



**ORDER
OF
WEST BENGAL ELECTRICITY REGULATORY COMMISSION
IN THE MATTER OF
CASE NO. OA-351/20-21**

APPLICATION BY BRAITHWAITE & COMPANY LIMITED SEEKING DIRECTION BY THE COMMISSION UPON CESC LIMITED TO ALLOW NET METERING FOR ROOF TOP GRID CONNECTED SOLAR PLANT UNDER RESCO MODEL AND ADJUDICATION OR RESOLUTION OF DISPUTE REGARDING REGULATION OF PURCHASE AND PROCUREMENT PROCESS OF ELECTRICITY.

PRESENT:

SRI SUTIRTHA BHATTACHARYA, CHAIRPERSON

SRI DURGADAS GOSWAMI, MEMBER

SRI PULAK KUMAR TEWARI, MEMBER

DATE: 08.12.2021



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CASE IN BRIEF

- 1.0 The petitioner, Braithwaite & Co Limited (in short 'BCL'), has three manufacturing units located at different places within the licensed area of CESC Limited, viz. Clive Works, Victoria Works and Angus Works. The petitioner contemplated to install roof top grid connected solar power system at their three units to a summated load of 3.7 MW (Clive work – 0.9 MW, Victoria works – 0.3 MW and Angus Works – 2.5 MW) under RESCO model in line with the extant guidelines of the Government of India related to installation capacities, due to lack of funding capacity for investing in capex model. Accordingly, Braithwaite & Co Limited approached Solar Energy Corporation of India (SECI), nodal agency of GOI for promoting, coordinating, guiding and realizing the solar energy projects all over India, who in turn included their requirement in their collective national tender for identification of a suitable vendor who would supply the solar units.
- 2.0 As per SECI guidelines, a PPA with a vendor, identified through SECI tender for installation of the solar units at their cost, for a period of 25 years has to be executed for purchase of the entire power generated by them at a rate finalized by SECI and the power in excess of instantaneous consumption shall be fed to the grid through a net metering system..
- 3.0 BCL met the CESC Limited in 2019 and informed them their plans to team up with SECI for the said installation when BCL was assured that once installation starts, net metering systems will be sanctioned by CESC Limited on receipt of intimation from BCL.
- 4.0 SECI has already identified the prospective vendors for the solar plants in their 3 units and BCL is in the process of finalizing PPAs with suitable parties. Accordingly, BCL intimated CESC Limited vide their letter dated 12th August, 2020 the status of their solar project and requested CESC Limited to initiate adequate measures for approval and installation of net metering systems in all the three units of BCL. But, CESC Limited vide their letter dated 29th August, 2020 (received by hand on 26th September, 2020) stated their inability to extend net metering arrangements for the reasons that the units are to be set up and owned by separate entities as per



RESCO Model and therefore will not qualify as captive generating plant within the meaning of the Electricity Act, 2003 (in short 'Act').

- 5.0 In view of above, BCL prayed before the Commission to declare their RESCO units at three different places within the licensed area of CESC Limited as captive generating unit for implementation of net metering by CESC Limited.
- 6.0 The Commission vide letter dated 29th January, 2021 directed BCL to buttress their case in terms of sub rule 3 of the Electricity Rules, 2005, read with section 2(8) of the Electricity Act, 2003. In reply, BCL vide their letter dated 22nd February, 2021 buttressed their case stating that they are owning more than 26% of equity of the projects and that the BCL's annual consumption of the electricity to be generated will be more than 50%.
- 7.0 On perusal of the petition along with the documents submitted by BCL, the Commission admitted the matter and decided to hear it. Accordingly, several hearings took place, the last one being held on 9th September, 2021 wherein direction was given to both BCL and CESC Limited to submit their written arguments to the Commission based on which the final order shall be passed by the Commission.

SUBMISSIONS BY THE PARTIES

- 8.0 The contention of the petition submitted by BCL is to provide net metering system by CESC Limited for roof top grid connected solar plant under RESCO model, adjudication or resolution of dispute regarding regulation of purchase and procurement process of electricity and declaration of those solar plants as captive plants in terms of sub-rule 3 of Electricity Rules, 2005 read with section 2(8) of the Electricity Act, 2003 as BCL is owning more than 26% of equity of the projects and that the BCL's annual consumption of the electricity to be generated will be more than 50%.
- 9.0 The submission of BCL are as follows:
- a) From the very beginning the petitioner BCL opted only for RESCO model for



installation of roof top grid connected solar power system at its 3 units in line with the extant guidelines of the Government of India related to installation capacities, due to lack of funding capacity for investing in capex model. Accordingly, BCL approached Solar Energy Corporation of India (SECI), nodal agency of GOI for promoting, coordinating, guiding and realizing the solar energy projects all over India. As per the guidelines of SECI, BCL can engage any of the vendors identified through SECI tender who shall install the solar units at their cost and shall operate them for a period of 25/15/10 years. The petitioner shall have to purchase the entire power generated by them at a rate finalized by SECI and the power in excess of instantaneous consumption shall be fed to the grid through a net metering system.

- b) The petitioner intimated the respondent the status of their solar project and requested the respondent CESC Limited to initiate adequate measures for approval and installation of net metering systems in all the three units of the petitioner. But, the respondent stated their inability to extend net metering arrangements for the reasons that the units are to be set up and owned by separate entities as per RESCO Model and therefore will not qualify as captive generating plant within the meaning of the Electricity Act, 2003.
- c) It is also submitted that the proposed association of RESCO & BCL qualifies as a generating company as per the definition laid down in the provisions of the Electricity Act, 2003. Therefore, the RESCO units can be declared as 'Captive Generating Unit' for implementation of net metering by the respondent.
- d) The petitioner herein does not come within the ambit of the definition of "consumer" as defined in Section 2 (15) of the Act, but ought to be considered as a "generating company" as defined in Section 2(28). In such a case, the remedy of the petitioner lies before the Commission, in terms of Section 86 of the Electricity Act, 2003 and not before the CGRF, as alleged by the respondent or at all.
- e) RESCO model means 'Renewable Energy Service Company' and it is a