

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 244/MP/2012

Sub: Petition under Sections 79 (1) (c) and 79 (1) (k) of the Electricity Act, 2003 for directions to accept schedules for supply of power against long-term access.

Date of Hearing : 22.11.2012

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

Petitioner : Jindal Power Limited, Chhattisgarh

Respondents : National Load Despatch Centre, New Delhi
WRLDC, Mumbai
Power Grid Corporation of India Limited, Gurgaon

Parties present : Shri Pinaki Mishra, Senior Advocate for the petitioner
Shri Sanjay Sen, Advocate for the petitioner
Shri Hemant Singh, Advocate for the petitioner
Shri Sanjay Kaul, JPL
Shri Ankush Bajona, JPL
Shri V.K.Agarwal, NLDC
Shri S.R.Narasimhan, NRLDC
Shri Mohit Joshi, NRLDC
Shri Mayank Shekhar, PXIL

Record of Proceedings

Learned senior counsel appearing on behalf of M/s Jindal Power Ltd. (JPL) submitted that the petitioner had been granted long term open access for 500 MW in August 2004 by the Central Transmission Utility after holding a detailed study for wheeling of power to the Western Region from its generating station. He further submitted that the petitioner had constructed 400 kV transmission line for over 250 km of length by investing Rs. 320 crore. The petitioner is a regional entity of the Western Region (WR) and has paid Rs. 218 crore as the transmission charges over the last 4 years. Learned senior counsel submitted that after 8

years of grant of LTA, the petitioner had been directed by Western Regional Load Despatch Centre to opt for short term open access to evacuate its power as the petitioner did not have a long term PPAs with the constituents of Western Region.

2. Learned senior counsel submitted that submission made by Respondent Nos.1&2 in para 9 of the affidavit is not the correct position. Learned senior counsel submitted that evacuation of power in Chhatisgarh area is allowed upto 7000 MW. The situation has arisen because NLDC has altered the methodology of TTC/ATC calculation. Learned counsel also submitted that the Commission in its order dated 31.8.2012 has directed NLDC not to change the TTC/ATC limit.

3. Learned senior counsel submitted that long term open access was granted to the petitioner under the Central Electricity Regulatory Commission (Inter-State Open Access) Regulations, 2004 (Open Access Regulations). Under the said regulations it was not mandatory to have long term PPA to avail long term access to the ISTS. Open Access Regulations were substantially repealed by the Central Electricity Regulatory Commission (Grant of Connectivity long-Term Access and medium Term Open Access in inter-State transmission and related matters) Regulations, 2009 (Connectivity Regulations). However, in terms of Regulation 34 (2) of the Connectivity Regulations, long term access granted in accordance with Open Access Regulations is saved and shall continue to be valid till the expiry of the terms of the long term access. BPTA executed between petitioner and PGCIL is saved in terms of the Connectivity Regulations and as such, the terms of such agreement cannot be subjected to any curtailment based on any subsequent regulation or procedure or any contract. Therefore, PGCIL and NLDC cannot claim that the rights conferred under the Open Access Regulations and the BPTA can be taken away by application of procedures evolved under the Connectivity Regulations.

4. Learned senior counsel submitted that NLDC in its reply has relied primarily on para 7.1 of the CERC approved Billing, Collection and Disbursement Procedure(BCD Procedure), which has been prepared under the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2010. Learned senior counsel submitted that the said regulations nowhere stipulate that scheduling/inter-change of power cannot be done in the absence of any firm long-term PPA. Therefore, the BCD Procedure cannot be applied to deny LTA to the petitioner.

5. Learned senior counsel submitted that while granting long term open access to the petitioner, the CTU was aware that the petitioner did not have any long term PPA. Elaborating the background, the learned counsel submitted that the petitioner in its letter dated 26.2.2008 informed the CTU that it has applied for long term access with an allocation of 300 MW to Gujarat and 100 MW to Chhatisgarh for supply of power on long term basis. However, the PPAS with Gujarat and Chhatisgarh did not materialize. The petitioner while signing the BPTA has clearly stated that the petitioner does not have a long term PPA and will sell power in the short term. The petitioner after being granted LTA has been treated as a constituent of the WR from the inception and has been sharing the transmission charges. This position has not changed till date.

6. The representative of CTU submitted that even though the LTA was issued under Open Access Regulations, the BPTA clearly provides that it is subject to the regulations issued by the Commission from time to time. Accordingly in accordance with the Connectivity Regulations which repealed the Open Access Regulations, scheduling of power from the generating station of the petitioner is being done through short term open access since the petitioner does not have long term PPA.

7. The representative of POSOCO submitted that under the prevailing regulations, LTA without long term PPA is treated at par with STOA user. All STOA applications made to the RLDCs including petitioner`s applications are being considered as per relevant Regulations.

8. After hearing the parties, the Commission directed the petitioner to file its written submission within one week with copy to the respondents who may file their replies within one week thereafter.

9. The petition shall be listed for hearing on 13.12.2012 for further directions.

By order of the Commission

**Sd/-
(T. Rout)
Joint Chief Legal**