

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.53/MP/2014**

Subject : Petition under Section 79 (1) (b) read with section 79 (1) (c ) and Section 79 (1) (f) of the Electricity Act, 2003, and Article 8 and Article 14 of the Power Purchase Agreement dated 21.3.2013 executed between EMCO Energy Limited and Electricity Department, Dadra and Nagar Haveli for recovery of capacity charges arising due to non-scheduling of power as per the terms of the Power Purchase Agreement.

Date of hearing : 13.5.2014

Coram : Shri Gireesh B. Pradhan, Chairperson  
Shri M.Deena Dayalan, Member  
Shri A.K. Singhal, Member

Petitioner : EMCO Energy Limited

Respondent : DNH Power Distribution Corporation Limited

Parties present : Shri Amit Kapur, Advocate for the petitioner  
Shri Vishrov Mukherjee, Advocate for the petitioner  
Ms.Rimali Batra, Advocate for the petitioner

**Record of Proceedings**

Learned counsel for the petitioner submitted as under:

(a) The present petition has been filed under section 79 (1) (b), (c) and (f) of the Electricity Act, 2003 seeking recovery of capacity charges for the period from November 2013 to February 2014 and continued payment of capacity charges for contracted capacity (200 MW) after February, 2014.

(b) The petitioner has set up a 600 MW thermal power plant in the State of Maharashtra.

(c) The petitioner has a composite scheme for generation and sale of electricity with distribution companies in the States of Maharashtra, Dadra and Nagar Haveli and Tamil Nadu.

(d) On 21.3.2013, a Power Purchase Agreement was executed between the petitioner and the respondent under which the petitioner and the respondent were obliged to arrange transmission facilities up to the delivery point and beyond the delivery point, respectively.

(e) LTOA has been rejected since the transmission system beyond the delivery point does not have sufficient capacity. Therefore, the respondent is refusing to pay capacity charges to the petitioner for the entire contracted capacity on the grounds, namely (i) monthly capacity charges are not payable for the settlement period during which RLDC has not allowed operation of the power station due to seller's failure to operate as per the Grid Code; and (ii) the petitioner has failed to obtain LTOA till the delivery point i.e Ambeti sub-station.

(f) The petitioner's obligation of obtaining LTOA under Article 3.1. (b) and (c) of the PPA is contingent upon the obligation of the respondent to ensure adequate evacuation facility at the delivery point.

(g) If the respondent does not ensure sufficient transmission capacity at its end, the petitioner would not be able to get LTOA. Therefore, the respondent is liable to pay the capacity charges for the contracted capacity for its failure to fulfill its obligations.

(f) Learned counsel for the petitioner requested the Commission to issue notice to the respondent.

2. After hearing learned counsel of the petitioner, the Commission directed to admit the petition and issue notice to the respondent.

3. The Commission directed the petitioner to implead CTU, STU (GETCO) and WRLDC as parties to the petition and serve copy of the petition on them immediately. The Commission also directed the petitioner to file revised memo of parties.

4. The Commission directed the respondent, CTU, STU (GETCO) and WRLDC to file their replies by 5.6.2014 with an advance copy to the petitioner, who may file its rejoinder, if any, on or before 26.6.2014.

5. The petition shall be listed for hearing on 8.7.2014.

By order of the Commission

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