

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri M. Deena Dayalan, Member

Shri A.K. Singhal, Member

Shri A.S.Bakshi, Member

Date of Hearing: 30.09.2014

Date of Order : 01.10.2014

I.A. Nos. 43/2014, 51/2014 and 52/2014

In

Petition No. 92/MP/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

Petition No. 376/MP/2014

Petition under Section 79 (1) (c) read with 79 (1) (f) and 79 (1) (k) of the Electricity Act, 2003 seeking appropriate direction or order declaring the letter dated 22.9.2014 as arbitrary and unreasonable being *dehors* the provisions of Electricity Act, 2003 and Detailed Procedure for making application for grant of connectivity in ISTS submitted



by Central Transmission Utility and as approved by the Commission under Regulation 27 (1) of the 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.

**And
In the matter of**

DB Power Limited
Office Block1A, 5th Floor, Corporate Block, DB City Park,
DB City, Arera Hills, Opposite MP Nagar, Zone-I,
Bhopal-462 016

.....Petitioner

Vs

Powergrid Corporation of India Limited
B-9, Qutub Institutional Area, Katwaria Sarai,
New Delhi-110 016

....Respondent

Petition No. 382/MP/2014

Petition under Section 79 (1) (f) of the Electricity Act, 2003 regarding disputes arising between the petitioner, a generating company, and the Respondent, the Central Transmission Utility and nodal agency for grant of long-term access to the inter-State transmission system

**And
In the matter of**

EMCO Energy Limited
9th and 10th Floor, IBC Knowledge Park
4/1 Bannerghatta Road, Bangalore

.....Petitioner

Vs

1. Powergrid Corporation of India Limited
Saudamini, Plot No.2, Sector 29, Gurgaon-122 001

2. KSK Mahanadi Power Co. Ltd.
8-2/293/82/A/431/A, Road No. 22
Jubilee Hills, Hyderabad-500 033

3. Jindal Power Limited
Plot No. 2, Tower-B,
Sector-32, Gurgaon,
Haryana-122 001

4. Bharat Aluminium Co. Ltd.
Balco Nagar, Korba-495 450
Chattisgarh

....Respondents

Parties present:

Shri Sanjey Sen, Sr. Advocate, D.B. Power
Shri Hemant Singh, Advocate, D.B. Power
Ms. Shikha Ohri, Advocate, D.B. Power
Ms. Suparna Srivastava, Advocate, KSKMPL
Shri Anand K. Ganeshan, Advocate, KSKMPL
Shri Swapna Seshadiri, Advocate, KSKMPL
Shri Bina Gupta, Advocate, KSKMPL
Shri V. Ranakrishnan, KSKMPL
Shri C. Narasimha, KSKMPL
Shri S.R. Anand, KSEB Limited
Shri G. Sreenivasan, KSEB Limited
Shri B. Pradeep, KSEB Limited
Shri Srishti Govil, Advocate, KPTCL
Shri Anurag Gupta, NVVN Limited
Shri Dharmendra Singh, NVVN Limited
Shri Ranjana Gupta, NVVN Limited
Shri Sitesh Mukherjee, Advocate, EMCO
Shri Jafar Alam, Advocate, EMCO
Shri Kamalakannan. R, EMCO
Shri S. Vallinayagam, Advocate, TANGEDCO

ORDER

KSK Mahanadi Limited has filed IA. No. 43/2014 in Petition No. 92/MP/2014 seeking clarification that the Medium Term Open Access (MTOA) allocation considered by Power Grid Corporation of India Limited (PGCIL) pursuant to the Commission's order dated 8.8.2014 is not from the new transmission capacity of 423 MW available from 1.8.2014 and for direction to PGCIL to consider and dispose of the pending long term access applications in accordance with Central Electricity Regulatory Commission (Grant of Connectivity, Long-Term and medium term open access in inter-

State transmission and related matters) Regulations, 2009 (Connectivity Regulations) for the capacity of 423 MW made available from 1.8.2014 and any capacity made available thereafter without being affected by the MTOA applications made by it in June, 2013.

2. IA Nos. 51/2014 and 52/2014 in Petition No. 92/MP/2014 have been filed by Kerala State Electricity Board Limited and NVVN Ltd. respectively seeking declaration that the rejection of MTOA application of Respondent No. 3, NTPC Vidyut Vypar Nigam Limited made in June 2013 for transfer of 300 MW power from CSPDCL from 1.3.2014 to 28.2.2017, is in violation of the Commission's order dated 5.9.2014 and the provisions of the Connectivity Regulations and for an ex-parte interim direction restraining PGCIL from operationalising the MTOA of 111 MW granted to M/s Ideal Energy Projects Ltd vide letter dated 22.9.2014

3. DB Power Limited has filed Petition No. 376/MP/2014 seeking a declaration that PGCIL's letter dated 22.9.2014 granting long term access is null and void and further direction to PGCIL to grant LTA to DB Power Ltd. on pro-rata basis out of the declared available transmission capacity of 365 MW.

4. EMCO Energy has filed Petition No. 382/MP/2014 seeking a declaration that PGCIL's letters dated 13.12.2013 and 22.9.2014 granting long term access are null and void. EMCO has further prayed to set aside the allocation of LTA granted to KSK Mahanadi and Bharat Aluminum Company Ltd. and to issue direction to PGCIL to re-

determine the relative priority of the petitioner`s application dated 16.11.2013 at the same relative priority as any other valid and eligible applications received in November, 2013.

5. During the course of the hearing, learned senior counsel appearing for DB Power Ltd. and learned counsels for KSK Mahanadi Ltd., EMCO, KSEB and NRVN Ltd. reiterated their respective submissions made in the petitions.

6. Learned counsel for KSEB, TANGEDCO and KPTCL submitted that DB Power Limited and EMCO Energy Limited be directed to make KSEB, TANGEDCO and KPTCL as parties to their respective petitions as they would be affected by the outcome of the said petitions.

7. The representative of PGCIL explained in brief the allocation of MTOA and LTOA made vide letters dated 22.9.2014. He sought time to file detailed replies to the IAs and the petitions.

8. We have heard the learned senior counsel and counsels for the parties. In our order dated 8.8.2014, we had made it clear that the issue of relative priority between MTOA and LTOA would be addressed in the final order to be issued in Petition No. 92/MP/2014. Moreover, PGCIL`s proposal for amendment of the Detailed Procedure is under consideration of the Commission. It is noted that PGCIL without waiting for the decision of the Commission regarding the relative priority between LTOA and MTOA

applications has proceeded to allocate LTOA on pro rata basis vide its letter dated 22.9.2014. The petitioners in the IAs and the petitions are aggrieved by the said decision of PGCIL.

9. We are of the view that the issues raised in the petitions and IAs require appreciation of facts and detailed examination of the legal issues involved in the light of provisions of Connectivity Regulations. Accordingly, we direct issue of notice to the respondents on the petitions and the IAs. DB Power Limited and EMCO Energy Limited are directed to implead KSEB, TANGEDCO and KPTCL as parties to their respective petitions and file revised memo of parties immediately. The petitioners are directed to serve copy of the petitions on the respondents immediately, if not already served. PGCIL is directed to file its reply to the petitions and IAs by 7.10.2014, with an advance copy to the petitioners, who may file their rejoinders, if any, by 10.10.2014.

10. Pending consideration of the issue raised in the petitions and the IAs, we direct that LTA granted by PGCIL vide letter dated 22.9.2014 shall not be given effect to till further orders.

11. The IAs and petitions shall be listed for hearing on 13.10.2014 at 14.30 hrs.

Sd/-
(A.S. Bakshi)
Member

Sd/-
(A.K. Singhal)
Member

Sd/-
(M. Deena Dayalan)
Member

Sd/-
(Gireesh B. Pradhan)
Chairperson