

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Coram: Dr. Pramod Deo, Chairperson
Shri S.Jayaraman, Member
Shri V.S.Verma, Member
Shri M.Deena Dayalan, Member**

Date of Hearing: 17.3.2011

Date of Order: 9.11.2011

Petition No. 289 of 2010(Suo Motu)

In the matter of:

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-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009.

And

In the matter of:

M/s LANCO Power Limited, Gurgaon

... Respondent

Petition No.290/2010 (Suo Motu)

And

In the matter of:

Western Regional Load Despatch Centre, Mumbai

.....Respondent

The following were present:

1. Shri Shanti Bhushan, Senior Advocate
2. Shri S. R. Narasimhan, WRLDC
3. Shri S. K. Sonee, POSOCO
4. Shri M. R. Krishna Rao, LPL
5. Shri Prabhat K. Shrivastava, LPL
6. Ms. Jyoti Prasad, WRLDC



ORDER

M/s LANCO Power Limited, Gurgaon has developed the 2x 300 MW LANCO Amarkantak Thermal Power Station (hereinafter “the generating station”) at Pathadi village, Korba District, in the State of Chhatisgarh. The first unit of the generating station was synchronized to the western regional grid on 1.5.2009 and achieved full load on 4.6.2009 and was declared on commercial operation in April 2010. The second unit of the generating station was synchronized to the western regional grid on 22.2.2010 and has not been declared on commercial operation. Both units of the generating station have been injecting power into the grid as Unscheduled Interchange prima facie without seeking long term access, medium term open access or short term open access. As injection of power by the generating station into the western regional grid on continuous and regular basis after synchronization of the units of the generating station without seeking open access appeared to be in violation of the Clauses (6) and (7) of Regulation 8 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 (hereinafter “Connectivity Regulations”), M/s LANCO Power Limited (hereinafter referred to as “LPL”) was directed in our order dated 12.11.2010 to explain the reasons for not seeking the open access for injecting power into the grid and to show cause as to why action under section 142 of the Electricity Act, 2003 should not be taken against it for contravention of clauses (6) and (7) of Regulation 8 of the Connectivity Regulations. Similarly, Western Regional Load Despatch Centre (WRLDC) was directed in our order dated 12.11.2010 in Petition No. 290/2010 to explain the reasons for not



preventing injection of power by the generating station into the grid without obtaining any type of access as per the relevant regulations of the Commission.

2. Both LPL and WRLDC have filed their replies to the show cause notices and have also submitted additional information required by the Commission. Both LPL and WRLDC have advanced their arguments during the hearing of the petition on 17.3.2011. We have perused the material on record and the submission of the parties.

3. The learned senior counsel for LPL had submitted during the hearing that the generating station being a merchant plant and having a PPA with a trading company is not amenable to the jurisdiction of the Central Commission or the State Commissions in the matter of determination of tariff. We have considered this objection regarding our jurisdiction. We are of the view that the present proceeding has been initiated under section 142 of the Electricity Act, 2003 for the charges of violation of the provisions of the Connectivity Regulations., It is clarified that the Connectivity Regulations apply to every generating station in the matter of grant of connectivity, long term access and medium term open access to Inter-State Transmission System. In fact, the term “applicant” in Regulation 2(1)(b) has been defined to *mean* “(i) a generating station of installed capacity of 250 MW and above, including captive generating plant of exportable capacity of 250 MW and above or bulk consumer in respect of grant of connectivity and (ii) a generating station including a capital generating plant, a consumer, an electricity trader or a distribution licensee, in respect of long term access or medium term open access, as the case may be”. Since the merchant power plant is a generating station and in the absence anything to the contrary in the Connectivity Regulations, the provisions of



Connectivity Regulations are applicable to the LPL. Moreover, the provisions of Grid Code and UI regulations which deal with injection of power into the ISTS are applicable to all generating stations irrespective of whether their tariff is determined by the Commission or not. The Commission has been vested with the power under section 142 of the Act to take action for contravention of the provisions of the Act or regulations made thereunder. Accordingly, the Commission has initiated the present proceedings against LPL to look into the alleged violations of the provisions of Connectivity Regulations. We reject the contention of the learned senior counsel for LPL that the generating station is not amenable to the jurisdiction of the Commission simply because its tariff is not being determined by the Commission.

4. LPL in its reply to the show cause notice vide its affidavit dated 25.11.2010 has also submitted that Long Term Open Access for injection of power from the 1st Unit of 300 MW of the generating station was applied for by PTC India Limited (PTC) which was granted by Power Grid Corporation of India Limited (PGCIL) on 8.11.2006. Subsequently, a Bulk Power Transmission Agreement (BPTA) was signed between PTC and PGCIL on 5.3.2007. Therefore, Long Term Open Access was obtained in accordance with Clause 11 of Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2004. Transmission charges for use of the system are being paid in accordance with the directions issued by Western Regional Load Despatch Centre (WRLDC) in its letter dated 22.12.2008. CTU has collected the WR transmission charges right from the date of synchronization i.e. with effect from 1.5.2009. It has been further submitted that after commercial operation of the 1st Unit of the generating station with effect from 9.4.2010, sale of power is being done on short



term basis through PTC and short term open access has been taken additionally in accordance with the Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2008. At present, the LPL has been paying the charges for Long Term Open Access as well as Short Term Open Access to Power Grid in respect of Unit 1.

5. As regards, Unit 2, LPL has submitted that Long Term Open Access for injection of power from 2nd Unit of 300 MW of the generating station was applied for by PTC which was approved by PGCIL vide the minutes of the 9th meeting of Western Region constituents held on 30.7.2007, subject to completion of dedicated transmission line, establishment of 765/400 kV WR Pooling Station near Sipat and certain other systems under WR system strengthening scheme. It was further decided in the said meeting that till the commissioning of the transmission schemes, the power transfer may be effected on short term basis depending upon transmission capacity availability. Subsequently, a Bulk Power Transmission Agreement (BPTA) was signed on 27.7.2009 between PTC and PGCIL in accordance with Regulation 11 of the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2004. Unit 2 of the generating station has been synchronized as per the LPL's synchronization notice dated 12.1.2010 and permission for synchronization has been accorded by Western Regional Load Despatch Centre vide its letter dated 19.1.2010. The testing of the project is ongoing and commercial operation date of Unit 2 has not been achieved.

6. LPL has submitted that long term open access has been granted for both units of the generating station prior to synchronization and specific permissions have been obtained



from WRLDC before injecting power into the Western Regional grid. Therefore, there is no violation of clauses (6) and (7) of Regulation 8 of Connectivity Regulations.

7. , WRLDC in its reply dated 25.2.2011 has submitted that "as during that period (pre-1st January 2010), LTOA implied connectivity also (as there were no separate regulations for connectivity), LANCO Unit 1 was allowed to get connected to the grid and inject infirm power".

7. Regulation 8(6) of the Connectivity Regulations provides that the grant of connectivity shall not entitle an applicant to interchange any power unless it obtains long term access, medium term open access or short term open access. Regulation 8(7) of Connectivity Regulation provides that a generating station including a captive generating plant which has been granted connectivity to the grid shall be allowed to undertake testing including full load testing by injecting infirm power into the grid before being put into commercial operation and even before availing any type of access after obtaining permission of the Regional Load Despatch Centre. Thus grant of connectivity is the basic requirement for injecting power into the grid under Regulation 8(7) of Connectivity Regulations.

8. Unit I of the generating station injected power into the grid under UI from 1.5.2009 till 9.4.2010. Unit II of the generating station was injecting power into the grid under UI from 19.1.2010. Under the provisions of Regulation 4.4 of the Indian Electricity Grid Code, 2006, an agency seeking connectivity to ISGS is required to apply to CTU with the requisite details for connectivity and after compliance of requirements and procedure set



out by the CTU in the offer of connection, the CTU is required to notify that the applicant agency can be connected to the grid. With effect from 1.1.2010, the connectivity shall be granted by the CTU as the nodal agency as per the provisions of the Regulation 8 of Connectivity Regulations. No document has been placed on record either by LPL or by WRLDC regarding grant of connectivity to Unit I and Unit II of the generating station under the relevant regulations. In order to consider the charges against LPL and WRLDC in correct perspective, it is imperative that the views of the CTU are available to the Commission. Accordingly, we direct that CTU be impleaded as a necessary party to the present proceedings.

9. It is noticed that PTC has obtained the Long term LTA and signed the BPTAs with CTU in respect of both units of the generating station. It has come on record that PTC has been paying the transmission charges from the date of synchronization of the units to the grid. It is also on record that the PPA between LPL and PTC in respect of Unit I has been rescinded. Since the LTOAs were granted to PTC, we are of the view that PTC is a necessary party in the proceeding in order to understand the circumstances under which power has been injected into the grid under UI despite the existence of LTOAs.

10. We further direct the CTU to submit the documents/clarifications as under:

- (a) All relevant documents with regard to the applications of LPL for connectivity in respect of both units of the generating station and the final disposal of the said application.
- (b) A brief on the procedure and practice being followed by CTU for grant of connectivity and long term access under the earlier and current regulations.



(c) Views of the CTU on the following based on the provisions of the various regulations of the Commission and the prevailing practice as to:

(i) Whether LTOA granted by CTU to PTC can be treated as the LTOA for LPL being the generating company owning the said generating station;

(ii) Whether LPL had any valid LTOA from 1.5.2009 till 22.2.2010 in respect of Unit 1 and from 19.1.2010 in respect of Unit 2 of the generating station during which LPL injected power into the grid under the UI; and

(iii) Whether the contention of WRLDC as quoted in para 7 of this order that prior to 1.1.2010, LTOA implied connectivity, is correct.

11. We direct PTC to file its submission on the status of the LTOAs granted to it by the CTU in respect of both units of the generating station.

12. In light of the above, CTU and PTC are directed to file their submissions as directed in para 10 and 11 above by 20.11.2011 with copies to LPL and WRLDC who may file their response by 27.11.2011. The matter will be listed for further hearing on 1.12.2011.

sd/-
(M.Deena Dayalan)
Member

sd/-
(V.S.Verma)
Member

sd/-
(S.Jayaraman)
Member

sd/-
(Dr. Pramod Deo)
Chairperson

