

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 92/MP/2014

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri M. Deena Dayalan, Member

Shri A.K. Singhal, Member

Date of Hearing: 17.7.2014 & 24.7.2014

Date of Order : 8.8.2014

In the Matter of

Petition under Section 79 (1) (c) of the Electricity Act, 2003 and Regulations-32 of the Central Electricity Regulatory Commission (Grant of Connectivity, Long-Term and medium term open access in inter-State transmission and related matters) Regulations, 2009, 'in the matter of arbitrary denial of Medium Term Open Access' violating the provisions of the regulations.

And in the matter of

Kerala State Electricity Board Limited

.....Petitioner

Vs.

1. Powergrid Corporation of India Limited, Gurgaon
2. PTC India Ltd., New Delhi
3. NTPC Vidyut Vyapar Nigam Limited, New Delhi
4. Jindal Power Ltd., Chhattisgarh

....Respondents

Parties present:

1. Ms. Suparna Srivastava, Advocate for KSEB
2. Shri M.G. Ramachandran, Advocate for PGCIL
3. Shri Sanjay Sen, Senior Advocate for DB Power Ltd.
4. Shri Anand K Ganesan, Advocate for KSK Mahanadi
5. Ms.Ranjitha Ramachandran, Advocate for JPL
6. Shri Samir Malick, Advocate for PTC
7. Shri Anurag Gupta, Advocate for NVVN
8. Ms. Anushree Bardhan, Advocate for PGCIL
9. Shri G. Sreenivasan, KSEB
10. Shri Y.K. Sehgal, PGCIL
11. Ms.Manju Gupta, PGCIL
12. Shri P. Panda, DB Power
13. Ms. Shreya Rastogi, JPL
14. Shri Vikas Saksena, JPL
15. Shri Ashish Dev, PTC



ORDER

The petitioner, Kerala State Electricity Board Limited (KSEBL) has filed this petition challenging the denial of grant of Medium Term Open Access (MTOA) by Central Transmission Utility (CTU) to the petitioner. The petitioner has submitted that the denial of MTOA to KSEBL has been in complete violation of the applicable regulations notified by the Commission as well as the Detailed Procedure notified by the CTU with the approval of the Commission.

Case of the Petitioner

2. The petitioner has submitted that KSEBL is the deemed Distribution licensee in the State of Kerala and is also responsible for generation and purchase of power for the entire consumers of the State of Kerala. As part of the efforts to meet the electricity demand of the State of Kerala, the petitioner has been making arrangements to purchase power through traders/generators on long term, medium term and short-term basis as per the prevailing regulations, rules and procedures notified by the Commission from time to time.

3. The petitioner has submitted that in accordance with 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 (hereinafter "Connectivity Regulations") and the Detailed Procedure approved under Regulation 27(1) of the Connectivity Regulations, the petitioner has been submitting the applications to CTU for grant of MTOA since April, 2013 onwards as under:



(a) The petitioner was granted MTOA for 200 MW from 15.6.2013 till 31.5.2014. Since 200 MW was becoming available in June, 2014, Jindal Power Ltd, Respondent No.4, applied on behalf of the petitioner for grant of MTOA for 150 MW for supply of power from its power plant at Chhattisgarh for the period 1.11.2013 to 31.10.2014. As per the information available on the web site of CTU, the details of the MTOA applications received during the month of April, 2013 are as under:

Source	MW	Date of Application	MTOA from	MTOA to	State/ Discom
Sterlite ER	200	30-4-13	1-10-13	29-5-14	AP
Salasar WR	53	30-4-13	1-10-13	29-5-14	AP
JPL WR	250	30-4-13	1-10-13	29-5-14	AP
JPL WR	150	30-4-13	1-10-13	31-10-14	KSEBL

The petitioner has submitted that since ATC of 200 MW was to be available from 1.6.2014 onwards, CTU should have considered the applications for MTOA received during the month of April 2013 and the application made by M/s Jindal Power for 150 MW on behalf of KSEB having the longest duration should have been granted MTOA from 1.6.2014 onwards. The petitioner has submitted that the CTU rejected the MTOA applications received during the month of April, 2013 citing the reason that "Applications closed, as entire ATC has already been allocated". The petitioner has submitted that while denying the application, the CTU did not even consider the additional ATC of 200 MW becoming available from 1.6.2014 onwards due to the expiry of the ongoing MTOA granted to KSEB from 15.6.2013.

(b) During the month of May 2013, CTU granted MTOA to DB Power for supply of power to TANGEDCO for 208 MW from June 2014 onwards against its application for MTOA made on 24.5.2013. The MTOA applications received during the month of May 2013 as per the details available on the website of CTU are as under:

Source	MW	Date of Application	MTOA from	MTOA to	State
IdealEP ER	140	2-5-13	1-8-13	30-6-15	KAR
Sree Cements NR	100	22-5-13	1-11-13	31-5-14	KER
DB Power WR	208	24-5-13	1-11-13	31-10-16	TN
Sterlite ER	200	30-5-13	1-11-13	29-5-14	AP

The petitioner has submitted that out of the above applications, CTU has considered the application made by DB Power for supply of power to Tamil Nadu and allowed MTOA for the entire quantity sought for with effect from 1.6.2014. The petitioner has submitted that it has strong reservations on the procedure adopted by CTU while allocating 208 MW power to M/s DB Power as CTU first rejected all applications received during the month of April, 2013 on the ground that entire ATC has been allocated, but one month later, CTU granted 208 MW to M/s DB Power from June 2014 onwards. The petitioner has submitted that if ATC was available from June 2014 onwards, the MTOA application by M/s Jindal Power on behalf of KSEBL, which was having the longest duration and was applied earlier, should have been considered. The petitioner has requested the Commission to re-examine the refusal of MTOA application made by Jindal Power Limited during April 2014 and grant of MTOA to DB Power in May 2014.

(c) KSEBL had entered into PPA with M/s NVVN and M/s PTC India for procurement of 300 MW and 100 MW respectively through Case-1 bidding route for the period from 1.3.2014 to 28.2.2017. M/s NVVN and M/s PTC India had applied for MTOA vide letter dated 27-06-2013 for transmitting 300 MW from CSPDCL to KSEBL and 100 MW from BALCO, Chhattisgarh to KSEBL from 1.3.2014 to 28.2.2017. CTU vide intimation dated 8.8.2013 had granted MTOA for '3 MW' only from 1.6.2014, instead of '300 MW' applied for from 1.3.2014. However, for the application of M/s PTC India, CTU vide letter dated 8.8.2013 communicated that the entire 1261 MW Available Transfer Capacity for import of power to Southern Region under MTOA had already been allocated till November 2015. The petitioner has submitted that MTOA applications made on 27.6.2013 by M/s NVVN and M/s PTC India deserved to be considered for the following reasons. Firstly, there were no pending applications for LTA as on 30.6.2013. Secondly, the MTOA applications made by M/s NVVN and M/s PTC during June 2013 were of the longest duration from 1.3.2014 to 28.2.2017. Thirdly, MTOA applications made by M/s NVVN and M/s PTC during June 2013 were the first applications made in anticipation of the enhancement in ATC with the commissioning of Raichur-Sholapur 765 kV 2xS/C lines, which was originally scheduled in June 2014. The petitioner has submitted that if CTU had conducted the system studies after receiving the MTOA applications as mandated under Regulation 20 of Connectivity Regulations and Para 16 of the Detailed Procedure, CTU would have been under obligation to grant MTOA to the petitioner from the date of COD of Raichur-Sholapur Transmission system as per first proviso to Regulation 21(1)

of the Connectivity Regulations. However, CTU rejected the applications made on behalf of KSEBL during the month of June 2013 without proper system studies and without following the Connectivity Regulations. The petitioner has sought a direction to the CTU to reconsider the refusal of MTOA applications made on behalf of the petitioner during June 2013.

(d) The petitioner has submitted that M/s NVVN and M/s PTC have filed applications for MTOA on behalf of KSEBL in the month of October 2013, November 2013, December 2013 and February 2014. The details of these applications including their status are given below:

S. No.	Trader	Capacity (MW)	Month of filing of Application	Period of MTOA	Reason for denial
1	M/s PTC India Limited	100	October, 2013	01.04.2014 to 28.02.2017	MTOA has already been allocated for the period till Nov, 2015
2	M/s NVVN	297	November, 2013	01.05.2014 to 28.02.2017	MTOA has already been allocated for the period till Nov, 2015
3	M/s PTC India Limited	100	December, 2013	01.06.2014 to 28.02.2017	MTOA has already been allocated for the period till Nov, 2015
4	M/s NVVN	297	February, 2014	01.08.2014 to 28.02.2017	Reason for denial yet to be received

4. The petitioner has made the following prayers in the petition:

“(1) The denial of Medium Term Open Access (MTOA) by PGCIL (the CTU), on the application made by the trader, M/s NVVN Limited vide its application dated

27-06-2013 and 27-11-2013 on behalf of KSEBL for 300 MW power tied up through CASE-1 Bid route from M/s CSPDCL in Chhattisgarh to KSEBL in Southern region for the period from 1st March, 2014 to 28th February, 2017 may be declared as illegal and cancelled.

(2) The denial of Medium Term Open Access (MTOA) by PGCIL (the CTU), on the application made by the trader, M/s PTC India vide its application dated 27-06-2013, 25-10-2013 and 30-12-2013 on behalf of KSEBL for 100 MW power tied up through CASE-1 Bid route from BALCO in Chhattisgarh to KSEBL in Southern region for the period from 1st March, 2014 to 28th February, 2017 may be declared as illegal and cancelled.

(3) Considering the additional ATC of 208 MW available from 01-06-2014 as stated in the minutes of the Long-term Access Meeting of WR & SR constituents held on 28th March, 2014 for allocation of 150 MW of ATC from 'NEW GRID to SR', 150 MW out of 208 MW ATC may be allocated to M/s Jindal Power Limited considering the MTOA application dated 30-04-2013 on behalf of KSEBL and balance may be allocated to M/s NVVN on behalf of KSEB considering the MTOA application dated 27-06-2013 and 27-11-2013.

(4) Considering the Available Margin of 1250 MW available between 'NEW Grid-SR Grid' from August-2014 onwards as declared by PGCIL vide its communication dated 09-12-2013, necessary direction may be given to

PGCIL to grant MTOA from 1st August, 2014 onwards based on the following applications made on behalf of KSEBL"

(i) MTOA applied by M/s NVVN Limited for 300 MW from CSPDCL in Chhattisgarh to KSEBL in Southern region considering the MTOA applications dated 27-06-2013, 27-11-2013 and 28-02-2014.

(ii) MTOA applied by M/s PTC India for 100 MW from BALCO in Chhattisgarh to KSEBL in Southern region vide the applications dated 27-06-2013, 25-10-2013 and 30-12-2013.

(5) Necessary direction may be issued to the PGCIL as the CTU in the country to strictly follow the regulations and procedures approved by the Commission from time to time for granting MTOA and LTA."

Submission of CTU

5. CTU has submitted that the MTOA required by KSEB was subject to the availability of the transmission capacity with the application of priority as provided in the Connectivity Regulations. Since KSEB has been seeking Open Access on Medium Term basis, the grant of such MTOA is subject to the priority to be given for Long Term Access. CTU has submitted that it had acted consistent with the provisions of the Connectivity Regulations and the procedure laid down for consideration of the MTOA. The principles applied by CTU grant of MTOA are as under:

- (a) The transmission capacity should be available for the period for which the MTOA has been sought;
- (b) The availability of transmission capacity has been agreed to with the Regional Constituent, the CEA and POSOCO;
- (c) The start date of Open Access is in compliance with the timeline specified as per Regulation 19 (2) of the Connectivity Regulations.

6. CTU has submitted that the petitioner has made unwarranted and unjustified allegations against PGCIL/CTU that the application for MTOA was dealt with without proper system study. The matter pertains to the Open Access on the Inter State Transmission System connecting the Western Region to the Southern Region. The available transmission capacity before commissioning of Raichur-Sholapur 2 x S/C Line was 3450 MW and the said capacity was determined in consultation with the Southern Region Power Committee. CTU has further submitted that the agenda incorporating detailed system studies towards the same was circulated on 27.8.2012, which was also made available on PGCIL's website for comments of the constituents. After incorporating the comments/observations received from SRPC, NLDC, SRLDC, ERLDC etc., the TTC and ATC of 3450 MW were declared on 21.12.2012. The revision of TTC/ATC with the commissioning of Raichur-Sholapur 765kV lines was also carried out in consultation with the constituents of the Southern Region and Western Region, CEA, POSOCO, SRPC, WRPC etc. The agenda for the same was circulated on 23.9.2013 which was discussed in the joint meeting held on 3.10.2013. As per the decision during the meeting, the revised study report based on the comments/observations of the stake

holders during the referred meeting was circulated again on 25.10.2013. Further, agenda for determination of TRM was circulated on 18.11.2013 inviting comments on the same. Based on the comments received, TTC, ATC and TRM were declared and published on PGCIL's website on 9.12.2013. CTU has submitted that detailed studies have been carried out each time whenever there was clarity on augmentation that shall enhance import capability of Southern Region from NEW grid. These studies have been carried out involving all the stake holders including KSEB. Having once arrived at the value of TTC and ATC in association with all concerned, the individual applications have been processed based on the margins derived through above detailed studies.

7. As regards the petitioner's contention that the ATC enhancement on account of likely commissioning of Raichur-Sholapur 765 kV 2 x S/C lines should have been computed while processing their MTOA applications made in the month of June 2013, CTU has submitted that synchronization of SR grid with NEW grid which is a major step towards all India synchronisation was effected with lot of uncertainties. This link has been planned for export of power from Southern Region to New grid. However, due to changed scenario on account of large scale delay of generation projects within Southern Region, this change required availability of strengthening in SR and WR. Moreover, the schedule commissioning of PGCIL line was September 2014 which was advanced to meet the grid requirement to December 2013. Coupled with this, there was uncertainty pertaining to commissioning of the circuit being developed by Private Sector Project Developer. According to CTU, this circuit is still not commissioned despite full support from PGCIL. Nevertheless, CTU initiated the exercise for determination of ATC

in September 2013 by circulating the agenda incorporating the detailed studies, which finally culminated in determination of ATC after several rounds of studies involving all the stake holders including KSEB.

8. As regards the processing of the MTOA applications made in different months by the petitioner, CTU has submitted as under:

(a) During the month of April 2013, 4 nos. of applications were received wherein three applications had sought MTOA up to 29.5.2014 and the fourth application of Jindal Power Limited for supply of power to KSEB sought MTOA up to 31.10.2014. While processing the applications it was noticed that the entire ATC of 3450 MW was already allocated under LTA/MTOA up to 31st May 2014. Accordingly, applications seeking MTOA upto 29.5.2014 were closed. For the application of Jindal Power Ltd for supply of power to KSEB, ATC was not available from 1.5.2014 and since the start date was turning out to be beyond one year, the application was closed.

(b) During the month of May 2013, again 4 nos. of applications were received out of which two applications sought MTOA up to 29.5.2014 and 31.5.2014 respectively. Therefore these applications were closed as ATC was not available from 1.5.2014 to 31.5.2014. The third application sought MTOA from 1.8.2013 to 3.6.2015 which was not meeting the time line of 5 months of start date from the month in which application was made and was accordingly closed. The application from DB power sought MTOA from 1.11.2013 to 31.10.2016 and since ATC was getting available from 1.6.2014 on account of completion of MTOA of 211 MW on 31.5.2014, MTOA for 208 MW was granted to DB

power for supply to Tamil Nadu. After this, only 3 MW ATC remained available for allocation.

(c) During the month of June, 2013, 10 nos. of MTOA applications seeking power transfer to Southern Region were received. As per the 2nd proviso to Regulation 10 (1) of the Connectivity Regulations, amongst the MTOA applications received during a month, the applications seeking access for a longer term shall have higher priority. Out of the 10 MTOA applications, 2 nos. of applications by PTC India Ltd. and NTPC Vidyut Vyapar Nigam Limited sought MTOA for 100 MW and 300 MW respectively from 1.3.2014 to 28.2.2017 which was the longest period among all applications. Therefore, these applications were given priority amongst other MTOA applications. While allocating 3 MW on pro rata between above two applications it was seen that one of the applicants was getting less than 1 MW. Hence the entire 3 MW was allocated to NVVN from 1.6.2014 to 28.2.2017. After this allocation, no further ATC was available. Hence subsequent applications were closed on account of non-availability of ATC.

CTU has submitted that it has granted MTOA strictly in accordance with the Connectivity Regulations and the Detailed Procedure.

Interlocutory Application Nos. 25/2014 and 27/2014 by DB Power

9. M/s DB Power has filed IA No. 25/2014 in 92/MP/2014 seeking impleadment in the petition on the ground that the reliefs claimed by the petitioner directly and substantially affect the interests of DB Power and hence DB Power is a necessary party to the proceedings and in the light of the principle of natural justice it has a right to be

heard on merits. DB Power has submitted that CTU has granted it LTA of 36 MW from 1.6.2014 to 31.7.2014 on pro rata basis and from 1.8.2014 to 30.9.2028 from DB Power Limited Chhattisgarh/WR injection point to TANGEDCO/SR drawal point in order to source power to TANGEDCO under a long term PPA dated 19.8.2013 for a quantum of 208 MW for the period starting from 1.2.2014 to 30.9.2028. DB Power has further submitted that since the power supplies were required to be started from 1.2.2014 as per the PPA and the generating station of DB Power was ready to inject power from the said date, DB Power made request to CTU to pre-pone the grant of LTA from 1.8.2014 to some prior date. DB Power has further submitted that since the petitioner has sought quashing of the LTA granted to DB Power in the present petition, any outcome of the petition will affect the interest of the petitioner. DB Power filed IA No. 26/2014 seeking a clarification of the directions of the Commission in RoP dated 12.6.2014 in which it was directed that "the processing of application and grant of LTA by PGCIL shall be subject to the outcome of the petition". Both the IAs were disposed of vide RoP dated 30.6.2014. DB Power was allowed to be impleaded as a party in the petition and was directed to file its reply. The Commission clarified that the observation in para 7 of the RoP dated 12.6.2014 does not amount to stay on processing of applications for long term access by the CTU.

10. DB Power has filed a reply and written submission in the petition. DB Power has submitted that TANGEDCO conducted a bid process in year 2013 under Case-1 bidding route for procuring power on a long term basis. DB Power participated in the process and was selected as L-1 Bidder for supply of 208 MW power at a levelized tariff of ₹4.91

kWh. Thereafter, DB Power filed an application with CTU seeking grant of MTOA on 24.5.2014. DB Power has submitted that on 29.5.2013, TANGEDCO sent a letter to DB Power asking for negotiation in tariff quoted by DB Power. On 10.7.2013, CTU based upon the application filed by DB Power granted MTOA for a quantum of 208 MW for a period starting from 1.6.2014 to 31.10.2016. After refusal of DB Power to negotiate with TANGEDCO, DB Power was issued an LOI dated 18.7.2013 by TANGEDCO for supply of 208 MW of power. DB Power has submitted that the issuance of said LOI was only a formality since post declaration of L-1 status, the contract was in existence by operation of law. After issuance of LOI, a formal PPA was issued by TANGEDCO with DB Power on 19.8.2013. DB Power made a formal application dated 25.11.2013 to CTU for grant of LTA and CTU vide its letter dated 28.11.2013 asked DB Power to relinquish the MTOA granted since the LTA request for the same PPA could not be processed. Accordingly, DB Power relinquished the MTOA vide letter dated 2.12.2013 and CTU granted LTA of 208 MW to DB Power on 20.12.2013. DB Power has submitted that a contract by operation of law existed between DB Power and TANGEDCO the moment DB Power was declared as L-1 bidder on 7.5.2013 and therefore, there was a valid Sale Purchase Agreement between DB Power and TANGEDCO which satisfies the conditions in Para 15.1 of the Detailed Procedure.

Interlocutory Application by EMCO Energy Limited

11. EMCO Energy Limited has filed IA No. 36 of 2014 for impleadment in the present petition. EMCO has submitted that it has applied for LTA to CTU for injection of power at Bhadravathi sub-stations in WR and drawal by TANGEDCO in SR and the grant of

LTA is awaited. If the contentions of the petitioner are accepted, this will cause severe prejudice to EMCO and therefore, it is a necessary party and should be impleaded in the petition as a respondent. We have considered the prayer of EMCO in the IA and are of the view that EMCO is not an applicant for LTA or MTOA during the months which are under dispute in the present petition and therefore, the interest of EMCO is unlikely to be affected. As regards the processing of LTA applications in future, the same will be done by CTU strictly in accordance with the existing Connectivity Regulations and the Detailed Procedure. Accordingly, we reject the request of EMCO for impleadment.

Submission by KSK Mahanadi Power Company Limited

12. KSK Mahanadi Power Company Limited (KMPCL) was permitted by the Commission to file written submission in the matter. KMPCL in its affidavit dated 25.7.2014 has submitted that it had applied for long term access vide its application dated 27.11.2013 for a capacity of 500 MW for the period from 1.6.2014 to 30.9.2028. KMPCL has submitted that the petitioner has applied for MTOA whereas KMPCL has applied for LTA. Since LTA has priority over MTOA, the capacity of 208 MW available from 1.6.2014 should be allowed to LTA applicants. The petitioner in its additional written submission dated 30.7.2014 has submitted that the minutes of the meeting held on 28.3.2014 and 21.5.2014 for Operationalisation of LTA to Southern Region shows that KMPCL is at present not in the readiness for evacuation of power from its generating station and therefore, LTA cannot be operationalized due to inadequacies in the power evacuation system. Therefore, the submission of KMPCL that

operationalisation of LTA is pending on the basis of present petition is without any basis. We have considered the submission of KMPCL and the petitioner. The processing of the applications by CTU for long term access will be considered as per the Connectivity Regulations subject to availability of corridor. As regards, the relative priority between MTOA and LTOA, the same will be dealt with in the subsequent order.

Revision of Detailed Procedure

13. CTU has submitted a proposal for amendment in the Detailed Procedure based on the comments of the stakeholders received on the draft published on the website of CTU on 30.06.2014. The Commission is considering the proposal for amendment of the detailed procedure and accordingly, the issues like inter-se priority of LTA over MTOA and provision for sanctioning part LTA will be dealt in the subsequent order that is to be issued later.

Analysis of the Case

14. We have heard the learned counsel for the petitioner, learned counsel for CTU and learned senior counsel for DB Power Limited and have perused the documents on record including the written submissions filed by the parties. In this order, we propose to deal with the MTOA applications made on behalf of the petitioner during the months of April, May and June 2013. The MTOA applications made in October, 2013 and subsequent thereto will be dealt with in the final order.

15. In prayer (3) of the petition, the petitioner has submitted that considering the additional ATC of 208 MW available from 1.6.2014 as stated in the minutes of the Long Term Access meeting of WR and SR constituents held on 28.3.2014, 150 MW out of 208 MW ATC may be allocated to M/s Jindal Power Limited considering the MTOA application dated 30.4.2013 on behalf of the petitioner and the balance may be allocated to M/s NVVN on behalf of the petitioner considering the MTOA application dated 27.6.2013 and 27.11.2013. CTU in its reply has submitted that the applications made on behalf of the petitioner were strictly dealt with in accordance with the provisions of Connectivity Regulations and the Detailed Procedure. The issues that arise for our consideration are as under:-

- (a) Whether the application dated 30.4.2013 made by M/s Jindal Power Limited on behalf of the petitioner was validly rejected?
- (b) Whether the MTOA granted to DB Power for 208 MW on the basis of its application dated 24.5.2013 was in accordance with the Connectivity Regulations and the Detailed Procedure?
- (c) Whether Regulation 20 of Connectivity Regulations was complied with by CTU while processing and dealing with the MTOA applications?

Issue No.1: Whether the application dated 30.4.2013 made by M/s Jindal Power Limited on behalf of the petitioner was validly rejected?

16. In regard to MTOA applications received by CTU in the month of April 2013, the application made by M/s Jindal Power for 150 MW on behalf of KSEBL was having the

longest duration among all the 4 applications. The duration of MTOA sought was from 1.11.2013 to 31.10.2014. CTU, while processing the applications of MTOA received during April 2013, observed that the entire ATC between NEW Grid and SR for simultaneous import by SR is 3450 MW and out of the same, 2189 MW was allocated through LTA and 1261 MW was allocated through MTOA up to 31.5. 2014. CTU has submitted that while processing the applications, it was noticed that the entire ATC of 3450 MW was already allocated under LTA/MTOA up to 31st May 2014 and accordingly, applications seeking MTOA upto 29.5.2014 were closed. We have considered the submissions of the petitioner and the CTU. For the application of Jindal Power Ltd for supply of power to KSEB, ATC was available from 1.6.2014 and since the start date was turning out to be beyond one year, the application was closed. As per Regulation 19 (2) of the Connectivity Regulations, the start date of the medium-term open access shall not be earlier than 5 months and not later than 1 year from the last day of the month in which application has been made. The last day of the month in which application was made by DB Power was 30.4.2013. As per Regulation 19(2) of Connectivity Regulations, start date of MTOA cannot be earlier than five months and not later than one year counted from 30.4.2013. The period of five months shall commence from 0000 hrs between 30.4.2013 and 1.5.2013 and shall end on 30.9.2013. The other date of the time band for start date is 'not later than one year' which shall commence from 0000 hrs between 30.4.2013 and 1.5.2013 and terminate on 31.5.2014. MTOA can be availed between from 0000 hrs of 1.10.2013 and 2359 hrs of 30.4.2014. This point has been explained while dealing with the MTOA applications for the month of May 2013. The corridor was available on 1.6.2014 which is beyond one year reckoned from

30.4.2013 as the application was made in April 2013. Therefore, we do not find any infirmity in the decision of CTU to close the application of Jindal Power Limited made during April 2013 for supply of power to the petitioner. Accordingly, the application of Jindal Power on behalf of KSEBL was rightly closed by CTU as per Regulation 19 (2) of Connectivity Regulations.

Issue No.2: Whether the MTOA granted to DB Power for 208 MW on the basis of its application dated 24.5.2013 was in accordance with the Connectivity Regulations and the Detailed Procedure?

17. The details of applications received by CTU for MTOA during the month of May 2013 are as under:

Source	MW	Date of Application	MTOA from	MTOA to	State
IdealEP ER	140	2-5-13	1-8-13	30-6-15	KAR
Sree Cements NR	100	22-5-13	1-11-13	31-5-14	KER
DB Power WR	208	24-5-13	1-11-13	31-10-16	TN
Sterlite ER	200	30-5-13	1-11-13	29-5-14	AP

Out of the above, CTU has granted MTOA to DB Power for 208 MW commencing from 1.6.2014.

18. The petitioner has contested the grant of MTOA to DB Power w.e.f. 1.6.2014 on the basis of the application made on 24.5.2013 on the ground that the same has been granted without following the provisions of the Connectivity Regulations and Detailed Procedure. The Commission in the Record of Proceeding for the hearing dated 30.1.2014 had raised the following two queries with regard to the grant of MTOA to DB Power w.e.f. 1.6.2014:

(a) Reason for grant of MTOA to DB Power from a date which was beyond one year from the last day of month of application.

(b) Whether DB Power Limited had valid PPA at the time of grant of MTOA based on its application in May, 2013?

19. CTU in its affidavit dated 16.7.2014 has submitted the following with regard to the query (a) above:

"(i) During the month of May, 2013, 4 nos. of applications were received. While processing the applications it was seen that the entire Available Transfer Capability (ATC) of 3450 MW between NEW Grid & SR was already allocated under LTA/MTOA upto 31st May, 2014. Out of the ATC of above 3450 MW, 211 MW was getting expired on 31st May, 2014. Out of the above 4 nos. applications, two applicants sought MTOA upto 29.5.2014 & 31.5.2014. Accordingly, application seeking MTOA upto 31.5.2014 were closed. The third application sought MTOA from 1.8.2013 to 30.6.2015 which was not meeting the time line of 5 months of start date from the month in which application was made. The remaining application from DB Power sought MTOA from 1.11.2013 to 31.10.2016 and as mentioned above. ATE was getting available from 1.6.2014 on account of expiry of MTOA of 211 MW on 31.5.2014. Accordingly, MTOA for 208 MW was granted to DB Power for power supply to Tamil Nadu. After this 3 MW ATC remained available for allocation.

(ii) In regard to the above, the Medium Term Open Access Regulations notified by this Hon'ble Commission in Regulation 19 provides as under:-

19. Application for Medium-term Open Access

(1) The application for grant of medium-term open access shall contain such details as may be laid down under the detailed procedure and shall, in particular, include the point of injection into the grid, point of drawal from the grid and the quantum of power for which medium-term open access has been applied for.

(2) The start date of the medium-term open access shall not be earlier than 5 months and not later than 1 year from the last day of the month in which application has been made.

(iii) The salient feature of the above requirements is that the Start Date of the MTOA is to be calculated with reference to the last day of the month in which the applications are received. This would necessarily mean that the Cut Off Date for consideration of the application with reference to the "not earlier five months" and "not later than one year"

need to be considered from the next day of the last day of the month in which the application has been made. Simply stated, the requirements under Regulation 19(2) is that the five months limit would mean that if an application is filed on the last day say 31.5.2013, it would be 1.11.2013. The one year period would be 1.6.2014. The full effect has been given to five months and one year. It cannot be 30.10.2013 in the case of five months or 31.5.2014 in the case of one year.

(iv) In regard to the above, it is important note that the application can be filed for Open Access demand from 1.6.2014 at any time during the month of May 2013. Even before one year in absolute the terms the application will be deemed to have been made on 31.5.2013. There has to be one full year to be counted. If the application is made on say 4 O'clock on 31.5.2013, the full one year cannot be counted to expire on 31.5.2014 at 4 O'clock. The full one year will have to be a clear one year commencing from the date after the date of the application, namely, 0000 hrs of 1.6.2013 to 2400 hrs of 31.5.2014. If otherwise, the 365 days required to compute an year will not be satisfied. If there is a reference to a day, month or year it is to be a complete day (24 hours) or a complete month (30 or 31 days x 24 hours) or a complete year, namely, 365 days x 24 hrs. 2400 hrs of 31.05.2014 coincides with the 0000 hrs of 01.06.2014, the instant when the corridor was available.

.....
(vii) In Pioneer Motors v. Municipal Council AIR 1967 SC 684 the Hon'ble Supreme Court has held as under:

The words "not being less than one month" in the proviso to S. 78 implied the necessity for one clear month's notice excluding the first and last day of the month but the use of the words "reasonable period" before the words "not being less than one month" showed that the time given must be reasonable. In view of the facts of the case the period allowed must be regarded as reasonable and to have complied with the provision which is directory in its later part.

Accordingly both 31 May 2013 and 31 May 2014 need to be excluded in computation of one year.

(viii) It is most respectfully submitted that the present issue relating to the interpretation of Regulation 19 (2) ought not to be raised in the present proceedings where the issue challenged by the Objectors are on different grounds. These matters could be left to be decided by the Central Transmission utility and if the interpretation adopted by the Central Transmission utility is a plausible interpretation, the Commission may allow such interpretation to be implemented. If otherwise, as mentioned herein above, the Commission may issue a clarification or amendment to the Regulation where upon the Central Transmission Utility will be bound to follow the same."

20. The petitioner has submitted that the calculation of the period of operationlizing of MTOA as contended by CTU is not correct. The petitioner has submitted that as per Regulation 19 (2) of the Connectivity Regulations, the period of operationalization of



MTOA is thus fixed within a time-band of "not earlier than 5 months" and "not later than 1 year". In common parlance, the term "not earlier than" is understood to include the last day of the specified period and the term "not later than" is understood to mean within the specified period and not beyond. In this connection, the learned counsel for the petitioner has relied upon the judgments of the Supreme Court in *Jai Charan Lal Anal Vs. State of Uttar Pradesh* [AIR 1968 SC 5] and *Harinder Singh Vs. Karnail Singh* [AIR 1957 SC 271]. The petitioner has submitted that by applying the dictums of the Hon'ble Supreme Court in the above noted judgments to the provision of Regulation 19(2) of the 2009 Regulations, the position that emerges is that the expression "not earlier than 5 months" requires that the last day of the 5th month is also to be counted. As such, for an application made in the month of May in respect of which the last day of the month is 31st May, the period of 5 months begins from 1st June and ends on 31st October, meaning thereby that the MTOA cannot be operationalized earlier than 1st November. Similarly, the expression "not later than 1 year" requires that the operationalization must be within 1 year. For an application made in the month of May in respect of which the last day of the month is 31st May, the period of 1 year would begin from 1st June of the year and end on 31st May of the next year. The operationalization of MTOA would thus necessarily need to be within 1st November of that year and 31st May of the next year. The petitioner has submitted that in the event the operationalization is permitted from 1st June of the next year, the same would be beyond the time-band provided in Regulation 19(2) and as such, would be in violation of the Regulation.

21. DB Power in its written submission has submitted the following with respect to the processing of the application for the month of May 2013:

"(b) In the month of May, 2013, as per the affidavit of CTU dated 30.6.2014, again 4 nos. of applications were received seeking MTOA. Out of these, 2 applications sought MTOA upto 29.5.2014 and 30.5.2014, which were closed since there was no ATC available, as mentioned above, upto the said dates. CTU further states that the third application sought MTOA from 1.8.2013 to 30.6.2015 and as such the same was not meeting the time lines specified in Regulation 19 (2) of the Connectivity Regulations, 2009, and hence the same was rejected. Thereafter, only the application of DB Power, which had sought MTOA from 1.11.2013 to 31.10.2016, was remaining, and as stated above, the ATC of 211 MW was getting available from 1.6.2014. Hence DB Power was granted MTOA since the 1 year period mentioned in Regulation 19 (2) of the Connectivity Regulations, 2009 started from 0000 hrs. of 31.5.2013 to 0000 hrs of 1.6.2014, and the ATC was getting available from 0000 hrs of 1.6.2014."

22. We have considered the submissions of the parties. MTOA is to be granted as per the provisions of Regulations 9, 19 and 20 of Connectivity Regulations and paragraphs 14 and 15 of the Detailed Procedure for making application for Grant of Medium Term Open Access to ISTS. Regulation 9 (2) of the Connectivity Regulations specifies the criteria for grant of MTOA which is extracted as under:

"9(2): Criteria for granting Medium Term Open Access

Medium-term open access shall be granted if the resultant power flow can be accommodated in the existing transmission system or the transmission system under execution:

Provided that no augmentation shall be carried out to the transmission system for the sole purpose of granting medium-term open access;

Provided further that construction of a dedicated transmission line shall not be construed as augmentation of the transmission system for the purpose of this regulation.'

The applications for MTOA have to be made as per Regulation 19 of the Connectivity

Regulations which is extracted as under:-

"19: Application for Medium-term Open Access

(1) The application for grant of medium-term open access shall contain such details as may be laid down under the detailed procedure and shall, in particular, include the point of injection into the grid, point of drawal from the grid and the quantum of power for which medium-term open access has been applied for.

(2) The start date of the medium-term open access shall not be earlier than 5 months and not later than 1 year from the last day of the month in which application has been made."

23. On receipt of the applications for MTOA, the CTU is required to conduct system study for grant of MTOA to any applicant as per Regulation 20 of the Connectivity

Regulations which is extracted as under:-

"20: System Studies by the Nodal Agency

On receipt of the application, the nodal agency shall, in consultation and through coordination with other agencies involved in inter-State transmission system to be used, including State Transmission Utility, if the State network is likely to be used, process the application and carry out the necessary system studies as expeditiously as possible so as to ensure that the decision to grant or refuse medium-term open access is made within the timeframe specified in regulation 7:

Provided that in case the nodal agency faces any difficulty in the process of consultation or coordination, it may approach the Commission for appropriate directions."

24. Para 14 of the Detailed Procedure deals with the time lines for processing the MTOA applications, which is extracted below:

"14.1. The start date of MTOA shall not be earlier than 5 months and later than 1 year from the last day of the month in which application has been made.

14.2. All applications shall be processed on first-come-first-served basis provided that the applications received during a month shall be construed to have come together on the last day of the month. For all the applications received during a month (1st month), CTU shall carry out the studies and circulate the results to the concerned STUs/RLDCs for seeking their comments by 15th day of the 2nd month. The comments on the studies shall be received up to 25th of the 2nd month. After reviewing the comments, the decision on grant of MTOA shall be intimated to the applicant as well as to concerned RLDCs/STUs by the 10th day of the 3rd month. The intimation shall be provisional and shall be applicable only after signing of necessary agreements and submission of requisite BG.

14.3. Provided that while processing applications for MTOA received during a month, those seeking access for a longer time shall have a higher priority.

14.4. Incomplete applications shall be rejected mentioning reason for rejections to the applicant."

25. Para 15 of the Detailed Procedure deals with the Application for processing the MTOA applications, which is extracted below:

"15.1. Documents to be submitted along with the application:

- Duly filled in Application in specified format. **Incomplete application shall be rejected.**
- Proof of payment of Application fee
- Concurrence from SLDC/SLDCs as applicable
- PPA or Sale-purchase agreement of power
- In case of generating station or consumer not already connected to grid, documentary evidence for completion of the connectivity showing that the same shall be completed before intending date of MTOA"

26. In the light of the above provisions of the Connectivity Regulations and the Detailed Procedure, we have to consider whether CTU has complied with the regulations and procedure while granting the medium term open access to DB Power w.e.f. 1.6.2014 based on its application made on 24.5.2013. As per Para 14.2 of the Detailed Procedure, all applications for grant of Medium Term Open Access to ISTS shall be processed on first-come-first-served basis provided that the applications

received during a month shall be construed to have come together on the last day of the month. Therefore, all applications received during a month are deemed to have been made on the last day of the month. Regulation 19(2) of CERC Connectivity Regulations provides as under:

“(2) The start date of the medium-term open access shall not be "earlier than 5 months and not later than 1 year" from the last day of the month in which application has been made.”

It is apparent from the above that the start date has to be reckoned ‘from’ the last date of the month in which the application has been made. The start date of MTOA will be within a time band which shall be “not earlier than 5 months and not later than one year” from the last date of the month in which the application has been made. Section 9 of the General Clauses Act, 1897 deals with the commencement and termination of time for doing an act which reads as under:

“(1) In any Central Act or Regulations made after the commencement of this Act, it shall be sufficient, for the purpose of excluding the first in the series of the days or any other period of time to use the word “from” and, for the purpose of including in the last in a series of days or any other period of time, to use the word “to”.

27. Hon’ble Rajasthan High Court in the matter of Sureshchandra and Others Vs. Birdichand & Others {AIR 1965 Raj 229} after considering the relevant passages in the Halsbury’s Laws of England and Maxwell on Interpretation of Statutes has made the following observations with regard to computation of time:

“5. It will thus be seen from the above passages that there are two distinct categories of cases. In one category fall the cases where an act has to be done on or after the expiration of particular prescribed period and the other category comprises of cases where a thing is permitted to be done within a stated period. It has been held that where an act could be done only after the expiry of a stated period, both terminal days are to be excluded. But in the second category of cases, while the first terminal day is excluded, the last day of the prescribed period is to be included and it is permissible to do the act only before the last day expires.”

Applying the above principles to Regulation 19(2) of the Connectivity Regulations, it would mean that the expression “not earlier than five months” will fall under the first category as the start date of MTOA can commence only after expiry of five months. In this case, application was made by DB Power on 24.5.2013 and therefore, the last date of the month of the application is 31.5.2013. For calculating “not earlier than 5 months”, both terminal days i.e. 31.5.2013 and 31.10.2013 will have to be excluded and MTOA shall commence from 1.11.2013. The expression “not later than one year” falls under the second category as the MTOA has to be commenced within one year. Therefore, while the first terminal day i.e. 31.5.2013 is to be excluded, the last day of the year i.e.31.5.2014 is to be included and the MTOA has to commence before expiry of the last day i.e. before 0000 hrs between 31.5.2014 and 1.6.2014.

28. The dispute between the petitioner and the CTU is with regard to the interpretation of the words "not later than one year". In the case of H.H. Raja Harinder Singh Vs. S. Karnail Singh, the Hon'ble Supreme Court was considering the true character of the words "not later than 14 days" and "within a period of 14 days" in connection with the filing of an election petition, that is the time within which an election petition can be presented. The Hon'ble Supreme Court observed that both the expressions meant the same thing. The observations of the Supreme Court are as follows:

"5. This argument proceeds on an interpretation of Section 10 of the General Clauses Act which, in our opinion, is erroneous. Broadly stated, the object of the section is, to enable a person to do what he could have done on a holiday, on the next working day. Where, therefore, a period is prescribed for the performance of an act in a Court or office, and that period expires on a holiday, then according to the section the act should

be considered to have been done within that period, if it is done on the next day on which the Court or office is open. For that section to apply, therefore, all this is requisite is that there should be a period prescribed, and that period should expire on a holiday. Now, it cannot be denied that the period of fourteen days provided in Rule 119 (a) for presentation of an election petition is the period prescribed, and that is its true character, whether the words used are "within fourteen days" or "not later than fourteen days". That the distinction sought to be made by the appellant between these two expressions is without substance will be clear beyond all doubt, when regard is had to Section 81 of the Act. Section 81 (1) enacts that the election petition may be presented "within such time as may be prescribed", and it is under this section that Rule 119 has been framed. It is obvious that the rule-making authority could not have intended to go further than what the section itself had enacted, and if the language of the Rule is construed in conjunction with and under the coverage of the section under which it is framed, the words "not later than fourteen days" must be held to mean the same thing as "within a period of fourteen days". Reference in this connection should be made to the heading of Rule 119 which is "time within which an election petition shall be presented". We entertain no doubt that the Legislature has used both the expressions as meaning the same thing, and there are accordingly no grounds for holding that Section 10 is not applicable to petitions falling within Rule 119". (emphasis supported)

29. The judgment quoted above supports the view that the period of "not later than one year" used in Regulation 19 (2) of the Connectivity Regulations will mean that the MTOA will have to be operationalized "within a period of one year". While computing the period of one year, the first terminal date i.e. the last date of the month in which the application is made is to be excluded and the last date of the year has to be included. Therefore, in case of applications made in May 2013, the MTOA shall be operationalized between 1.11.2013 and 31.5.2014(upto midnight). In view of this, CTU could not have allowed operationalization of MTOA of DB Power w.e.f. 1.6.2014 based on the application made during May, 2013 as it is clearly not permissible under Regulation 19 (2) of the Connectivity Regulations.

30. Learned counsel for CTU has argued that the interpretation of "not later than 1 year" with reference to 31.5.2013 will be 1.6.2014. CTU has relied on the judgment of

the Supreme Court in Pioneer Motors Vs. Municipal Council {AIR 1967 SC 684} in support of its contention that both 31.5.2013 and 31.5.2014 need to be excluded for computation of one year. CTU in its written submission has also relied upon the following judgements:

- (a) Mansrlike Ltd V Le Vitas Travel Agency and Consultancy Services Ltd {1986(1) All England Report 573}
- (b) Prabhu Dayal Seshma V State of rajasthan & Another {1986 (3) SCR 665}
- (c) Bedding Vs Mc Carthy {1995 (27) HLR 103}
- (d) Province of Bengal V Midnapore Zamindari Company Ltd. { 1985 CAL 341}

31. We have gone through the judgments relied upon by the learned counsel for CTU. The Supreme Court in Pioneer Motors Vs. Municipal Council has interpreted the words "not being less than 1 month" in the above referred judgment as one clear month. However, the expression used in Regulation 19 (2) is "not later than 1 year" which is different from the words "not being less than one month". In the case of Mansrlike Ltd, the words "within a period of three months" were interpreted to mean during a period of three months and it was held that if someone is required to vacate the premises within or during a specified period, he will comply with the requirement by walking out of the door either before, or on, the stroke of midnight on the last day of that period. If the expression "not later than one year" is interpreted to mean "within a period of one year", then the MTOA has to start on or before the stroke of midnight of the last day of one year and it cannot spill to the next day as has been contended by CTU. In our view, this

judgement supports the interpretation of the petitioner. In Prabhu Dayal Sesma's case, the Supreme Court has held that fraction of a day should be omitted for computation of time in years or months in the sense that fraction of the day shall be treated as a full day. Extending this judgement, CTU has argued that if the application is filed at 5 PM on 31.5.2013, the year would expire, by calculating 365 days of 24 hours, on 31.5.2014 and since the open access cannot be granted from 5 PM on 31.5.2014, it has to be granted only from 1.6.2014. In our view, the interpretation of CTU is not correct as it is based on the assumption that a period of one year has to expire for commencement of open access from the last date of the month when the application was made. On the contrary, the expression used in Regulation 19(2) is 'not later than one year' which means that the start date of MTOA must commence before the expiry one year i.e. in this case before the midnight between 31.5.2014 and 1.6.2014. The judgement in Beeding Vs Mc Carthy deals with whether the fraction of a day should be disregarded or not. This judgement is not relevant in the present case as the fraction of a day is not an issue in calculating the period of one year in the context of Regulation 19(2) of Connectivity Regulations. The said regulation provides that all applications made during a month shall be treated as if the applications have been made during last day of the month. Since the period of one year has to be counted from the last date of the month, considering the interpretation of the word 'from' in section 9 of the General Clauses Act, 1897, the first terminal day shall be ignored and the period shall be counted from the midnight of the next day till the midnight of the 365th day. In case of applications made during May 2013, the applications shall be deemed to have been made on 31.5.2013 and for the purpose of counting one year, 31.5.2013 shall be ignored and the period of

one year shall commence from 0000 hrs of 1.6.2013 and terminate before 0000 hrs between 31.5.2014 and 1.6.2014. In the case of Province of Bengal V Midnapore Zamindari Company Ltd., the question for interpretation was the notice period of two months under section 80 of the Code of Civil Procedure, 1908. In the said judgement, it has been held that the period of two months under section 80 of CPC shall be exclusive of the date on which notice was served and a suit brought on 11.1.1939 when the notice was served on 11.11.1938 would be premature. It may be noted that section 80 of CPC provides for “until the expiration of two months after notice in writing has been delivered or left at the office of”. Thus the section visualizes a period of clear cut two months between the notice and the institution of the suit. The present case is different as it requires the commencement of start date of MTOA anytime “not earlier than five months and not later than one year”. In other words, an MTOA applicant is not required to wait till expiry of one year from the last date of the month of application for commencement of MTOA as contended by CTU. The MTOA has to be commenced within one year.

Power Purchase Agreement

32. The next question is whether the application of DB Power made in May 2013 was complete in all respects as per the Connectivity Regulations and the Detailed Procedure. Para 15.1 of the Detailed Procedure requires the applicant for MTOA to file certain documents alongwith the application as under:

"15.1 Documents to be submitted alongwith the application:

- (a) Duly filled in application in specified format. Incomplete application shall be rejected.
- (b) Proof of payment of Application Fee.
- (c) Concurrence from SLDC/SLDCs as applicable
- (d) PPA or Sale Purchase Agreement of power

(e) In case of generating stations or consumers not already connected to the grid, documentary evidence for completion of connectivity showing that the same shall be completed before intended date of PPA."

33. It is apparent from the above that the application for MTOA shall be accompanied by either a PPA or Sale Purchase Agreement of power. In response to the Commission's query as to whether DB Power had a valid PPA at the time of grant of MTOA based on its application in May 2013, CTU has submitted as under:-

"(i) The Detailed Procedure notified with the approval of the Commission at Clause 7 provides for the documents to be submitted along with the application for grant of Medium Term Open Access, inter alia including the following:

"PPA or Sale Purchase Agreement for power".

(ii) In terms of the above besides a duly executed formal Power Purchase Agreement, there can be a Sale Purchase Agreement, there can be a Sale Purchase Agreement to satisfy the condition for making the application for grant of Open Access. In a tariff based competitive bidding process as per Section 63 of the Electricity Act, 2003 read with the Guidelines of the Central Government, the bid given by the bidders are to be kept valid for acceptance by the procurer for a specified period of time. The bid cannot be withdrawn by the bidder during the bid validity period. There is, therefore, a bidding sale offer by the bidder who had participated in the bidding process and quoted the tariff. If the bidder is L-1, the procurer can proceed to negotiate and finalize the agreement only with the L-1 bidder. The process cannot prefer other bidders to L-1 bidders. This has been specifically provided in the CVC Guidelines and has been the consistent practice. Once the procurer begins to negotiate with L-1 bidder, all other terms and conditions gets firmed up except the reduction in the quoted tariff which may be mutually agreed to bring it in line with the margin provided in the bid terms and conditions. Except for the above, there is an agreement to sell and purchase. In this regard, the Hon'ble Appellate Tribunal for Electricity has held that the nature of competitive bidding is that the State Commission is required to adopt the tariff.

.....

(iv) In the above context, there has been a valid Sale Purchase Agreement between the parties as envisaged under Clause 7 of the Detailed Procedure though the PPA was to be executed later."

34. DB Power in its written submission has submitted that the provisions of para 15 of the Detailed Procedure relates to the submission of a PPA or Sale Purchase Agreement of Power. DB Power has stated that in the present case a concluded PPA



was not in existence but there was a valid Sale Purchase Agreement. It has been submitted that the moment DB Power was selected L-1 bidder on 7.5.2013, a contract by operation of law (competitive bidding guidelines read with Section 63 of the Electricity Act, 2003) had already taken place. DB Power has relied upon the judgment of the Appellate Tribunal of Electricity in Appeal No. 106 of 2011 (Vidharbha Industries Power Limited Vs. MERC & Ors.) in support of its contention that negotiation carried out pursuant to the opening of financial bids is wrong and issuance of Lol to L-1 bidder is a formality. DB Power submitted that a Sale Purchase Agreement which is required under para 15.1 of the Detailed Procedure stood existed between DB Power and TANGEDCO post opening of financial bids on 7.5.2014, and the CTU correctly granted DB Power the MTOA.

35. The petitioner has submitted that the contention of CTU is inconsistent with the provisions of the guidelines notified by the Government of India, Ministry of Power for procurement of power under Case-1 and Case-2 routes. Para 5.15 of the guidelines provides that "the bidder who has quoted lowest levelized tariff as per evaluation procedure, shall be considered for the award. The evaluation committee shall have the right to reject all price bids if the rates quoted are not aligned to the prevailing market prices." The petitioner has submitted that in the light of the above guidelines, the L-1 bidder is therefore the one who is to be considered for the award and not who has been awarded the contract for supply of power. The petitioner has submitted that the participation in the bid and emerging as L-1 in the process alone cannot be considered as a valid Sale Purchase Agreement as contended by CTU. The petitioner has further

submitted that Sale Purchase Agreement connotes a concluded bargain where there is consideration for acceptance of a proposal. However, where the rates are still being negotiated with L-1 bidder and the consideration is yet to come into existence, there cannot be a concluded bargain so as to bring it within the meaning of an agreement.

36. We have considered the submission of the parties. The chronology of events leading to grant of MTOA to M/s DB Power is as given below:

Date	Event
07.05.2013	Financial Bid Opening by TANGEDCO and M/s DB Power declared as L-1 Bidder. The supply was to commence w.e.f. 01.02.2014 for a period of 15 years up to 30.9.2028
24.05.2013	Application by DB Power for grant of MTOA
29.5.2013	DB Power's letter to CTU stating that DB Power is L1 bidder and TANGEDCO is in the process of completion of necessary formalities.
30.05.2013	Letter to CTU submitting a Letter of TANGEDCO for negotiations on 4.6.2013
09.7.2013	Letter to CTU stating LOI would take some time.
10.07.2013	Grant of MTOA to DB Power
18.07.2013	Issuance of LOI by TANGEDCO
19.08.2013	PPA executed between DB Power and TANGEDCO
23.08.2013	Submission of PPA for grant of LTA to CTU
25.11.2013	Fresh Application for LTA as per format
28.11.2013	Letter from CTU to DB Power wherein DB Power was advised to relinquish the MTOA so that the LTA application can be considered.
20.12.2013	LTA granted to DB Power for a quantum of 208 MW

37. It is apparent from the above table that DB Power had applied for MTOA on 24.5.2013 without the application being accompanied by either a PPA or a Sale Purchase Agreement. The PPA was executed between DB Power and TANGEDCO on 19.8.2013 and the PPA was submitted to the CTU on 23.8.2013 for grant of LTA. It is the admitted case of DB Power that there was no PPA in existence on the date of making the application for MTOA. However, both CTU and DB Power have extensively

argued that a Sale Purchase Agreement was in existence by operation of law on the date of the application for MTOA. We have examined the following documents placed on record to see whether any sale purchase agreement was in existence on the date of making the application for MTOA in May, 2013:

(a) DB Power has submitted while filing the application on 24.5.2013 to CTU on affidavit that "we have been selected as L1 bidder in the long term tender No: Tender 03/PPLT/2012 invited by TANGEDCO for supply of Power for a period for 15 years commencing from 1st October, 2013 to 30th September, 2028."

(b) In its letter dated 29.05.2013, DB Power has written to CTU as under:-

"In continuation to our application for Grant of Medium Term Open Access dated 24th May, 2013, we would like to submit that we have been selected as L1 bidder in the long term tender invited by TANGEDCO for supply of power for a period of 15 years commencing from 1st October, 2013 to 30th September, 2028. TANGEDCO is in the process of completion of necessary formalities to issue Letter of Intent (LOI), therefore within 30-60 days from the date of our application.

In the meantime we request you to kindly process our application and grant us MTOA as requested in our application."

(c) In its letter dated 30.05.2013 to CTU, M/s DB Power has enclosed the letter dated 29.05.2013 from TANGEDCO and has submitted as under:-

"In continuation to our application for Grant of Medium Term Open Access dated 24th May, 2013, we are submitting the Letter Ref. Lr. No. CE/PPP/SE/ PP/F.03/PPLT/2012/D.33/13 dated 29.5.2013 from Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) to L1-Bidder, DB Power Limited (DBPL) to finalize the financial bid of tender No. 03/PPLT/2012."

(d) The contents of the letter dated 29.5.2013 written by TANGEDCO to DB Power is extracted as under:-

"On review of your financial bid, it is found that the levelized tariff is on the higher side compared to other states levelized tariff in case-1 bidding.

In this regard it is proposed to conduct a negotiation meeting with you to finalize the financial bid of tender no.03/PPLT/2012. The meeting will be held on 04.06.2013 @ 12.00 Hrs at the chamber of Director/Distribution, 10th Floor, 144, Anna salai, Chennai-2.

You are requested to depute a person who is authorized to take a decision at the negotiation meeting itself and to offer final negotiated rate to finalise the financial bid across the table.

On negotiation, it is to be noted that the ratio of maximum and minimum quoted negotiated capacity charges shall not be less than 0.7. All other conditions of tender remain unaltered."

(e) The DB Power in its letter dated 30.6.2014 has intimated the CTU regarding further negotiation with TANGEDCO as under:-

"With reference to our MTOA application and our above cited letter, we would like to inform you about that TANGEDCO has initiated the process of negotiation with all the developers and we have been informed that Letter of Intent will be issued only after the completion of negotiation process with all the selected bidders. Therefore, TANGEDCO may take some more time to issue Letter of Intent and to sign PPA".

(f) Further DB Power in its letter dated 9.7.2013 has intimated the CTU as under:-

"Please refer to our application for MTOA dated 24.5.2013.

In this regard we have already submitted an affidavit along with application.

Further to this please find enclosed the news cutting in 2 newspapers: Business Line dated 1st July and the Hindu dated 9th July, 2013 confirming that we are L-1 in the Tamil Nadu bid for the purchase of 208 MW of power.

The process of obtaining LOI from Tamil Nadu is taking some time and we assure you that we will be submitting the LOI and subsequently the PPA shortly.

Keeping in view that the start of the MTOA has some time gap and also keeping in view the power shortage in the State of Tamil Nadu, it is requested that you kindly consider our MTOA case."

(g) DB Power vide its letter dated 18.7.2013 approached the CTU for modification of the LTA application based on the letter of intent issued by TANGEDCO for



purchase of 208 MW power from DB Power. Alongwith the letter DB Power has enclosed a copy of the letter dated 18.7.2013 from TANGEDCO issuing the LOI to DB Power. The letter of TANGEDCO is extracted as under:-

"Adverting to the tender and your offer cited under reference, I acting on behalf and as per the directions of TANGEDCO, accept to procure 208 MW RTC power from M/s. DB Power Ltd as per the offer made in the financial bid in the long term Tender No. 03/PPLT/2012 for the period from 1.10.2013 to 30.9.2028.

The accepted rates are furnished in the Annexure enclosed to the Lol.

You are hereby requested to accept the Letter of Intent unconditionally and record on one copy of the Letter of Intent "Accepted Unconditionally", under the signature of the authorized signatory of M/s. DB Power Ltd and return the signed copy of the TANGEDCO within seven days of issue of Letter of Intent as per clause 3.5.10 of RFP.

As per clause 2.13.1 of RFP dated 21.12.2012 within 30 days of issue of LOI, M/s DB Power Ltd shall provide to TANGEDCO a contract performance guarantee for an amount of ₹62.40 crores calculated on the basis of ₹30 lakhs/MW of the total contracted capacity of 208 MW initially valid for a period of three months after the scheduled delivery date. The CPG thereafter shall be dealt in accordance with the provisions of the PPA.

The contract performance guarantee shall be as per the format of 5.7 of RFP issued by any of the banks listed in Format 5.8 of RFP.

Further within 30 days of issue of Lol, M/s DB Power Ltd shall execute PPA in two sets of original so as to ensure that one original is retained by each party to the agreement.

The PPA will be executed only after submission of CPG as described above."

38. It is apparent from the above that while submitting the MTOA application to CTU on 24.5.2013, DB Power has not submitted the copy of the PPA or Sale Purchase Agreement. DB Power has while submitting the application for MTOA merely stated that it has been selected as L-1 bidder in the long term tender invited by TANGEDCO for supply of power for a period for 15 years commencing from 1st October, 2013 to 30th September, 2028. In its letter dated 29.5.2013, DB Power has stated that

TANGEDCO is in the process of completing the formality which will take 30 to 60 days and has requested CTU to process its application for MTOA. TANGEDCO in its letter dated 29.5.2013 has intimated DB Power that on review of its financial bid, the same was found to be on the higher side compared to other State's Case 1 bidding and invited DB Power for a negotiation on 4.6.2013. Neither DB Power nor CTU have placed on record what was the outcome of the negotiation dated 4.6.2013. However, from the letter of DB Power dated 30.6.2013, it emerges that TANGEDCO has initiated the process of negotiation with all project developers and the LOI will be issued after completion of the negotiation with selected bidders. From these letters, it can be safely inferred that the bidding process was still continuing as on 30.6.2013 and TANGEDCO was in the process of negotiating with all project developers. Therefore, the claim of DB Power that it has emerged as L-1 bidder in its letter dated 24.5.2013 is not supported by documentary evidence. If DB Power had emerged as L-1 bidder, it could have produced a certificate to that effect from TANGEDCO. In our view, TANGEDCO could not have declared DB Power as L-1 bidder when the bidding process was still on. The very fact that DB Power in its letter dated 9.7.2013 has relied upon the newspaper reports in Business Line dated 1.7.2013 and in The Hindu dated 9.7.2013 in support of its claim that it had emerged as L-1 bidder clearly shows that no official communication was available with DB Power with regard to the outcome of its bid. In fact, TANGEDCO officially communicated the acceptance of the bid of DB Power in its letter dated 18.7.2013.

39. It is the contention of DB Power that the financial bids were opened by TANGEDCO on 7.5.2013 and DB Power was selected as L-1 bidder and hence, a contract by operation of law has taken place on that date. We do not agree with the contention of DB Power. Under Indian Contract Act, 1872, a proposal and a communicated acceptance would constitute a concluded contract. Section 8 of the Indian Contract Act, 1872 provides that acceptance of a proposal can also be by conduct or by performance of the condition by the acceptor. DB Power by responding to the tender of TANGEDCO has made a proposal to supply electricity for a period of 15 years at a specified rate. The financial bids were opened on 7.5.2013 which has not been disputed. Even though DB Power claims that it was declared as L-1 bidder on 7.5.2013, no documentary evidence has been placed on record to this effect. On the contrary, vide letter dated 29.5.2013, TANGEDCO has invited DB Power for negotiation of price on 4.6.2013. Therefore, neither by its conduct nor by performance, TANGEDCO has accepted the proposal of DB Power as on 31.5.2013 which is the last date for receipt of the applications for MTOA during May 2013. In our view, there was no agreement in existence between TANGEDCO and DB Power as on 31.5.2013 for supply of power. We are not in agreement with CTU or DB Power that in a Case 1 bidding, emergence of a bidder as L-1 in the bidding process results in a binding contract and the process of price negotiation, issue of LOI, submission of Contract Performance Guarantee and signing of PPA etc. are mere formalities. In this connection, para 5.15 of the competitive bidding guidelines notified by Ministry of Power, Government of India provides as under:

“5.15 The bidder who has quoted lowest levelised tariff as per evaluation procedure, shall be considered for the award. The evaluation committee shall have the right to reject all price bids if the rates quoted are not aligned to the prevailing market prices.”

The above provisions clearly show that even though the bidder who has quoted the lowest levelised tariff shall be considered for the award, the Evaluation Committee has the discretion to reject all price bids including the lowest bidder if the rates quoted are not aligned to the prevailing market prices. Therefore, lowest bidder at the opening of the financial bid does not have a vested right for award of the contract unless the Evaluation Committee certifies that its bid is in alignment with prevailing market prices and the bidder has been issued the Lol. The acceptance of the bid of DB Power based on the recommendations of the Evaluation Committee has been communicated by TANGEDCO in its letter dated 18.7.2013 and therefore, the Sale Purchase Agreement can technically come into existence from 18.7.2013 only. It is noteworthy to mention that the Case-I bidding recognizes only the Power Purchase Agreement between the seller and procurer and there is no separate provision for Sale Purchase Agreement. Therefore, in case of Case-I bidding, the Power Purchase Agreement can be considered as synonymous with Sale Purchase Agreement. Moreover, after the Lol is issued, the seller has to submit unconditional acceptance of the Lol, provide Contract Performance Guarantee and sign the Power Purchase Agreement. If these conditions are not satisfied, there can be no PPA. In our view, a contractual relationship between a seller and the procurer in case of Case-I bidding can only come into existence after the signing of the PPA. Moreover, the operationalisation of the PPA is also subject to the approval by the State Commission. Reliance by DB Power on the judgement dated 17.2.2012 of Appellate Tribunal for Electricity in Appeal No.106 of 2011 is not applicable to the present case as the Appellate Tribunal in the said judgement had disapproved the decision of the State Commission to adopt under section 63 of the Act the quantum in

the original PPA and the rate in the Addendum to the PPA negotiated after the PPA was signed. In the present case, the negotiation was carried out by TANGEDCO before issue of LOI and signing of the PPA. The mere fact that the negotiation did not result in any alteration of the rates quoted in the bid as DB Power is stated to have refused to negotiate with TANGEDCO, the process of negotiation cannot be termed as mere formality. The undisputed fact is that the LOI was issued on 18.7.2013 and PPA was signed on 19.8.2013 and no Sale Purchase Agreement could be in existence between DB Power and TANGEDCO prior to signing of the PPA.

40. From the available records, it is clear that CTU had not informed DB Power about deficiency in the application i.e. it is not accompanied by either a PPA or Sale Purchase Agreement before the closing date for receipt of MTOA applications in May 2013 i.e. by 31.5.2013. If MTOA applications are entertained without the PPA or Sale Purchase Agreement but in anticipation of the same, fictitious applications would creep in and corridor would be blocked by applicants who are not genuine. Para 14.4 of the Detailed Procedure provides that "incomplete applications shall be rejected mentioning reason for rejections to the applicant." In our view, the application of DB Power was not complete as on 31.5.2013 and ought to have been rejected by CTU in accordance with the Detailed Procedure. It is pertinent to mention that the MTOA applications are considered month wise, and the application of DB Power received in May 2013 should have been closed, being incomplete. If DB Power still wanted MTOA, it was at liberty to apply in any subsequent months. In the light of the above discussion, we are of the view that the grant of MTOA by CTU to DB Power on the basis of its application filed on

24.5.2013 is not in accordance with the provisions of the Connectivity Regulations and the Detailed Procedure.

41. In the light of our above discussion, we are of the view that the processing of the application of DB Power for the month of May 2013 without proper documents and grant of MTOA with effect from 1.6.2014 are in violation of the Connectivity Regulations and Detailed Procedure and hence are held to be invalid. Since the corridor was available with effect from 1.6.2014, CTU should consider the applications received for MTOA during June 2013 and decide the allocation of MTOA within a period of one week if the applicants otherwise meet the requirements of the Connectivity Regulations and Detailed Procedure.

42. It is not out of place to point out that the documents pertaining to the correspondence of DB Power placed on record by CTU do not bear the stamp of receipt and date of receipt. The allocation of transmission corridors are mainly based on priority of applications and dates of receipt of applications are the criteria for deciding this priority. In our view, CTU should adopt proper procedure in the matter of handling the applications for LTA and MTOA by maintaining the documents properly with the receipt stamp and date affixed on these applications.

Issue No.3: Whether Regulation 20 of Connectivity Regulations was complied with by CTU while processing and dealing with the MTOA applications?

43. Regulation 20 of Connectivity Regulations provides that on receipt of application for MTOA, the nodal agency (CTU) shall process the application and carry out necessary



system studies as expeditiously as possible so as to ensure that the decision to grant or refuse MTOA is made within the time frame specified in Regulation 7. Thus, CTU is obligated to carry out system studies before granting or refusing MTOA. Para 16 of the Detailed Procedure provides as under:

"16. Grant of MTOA

16.1 The CTU shall notify the following on 31st day of March of each year:

Total Transfer Capability (TTC) for four years i.e. on 31st March, 2010, TTC shall be declared for period 1st April, 2011 to 31st March, 2015. This may be revised by CTU due to change in anticipated network topology or change of anticipated generation or load at any of the nodes, giving reasons for such change.

Transmission Reliability Margin considered along with basis.

Available Transfer Capability (ATC) for MTOA will be worked out after allowing the already approved applications for Long-Term Access, Medium Term Open Access and Transmission Reliability Margin.

The grant of MTOA shall be subject to ATC.

16.9 The CTU may revise the TTC, ATC and TRM due to change in system conditions, which includes change in network topology or change in anticipated active or reactive generation or load, at any of the nodes in the study. Such revision should clearly state the reasons thereof."

44. CTU was asked in the RoP dated 30.5.2014 to submit the details of system studies carried out for grant of MTOA during the month of April and May, 2013 and about the circulation of the results of system studies among the stakeholders. CTU, in its submission dated 16.7.2014, has stated that for determination of ATC between NEW Grid and SR, CTU vide its letter dated 27.8.2012 had circulated the agenda including the system studies inviting comments from stakeholders and based on the comments received, CTU had published on 21.12.2012 the ATC between NEW Grid and SR as 3450 MW. It has been submitted by CTU that since there was no change in the

declared ATC between NEW Grid and SR Grid, no separate studies are required for grant of MTOA during April and May, 2013.

45. It is evident from CTU's website that during last four years, no such study covering all inter-regional links has been published as specified in the Detailed Procedure. The last study done by CTU for ATC of WR-SR was in September 2012 i.e. before KSEBL's MTOA application. The rejection of applications made in April, 2013 based on TTC-ATC computed in September 2012 does not seem to be correct as the margins available as on 1.4.2013 for future period could not known without system studies. It has been stated by CTU that as ATC declaration dated 21.9.2012 considered post June 2013 scenario, ATC was decided as 850 MW. However, it is not clear from the ATC dated 21.9.2012 when Load Generation Balance Report (LGBR) up to March 2013 was considered, how this study would be valid beyond June 2013 and up to which period as generating stations and transmission lines were also considered up to March 2013. Keeping the uncertainty in generation and transmission in view, annual declaration of ATC for Medium Term on every 31st March for next 4 years is provided in the Detailed Procedure. Accordingly, ATC as on 31.03.2013 was required to be computed. When the study is carried out nearer to the projected scenario, the usage of transmission corridor is likely to be optimized due to better visibility of generation and transmission.

46. From the information available on CTU's website, it is found that CTU only computed ATC-TTC when MTOA applications were received. But, CTU as a nodal agency has responsibility more than merely processing the application. The MTOA is

granted on margins available on ISTS. Regulation 16 provides for four year ATC and TTC declaration and its revision whenever there is any change in network topology. The CTU as central planning and co-ordinating agency have access to information in regard to development of both inter-State and intra-State transmission system. Keeping in view information available in regard to future transmission system, it is possible to anticipate the availability of transmission corridor. When state utilities in anticipation of new transmission system were entering into medium-term and long-term contracts with generators located in different parts of the country, the role of nodal agency is to facilitate these with advance declaration and transparent dissemination of information.

47. The information for ATC-TTC and margin is not limited to only inter-regional corridors or where demand for MTOA and LTA arises but it needs to be computed across all flow-gates. For example if some generator is coming in S1 and through existing network or anticipated transmission line, it is possible to transfer power to S2 area, then advance declaration of margin would help beneficiaries to avail power. In this regard there is need for proper coordination among CTU as nodal agency for LTA and MTOA and POSOCO as Nodal agency for STOA.

48. CTU started carrying out system study for SR Grid in the month of August, 2013. Since, CTU was aware that the ATC of NEW and SR Grid would undergo a change from January, 2014 with the commissioning of 1st circuit of 765kV Raichur-Sholapur Transmission line, timely conduct of studies, as prescribed in the Detailed Procedure, would have allowed CTU to take more informal decisions and declare TTC well in time.

49. During the month of June, 2013, ten (10) MTOA applications seeking power transfer to Southern Region were received. Out of the 10 MTOA applications, 2 applications by PTC India Ltd. and NTPC Vidyut Vyapar Nigam Limited sought MTOA for 100 MW and 300 MW respectively for the longest period from 1.3.2014 to 28.2.2017. The MTOA application for KSEBL was made in anticipation of the enhancement in ATC with the commissioning of Raichur-Sholapur 765kV 2xS/C lines, one circuit of the same which was originally scheduled in January, 2014. However, only 3 MW MTOA was granted by CTU to M/s NVVN for supply to KSEBL against the applications for 400 MW.

50. After receiving application in April 2013, CTU got another opportunity to do system study for the MTOA applications in accordance with Regulation 20 of the Connectivity Regulations, 2009. It is evident that instead of carrying out system study, CTU decided to go by decision taken in Sept, 2012 and rejected the application. As the application was for period 1.10.2013 onwards, rejection of the same without system study is not in accordance with the Regulations. The same argument holds good for application made in June, 2013.

51. It is evident that only after four generating companies became successful bidders in Tamil Nadu Case-I bidding in August, 2013, it started reevaluating SR transfer capability and during October, 2013 it was decided that 1250 MW capacity would be available for transfer of power to SR after August 2014, considering that for 6 months there would not be any scheduling of power on 765 kV Raichur-Sholapur line. We are disappointed to find that a critical decision with regard to inclusion of a line for transfer

capability calculation is being taken at the last moment, while the stakeholders in anticipation of commissioning of these lines (information being available through RPC meetings and CEA progress reports) enter into contracts of power in Medium Term and Long term power transfer. However, at the last moment, these contracts do not materialize due to non-availability of corridor.

52. CTU, vide letter dated 08.08.2013, had communicated that the entire 1261 MW Available Transfer Capacity for import of power to Southern Region under MTOA has already been allocated for the period till November 2015. We find that such response from CTU without conducting the system studies is not appropriate since without the studies in the month of June 2013, CTU could not have come to the conclusion that MTOA had been allocated till November 2015. CTU neither conducted any system study nor indicated anything or the ATC vague term while rejecting the MTOA application filed by traders like M/s NVVN and M/s PTC in the month of June 2013. We are of the view that had CTU conducted system studies well in advance as per Detailed Procedure, MTOA would have been allowed for the applications received during the month of June 2013, in anticipation of the enhancement in ATC with the commissioning of 765 kV Raichur-Sholapur as no LTA application was pending as on 30.06.2013.

53. In this regard it is also important to mention that State Utilities are not clearly indicating their transmission requirements in time and expect the transmission system to be made available to them as and when they desire. In the instant case, generators (bidders) in Tamil Nadu Case-1 bidding were made responsible to get transmission

access for 15 years and power supply was to start within 3 months of letter of award (from October 2013). The transmission system for supply of power on long-term basis cannot be built in a short time and also margins to the extent of 1200 MW cannot be expected to be available all the time. To enable CTU to conduct system study in time and do perspective transmission planning, it is necessary that States make the information available about their own network and their power requirement well in advance. If CTU faces any difficulty in this regard, it can approach the Commission for appropriate directions.

54. Further, the details of MTOA applications filed by KSEBL from October 2013 to February 2014 are as under:

S No	Trader	Capacity (MW)	Month for Filing of Application	Period of MTOA
1	M/s PTC India Limited	100	October, 2013	01.04.2014 to 28.02.2017
2	M/s NVVN	297	November, 2013	01.05.2014 to 28.02.2017
3	M/s PTC India Limited	100	December, 2013	01.06.2014 to 28.02.2017
4	M/s NVVN	297	February, 2014	01.08.2014 to 28.02.2017

On the application of October, 2013, POWERGRID vide letter dated 06.12.2013 has stated that the entire 1261 MW Available Transfer Capacity (ATC) for import of power to Southern region under MTOA has already been allocated for the period till November, 2015. It shows that PGCIL has not taken cognizance of enhanced ATC with the commissioning of 765 kV Raichur-Sholapur Transmission line.

55. CTU vide letter dated 28.11.2013 advised DB Power to relinquish the MTOA so that his LTA application can be considered. Subsequently, DB power surrendered its MTOA of 208 MW as suggested by CTU which was subsequently allotted by CTU among 4 generators, including DB power from 01.06.2014 to 31.07.2014 on a pro-rata basis. The Commission is in the process of approving the changes to the Detailed Procedure and accordingly, the issue of inter-se priority of LTA over MTOA and sanctioning part LTA will be dealt in the order to be issued subsequently.

56. In view of the above discussion, we are of the view that CTU has not acted in accordance with the provisions of Regulations 19 and 20 of Connectivity Regulations and Paras 14, 15 and 16 of the Detailed Procedure for grant of MTOA and LTA. Accordingly, the grant of MTOA to DB Power against its application made in May 2013 is not in accordance with the provisions of CERC Connectivity Regulations read with the Detailed Procedure for grant of MTOA & LTA.

57. We direct that CTU shall process the applications received in June 2013 including the application of the petitioner in accordance with the existing Connectivity Regulations and Detailed Procedure. The applicants for MTOA shall be provided with detailed justification of the decision on their applications alongwith results of system study wherever required. This exercise should be completed within seven days, from the date of this order.

58. CTU is directed to provide the information as per Annexure to this order, for effective use of margins available in the corridor for the benefit of beneficiaries.

59. The order on the other prayers of the petitioner shall be issued in due course.

sd/-
(A K Singhal)
Member

sd/-
(M. Deena Dayalan)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson

Information System for all Inter-regional Corridors

ATC-TTC computation for the period: 2014-15:

1. Load Generation Balance considered and assumptions of Base Case;
2. Limiting Constraints;
3. ATC-TTC Base Case Load flow files in RAW format (Control Access to be provided through Username and Password);
4. The Information shall be presented in the following format:

Corridor	April, 2014	May, 2014	June, 2014	March, 2015
(1) WR-SR r-1*					
TTC					
ATC					
LTA					
MTOA					
Available Margin					
(2) ER-SR					
TTC					
ATC					
LTA					
MTOA					
Available Margin					

*r-1: Revision No, date, reasons for revision, quantum of change w.r.t. previous revision