

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 192/MP/2023

Coram:

Shri Jishnu Barua, Chairperson

Shri Ramesh Babu V., Member

Shri Harish Dudani, Member

Shri Ravinder Singh Dhillon, Member

Date of Order 16.09.2025

In the matter of:

Petition under Section 79, including Section 79 (1)(c), 79 (1)(f) and 79 (1)(k) of the Electricity Act, 2003, seeking direction upon the Respondents to allow the said Petitioner to convert and continue its old connectivity under the new regime without the need of applying for GNA.

And

In the matter of:

Bharat Aluminium Company Limited,
"Aluminium Sadan", Core-6, Scope Complex,
7 Lodhi Road, New Delhi – 110003

..... Petitioner

Versus

Central Transmission Utility of India Limited,
Suadamini, Plot No.2, Sector-29,
Near IFFCO Chowk Metro Station
Gurugram, Haryana-122001

..... Respondent 1

Power Grid Corporation of India Limited,
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi-110016

..... Respondent 2

Western Region Load Despatch Centre,
F-3, Krantiveer Lakhui Salve Marg,
Seepz, Andheri East, Mumbai – 400096

..... Respondent 3

Parties Present:

Shri Sanjay Sen, Sr. Advocate, BALCO

Shri K P Biswal, Advocate, BALCO

Shri Hemant Singh, Advocate, BALCO

Ms. Supriya Rastogi, Advocate, BALCO



Ms. Lavanya Panwar, Advocate, BALCO
Shri Jay Lal, Advocate, BALCO
Shri Arun Lal, Advocate, BALCO
Ms. Neha Dabral, Advocate, BALCO
Shri Nishant Kumar, Advocate, BALCO
Shri Kulamani Biswal, Advocate, BALCO
Shri Rakesh Pandey, Advocate, BALCO
Shri Amit Kumar, Advocate, BALCO
Ms. Suparna Srivastava, Advocate, CTUIL
Ms. Divya Sharma, Advocate, CTUIL
Ms. Nitai Aggarwal, Advocate, CTUIL
Shri Swapnil Verma, CTUIL
Ms. Kavya Bhardwaj, CTUIL
Shri Ashok Rajan, WRLDC
Shri Alok Mishra, WRLDC

ORDER

The Petitioner, Bharat Aluminium Company Ltd. (BALCO), has filed the instant Petition under Section 79, 79 (1)(c), 79 (1)(f) and 79 (1)(k) of the Electricity Act, 2003 (hereinafter referred to 'the Act'), seeking direction upon the Respondents to convert and continue its old connectivity under the new regime without the need of applying for mandatory GNA.

2. The Petitioner has also filed an IA No. 83/2023 seeking an amendment to the Petition. The IA was allowed by the Commission vide RoP of hearing dated 14.02.2024. Accordingly, the Petitioner amended the Petition. The Petitioner has made the following prayers in the amended Petition:

- (a) *Direct the Respondents to allow the Petitioner to convert and continue its old connectivity, granted vide Connection Agreement dated 08.12.2022, under the new regime (GNA Regulations, 2022) without the need of applying for GNA;*
- (b) *Relax the Regulation 20.4 to include a bulk consumer already having connectivity seeking transition under Regulation 37.6 to apply for GNARE;*
- (c) *Relax the Regulations 20.5, 20.6, 26.5 and 26.6 in order to allow the entities to be able to apply for both GNA/ T-GNA and GNARE/ T-GNARE; and*
- (d) *Pass any other orders, as this commission may deem fit and proper in the light of the facts and circumstances of the instant case."*

Submissions of Petitioner

3. The Petitioner has made the following submissions:
- a) The Petitioner, i.e., Bharat Aluminium Company Limited (BALCO), is engaged in the manufacturing of Aluminium, a high-power intensive industry, and has set up the



following various Independent Power Plants (“IPP”) and Captive Power Plants (“CPP”) in the State of Chhattisgarh:

- (a) 270 MW (4 units x 67.5MW) CPP (at present not in operation);
 - (b) 540 MW (4 units x 135 MW) CPP;
 - (c) 1200 MW (4 units x 300 MW) Power Plant, operating both as an IPP and a CPP;
 - (d) Aluminium Smelter – 1: 420 MW Load;
 - (e) Aluminium Smelter – 2: 530 MW Load.
- b) The Petitioner has a PPA with Tamil Nadu Generation and Distribution Company Limited for 100 MW dated 23.08.2013 and 10.12.2013, Kerala State Electricity Board Limited for 200 MW dated 26.12.2014, and Chhattisgarh State Power Distribution Company Limited for 5% of the installed capacity dated 19.01.2015 (A total of 100 + 200 + 60 = 360 MW). Accordingly, the power generated from the power plants (4 x 135 MW) and (4x 300MW) is being used for export to the grid for Long Term Customers (360 MW) and is also being used captively for the Petitioner’s Aluminium Smelters-1 and 2 (950 MW).
- c) For the purposes of meeting the captive load of the 420 MW and 530 MW of the Petitioner’s Aluminium smelters, no connectivity/ Open Access is required, as the same is being sourced internally through its dedicated transmission lines/ system. However, for the purposes of supplying power to its LTA customers, the Petitioner had applied for the grant of LTA to Respondent No. 1/ PGCIL under the CERC (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 (hereinafter “2009 Connectivity Regulations”). The Petitioner executed a Bulk Power Transmission Agreement dated 24.02.2010 with Respondent No. 1. The above open access also meant that the Petitioner had connectivity with the Grid with respect to the BPTA capacity through the BALCO – Dharamjaygarh 400 kV D/c line.
- d) In 2018, the Petitioner, in view of the proposed expansion of the existing capacity of Petitioner’s Aluminium Smelters, for sourcing Renewable Power for meeting the Renewable Purchase Obligation, and for sourcing power in times of outage, etc. filed a petition being Petition No. 299/MP/2018 seeking connectivity to ISTS interface as Bulk consumer, in terms of the 2009 Connectivity Regulations. Accordingly, vide order dated 29.01.2020, the Commission observed that the Petitioner is a Bulk consumer for the purpose of sourcing power for its smelters, and is a generator for the purpose

of selling power to third parties. Furthermore, the Commission approved the grant of connectivity to the Petitioner as a Bulk consumer through the existing BALCO – Dharamjaygarh 400 kV D/c line.

- e) After the above order, the Petitioner was granted the Connectivity for 250 MW. Subsequently, the said Connectivity was withdrawn, and a fresh Connectivity for the 530 MW was applied, which was subsequently granted. Pursuant to such a grant of connectivity for the 530 MW as a Bulk consumer, the same required segregation of the existing generation/ smelter capacity into two entities (Entity 1 and 2). Entity 1 is for the export of power as a generator, and Entity 2 is for the import of power as a Bulk consumer (530 MW). Accordingly, a Connectivity Agreement for Bulk consumer dated 08.12.2022 was executed between the Petitioner and Respondent No. 1/ PGCIL, for a quantum of 530 MW.
- f) The Commission in 2022 repealed and replaced the 2009 Connectivity Regulations with the GNA Regulations. The GNA Regulations require conversion of Connectivity and open access granted under earlier OA Regulations into the new regime. Accordingly, on 13.04.2023, CTUIL/ Respondent No. 1 issued a notice to the Petitioner regarding the conversion of its existing connectivity and open access in terms of the new GNA Regulations.
- g) Regulation 4.1 of the GNA Regulations provides for the entities eligible to apply for Connectivity. Under the said Regulations, a consumer/ Bulk consumer cannot apply for Connectivity under the GNA Regulations. As per Regulation 17.1 of the GNA Regulations, the Bulk consumer “seeking to connect” can apply for the GNA in terms of Regulations 17.1(iii). In other words, all those Bulk consumers not having effective Connectivity as on date of notification of the GNA Regulations can apply for GNA under Regulation 17.1(iii). Furthermore, Clause 5.11 of the Explanatory Memorandum (EM) to the draft GNA Regulations explains the Connectivity for entities other than generating stations or a Renewable power park.
- h) It is the understanding of the CTUIL that on reading Regulation 17.1 of the GNA Regulations along with Clause 5.11 of the EM, it becomes clear that a Bulk Consumer cannot apply for Connectivity independent of GNA, and that the GNA applied under Regulation 17.1 will include the Connectivity.
- i) It is the case of the Petitioner that the Petitioner is already connected with the ISTS, and as such, it does not require to mandatorily apply for the GNA. Accordingly, the provisions of 17.1(iii) will not apply in the case of the Petitioner. As such, the Petitioner,

in order to take up the aforesaid issue with CTUIL, wrote a letter dated 24.4.2023. Accordingly, the present Petition is being filed to seek a direction that Connectivity, as a bulk consumer, can be transitioned/ continued under the GNA Regulations without mandatorily applying for the GNA.

- j) Regulation 17.1(iii) of the GNA Regulations provides that a Bulk Consumer, who has the ability to connect/ seeking to connect to the ISTS with a minimum load of 50 MW, is eligible for the GNA. This would mean that the consumer can seek Connectivity independently, and can also seek GNA if they so desire to become eligible under the above provision. However, the aforesaid Regulation is not applicable to the Petitioner herein, as the Petitioner has an existing effective connectivity under the 2009 Connectivity Regulations, whereas the aforesaid Regulation is applicable for the Bulk consumer “seeking to connect”. It is clear from Regulation 17.2 of the GNA Regulations that entities already connected with the ISTS in terms of the earlier regime are eligible for the grant of GNA. This would mean that such entities can seek transition of Connectivity independently in terms of Regulation 37.6 of the GNA Regulations, and can also seek GNA if it so desires by becoming eligible under the above provision. Hence, CTUIL cannot require the Petitioner to have a mandatory GNA for continuing the old Connectivity as a Bulk consumer, more so because the same also entails a continuous liability for payment of the transmission charges for availing open access when such access is an option under the Act.
- k) Regulation 37.6 of the GNA Regulations provides for the transition of old Connectivity already granted under the 2009 Connectivity Regulations, into the new regime, which is the case of the Petitioner. However, the said provision only includes entities covered under Regulation 4.1 and does not include a Bulk consumer with existing Connectivity under the earlier 2009 Connectivity Regulations to transition their Connectivity under the new regime.
- l) An interactive session was conducted by CTUIL on 28.08.2023 and 29.08.2023, in which many participants, including the SLDCs and entities such as BALCO, attended. During the aforementioned session, while discussing the issue of transition of Connectivity for a Bulk consumer having effective Connectivity but no LTA, CTUIL observed that such entities were excluded from transitioning under Regulation 37.6 of the GNA Regulations. Further, while considering the above issue, it was noted that BALCO, with an existing effective Connectivity of 530 MW, has applied for a part quantum of GNA_{RE}, i.e., 200 MW from 01.10.2024. While considering BALCO to

transition under the new regime on the basis of the existing Connectivity in terms of Regulation 37.6 (to be clarified by the Commission), it records that it may be deemed that BALCO had surrendered the Connectivity to the extent of 330 MW. BALCO was to confirm such surrender, as it had applied for GNA only to the extent of 200 MW effective from 01.10.2024.

- m) It is understood that the CTUIL is considering the transition of the Petitioners' Connectivity under Regulation 37.6 of the GNA Regulations. However, the same is subjected to the application of mandatory GNA equivalent to the quantum of the Connectivity by the Petitioner. In order to preserve the Connectivity, the Bulk consumer is being forced to avail of the GNA for which they are liable to pay the monthly transmission charges, unlike the generators, who are exempt from paying these monthly transmission charges.
- n) Subsequently, the Commission vide order dated 22.09.2023 in Petition No. 11/SM/2023, clarified the above position as under:
 - i. Bulk consumers having effective Connectivity but no LTA under the 2009 Connectivity Regulations can transition their Connectivity under Regulation 37.6 of the GNA Regulations.
 - ii. As held in paragraph 18 of the aforesaid Order, a Bulk consumer having old Connectivity, under the provisions of 17.2, '**may**' apply for the grant of GNA equivalent to the quantum of such Connectivity. This would mean that the Commission in the aforementioned order has categorically permitted Bulk consumers already having effective Connectivity under the 2009 Connectivity Regulations to transition without having to mandatorily apply for GNA.
 - iii. The old Connectivity of the Petitioner, i.e., 530 MW, will transition under the new regime without having to mandatorily apply for the GNA/ GNA_{RE}, to the extent of such Connectivity.
 - iv. Understanding of CTUIL under the minutes of the meeting that the quantum of 330 MW of Connectivity may be surrendered by the Petitioner, as it has applied for only the 200 MW of GNA effective from 1.10.2024, is wrong.
- o) The Petitioner, vide its letter dated 26.09.2023, informed the CTUIL regarding the surrender of its Connectivity of 330 MW.
- p) Section 2(15) of the Act defines a consumer, which means an entity 'connected' with the works of a licensee for sourcing power for its own use. Further, Section 38 (2)(d)(ii)

of the Act provides that the CTUIL has the obligation to provide non-discriminatory open access to a consumer. As such, there has to be a consumer (with Connectivity) in order to be eligible for the grant of open access. This further means that a consumer must have Connectivity, without the need or requirement for mandatory open access. Hence, CTUIL cannot require the Petitioner to have a mandatory GNA for continuing the old Connectivity as a Bulk consumer, more so because the same also entails a continuous liability for payment of transmission charges for availing the GNA when such access is an option under the Act.

- q) From Regulation 26.1 of the GNA Regulations, it is evident that a Bulk consumer already connected with the ISTS is eligible to apply to T-GNA. Accordingly, the Petitioner cannot be compelled to mandatorily avail GNA, in order to take T-GNA as a captive user, the said Petitioner only requires power on an as-and-when needed basis.
- r) Further, on 01.04.2023, the Commission notified the first amendment to the GNA Regulations, and new Regulation 20.4 of the above amendment provides that the Bulk consumer under Regulation 17.1(iii) seeking to connect with the ISTS with a minimum load of 50 MW is also eligible to apply for the GNA_{RE}. Furthermore, the aforesaid amendment also provides for a new Regulation 26.4, which states that all the entities which are eligible for the T-GNA under Regulation 26.1, as stated above, are also eligible for T-GNA_{RE}. As per the provisions of 26.4, all the entities covered under Regulation 26.1 are eligible to apply for the T-GNA_{RE}. This would mean all Bulk consumers can apply for the T-GNA_{RE} under Regulation 26.4. However, with respect to the eligibility of the GNA_{RE}, it can be seen that Regulation 20.4 of the amendment includes only those entities covered under Regulation 17.1 of the GNA Regulations. This would mean that the Bulk consumers applying for fresh connectivity/ GNA under 17.1(iii) can apply for the GNA_{RE}. However, Bulk consumers, who have existing connectivity under the 2009 Connectivity Regulations and seek to transition under Regulation 37.6 of the GNA Regulations in terms of Regulation 17.2, cannot apply for the same.
- s) As per Regulations 20.5 and 26.5 of the first amendment to the GNA Regulations, an entity, that has applied for GNA_{RE}/ T- GNA_{RE} can apply for the additional GNA_{RE} or T- GNA_{RE}, if the drawal requirement is more than the quantum applied for. Similarly, as per Regulations 20.6 and 26.6, a GNA/ T-GNA grantee can only apply for additional GNA or T-GNA. However, a GNA/ T-GNA grantee cannot apply for the GNA_{RE}/ T-

GNA_{RE}, and a GNA_{RE}/ T- GNA_{RE} grantee cannot apply for the GNA/ T-GNA. Although a grantee can convert its GNA_{RE}/ T-GNA_{RE} to GNA/ T-GNA as per the provisions of the regulations. The aforesaid provisions have again led to an absurdity that a single entity can apply for either GNA/ T-GNA or GNA_{RE} / T- GNA_{RE}, but cannot apply for both. As an illustration, if a consumer has availed GNA or T-GNA for importing conventional power, and is also required to import renewable power for fulfilling its Renewable Purchase Obligation, then, going by the above Regulations, the said consumer cannot avail GNA_{RE} or T- GNA_{RE}. The same is irrational and without any basis.

- t) The CERC (Sharing of Inter-State Transmission Charges and Losses) (First Amendment) Regulations, 2023, under amended Regulation 13, read with Regulation 25, along with Annexure-III, provide that even though RE power can be scheduled under GNA or T-GNA. However, for availing a waiver of the transmission charges, a threshold of RE power must be scheduled. In this context, in the event that the Renewable Purchase Obligation ('RPO') of a consumer is not fulfilling the threshold, then it will not be eligible for any waiver of the transmission charges as the same is below the above threshold. Hence, there is a case for relaxing the aforesaid Regulations, i.e., Regulations 20.5, 20.6, 26.5 and 26.6 of the first amendment to the GNA Regulations, so that a Bulk consumer such as the Petitioner can avail GNA along with GNA_{RE} as per requirement.
- u) The Petitioner is seeking directions upon the Respondents to allow the said Petitioner to convert/ transition and continue its old Connectivity under the new regime without the need of applying for the mandatory GNA/ GNA_{RE}, in terms of order of the Commission dated 22.09.2023 in Petition No. 11/SM/2023, whereby, it has been held that Bulk consumer already connected with the ISTS is eligible to transition under Regulation 37.6. This further gave effect to Regulation 17.2, which provides that a Bulk consumer with old connectivity, '**may**' apply for the grant of GNA.
- v) Without prejudice to the aforesaid, the Petitioner seeks relaxation of Regulations 17.2 read with 37.6 of the GNA Regulations, to the extent of permitting the Petitioner to transition its existing Connectivity of 530 MW without the need to apply for mandatory GNA/ GNA_{RE}. Furthermore, the Petitioner is also seeking relaxation of Regulation 20.4 to include a Bulk consumer already having connectivity who is seeking transition under Regulation 37.6 to apply for GNA_{RE}. Furthermore, the Petitioner is also seeking relaxation of Regulations 20.5, 20.6, 26.5, and 26.6 of the amendment to GNA

Regulations, so as to enable the entities to apply for both GNA/ T-GNA and GNA_{RE}/ T- GNA_{RE}.

- w) The present case is a fit case for the Commission to exercise its powers under Regulation 41, viz. “Power to relax”. Additionally, the Commission can also invoke its powers to remove difficulties provided under Regulation 42 in order to grant relief in the present Petition. The Commission has the necessary jurisdiction under Section 79 of the Act, including under Section 79(1)(c), which provides the Commission with power to regulate inter-State transmission of electricity.

Hearing on 15.09.2023

4. The Petition was admitted, and notice was issued to the parties to file their respective replies.

Hearing on 29.09.2023

5. During the course of the hearing, the learned counsel for the Petitioner reiterated the submissions made in the Petition. After hearing the parties, the Commission, vide RoP for the hearing dated 29.09.2023, granted interim relief and observed as under:

“3. The Commission observed that the Petitioner is already connected to ISTS and has applied for 220MW GNA from 1.10.2024. Considering the submissions made by the learned counsel for the Petitioner and the representative of the Respondent, and the fact that petitioner is connected to ISTS, the Commission directed that the Petitioner is eligible to apply for the grant of T-GNA, which shall be granted by RLDC as per availability of transmission system. The above interim directions will be applicable till the disposal of the main Petitioner.”

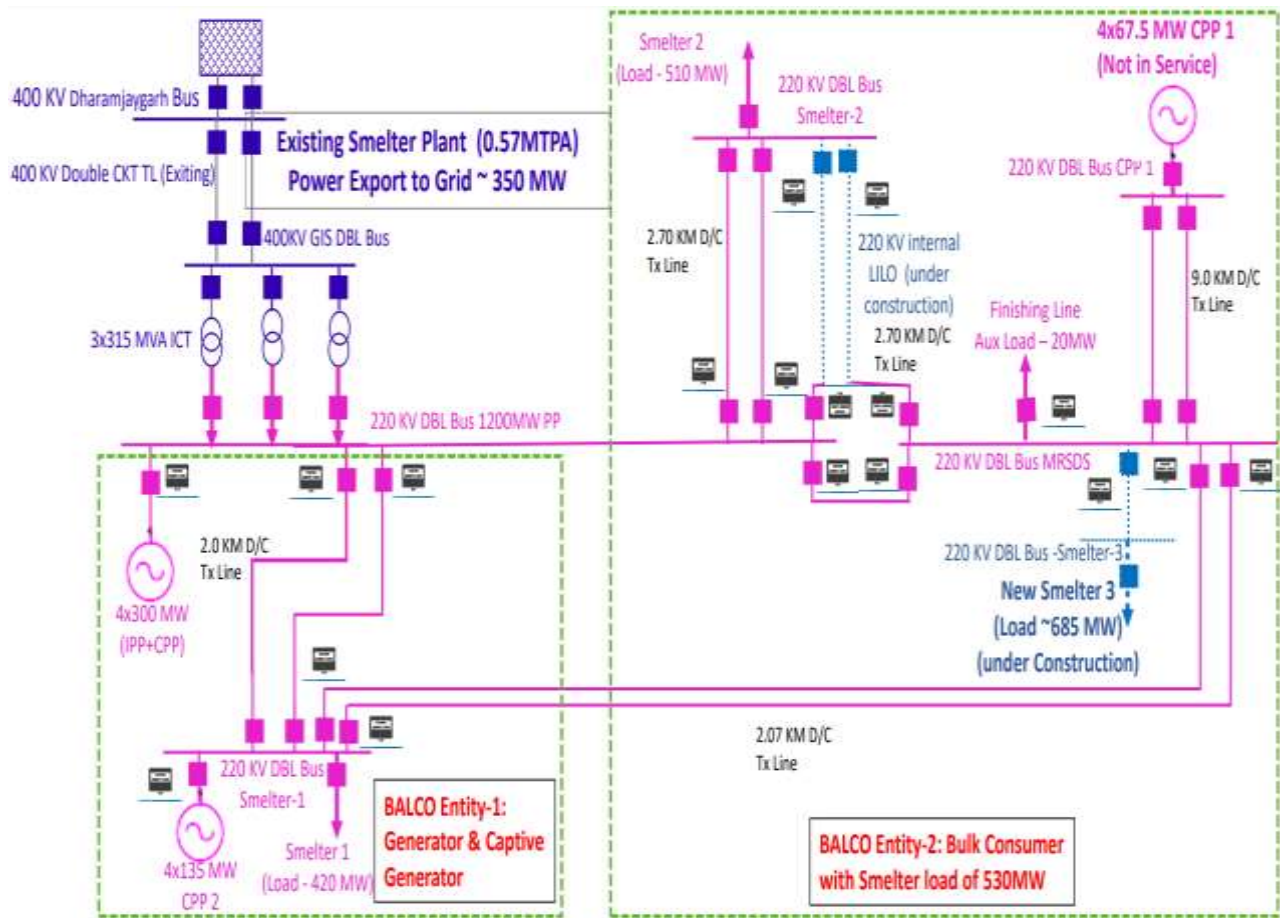
Submissions of the Respondent

6. Respondent No.1, CTUIL, vide affidavit dated 29.09.2023, has submitted as under:
- a) As per the 2009 Connectivity Regulations, Connectivity has been granted to BALCO for the 1740 MW as CPP (Section A) and for 530 MW as Bulk consumer (Section B) at Dharamjaygarh S/s as per the following details:
- Transmission System for Connectivity (under the scope of the entity):
- BALCO – Dharamjaygarh PS 400kV D/c line (existing)
 - Segregation of generation/ smelter load into two sections with a suitable metering arrangement in between the sections, for which M/s BALCO shall coordinate with WRLDC. Viz.:

- Section-A: Captive Generator facility consisting of 3x300 +4x135 MW CPP & 1x300 MW IPP units along with smelter load-1(420 MW)
- Section-B: Bulk consumer facility consisting of 4x67.5 MW CPP units along with smelter load-2(530 MW)*

* The 4x67.5 MW CPP units (presently not in service) are considered amalgamated in the Bulk consumer entity

- b) Schematic diagram for segregation of BALCO switchyard into two Sections for the grant of connectivity, comprising the Bulk consumer (Section-B) and CPP (Section-A) as submitted by BALCO is reproduced below:



- c) Out of 1740 MW Connectivity granted (currently effective) as CPP (Section A), 350 MW capacity has been converted into deemed GNA as per Regulation 18.1 (discussed in 20th CMETS-WR meeting held on 04.08.2023) and BALCO has opted for conversion of the additional 300 MW as per Regulation 37.6(1) (a) (discussed in 21st CMETS-WR meeting (1st sitting) held on 28.08.2023).
- d) The Bulk consumers, [i.e., entity covered under Regulation 17.1 (iii)] whose Connectivity is effective and not having LTA, were not included for conversion into GNA as per GNA Regulations. The issue was brought to the attention of CERC by

CTUIL vide letter dated 08.09.2023, wherein it was proposed for inclusion of such Bulk consumers (Connectivity effective and not having LTA) for conversion into GNA under Regulation 37.6(1) of the GNA Regulations.

- e) The matter was discussed in the 21st CMETS-WR meeting (1st sitting) held on 28.08.2023 wherein based on the option of conversion exercised by M/s BALCO under Regulation 37.6(1) for only 200 MW GNA_{RE} out of 530 MW connectivity earlier granted, it was agreed that the GNA_{RE} for 200 MW under Regulation 17.2 may be granted to M/s BALCO in line with Regulation 37.6(1) of the GNA Regulations, with start date as 01.10.2024 and the remaining quantum for 330 MW shall be considered as surrendered.
- f) CERC vide order dated 22.09.2023 in Petition No. 11/SM/2023 regarding removal of difficulties under various provisions of the GNA Regulations allowed the inclusion of transition of Regulation 17.1(iii) entities whose Connectivity is effective under Regulation 37.6(1) of the GNA Regulations.
- g) BALCO vide e-mail dated 25.09.2023 has been intimated that since the end date of GNA has not been mentioned in the application, the said detail may be intimated at the earliest to enable CTU to issue the intimation for 200 MW GNA_{RE} without any delay. The same is yet to be submitted by M/s BALCO.

Hearing on 14.02.2024

7. During the course of the hearing dated 14.02.2024 the Commission directed that the amended Petition be taken on the record and directed the Respondent, CTUIL, to file its reply on the amended Petition.

Submission of Respondent

8. The Respondent, CTUIL vide affidavit dated 28.02.2024, has mainly submitted as under:

- a) There is no longer any regulatory lacuna existing which prevents the Petitioner from applying for the GNA under Regulation 17.1(iii) for the connectivity quantum of 530 MW so that its connectivity is transitioned into a Connectivity under the GNA Regulations; the said Connectivity is already effective from 1.12.2022. If the Petitioner's plea is accepted, that, for converting its existing connectivity to a Connectivity under the GNA Regulations, it is not required to obtain any GNA, the same would be violative of the GNA Regulations, which envisage Connectivity for a Bulk consumer as being implicit in the GNA itself.

b) On 25.9.2023, Respondent No.1 vide an email requested the Petitioner to intimate to it the end date of the GNA as the same had not been mentioned in its application for the grant of GNARE for a quantum of 200 MW. Subsequently, on 26.9.2023, the Petitioner, vide its letter, requested Respondent No.1 to grant the T-GNA to the extent of full Connectivity of 530 MW for availing power as and when required, and denied surrender of Connectivity to the extent of 330 MW. The Petitioner then proceeded to file the present Petition.

c) In furtherance to interim Order passed by Commission during hearing held on 29.9.2023 and in response to the email dated 25.9.2023 of Respondent No.1, the Petitioner vide its email dated 10.1.2024 requested Respondent No.1 to defer the processing of the application of the Petitioner for the grant of 200MW GNARE, on account of the issue concerning the drawal of power through the T-GNA or GNA under the GNA Regulations for a Bulk consumer being sub-judice before this Commission and the interim Order dated 29.9.2023 passed therein.

d) There is no provision under the GNA Regulations which allows a Bulk consumer, such as the Petitioner, to seek Connectivity in isolation or on a stand-alone basis without applying for the GNA. For entities other than those listed under Regulation 4.1, such as the present Petitioner, the concept of Connectivity and GNA go hand in hand and to seek Connectivity under the GNA Regulations, a Bulk consumer, who already has been granted Connectivity under the 2009 Connectivity Regulations, is necessary to apply for the GNA to have such Connectivity transitioned to Connectivity granted under the GNA Regulations.

Submission of Petitioner

9. The Petitioner, vide affidavit dated 10.04.2024, has filed its rejoinder to the reply filed by CTUIL on 28.02.2024 by reiterating its earlier submissions and has additionally submitted as below:

a) CTUIL is misconstruing the Order in Petition No. 11/SM/2023 by stating that, a Bulk consumer having effective Connectivity (such as the Petitioner) can now (after the passage of the Suo moto order) apply for GNA with transitioned Connectivity in terms of Regulation 37.6, as the GNA Regulations do not provide for the stand-alone Connectivity which is implicit with GNA itself.

- b) As per Regulation 26.1 of the GNA Regulations, a Bulk consumer “connected to ISTS” is eligible to apply for the T-GNA. Since the Petitioner is allowed to transition/convert its existing Connectivity, in terms of the Suo moto order dated 22.09.2023, read with Regulations 17.2 and 37.6, the Petitioner can apply for T-GNA. Now, if the submission of CTUIL that Connectivity cannot be granted without GNA is accepted, it will lead to absurdity, as the Bulk consumer could not apply for T-GNA without applying for GNA, when clearly Regulation 17.2 makes availing of GNA as an option.
- c) The absurdity of the requirement of mandatory GNA for availing the T-GNA becomes further prominent from the fact that if a Bulk consumer is mandated to take GNA equivalent to the quantum of its Connectivity, then against what quantum of Connectivity will such Bulk consumer avail T-GNA, if need be, as the whole of the Connectivity quantum is utilised for the GNA. As such, till the time a Bulk consumer is not allowed standalone Connectivity, the complete concept of T-GNA is redundant.
- d) Although the Commission, vide suo motu order has allowed Bulk consumers having existing Connectivity to transition the same under GNA Regulations in terms of Regulation 37.6. However, in the absence of any procedure for such transition, it is difficult to establish the status of the Connectivity of the Bulk consumer to the ISTS. This, in turn, is restricting the Nodal agency from granting the T-GNA to Bulk consumers having existing Connectivity under the erstwhile Regulations.

Submission of Respondent

10. The Respondent, WRLDC, vide affidavit dated 21.05.2024, has mainly submitted as below:

- a) BALCO (Bulk consumer) had obtained a Connectivity for 530 MW under the 2009 Connectivity Regulations in line with the Commission’s order dated 29.01.2020 in Petition No. 299/MP/2018.
- b) The Petitioner used to draw power through Short Term Open Access (STOA), which was permitted under the 2009 Connectivity Regulations without availing any LTA/ MTOA to ISTS and was paying the required STOA Transmission Charges and RLDCs operating charges for each STOA trade.
- c) No provision exists under GNA Regulations which allows a Bulk consumer to seek Connectivity or retain its existing Connectivity and not apply for GNA. BALCO

(Bulk consumer) should apply for a GNA to CTUIL and do the necessary transition to GNA Regulations.

d) Since the Petitioner has not yet converted the Connectivity of 530 MW into GNA, as per Regulation 37.2(b) of the GNA Regulations, the Connectivity granted to the Petitioner by CTUIL under the 2009 Connectivity Regulations is deemed to be considered as surrendered. At present, since the Connectivity is deemed surrendered as per the GNA Regulations, the Petitioner does not exist as a “Bulk consumer”.

e) WRLDC is granting deemed T-GNA to the Petitioner as a “Bulk Consumer” purely on the basis of the Commission’s interim directions vide RoP for the hearing dated 29.09.2023.

f) T-GNA can be applied by a Bulk consumer over and above the GNA granted to it as per Regulation 26.2 of the GNA Regulations. In the instant case, since the Petitioner does not have any GNA quantum granted to it, the Petitioner is not eligible to apply for T-GNA. As the coordinated planning of the transmission system for evacuation of power is done by CTUIL, all the entities connected with the ISTS system should have either a Connectivity or a GNA from CTUIL.

g) The Commission may direct the Petitioner to avail a minimum GNA quantum, i.e. 50 MW, which makes a Bulk consumer eligible to get connected to the ISTS system as per Regulation 17.1(iii) of the GNA Regulations.

Submission of Respondent

11. Respondent CTUIL, vide Written Submission dated 11.06.2024, has reiterated its earlier submissions which have not been repeated herein for the sake of brevity.

Submission of Petitioner

12. The Petitioner, vide rejoinder dated 24.07.2024, to the reply of WRLDC on 21.05.2024, has reiterated the submissions and has additionally submitted as under:

a) Without prejudice, if this Commission concludes that Regulations provide for the mandatory GNA in order to transition the existing connectivity into GNA, it ought to relax the provisions of Regulation 40 of the GNA Regulations. In this regard, reference is made to the following submissions:

i. In the earlier regime, a Bulk consumer like BALCO was granted Connectivity upon payment of certain charges; the open access charges were levied only

after the said consumer opted to avail such access. As such, Connectivity by itself did not burden the Bulk consumer, and the said Bulk consumer under the 2009 Connectivity Regulations regime had the flexibility to seek open access (long-term, medium-term, or short-term) depending on its needs.

ii. The question that now arises is whether the benefit or flexibility which a Bulk consumer had qua open access under the previous regime and as such arranged its business on that basis, is now lost and as such a Bulk consumer will be saddled with the commercial burden of GNA upon migration in terms of Regulation 37.6.

iii. This Commission necessarily has to keep in mind the distinction between a distribution licensee, who has a load profile which is predictable and certain, versus a load profile of a Bulk consumer, which depends primarily on its own captive generation through a dedicated transmission line or on market dynamics. A Bulk consumer can procure power either on a long-term basis from the generators/ traders or can procure power on a day-ahead basis from the power market, depending on the power price and what is suitable for their business. At times, a Bulk consumer may not even need any power through open access. Thus, it is absurd to mandatorily require such a consumer to bear charges for the GNA when such GNA is not being availed on a regular basis.

iv. Accordingly, the Bulk consumer ought to be given a certain level of flexibility in the matters of power procurement, keeping in view that the earlier Connectivity granted under the 2009 Connectivity Regulations is retained under the GNA.

v. The Commission ought to relax the applicability of Regulation 40.1 qua the Bulk consumers and allow Bulk consumers to make payment of the transmission charges on the basis of actual drawal, irrespective of the quantum of GNA/ Connectivity. This will promote competition in the market and, as such, help consumers reduce the power costs, which is beneficial for the overall economy.

b) Regulation 26.1, which provides for T-GNA qua Bulk consumers, is a standalone Regulation, needs to be integrated with the rest of the provisions of the GNA to make it both purposeful and effective.

c) With respect to the contention of WLRDC that since the Petitioner has yet not converted its GNA under Regulations 37.2(b) of the GNA Regulations, the Connectivity granted to the Petitioner under the 2009 Connectivity Regulations shall

be deemed to be considered as surrendered, the same is erroneous, and the same deserves to be rejected. Since the Petitioner's Connectivity of 530 MW was granted under the earlier regime and became effective before the coming into effect of the present GNA Regulations, the provisions of the aforesaid Regulation do not apply to the facts of the present case. The Petitioner's case duly falls under the provision of Regulation 37.3 read with Regulation 37.6 of the GNA Regulations, for conversion of effective existing Connectivity into a Connectivity under the present regime.

d) BALCO is committed to paying the necessary charges and fees to WRLDC upon raising of necessary bills.

Submission of Petitioner

13. The Petitioner, vide Written Submission dated 07.08.2024, has reiterated its earlier submissions and has additionally submitted as under:

a) Both of the Petitioner's entity works on the principle of displacement of power, which not only ensures the stability of the grid but also lessens the actual usage of the transmission corridor. This is illustrated with the following two examples:

A. Generators' open access export schedule is > the Bulk consumers' open access schedule: In this case, BALCO is net exporting the power and not utilizing the transmission corridor for drawal of power for which they have paid the transmission charges.

B. Generators open access export schedule is < the Bulk consumers open access schedule: In this case, BALCO is a net drawee of power, but the actual drawal would always be less than the drawal schedule of the Bulk consumer for which they have paid the transmission charges. This phenomenon lessens the burden on the transmission corridor, thereby providing stability to the grid.

b) Therefore, the Commission may relax Regulation 40 of the GNA Regulations. . However, if the Commission comes to the conclusion that this cannot be done, the Petitioner ought to be permitted to transition to full connectivity of 530 MW by availing the T-GNA/ T-GNA_{RE}. Furthermore, while granting the T-GNA/ T-GNA_{RE}, there is no network augmentation required, and as such, the said temporary open access can be granted on the existing margins, which will not cause any prejudice to the entity.

Hearing on 13.08.2024



14. Vide RoP for the hearing dated 13.08.2024 WRLDC was directed to furnish the block-wise actual drawal data by BALCO- Bulk consumer from the ISTS, as per the Scheduling, Metering, and Energy Accounting arrangement decided in terms of the Commission's direction in Order dated 29.1.2020 in Petition No. 299/MP/2018, for the period starting from the effectiveness of the Connectivity of BALCO- Bulk consumer to March 2024.

Submissions of Respondent, WRLDC

15. WRLDC, vide affidavit dated 3.9.2024, has reiterated its earlier submissions and additionally has submitted as follows:

- a) BALCO has been registered as a user of WRLDC with effect from 09.12.2022. The Scheduling, Metering, and Accounting philosophy of BALCO (Captive Generator) and BALCO (Bulk consumer) was discussed during the 87th Commercial Committee Meeting (CCM) of WRPC held on 10.01.2023 and in the said meeting, the members agreed on the proposed philosophy. Accordingly, the Scheduling and Accounting of BALCO are separated into two entities, namely BALCO (captive Generator) and BALCO (Bulk consumer), with effect from 15.12.2022. The actual drawal data for BALCO (Bulk consumer) with effect from 15.12.2022 to 13.03.2024 has been placed on the record.
- b) The total schedule of BALCO (Bulk consumer) comprises two parts: the schedule from BALCO (Captive Generator), which is not subject to ISTS losses, and the schedule from other sources (Bilateral and Collective) through ISTS, which is subject to ISTS losses. The block-wise breakdown of the schedule quantum of BALCO (Bulk consumer) from BALCO (Captive Generator) and other sources, effective from 15.12.2022 to 31.03.2024, is uploaded in an Excel file. Similarly, the injection schedule of BALCO (Captive Generator) consists of schedules to BALCO (Bulk consumer) and other entities through ISTS. The block-wise breakdown of the schedule quantum of BALCO (Captive Generator) to BALCO (Bulk Consumer) and other entities, effective from 15.12.2022 to 31.03.2024, is also uploaded in an Excel file.
- c) Both regional entities, BALCO (Captive Generator) and BALCO (Bulk consumer), are connected to the ISTS interface point of Dharamjaygarh through the 400 kV Dharamjaygarh - BALCO (Captive Generator) D/C line. The drawal points of BALCO- Bulk consumer are located at the interface between BALCO (Captive Generator) and BALCO (Bulk consumer).

d) The actual drawal by BALCO (Bulk consumer) includes the drawal from BALCO (Captive Generator) against its schedule quantum through its internal network, and the drawal from the other sources is through the ISTS network. Thus, the separation of the actual drawal quantum of BALCO-Bulk Consumer from BALCO (Captive Generator) and drawal from the ISTS network is challenging. Therefore, actual block-wise drawal by BALCO (Bulk consumer) from the ISTS network, excluding drawal from BALCO (Captive Generator), is derived based on the following formulae:

A = The block-wise schedule from BALCO (Captive Generator) to Other Entities is considered delivered on a first charge basis.

B = Total Actual Injection of BALCO (Captive Generator) as per SEM data

C = **B-A** = Actual drawal by BALCO (Bulk consumer) from BALCO (Captive Generator)

D = Total Actual Drawal of BALCO (Bulk Consumer) as per SEM data

E = **(D-C)** = Derived Actual Drawal of BALCO (Bulk consumer) from ISTS, excluding drawal from BALCO (Captive Generator)

e) BALCO has utilized the ISTS system by drawing power, and a summary of its drawal from the ISTS is as under:

S No.	Criteria Considered	Schedule of BALCO (Bulk consumer) from other sources	Actual Drawal of BALCO (Bulk consumer) from ISTS Sources
1	No. of Time Blocks in which schedule or drawal >100MW	7372 Time Blocks (16% of time)	8017 Time Blocks (18% of time)
2	No. of Time Blocks in which schedule or drawal >200MW	2733 Time Blocks (6% of time)	3075 Time Blocks (7% of time)
3	No. of Time Blocks in which schedule or drawal >300MW	451 Time Blocks (1% of time)	482 Time Blocks (1% of time)

Total No. of Time Blocks (w.e.f. 15.12.2022 to 31.03.2024) = 45408

f) BALCO has availed maximum schedule power of 451 MW from other sources through ISTS and the maximum derived actual drawal from ISTS as per the formula is 554 MW.

Submission of Petitioner



16. The Petitioner, vide written submission dated 25.09.2024, reiterated its earlier submissions and has additionally submitted as follows:

- a) In the absence of any approved methodology, WRLDC has considered sourcing of BALCO's (Captive Generation) to its other entities on a first charge basis for computing actual energy drawn by BALCO's (Bulk consumer) from the ISTS.
- b) As BALCO has its own generating capacity, which injects power to its ISTS entities and to its Bulk consumer (Captive Load), on the basis of the principle of displacement and the close proximity of its captive load, the first actual utilization of power is in the Bulk Consumer entity. As such, analogous to the methodology of WRLDC, actual drawal energy of BALCO (Bulk consumer) is computed by considering BALCO (Captive Generation) to BALCO Captive Load on a first charge basis.
- c) A comparative analysis of the schedule and the actual drawal energy of BALCO (Bulk consumer) computed on the above two methodologies is as below (for the period from 15.12.2022 to 31.03.2024) (data is derived and computed from the WRLDC submission).

Criteria Considered	Schedule of BALCO (Bulk consumer) from other sources	Actual Drawal of BALCO (Bulk consumer) from ISTS Sources	
		WRLDC Methodology: BALCOs (Captive generation) first charge to other entities	BALCO Methodology: BALCO (Captive generation) first charge to the BALCO consumer
No. of Time Blocks (TB) in which Schedule or drawal > 300 MW	451 TB. 1% of the time	482 TB. 1% of the time	326 TB. 1% of the time
No. of Time Blocks (TB) in which Schedule or drawal > 200 MW	2733 TB. 6% of the time	3075 TB. 7% of the time	2645 TB. 6% of the time
Details of the actual drawal of power			
No. of Time Blocks (TB) in which Schedule or drawal > 100 MW	7372 TB. 16% of the time	8017 TB. 18% of the time	6873 TB. 15% of the time
No. of Time Blocks (TB) in which Schedule or drawal 100 MW - 75 MW	4099 TB. 9% of time	4089 TB. 9% of the time	4122 TB. 9% of the time
No. of Time Blocks (TB) in which Schedule or drawal 75 MW - 50 MW	4524 TB. 10% of the time	4763 TB. 10% of the time	4759 TB. 10% of the time
No. of Time Blocks (TB) in which	1785 TB. 4% of the time	3515 TB. 8% of the time	2097 TB. 5% of the time

Schedule or drawal 50 MW - 25 MW			
No. of Time Blocks (TB) in which Schedule or drawal 25 MW - 0 MW	1913 TB. 4 % of the time	9610 TB. 21% of the time	6469 TB. 14% of the time
No. of Time Blocks (TB) in which Schedule or drawal 0 MW	25715 TB. 57% of the time	15414 TB. 34% of the time	21088 TB. 46% of the time
BALCO (Bulk consumer): Maximum Schedule from ISTS	451 MW		
BALCO (Bulk consumer): Maximum derived actual drawal from ISTS sources		* 554 MW	452 MW
Average Drawal	45.91 MW	47.43 MW	44.08 MW
Total No. Time Blocks (w.e.f 15.12.2022 to 31.03.2024) = 45408			

Note: *Connectivity of BALCO (Bulk consumer) is 530 MW; therefore, in no case, the drawal (derived actual schedule) could be beyond 530MW.

d) For the period from 15.12.2022 to 31.03.2024 (from the date of inception of the Bulk consumer entity): The above data clearly specifies that BALCO Bulk consumer has scheduled 0 MW of power for more than 50% of the time. For 55% - 61% of the time, the actual draw of power is up to 25 MW from ISTS, computed by either of the methodologies. In the given timeframe of 15 months, approximately 44 MW - 48 MW average power was drawn from ISTS (computed by either of the methodologies), which is 8% to 9% of the connected load, with the maximum drawal of power up to 452 MW.

e) For the period from 01.10.2023 to 31.03.2024, i.e., from the start of the GNA regime, BALCO (Bulk consumer) has scheduled 0 MW of power for more than 72% of the time. There has been no actual drawal of power from the ISTS system for about 46% to 59% of the time, computed by either of the methodologies. Within the given timeframe of 6 months, approximately 22 MW average power was drawn by BALCO from ISTS (computed by either methodology), which is 4.5% of the connected load, with the maximum drawal of power up to 256 MW. GNA Regulations require the Bulk consumer to take GNA equivalent to its connectivity and pay the transmission charges on its GNA quantum. In the case of BALCO, the GNA quantum would be 530 MW,

and equivalent transmission charges would have been approximately Rs. 90.96 crores from 01.10.2023 to 31.03.2024, as against which BALCO has paid transmission charges of Rs 4.37 crores for actual utilization of the transmission corridor (through availing T-GNA in terms of the interim order dated 29.09.2023 granted by this Commission).

f) BALCO also injects power in the ISTS system and due to principle of displacement, the actual utilization of transmission corridor for drawal of power is very less and being situated in the W3 region (a power surplus region), BALCO's drawal has never caused congestion in the ISTS transmission system either in the earlier open access 2009 Connectivity Regulations regime or under the GNA regime. Thus, in view of the above submissions, BALCO ought not to be forced/ compelled to avail permanent GNA and instead should be allowed to transact by using a T-GNA.

g) After recognizing the problems and issues being faced by the Bulk consumers, the Commission may initiate steps for amending the GNA Regulations to give relief to Bulk consumers so that they are not required/ forced/ compelled to take mandatory GNA equal to their connectivity. Till such an amendment takes place, the interim order dated 29.09.2023 granted by this Commission ought to continue.

h) The purpose for which open access was introduced under the Act has been deliberated in detail by the APTEL in its Full Bench judgment dated 05.07.2007, passed in *Appeal Nos. 169, 170, 171, 172 of 2005 & 248 and 249/2006, titled as RVK Energy Pvt. Ltd. v. Central Power Distribution Co. of Andhra Pradesh Ltd. (Para 14 to 44)*. The above judgment has also been upheld by the Hon`ble Supreme Court as the Civil Appeals filed by the A.P. Electricity Regulatory Commission (CA Nos. 4936- 4941 of 2007) and West Bengal Electricity Regulatory Commission (CA No. 1079 of 2008), against the above judgment, were dismissed vide orders dated 31.03.2016 and 02.04.2009, respectively. The crux of the principles laid down in the above judgment is that open access, which is an option provided to the consumers, ought not to be made so onerous (*by imposition of excessive charges*) that it becomes financially unviable for the said consumer.

Hearing on 27.02.2025

17. After hearing the parties at length, the Commission reserved the matter for order, and the parties were permitted to file their brief note of arguments.

Submissions of Petitioner

18. The Petitioner, vide written submissions dated 11.03.2025, has reiterated its earlier submissions and has additionally submitted as under:

- a) The interpretation of the following Regulations becomes relevant:
 - i. GNA Regulations do not provide standalone Connectivity to Bulk consumers, such as the Petitioner herein, as was done in the earlier 2009 Connectivity regulations.
 - ii. Regulation 17.2 recognizes the entities/ Bulk consumers having Connectivity granted under the 2009 Connectivity Regulations (such as BALCO), including those who have long-term access in full or part, to be eligible for the grant of GNA equal to the quantum of their existing connectivity. For the aforementioned purposes, the said Regulations allow Bulk consumers to transition their existing Connectivity/ part LTA into the new regime in accordance with Regulation 37.6.
 - iii. Regulation 17.2 read with 17.1 makes it abundantly clear that a Bulk consumer, be it a fresh applicant or a Bulk consumer having existing connectivity/ part LTA, has to necessarily and mandatorily apply for a minimum of 50 MW of GNA to be covered under the GNA Regulations.
 - iv. A Bulk consumer directly connected with the ISTS is also eligible for such temporary GNA in terms of Regulation 26.1 (Chapter 6).
 - v. As per Regulation 26.2, the GNA grantee is eligible to apply for the T-GNA over and above the GNA granted to it, if it is eligible under Regulation 26.1. BALCO, being eligible under Regulation 26.1, is eligible under Regulation 26.2 of the GNA Regulations.
- b) In view of the above provisions, it is the case of BALCO that being eligible for the transitioning under Regulation 37.6 and further eligible under Regulation 17.2 for the grant of GNA, BALCO ought to be allowed to apply for the 50 MW of GNA (mandatory minimum requirement) in terms of Regulation 17.1(iii) and further be allowed to schedule power under T-GNA over and above 50 MW in accordance with Regulation 26.2.
- c) BALCO, by applying for the GNA of 50 MW as stated above, ought to be permitted to transition its existing Connectivity of 530 MW. However, Regulation 17.2 read with 17.1(iii) provides for the grant of GNA equal to the quantum of Connectivity. For the

aforesaid purposes and reasons, this Commission in light of the peculiar facts of the present case, and for making open access economical for industries/ bulk consumers, ought to exercise its power to relax under Regulation 41 and power to remove difficulty under Regulation 42 of the GNA Regulations, thereby relaxing/ removing difficulties under Regulation 17.2 to the extent it requires an industrial consumer (such as the Petitioner) to apply for GNA equal to the quantum of connectivity. Accordingly, this Commission ought to allow the Petitioner to transition its 530 MW (its existing connectivity) by applying 50 MW of the GNA (minimum eligibility).

- d) In the aforesaid context, BALCO is seeking final relief for the transition of its existing connectivity of 530 MW by availing the minimum mandatory GNA of 50 MW and further allowing it to schedule power over and above the 50 MW under T-GNA in terms of Regulation 26.2.
- e) Under the interim order dated 29.09.2023, granted to BALCO in the present Petition, it has incurred a cost of Rs. 22 crores for functioning by availing T-GNA of 47 MW for a period of October 2023 to February 2025. On the other hand, if BALCO was required or forced/ compelled to take a mandatory GNA of the 530 MW, it would have incurred a cost of Rs. 251 crores.

Analysis and Decision

19. The Petitioner has prayed that it be permitted to convert its Connectivity of 530 MW, effective under the 2009 Connectivity Regulations, to the GNA Regulations without mandatorily applying for the GNA as required under Regulation 17.1(iii) of the GNA Regulations. The Petitioner has further sought T-GNA under Regulation 26 of the GNA Regulations for a Bulk consumer already connected with the ISTS. The Petitioner has also sought relaxation of the GNA Regulations to enable it to avail both the GNA/GNARE and T-GNA/T-GNARE by the same entity, stating that in cases where an entity has already availed GNA for importing conventional power and is also required to import the renewable power for fulfilling its RPO, then such an entity cannot avail the GNARE or T-GNARE. The Petitioner has further submitted that it may be permitted to transition under Regulation 37.6 of the GNA Regulations and to apply for the 50 MW of the GNA/GNARE (mandatory minimum requirement) in terms of Regulation 17.1(iii) and further be allowed to schedule

power under the T-GNA over and above the 50 MW in accordance with Regulation 26.2 of the GNA Regulations.

20. The Respondent, CTUIL, has submitted that the GNA Regulations do not have any such provision, which allows a Bulk consumer such as the Petitioner to seek the Connectivity in isolation or on a stand-alone basis without applying for the GNA.

21. We have considered the submissions of the Petitioner and the Respondents. The following issues arise for our consideration:

Issue No. 1: Whether the Petitioner can be allowed to transition its old Connectivity of 530 MW granted under the 2009 Connectivity Regulations to the GNA Regulations without the GNA? Whether Regulation 20.4 should be relaxed to include a bulk consumer already having connectivity, seeking transition under Regulation 37.6, to apply for GNARE?

Issue No. 2: Whether Regulations 20.5, 20.6, 26.5 and 26.6 of the GNA Regulations are required to be relaxed to allow entities to be eligible to apply for both GNA/ T-GNA and GNARE/ T- GNARE?

The above issues have been discussed in the succeeding paragraphs.

Issue No. 1: Whether the Petitioner can be allowed to transition its old Connectivity of 530MW granted under the 2009 Connectivity Regulations to the GNA Regulations without the GNA? Whether Regulation 20.4 should be relaxed to include a bulk consumer already having connectivity, seeking transition under Regulation 37.6, to apply for GNARE?

22. The Petitioner has submitted that 530 MW Connectivity was granted, and the same is also effective for the Petitioner as a Bulk consumer under the 2009 Connectivity Regulations. The Petitioner has further submitted that Regulation 17.1(iii) is not applicable to it, since the said provisions apply to a Bulk consumer “seeking to connect,” meaning thereby it is for a new entity and not for an entity with effective Connectivity under the 2009 Connectivity Regulations. Furthermore, Regulation 17.2 of the GNA Regulations provides an option for entities already connected to the ISTS for the grant of GNA. The Commission, vide an order dated 22.09.2023, in Petition No. 11/SM/2023, directed that an entity/ Bulk consumer having Connectivity granted under the 2009 Connectivity Regulations, ‘may’

apply for the grant of GNA equivalent to the quantum of such Connectivity granted under the GNA Regulations. This would mean that Bulk consumers already having effective Connectivity under the 2009 Connectivity Regulations can transition without having to mandatorily apply for GNA. Further, since, as per Regulation 26.1 of the GNA Regulations, a Bulk consumer already connected with the ISTS is eligible to apply for the T-GNA, consequently, the Petitioner cannot be compelled to mandatorily avail the GNA, in order to take the T-GNA, as a captive user, the said Petitioner requires power only on as and when need basis. The Petitioner has further disputed the position taken by CTUIL, asking the Petitioner to surrender the Connectivity quantum not converted into GNA. Such an interpretation is contrary to the provisions of the GNA Regulations, as Regulation 37.6 of the GNA Regulations does not provide for surrender of Connected quantum in such circumstances..

23. CTUIL has submitted that, as per the construct of the GNA Regulations, the Petitioner, who has already been granted Connectivity under the 2009 Connectivity Regulations as a Bulk consumer, is not an eligible entity under Regulation 4 of the GNA Regulations to seek Connectivity in isolation. A Bulk consumer 'seeking to connect' with the ISTS is eligible to apply for the GNA under Regulation 17.1, and a Bulk consumer already connected with the ISTS is eligible to apply for the grant of GNA for a quantum equal to the quantum of Connectivity under Regulation 17.2. CTUIL has further submitted that the Petitioner, vide its letter dated 4.5.2023, opted for conversion of the 200 MW Connectivity to GNA_{RE} starting from 1.10.2024 out of its 530 MW Connectivity. However, the Petitioner did not indicate the end date of such GNA. Subsequently, the Petitioner requested CTUIL to defer the processing of its application for the grant of 200MW GNA_{RE}, on account of the issue concerning the drawal of power through T-GNA or GNA under the GNA Regulations for a Bulk consumer being *sub-judice* before this Commission, and the interim Order dated 29.9.2023 passed therein.

24. WRLDC has submitted that the Petitioner did not avail any LTA/ MTOA to ISTS under the existing 2009 Connectivity Regulations, and used to draw power through STOA. No provision exists under the GNA Regulations that allows a Bulk consumer to either seek connectivity or retain its existing Connectivity without applying the GNA. WRLDC has submitted that the Petitioner has not yet converted the Connectivity of 530 MW into GNA, in terms of Regulation 37.2(b) of the GNA Regulations, the Connectivity granted to the Petitioner by CTUIL under the 2009 Connectivity Regulations is deemed to have been considered surrendered. T-GNA can be applied by a Bulk consumer over and above the GNA granted to it as per Regulation 26.2 of the GNA Regulations. Since no GNA has been granted to the Petitioner, it is not eligible to apply for the T-GNA. WRLDC has further submitted that the Commission may direct the Petitioner to avail a minimum GNA quantum, i.e. 50 MW, which makes a Bulk consumer to become eligible for connecting with the ISTS system as per Regulation 17.1(iii) of the GNA Regulations.

25. WRLDC has submitted that BALCO has utilized the ISTS system by drawing power and summary of its drawal from ISTS is as below:

S No.	Criteria Considered	Schedule of BALCO (Bulk consumer) from other sources	Actual Drawal of BALCO (Bulk consumer) from ISTS Sources
1	No. of Time Block in which schedule or drawal >100MW	7372 Time Blocks (16% of time)	8017 Time Blocks (18% of time)
2	No. of Time Block in which schedule or drawal >200MW	2733 Time Blocks (6% of time)	3075 Time Blocks (7% of time)
3	No. of Time Block in which schedule or drawal >300MW	451 Time Blocks (1% of time)	482 Time Blocks (1% of time)

26. The Petitioner has refuted the calculation of drawal by the Bulk consumer, stating that on the principle of displacement and the close proximity of its captive load, the first actual utilization of power is in the Bulk consumer entity. As such, analogous to the methodology of WRLDC, actual drawal energy of BALCO (Bulk consumer) is computed by considering BALCO (Captive Generation) to BALCO Captive Load on a first charge basis. From 15.12.2022 to 31.03.2024 (from the date of inception of the Bulk consumer entity),

BALCO Bulk Consumer has scheduled 0 MW of power for more than 50% of the time, for 55% - 61% of the time, the actual drawal of power is up to 25 MW from ISTS. Within the given timeframe of 15 months, approximately 44 MW - 48 MW average power was drawn from ISTS, which is 8% to 9% of the connected load, with the maximum drawal of power up to 452 MW.

27. The Petitioner has submitted that, in terms of the provisions under Regulations 17.2, 26.2, and 37.6 of the GNA Regulations, BALCO being eligible for transitioning under Regulation 37.6 and further eligible under Regulation 17.2 for the grant of GNA, it ought to be allowed to apply for the 50 MW of GNA (mandatory minimum requirement) in terms of Regulation 17.1(iii), and further be allowed to schedule power under T-GNA over and above the 50 MW in accordance with Regulation 26.2 of the GNA Regulations. The Petitioner has further submitted that in light of the peculiar facts of the present case, and for making open access economical for industries/ Bulk consumers, the Commission ought to exercise its power to relax under Regulation 41 and power to remove difficulty under Regulation 42 of the GNA Regulations, thereby relaxing/ removing difficulties under Regulation 17.2, to the extent permitting the Petitioner to transition its 530 MW (its existing connectivity) by applying for 50 MW of GNA (minimum eligibility).

28. We have considered the submissions of the Petitioner and the Respondents. Let us peruse the regulatory provisions.

29. Regulation 17.1(iii) of the GNA Regulations provides as under:

“17.1. The following entities shall be eligible as Applicants to apply for grant of GNA or for enhancement of the quantum of GNA:

*.....
(iii) A distribution licensee or a Bulk consumer, seeking to connect to ISTS, directly, with a load of 50 MW and above;
.....”*

As per the above provision, a distribution licensee or a Bulk consumer with a load of 50 MW and above is eligible to apply for the grant of GNA or for enhancement of the quantum of GNA.

30. Regulation 37.6 of the GNA Regulations provides as under:

“37.6. If Connectivity granted in accordance with the Connectivity Regulations, 2009 is effective and Long term Access has either not been granted for any capacity or has been granted for full/part capacity which has become effective as on the date of coming into effect of these Regulations, the following shall apply:

(1) Entities covered under Regulation 4.1 of these regulations, which have not been granted Long Term Access for any capacity or granted Long term access for part of the capacity qua the Connectivity quantum under the Connectivity Regulations, 2009 may apply for additional GNA for balance quantum of Connectivity under Regulation 17.2 of these regulations. The same shall be processed by the Nodal Agency as under:

(a) In case additional GNA as applied for under Regulation 17.2 can be granted on existing transmission system, the Nodal Agency shall grant such additional GNA on furnishing Conn-BG3 @ Rs.2 lakh/MW. Conn-BG3 shall be returned in five equal parts over the next five years starting from the year when such GNA becomes effective or in accordance with Regulation 16.2 of these regulations, whichever is later.

Provided that in case connectivity is relinquished in terms of Regulation 24.1 of these regulations, subsisting Conn-BG3 shall be encashed.

(b) In case ATS is required for granting such additional GNA, the application shall be processed in accordance with Regulation 8.3 of these regulations. Such additional GNA shall be granted on furnishing of Conn-BG2. The Conn-BG1 shall be returned within 30 days of declaration of commercial operation of capacity for which additional GNA has been granted. Conn-BG2 shall be returned in five equal parts over five years starting from the year when such GNA becomes effective or in accordance with Regulation 16.2 of these regulations, whichever is later.

Provided that where only some of the transmission elements of the ATS have achieved COD before the COD of the ATS and the Connectivity grantee seeks part effectiveness of its GNA, the Nodal Agency shall make such part GNA effective, subject to availability of transmission system.

Provided also that after the GNA has been granted by the Nodal Agency but yet to become effective, such entity shall be eligible to get its power scheduled partly or fully of the quantum of GNA sought for, subject to availability of transmission system by treating such access as deemed T-GNA and shall not be required to pay T-GNA charges.

Provided that in case connectivity is relinquished in terms of Regulation 24.1, subsisting Conn-BG2 shall be encashed in terms of Regulation 24.2 of these regulations.

As per the above, the entities covered under Regulation 4.1 of the GNA Regulations, with Connectivity granted under the 2009 Connectivity Regulations, remain effective, but LTA has either not been granted for any capacity or has been granted only for part capacity

of the Connectivity quantum, may apply for the GNA for the balance quantum of Connectivity under Regulation 17.2 of the GNA Regulations.

31. The relevant extract of the Commission's Order dated 22.09.2023 in Petition No. 11/SM/2023 allowing the transition of Connectivity into GNA in terms of Regulation 37.6 of the GNA Regulations is as under:

"17. The cases, where Connectivity is effective and Long term access is not granted, are covered by Regulation 37.6(1) of GNA Regulations which provides as follows:

.....

The above-quoted Regulations only cover entities covered under Regulation 4.1 i.e. injecting entities. The entities covered under Regulation 17.1(iii) of the GNA Regulations where Connectivity is effective and long term access is not granted as on date of coming into effect of these regulations are not explicitly provided for in above-quoted Regulation 37.6(1).

18. Considering CTUIL suggestions, we are of the considered view that the entities covered under Regulation 17.1(iii) where Connectivity granted in accordance with the 2009 Connectivity Regulations is effective and Long term Access has not been granted, shall be allowed to transition such Connectivity into GNA as per clause 37.6(1). Such an entity may apply for additional GNA for such quantum of Connectivity under Regulation 17.2 of these regulations. Where additional GNA, as applied for can be granted on the existing transmission system, such an entity shall furnish Conn-BG3 @Rs 2 lakh/MW. In case augmentation is required in terms of Regulation 12.5 of the GNA Regulations to convert the Connectivity of such entity into GNA, it shall be constructed and maintained by a licensee at the cost of such entity.

As per the above decision of the Commission, the entities covered under Regulation 17.1(iii) of the GNA Regulations, wherein Connectivity granted under the 2009 Connectivity Regulations continue to remain effective but LTA has not been granted, shall be permitted to transition their Connectivity into GNA in terms of Regulation 37.6 of the GNA Regulations, and such entities may apply for an additional GNA under Regulation 17.2 of the GNA Regulations.

32. Regulation 26.2 of the GNA Regulations is extracted as under:

"26.2. A GNA grantee shall be eligible to apply for T-GNA over and above the GNA granted to it, as per eligibility under clause (a) of Regulation 26.1 this Regulation."

As per the above provision, an entity, which is a GNA grantee under the GNA Regulations, can apply for the T-GNA over and above the GNA granted to it.

33. We note that, under the GNA Regulations, the entities either connected to the ISTS or seeking connection to the ISTS are covered under Regulation 4.1 or Regulation 17.1 of the GNA Regulations. All such entities, *inter- alia*, which had either been granted Connectivity or were already connected as on the date of coming into effect of the GNA Regulations, were required to transition from the 2009 Connectivity Regulations to the GNA Regulations and would fall either under Regulation 4.1 or Regulation 17.1. The Connectivity granted under the 2009 Connectivity Regulations, which continued to remain effective, but for which no LTA had been granted for such Connectivity, as on the date of effectiveness of the GNA Regulations, was to be transitioned under the GNA Regulations in accordance with Regulation 37.6.

34. The Petitioner, being a Bulk consumer directly connected with the ISTS, falls under Regulation 17.1(iii). There is no provision under the GNA Regulations for the transition of Connectivity for a bulk consumer independently, without applying for the GNA, since the applicable clause under which such an entity shall fall after transition is Regulation 17.1(iii) of the GNA Regulations. In terms of the above provisions, the Petitioner, being a bulk consumer, may transition its full or part Connectivity (which was effective) in terms of Regulation 37.6 of the GNA Regulations. The Petitioner, vide its written submissions dated 11.03.2025, has requested the Commission as a final relief, to allow under Regulation 37.6 by applying for the 50 MW of GNA (mandatory minimum requirement) in terms of Regulation 17.1(iii), and further to allow to scheduling of power under T-GNA over and above the 50 MW in accordance with Regulation 26.2.

35. We have considered the provisions of the GNA Regulations and the Petitioner's proposal seeking permission to transition under Regulation 37.6 by applying for 50 MW of the GNA/GNARE. As per the data furnished by WRLDC, the effective dates of Connectivity and GNA for the Petitioner and the GNA Regulations were 15.12.2022 and 5.4.2023, respectively. The entity similar to the Petitioner, having Connectivity effective and no LTA (Essar Steel) was included based on the actual drawal data under the Draft GNA Regulations, 2019 and the GNA Regulations notified on 7.6.2022. However, we also note that the Petitioner started drawal of power from the ISTS on 15.12.2022, while the GNA Regulations, which were notified on 7.6.2022, came into force partly from 5.4.2023 and partly from 1.10.2023. Hence, there is a requirement to clarify the transition treatment of the Petitioner. We have perused the drawal data furnished by WRLDC, where the Petitioner

had a drawal schedule of more than 100 MW for its facility from ISTS for more than 16% of time blocks. The Petitioner, however, has disputed the calculation of actual drawal from ISTS as estimated by WRLDC, stating that the same has not been approved. We are of the considered view that the methodology for calculating/estimating the actual drawal for entities such as the Petitioner, i.e., generating station and Bulk consumer connected at the same ISTS Point, ought to be finalised in a detailed Procedure to be issued by Grid India.

36. Considering the submissions of the Petitioner seeking transition under Regulation 37.6 by applying for 50 MW of GNA/GNARE to become an entity under Regulation 17.1(iii) of the GNA Regulations and the provisions of the GNA Regulations, we are of the view that the Petitioner may seek to transition part or full quantum of Connectivity to the GNA Regulations as GNA/GNARE for not less than 50MW (which is the minimum eligible quantum of GNA for a bulk consumer directly connected to ISTS) under Regulation 37.6 of the GNA Regulations. The Petitioner may seek T-GNA for a quantum over and above its GNA quantum or T-GNARE over and above the GNARE (in case the Petitioner seeks GNARE), which shall be considered by RLDC in terms of the provisions of the GNA Regulations.

37. We also note that the Commission vide ROP dated 29.9.2023 had allowed the Petitioner to schedule power under the T-GNA till the disposal of the main Petition, and the Petitioner has been transacting power under T-GNA for almost two years. As we have already concluded in the above paragraphs that the Petitioner shall apply for the GNA or GNARE to get transition under the GNA Regulations, we direct the Petitioner to apply for such GNA or GNARE within 10 days from the date of the issuance of this Order, and CTUIL shall process the same in terms of the GNA Regulations. Since the Petitioner becomes an eligible entity under the GNA Regulations upon grant of the GNA for a minimum of 50 MW, the Petitioner's GNA/GNARE should start from the earliest possible date. Hence, the start date of GNA/GNARE to be applied by the Petitioner for transition should not be later than 30 days from the issuance of this Order. Once an application is made by the Petitioner and CTUIL grants the GNA/GNARE, the Petitioner, in the interim, shall be eligible to schedule the power under T-GNA/T-GNARE (depending on whether it sought GNA or GNARE) till the effectiveness of GNA/GNARE. Further, if the Petitioner fails to apply the grant of the GNA or GNARE within 10 days from the issuance of this Order to transition to the GNA

Regulations, the interim direction permitting scheduling of power under T-GNA shall stand automatically revoked.

38. We observe that WRLDC has submitted that the balance Connectivity, not converted into GNA by the Petitioner, should be deemed to have been surrendered. In this regard, it is clarified that for an entity, already connected as on the date of effectiveness of the GNA Regulations and covered under Regulation 37.6 of the GNA Regulations, the Regulations do not provide for any deemed surrender of such connectivity which was already effective. Hence, the contention of the Petitioner that balance Connectivity shall be 'deemed surrender' is not correct. It is also clarified that the Petitioner, after becoming a GNA grantee, may seek T-GNA over and above the GNA granted to it under Regulation 26.2 of the GNA Regulations, and accordingly, WRLDC shall process the request for T-GNA based on the availability of the transmission system.

39. Issue No. 1 is answered accordingly.

Issue No. 2: Whether Regulations 20.5, 20.6, 26.5 and 26.6 of the GNA Regulations are required to be relaxed to allow entities to be eligible to apply for both GNA/ T-GNA and GNA_{RE}/ T- GNA_{RE}?

40. The Petitioner has submitted that, as per Regulations 20.6 and 26.6 of the GNA Regulations, a GNA grantee cannot apply for the grant of GNA_{RE} and T-GNA_{RE}, respectively. This provision has again led to an absurdity whereby a single entity can apply either for GNA/ T-GNA or GNA_{RE}/ T-GNA_{RE} but not for both. If a consumer has availed GNA or T-GNA for importing conventional power, but is also required to import renewable power for fulfilling its RPO, then, going by the above Regulations, the said consumer cannot avail GNA_{RE} or T-GNA_{RE}. The Petitioner has further submitted that Regulation 13 read with Annexure-III of the Sharing Regulations provides that even though RE power can be scheduled under GNA or T-GNA, for availing a waiver of transmission charges, a threshold of RE power is required to be scheduled. Thus, if the RPO of a consumer is not fulfilling the threshold, then it will not be eligible for any waiver of transmission charges as the same is below the above threshold.

41. In the above context, the Petitioner is seeking relaxation of Regulation 20.4 to include a Bulk consumer, already having connectivity, seeking transition under Regulation 37.6 to apply for GNA_{RE} and relaxation of Regulations 20.5, 20.6, 26.5 and 26.6 of the GNA Regulations, so as to enable the entities to apply for both GNA/ T-GNA and GNA_{RE}/ T-GNA_{RE}.

42. We have considered the submissions of the Petitioner. Regulations 20.5 and 20.6 of the GNA Regulations provide as under:

“20.5 The entities covered under Regulation 20.4 of these regulations, may apply for additional GNA_{RE} or T- GNA_{RE}, in case their drawl requirement is more than quantum of GNA_{RE}. An entity having GNA_{RE} shall not be eligible to obtain GNA or T-GNA. However, it may convert its GNA_{RE} into GNA as per provisions of Regulation 20.4

20.6 An entity which is a GNA grantee shall not be eligible to obtain GNA_{RE} or T- GNA_{RE}. Such an entity may seek additional GNA or T-GNA for additional drawl requirement.”

As per the above, an entity having GNA_{RE} shall not be eligible to obtain the GNA or T-GNA, however, it may convert its GNA_{RE} into GNA. Similarly, an entity, which is a GNA grantee, shall not be eligible to obtain the GNA_{RE} or T- GNA_{RE}.

43. Regulations 26.5 and 26.6 of the GNA Regulations provide as under:

“26.5 The entities covered under Regulation 26.4 of these regulations may apply for additional GNARE or T- GNARE, in case their drawl requirement is more than quantum of T- GNARE. An entity having T- GNARE shall not be eligible to obtain GNA or T-GNA, however it may convert its T- GNARE into T-GNA as per provisions of Regulation 26.4.

26.6 An entity which is a T-GNA grantee shall not be eligible to obtain GNARE or T- GNARE. Such an entity may seek additional GNA or T-GNA for additional drawl requirement.

As per the above, an entity having T-GNA_{RE} shall not be eligible to obtain GNA or T-GNA, however, it may convert its T-GNA_{RE} into T-GNA. Similarly, an entity which is a T-GNA grantee shall not be eligible to obtain T-GNA_{RE} or T- GNA.

44. Relevant extract of Annexure-III of the Sharing Regulations is as under:

“(b) The waiver of transmission charges shall be calculated in the following manner:

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(i) Waiver of a drawee DIC other than a drawee DIC which has obtained “GNA_{RE}” shall be calculated based on the following formulae:

$$\text{Waiver (\%)} = 100 \times \frac{\sum_{n=1}^T \frac{SDRG}{SDTG}}{T}$$

Where,

“SDRG” is the drawl schedule (in MW) through ISTS under GNA from the sources eligible for waiver under Regulation 13 of these regulations in nth block;

“SDTG” is the total drawl schedule (in MW) under GNA through ISTS from all sources in nth block;

“n” is the nth time block

“T” is number of time blocks in a month = 96 X number of days in a month

Provided that in case the “SDTG” for a time block is less than 75% of the maximum schedule corresponding to GNA, the “SDTG” shall be taken as 75% of maximum schedule corresponding to GNA for a time block.”

As per the above, the waiver percentage for drawal of RE Power under GNA is to be calculated based on the drawal schedule (in MW) in a time block through ISTS under GNA from the RE sources and the total drawal schedule (in MW) under GNA through ISTS from all sources in the same block. Further, an entity is eligible for waiver of transmission charges corresponding to the quantum drawal of RE Power out of the total power scheduled from the ISTS. Therefore, the Petitioner’s contention that it will not get any waiver under the GNA/T-GNA for drawal of RE power under Annexure-III of the Sharing Regulations is not tenable.

45. We observe that Regulatory provisions regarding the grant of T-GNA/GNA and T-GNARE/GNA-RE are clear and have been incorporated after going through the due process of law, after considering the comments of the stakeholders. The reasons for not permitting GNA and GNARE with the same entity were explained in Statement of Reasons for the First Amendment to the GNA Regulations as under:

12.2.3 The suggestion to consider GNARE for entities that are already GNA grantees is not accepted. The concept of GNARE has been introduced keeping in view suggestions received under the First Amendment of the 2020 Sharing Regulations, where the requirement of GNA for entities that are getting connected to ISTS only for the purpose of drawal of power from RE sources had arisen. The relevant extract of the Explanatory Memorandum is as follows:

“34. Stakeholders such as MOP, CPPA, JSW, Vedanta Ltd., BALCO, Enel Green Power, WIPPA, Tata Power, Sterlite Power Transmission Ltd have vide their comments on draft First Amendment to CERC (Sharing of inter-State transmission charges and losses) Regulations, 2020 have suggested to suitably incorporate the provision of waiver of Inter-State Transmission charges for the dedicated consumer procuring/utilizing GNA for RE power only. Stakeholders had submitted that full RE quantum is not available 24x7, during night hours, the Solar RE quantum would be zero. Also, the generation from wind and solar source is variable in nature depending upon availability of resource and doesn’t complement the GNA capacity. Further despite procurement of power only from wind & solar sources such consumers will be forced to pay transmission charges.”

Once an entity has sought GNARE, saying that it wishes to draw only RE power, allowing such an entity to obtain GNA and draw power other than RE is not in line with the rationale of the introduction of GNARE. An entity having a GNA can draw RE Power within its GNA and

is eligible for a waiver for such drawal as per the Sharing Regulations. There is no requirement to seek additional GNARE to draw RE power for such an entity.”

46. Regulation 41 of the GNA Regulations provides as under: -

“41. The Central Commission, for reasons to be recorded in writing, may relax any of the provisions of these regulations on its own motion or on an application made before it by an affected party to remove the hardship arising out of the operation of these regulations.”

48. The Power to Relax under the GNA Regulations is in general terms, and its exercise is discretionary. As regards the exercise of power to relax, the APTEL vide its judgment dated 25.3.2011 in appeal No. 130/2009 (RGPPL v. CERC & anr.) has observed the following: -

“18.1 The Regulations of the Central Commission and the decision of the Tribunal and the Supreme Court confer the judicial discretion to the Central Commission to exercise power to relax in exceptional case. However, while exercising the power to relax there should be sufficient reason to justify the relaxation and non-exercise of discretion would cause hardship and injustice to a party or lead to unjust result. It has also to be established by the party that the circumstances are not created due to act of omission or commission attributable to the party claiming relaxation. Further, the reasons justifying relaxation have to be recorded in writing.”

It is clear from the above observation of the APTEL that the Central Commission has discretionary power to relax norms based on the peculiar facts and circumstances of the case. However, there has to be a sufficient and reasonable justification, and such a case has to be one of those exceptions to the general rule. There must also be a sufficient reason to justify the Power to relax. However, in light of the discussions in the preceding paragraphs, we are of the considered view that such relaxation cannot be allowed in the instant case.

47. Issue No. 2 is answered accordingly.

48. Accordingly, Petition No. 192/MP/2023 is disposed of in terms of the above.

Sd/	Sd/	Sd/	Sd/
(Ravinder Singh Dhillon)	(Harish Dudani)	(Ramesh Babu V.)	(Jishnu Barua)
Member	Member	Member	Chairperson

