearing, along with its rejoinder.”



4. Keeping in view the issues involved in the matter being brief and both sides had already made their respective submissions thereon, the Commission did not find any need for a further oral hearing in the matter and reserved the matter for order. However, upon the request of the learned counsel for the Petitioner, the Commission permitted the Petitioner to make a request for an oral hearing, if required, by 27.2.2024 after examining the reply filed by the Respondent, CTUIL.”

Commission reserved the matter for Order.

Submission of Respondent:

8. The Respondent, CTUIL, in its reply vide affidavit dated 23.02.2024, has submitted as follows on the issues pertaining to Prayer(ii):
 - a) On 17.11.2023, CTU granted in-principle Connectivity to the ACME SUN for 400 MW at Jam Khambhaliya PS (GIS). On 26.12.2023, the ACME SUN requested CTU for conversion of its connectivity from the Land BG route to the LOA route based on the SJVN LOA dated 14.12.2023. The said LOA was not issued in the name of the applicant company but was awarded to its parent company, i.e., ACME CLEANTECH.
 - b) CTU, vide its letter dated 23.01.2024, informed the ACME SUN that in view of the fact that the LOA was not issued in its name, the request for conversion of application from the Land-BG route to the LOA route cannot be accepted. The ACME SUN was asked to fulfil the conditions subsequently applicable to the entities covered under Regulation 5.8(xi)(c) of the GNA Regulation 2022.
 - c) The mandate of Regulation 11A(4) of the GNA Regulations is that the option of conversion of Connectivity from Land/Land-BG to LoA route can be exercised by such entities that have been granted Connectivity. In view of the specific fact that the LOA submitted for conversion from Land-BG Route to LOA Route has not been issued in the name of Connectivity grantee, the LoA was not accepted by CTU.

9. The Respondent, CTUIL, in its reply vide affidavit dated 23.02.2024, has submitted as follows on the issues pertaining to Prayer(iii):
 - a) On 29.11.2023, ACME CLEANTECH submitted its application to CTU for a grant of connectivity for 600 MW (through BG route) at Fatehgarh-II PS. ACME CLEANTECH. vide letter dated 20.12.2023 submitted LoA from SJVN Limited for 320MW Contracted



capacity in which the Solar installed capacity was 350MW and requested the conversion of 350MW out of 600MW Connectivity from the Land BG route to the LoA route and reduction of the original Land BG to Rs 25 Crore.

- b) CTU, vide its letter dated 26.12.2023, submitted that the conversion of Connectivity from Land BG to LOA route is governed by Regulation 11A(4) of CERC Connectivity and GNA Regulations, 2022. As per the Regulation, partial conversion from the Land/Land-BG route to the LOA route is not provided for; accordingly, the Petitioner's request was not acceded to. Further, the Petitioner was requested to submit the LOA for the entire quantum.
- c) ACME CLEANTECH vide letter dated 12.01.2024 has submitted the following LoAs and requested to convert their application from Land BG route to LoA route and consequently return the Land BG:
 - (i) LoA from SJVN Ltd for 320MW Contracted capacity with 300MW Installed capacity (solar) at Jaisalmer, Rajasthan.
 - (ii) LoA from NTPC Ltd for 300MW Contracted capacity.
- d) As per the LoA from NTPC Limited, the location of the solar portion of the project was indicated at Bikaner, Rajasthan, with an interconnection point at Bikaner-III PS. However, Connectivity was sought at Fatehgarh-II PS with the location of the project as Jaisalmer, Rajasthan. ACME CLEANTECH, vide the above letter, had also mentioned that they have written a letter to NTPC Ltd for a suitable amendment in the LoA to include the updated location of the project and ISTS point. Keeping the above in view, CTU, vide email dated 05.02.2024, requested ACME CLEANTECH to submit the amendment to NTPC LoA in order to process the request.
- d) Subsequently, ACME CLEANTECH, vide letter dated 07.02.2024, replaced the NTPC LoA with LoA from PFC Consulting Ltd for 300MW Contracted capacity.



- e) In response to Petitioner's letter dated 07.02.2024, CTU, vide its letter dated 12.02.2024, informed the Petitioner that the LOA has been issued subsequent to TBCB bidding for procurement of power from Grid connected RE Power Projects for utilization under the scheme for flexibility in generation and scheduling of Thermal/Hydro Power Stations through bundling with Renewable Energy and Storage power. Further, it was observed that PFC Consulting Ltd is neither a REIA nor a distribution licensee/ authorized agency on behalf of the Distribution Licensee. In a similar case, CERC, in its Suo Moto Order in Petition No 11/SM/2023 dated 22.09.2023 (Para 50 of the Order), has, *inter alia*, observed that PPA signed with the 'procurer' shall be accepted as valid document instead of LoA.
- f) ACME CLEANTECH, vide letter dated 15.02.2024, has requested that their earlier request made vide letter dated 07.02.2024 be ignored and also informed that they are expecting amendment to NTPC LoA very soon, post which they shall submit the same to CTU.
- g) Further, the condition stipulated under the SJVN letter dated 22.12.2023 regarding the execution of the project by its SPV is not a binding condition but merely an option, which may or may not be exercised. Therefore, reliance on the same for seeking the conversion of Connectivity granted to its subsidiary company from the Land-BG route to the LOA route was not allowed.
- h) Further, from a bare perusal of Regulation 11A (4) of the GNA regulations 2022, there is no clarity on whether the complete connectivity quantum would only be converted into the LOA route or it is permissible to convert even part of the total quantum of connectivity. There is no express provision for or against the partial conversion of the Connectivity from the Land/Land-BG route to the LOA route.
- i) However, notwithstanding the above, the conditions subsequent under Regulation 11(A) and conditions for revocation of Connectivity in case of delay under Regulation 24.6 of the Connectivity and GNA Regulations are different for Connectivity granted on Land–



BG route and LOA route. In view of the different provisions of the Regulations governing both routes, part conversion of Connectivity on the Land-BG route to the LOA route may result in a scenario wherein, under a single grant of Connectivity, there would be two routes and two distinct milestones. In such a case, implementation of different regulatory provisions related to compliances, revocation of Connectivity (if required), and encashment of Bank guarantees may be difficult to implement.

- j) In the event this Commission allows such partial conversion of Connectivity from the Land/Land BG Route to the LOA Route, in such a case, the answering Respondent prays before the Commission to expressly provide compliances required for each quantum separately, including but not limited to the treatment of Connectivity BG furnished by an applicant.

Rejoinder of the Petitioners

10. Petitioners, in their Rejoinder dated 02.03.2024 to the CTUIL submission, have reiterated their earlier submission and additionally submitted as regarding prayer (ii):
 - a. Clause 3.12(xiii)(a) of the RfS and Clause 11(v) of the LOA dated 24.11.2023, as well as Clause 11(iv) and (v) of the LOA dated 14.12.2023, it becomes abundantly clear that the Parent Company is well within its right to exercise the option of executing the awarded project through its subsidiary, i.e., ACME SUN in the present case.
 - b. Regulation 15.1 of the GNA Regulations envisages that the connectivity granted to a parent company can be utilised by its subsidiary and vice versa. There appears to be no express restriction on the conversion of connectivity solely on the basis of the connectivity granted via the BG Route to be converted to the LOA route if the LOA was awarded to a parent company.
 - c. Further, the said rejection is arbitrary inasmuch as the Rs 40 crore BG earlier submitted by the SPV along with the connectivity application dated 22.09.2023 was actually submitted by the Parent Company on behalf of the SPV and, at the time of acceptance of the said BG by CTUIL, no objection was raised with regard to the said submission of BG by the Parent Company.



- a) Petitioners, in their Rejoinder dated 02.03.2024 to the CTUIL submission, have reiterated their earlier submission and additionally submitted as under prayer (iii) that It is not necessary that the quantum of power awarded vide an LOA is equal to the connectivity secured by the power generators since the connectivity is secured prior to the grant of LOAs.

Analysis and decision

11. We have considered the rival submissions and perused the record.
12. Petitioners have submitted that ACME CLEANTECH was issued LoA dated 24.11.2023 (amended on 30.11.2023 and 14.12.2023) by SJVNL Limited for a contracted capacity of 250 MW having blended project capacity/installed capacity of 250 MW solar component at Jaisalmer, Rajasthan (ISTS interconnection at Fatehgarh-II PS); 350 MW wind component and 63 MWh ESS component at Kutch and Bhuj Gujarat (ISTS interconnection at Bhuj-II PS), respectively. Under this RFS, on 14.12.2023 (amended on 11.1.2024), SJVN issued a LOA to ACME CLEANTECH under GREENSHOE OPTION for additional capacity of 320 MW (300 MW (AC) Solar Component at Jaisalmer, Rajasthan, 400 MW Wind & 81 MWh ESS Component at Jamnagar, Gujarat and 50 MW Wind Component at Kutch & Bhuj, Gujarat).
13. Petitioners, in respect to Prayer (ii), have submitted ACME SUN, which was granted in-principle Connectivity by CTUIL vide Intimation Letter dated 17.11.2023 for 400 MW at the Jam-Khambaliya substation. ACME SUN wishes to convert the approved Connectivity at the Jam Khambaliya PS for 400 MW Solar without ESS applied on the Land BG route to 400 MW Wind with ESS on the LoA route, based on the LoA dated 14.12.2023 and seeks the return of the BG submitted under Regulation 11 A (1) of the GNA Regulations. Connectivity has been granted to ACME SUN, but LoA has been issued to ACME CLEANTECH.
14. The Petitioners, in respect to Prayer (iii), have submitted that ACME CLEANTECH wishes to convert the Connectivity applied under the BG route for 600 MW (nearest substation as Fatehgarh-II) may be converted into LOA route for 300 MW and the balance of 300 MW be continued under BG route.



15. CTUIL has submitted that in terms of Regulation 11A (4) of the GNA Regulations, the applicants who have been granted the Connectivity (Connectivity Grantee) under the land route or the BG route but are subsequently covered under the LoA route are required to furnish same documents as applicable to the entities covered under the LoA route. However, in the present case, the LoA has been issued in favour of ACME CLEANTECH, the Parent Company, whereas the Connectivity Grantee is ACME SUN, a subsidiary company of the Parent Company. Therefore, the request for conversion was not considered as per the GNA Regulations. CTUIL further submitted that the GNA Regulations do not specifically contain any provisions for partial conversion of Connectivity from land route or BG route to LoA route.
16. We have considered the submission of the Petitioners, Respondent, and facts on the record. The issues raised in the instant Petition are with respect to the following Connectivity applications of the Petitioners i.e, ACME SUN and ACME CLEANTECH:

Applicant	Connectivity Quantum Applied	Route	Substation	Connectivity applied on	Status of Connectivity Application applied under GNA Regulations	Prayer in the instant petition
ACME Sun Power Pvt Ltd	400 MW	BG	Jam Khambaliya	22.09.2023	In-Principle connectivity granted on 17.11.2023	Convert Connectivity under BG route to LOA route where LOA has been awarded to ACME CLEANTECH.
ACME Cleantech Solutions Pvt Ltd	600 MW	BG	Fatehgarh-II	29.11.2023	Pending.	Convert Connectivity under BG route to LOA route where LOA for the quantum of 300 MW that has been awarded to ACME CLEANTECH i.e., allow conversion of partial quantum of Connectivity.



17. The following issues arise for our consideration:

Issue No. 1: Whether the LoA issued in the name of the Parent Company can be considered for conversion of Connectivity granted to the subsidiary company from the BG route to the LoA route? Whether change in configuration from Solar to Wind or any other configuration change is allowed at this stage of conversion, as per the GNA Regulations?

Issue No. 2: Whether ACME CLEANTECH is eligible for conversion of a partial quantum of Connectivity from the BG route to the LoA route?

The issues have been dealt with in the subsequent Paragraphs.

Issue No. 1: Whether the LoA issued in the name of the Parent Company can be considered for converting Connectivity granted to the subsidiary company from the BG route to the LoA route? Whether a change in configuration from Solar to Wind or any another configuration is allowed at this stage of conversion, as per the GNA Regulations?

18. The Petitioners have submitted that ACME SUN was granted in-principle Connectivity by CTUIL vide Intimation Letter dated 17.11.2023 for 400 MW at the Jam-Khambaliya substation. ACME SUN wishes to convert the approved Connectivity at the Jam Khambaliya PS for 400 MW Solar without ESS applied on the Land BG route to 400 MW Wind with ESS on the LoA route, based on the LoA dated 14.12.2023 and seeks the return of the BG submitted under Regulation 11A(1) of the GNA Regulations. The Connectivity has been granted to ACME SUN (a Subsidiary of ACME CLEANTECH), but LoA has been issued to ACME CLEANTECH.

19. The Petitioners have submitted that the proviso to Regulation 15.1 of the GNA Regulations envisages that the Connectivity granted to a parent company can be utilized by its subsidiary and vice versa, and further, the Bid documents and LoA also provided that bids can be submitted by the parent company and the actual execution can be carried



out by the subsidiary/SPV of such companies. Petitioners have also submitted that SJVNL, vide letter dated 22.12.2023, has allowed that the project awarded to the ACME CLEANTECH shall be executed by its Special Purpose Vehicle (SPV), i.e., ACME SUN.

20. CTUIL has submitted that the mandate of Regulation 11A(4) of the GNA Regulations is that the option of conversion of Connectivity from the Land/Land-BG route to the LoA route can be exercised by such entities that have been granted Connectivity. However, in the present case, the LoA has been issued in favour of ACME CLEANTECH, the Parent Company, whereas the Connectivity Grantee is ACME SUN, a subsidiary company of the Parent Company. Therefore, the request for conversion was not considered as per the GNA Regulations. Further, the condition stipulated under the SJVN letter dated 22.12.2023 regarding the execution of the project by its SPV is not a binding condition but merely an option, which may or may not be exercised and, therefore reliance on the same for seeking the conversion of Connectivity granted to its subsidiary company from the Land-BG route to the LOA route was not allowed.

21. We have considered the rival submissions and perused the facts available on record. The provisions of GNA Regulations for conversion and the conditions of RFS read as follows:

(a) LOA dated 14.12.2023 as amended on 11.01.2024 issued by SJVNL to ACME CLEANTECH:

“1.0 This has reference to the following:

- (i) SJVNL’s Letter of Award (LOA) under GREENSHOE OPTION issued to M/s ACME Cleantech Solutions Private Limited vide LoA Ref No. SJVN/CC-Delhi/REIA/2023/FDRE-1/ACME*
- (ii) Your Letter Ref No. ACME/BUS/090124/5406 dated 09.01.2024 vide which you have requested for amendment in LOA for modification in the FDRE configuration, RE Project locations and the designated Delivery point/Interconnection point(s) as per the provisions of RfS document and its subsequent amendment.*

2.0 In reference of above and in terms of provision of the Clause 6.2.1 (viii) and 6.6.3 of RfS Document, read in conjunction with Sr. No. 21 & 22 of Amendment No. 1 dt 04.08.2023 & Sr. No 4 of Amendment No. 2 dt 25.08.2023 to RfS document, the RE Project Location as mentioned at Para 2.0 of above referred LOA is revised as below:



FDRE Configuration		Project location(s)	ISTS Interconnection Point (s) Details	Applicable Tariff (INR/kWh) in figures
Contracted Capacity	Project Capacity/ Installed Capacity			
320 MW	Solar Component: 300 MW (AC) Wind Component: 450 MW ESS Component: 81 MWh	Solar Component: 300 MW District: Jaisalmer, State: Rajasthan Wind & ESS Components: 400 MW: District: Jamnagar and Dwarka, State: Gujarat 50 MW: District: Kutch and Bhuj, State: Gujarat	Solar Component: 765/400/220 KV Fatehgarh-II PS Wind & ESS Components: 400 MW Wind Component: 400/220 kV Jam Khambhaliya (GIS) PS 50 MW Wind Component: 765/400/220 KV Bhuj-II PS	4.38/- (Rupees Four and Thirty Eight Paise only)

.....”

As per the above, the SJVNL’s LoA to ACME CLEANTECH provides the breakup of the configuration of 320 MW contracted capacity as 400 MW Wind with 81 MWh ESS (ISTS interconnection at Jam Khambhaliya), 300 MW Solar, and 50 MW Wind. ACME SUN has prayed to use this LOA (for 400 MW Wind component with 81 MWh ESS) to convert its Connectivity granted on the BG route to the LOA route.

(b) SJVNL RfS dated 20.06.2023 and SJVNL LoA dated 14.12.2023:

SJVNL RfS dated 20.06.2023

“4.1.6 A Bidder which has been selected as Successful Bidder based on this RfS can also execute the Project through a Special Purpose Vehicle (SPV), i.e. a Project Company especially incorporated/acquired as a subsidiary Company of the successful bidder for setting up of the Project, with at least 51% shareholding in the SPV which has to be registered under the Indian Companies Act, 2013, before signing of PPA. Multiple SPVs may also be utilized for executing more than one Project.”

SJVNL LoA dated 14.12.2023

11.0 RPD shall have to submit the required documents to SJVN within 40 days from the issue of LoA. In case of delay in submission of documents beyond the period as mentioned above, SJVN shall not in be liable for delay in verification of documents and subsequent delay in signing of PPA.

.....



iv. Copy of MoA/ AoA of the RPD/ Special Purpose Vehicle (if the selected bidder wishes to execute the project through a Special Purpose Vehicle), highlighting the relevant provision which highlights the objects relating to Power/ Energy/ Renewable Energy/ Solar Power Plant development.

v. In case the project executed through Special Purpose Vehicle (SPV), the RPD has to register the SPV under the Indian Companies Act, 2013 with at least 51% shareholding in the SPV before signing of PPA as per the provisions of RfS. Further, RPD shall submit a Board Resolution prior to signing of PPA with SJVN, committing total equity infusion in the SPV as per the provisions of RfS.”

As per the above, SJVNL RfS dated and LoA dated 14.12.2023 allows the selected bidder, if he wishes, to execute the project through a Special Purpose Vehicle.

(c) SJVNL letter dated 22.12.2023 to ACME CLEANTECH:

“This has reference to the above referred Letter of Award (LoA) issued to M/s ACME Cleantech Solutions Private Limited for 250 MW Contracted Capacity subsequent to the conclusion of the e-RA conducted by SJVNL for the above mentioned tender.

In this regard, it is hereby intimated that as per the provision of Clause 4.1.6 & Clause 6.17 of the RfS Document, the Successful Bidder / RPD can execute the Project through a Special Purpose Vehicle (SPV) i.e. a Project Company especially incorporated / acquired as a subsidiary Company of the successful bidder for setting up of the Project, with at least 51% shareholding in the SPV which has to be registered under the Indian Companies Act, 2013, before signing of PPA.

Accordingly, M/s ACME Cleantech Solutions Private Limited has incorporated its Special Purpose Vehicle (SPV) i.e. M/s ACME Sun Power Private Limited as per the Companies Act, 2013 (CIN Number U40200HR2021PTC096511) having 99.99% shareholding in its SPV, M/s ACME Sun Power Private Limited, which will execute the above referred awarded project and sign the PPA with SJVNL Ltd for the said Project, in line with the provision of the RfS, including seeking ISTS -connectivity from the CTU under the detailed Procedure as issued by CERC.

This letter is being issued without prejudice to the terms and conditions of the RfS Document,”

As per the above, SJVNL, vide its letter dated 22.12.2023, has accepted ACME CLEANTECH's request to execute the project through its SPV ACME SUN and ACME SUN to sign PPA with SJVNL for the said project.

(d) Regulation 5.8 and Regulation 11A of the GNA Regulations



“5.8 The application for grant of Connectivity shall contain, inter alia, the following details, as applicable, duly supported with relevant affidavit, as stipulated in the Detailed Procedure for Connectivity and GNA issued in accordance with Regulation 39.1:

.....

(viii) In case of Applicants which are REGS (other than Hydro generating station or ESS (excluding Pumped Storage Plant(PSP)) the following documents shall be submitted:

(a) Letter of Award (LOA) by, or Power Purchase Agreement (PPA) entered into with, a Renewable Energy Implementing Agency or a distribution licensee or an authorized agency on behalf of distribution licensee consequent to tariff based competitive bidding, as the case may be:

Provided that in case of Applicants being multi-located REGS, the details of locations and capacity at each location, duly certified by the Renewable Energy Implementing Agency or the distribution licensee, as the case may be, shall be submitted.

Or

(b) Registered Title Deed as a proof of Ownership or lease rights or land use rights for 50% of the land required for the capacity for which Connectivity is sought;

Or

(c) Bank Guarantee of Rs. 10 lakh/ MW in lieu of ownership or lease rights or land use rights of land for 50% of the land required for the capacity for which Connectivity is sought subject to provisions of Regulations 11A and 11B of these regulations.

11A. Conditions subsequent to be satisfied by the Connectivity Grantee

- (1) An applicant which is REGS (other than Hydro generating station) or ESS (excluding PSP) covered under Regulation 5.8 (xi)(c) of Regulation 5.8 or Renewable power park developer covered under clause (vii)(c) of Regulation 5.8 of these regulations shall submit documents for land in terms of clause (xi)(b) or clause (vii)(b) of Regulation 5.8, as the case may be, within 180 days of issuance of final grant of Connectivity. The Bank Guarantee shall be returned within 7 days of submission of stipulated documents as a proof of Ownership or lease rights or land use rights .*
- (2) An applicant which is REGS (other than Hydro generating station), ESS (excluding PSP) or Renewable power park developer to which final grant of connectivity has been issued, shall submit Auditor's certificate, certifying the release of at least 10% of the project cost including the land acquisition cost through equity within a period of 12 months from the date of issuance of final grant of connectivity.*
- (3) An applicant which is REGS (other than Hydro generating station), ESS (excluding PSP) or Renewable power park developer to which final grant of connectivity has been issued, shall have to achieve the financial closure for the capacity of such Connectivity, (a) within a period of 12 months from the date of issuance of final grant of connectivity, if the start date of Connectivity is within 2 years from date of issuance of final grant of connectivity or (b) a period equivalent to 50% time period between*



issue of final grant of Connectivity and start date of Connectivity, if the start date of Connectivity is more than 2 years from date of issuance of final grant of connectivity:

Provided that such an applicant shall submit proof of Financial Closure of the project (with copy of loan sanction letter or proof of first disbursement of loan amount) or copy of board resolution (if internal funding is planned for 100% of the project cost) to CTU within 15 days of achieving the financial closure.

(4) In case of Applicants which have been granted Connectivity under clauses (xi)(b) or (xi)(c) of the Regulation 5.8 but are subsequently covered under clause (xi)(a) of the Regulation 5.8, the requirement of furnishing the documents in accordance with Clauses (1) and (3) the same as applicable to the entities covered under clauses (xi)(a) of Regulation 5.8.”

As per the above, for Applicants who have been granted Connectivity on the basis of the LAND route or on the BG (in lieu of LAND) route but are subsequently covered under the LOA route, the requirement of furnishing the documents of 10% of project cost under equity and Financial closure shall be same as applicable to the entities covered under the LOA route.

22. ACME SUN has prayed for the conversion of the in-principle Connectivity granted at the Jam-Khambaliya substation for 400 MW on the BG route to the LOA route under the above-quoted regulations. Firstly, let us peruse whether ACME SUN, which was granted Connectivity based on a particular configuration of renewable source(s), can seek conversion to LOA based on another renewable energy source(s).
23. We observe that ACME SUN had applied for Connectivity on a BG basis with configuration as Solar. The relevant details of the application dated 22.09.2023 are as follows:



NATURE OF THE APPLICANT

Nature of Applicant	i. Generating station(s), including REGS(s), without ESS
---------------------	--

DETAILS OF THE GENERATION PROJECT/RENEWABLE POWER PARK

Name of the Generation Project	ACME Sun Solar Project
Energy Source	Solar

ESS DETAILS

ESS Type	
Details of ESS (Capacity in MW)	
Maximum injection (MW)	
Maximum drawl (MW)	
Time duration for injection cycle (in hours)	
Time duration for drawl cycle (in hours)	
Installed Capacity	400
Step-up Connection/Voltage	220 kV
Nearest Village / Town	Bhatgam
District	Devbhoomi Dwarka
State	Gujarat
Latitude	22.155543
Longitude	69.702003
Criterion for applying Connectivity	Land BG route

As per the above, Petitioner ACME SUN applied for Connectivity under the LAND BG route for 400 MW with a “Solar” energy source.

24. We have also perused the Detailed Procedure under the GNA Regulations dated 14.10.2022, which provides Clause 5(xiii) as follows:

“xiii. The Applicants who have been granted Connectivity to ISTS for the generation projects based on particular renewable energy source(s) (with or without ESS) may, for the same granted connectivity, change to another renewable energy source(s) (with or without ESS) in part or full, subject to approval by CTU, keeping in view of outcome of system studies. The entity shall submit the Technical Data for changed renewable energy source(s) and CTU shall incorporate the necessary change in connectivity agreement in line with GNA Regulations.”



As per the above, applicants who have been granted Connectivity to ISTS based on a particular renewable energy source (with or without ESS) can change to another renewable source (with or without ESS) subject to the approval of CTU, keeping in view of the outcome of system studies.

25. As per the above-quoted Clause 5(xiii) of the Detailed Procedure under the GNA Regulations, the change of connectivity from one renewable source to another renewable can be exercised by an applicant who is a “connectivity grantee,” and it is provided that the concerned entity shall incorporate necessary changes in the Connectivity Agreement.
26. We observe that in the instant case, only in-principle connectivity has been granted to ACME SUN, i.e., ACME SUN is not a connectivity grantee in terms of Regulation 10.3 of the GNA Regulations. Further, the Petitioner ACME SUN wishes to convert from the LAND BG route (Solar) to the LOA route (WIND with ESS). Even if ACME SUN was a connectivity grantee and LOA was in the name ACME SUN only, before seeking conversion from LAND BG to LOA, it is first required to change the configuration from Solar to Wind with ESS.
27. ACME SUN has prayed for the conversion of the in-principle Connectivity granted at the Jam-Khambaliya substation for 400 MW on the BG route to the LOA route where LOA has been granted to its Parent ACME CLEANTECH under Regulation 11A(4). ACME SUN has also referred to Regulation 15.1 of the GNA Regulations to substantiate its claim. We have perused Regulation 15 of the GNA Regulations, quoted as follows:

“

15. Transfer of Connectivity

15.1. *A Connectivity grantee shall not transfer, assign or pledge its Connectivity and the associated rights and obligations, either in full or in parts, to any person except as provided under Regulations 15.2 and 15.3 of these regulations:*

Provided that Connectivity granted to a parent company may be utilised by its subsidiary companies and Connectivity granted to a subsidiary may be utilised by its parent company:

Provided further that where a bulk consumer has been granted GNA under Regulation 17.1(iii), GNA granted to such Bulk consumer may be utilized in part or full by its subsidiaries or vice versa, if such bulk consumer and its subsidiaries are connected at the same connection point of ISTS.



- 15.2.** *Where the Connectivity grantee is an REGS, it may split its Connectivity in parts, after COD of such part, subject to the minimum capacity in accordance with Regulation 4.1 of these regulations, and submit the installed capacity of each part to the Nodal Agency. In such an event, the Connectivity shall be deemed to have been split in proportion to installed capacity of each such part:*

Provided that all liabilities and obligations in accordance with these regulations shall continue to remain with the Connectivity grantee for each part.

- 15.3.** *Any person which acquires 51% or more shareholding of the company or its subsidiary or affiliate company owning REGS or part thereof in terms of Regulation 15.2, may after COD of such split part, apply to the Nodal Agency for transfer of Connectivity. The Nodal Agency shall issue revised grant of Connectivity on submission of applicable Conn-BG2 and Conn-BG3 by such person. The original grantee may substitute its Conn-BG2 and Conn-BG3 with revised Conn-BG2 and Conn-BG3, to be intimated by CTU. On issue of revised grant of Connectivity, such person shall enter into a fresh Connectivity Agreement and be responsible for compliance with all applicable regulations.*

Provided that all liabilities and obligations in accordance with these regulations, for the Connectivity not transferred, shall continue to remain with the original Connectivity grantee.

As per the above, the Connectivity granted to a parent company may be utilised by its subsidiary companies, and the Connectivity granted to a subsidiary may be utilised by its parent company.

28. We observe that Connectivity has been granted to ACME SUN. The project is also envisaged to be executed by the ACME SUN, which will enter into PPA with SJVN (LOA issuing authority). We are of the view that “utilization of Connectivity” in the above-quoted Regulations implies injection or drawl of power by the project. For example, if “A” company (Parent) has been granted Connectivity, but “A” executes the project through its subsidiary “B,” then “B” needs Connectivity for the purpose of injection of power, and under Regulation 15.1, “B” can utilize connectivity granted to “A” till the time Connectivity granted to “A” is transferred to “B.” In the instant case, Petitioner ACME SUN wishes to utilize the LOA granted to its Parent ACME CLEANTECH to convert the route of Connectivity granted to ACME SUN. This is not the case with the utilization of Connectivity. This is a case of utilization of document with Parent by its subsidiary to fulfil certain conditions under the Regulations, which is not allowed under Regulation 11A(4) or Regulation 15 of the GNA Regulations.



29. Petitioner ACME SUN has prayed that the Commission may exercise its powers under Regulation 42 of the GNA Regulations under “Power to relax” to allow its subsidiary such usage of documents of the Parent company
30. In light of the above discussions, we observe that the ACME SUN wishes to convert the Connectivity granted on the basis of LAND BG (with Solar) to LOA for WIND with ESS. We are of the considered view that ACME SUN can seek any conversion under Regulation 11(4) of the GNA Regulations only after changing configuration in terms of Clause 5(xiii) of the Detailed Procedure of the GNA Regulations, which is possible only after becoming a connectivity grantee in terms Regulation 10.3 of the GNA. Hence, the present application is premature as ACME SUN is not a Connectivity grantee and has not changed its configuration in terms of Clause 5(xiii) of the Detailed Procedure of the GNA Regulations. In light of the premature nature of the application, we do not find this to be a fit case to exercise our powers under the “Power to relax.” This relaxation cannot be extended to the Petitioner ACME SUN, who had applied for Connectivity under the BG route, being fully aware of the Regulations applicable at the relevant point in time.
31. In light of the above discussions, prayer (ii) of the Petitioners is hereby rejected.

Issue No. 2: Whether the ACME CLEANTECH is eligible for conversion of a partial quantum of Connectivity from the BG route to the LoA route?

32. Petitioners have submitted that ACME CLEANTECH has been granted Connectivity for 600 MW at Fatehgarh-II under the LAND BG route. Petitioner ACME CLEANTECH wishes to convert 300 MW capacity (Solar) out of 600 MW (Solar) from the LAND BG route to the LOA route subsequent to being awarded LOA for 300 MW issued by SJVN. Petitioners have submitted that the entities participating in the bid and securing LoA may get capacity equal to or less than the Connectivity quantum granted under the BG route to LOA route. In such cases, entities would submit the LoA for the capacity to CTUIL for conversion of the Connectivity of such quantum granted under the BG route to the LoA route. For the balance connectivity quantum will still remain under the BG route, for which it will have to either submit separate LoA or 50% land documents within 180 days of the grant. Petitioners also submitted that no prejudice would be caused to CTUIL if ACME



CLEANTECH is allowed to convert their Connectivity partially since the remaining Connectivity shall remain secure with the remaining BG already submitted.

33. CTUIL has submitted that Regulation 11A(4) of CERC Connectivity and GNA Regulations, 2022, does not provide for partial conversion from the Land/Land-BG route to the LOA route. CTUIL also submitted that if such partial conversion is allowed, it may create a situation wherein, under a single grant of Connectivity, there would be two routes and two distinct milestones and the implementation of different regulatory provisions related to compliances, revocation of Connectivity (if required), encashment of Bank guarantees, etc. may be difficult to implement. CTUIL further submitted for such partial conversion cases, the Commission needs to provide the compliances required for each quantum separately, including but not limited to the treatment of Connectivity BG furnished by an applicant.
34. We have considered the submission of the Petitioners and Respondent. We proceed to peruse the regulatory provisions in this regard.
35. Clause (4) of Regulation 11A of the GNA Regulations provides as under:

“(4) In case of Applicants which have been granted Connectivity under clauses (xi)(b) or (xi)(c) of the Regulation 5.8 but are subsequently covered under clause (xi)(a) of the Regulation 5.8, the requirement of furnishing the documents in accordance with Clauses (1) to (3) shall be the same as applicable to the entities covered under clause (xi)(a) of Regulation 5.8.”

As per the above, for Applicants who have been granted Connectivity on the basis of the LAND route or on the BG (in lieu of LAND) route but are subsequently covered under the LOA route, the requirement of furnishing the documents of 10% of project cost under equity and Financial closure shall be same as applicable to the entities covered under LOA route. We agree with the contentions raised by CTU that partial conversion from LAND to LOA or LAND BG to LOA is not covered in the quoted regulations. We also agree that in case partial conversion is allowed, the Commission needs to provide the compliances required for each quantum separately including but not limited to treatment of Connectivity BG furnished by such applicant, which has been granted Connectivity.



36. We observe that any entity seeking conversion under Regulation 11A (4) must be an applicant who has been granted Connectivity. Let us peruse whether the Petitioner ACME CLEANTECH is an applicant who has been granted Connectivity. We have perused the ACME CLEANTECH letter dated 20.12.2023 and letter dated 07.02.2024 to CTUIL for conversion of Connectivity applied on BG route vide Application No. 22000000387 dated 29.11.2023 to LOA Route as under:

A) ACME CLEANTECH letter dated 20.12.2023

"Furthermore, we would like to submit that we have secured a 320 MW FDRE project SJVN Limited in greenshoe option under competitive bidding and subsequently a Letter of Award (LOA) (Ref:3) in favour of bidding company i.e. M/s Acme Cleantech Solutions Private Limited for Contracted Capacity of 320 MW with the following project configuration:

- Solar Component: 350 MW
- Wind component: 450 MW
- - ESS component: 81 MWh

In line with the above, would also like to apprise you that we have submitted another connectivity application (Ref: 2) for 350 MW connectivity at "765/400/220 kV Fatehgarh-II PS" on 16.12.2023 through M/s ACME Cleantech Solutions Private Limited under LOA route. It has been brought to our understanding that margin at Fatehgarh II PS is exhausted and no further margin is available for grant.

In view of, we kindly request your good office:

- 1) **To partially transfer our connectivity application no. 2200000387 dated 29.11.2023 at "765/400/220 kV Fatehgarh-II PS" for 350 MW Solar without ESS from Land BG route to LOA route for development of Solar power project for 350 MW capacity in line with the LOA under greenshoe option issued by SJVN and keep balance 250 MW through Land BG route only.**
- 2) *Reduce the Land BG to INR 25 crore for balance 250 MW.*
- 3) *Consider our connectivity application no. 2200000430 (350 MW under LOA route) dated 16.12.2023 as withdrawn.*
- 4) *Include this letter in the agenda of 27th CMETS-NR meeting.*

....."

B) ACME CLEANTECH letter dated 07.02.2024

"We would like to inform you that we have secured below mentioned project capacity from multiple tendering agencies and respectively LOA's have been issued in favour of bidding company i.e., M/s Acme Cleantech Solutions Private Limited.



1) 320 MW FDRE project from SJVN Limited in greenshoe option under competitive bidding with following project configuration (LOA with all amendments was submitted in our earlier letter dt. 12.01.2024, Enclosed again):

- Solar Component: 300 MW- To be utilised for evacuation at Fatehgarh II
- Wind component: 450 MW
- ESS component: 81 MWh

2) 300 MW solar project from PFC Consulting Limited under competitive bidding. However, as per RFS condition name of substation at which we intend to connect the project was not required to be submitted during the bid response and in turn same has not been incorporated in the issued LOA (LOA enclosed for your reference).

In view of above, we kindly request your good office:

1) **To convert our connectivity application no. 2200000387 dated 29.11.2023 at “765/400/220 kV Fatehgarh-II PS” for 600 MW Solar without ESS from Land BG route to LOA route for development of Solar power projects against the SJVN and PFC Consulting Limited LOA’s for 300 MW each- cumulatively for 600 MW.**

2) Return our Land BG with discharge letter of INR 60 crore.”

As per the above, we note that ACME CLEANTECH, vide its above-quoted letters has requested the CTUIL to convert the connectivity application no. 2200000387 dated 29.11.2023 at “765/400/220 kV Fatehgarh-II PS” for 600 MW Solar without ESS from Land BG route to LOA route. We observe that there is nothing on record to establish that ACME CLEANTECH has been granted Connectivity by CTUIL. Although the Petitioner ACME CLEANTECH has submitted vide the instant Petition that it has been granted Connectivity at Fatehgarh-II, however in all the communications with CTU, it is referring only to converting its connectivity application and not the Connectivity granted. ACME CLEANTECH has not filed any such intimation of connectivity granted by CTUIL.

37. We have perused the minutes of the 27th Consultation Meeting for Evolving Transmission Schemes in Northern Region (CMETS-NR) held on 10.01.2024 and the minutes of the meeting for Reallocation of Connectivity at Fatehgarh-II PS from Fatehgarh-III PS and Fatehgarh-IV PS in Northern Region (Reallocation Meeting) held on 19.02.2024 (taken from the website of CTUIL). The relevant extract of the minutes of the 27th CMETS-NR held on 10.01.2024 and the Reallocation meeting held on 19.02.2024 are as follows:

A) Minutes of the 27th CMETS-NR held on 10.01.2024

"....."



8.	2200000387	ACME Cleantech Solutions Private Limited	Jaisalmer distt., Rajasthan	29.11.2023	Generator (Solar)	Land BG route	600	31.03.2026	Fatehgarh-II PS	• Shall be informed in the next meeting.
9.	2200000396	ACME Cleantech Solutions Private Limited	Jaisalmer distt., Rajasthan	30.11.2023	Generator (Hybrid)	LOA (SJVN)	250	31.03.2026	Fatehgarh-II PS	• Shall be informed in the next meeting

It was informed that M/s Acme Cleantech Solutions Private Limited has applied for connectivity for 600 MW & 250 MW at Fatehgarh-II PS at 400 kV. It was also informed that 1000 MW (500 MW at 220 kV & 500 MW at 400 kV) of connectivity margin was vacated at Fatehgarh-II PS due to surrender of connectivity by applicants under GNA transition process. In the reallocation meeting held on 20.06.23, issues regarding Fatehgarh-II PS falling under GIB additional important area, non clarity on clearance for overhead dedicated tr. Line (DTL) by GIB committee for connectivity at Fatehgarh-II PS as well as request of other RE developers for shifting from Fatehgarh-II PS to other nearest stations was discussed. Based on above, Fatehgarh-II PS was not considered for any reallocation till clarity of GIB clearance of RE developers DTL. In fact no developer showed their interest in occupying vacated margins at Fatehgarh-II PS, rather developers at Fatehgarh-II PS were willing to go out of Fatehgarh-II PS to alternate locations due to GIB issues.

However, CTUIL has recently received a request from ABC RJ Land 01 Pvt. Ltd.(380 MW) granted connectivity at Fatehgarh-IV PS(Sec-I) to shift their connectivity from Fatehgarh-IV PS(Sec-II) to Fatehgarh-II PS. The matter is to be examined comprehensively. Accordingly, it was informed that the above applications from M/s ACME for grant of connectivity at Fatehgarh-II PS shall be discussed in the next CMETS NR meeting.

It was also informed that, M/s ACME vide letter dated 09.01.24 had also raised its concerns on not taking up its applications (600 MW+250 MW) for grant at Fatehgarh-II PS in 27th CMETS-NR meeting. M/s ACME has also mentioned that ABC RJ Land 01 should have made another application at Fatehgarh-II PS after its application is disposed off by grant of connectivity at Fatehgarh-IV PS and it cannot claim connectivity at Fatehgarh-II PS at a later stage without having any live application pending with CTU.

CTU reiterated that the matter is to be examined comprehensively. Accordingly, the above applications from M/s ACME for grant of connectivity at FatehgarhII PS shall be discussed in the subsequent CMETS NR meeting.”

C) Minutes of the Reallocation meeting held on 19.02.2024

“It was informed that recently CTUIL has received applications for connectivity by M/s ACME Cleantech at Fatehgarh-II PS for total 850 MW (600MW + 250MW) on 29.11.2023 & 30.11.2023 respectively. Further, a representation has also been received from ABC RJ Land 01 Private



Limited vide letters dated 20.12.23, 27.12.23 & 08.01.24 that in view of spare capacity available at Fatehgarh-II PS, they intend to get connectivity for their project granted connectivity at Fatehgarh-IV PS (110 MW+270 MW) at Fatehgarh-II PS. M/s ABC RJ has mentioned that they have requested for connectivity sanction at Fatehgarh- II substation based on the land parcel they have already acquired in the vicinity of Fatehgarh-II substation while retaining the connectivity granted for 380 MW at Fatehgarh - IV substation.

Further, it was informed that, in view of the requirement of comprehensive examination of the matter, two no. of applications of M/s ACME Cleantech applied for connectivity at Fatehgarh-II PS were deferred for discussion in the 27th CMETS NR meeting.

It was also informed that M/s ACME vide letter dated 09.01.24 had also raised its concerns on not taking up its applications (600 MW+250 MW) for grant at Fatehgarh-II PS in 27th CMETS-NR meeting held on 10/01/24. M/s ACME has also mentioned that ABC RJ Land 01 should have made another application at Fatehgarh-II PS after its application is disposed off by grant of connectivity at Fatehgarh-IV PS and it cannot claim connectivity at Fatehgarh-II PS at a later stage without having any live application pending with CTU. In view of the above, M/s ACME was also invited to this meeting.

.....

On query of CTU, M/s ABC RJ reconfirmed that though they have expressed interest in connectivity shifting to Fatehgarh-II PS through letters, now as per their management decision they are not opting for reallocation to Fatehgarh-II PS. M/s ABC RJ also indicated that they wish to change their land parcel from existing parcel near Fatehgarh-II to Fatehgarh-IV PS as per CERC 11/SM/2023 order (reg. change in land) for their 380 MW project. CTU advised ABC RJ to apply to CTU formally in this regard.

CTUIL informed that the reallocation process is being carried out in a transparent manner. However, in view of various concerns raised by M/s ABC RJ & M/s ACME it has been decided to prepare a detailed procedure (SoP) in this regard which is currently in draft stage. The same shall be finalized and uploaded in the CTUIL website for comments. CTUIL requested all to give their comments on the same so that the same can be finalized for better clarity on the process.”

As per the above, the Application no. 2200000387 for the grant of 600 MW Connectivity at Fatehgarh-II PS is yet to be processed by CTUIL, and thus, no Connectivity has been granted to ACME CLEANTECH against the mentioned application.

38. From the above, we observe that ACME CLEANTECH is not an applicant who has been granted Connectivity and, hence, does not qualify to seek any conversion till the time it is granted Connectivity. We conclude that submission of ACME CLEANTECH that it has been granted at Fatehgarh-II PS is not correct.
39. Considering the above discussion, we are of the considered view that ACME CLEANTECH is not eligible to convert the Connectivity from the BG route to the LoA



route since Connectivity has not been granted to ACME CLEANTECH. Clause (4) of Regulation 11A of the GNA Regulations clearly provides that only Applicants who have been granted Connectivity can seek to convert Connectivity granted on the Land or BG route to the LoA route.

40. Further on the issue of conversion for partial quantum, we have noted the submissions of CTUIL regarding the absence of clear regulatory provisions. We observe that allowing the conversion of partial quantum to other routes needs careful consideration after stakeholder consultations as the framework for compliance and treatment of all the BGs has to be incorporated in the regulations. We are of the view that any relaxation of the regulations at this stage shall not be appropriate. We direct the Commission's staff to process amendments to the GNA Regulations to incorporate relevant provisions regarding partial conversion of connectivity to a different route, keeping in view the requirements of the sector.
41. The issue is answered accordingly.
42. In light of our observations above, the fourth prayer, seeking to direct CTUIL not to take any coercive action until the pendency of the present petition, does not survive.
43. The petition No. 9/MP/2024 is disposed of in terms of the above.

**Sd/
(P. K. Singh)
Member**

**Sd/
(Arun Goyal)
Member**

**Sd/
(Jishnu Barua)
Chairperson**

