

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 114/MP/2013

Subject : Petition under section 29 and 79 of the Electricity Act, 2003 and the applicable provisions of the Indian Electricity Grid Code.

Date of hearing : 30.9.2014

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

Petitioner : NTPC Limited, New Delhi

Respondents : Western Regional Power Committee, Mumbai and others

Parties present : Shri M.G. Ramachandran, Advocate, NTPC
Ms. Anushree Bardhan, Advocate, NTPC
Ms. Poorva Saigal, Advocate, NTPC
Shri Rajesh Jain, NTPC
Shri Suchitra Maggon, NTPC
Shri Rajnish Bhagat, NTPC
Shri Shyam Kumar, NTPC
Ms. Pragya Singh, Advocate, WRLDC
Shri K. Muralikrishnan, WRLDC
Shri Abilia Zaidi, WRLDC
Shri P.J. Jani, GUVNL
Shri Anurag Naik, MPPMCL
Shri Arvind Banerjee, CSPDCL
Shri Samir Malik, Advocate, MSEDCL

Record of Proceedings

Learned counsel for the petitioner submitted as under:

(a) The present petition has been filed seeking directions in regard to wrong decision taken by the respondents as recorded in the minutes of the meetings of Western Regional Power Committee (WRPC) held on 26.2.2013 and 2.4.2013 relating to the interpretation and application of the provisions of Regulations 21

(4) of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (2009 Tariff Regulations).

(b) Declaration of availability from 1.4.2009 was made under Regulation 21 (4) of the 2009 Tariff Regulations i.e. declaring higher capacity during peak hours. All the declaration given with effect from 1.4.2009 based on peaking capacity.

(c) GUVNL in its reply asking for revising REAs from 1.4.2009 onwards is devoid of merit as GUVNL was a party in WRLDC meetings held on 9.4.2009 and 30.5.2009.

(d) The dispute is only for past period and after 26.2.2013, there is no dispute.

2. The representative of GUVNL argued at length and submitted as under:

(a) In December 2012, it came to the notice of MSEDCL that declared capacity was much more than actual availability. Declaration under Regulation 21 (4) of the 2009 Tariff Regulations due to fuel shortage can only be exercised after due consultation with beneficiaries and only then the concerned load despatch centre may notify availability during peak hours.

(b) The beneficiaries gave their schedule as per Regulation 6.5.3 of Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 (Grid Code). There is no document, which can substantiate that beneficiaries were consulted and they agreed for higher declaration during peak hours. The peak hours would be known in advance and would last for 3 hours in a day i.e. 12 time blocks in a day and it is from 18.30 hours to 21.30 hours as per WRPC. Average schedule of peak hours would be considered as per the declared capacity of the petitioner.

(c) Peak hours is from 18.00 hours to 23.00 hours. Under fuel shortage conditions in Sipat Stage-I and II generating stations, the petitioner has given higher availability than the generation which could be made based on the availability of fuel. The representative of GUVNL referred to certain dates viz. 1.10.2012, 24.10.2012 and 26.10.2012 when such declarations were made.

3. The representative of WRLDC submitted that in 52nd CCM (Commercial Committee Meeting) peak hour declaration was discussed.

4. Learned counsel for MSEDCL submitted that Regulation 21(4) of the 2009 Tariff Regulations relating to fuel shortage condition is a deeming fiction and should be read very prudently. He further submitted that consultation process was not waived off by the beneficiaries. He further submitted that the provisions of Regulation 21 (4) (a) of the 2009 Tariff Regulations have not been complied with and learned counsel placed his reliance on the Hon`ble Supreme Court Judgment on "Consultation".

5. In response, learned counsel for the petitioner denied the allegation that (a) there was no prior consultation and (b) there was over declaration under fuel shortage conditions during peak hours.
6. After hearing the learned counsel and representatives of the parties, the Commission directed the petitioner to file rejoinders to the replies of GUVNL and MSEDCL by 28.11.2014.
7. The Commission directed GUVNL and MSEDCL to file their written submissions by 28.11.2014.
8. The Commission directed that due date of filing the written submissions and rejoinders should be strictly complied with. The written submissions and rejoinders filed after due date shall not be considered.
9. Subject to above, the Commission reserved order in the petition.

By order of the Commission

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