

CENTRAL ELECTRICITY REGULATORY COMMISSION

Record of Proceedings

PETITION NO. 220/2009 with I.A.Nos 57/2009 and 58/2009.

Sub: Resolving the issue of control area jurisdiction in respect of the Mundra APL power station.

Date of hearing : 5.11.2009

Coram : Dr. Pramod Deo, Chairperson
Shri R.Krishnamoorthy, Member
Shri S.Jayaraman, Member

Petitioner : Western Regional Load Despatch Centre, Mumbai

Respondents : State Load Despatch Centre, Gotri
Adani Power Limited, Gurgaon

Proforma Respondents: Western Regional Power Committee, Mumbai
Northern Regional Load Despatch Centre, New Delhi
National Load Despatch Centre, New Delhi

Parties present :
Shri M.G.Raoot, WRLDC
Shri P.Pentayya, WRLDC
Shri Manjit Singh, WRPC
Shri S.G..Tenpe, WRPC
Shri M.G.Ramchandran, Advocate, GETCO and GUVNL
Shri M.M.Chaudhari, GETCO, SLDC
Shri R.K.Madan, APL
Shri A.K.Asthana, APL
Shri Rahul Sharma, APL
Shri S.R.Narasimhan, APL
Shri K.P.Jangid, GUVNL
Shri P.J.Jani, GUVNL

Through this petition, the petitioner, Western Regional Load Despatch Centre has *inter-alia* requested to finalize the control area jurisdiction of Mundra APL for dispute free settlement. Subsequently, through IA No. 57/2009, the petitioner has placed on record minutes of WRPC meeting dated 9.10.2009.

2. Gujarat Urja Vikas Nigam Limited (GUVNL) has filed I.A. No. 58/2009 seeking impleadment as a respondent in the present petition. Accordingly, notice was issued to GUVNL.

3. Heard the representatives of the parties present.

4. The representative of the petitioner submitted that a dispute had arisen in the Western Region regarding the jurisdiction of the control area command between RLDC and SLDC in light of the Commission's order dated 7.5.2009 in Petition No. 58/2008. It was further stated that in accordance with the true spirit of the above order and based on the data and documents submitted by the APL - Mundra and Gujarat, the 51st commercial committee meeting of WRPC forum transparently decided that the Control Area in case of APL – Mundra Project which was to be implemented in three stages with total installed capacity of 4620 MW should be with WRLDC.

5. The representative of the petitioner also clarified that in the 50th Commercial Committee Meeting (CCM), it was decided that the Control Area would be with SLDC, Gujarat, because the capacity of the plant at that time was 2460 MW out of which 2000 MW was to be sold to Gujarat. Subsequently, APL submitted revised plan of the project indicating the total plant capacity would be 4620 MW. As less than 50% of the installed capacity was with the State of Gujarat and also the developer had said that more than 50% of the power generated from the project would be sold outside the State of Gujarat, in accordance with the said order dated order 7.5.2009, it was decided in the 51st CCM that the Control Area command of APL -Mundra would be with WRLDC.

6. The representative of the petitioner further stated that the first unit was synchronized on 3.5.2009 and based on the decision at WRPC meeting WRLDC was commanding the Control Area till date. This was objected to by SLDC, Gotri, GETCO and GUVNL. As a result, lots of day-to-day operational problems cropped up such as non-clearance for short-term open access (STOA) power, stopping the synchronization of this unit and connection through GETCO's 220 kV sub-station

even though the power could have been evacuated through 400 kV system of APL-Mundra. It was further submitted by the representative of the petitioner that in principle, the State entities objected to selling of power from this plant before commencement of the PPA which as per their records was to commence from February 2010. The representative of the petitioner added that Gujarat did not want the power to be sold through open access and requests made by the WRLDC to hold the meeting to resolve the issue at the regional level could not fructify because the proposed meeting for this purpose was postponed at least three times. He pointed out that everyday lots of messages were received from SLDC jamming the day-to-day operational activities at the WRLDC. The representative of the petitioner requested the Commission for clarity on command area for APL-Mundra so that the day-to-day operations may run smoothly at WRLDC.

7. Learned counsel for the first respondent submitted that the decision had to be taken in terms of the order already passed by the Hon'ble Commission on the demarcation of the responsibilities between RLDC and SLDC. He pointed out that as on date the capacity of the operational plant was only 2600 MW out of which 2000 MW was supplied to GUVNL. There was no firm commitment about the other plant and its likely date of commissioning, he added. According to him the beneficiaries were changing their stand from time to time. He complained that Gujarat faced serious problem because the infirm power which was meant for the State as per the PPA was being sold through the CTU network under the guidance of RLDC depriving Gujarat of the requisite power.

8. On the issue of demarcation of the responsibility, he contended that as per paras 11 and 16 of the Commission's earlier order dated 7.5.2008, extracted hereunder, if more than 50% of the permanent share were to be sold outside the State, the Control Area would be with the RLDC.:

"11. As for the approach to be adopted in future, it would be logical and in line with the foregoing for RLDCs to coordinate the scheduling of Ultra-Mega power projects, and of other large privately-owned power plants (of 1000 MW or larger size) in which States other than the host State have substantial permanent shares (50% or more). We need to emphasise on plant size (1000 MW and above) and share of other States (50% or more), to retain the philosophy of decentralization as also for operational expediency. Such plants may already be planned to be connected directly into the CTU network, and metering of the plants' injection may have already been contemplated by the

CTU. This would be another reason for RLDC to be coordinating their scheduling. Power plants not meeting the above criteria regarding plant size and share of other States should be scheduled by the SLDC of the State in which they are located.”

“16. The owners of many new generating stations are trying to get their stations categorized as ISGS so as to bypass the State organizations. We would not like to encourage this trend.”

9. The representative of the petitioner submitted that the developer had submitted EPC contract details and evacuation plan for exporting power to Northern Region. He pointed out that there was no regulation stopping the generator from selling infirm power under STOA. He added that neither GUVNL nor APL-Mundra had submitted the PPA before it despite a number of communications. He further submitted that it came to notice through the correspondences with APL and GUVNL that their long-term PPA was to be implemented latest by February 2010. When they gave the details about the long-term contract, WRLDC scheduled the power within 5 hrs, he claimed. The representative of the petitioner submitted that the Executive Director (SO & NLDC) in consultation with all the RLDCs had submitted a paper before the Commission in respect of demarcation of responsibilities.

10. The representative of the petitioner also urged that 4620 MW capacity coming at Mundra should not be ignored. According to him, no long-term PPA could be signed for the last unit which was to come after 3 to 4 years. He contended that the commitments made through documents by private players proposing to install capacity must be honoured by the system operator. It was further stated that deciding the question of control area jurisdiction on the commissioning of the last unit might not be the intention of the Commission. He also pointed out that APL-Mundra project was even larger than UMPP whose scheduling, with a capacity of 4000 MW, had been entrusted to RLDC irrespective of allocation in view of the said order dated 7.5.2008. He sought the directions by the Commission so as to streamline the day-to-day operations.

11. Learned counsel for the first respondent submitted that grievances in respect of sale of infirm power and minutes of the meeting (MoM) held on 3.9.2009 with APL were sent to the petitioner. He further pointed out that the PPA clearly provided that all infirm power would be supplied to GUVNL but the petitioner listened only to the

developer and considered the scheduled commercial date of operation as the cut off point. He stated that only in October 2009, after protest by GUVNL, the petitioner agreed for scheduling the infirm power to Gujarat. Learned counsel further argued that as far as other projects were concerned, the question of the control area jurisdiction would arise only at the time of actual power supply. Learned counsel further stated that deciding on the control area demarcation based on future expansion of the project was contrary to the order of the Commission dated 7.5.2008

12. The representative of the second respondent submitted that for entire 4620 MW capacity, MoEF clearance had been given and EPC had been awarded and financial closure had taken place. Out of total 4600 MW power, long-term PPA had been signed for 3600 MW. He added that the official of Ministry of Power and Chairman, CEA had visited the Mundra Power Project and submitted their report to the effect that project was ahead of schedule. He referred to the case of two power projects executed by Jindal and Lanco, whose control area was demarcated when the projects were at the planning stages. Based on the said project, the representative of the second respondent requested for demarcation of the control area for the Mundra project. He further explained that two transmission lines of capacity 900 MW and 2500 MW, respectively were laid for the supply of power. He claimed that the second respondent had right to sell power as a Merchant power Plant without entering into long-term agreement. He further stated that the second respondent was not called for the 50th CCM of the WRPC. When the outcome of the meeting came to notice, second respondent approached WRPC/ WRLDC citing that the plant capacity was 4600 MW. In the 51st CCM, where Gujarat was present, it was decided that the control area of Mundra would be with WRLDC. On this issue neither GETCO nor GUVNL had raised any objection.

13. The representative of the second respondent further submitted that the project was commissioned six months before schedule and the saving accrued therefrom is not appreciated by the State concerned. He also complained that not a single transmission line from Gujarat was available for evacuation of power and they were yet to construct 220 kV or 400 kV transmission lines. He pointed out that the second respondent had laid their own dedicated transmission line investing Rs. 4000 crore. He claimed that the second respondent had a right to prepone the

transmission line to Northern Region by one year, because the power had to be taken there. The representative of the second respondent further submitted that the petitioner was complying with the decision taken in the WRPC forum. According to him, out of the project capacity of 4600 MW, only 2000 MW, which is less than 50% was with Gujarat and therefore, the control area jurisdiction should be under the petitioner.

14. Learned counsel for the first respondent submitted that out of 4600 MW, APL Mundra was keeping 1000 MW as merchant power plant, which should not be taken into account while calculating the 50% share. Therefore, out of the available 3600 MW, 2000 MW was with Gujarat. He further submitted that 50% share was to be calculated as per the guidelines contained in the Commission's order dated 7.5.2008. According to him, the non-operational power unit which is to be scheduled after 6 to 8 months should not be taken into account for the purpose of deciding control area jurisdiction. Learned counsel invited attention of the Commission to the minutes of meeting dated 3.9.2009, which provided that control area demarcation for stage-I and stage-II would be with SLDC Gujarat and highlighted that the second respondent was also a party to the above decision.

15. The representative of the second respondent offered to clarify that the 1000 MW merchant capacity was only for a year or so because power had to be supplied to Haryana by August, 2012 as per 25 years long-term agreement. There were also plans for sale of power to other States in the Northern Region, he added.

16. The representative of the petitioner submitted that the WRLDC and WRPC were not the parties in the said meeting held on 3.9.2009. He submitted that there had to be concurrence from both buyer and seller for scheduling of power and the day that was been given, WRLDC had scheduled power within few hours. Therefore, the first respondent could not presume that the petitioner had not given power to Gujarat. He further submitted that SLDC, Gujarat on its own decided control area jurisdiction and stopped giving SEM data which was highly objectionable. This, he said, was necessary for preparation of Regional Energy Accounting. He added that first respondent did not allow the second respondent to install their own meters. Only after it was informed that WRLDC would be forced to

go before Commission if the data was not made available, first respondent started giving data. He also pointed out that it was decided in a special meeting that as construction of 400 kV transmission line would take some time and the generation should not be bottled up and accordingly, 220 kV Nanikhekar transmission line be used. GETCO agreed for absorption of 50-100 MW power.

17. The Commission enquired whether WRLDC had raised in the petition, the issue of non-supply of data by the first respondent. Representative of the petitioner responded in the affirmative. He also added that as on date, first respondent was supplying the data.

18. The Commission further enquired as to whether the petitioner had any problem if the control area remained with SLDC. In response, the representative of the petitioner confirmed that there was no problem on this score and he was only seeking clarification on the interpretation the said order dated 7.5.2009. The petitioner expressed the apprehension that if the control area remained with the SLDC, the cost of power from the project would go up with additional charges of STU and SLDC.

19. To the query from the Commission as to whether the PPA mentioned about infirm power, learned counsel for the first respondent submitted that according to his interpretation entire power was for the state of Gujarat. There was infirm power rate fixed in the schedule to PPA. The sale of infirm power by APL-Mundra was an independent issue, which they were fighting separately. He contended that if any PPA stated that Gujarat would take the infirm power at the specified rate, necessary implication was that the power belonged to the State. He questioned the interpretation of the second respondent that the generation prior to the scheduled date of commercial operation need not be supplied to the State.

20. As regards the decision regarding control area in the WRPC meeting, learned counsel for the first respondent clarified that Gujarat had never agreed for the arrangement. According to him, decisions in WRPC meeting were to be based on consensus of the parties. He added that as Gujarat had protested to the arrangement, WRPC decision had not attained finality and the matter is to be decided by the Commission.

22. The representative of the second respondent described this as a national issue for the developers of power projects. He contended that SLDC or State could not take a decision suo-motu on the control area jurisdiction and in this regard the decision had to be taken by the constituents of WRPC. He urged that if power was to be supplied on short term basis outside the State of Gujarat SLDC should immediately take action in this regard. He further submitted that he was trading power in Gujarat for the last 5-6 years and pointed out by that state of Gujarat had never sent its requisition for purchase of power, which indicated that 2000 MW power would not be taken by the State. He contended that, therefore, power had to go outside the State.

23. Representative of the second respondent requested permission to file, within two weeks, a detailed reply to the points made by the first respondent during the hearing. The Commission allowed the parties to file written submission, if any, within two weeks from the date of hearing.

24. Subject to the above, the Commission reserved its orders.

Sd/=
(T.Rout)
Joint Chief (Legal)