

WEDNESDAY | 22 JANUARY 2025

Case Update

CENTRAL ELECTRICITY REGULATORY COMMISSION GRANTS RELAXATION OF CONDITIONS UNDER GNA REGULATIONS, ALLOWS USE OF SUBSIDIARY'S FINANCIAL DOCUMENTS



On January 16, 2025, the Central Electricity Regulatory Commission ("CERC") issued an order in Petition No. 503/MP/2024, filed by Tata Power Renewable Energy Limited ("TPREL"). TPREL had requested for a relaxation of conditions under Regulation 11A(2) of the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 ("GNA Regulations") in this petition. TPREL also sought the condonation of a delay in submitting financial closure documents for its 198 MW wind power project in Karur, Tamil Nadu.

TPREL is implementing the 198 MW wind power project as part of a larger wind-solar hybrid project with a total capacity of 965.8 MW. The project was awarded by Tata Steel Limited ("TSL") under a group captive arrangement. While the wind power project is being executed through TPREL's subsidiary, TP Vardhman Surya Limited ("TPVSL"), TPREL itself had applied for and obtained both in-principle and final connectivity for the project from the Central Transmission Utility of India Limited ("CTUIL") in November 2023 and May 2024, respectively.

At the time of the grant of connectivity, the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) (First Amendment) Regulations, 2023 ("First Amendment") was in force. Under this regulatory framework, as amended by the First Amendment to the GNA Regulations, connectivity grantees were required to achieve financial closure within 12 months from the date of the grant of final connectivity. However, the subsequent Amendment to the regulatory framework, i.e., Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) (Second Amendment) Regulations, 2024 ("Second Amendment") brought about a significant change, requiring financial closure to be achieved six months prior to the connectivity's start date. This amendment created ambiguity for projects such as TPREL's, which were already in transition between the two regulatory regimes.

In its petition, TPREL highlighted the confusion caused by these amendments. In light of the confusion, it requested the relaxation of timelines under Regulation 11A(2) to accommodate a three-day delay in submitting financial closure documents. Additionally, TPREL sought permission to submit financial closure documents in the name of its subsidiary, TPVSL, considering that the subsidiary was executing the project. The petition also sought an interim stay on any coercive action by CTUIL in connection with the connectivity granted.

While hearing this petition, the CERC framed 2 key issues:

- (a) Whether financial closure documents in the name of a subsidiary could be accepted under Regulation 11A(2), and whether the three-day delay in submission could be condoned.
- (b) The petitioner explained that the amendments to the GNA Regulations had caused genuine confusion about the applicable timelines.

Furthermore, TPREL asserted that in view of Regulation 15 of the GNA Regulation, the letter in the name of TPVSL can be used as a valid document by TPREL, since TPVSL is a subsidiary of TPREL. However, the CERC observed that Regulation 15 only allow utilization to the connectivity granted to the parent company by its subsidiary and vice-versa and is not applicable for utilization of any document. TPREL also highlighted TPVSL's role as the project's executing entity, combined with the fact that over 90% of the capital expenditure had already been booked and wind turbine generators were nearing completion justified the acceptance of financial documents in the subsidiary's name. A no-objection certificate from HDFC Bank further supported TPREL's position by confirming its role as the project's sponsor.

In its response, CTUIL acknowledged the substantive progress of the project but raised concerns about the procedural delay and the use of financial closure documents in the name of TPVSL. However, the CERC observed that in an earlier decision dated 12.07.2024 under similar circumstances in Petition No. 192/MP/2024; procedural relaxations were granted to support project completion by the CERC.

The CERC, in its analysis, recognized the significant progress made by TPREL and emphasized the importance of promoting renewable energy projects. While the GNA Regulations, as amended, do not explicitly permit the use of a subsidiary's financial documents by the parent company, the CERC cited its powers under Regulations 41 and 42 to relax procedural requirements and remove hardships. Noting the advanced stage of the project, the CERC condoned the three-day delay and allowed the financial closure documents in the name of TPVSL to be considered valid. It also directed CTUIL to verify TPVSL's status as a subsidiary of TPREL under the Companies Act and to process the documents accordingly.

The CERC order in Petition No. 503/MP/2024 is available [here](#).

TPREL was represented before the Central Electricity Regulatory Commission by Mr. Shri Venkatesh, Managing Partner; Suhael Buttan, Counsel; Priya Dhankhar, Senior Associate; and Nikunj Bhatnagar, Associate of the SKV Law Offices Team.