

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 145/MP/2013

Subject : Petition for adjudication of disputes arising out of Power Purchase Agreement (Supplemental) dated 18.12.2012 entered into between the petitioner and respondent.

Date of hearing : 12.9.2013

Coram : Shri V.S.Verma, Member
Shri M. Deena Dayalan, Member

Petitioner : DNH Power Distribution Company Limited

Respondents : NTPC- SAIL Power Company Limited

Parties present : Shri Anand K.Ganesan, Advocate for the petitioner

Record of Proceedings

Learned counsel for the petitioner, DNH Power Distribution Company Limited submitted that the present petition has been filed seeking adjudication of disputes on account of claim of tariff by the respondent, NTPC SAIL Power Company Limited for the electricity contracted under the PPA, which electricity could not be procured on account of force majeure, namely non-availability of transmission corridor and medium term open access.

2. Learned counsel for the petitioner further submitted as under:

(a) The respondent has set up a generating station at Bhilai in the State of Chhattisgarh with an installed capacity of 500 MW (2X250 MW).

(b) Out of total capacity of the generating station, the capacity of 280 MW and 100 MW has been allocated to SAIL and Union Territory of Dadar and Nagar Haveli, respectively on long-term basis.

(c) Since there was surplus power which was not being used for the captive purpose, the respondent proposed to increase the allocation and offered to sell additional capacity up to 65.5 MW on medium term basis to the petitioner, which was acceptable to the petitioner.

(d) Out of 65.50 MW, 40.50 MW was agreed to be purchased by the parties on medium term basis on 10.10.2012.

(e) On 18.12.2012, parties had entered into an agreement for sale and purchase of an additional 25 MW on medium term basis.

(f) On 17.12.2013, the petitioner applied to CTU for grant of Medium-Term Open Access (MTOA) for 25 MW of power. However, MTOA was not granted by CTU due to constraint in the transmission system in the region.

(g) The petitioner has proceeded to raise the bills of capacity charges on the petitioner for capacity which could not be scheduled on account of non-availability of MTOA;

(h) Learned counsel submitted that the petitioner is saddled with a liability of ₹. 2 crore per month as capacity charges for the 25 MW which cannot be scheduled due to non-availability of MTOA. Learned counsel prayed for an interim order of stay on further billing and recovery of capacity charges for the said 25 MW power during the proceedings of the matter before the Commission.

6. After hearing the counsel for the petitioner, the Commission directed to admit the petition and issue notice to the respondent.

7. Accordingly, the petitioner was directed to serve copy of the petition on the respondent immediately. The respondent was directed to file its reply to the petition on affidavit by 20.9.2013, with an advance copy to the petitioner. The petitioner may file its rejoinder, if any, by 26.9.2013

8. The petition along with IA shall be listed for hearing on 1.10.2013

By Order of the Commission

Sd/-
(T. Rout)
Chief (Law)