

**BEFORE THE CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Diary (Petition) No. 429/2023

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

Date of order: 30th September, 2023

In the matter of

Petition under Section 79 of the Electricity Act, 2003 read with Regulations 4.1, 18, 22, 41 and 42 of the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 imploring the Commission to direct the Respondent, Central Transmission Utility of India Limited to grant Connectivity to the Petitioner for a quantum of 610 MW in terms as elaborated in the petition.

And

In the matter of

IL & FS Tamil Nadu Power Company Limited

4th Floor, KPR Tower,
Old No. 21, New No. 2,
1st Street, Subba Rao Avenue,
College Road, Chennai – 600 006

...Petitioner

Versus

Central Transmission Utility of India Limited,

Saudamini, Plot No.2,
Sector 29, Gurgaon, Haryana – 122 001

...Respondent

Parties Present:

Shri Buddy Ranganadhan, Advocate, ITPCL
Shri Hemant Singh, Advocate, ITPCL
Ms. Supriya Agarwal, Advocate, ITPCL
Ms. Alchi Thapliyal, Advocate, ITPCL
Ms. Lavanya Panwar, Advocate, ITPCL
Shri Swapnil Verma, CTUIL
Shri Ranjeet Rajput, CTUIL



ORDER

The Petitioner, IL & FS Tamil Nadu Power Company Limited (ITPCL), has filed the present Petition under Section 79 of the Electricity Act, 2003 ('the Act') read with Regulations 4.1, 18, 22, 41 and 42 of the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 (hereinafter referred to as " the GNA Regulations, 2022") seeking the following reliefs:

“(a) Direct the Respondent/ Central Transmission Utility of India Limited to grant time extension till debt restructuring of the Petitioner is over or for a time period as may be decided by this Commission, for furnishing the Bank Guarantee(s) in terms of Regulation 37.6(1) of the CERC GNA Regulations, 2022, for the purpose of grant of additional GNA to the Petitioner for a quantum of 610 MW, in terms as stated in the present petition;

(b) In the interim, direct the Respondent/ Central Transmission Utility of India to allow the Petitioner to furnish an amount equivalent to the Bank Guarantee(s) as contemplated under Regulation 37.6(1) of the CERC (Connectivity and General Network Access to the Inter-State Transmission System), 2022, by way of an alternate payment mechanism, and grant additional GNA of 610 MW; and

(c) Direct the Respondents to return the amount furnished in terms of prayer (b), once the required Bank Guarantee(s) as contemplated under Regulation 37.6(1) of the CERC (Connectivity and General Network Access to the Inter-State Transmission System), 2022,

(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.”

2. Citing the urgency involved, the matter was mentioned by the learned counsel for the Petitioner during the course of the hearing on 29.9.2023. Learned counsel for the Petitioner mainly submitted the following:

(a) The Petitioner has set up a 1200 MW (2*600 MW) imported coal based Thermal Power Plant at District Cuddalore in the State of Tamil Nadu and out of the said capacity, 540 MW has been tied up with Tamil Nadu Generation and Distribution Corporation by way of the Power Purchase Agreement dated 12.12.2013 for the period of 15 years.

(b) Upon the GNA Regulations, 2022 coming into effect, while the Petitioner's 540 MW of LTA/deemed LTA (corresponding to the capacity tied up with TANGEDCO) has been considered as deemed GNA as per Regulation 18.1 thereof, for the balance 610 MW, the Petitioner was asked to apply for the additional GNA as per Regulation 37.6(1) of the GNA Regulations, 2022 read with the Detailed Procedure issued thereunder.

(c) Consequently, the Petitioner applied for the grant of an additional GNA of 610 MW. However, in terms of the Advisory of CTUIL dated 25.9.2023 read with Additional Agenda-II dated 27.9.2023, the Petitioner has been asked to submit a Bank Guarantee (BG) for an amount of Rs. 12.2 crore in terms of the GNA Regulations, 2022.

(d) Presently, the Petitioner Company is undergoing a Debt Restructuring Process and has no working capital available at the moment and therefore, is not in a position to furnish the BG as sought by the CTUIL.

(e) However, the Petitioner is ready to remit the requisite value of Rs. 12.2 crore through the Real-Time Gross Settlement mechanism for such a payment. Also, the Petitioner only requires some time extension to be in a position to furnish the BG as sought by the CTUIL and once the said BG is furnished, the amount rendered through RTGS can be returned to the Petitioner by CTUIL.

(f) In the above circumstances, the Petitioner has sought to invoke the necessary power available under Regulations 41 & 42 of the GNA Regulations, 2022 to relax Regulations 4.1, 18, 22 and 37.6(1) of the GNA Regulations and allow the Petitioner to pay the requisite amount for the grant of the Connectivity of 610 MW by way of an alternate payment mechanism.

3. The representative of the Respondent, CTUIL pointed out that in the past an instance had occurred wherein a generating company, who was undergoing insolvency proceedings under the IBC, 2016, had been permitted to deposit the cash in lieu of a Letter of Credit for the transmission charges liability and the CTUIL was not in a position to utilise such cash against the liability of outstanding transmission

charges. He also added that if the Commission deems fit, the Petitioner may be allowed to deposit cash in lieu of BG but only as an interim arrangement while specifying a categorical timeline for the Petitioner to furnish the BG in accordance with the provisions of the GNA Regulations, 2022.

4. We have considered the submissions made by the parties. Keeping in view that the issue involved in the matter is brief and the parties have already made their respective submissions thereon, we decide to dispose of the present case at this stage itself. We notice that the Petitioner has sought to invoke the Commission's powers under Regulation 41 (Power to Relax) and Regulation 42 (Power to Remove Difficulty) under the GNA Regulations, 2022 for permitting the Petitioner to deposit the amount equivalent to the BG as required under Regulation 37.6(1) by way of RTGS in view of the pending Debt Restructuring Process. As the Petitioner has fairly offered an alternative mechanism to discharge its obligation of furnishing BG under the GNA Regulations, 2022 i.e. by depositing the equivalent amount by RTGS and the Petitioner has been seeking such relief only as a temporary measure due to the pending Debt Restructuring Process, we, in the facts & circumstances of the present case, deem it appropriate to allow the Petitioner such dispensation and thus, permit the Petitioner to deposit the amount equivalent to BG as required to be furnished by it by way of RTGS to the CTUIL. We also clarify that such dispensation will be purely an interim arrangement for a period of 30 days by the end of which the Petitioner will be required to submit the BG (in replacement of the cash deposited) to CTUIL as per the mandate of the GNA Regulations, 2022 failing which its application for additional Connectivity of 610 MW will be treated as non-compliant with the GNA Regulations, 2022. We also clarify that upon the Petitioner having furnished the BG as required

under the GNA Regulations, 2022 in the above specified timeline, the CTUIL will return the amount as deposited by the Petitioner without any interest.

5. In view of the above observations, the present petition stands disposed of.

Sd/-
(P.K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(Jishnu Barua)
Chairperson