

**CENTRAL ELECTRICITY REGULATORY COMMISSION
(LEGAL DIVISION)**

Coram: Dr. Pramod Deo, Chairperson
Shri S. Jayaraman, Member
Shri. V. S. Verma, Member

PETITION No. 289/2010 (Suo-motu)

Respondent: M/s LANCO Power Ltd. (LPL)

Date of hearing: 17.3.2011

Subject: Injection of power by LANCO Amarkantak Thermal Power Station into the regional grid as Unscheduled Interchange in contravention of Central Electricity Regulatory Commission (Grant of Connectivity, Long-terms Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009

Parties present: (1) Shri Shanti Bhushan, Sr. Advocate
(2) Shri M. R. Krishna Rao, LPL
(3) Shri Prabhat Kumar Srivastava, LPL

PETITION No. 290/2010 (Suo-motu)

Respondent: Western Regional Load Despatch Centre (WRLDC)

Date of hearing: 17.3.2011

Subject: Injection of power by LANCO Amarkantak Thermal Power Station into the regional grid as Unscheduled Interchange in contravention of Central Electricity Regulatory Commission (Grant of Connectivity, Long-terms Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009

Parties present: (1) Shri S. K. Sonee, POSOCO
(2) Shri S. R. Narasimhan, WRLDC
(3) Ms. Jyoti Prasad, WRLDC

IA No. 8/2011 in Petition No. 289/2010 (Suo-motu) and Petition No. 290/2010 (Suo-motu)

Applicant: Madhya Pradesh Power Trading Corporation Ltd. (MPPTCL)
Date of hearing: 17.3.2011
Subject: Application for intervention in the suo-motu petitions
289 and 290 of 2010
Parties present: (1) Shri G. Umapathy, Advocate

Record of Proceedings

Petition No. 289/2010 (Suo-motu)

The learned senior counsel appearing for M/s LANCO Power Ltd (LPL) submitted that the generating station being a merchant plant and having a PPA with the trading company is not amenable to the jurisdiction of the Central Commission or the State Commissions in the matter of determination of tariff.

2. The learned counsel submitted that Unit-I of the generating station with a capacity of 300 MW was synchronized with the grid on 1.5.2009 and achieved commercial operation on 9.4.2010. Unit-II of the generating station with a capacity of 300 MW was synchronized on 12.11.2010 and has not yet achieved commercial operation. The learned counsel further submitted that the respondent LPL has not violated any regulations of the Commission. It was explained that PTC India Ltd. had signed a Power Purchase Agreement with the LPL on 11.5.2005 which was terminated due to non fulfillment of conditions precedent. PTC India Ltd. had a Power Supply Agreement with Madhya Pradesh Power Trading Corporation Ltd. (MPPTCL) which was terminated by PTC India Ltd. MPPTCL had filed petitions before the High Court of Madhya Pradesh and the Supreme Court which were disposed of as not maintainable. During the course of the proceeding of the case, the Supreme Court has appointed a mediator for amicable settlement between the parties. With regard to the charge for violation of Regulation 8(7) of Central Electricity Regulatory Commission

(Grant of Connectivity, Long-term Access and Medium-term open Access in inter-State transmission and related matters) Regulations, 2009, the learned counsel submitted that the onus of declaring the units of the generating station under COD rests with the generating company and not with the Regional Load Despatch Centre. Therefore, WRLDC has no authority to determine whether the units of the generating station are fit for declaration of commercial operation. The learned counsel further submitted that no timeline has been specified in the regulations for achieving commercial operation.

3. With regard to the query of the Commission as to the long time taken for declaration of COD of the units of the generating station, the learned counsel explained the following:

- (a) The matter was not finally settled since the validity of the termination of the PPA was under dispute. Therefore, the respondent could not declare the commercial operation of the units of the generating station.
- (b) There were teething problems in the stabilization of Unit-I of the generating station due to problems in lubrication of oil system, delay in completion of ash handling system, problem in evacuation of ash from ESP hoppers, delay in completion of railway siding leading to problem in maintaining adequate coal stock etc. Even though the Unit-I reached full load operation on 4.6.2009, the turbine got jammed due to high turbine temperature.
- (c) In respect to Unit-II of the generating station, the main problem was non availability of the transmission corridor. Even though the respondent was granted long-term open access, the transmission line to evacuate power from the unit was not ready. In addition, there was heavy steam leakage from turbine side, EH oil leakage

from control valve and delay in commissioning of other systems, visa problems for Chinese experts and engineers due to change in policy which contributed to the Unit-II not being declared under commercial operation.

4. The learned senior counsel submitted that the respondent had received average UI @ of ₹ 2.53 from 10.6.2010 till February, 2011 with average PLF of about 54.04%. He submitted that the UI rate received by the respondent was not abnormally high which proved that the respondent did not intentionally delay the commercial operation of the units of the generating station. The learned counsel further submitted that the respondent has not violated the provisions of any of the regulations issued by the Commission and the notice under Section 142 of the Electricity Act, 2003 against the respondent may be discharged.

Petition No. 290/2010 (Suo-motu)

5. The representative of WRLDC submitted that the regulations of the Commission did not clearly define any time frame for injection of power by a generator before declaring the commercial operation of the units of the generating station. He further submitted that the system operator had taken appropriate action from the point of grid security while allowing such injection of power and the generator has responded accordingly. He further submitted that the system operator did not get into the commercial dispute between the parties to the PPA while scheduling the power. The representative of the WRLDC submitted that they had ensured to operate within the boundaries of the regulations issued by the Commission from time to time, particularly, the regulations on grid operation. He submitted that the show cause notice under Section 142 of the Act against WRLDC may be discharged.

6. The Commission directed WRLDC to submit the following information by 11.4.2011.

- (a) The details of the UI energy injected and UI earned by M/s LANCO Amarkantak Ltd. since synchronization of Unit-I and Unit-II of the generating station till date.
- (b) The copies of the messages received from LANCO seeking permission to inject power for testing their units from time to time.

IA No. 8/2011 in Petition No. 289/2010 (Suo-motu) and Petition No. 290/2010 (Suo-motu)

7. Leaned counsel appearing for MPPTCL submitted that MPPTCL had entered into a Power Supply Agreement with PTC India Ltd. on 30.5.2005 for purchase of 300 MW power from the generating station of LPL. PTC had a back to back PPA with LPL for supply of 300 MW power for selling it to MPPTCL. However, LPL terminated the PPA of PTC. MPPTCL challenged the termination in the High Court of MP and the Supreme Court and the petitions were dismissed on the ground of maintainability, leaving MPPTCL free to avail all other available remedies. Accordingly, MPPTCL has invoked the arbitration clause against PTC and subsequently PTC has also invoked arbitration clause against LPL under the PPA for specific performance of the contract in order to start the power flow. The learned counsel further submitted that WRLDC and LPL have collectively not only violated the connectivity regulations of 2009 but also grossly violated the tariff regulations of 2009, UI regulations of 2009 and Indian Electricity Grid Code of 2006. As a result of such violations, MPPTCL has been deprived of its legitimate power under the contract on which LPL has unjustly earned and has been enriched by the UI charges to the tune of ₹ 67.93 crore. The learned counsel further submitted that MPPTCL is vitally interested in the suo-motu petitions against LPL and WRLDC and prayed to be impleaded as respondent in the above proceedings and granted liberty to make submissions.

8. Learned senior counsel for LPL submitted that notice on the IA has not been issued and the respondent may be given opportunity to file its reply to the IA.

9. The Commission directed for issue of notice on IA to the respondents on the question of maintainability. The Commission directed MPPTCL to serve the copy of the IA on the respondents if not served earlier. The respondents shall file their replies by 13.4.2011 and the petitioner to file its rejoinder, if any, by 18.4.2011.

10. The Commission directed to list the IA for hearing on 19.4.2011.

Sd/-
(T. Rout)
Jt. Chief (Legal)