

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.551/MP/2020**

**Coram:**

**Shri P. K. Pujari, Chairperson  
Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member**

**Date of Order: 25.03.2022**

**In the matter of:**

Petition under Sections 79(1)(c), 79(1)(f) and 79(1)(k) of the Electricity Act, 2003 read with Regulation 27, Regulation 33A and Regulation 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 and the Detailed Procedure for Grant of Connectivity to Projects based on Renewable Sources to Inter-State Transmission System seeking relaxation of time period stipulated under Clause 11.2 of the Detailed Procedure and attendant Forms and Agreements for construction of dedicated transmission line and associated pooling sub-station.

**And in the matter of:**

Avikaran Solar India Private Limited (AS IPL),  
12th Floor, Crescent 1, Prestige,  
Shantiniketan, ITPL Main Road, Hoodi, Whitefield,  
Bengaluru, Karnataka – 560048

**.....Petitioner**

**Vs**

**Power Grid Corporation of India Limited,**  
SAUDAMINI, Plot No. 2, Sector 29,  
Near IFFCO Chowk,  
Gurgaon, Haryana -122001

**...Respondent**

**For Petitioner** : Shri Saahil Kaul, Advocate, ASIPL  
Shri Jafar Alam, Advocate, ASIPL

**For Respondent** : Ms. Suparna Srivastava, Advocate, CTUIL  
Shri Tushar Mathur, Advocate, CTUIL



Ms. Soumya Singh, Advocate, CTUIL  
Ms. Swapna Seshdhari, Advocate, PGCIL  
Shri Aditya. H. Dubey, Advocate, PGCIL  
Shri V. Srinivas, CTUIL  
Shri P.S Das, CTUIL  
Shri Swapnil Verma, CTUIL  
Shri Bhaskhar Wagh, CTUIL  
Shri Ashok Pal, CTUIL

### **ORDER**

The Petitioner, Avikaran Solar India Private Limited (ASIPL), has filed the instant petition under Sections 79(1)(c), 79(1)(f) and 79(1)(k) of the Electricity Act, 2003 (hereinafter referred to as “the 2003 Act”) 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 referred to as ‘2009 Connectivity Regulations’) and the Detailed Procedure for Grant of Connectivity to Projects based on Renewable Sources to Inter-State Transmission System (“hereinafter referred to as ‘Detailed Procedure’) seeking relaxation of time period stipulated under Clause 11.2 of the Detailed Procedure and attendant Forms and Agreements for construction of dedicated transmission line (DTL) and associated pooling substation.

2. The Petitioner has made the following prayers:

*“a) Relax and extend the time period for construction of the Dedicated Transmission System by the Petitioner stipulated under Clause 11.2 of the Detailed Procedure and its attendant Forms and Agreements, until 18.07.2021;*

*b) Restrain the Respondent from taking any coercive steps against the Petitioner during the pendency of the present Petition including the encashment of the Connectivity BG No. PEBNDH807241 dated 16.08.2018 for an amount of INR 5,00,00,000/- and revocation of connectivity granted to the Petitioner;*



*c) Grant the Petitioner exemption from filing the hard copy of the present Petition before the registry of this Hon'ble Commission until the restrictions on account of Covid-19 are lifted and normalcy is restored;*

*d) During the pendency of this Petition, pass appropriate ad-interim ex parte orders in terms of the prayers above inter alia restraining CTU from taking any coercive action; and*

*e) Any errors/ omissions (especially those attributable to COVID-19 outbreak and consequent lockdown) may kindly be condoned, and opportunity be kindly given to rectify the same and also submit additional pleadings at a suitable later date, if required."*

### **Background**

3. The brief background of the case is as follows:

a. The Petitioner is a generating company developing a 285 MW wind power project ("Project") in Kutch District, Gujarat pursuant to the Power Purchase Agreement (PPA) dated 4.9.2018 with SECI for sale of 285 MW of power. The SCOD of the Project as per the PPA was 29.2.2020.

b. The Petitioner was granted Stage Connectivity by CTUIL on 19.7.2018 to the Bhuj Pooling Sub-station. As per the requirements of Clause 11.2 of the Detailed Procedure, Petitioner furnished the Connectivity Bank Guarantee, dated 16.8.2018, amounting to Rs. 5 crore to CTUIL.

c. To evacuate power from the Project, the Petitioner was required to build a Dedicated Transmission System (DTS) from the Project to Bhuj Pooling sub-station. Under Clause 11.2 of the Detailed Procedure, the Petitioner is required to complete the DTS within a time period of 24 months from the date of bay allocation at PGCIL's sub-station (i.e., by 18.7.2020), failing which the connectivity bank guarantee shall be encashed and the connectivity granted to the Petitioner be revoked.



- d. The Petitioner was granted 285 MW Long Term Access (LTA) to the ISTS with Western Region as the target region on 19.9.2018. The LTA granted to the Petitioner was to be operationalized by 29.2.2020 or upon the availability of the requisite ISTS transmission system, whichever is later.
- e. The Petitioner's Project was affected by various unforeseen, unavoidable and uncontrollable events.
- f. The Petitioner requested PGCIL to grant extension of time. However, PGCIL vide its letter dated 3.12.2019 rejected the Petitioner's request for extension of time and indicated that if the Petitioner failed in commissioning the DTS by 17.7.2020, the Connectivity BG shall be encashed and Stage-II Connectivity Approval be revoked.
- g. The Petitioner on 31.3.2020 issued *force majeure* notices to CTUIL citing uncontrollable events, including COVID-19 pandemic outbreak and consequent lockdown, and requested to (a) grant extension of time for completing the DTS; and (b) refrain from encashing the Connectivity BG in the interregnum.
- h. In the meanwhile, the Commission notified the Revised Procedure for Grant of Connectivity to Projects Based on Renewable Sources to Inter-State Transmission System on 20.2.2021 ("Revised Detailed Procedure") in supersession of the Detailed Procedure dated 15.5.2018. As per Clause 11.2 of the Revised Detailed Procedure, the Petitioner is required to complete the DTS by the extended SCOD of the generation project or as per the SCOD permitted by the relevant Renewable Energy Implementing Agency.



i. During this period SECI granted a series of extensions in the scheduled commissioning date of the Project up to 17.12.2021 on account of Covid-19 and right of way issues faced by the Petitioner.

j. As per the provisions of amended clause 4.6.2 of the PPA entered between the Petitioner and SECI, the Project can be completed within 9 months from the extended SCOD. SECI has already extended the SCOD of the Project till December, 2021. Therefore, the Petitioner has got time up to 16.9.2022 for completion of the Project.

4. The Petitioner has filed the instant petition praying for extension of the 24 months' time period for execution of the DTS in exercise of power under Regulations 33A and 33B of the 2009 Connectivity Regulations. The Petitioner also filed I.A No. 46/IA/2020 praying to restrain PGCIL from taking any coercive action against the Petitioner till the disposal of the Petition. The Commission vide Record of Proceeding (RoP) dated 6.8.2020 disposed of the said IA directing PGCIL not to take any coercive action against the Petitioner till next date of hearing subject to the Petitioner keeping the Bank Guarantee valid and alive. The Commission further admitted the petition and directed the parties to complete the pleadings and also directed PGCIL to submit certain information.

5. PGCIL vide affidavit dated 10.12.2020 has filed a detailed reply and in response, the Petitioner has submitted its rejoinder vide affidavit dated 8.2.2022.

**Hearing dated 8.2.2022 and 9.3.2022**

6. The learned counsel for the Petitioner submitted during the hearing on 8.2.2022 that the construction of DTS was completed on 12.1.2022 and the same



was energised on 28.1.2022 and its generation is likely to be commissioned in February, 2022. The learned counsel for the Petitioner submitted that as per the provisions of amended clause 4.6.2 of the PPA entered between the Petitioner and SECI, the Project can be completed within 9 months from the extended SCOD. SECI has already extended the SCOD of the Project under the PPA till December, 2021. Therefore, the Petitioner has got time up to 16.9.2022 for completion of the Project. As the Petitioner has energised the DTS on 28.1.2022 and the generation is likely to be commissioned in February, 2022, the Petitioner is not in breach of the timeline for construction of the DTS under the Revised Detailed Procedure. As the DTS has achieved COD within the timeline prescribed under PPA i.e. 9 months from the date of SCOD nothing survives in the matter. Accordingly, the learned counsel for the Petitioner requested to dispose of the instant petition. The learned counsel for the Petitioner further submitted that the Petition No. 107/MP/2021 has been filed by the Petitioner inter-alia seeking alignment of the Petitioner's obligations under the LTA Agreement with the revised scheduled COD by SECI, directing PGCIL to comply with MoP letter dated 15.1.2021 and restrain PGCIL from taking any coercive steps against the Petitioner including raising of any invoices claiming transmission charges under the LTA Agreement.

7. During the hearing on 9.3.2022, the learned counsel for the Petitioner while reiterating the submission made on 8.2.2022 submitted that 77.7 MW out of the 285 MW of the project has been commissioned and power from the same is flowing to the distribution companies.



8. We have considered the submissions of the Petitioner. The instant petition has been filed for extending the time period for construction of the DTS. We note that in terms of the provisions of amended PPA between the Petitioner and SECI, the Petitioner has got time up to 16.9.2022 for completion of the Project. The Petitioner has commissioned a part of the generation and has energised the DTS on 28.1.2022. The Petitioner, therefore, has submitted that it is not in breach of the timeline for construction of the DTS under the Revised Detailed Procedure. As the DTS has achieved COD within the timeline prescribed under the Revised Detailed Procedure, nothing survives in the matter. We further observe that the Petitioner has filed Petition No. 107/MP/2021 seeking alignment of the Petitioner's obligations under the LTA Agreement with the revised SCOD approved by SECI and restrain PGCIL from taking any coercive steps against the Petitioner including raising of any invoices claiming transmission charges under the LTA Agreement.

9. Taking into consideration the request of the Petitioner for disposal of the petition as nothing survives in the matter and the fact that the Petitioner has filed Petition No. 107/MP/2021 for aligning its obligations under the LTA Agreement with the revised SCOD, we dispose of Petition No. 551/MP/2020.

sd/-  
**(P.K. Singh)**  
**Member**

sd/-  
**(Arun Goyal)**  
**Member**

sd/-  
**(I. S. Jha)**  
**Member**

sd/-  
**(P. K. Pujari)**  
**Chairperson**

