

COURT-1

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APL No. 220 OF 2025 & IA No. 1060 OF 2025 & IA No. 1058 OF 2025 &
IA No. 1059 OF 2025

Dated: 15th July, 2025

Present : Hon`ble Mr. Justice Ramesh Ranganathan, Chairperson
Hon`ble Ms. Seema Gupta, Technical Member (Electricity)

In the matter of:

Avaada Energy Private Limited Appellant(s)

Versus

Central Transmission Utility of India Limited & Anr. Respondent(s)

Counsel on record for the Appellant(s) : Shankh Sengupta
Abhishek Kumar
Karan Arora
Nived Veerapaneni
Shubham Mudgil
for App. 1

Counsel on record for the Respondent(s) : Poorva Saigal
Shubham Arya
Pallavi Saigal
Reeha Singh
Rishabh Saxena
Shirin Gupta
Harshvardhan Singh
for Res. 1

ORDER

On having gone through the impugned proceedings of the CERC dated 07.07.2025, we must record our reservation on the issue as to whether an appeal is even maintainable there against.

The Appellant herein filed a petition before the CERC, under Section 79(1(c) of the Electricity Act read Regulation 9.1 of the CERC Connectivity

and General Network Access (Regulations 2022), seeking a direction to the Respondent-CTUIL to grant final connectivity. In the said petition, the Appellant herein sought an interim prayer to restrain CTUIL from taking any coercive steps qua the in-principle connectivity granted to the Appellant; and to restrain CTUIL from creating any third party rights over the in-principle connectivity granted to them. Besides the afore-said interim reliefs which formed part of the petition, the Appellant herein also filed an IA seeking ad interim ex parte relief to restrain CTUIL from taking coercive precipitative steps against the Applicant during the pendency of the petition; and to restrain CTUIL from creating any third party rights. These reliefs, which formed part of the application for ad-interim ex-parte relief, are more or less identical to the interim reliefs sought in the main petition.

In the impugned order dated 07.07.2025, the CERC recorded the submissions urged on behalf of the Appellant, and then noted that CTUIL had accepted notice and had sought liberty to file a reply in the matter, and that CTUIL had clarified that there was no delay on their part in respect of allocation of the terminal bay as sought to be portrayed by the Petitioner.

Considering the submissions made by Learned Counsel, the CERC admitted the petition, directed the Respondent to file its reply within two weeks with a copy to the petitioner to file its rejoinder within a week thereafter; and directed the petitioner to provide the information enumerated in sub paras (i) to (iii) of para 3(c). In addition, the Respondent CTUIL was directed to provide certain information by way of an affidavit within two weeks.

Thereafter the CERC observed that, with regard to interim relief, they did not deem it appropriate to grant the same at this stage in the absence of the required information. In other words, the CERC considered

it appropriate to give the Respondents an opportunity to file their reply, and to submit the information which the Commission had sought, before considering the appellant-Petitioner's application for interim relief. The matter was directed to be listed for hearing on 12.08.2025.

An appeal, under Section 111(1) of the Electricity Act, can be filed by any person aggrieved by an order made by the Appropriate Commission. The question which would arise for consideration, before entertaining the present appeal, would be whether the observations, in the impugned proceedings, that the CERC deemed it appropriate to hear the Respondent before passing an interim order, would constitute an "order" against which an appeal would lie under Section 111(1) of the Electricity Act. In short, the question which would require an answer is whether an appeal would lie against exercise by the CERC of its discretionary jurisdiction, under Section 94(2) of the Electricity Act, to defer hearing of the IA for interim relief till the Respondents filed their reply within the two weeks' time granted to them to do so or, in other words, whether an appeal would lie in cases where the CERC defers hearing of the IA for interim relief to enable the respondents to file their response, instead of adjudicating the IA for interim relief ex-parte.

While we have serious doubts as to whether an appeal would lie in such circumstances, we see no reason to delve into these aspects in the present appeal in the light of the order which we propose to pass.

The CERC had, by the impugned proceedings, granted the Respondents two weeks' time to file its reply. The two weeks' time granted by the CERC would expire on 21.07.2025. Since only two weeks' time was granted to the Respondents to file their reply, and the very same period of two weeks was granted to both parties to submit the information required by the Commission, we deem it appropriate to permit the Appellant to move an IA before the CERC for advancement, of the hearing

of the application for interim relief, from 12.08.2025 to any day after 21.07.2025.

Though we are conscious that it is for the Commission to consider the manner in which it should regulate its board, we nonetheless request the CERC, in case any such application is filed, to consider taking up the IA for interim relief at an early date since the Appellant claims that it would suffer irreparable injury if interim relief is not granted in their favour.

When we asked him as to what coercive steps the Appellant was apprehensive the CTUIL would take against them, Mr. Buddy A. Ranganadhan, Learned Senior Counsel, would submit that, besides revocation of the in-principle connectivity, and grant of connectivity to another, the CTUIL could also invoke the Bank Guarantee furnished by the Appellant; encashment of the Bank Guarantee would adversely affect the credit rating of the Appellant; and to avoid such a possibility the Appellant was ready and willing to deposit the amount, for which they had earlier furnished the Bank Guarantee, with the CTUIL; and this Tribunal may consider directing the CTUIL to return the Bank Guarantee, and making such a deposit by the Appellant subject to the result of the petition before the Commission.

As we have already expressed our reservations on the maintainability of the appeal itself, we may not be justified in issuing any such direction. Suffice it to observe that, since deposit of the amount representing the Bank Guarantee would, in effect, have the same result on the CTUIL as invocation of the Bank Guarantee by them, we have no reason to doubt that the Respondent-CTUIL would give such a request of the Appellant its due consideration. We refrain from saying anything more, in the light of the submission of Mr. Shubham Arya, Learned Counsel for the Respondent-CTUIL, that whatever action CTUIL would take shall be

strictly in conformity with the provisions of the Electricity Act and the regulations made thereunder.

Subject to the aforesaid observations, the appeal stands disposed of. All the IAs therein also stand disposed of accordingly.

(Seema Gupta)
Technical Member (Electricity)
mk/dk

(Justice Ramesh Ranganathan)
Chairperson