

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram

- 1. Dr. Pramod Deo, Chairperson**
- 2. Shri R.Krishnamoorthy, Member**
- 3. Shri S.Jayaraman, Member**
- 4. Shri V. S. Verma, Member**

Petition No 33/2008

In the matter of

Permission for access to inter-State transmission mechanism for injecting electricity from wind power projects on deviation (un-scheduled interchange) basis without scheduling requirement

And in the matter of

Gujarat Flurochemicals Ltd (GFL), Ranjit Nagar

... Petitioner

Vs.

1. Northern Regional Power Committee
2. Northern Regional Load Despatch Centre
3. Rajasthan Rajya Vidyut Prasaran Nigam Ltd., Jaipur
4. Jaipur Vidyut Vitaran Nigam Ltd., Jaipur
5. Jodhpur Vidyut Vitaran Nigam Ltd., Jodhpur
6. Ajmer Vidyut Vitaran Nigam Ltd., Ajmer

... Respondents

The following were present

Shri Aashish Bernard, Advocate, GFL
Shri M.K. Jain, RVPNL
Shri Sudhir Jain, RVPNL
Shri S.S Shekhawat, RVPNL
Shri V.K. Agrawal, NRLDC
Shri S.R. Narasimhan, NRLDC
Shri R.P. Aggarwal, NRPC

**ORDER
(DATE OF HEARING: 2.4.2009)**

The petitioner, a company incorporated under the Companies Act, 1956 having its registered office at Ranjit Nagar, Gujarat is mainly involved in the

business of refrigerants, chemicals and power generation. Recently, the petitioner has commissioned a wind power generation project in Maharashtra with a capacity of 23.1 MW and has taken up wind power projects in Jaisalmer and Jodhpur Districts of Rajasthan with a total capacity of 31.5 MW.

2. The petitioner has filed this petition with the following substantive prayers:
 - (a) To allow wind power projects to inject power generated by them into the regional grid on the basis of deviation (UI) while exempting such projects from scheduling requirements under inter-State ABT;
 - (b) To frame necessary guidelines for facilitating/enabling evacuation of power from infirm renewable energy sources;
 - (c) To allow the petitioner, as an interim relief, to inject the power to be generated from its upcoming projects in Rajasthan, with a total capacity of 31.5 MW and due to be commissioned in March 2008 through the UI mechanism and to be paid for the electricity injected by Northern Regional Load Despatch Centre (NRLDC) through the UI settlement mechanism as soon as the projects are commissioned and to issue directives to concerned agencies accordingly.
3. On completion of pleadings, the petition was heard in detail on 26.6.2008 when the Commission decided to keep the matter pending till such time a definite view on the Discussion Paper entitled "Promotion of Co-generation and

Generation of Electricity from Renewable Sources of Energy” floated by the Commission in May 2008 was taken.

4. During the hearing on 2.4.2009, learned counsel for the petitioner submitted that the case be finalized in the light of UI regulations which were published on 30.3.2009. The representatives of RVPNL who were present during the hearing also submitted that they had nothing to add to the submissions made on 26.6.2008, also recorded in ‘Record of Proceedings’ for that date.

5. Having gone through the pleadings and heard the parties, we propose to dispose of the petition.

6. The petitioner’s case is that the distinct features of wind energy such as its renewable nature, unpredictability leading to inability of being scheduled and environmental friendly dimension should be accorded consideration while deciding the issue. The petitioner is aggrieved that the tariff fixed by the various SERCs for procurement of wind power in the respective State is commercially restrictive and does not commensurate with the high capital cost incurred by the developers for setting up new wind projects.

7. According to the petitioner, this Commission has extensive power for developing market under section 66 of the Electricity Act, 2004 (the Act). Although UI as a commercial mechanism is meant for adjustment of deviation from schedule, it can provide a basis for development of a market because it

clearly indicates the demand supply position through prevailing frequency and also gives real time commercial signal to the buyers and sellers. The petitioner has relied upon the decision of the Hon'ble Supreme Court in Central Power Distribution Co. Vs. CERC [(2007) 8 SCC 197] to support its contention that UI forms part of tariff.

8. Relying on the provisions of National Electricity Policy and sections 61(a), 61(d) and 61(h) of the Act, the petitioner had contended that there was an urgent requirement for the Commission to introduce appropriate guidelines and principles to ensure a consistent development of wind energy projects by adopting various mechanisms to allow such projects to achieve reasonable returns corresponding to the prevailing market conditions.

9. Main plank of objection by RVPNL is that UI is a penal mechanism applicable to the defaulters to ensure grid discipline and it cannot be used as a market mechanism. The representative of RVPNL urged that unscheduled interchange could take place only if there was a schedule and there being no schedule in the case of wind generation because of its unpredictable nature, there could not be any UI. RVPNL also stated that Rajasthan ERC had well developed transparent procedure for tariff determination involving all stakeholders. It was also submitted that the State of Rajasthan had separate policy for promotion of Non-Conventional Energy Sources of power and the petitioner had enjoyed relaxation provided thereunder. The Central Government also disbursed various subsidies and fiscal benefits to promote NES generation

and same were retained by the petitioner as these were not passed on to discom/RVPNL. It was stated that the State Government provided land to the wind generators at 10% of DLC rate.

10. NRLDC, was also of the opinion that UI is basically a scheme for handling imbalances and contracted arrangement was a *perquisite* and *sine qua non* for stakeholder to be a part of UI mechanism either at regional level or State level. Expressing agreement with the contention of the petitioner, NRLDC admitted that firm PPAs on a long-term basis for wind projects might be a problem on account of uncertainty. However, short-term open access contract ranging from month to day ahead as well as same day basis were possible. This along with investment in short-term forecast tool for wind would help in wind power being an active player in short-term open access. NRLDC also expressed its apprehension that any exemption granted to any stakeholder in respect of applicability of the electricity market rule would distort the market. More stakeholders would press for relaxation which has the potential of endangering grid security. It was argued that frequency linked UI mechanism needed schedules as the reference for working out the UI for any control area. As schedules arise from the contract between two parties for supply and consumption of power, without contracts, there would be no schedule and therefore, electricity market could not be developed solely through the UI route as suggested by the petitioner.

11. The main issue that calls for determination in this case relates to the nature of UI mechanism viz. whether or not it is a commercial mechanism. The

answer to this question is not far to seek. Although UI has a commercial dimension, its basic purpose is ensuring grid discipline. Frequency linked rates prescribed in the UI scheme intend to curb over-drawal and to promote generation at low frequency. This is with the intent and purpose of securing grid. Any semblance of doubt in this regard must have been dispelled through regulation 3 of the recently published Central Electricity Regulatory Commission (Unscheduled Interchange charges and related matters) Regulations, 2009 extracted hereunder for ease of reference:

3. Objective

The objective of these regulations is to maintain grid discipline as envisaged under the Grid Code through the commercial mechanism of Unscheduled Interchange Charges by controlling the users of the grid in scheduling, dispatch and drawl of electricity.

12. In view of this unambiguous status of UI mechanism, we are unable to agree with the request of the petitioner to allow wind power injection as UI because schedule is a pre-requisite for UI.

13. During the hearing of the petition on 26.6.2008, learned counsel for the petitioner sought permission for injecting power in UI mode as a test case to demonstrate efficacy of Mode 6 outlined in the Commission's discussion paper. Significantly, para 44 of the discussion paper distinctly mentioned that Mode 6 was not a preferred mode.

14. We would like to invite the attention of the parties to the Commission's order dated 27.8.2008 in Petition No. 60/2008 wherein the Commission has

already directed RVPNL and Rajasthan, SLDC to grant open access to the petitioner for transmission of power outside the State of Rajasthan. This, we are sure, will facilitate the petitioner to sell its power through power exchanges.

15. With this Petition No. 33/2008 is disposed of.

Sd/-
[V. S. VERMA]
MEMBER

Sd/-
[S. JAYARAMAN]
MEMBER

Sd/-
[R. KRISHNAMOORTHY]
MEMBER

Sd/-
[DR. PRAMOD DEO]
CHAIRPERSON

New Delhi, dated 13th May 2009