

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 121/MP/2015

Subject : Grant of Inter-State Open Access for the energy generated by ITC Ltd. at the wind power project in Anantapur district, Andhra Pradesh for captive consumption at its factory at Bhadrachalam, Telangana .

Date of hearing : 12.5.2015

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

Petitioner : ITC Limited

Respondents : State Load Despatch Center for Andhra Pradesh and others

Parties present : Shri S.B.Upadhaya, Senior Advocate, ITC
Shri V.L.Kumal, ITC
Shri V.Suresh, SRLDC
Shri S.Vallinayagam, Advocate, TSTRANSCO and APTRANSCO

Record of Proceedings

Learned senior counsel for the petitioner submitted as under:

- (a) The petitioner has set up 46 MW wind generation project in the State of Andhra Pradesh as captive generating plants for use at its manufacturing units located in the States of Andhra Pradesh and Telangana.
- (b) The wind power project was synchronized on 25.6.2014 and COD was declared on 25.7.2014.
- (c) The petitioner applied for NOC to SLDC Andhra Pradesh for inter-state and intra State short term open access for scheduling of power from its captive plants to its manufacturing units in AP and Telangana for the months of September, 2014, October, 2014 to April, 2015 and April 2015 to July, 2015.
- (d) The petitioner's applications for grant of NOC for the months from September, 2014 to April, 2015 were rejected on the ground of grid security. However, APSLDC suggested the petitioner to sell power under intra-State Open Access.

(e) Pursuant to Section 9(2) of the Electricity Act, 2003, the petitioner has a statutory right to open access for carrying the electricity generated in its captive generating plant for its own consumption at its manufacturing unit. The right to open access is only subject to the availability of adequate transmission facility and there is no other ground on which open access can be denied to the petitioner.

(f) The petitioner's requirement for open access does not fall within the definitions of either bilateral transaction or collective transaction in terms of Regulation 1(b) or (c) of the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008 (Open Access Regulations) since there is no buyer or seller involved.

(g) SLDC is not at all entitled to apply any terms and conditions inconsistent with the Open Access Regulations and in a manner apparently calculated and designed to defeat the right to open access.

(h) The rejection of concurrence for inter-State open access for the months of April and May 2015, on the grounds that no inter-State open access is allowed for wind generators in view of grid security and to adhere to Regulation 5.2 (j) of the Grid Code, is unreasonable.

(i) Regulation 5.2 (j) is not applicable in the present case which requires a user to take prior consent of RLDC before reducing the output of generating units by more than 100 MW. Regulation 5.2 (j) can only apply to generating units with a capacity of more than 100 MW. However, in the present case, the maximum capacity of the wind farm is only 46 MW.

(j) APSLDC did not convey any deficiency in the applications nor communicated rejection of its application for concurrence within the time limits prescribed in the regulations. Consequently, the concurrence must be deemed to have been given in terms of proviso to Regulation 8 (4) of the Open Access Regulations.

2. The representative of SRLDC submitted as under:

(a) In the opinion of SRLDC, scheduling and open access transaction of Renewable energy needs to be encouraged.

(b) SRLDC as a nodal agency for processing the STOA transactions is committed for strict compliance of the relevant CERC regulations/approved procedures.

(c) The STOA applications indicated in the subject petition could not be considered for approval as the affidavit enclosed by the petitioner clearly indicated the denial/refusal of APSLDC consent, wherein the petitioner is an embedded customer of State Control Area.

(d) As per CERC Open Access Regulation and approved STOA procedure, SRLDC as a nodal agency sent the application and affidavit of the petitioner to APSLDC. In response, APSLDC again confirmed their refusal quoting reason as 'grid security' and non-scheduling, etc. The same have been communicated to the petitioner.

(e) SLDC as an apex body in the State control area is responsible to carry out necessary load flow studies, assess network condition and plan Load Generation Balance (LGB) in its control area and also verification of meter and other infrastructure availability. Based on its own assessment, SLDC needs to give 'no objection' or refusal as the case may be.

(f) SRLDC is not an adjudicatory authority. 'No objection' or 'refusal of consent' or 'No-Response' by SLDC is a primary input for the acceptance or denial of the STOA application by SRLDC.

(g) In case of any applicant aggrieved with the reasons of denial given by SLDC, the same need to be represented to appropriate Commission by the aggrieved party. In the present case, the transaction is of inter-State nature and thereby the Commission is Appropriate Commission. SRLDC is obliged to implement any suitable direction of the Commission.

(h) Regarding ensuring grid security, it is emphasized that every Regional Entity shall ensure grid security by implementing all the required security measures/ defense mechanism / protection system in their respective control area and facilitate to ensure the secured and integrated operation of entire grid.

3. Learned senior counsel for the petitioner requested that APSLDC may be directed to grant NoC for the OA application for the month of May, 2015, pending consideration of the present petition.

4. Learned counsel for the TSTRANSCO and APTRANSCO requested for time to file reply to the petition. He also submitted that no interim direction be issued in the matter without hearing the respondents.

5. After hearing the learned senior counsel for the petitioner and representative of SRLDC, the Commission admitted the petition and directed to issue notice to the respondents.

6. The Commission further directed the petitioner to serve copy of the petition on the respondents immediately. The respondents were directed to file their replies by 15.5.2015 with an advance copy to the petitioner who may file its rejoinder if any, by 18.5.2015.

7. The Commission directed the petitioner and the respondents to discuss and sort out the issues to facilitate open access to the petitioner.

8. The Commission directed to list the petition on 19.5.2015.

By order of the Commission

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