

**BEFORE THE CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No. 14/MP/2024
along with
IA No. 7/2024**

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

Date of order: 27th January, 2024

In the matter of

Petition under Section 79 (1) (c) read with Regulation 42 of the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 for grant of connectivity.

And

In the matter of

ABC RJ Land 01 Private Limited,
H.No. 6-3-680/8/3, PMR Plaza,
Thakur Mansion lane, Somajiguda
Hyderabad, Telangana-500082.

...Petitioner

Versus

1. Central Transmission Utility of India Limited,
First Floor, Saudamini,
Plot No.- 2,
Sector- 29 Gurugram,
Haryana- 122 001

2. Ministry of Power,
Shram Shakti Bhawan, 5, Rafi Marg,
New Delhi-110001

3. Ministry of New and Renewable Energy,
Atal Akshay Urja Bhawan,
CGO Complex, Lodhi Road,
New Delhi -110003

...Respondents

Parties Present:

Ms. Swapna Seshadri, Advocate for the Petitioner
Ms. Suparna Srivastava, Advocate for the Petitioner



ORDER

The instant Petition has been filed by the Petitioner, ABC RJ Land 01 Private Limited (hereinafter referred to as “ARLPL”) under Section 79 (1) (c) of the Electricity Act, 2003 (the Act) read with 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 “the GNA Regulations”) seeking direction to Respondent No.1, CTUIL to grant the connectivity as per the application dated 23.12.2021 at Fatehgarh-II pooling sub-station (PS) and to restrain CTUIL from processing new application for connectivity at Fatehgarh-II until the final decision in the instant Petition. The Petitioner has made the following prayers:

“(a) Direct the CTUIL to provide opportunity to the Petitioner to file Application with reasonable timelines to the Petitioner retaining its seniority of 23.12.2021, as no opportunity/intimation was given post 20.06.2023, when it was decided by CTUIL, not to give any connectivity in view of the pending GIB issues before the Hon’ble Supreme Court of India, before accepting any new applications for the Fatehgarh II PS;

(b) Further, direct the CTUIL to process the request of the Petitioner with the same time stamp of its submission on 23.12.2021 for giving connectivity at Fatehgarh II considering it as deemed to have been filed on the said date in the facts and circumstances of the Petition;

(c) Restrain CTUIL from processing any new application for connectivity at Fatehgarh II until the final decision in the instant petition; and;

(d) Pass such other further order(s) as the Hon’ble Commission may deem just in the facts of the present case;”

2. The Petitioner has also filed IA (Diary No. 9/2024) seeking interim direction to CTUIL from deciding upon fresh applications on the connectivity at Fatehgarh-II and Fatehgarh-IV until the decision in the matter.



3. The Petitioner in the instant Petition has mainly submitted as under:
- (a) On 8.7.2021, the Petitioner had made an application to CTUIL for the grant of Stage I and Stage II Connectivity at Fatehgarh-II pooling station on the basis of land and financial closure for its 110 MW solar generation project, which was later revised to 380 MW vide applications dated 8.7.2021 and 23.12.2021 along with the land ownership documents in line with the Connectivity Regulations.
- (b) In the 49th Meeting of Northern Region Constituents regarding LTA and connectivity applications in the Northern Region held on 27.8.2021, the Petitioner`s application was discussed, and in the said meeting, CTUIL proposed to grant the connectivity at Fatehgarh- IV pooling station instead of Fatehgarh- II pooling station due to space constraints and CTUIL informed that no new applications can be considered for the grant of connectivity at Fatehgarh-II pooling station. Accordingly, Stage-I connectivity was proposed to be granted at the Fatehgarh IV pooling station. In response, the Petitioner categorically informed CTUIL that its project may become unviable due to longer line length until the Fatehgarh-IV pooling station, as its location was also not finalized as of then. However, CTUIL advised the Petitioner that, at present, connectivity may be obtained at the Fatehgarh -IV pooling station.
- (c) The Petitioner also informed the CTUIL that the entire capacity was being exhausted for the applications based on the Letter of Award (LOA) route, and segregation of applications based on LOA, land and financial closure (FC) route, may be done and accordingly, grant priority to FC applications. This is for the reason that the LOA application had the opportunity of shifting the Project, but the same would not be possible for the applications based on FC, CTUIL, however, informed the Petitioner that as per the present regulations, there was no provision to accord priority to FC applications over the LOA route and the grant of connectivity is being carried out on first cum first serve basis to all the applicants.
- (d) CTUIL further informed the Petitioner that the manufacturing-based project applications were granted Stage-II connectivity at Fatehgarh-II &



Fatehgarh-III pooling station. However, they have not applied for the grant of the LTA. This issue was already taken up with SECI. Accordingly, SECI/MNRE might apprise the status of signing the PPA/PSA for manufacturing LoAs. SECI informed that it shall revert to its decision on a manufacturing based LOA by the end of August 2021 or early September. Therefore, the Petitioner requested to take up its Stage-I as well as Stage-II application for the grant of connectivity at Fatehgarh II pooling station in the next meeting for deliberation. Accordingly, both Stage-I & Stage-II applications were decided to be taken up for discussion at the next meeting.

(e) In the next meeting held on 29.9.2021, the Petitioner again highlighted that since the land purchased by it, based on which connectivity has been applied, is in the vicinity of Fatehgarh- II pooling station, it is extremely difficult and not financially viable for this project to get connected to the Fatehgarh- IV pooling station. It was also highlighted by the Petitioner that while the connectivity applications based on the LOA can be moved to any other suitable place in any part of India; the Project proposed to be set up on acquiring land cannot be moved. However, CTUIL informed the Petitioner that since no vacancy at the Fatehgarh-II pooling station was being envisaged, the grant of the connectivity is being accorded as per the regulations, and as such, at present, connectivity may be accorded for the Fatehgarh-IV PS only. However, the option to move from the Fatehgarh- IV pooling station to the Fatehgarh -II pooling station or Fatehgarh – III pooling station shall be given, and the same shall be based on the application priority in case of bay vacancy.

(f) Since the Petitioner had no option, it gave its consent for the grant of the connectivity at Fatehgarh-IV pooling station and for the transition of connectivity to the new regime under the GNA Regulations, and accordingly, connectivity was granted to the Petitioner for the Fatehgarh IV pooling station.

(g) There was no development regarding notification of vacancy at Fatehgarh-II pooling station for almost two years. The Petitioner, therefore, started developing the project in the vicinity of the Fatehgarh-IV pooling station but, at

the same time, continued to track the availability of bays at the Fatehgarh-II pooling station.

(h) The next meeting was held on 20.6.2023 for consideration of the reallocation of connectivity bays at Fatehgarh-III, Bhadla-II pooling station, and Bikaner-II pooling station vacated post GNA transition to other grantees/applicants in Rajasthan RE complexes. In this meeting, though the reallocation was proposed from the Fatehgarh-III, Bhadla-II pooling station, and Bikaner-II pooling station, the Petitioner had requested CTUIL for the grant of connectivity at the Fatehgarh II for its project to be set up at the existing land in the near vicinity based on its application dated 23.12.2021. Despite the availability of a spare capacity of 500 MW, it was categorically decided by the CTUIL that this spare capacity is not being considered for reallocation option till clarity of GIB clearance of other RE developers, DTL at the Fatehgarh-II pooling station from the GIB Committee constituted by the Hon`ble Supreme Court.

(i) In the meeting for Reallocation of Connectivity Bays at Fatehgarh-III/Fatehgarh-IV pooling station held on 3.8.2023, SECI requested for consideration of reallocation of connectivity from the Fatehgarh-II pooling station to the Fatehgarh-IV pooling station due to the GIB clearance issues. In the meeting, CTUIL stated that re-allocation at 220 kV level of Fatehgarh-III PS (Section-2) shall be provisional, and in case CTUIL receives any direction from the Ministry of Power to specifically allocate these bays and available margin, the same will be considered and the connectivity of applicants opting to shift to Fatehgarh-III pooling station will be restored at Fatehgarh-IV pooling station. Any reallocation at the Fatehgarh-II pooling station was not discussed in either of the above meetings.

(j) It is noticed that CTUIL has started accepting the fresh applications which have been submitted by some developers seeking connectivity at the Fatehgarh- II pooling station on an LOA basis, and CTUIL is considering the same for allotment of connectivity at Fatehgarh II pooling station, against its own decision taken in its meeting dated 20.6.2023. The Petitioner, being

vitaly interested and entitled to getting connectivity at the Fatehgarh- II, got the above information while perusing the website of the CTUIL on 16.12.2023.

(k) In the meeting held on 20.6.2023 for the reallocation of the bays at the Fatehgarh-III PS, Bhadla-II PS & Bikaner II pooling station, it was categorically decided not to accord any power evacuation approvals at vacant bays of Fatehgarh-II substation, pending the GIB issues. Any bays falling vacant should have been intimated to the existing applicants before opening up the capacity for new applicants, as this has been the agreed position. The Petitioner, in principle, decided to set up its 380 MW solar power project by laying underground cables in compliance with the Hon`ble Supreme Court order on the GIB issue.

(l) The above issue was also raised by the Petitioner during the meeting held under the Chairmanship of the Minister, Ministry of Power & NRE on 1.11.2023 and in the discussions held with CTUIL on 19.11.2023. In the said meetings, it was agreed that while the Petitioner can develop the project under the Fatehgarh-IV pooling station on a new piece of land, connectivity for the Fatehgarh-II pooling station will be considered for allotment from the bay vacancies arising at the Fatehgarh II pooling station based on its application dated 23.12.2021.

(m) The Petitioner made a representation to CTUIL dated 20.12.2023 requesting to grant the connectivity at Fatehgarh-II pooling station and also submitted a representation dated 27.12.2023 requesting to attend the upcoming meeting of Northern Region constituents scheduled for evolving transmission scheme in the Northern Region to enable it to present its case. However, no response was received in this regard.

(n) It has come to the notice that CTUIL is taking up fresh applications without deciding the earlier pending applications. If CTUIL continues to process the said applications, the Petitioner will be put to irreparable loss, and such action of CTUIL is unjustified under the law of the land.

4. The Petition was called out for the hearing on 12.1.2024. During the course of the hearing, the learned counsel for the Petitioner reiterated its submissions made in the Petition and submitted that the Petitioner acquired the land way back in 2021 having spent a huge amount and complied with all related regulations entitling it to have the connectivity. However, CTUIL could not provide the connectivity due to a shortage of capacity. The capacity had been allotted to the applications made under LOA route, which was surrendered after almost two years by the allottees without any development of the projects. The application of the Petitioner relates to 2021 and grave injustice will be caused to the Petitioner if the connectivity applications submitted much later are given preference to that of the application of 2021 of the Petitioner. The Petitioner is willing to comply with all the requirements under the regulations and the same was intimated to the CTUIL. The learned counsel for the Petitioner further submitted that since no response was received from the CTUIL, the Petitioner made the representations to CTUIL on 20.12.2023 and 27.12.2023 with respect to its application. The learned counsel submitted that the Petitioner had also approached the Hon'ble High Court of Delhi for direction to CTUIL to grant the connectivity at the Fatehgarh-II pooling station pursuant to its application dated 23.12.2021. The matter was listed for the hearing in the Hon'ble High Court of Delhi on 5.1.2024. and during the course of the hearing, the learned counsel for the Respondent, i.e., CTUIL, submitted that the apprehension of the Petitioner is misconceived inasmuch as no decision has been taken by the CTUIL to grant the connectivity at Fatehgarh-II pooling station to any other third party. It was further submitted by the CTUIL that no decision in this regard is likely to be taken in the forthcoming meeting on 8.1.2024 except to take note of the receipt of other applications seeking connectivity and also the receipt of the Petitioner's



representation. Hon`ble High Court of Delhi, vide its order dated 5.1.2024, did not issue any direction and disposed of the Writ Petition (C) 11/2024 accordingly.

5. The learned senior counsel for Respondent No.1, CTUIL, during the course of the hearing, submitted that the instant Petition filed by the Petitioner is premature. Learned counsel submitted that the fresh application and representation of the Petitioner would be considered as per the procedure, and to date, no cause of action has arisen. Learned counsel for CTUIL submitted that the Petitioner would be invited to the meeting, which is scheduled for the end of this month, i.e. January 2024. Also, if there would be any vacancy at the Fatehgarh-II pooling station, the offer would be given to the grantees as per their priorities.

6. We have considered the submissions made by the learned counsel for the Petitioner and Respondent No.1, CTUIL. The present Petition, along with IA, has been filed by the Petitioner seeking certain directions upon Respondent No.1, CTUIL, in relation to its Connectivity Application 23.12.2021 for 380 MW at Fatehgarh-II pooling station. The Petitioner has stated to be aggrieved by non-consideration of its representations to CTUIL, dated 20.12.2023 and 27.12.2023. However, as stated by the learned counsel for the Respondent, CTUIL that the representations of the Petitioner are under consideration and that the Petitioner will also be invited to a meeting to be scheduled by the end of January 2024 in this regard and if there is any vacancy at Fatehgarh II pooling station, it would be offered to the grantees as per their priorities and extant procedures, we do find that the present Petition is premature at this stage. As indicated, CTUIL is yet to take any action/step in relation to the grant of connectivity at Fatehgarh II pooling station, which would cause prejudice to the Petitioner herein, and therefore, we do not find



that any justifiable cause of action has arisen in the present case requiring intervention of this Commission for issuing any direction upon the CTUIL. The apprehensions of the Petitioner in regard to the decision to be taken by CTUIL in the upcoming meeting, which might prejudice its pending request to shift the connectivity to the Fategharh-II pooling station, have already been clarified by the CTUIL during the course of the hearing.

7. It is noted that the Commission, vide order dated 19.1.2024 in Petition Nos. 268/MP/2023 & 268/MP/2023, issued certain directions to the CTUIL to carry out the fresh allocation for the meetings held on 20.6.2023 and 3.8.2023 and any subsequent meetings held for sub-stations in Rajasthan based on the principles enunciated in the said order dated 19.1.2024. Relevant portions of the said order dated 19.1.2024 are extracted as under:

“45. We observe that CTU has issued a fresh grant of Connectivity to some entities as per the GNA Regulations and has offered “reallocation” to some entities by way of meetings held on 20.6.2023 and 3.8.2023, which were already granted Connectivity at another substation. CTU has already carried out some reallocations across substations based on reallocation meetings dated 20.6.2023 and 3.8.2023 or any subsequent reallocations meeting held for substations located in Rajasthan. We observe that based on reallocation meetings, CTU might have granted Connectivity to the generating stations at the reallocated substations, based on which a generating station might have submitted bank guarantee and have settled their further affairs. To make minimum perturbation in the reallocations already carried out, the following entities which were reallocated bays during reallocation meetings dated 20.6.2023 and 3.8.2023 or any subsequent reallocation meetings held for substations located in Rajasthan, shall not be perturbed under the reallocation exercise and shall continue to avail the connectivity at the reallocated substation:

- (a) entities to whom revised initial grant of Connectivity under Regulation 7 has been issued at the reallocated substation and the grantee has submitted the required Conn-BGs.*
- (b) entities to whom final grant of Connectivity has been issued under Regulation 9.1. of the GNA Regulations.*
- (c) Entities whose process of transition to GNA have been completed at the reallocated substation by way of issue of grant of deemed GNA at the reallocated substation.*



For all the cases, other than the ones covered in clauses (a) to (c) above, where

Connectivity has not been crystallized shall be considered for the fresh reallocations based on the principles enunciated in the instant Order at Paragraph No. 47. As far as possible, the Connectivity granted to any fresh applicant under Regulation 7 or Regulation 9.1 of the GNA Regulations, as per the provisions of the GNA Regulations, shall not be disturbed. Only the reallocations carried out pursuant to minutes of meeting for reallocation meetings held on 20.6.2023 and 3.8.2023 or any subsequent reallocation meeting held for substations in Rajasthan shall be reconsidered in light of our observations. We direct CTU to carry out the above said exercise for the meetings held on 20.6.2023 and 3.8.2023 or any subsequent reallocation meeting held for substations in Rajasthan, within next 30 days of this order and to file the outcome within 45 days of date of issue of this Order.

46. We are of the considered view that considering the dynamism of the renewable sector, if the exercise of reallocation is the need of the hour, the principles of such reallocation and the associated commercial liabilities are required to be included in the transparent Procedure /Regulations following due process of law after due stakeholder consultation We direct the staff of the Commission to process the required amendment in light of the above observations. In this regard, CTU is directed to suggest the proposed amendments to be included in the Regulations, with due stakeholder consultation within a month of the issue of this Order.

We observe that until the appropriate provisions are included in the Regulations, we are inclined to issue practice directions to CTU for carrying out future reallocations, if required, in a transparent manner as per the following principles:

(a) Any bay falling vacant due to surrender or revocation shall be transparently made available on the website of CTU. Any Connectivity grantee (Stage-II grantee under the Connectivity Regulations, 2009 or Connectivity grantee under the GNA Regulations) shall be eligible to request the said bay based on the date and time stamp of its original Connectivity application.

(b) Only the Connectivity grantees which have been granted Connectivity at any

substation located within a State shall be eligible to place a request for reallocation to another substation within the same State.

(c) The option of reallocation shall be subject to agreeing to pay commercial liabilities pertaining to existing connectivity as per the Sharing Regulations 2020. Suppose, the bay falls vacant due to the shifting of the grantee (Grantee 'X') at another substation is allocated to another grantee (Grantee 'Y'), where the start date of Connectivity of 'Y' is later than that of 'X', then the liability to pay the charges for the ATS/ bay shall remain with 'X' for such a mismatch period.



(d) The start date of connectivity of the Grantee 'X'; which has been allowed to be reallocated, shall remain the same at the reallocated substation as that of the original substation and cannot be postponed pursuant to the reallocation exercise. However, the Grantee 'X' can seek an advancement of the start date, which shall be subject to the availability of transmission system.

The above principles have been enunciated so that exercise of reallocation, which is the need of the hour can be carried out in a transparent manner, until appropriate amendments to the regulations are issued after stakeholder consultation. This order is being issued in exercise of our regulatory power.”

8. In light of the above findings, CTUIL is directed to take appropriate steps to address the grievances of the Petitioner Accordingly, we are not inclined to admit the present Petition at this stage and hereby grant the liberty to the Petitioner to approach the Commission upon being aggrieved by any action taken by CTUIL in respect of its request/ representations, if required. The filing fees deposited by the Petitioner in respect of the present Petition will be adjusted against the Petition to be filed by the Petitioner in future in terms of the liberty granted above.

9. Accordingly, Petition No. 14/MP2024, along with IA (Diary) No. 9/2024, is disposed of at the stage of admission itself.

Sd/-
(P.K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(Jishnu Barua)
Chairperson

