

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 66/MP/2023

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

Date of Order: 29.05.2025

In the matter of:

Petition under Sections 79(1) (c) and (f) of the Electricity Act, 2003 read with Regulations 27, 33A and 33B of the CERC (Grant of Connectivity, Long-Term Access and Medium-Term Open Access in inter-State Transmission and related matters) Regulations, 2009, seeking recognition of force majeure events and issuance of appropriate orders.

And

In the matter of:

Amp Energy Green Private Limited,
309, Rectangle One, behind the Sheraton Hotel,
Saket, New Delhi-110017

.....Petitioner

Versus

- 1. Central Transmission Utility of India Limited,**
B-9, (1st Floor), Qutab Institutional Area,
Katwaria Sarai, New Delhi -110016
- 2. NTPC Limited,**
NTPC Bhawan, SCOPE Complex,
Institutional Area, Lodhi Road, New Delhi – 110003
- 3. Solar Energy Corporation of India Limited,**
1st Floor, A-Wing, D-3, District Centre, Saket,
New Delhi-110017

...Respondents

Parties Present:

Shri Akshat Jain, Advocate, AEGPL
Shri Shikhar Verma, Advocate, AEGPL
Ms. Suparna Srivastava, Advocate, CTUIL
Ms. Divya Sharma, Advocate, CTUIL
Shri Rahul Ranjan, Advocate, NTPC
Ms. Anusha Nagarajan, Advocate, SECI

ORDER

The Petitioner, Amp Energy Green Private Limited has filed the present Petition under Section 79(1) (c) and (f) of the Electricity Act, 2003 read with Regulations 27, 33A and 33B of the Central Electricity Regulatory Commission (Grant of Connectivity, Long-Term Access and Medium-Term Open Access in inter-State Transmission and related matters) Regulations, 2009 (hereinafter '2009 Connectivity Regulations') seeking the following prayers:

- (a) *Recognise that the failure and delay in issuance of LoA by NTPC when the reverse e-auction was concluded on 06.08.2022 is beyond the control of AMP Energy and constitutes an event 'akin to Force Majeure event' which has prevented/delayed AMP Energy in construction of dedicated transmission lines;*
- (b) *Recognise that issuance of GIB Order on 19.04.2021 till the grant of approval for construction of overhead powerlines on 03.02.2023 is an event 'akin to Force Majeure event' for AMP Energy in terms of Transmission Agreement which prevented and delayed AMP Energy in construction of dedicated transmission lines;*
- (c) *Recognise that delay in assessment and implementation of dedicated transmission lines due to resurgence of Covid-19, constitutes an event 'akin to Force Majeure event' for AMP Energy in terms of Transmission Agreement to the extent that it has resulted in a delay of 68 days in construction of dedicated transmission lines;*
- (d) *Extend the time period for construction of the dedicated transmission lines by 6 months from the date of approval granted by the Supreme Court appointed Committee (i.e., 03.02.2023) in terms of extensions granted by Ministry of New and Renewable Energy to renewable generating companies through various Office Memorandums on account of spread of Coronavirus and subsequent lockdown;*
- (e) *In the interim, direct the Respondents to not take any coercive actions against AMP Energy including but not limited to encashment of Bank Guarantee bearing BG No. 245INDDG00019021 of Rs. 3.5 Crores submitted to CTUIL for Connectivity; and*
- (f) *Pass any such other and further reliefs as this Commission deems just and proper in the nature and circumstances of the present case."*

Submissions of the Petitioner:

2. The Petitioner has mainly submitted as follows:

- (a) The Petitioner is developing a 300 MW solar power project in Jodhpur District in the State of Rajasthan as under:

(i) SECI Tranche VIII

On 06.04.2020, SECI issued a Letter of Award to AMP Energy for the supply of 100

MW of solar power from its Project at a tariff of Rs. 2.50/KWh. The Power Purchase Agreement is yet to be executed between SECI and AMP Energy.

(ii) SECI Tranche IX

On 15.07.2020, SECI issued a Letter of Award to AMP Energy for the supply of 100 MW of solar power from its Project at a tariff of Rs. 2.37/KWh. On 12.04.2022, 1 year and 8 months after issuance of the LoA Tranche IX, SECI entered into a Power Purchase Agreement dated 12.04.2022 with AMP Energy for the supply of power to SECI.

(iii) NTPC Bid

On 18.02.2020, NTPC issued an RfS of solar power developers for setting up the 1200 MW ISTS-connected solar PV power projects anywhere in India. AMP Energy was successful in securing a 100 MW solar project in the e-reverse auction concluded on 06.08.2020. Even after 2 years from the conclusion of the e-reverse auction process, there was no clarity even with respect to the issuance of LoA by NTPC. Due to the non-issuance of the LoA in the NTPC bid for about 2 years, AMP Energy entered into a Power Purchase Agreement dated 05.09.2022 with a third party ("Third Party PPA") for the sale and purchase of 100 MW of electricity from the Project.

- (b) On 09.07.2020, PGCIL granted Stage-II Connectivity for the 100 MW to AMP Energy for the Tranche VIII Project.
- (c) On 09.10.2020, PGCIL issued "Grant of enhancement in Stage-II Connectivity for 100 MW to Amp Energy for its proposed Solar Power Plant in Jodhpur, Rajasthan" for Tranche IX Project ("Tranche IX, Stage-II Connectivity").
- (d) On 20.02.2021, this Commission in supersession of the Detailed Procedure dated 15.05.2018, notified the Revised Procedure for "Grant of connectivity to projects based on renewable sources to inter-State transmission system" dated 20.02.2021 wherein clause 11.2 (A) (b) provides that if Stage II Connectivity grantee fails to complete the dedicated transmission line within 6 months after the scheduled commissioning date of generating plant as reflected in the application, the connectivity bank guarantee of the grantee shall be encashed.
- (e) On 17.03.2021, PGCIL issued "Grant of enhancement in Stage-II Connectivity for 100 MW to Amp Energy for its proposed Solar Power Plant (AMP Energy Green Six

Solar Power Plant) in Jodhpur, Rajasthan” along with Intimation for Grant of Enhancement in Stage-II Connectivity (“NTPC Stage-II Connectivity”).

- (f) On 21.04.2022, AMP Energy submitted an application to CTUIL for the grant of Long-Term Open Access for Tranche IX Project under the 2009 Connectivity Regulations, which was granted by CTUIL on 15.07.2022.
- (g) In terms of Clause 11.2(A)(b) of the Revised Procedure 2021, the timelines for construction of the dedicated transmission line are scheduled to expire on 13.04.2023 (i.e., 6 months from 15.10.2022 being the scheduled commissioning date as specified in NTPC Stage II Application). Certain unprecedented events, akin to force majeure events, being beyond the reasonable control of AMP Energy, have prevented AMP Energy from proceeding to construct the dedicated transmission lines by 13.04.2023.
- (h) The reason for such delay is not attributable to AMP Energy and beyond its reasonable control as briefly set out in the table.

Events akin to Force Majeure	Date of commencement and cease date of events akin to force majeure	Delay caused in the construction of dedicated transmission lines
Non-issuance of LoA by NTPC for the NTPC bid	From 08.06.2020 (date of reverse e-auction) to 05.09.2022 (date of Third Party PPA)	760 days (2 years and 30 days)
Delay in technical evaluation and clearance by the Committee since GIB Order	From 19.04.2021 (GIB Order) to 03.02.2023 (grant of approval by Committee)	655 days
Delay in assessment and implementation of dedicated transmission lines due to the resurgence of Covid-19.	From 01.04.2021 to 08.06.2021	68 days

- (i) The Petitioner has already infused around Rs. 100 crores and is committed to infusing Rs. 300 crores for the execution of the Project, and is constructing the dedicated transmission lines. On 03.02.2023, the Committee granted approval for the construction of overhead powerlines. The Petitioner will require an additional time of 6 months from the date of approval of the Committee (i.e., 03.02.2023) for completing the dedicated transmission lines.

- (j) If the extension as sought by AMP Energy is rejected, as the same will result in (a) revocation of connectivity granted under Connectivity Regulations, 2009, and (b) encashment of Bank Guarantee of Rs. 3.5 crores furnished by AMP Energy to CTUIL.
- (k) On 17.01.2023, AMP Energy issued a force majeure notice to CTUIL, notifying CTUIL regarding the unprecedented events which are '*akin to force majeure events*' and have affected the timely construction of dedicated transmission lines by the Petitioner. By way of the force majeure notice, AMP Energy sought an extension of 6 months from the date of approval of the Application by the Committee for the construction of dedicated transmission lines.

Hearing dated 23.03.2023:

- 3. During the course of the hearing, the learned counsel for the Petitioner submitted that the Petitioner is developing a 300 MW Solar Power Project in Jodhpur District, State of Rajasthan. For the purpose of evacuation of power from the aforesaid Projects, the Petitioner applied for the grant of connectivity to CTUIL, which was granted by CTUIL. In terms of Clause 11.2(A)(b) of the 'Grant of Connectivity to Projects based on Renewable Sources to Inter-state transmission System' dated 20.2.2021, the timeline for the construction of dedicated transmission lines is scheduled to expire on 13.4.2023. However, due to certain unprecedented events akin to force majeure events, the Petitioner was prevented from completing the construction of its dedicated transmission lines by 13.4.2023. Further, the Committee constituted by the Hon'ble Supreme Court by order dated 19.4.2021 in IA No. 85618 of 2020 ('GIB Order') has already granted the approval for the construction of overhead powerlines on 3.2.2023, and the Petitioner is committed to implementing these Projects. The Petitioner has indicated that it will require an additional time of 6 months from the date of approval of the Committee (i.e., 3.2.2023) for completing the dedicated transmission lines.
- 4. After hearing the learned counsel for the Petitioner, the Commission admitted the Petition, and the parties were directed to file their respective replies and rejoinders. The Petitioner was directed to furnish the following clarification/details:
 - (i) Reasons for delay in approaching the Committee appointed by the Hon'ble Supreme Court on the GIB issue
 - (ii) SCOD of 3 x 100 MW solar power projects under ISTS Tranche VIII, ISTS

Tranche IX, and NTPC Bid, and the current status of the projects.

(iii) Total length of the dedicated transmission line, i.e., from the Common Pooling Station of Amp Energy Green Four, Five, and Six Solar Power Plant- Bhadla-II PS 220 kV S/C line, and how much the length of the line falls under the GIB potential and priority area.

(iv) Quantum of solar power plant area falling in the GIB potential and priority area.

5. The Respondents were also directed not to take any coercive action against the Petitioner, including encashment of the Bank Guarantee furnished by it to CTUIL for connectivity till the next date of hearing, provided the Petitioner keeps such BG alive.
6. The Petitioner, vide affidavit dated 18.04.2023, has filed the information called for. Replies to the Petition have been filed by NTPC and CTUIL

Reply of NTPC:

7. NTPC, vide affidavit dated 05.05.2023, has mainly submitted as under:

- (a) There is no contractual relationship between the Petitioner and NTPC as no PPA has been entered into between the Petitioner and NTPC.
- (b) Request for Selection ("RfS") for setting up of the grid-connected (ISTS-connected) Solar PV Power Projects was issued on a Build, Own and Operate" basis, for an aggregate capacity of 1200 MW anywhere in India. After the conclusion of the bidding process, the total tied-up capacity under the PPA and PSA stood at 400 MW. The balance capacity could not be tied up by the NTPC since it could not identify the beneficiaries/distribution licensees for such capacity.
- (c) As per clauses 3.20 and 3.24 of the RfS, the bid was to be kept valid for a period of 180 days from the bid opening date. Thereafter, such validity could be extended only with the consent of the bidder. The Petitioner had voluntarily extended the validity of its bid and Earnest Money Deposit. No fault or responsibility can be attributed to the NTPC for any consequences faced by the Petitioner on account of such extension.
- (d) NTPC has not, at any stage, held out that the LoA would be issued to the Petitioner, or that the PPA would be executed so as to ensure that the scheduled date for commissioning of the Petitioner's power plant could be achieved by 15.10.2022.

Rejoinder of the Petitioner to the reply of NTPC:



8. The Petitioner, in its rejoinder vide affidavit dated 06.06.2023 in response to the reply filed by NTPC, has mainly submitted that it is not seeking any relief against NTPC in the present Petition. At this stage, the Petitioner, having been put in an adverse financial position, cannot be held to be liable for non-issuance of the LoA by NTPC for its own wrong. Therefore, the event of non-issuance of the LoA by NTPC to the Petitioner falls within the meaning of events akin to Force Majeure.

Hearing dated 10.08.2023:

9. Vide Record of Proceedings for the hearing dated 10.8.2023, the interim protection granted was extended till the next date of the hearing, and accordingly, the I.A. No.17/2023 was disposed of.

Submissions of Respondent CTUIL:

10. CTUIL, in its reply vide affidavit dated 12.08.2023, has mainly submitted as under:

- a. The Petitioner was required to achieve the milestones prescribed in clause 9.3.1 of the Detailed Procedure and submit the proof thereof to the unified Powergrid/Respondent No.1 under the said two connectivity(s).
- b. Under the connectivity(s) dated 9.7.2020 and 9.10.2020, the Petitioner was required to complete the dedicated transmission line by 9.10.2022, failing which its connectivity bank guarantee was liable to be encashed.
- c. On 20.2.2021, this Commission notified the Revised Procedure for “Grant of Connectivity to Projects Based on Renewable Sources to Inter-State Transmission System” which superseded the Detailed Procedure, 2018.
- d. The connectivity dated 17.3.2021 was granted to the Petitioner under the provisions of the Revised Procedure and was accordingly to be governed by the provisions therein. The Petitioner was thus required to achieve the milestones prescribed in clause 9.3.2 and submit the proof thereof to the CTUIL under the said connectivity.
- e. The three projects (two awarded to the Petitioner and one on L&FC basis) were to be connected with ISTS through the same dedicated line, which was common under the connectivity grants. However, since the connectivity(s) are governed by different provisions of the Revised Procedure, the regulatory timeline to complete the said dedicated transmission line also differs. The timeline for completion of DTL for the

SECI awarded bids is governed by Clause 11.2(A)(a) (applicable for projects awarded under the LoA route), and the date of completion of DTL is SCOD of the generation project intimated at the time of application for grant of Stage-II Connectivity or SCOD as extended by REIA. On the other hand, the project under the Land route is governed by Clause 11.2(A)(b), as per which the timeline for completion of DTL is six months after the SCOD is intimated at the time of application for the grant of Stage-II Connectivity. In the Stage-II Connectivity Application for the NTPC Bid, the SCOD of the generating station was intimated as 15.10.2022 in the Stage-II Connectivity Application. Therefore, the deadline for completion of DTL for 100 MW comes out to be 14.04.2023 [6 months from intimated SCOD, as per 11.2(A)(b)].

- f. GoI vide order dated 15.09.2021 extended SCODs of renewable energy projects, for which extension had already been granted in the case of the present Petitioner.
- g. Under the GNA Regulations, no separate milestones for completion of the DTL are envisaged, and it is treated as part of the generating station. Under Regulation 37 of the GNA Regulations, the Petitioner has submitted its consent for conversion of Connectivity granted under the two connectivity grants (covered under Regulation 37.2) and one connectivity grant (covered under Regulation 37.3) to the GNA Regulations, 2022 on 2.5.2022. Applications for the conversion of connectivity and LTA to GNA are currently in process. It is expected that the process of transition will be completed by the end of the month. Further, as there is no separate milestone for completion of the DTL under the GNA Regulations, 2022, the Commission may issue appropriate direction(s), if any, to CTUIL in this regard.

Rejoinder of Petitioner to the reply of CTUIL:

- 11. The Petitioner, vide affidavit dated 05.10.2023, has reiterated the submissions made in the Petition and has submitted that the Petitioner has constructed the dedicated transmission lines within the timelines as prayed in the present petition (i.e., 6 months from the date of the Supreme Court-appointed Committee approval dated 30.02.2023)

Hearing dated 11.10.2023:

- 12. During the course of the hearing, the learned counsel for the Petitioner submitted that the Petitioner has completed the dedicated transmission line within the timeline given by the Hon'ble Supreme Court. Further, in response to the query of the Commission, learned counsel for CTUIL submitted that CTUIL is not proposing any action against



the Petitioner as the transition to GNA is in process. After hearing the parties, the Commission adjourned the matter and directed the Petitioner to furnish the following information:

- h. The current status of the 3 x 100 MW solar power projects under ISTS Tranche VIII, ISTS Tranche IX, and NTPC Bid.
- i. The current progress of the dedicated transmission system, i.e., from the Common Pooling Station of Amp Energy Green Four, Five, and Six Solar Power Plants to Bhadla-II PS 220 kV S/C line.

Submission of Petitioner in Compliance with the RoP for the hearing dated 11.10.2023:

13. The Petitioner, vide affidavit dated 10.11.2023, filed the information called for and has submitted that the Petitioner has constructed the dedicated transmission lines within the timelines as prayed in the present Petition. On 19.10.2023, CEA granted approval for energization of the 220 KV S/c transmission line (11.74 Kms). Data Validation and FTC approval are in progress with NRLDC.

Hearings dated 19.02.2024 and 26.12.2024

14. During the course of the hearing, the learned counsel for the Petitioner submitted that the present Petition may be disposed of in terms of the amended Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022, and sought liberty to place on record the subsequent development in this regard. Learned counsel for the CTUIL submitted that since there is no issue of mismatch, the matter may be disposed of. Considering the submissions made by the learned counsels for the parties, the Commission directed the Petitioner to file its affidavit, as requested, and reserved the matter for order.

Submission of Petitioner in Compliance with the RoP for hearing dated 26.12.2024:

15. The Petitioner, vide affidavit dated 13.01.2025 mainly submitted that the transition of connectivity granted under the Connectivity Regulations into connectivity under GNA Regulations has been completed for the Petitioner's Project, and construction of the dedicated transmission line has also been completed. Therefore, the matter may be disposed of by the Commission.

Analysis and Decision:

16. We have considered the submissions of Petitioner and Respondent and also perused the documents placed on the record. The Petitioner had sought extension of 6 months for construction of the dedicated transmission line on account of certain alleged force majeure events due to (a) delay in technical evaluation and clearance by the Committee since the Great Indian Bustard (GIB) Order, (b) delay in assessment and implementation of dedicated transmission lines due to resurgence of Covid-19, and (c) non-issuance of LoA by the NTPC
17. The Petitioner has submitted that pursuant to the enactment and effectiveness of the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022, the transition of connectivity and LTA granted under the Connectivity Regulations to GNA Regulations has concluded for the Petitioner's Project and construction of the dedicated transmission line has also been completed, accordingly the subject Petition may be disposed of.
18. CTUIL has submitted that under the GNA Regulations, no separate milestones for completion of DTL are envisaged, and it is treated as part of the generating station. Further, the Petitioner has submitted its consent for conversion of the connectivity granted under the two connectivity grants (covered under Regulation 37.2) and one connectivity grant (covered under Regulation 37.3) to the GNA Regulations, 2022 on 2.5.2023. Further, since there is no issue of mismatch, the matter may be disposed of.
19. We have considered the submissions of the Petitioner and the Respondents. We note that the Petitioner has already constructed the 220 kV dedicated transmission line, and CEA, vide its letter dated 19.10.2023, has granted approval for energisation of the dedicated transmission line of the Petitioner.
20. It is noticed that the Petitioner's Stage-II Connectivity and LTA have been transitioned to GNA in terms of the provisions of the GNA Regulations, which do not provide for any separate timeline for the construction of the dedicated transmission line by the generator. Moreover, the dedicated transmission line for which the Petitioner was seeking the additional time has already been constructed, and both the Petitioner and CTUIL have requested the disposal of the Petition. Thus, in view of the subsequent developments as noted above, the various prayers made by the Petitioner no longer

survive, and we, therefore, find it appropriate to dispose of the instant Petition as having rendered infructuous.

21. Petition No. 66/MP/2023 is disposed of in terms of the above.

**Sd/
(Harish Dudani)
Member**

**Sd/
(Ramesh Babu V)
Member**

**Sd/
(Jishnu Barua)
Chairperson**

