

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 55/MP/2015**

Subject : Petition for the relinquishment of the Long Term Open Access under the Bulk Power Transmission Agreement dated 13.05.2010 under Regulation 18 read with Regulation 32 of 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.

Date of hearing : 27.8.2015

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

Petitioner : Jindal India Thermal Power Limited.

Respondents : Power Grid Corporation of India Limited and others

Parties present : Shri Matrugupta Mishra, Advocate for the petitioner  
Shri Tushar Nagar, Advocate, JITPL  
Ms. Purna Priyadarshini, Advocate, PGCIL  
Ms. Jyoti Prasad, PGCIL  
Shri A.M. Pavgi, PGCIL

**Record of Proceedings**

Learned counsel for Power Grid Corporation of India Ltd. (PGCIL) submitted as under:

(a) The issue in the present matter is completely distinct from the issues that have been referred to the Committee proposed to be set up under Petition No. 92/MP/2015. Therefore, the matter should not be referred to the Committee.

(b) The present petition has been filed seeking relinquishment of Long Term Access (LTA) without any liability on the ground that the petitioner was faced with force majeure situations. However, Regulation 18 of 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 (Connectivity Regulations) which provides the option to the power producers to relinquish access, partly or fully, does not provide for an exemption from payment of relinquishment on grounds of force majeure events. Therefore, the issue to be

decided in the present petition is as to whether any exception on the ground of force majeure could be read into the regulations to allow the petitioner to relinquish access without payment of relinquishment charges.

(c) On the other hand, the Committee proposed to be constituted is concerned with the methodology of computing relinquishment charges and assessing the stranded capacity for the same, which issue would arise only after there is a finding in-principle about the liability of the petitioner to pay relinquishment charges. Therefore, the petition should not be referred to the Committee.

(d) The petitioner has, on one hand, sought relinquishment of access to the tune of 949 MW in terms of the amended petition and on the other hand is seeking enhancement of connectivity from 1044 MW to 1200 MW. The petitioner has filed the IA for amendment of the prayer (a) of the petition to substitute relinquishment of 949 MW in place of 1044 MW as originally prayed. Before the filing of the present petition, the petitioner has sought access for 95 MW after having signed a PPA with KSEB.

2. Learned counsel for the petitioner requested for a week's time to file rejoinder to the reply of PGCIL and submitted as under:

(a) Even if the Commission hears the petition independently, the adjudication of the issue of the liability of the petitioner towards payment of relinquishment charges can only be decided after the final outcome of the Petition No. 92/MP/2015.

(b) The petitioner has two limbs of arguments viz. invocation of Force Majeure under Clause 9.0 of the BPTA and relinquishment as a matter of statutory right under Regulation 18 of the Connectivity Regulations. The only issue that remains to be decided by the Commission is whether the petitioner is entitled to exemption from payment of relinquishment charges since it has invoked clause 9.0 of the BPTA relating to the force majeure grounds. As regards the methodology for determining the stranded capacity and the quantum of relinquishment charges, the issue can be referred to the Committee constituted by the Commission in Petition No. 92/MP/2015.

(c) The issues are intertwined and unless the Commission comes to a final conclusion as to the methodology through which stranded capacity and relinquishment charges can be ascertained, the Commission may not be able to finally decide the present matter.

(d) The petitioner has already relinquished LTA of 1044 MW when it issued the force majeure notice to PGCIL and cannot be alleged to be blocking 1044 MW capacity. PGCIL is free to grant such capacity to any other beneficiary/applicant.

3. The Commission directed the learned counsel for the petitioner to categorically state whether the petitioner is relinquishing 1044 MW or 949 MW as prayed in the IA. Learned counsel on instruction from the representative of the petitioner sought permission to withdraw the IA and confirmed that the petitioner is seeking relinquishment of 1044 MW as per its prayer in the main petition. The Commission allowed the prayer of the petitioner to withdraw the IA.

4. The Commission observed that since the petitioner is seeking relinquishment of the LTA on the ground of existence of force majeure, the issue needs to be adjudicated independent of the recommendation of the proposed committee and if it is established that the petition is liable for payment of relinquishment charges, the same shall be decided in the light of the decision taken by the Commission on the basis of the recommendation of the proposed committee.

5. Learned counsel for PGCIL submitted that the CTU be allowed to utilize the capacity made available on account of relinquishment by the petitioner for allocation to other eligible LTA customers in accordance with the Connectivity Regulations.

6. The Commission directed the petitioner to file its rejoinder by 4.9.2015 with an advance copy to PGCIL. The Commission further directed the petitioner and PGCIL to file their written submissions by 4.9.2015. The Commission directed that due date for the rejoinder and written submissions should be strictly complied with.

7. The Commission directed to list the petition for hearing on 10.9.2015 at 2.30 P.M.

**By order of the Commission**  
**Sd/-**  
**(T. Rout)**  
**Chief (Law)**