

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.180/MP/2023

Subject : Petition under section 79 of the Electricity Act, 2003, read with Regulations 27 and 33A of the CERC (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009, as amended from time to time, seeking refund of Rs. 3.5 crore from Central Transmission Utility of India Limited (CTUIL), which has been wrongfully collected towards surrender of connectivity at 765/400/220 kV Bhuj II pooling station of PGCIL, located at Bhuj, Gujarat.

Petitioner : Adani Wind Energy Kutch Five Limited

Respondents : Central Transmission Utility of India Limited (CTUIL) and Ors.

Petition No.245/MP/2024

Subject : Petition under Section 79 of the Electricity Act, 2003 read with Regulation 41 & 42 of the Central Electricity Regulatory Commission (Connectivity and General Network Access to inter-State Transmission System) Regulations, 2022 as amended from time to time, seeking a refund of Rs. 6 crores paid by the Petitioner having been wrongfully collected by Central Transmission Utility of India Limited towards surrender of Stage II Connectivity at Bhadla II Pooling Station.

Petitioner : Adani Renewable Energy Holding Eighteen Pvt. Ltd. and Anr.

Respondents : Central Transmission Utility of India Limited (CTUIL) and Ors.

Petition No.184/MP/2023

Subject : Petition under section 79 of the Electricity Act, 2003, read with Regulations 27 and 33A of the CERC (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009, as amended from time to time, seeking refund of Rs. 3.5 Crores from Central Transmission Utility of India Limited (CTUIL), which has been wrongfully collected towards surrender of connectivity at 765/400/220 kV Bhuj II pooling station of PGCIL, located at Bhuj, Gujarat.

Petitioner : Adani Wind Energy Kutch Three Limited

Respondents : Central Transmission Utility of India Limited (CTUIL) and Ors.



Petition No.164/MP/2024

Subject : Petition under Section 79 of the Electricity Act, 2003 read with Regulations 41 & 42 of Central Electricity Regulatory Commission (Connectivity and General Network Access to the Inter-State Transmission System) Regulations, 2022 as amended from time to time, seeking a refund of the Rs. 3 Crores paid which has been wrongfully collected by Central Transmission Utility of India Ltd. towards surrender of Stage-II Connectivity at Fatehgarh-III PS.

Petitioner : Adani Renewable Energy Holding Four Limited

Respondents : Central Transmission Utility of India Limited (CTUIL) and Ors.

Petition No.165/MP/2024

Subject : Petition under Section 79 of the Electricity Act, 2003 read with Regulations 41 & 42 of Central Electricity Regulatory Commission (Connectivity and General Network Access to the Inter-State Transmission System) Regulations, 2022 as amended from time to time, seeking a refund of the Rs. 13.5 Crores (Rs. 6 Crores + Rs. 7.50 Crores) which has been wrongfully collected by Central Transmission Utility of India Ltd. towards surrender of Connectivity and LTA at Fatehgarh-II PS.

Petitioner : Adani Renewable Energy Park Rajasthan Limited

Respondents : Central Transmission Utility of India Limited (CTUIL) and Ors.

Petition No.167/MP/2024

Subject : Petition under Section 79 of the Electricity Act, 2003 read with Regulations 41 & 42 of Central Electricity Regulatory Commission (Connectivity and General Network Access to the Inter-State Transmission System) Regulations, 2022 as amended from time to time, seeking a refund of the Rs. 3 Crores which has been wrongfully collected by Central Transmission Utility of India Ltd. towards surrender of Stage II Connectivity at Koppal PS.

Petitioner : Adani Renewable Energy Holding Fifteen Limited

Respondents : Central Transmission Utility of India Limited (CTUIL) and Ors.

Date of Hearing : **22.5.2026**

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

Parties Present : Shri Amit Kapur, Advocate, Adani Wind/Renewable

Shri Hemant Singh, Advocate, Adani Wind/Renewable
Shri Lakshyajit Bagdwal, Advocate, Adani Wind/Renewable
Shri Anant Ubeja, Advocate, Adani Wind/Renewable
Ms. Lavanya Panwar, Advocate, Adani Wind/Renewable
Shri Indrayudh Choudhary, Advocate, Adani Wind/Renewable
Shri Shubham Arya, Advocate, CTUIL
Ms. Shirin Gupa, Advocate, CTUIL
Shri Rishabh Saxena, Advocate, CTUIL
Ms. Shree Dwivedi, Advocate, CTUIL
Ms. Priyansi Jadiya, CTUIL

Record of Proceedings

During the hearing, the learned counsel for the Respondent, CTUIL, submitted that the Petitions may be divided into two batches: pre-GNA and post-GNA batches. Since the factual background in both batches differs to a certain extent, the learned counsel sought liberty to make submissions in the post-GNA batch first, consisting of Petition Nos. 164/MP/2024, 165/MP/2024, 167/MP/2024, and 245/MP/2024. The learned counsel, taking the Petition No. 164/MP/2024 as a lead case in the Post-GNA batch, mainly submitted as under:

- a) GNA Regulations, 2022 were notified on 15.10.2022 except for Regulations 23 to 24, 26 to 36, 37.9, 38, 40 and 43. Therefore, Regulations 37.2 & 37.3 were made effective w.e.f. 15.10.2022.
- b) Vide letter dated 27.10.2022, CTUIL wrote to the Petitioner regarding the transition of connectivity and LTA for its project located in Jaisalmer and informed the Petitioner that, as per Regulation 37.3, 1500 MW of LTA (which is yet not effective) may be surrendered/converted to GNA within 30 days from the coming into effect of GNA. In response, the Petitioner vide letter dated 12.11.2022 submitted its consent to such transition into GNA.
- c) Thereafter, on 1.4.2023, the 1st Amendment to the GNA Regulations took place, and it was notified that the effective date of Regulation 37.1 to Regulation 37.8 shall be 5.4.2023, and options shall be exercised by concerned entities afresh. Pursuant to that, CTUIL vide a common email dated 16.4.2023 to all connectivity applicants to take necessary actions at the earliest. In response, the Petitioner, on 3.5.2023, submitted the Format for transition wherein the Petitioner mentioned that the LTA quantum and connectivity quantum of 1500 MW may be considered as surrendered to GNA in terms of Regulations 37.3 and 37.2, respectively.
- d) There is a regulatory prescription for the invocation of BG in terms of Regulation 37.2 (c) and Regulation 37.3 (3)(c) of GNA regulations, which uses the expression 'shall be encashed'. Therefore, the principles of contract cannot be applied to the present case. Reliance in this regard was placed on the APTEL judgment in Appeal No. 197 of 2015 in Jayaswal Neco Urja Limited v. Power Grid Corporation of India Limited & Ors.

- e) The reliance placed by the Petitioner on the uncertainties caused on account of GIB is baseless as the order was passed by the Hon'ble Supreme Court on 15.04.2021. The Petitioner did not raise any issue regarding GIB thereafter until December 2022, when the Petitioner wrote certain communications to SECI. Therefore, the reliance on the above issue is an afterthought.
- f) The Petitioner's attempt to argue that since the bay has been reallocated, no damage or loss has occurred, and therefore, CTUIL had no authority to retain any part of the Bank Guarantee is flawed and baseless, as the GNA Regulations, 2022, do not require a "loss" to be proven.
- g) The Commission's power to relax can be exercised only upon determination of undue hardship and only to make minor adjustments to aid implementation and not to exempt entities from mandatory consequences. The Petitioner's reliance on the APTEL judgment in Appeal No. 27 of 2020 and the Commission's Order in Petition No. 159/MP/2019 is misplaced, as neither of these orders deals with the GNA Regulations. The Petitioner's reliance on the 3rd Amendment to the GNA regulations also does not come in their favour, as even under the provisions of the 3rd Amendment, BG is liable to be encashed.
- h) In respect of the Pre-GNA batch, i.e. Petition Nos. 180/MP/2023 and 184/MP/2023, these Petitions are hit by the principles of *res judicata* and Order II Rule 2 of CPC. The Petitioners had already filed Petition Nos. 224/MP/2021, 225/MP/2021, and 233/MP/2021 before the Commission seeking release of conn BG; however, the Petitions were withdrawn by the Petitioner without seeking any liberty to approach the Commission and only requested an adjustment of filing fees as noted in the Order dated 13.11.2021. The said order has not been challenged and has attained finality.
- i) As per the Petitioner, the Revised Procedure for connectivity applies to the Petitioner. However, this position is not correct. The Revised Procedure was notified on 20.2.2021; however, the Petitioner's connectivity was revoked on 11.2.2021, thereby rendering the encashment of the BG subject to and governed by the pre-revised procedure.

2. In rejoinder, the learned counsel for the Petitioners in the batch matters made the following submissions:

- a) The Petitioners were granted liberty in terms of the order dated 13.11.2021 in Petition Nos. 224/MP/2021, 225/MP/2025, and 233/MP/2021 to approach the Commission. Similarly, in the order dated 29.2.2024 in Petition No. 336/MP/2023, the Petitioner was granted liberty for adjustment of the filing fee in the event of filing a fresh Petition.
- b) In the past, the Commission has, on various occasions, invoked its regulatory powers, thereby relaxing the extant provisions of the GNA Regulations. The issue has to be seen in the context of each case. The Petitioners have substantiated that the surrender of connectivity was due to issues pertaining to connectivity falling within the GIB area and the non-availability of the transmission sub-station.

- c) In all the Petitions, there has been no loss suffered by the CTUIL as the surrendered connectivity of the Petitioners has been re-allocated to other entities.
 - d) The Commission, in its order dated 8.3.2019 in Petition No. 72/MP/2015, has issued directions to ensure that generators are not saddled with unjustified liabilities. In the said case, the issue concerned the relinquishment charges arising out of Regulation 18 of the Connectivity Regulations. The Commission has consistently relieved the parties from payment of any compensation where there is no loss/injury by CTUIL.
 - e) In the post-GNA batch, the connectivity surrendered by Petitioners was on account of undue hardship, as the same either fell within GIB areas or there was non-availability of the transmission system for evacuation of power. Regarding the pre-GNA batch, as per Clause 10.8 of the Revised Procedure, the Conn BGs are not payable in case the bays are constructed by the Stage-II connectivity grantee itself. However, in a scenario where no work is carried out by the licensee, there is no need to furnish a BG, as there will not be any advent of loss which may be suffered by them.
3. At the request of the learned counsel for the parties, the Commission also permitted both sides to file their written submissions/notes of arguments, within two weeks, with a copy to the other side.
4. Subject to the above, the matters were reserved for order.

By order of the Commission
Sd/-
(T.D. Pant)
Joint Chief (Law)