

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.291/MP/2023 along with IA No.75/2023

Subject : Petition under Section 79 of the Electricity Act, 2003 read with applicable provisions of the Central Electricity Regulatory Commission (Connectivity and General Network Access to the Inter-State Transmission System) Regulations, 2022 along with Regulation 111-113 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking relief(s) against Central Transmission Utility of India Limited in connection with 300 MW Connectivity at Gadag District in the State of Karnataka granted to the Petitioner.

Petitioner : Solarone Energy Private Limited (SEPL)

Respondents : Central Transmission Utility of India Limited (CTUIL)

Petition No.292/MP/2023 along with IA No.74/2023

Subject : Petition under Section 79 of the Electricity Act, 2003 read with applicable provisions of the Central Electricity Regulatory Commission (Connectivity and General Network Access to the Inter-State Transmission System) Regulations, 2022 along with Regulation 111-113 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking relief(s) against Central Transmission Utility of India Limited in connection with 300 MW Connectivity at Koppal District in the State of Karnataka granted to the Petitioner.

Petitioner : Solarone Energy Private Limited (SEPL)

Respondents : Central Transmission Utility of India Limited (CTUIL)

Date of Hearing : **18.12.2023**

Coram : Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Parties Present : Shri Basava Prabhu Patil, Sr. Advocate, SEPL
Ms. Molshree Bhatnagar, Advocate, SEPL
Shri Nipun Sharma, Advocate, SEPL
Shri Rishabh Sehgal, Advocate, SEPL
Shrin Geet Ahuja, Advocate, SEPL
Shri M. G. Ramachandran, Sr. Advocate, CTUIL
Shri Alok Sharma, Advocate, CTUIL
Shri Maulik Khurana, Advocate, CTUIL
Shri Kumarjeet Ray, Advocate, CTUIL
Shri Swapnil Verma, CTUIL

Record of Proceedings

Learned senior counsel for the Petitioner submitted that the present Petitions have been filed invoking the general regulatory and adjudicatory jurisdiction of the Commission in relation to the dispute that has arisen between the Petitioner and the CTUIL in connection with the retention of 300 MW Connectivity granted to the Petitioner under the GNA Regulations, upon it being transitioned from the previous regime. Learned senior counsel mainly submitted as under:

(a) The Petitioner has been granted 300 MW Stage II connectivity each at Gadag and Koppal Districts, Karnataka, under the previous regulatory regime of the Connectivity Regulations, 2009, on the basis of the submission of a Letter of Award issued by SECI.

(b) Subsequently, the Connectivity Regulations, 2009 came to be repealed by the extant GNA Regulations, which also provide for a mechanism, following which, the Connectivity granted under the Connectivity Regulations, 2009 shall be treated under the GNA Regulations.

(c) The connectivity once converted to the GNA Regulations, the connectivity grantee is allowed to provide the documents/details as per the options available under Regulation 5.8(xi) of the GNA Regulations, which includes, (i) LoA by or PPA entered into with the Renewable Energy Implementing Agency or the distribution licensee consequent to tariff based competitive bidding, or (ii) registered title deed as proof of ownership or lease rights or land use rights for 50% of land required for the capacity for which connectivity is sought, or (iii) bank guarantee of Rs. 10 lakh/MW in lieu of ownership or lease rights or land use rights of land for 50% of land required or the capacity for which connectivity is sought.

(d) Once a connectivity grantee opts for transition from the Connectivity Regulations, 2009 to the GNA Regulations, it is to be bound by the provisions of the GNA Regulations and must comply with the requirements under the GNA Regulations alone. The GNA Regulations nowhere link the previous applications & conditions contained therein to be continued under the present regime.

(e) In the meantime, while the Petitioner complied with its obligations prescribed under the LoA, a Power Purchase Agreement, which ought to have been executed between SECI and the Petitioner within 90 days, could not be finalized/executed. Consequently, SECI after 18 months from the issuance of LoA by its letter dated 10.8.2023 allowed the Petitioner to exit the process under the LoA without any penalty. Hence, no fault can be attributed to the Petitioner for exiting the said LoA.

(f) However, in view of the above development, CTUIL has already proceeded to revoke the connectivity and has indicated that the Bank Guarantees furnished by the Petitioner will be encashed in terms of the provisions of the GNA Regulations.

(g) The Petitioner has already incurred substantial expenditure in setting up the Projects including towards procurement of lands. Also, the Petitioner is in the process of signing the PPAs for the Project and hence, it intends to retain the

connectivity by providing the Bank Guarantee as per the options available under Regulation 5.8(xi) of the GNA Regulations.

(h) According to the Petitioner, the provisions of the GNA Regulations clearly permit the Petitioner to retain the connectivity as long as the Petitioner meets either of the requirements specified under Regulation 5.8(xi) of the GNA Regulations. However, if the Commission does not agree with the said submission, the present cases are fit cases for the exercise of the Commission's Power to Relax to allow the Petitioner to retain the connectivity granted to it.

2. Learned senior counsel for Respondent, CTUIL mainly submitted the following:

(a) Regulation 24.6 of the GNA Regulations provides that connectivity granted to a Renewable Energy Generating Station shall be revoked if LoA or PPA on the basis of which connectivity was granted is terminated prior to COD of the Project.

(b) The Petitioner, vide its email dated 5.9.2.23, had refused to extend the timeline for signing the PPA and based on the said refusal, SECI by its letter dated 16.8.2023 allowed the Petitioner to exit the process without any liability. SECI, vide its email to CTUIL dated 12.9.2023, also stated that LoAs issued by SECI to the Petitioner were annulled.

(c) Since the basis of the grant of connectivity was LoA and the same stood annulled, CTUIL revoked the Stage II connectivity granted to the Petitioner in terms of Regulation 24.6 of the GNA Regulations, 2022.

(d) Provisions of Regulation 5.8(xi) of the GNA Regulations are only applicable for the fresh application to be made with effect from the date of implementation of the said Regulations and not to the transition process which is to be undertaken in accordance with Regulation 37 only.

(e) The Bank Guarantee route has been introduced only in the GNA Regulations and was not there in the earlier regime of the Connectivity Regulations, 2009. As such, the Petitioner cannot claim to retain its connectivity by getting transitioned from the LoA route to the Bank Guarantee route in the absence of any provision in the GNA Regulations enabling the same.

3. After hearing the learned senior counsel for the parties, the Commission also deemed it appropriate to consider the views of SECI, especially on the aspect of non-execution of the PPAs and 'annulment' of LoA and accordingly, the Commission ordered as under:

(a) The Petitioner to implead SECI as a party to the Petitions and to file a revised memo of parties, within two days.

(b) SECI to file its reply to the Petitions, to the extent as indicated above, if any, within a week with a copy to the Petitioner who may file its rejoinder within a week thereafter.

(c) The Petitioner to also indicate the steps already taken by the Petitioner towards implementation of the Project(s) including the land having procured, and expenditure already incurred, on an affidavit, within a week.

(d) In the meantime, the interim direction issued vide Record of Proceedings for the hearing dated 22.9.2023 will continue until the next date of hearing.

4. The Petitions, along with IAs, will be listed for hearing on **3.1.2024**.

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