

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

Shri V. S. Verma, Member
Shri M. Deena Dayalan, Member
Shri A.S.Bakshi, Member (EO)

Date of Hearing: 11.6.2013

Petition No. 93/MP/2013

Sub: Petition under Section 79 (1) (c) and (k) of the Electricity Act, 2003 read with the Central Electricity Regulatory Commission (Grant of Connectivity, Long term and Medium term open access in inter-State transmission and related matters) Regulations, 2009 for direction for implementation of the open access on the inter-State transmission system of Power Grid Corporation of India Limited.

Petitioner : Central Power Distribution Company of APL Ltd.
(APCPDCL) & others

Respondents : Power Grid Corporation of India and others

Petition No. 96/MP/2013

Sub: Petition under Section 79 (1) (f) and (k) of the Electricity Act, 2003 for directions upon the CTU for permitting flow of power through an alternate source instead of the identified source against the medium term open access already granted.

Petitioner : Corporate Power Limited

Respondents: : Power Grid Corporation of India Limited and others

Parties present : Shri M.G.Ramchandran, Advocate, AP Discoms
Shri Bhanu Prasad, AD Discoms
Shri Sitesh Mukerjee, Advocate, CPL
Shri Hemant Singh, Advocate, CPL
Shri Dilip Rozerkar, PGCIL
Shri Anil Kumar Meena, CTU
Shri Vishwajit Bhattacharya, Senior Advocate, KSK

Shri Anand K.Genesan, Advocate, KSK
Shri S.S. Barpanda, NLDC
Miss Joyti Prasad, NLDC

Record of Proceedings

Learned counsel for the AP Discoms submitted that the Standard Bid Documents and PPA envisage an obligation on the part of Corporate Power Limited (CPL) to arrange power from alternative sources in case there is delay in the commissioning of the power project of CPL for any reasons whatsoever. AP Discoms are not willing to change any type of Medium Term Open Access (MTOA).

2. Learned counsel for CPL submitted that there is no technical limitation, though there is some legal challenge from the point of view of the existing regulations.. Learned counsel for CPL further submitted that Regulation 9 (2) of the Connectivity Regulations provides that Medium-term open access can be granted in the event the resultant power flow can be accommodated in the existing transmission system. In the present case, there is technical feasibility for the power to flow both from Sterlite Energy Limited (sterlite) to the state of Andhra Pradesh or from Sterlite to CPL and then from CPL to the State of Andhra Pradesh

3. The representative of the CTU submitted as under:

(a) CPL was granted MTOA for transfer of 150 MW from its proposed generation project in Jharkhand to AP Discoms. The grant of MOTA was on the basis of the balance available transfer capacity for MTOA of 150 MW between SR and ER/WR.

(b) With the grant of 150 MW to CPL, entire available transfer capability was exhausted. Accordingly, 6 nos of applications for transfer of power from ER/WR to SR for quantum varying from 100-250 MW were rejected.

(c) In terms 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 (Connectivity Regulations), Medium-term Open Access (MTOA) means the right to use the inter-State transmission system for a period exceeding three months but not exceeding

three years. MTOA customer means a person who has been granted Medium - term open access.

(d) CPL is a MOTA customer having been granted MTOA access rights for transfer of power for a period starting from 16.6.2013 to 15.6.2016.

(e) In terms of Regulation 19 (1) of the Connectivity Regulations, applicant is required to indicate the point of injection, point of drawal and quantum of power while seeking MTOA. The firmness of the point of injection has been dealt with by the Commission in the Statement of Reasons which states that "the various types of open access i.e. short term, medium term and long term access are envisaged in the increasing order of firmness." On the question of whether the petitioner has the option to change the point of injection, the Commission in para 94 of the SOR has observed that the term "rights and obligations" has been replaced by access rights. Taking this into account, the transfer of access right is not permissible. It is clear that the access right would have to be surrendered to the nodal agency, which shall deal with the reallocation to the pending applications as per the laid down procedure. On surrendering the access right by the petitioner, the first person in the queue is the Sterlite.

4. Learned counsel for the petitioner submitted that CPL is not seeking transfer of MTOA. The supply of power by the Sterlite is under the PPA of CPL with AP Discoms and all the charges including transmission charges and losses shall also be paid by CPL. Learned counsel submitted that CPL is seeking directions to the CTU to allow wheeling of 150 MW power from Sterlite, which is situated in the ER under the granted MTOA already granted to CPL. Therefore, there is neither any transfer of corridor nor a request to issue a fresh corridor, instead the corridor for which MTOA has been granted can be used for supply of alternate source of power.

5. On the issue of feasibility of transfer of power from the Sterlite to the AP Discoms, the representative of POSOCO submitted that POSOCO was consulted and POSOCO is in agreement with the submission of CTU. The Commission observed that the reply submitted by CTU is on legal aspects of the alternative supply to AP Discoms and not on the feasibility of supply of power physically and technically. The Commission directed the CTU and POSOCO to establish by study whether the power can flow physically and technically from Sterlite to AP Discoms by utilising the MTOA granted to CPL.

6. Learned senior counsel for KSK Mahanadi Power Company Ltd (KSK) submitted that KSK is an affected party as it was decided by CPL as the alternate alternative source of power but was abandoned in favour of Sterlite. Learned senior counsel requested to direct the CPL to implead KSK as the respondent in the petition as its commercial interest has been affected. In response, learned counsel for CPL submitted

that LOI granted to KSK has already been cancelled and thereafter the LOI has been issued to Sterlite. Learned counsel for CPL submitted that if KSK has any grievances against CPL, he should file separate petition.

7. After hearing learned counsel for the parties, the Commission directed CTU and POSOCO to file following information on affidavit, on or before 25.6.2013:

(i) As per the MTOA of 150 MW granted by CTU to CPL which is effective from 16.6.2013, the connectivity with the Grid is mentioned as 'Nankum 400/220 kV sub-station of Power Grid Corporation of India Ltd.' as the injection point. The drawal point for APCPDCL is mentioned as interconnection of APTRANSCO and APCPDCL. In the event of alternate power to be arranged by CPL from alternative source, namely Sterlite generating station at Rourkela, the following issues need to be addressed:

(a) Whether 150 MW power can be scheduled from Rourkela to Ranchi under short term open access to CPL which can be further taken to be injected at Ranchi by using the already approved medium term open access to be transferred to AP Discoms in Southern Region?

(b) If the injection point and the drawl point are changed, what will be the consequence of validity of MTOA?

(c) Against the MTOA granted to CPL, can power arranged by CPL from some other generator be injected at any other point in the Eastern Region against the MOTA already granted to it?

(ii) In the normal course, when the MTOA holder is unable to inject power, he can either relinquish or give intimation to the RLDC for not injecting power. The available corridor should normally be granted to the other MTOA customers waiting in the queue or it should be allotted to Short Term Open Access customers as per requirement and availability. In this context, is it possible for substituting the MTOA holder by some other generator at some other point of injection? Will this amount to transfer of MTOA rights and what would be consequence of allowing such a transfer? Whether this is allowed as per the present regulations?

(iii) Things required to be done by each entity including the petitioner, CTU, RLDCs to facilitate the transfer of alternative power to AP Discoms.

8. CEA and CTU may examine the issue and submit their considered opinion on the ramification of the decision on other cases if relief as prayed for is granted.

9. The Commission further directed CPL to submit the expected duration of supply of power from the alternate source and the expected date of commissioning of its unit/plant on or before 20.6.2013.

10. The Commission directed to list these petitions on 27.6.2013.

By order of the Commission

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