

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 270/MP/2024

Coram:

Shri Jishnu Barua, Chairperson

Shri Ramesh Babu V., Member

Shri Harish Dudani, Member

Date of Order: 3rd October, 2024

In the matter of

Petition under Section 79, including Section 79 (1)(c) of the Electricity Act 2003 read with Regulations 41 and 42 of Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 seeking directions upon the Central Transmission Utility of India Limited to grant/ issue GNA to the Petitioner by deferring the furnishing of Conn-BG till 30.6.2025.

And

In the matter of

Lanco Kondapalli Power Limited,

Sy No 43 and 44, Plot Nos. 53,54,57 and 58,
4th Floor Mahaveer Radiance Pillar Number 1708,
Madhapur, Madhapur,
Hyderabad, Shaikpet-500081
Telangana,

...Petitioner

Versus

Central Transmission Utility of India Limited and others

“Saudamini”, 1st Floor, Plot No. 2,
Sector - 29, Gurugram-121001
Haryana

...Respondent

Parties present:

Shri Hemant Singh, Advocate, LKPL
Shri Lakshajit Singh Bagdwal, Advocate, LKPL
Ms. Supriya Rastogi, Advocate, LKPL
Shri Saurav Roy, Advocate, LKPL
Ms. Lavanya Parmar, Advocate, LKPL
Shri Akshya Law, LKPL
Shri Arun Lal, LKPL
Shri Gaurav Prakash Pathak, LKPL

Shri Jyed Fazal, Advocate, LKPL
Shri Jay Lal, Advocate, LKPL
Shri Pawan Singh, Advocate, LKPL
Ms. Suparna Srivastava, Advocate, CTUIL
Ms. Shahwat Subey, Advocate, CTUIL
Shri Gajendra Singh, CTUIL
Shri Siddharth Sharma, CTUIL
Shri Alok Mishra, SRLDC

ORDER

The Petitioner, Lanco Kondapalli Power Limited, has filed the present Review Petition along with the following prayers:

“(a) Exercise its power under Regulation 41 and Regulation 42 of the GNA Regulations 2022, thereby directing the Respondent/ Central Transmission Utility of India Limited to grant General Network Access to the Petitioner, while deferring the furnishing of Conn-BGs till 30.06.2025, in terms as stated in the present petition;

(b) Consequently, direct the Respondent/ Central Transmission Utility of India Limited not to take any coercive actions towards the grant of General Network Access till such time the Conn-BGs are furnished by the Petitioner, in terms as stated in the present Petition; and

(c) Pass any such other and further reliefs as this Commission deems just and proper in the nature and circumstances of the present case.”

2. The Petitioner has set-up a gas-based independent power project, divided into three phases, with a cumulative installed capacity of 1470 MW at Kondapalli Industrial Development Area, Vijayawada, Andhra Pradesh. Moreover, for the purpose of supply of power, the Petitioner had also executed a Bulk Power Transmission Agreement dated 6.7.2009 with the CTUIL and was granted a LongTerm Access (LTA). The Petitioner also executed a Connection Agreement dated 29.3.2012 with CTUIL. Later on, while the Petitioner had relinquished the LTA, the connectivity with CTUIL’s system continued.

3. The Petitioner has submitted that the erstwhile company underwent a Corporate Insolvency Resolution Process (CIRP) under the provisions of the Insolvency and Bankruptcy Code, 2016 (IBC, 2016) before the National Company Law Tribunal (NCLT), Hyderabad. Vide order dated 23.6.2023, NCLT approved the sale of the company as a going concern under liquidation to Radha Vasai Assets LLP, and by the said order dated 23.6.2023, NCLT also granted a period of 24 months for making good all prior non-compliance(s) without any penalty/ levy to be imposed. The Petitioner has submitted that during the pendency of the above CIRP qua erstwhile company, the Commission notified the Central Electricity Regulatory Commission (Connectivity and General Network Access to inter-State Transmission System) Regulations, 2022 ('GNA Regulations'), which inter alia required the transition from the earlier regime of LTA, MTOA and STOA to GNA and T-GNA. Accordingly, post the completion of the CIRP and after the revival of the Petitioner, the Petitioner applied for fresh connectivity for the 366 MW at the Vijayawada Pooling Station with CTUIL by an application dated 27.3.2024 and in response, CTUIL vide its letter dated 9.7.2024 granted in-principle connectivity to the Petitioner while requiring the Petitioner to furnish the Bank Guarantees (BGs) to the tune of Rs. 7.82 crores (being Conn BG-1 of Rs. 50 lakhs and Conn BG-3 of Rs. 7.32 crores) within a month, i.e., by 9.8.2024. The Petitioner has submitted that since the Petitioner has recently assumed the business after king over the company from the erstwhile management through the CIRP/Liquidation under the IBC, 2016, and it is a revived company with its entire creditworthiness having been eroded, it is facing serious hardships to arrange funds from the banks and other financial institutions. At this stage, the Petitioner is not at all in a position to furnish the above BGs to the tune of Rs. 7.82 crores, and as re-establishing its creditworthiness to avail necessary benefits from the financial

institutions would take some time, the Petitioner is urging this Commission to invoke its regulatory power thereby relaxing the provisions of the GNA Regulations and consequently, issue directions upon the CTUIL to grant/issue the GNA to the Petitioner by deferring the requirement for furnishing the Conn BGs. The Petitioner has submitted that presently, in terms of the directions issued by the Ministry of Power, Government of India on 12.4.2024 under Section 11 of the Electricity Act, 2003 mandating the gas-based plants to mandatorily supply power, the Petitioner has commenced the export of power from 18.5.2024 in accordance with instructions of NLDC by utilizing the T-GNA issued by CTUIL from time to time. Pertinently, the Petitioner is yet to receive an outstanding amount of approximately Rs 54.89 crores from SRLDC towards such supply under the aforesaid directions of the Ministry of Power, Govt. of India. The Petitioner has submitted that it is pressing for an interim relief that CTUIL be directed not to take any coercive action against the Petitioner in any manner whatsoever, including the closure of its application dated 27.3.2024 for the grant of the GNA and/or cancelling the in-principle connectivity granted to the Petitioner vide letter dated 9.7.2024 till the pendency of the present case. In the event its aforesaid application is closed by CTUIL, the present Petition would be rendered infructuous.

4. The matter was heard on 8.8.2024. During the course of the hearing, the learned senior counsel for the Petitioner submitted that the Petitioner has moved IAs (Diary) Nos. 462/2024 and 464/2024 seeking the urgent listing and for grant of interim reliefs respectively. He further submitted that the Petitioner is also pressing for an interim relief that CTUIL be directed not to take any coercive action against the Petitioner in any manner whatsoever, including the closure of its application dated

27.3.2024 for the grant of the GNA and/or cancelling the in-principle connectivity granted to the Petitioner vide letter dated 9.7.2024 till the pendency of the present case. In the event its aforesaid application is closed by CTUIL, the present Petition would be rendered infructuous. Considering the submissions made by the learned senior counsel for the Petitioner and keeping in view the overall facts & circumstances involved, the notice was issue to the Respondent, and CTUIL was directed not to take coercive action(s) with respect to the Petitioner's application dated 27.3.2024, including its closure.

5. The matter was further heard on 13.8.2024. After hearing the learned counsels for the parties, the Petitioner was directed to submit the Conn BG amounting to Rs. 7.32 crores within a month from the issuance of the ROP. CTUIL was directed not to take any coercive action(s) in respect of the Petitioner's application dated 27.3.2024, including its closure. However, in the event the Petitioner fails to provide Conn BG within the above timeline, CTUIL shall be at liberty to take the necessary steps as per the relevant Regulations. In response to the specific observation of the Commission regarding the relevancy of the instant Petition, if the Petitioner intends to move a fresh Petition for the declaration on the applicability of Regulation 37.6 of the GNA Regulations in its case, the learned senior counsel for the Petitioner submitted that as such the Petitioner is willing to withdraw the present case.

6. The matter was heard on 27.9.2024. During the course of the hearing, the learned counsel for the Petitioner submitted that the Petitioner had furnished the Conn BG-1 amounting to Rs. 50 lakh and Conn BG -2 amounting to Rs. 7.32 crores in favour of CTUIL, and communication in this regard has already been sent to CTUIL.

Learned counsel for the Petitioner handed over a copy of the letter dated 13.9.2024 furnishing the BGs in favour of CTUIL.

7. We have considered the submissions of the learned counsels for the Parties. On a specific query of the Commission about the application of the Petitioner to be considered under Regulation 37.6 or Regulation 4.1 of the GNA Regulations, the learned counsel for the Petitioner submitted that the connectivity of the Petitioner may be treated in terms of Regulation 4.1 of the GNA Regulations and accordingly, the Petition may be disposed of. The learned counsel for the CTUIL agreed with the contention of the learned counsel for the Petitioner.

8. Since the Petitioner has furnished the Conn BG-1 amounting to Rs. 50 lakh and Conn BG -2 amounting to Rs. 7.32 crores in favour of CTUIL and has made a submission that its connectivity may be treated in terms of Regulation 4.1 of the GNA Regulations, the prayers made by the Petitioner in the present Petition do not require any further consideration.

9. In view of the above, the Petition No. 270/MP/2024 is disposed of.

Sd/-
(Harish Dudani)
Member

sd/-
(Ramesh Babu V.)
Member

sd/-
(Jishnu Barua)
Chairperson