

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 92/MP/2015

Sub: Petition seeking directions with regard to difficulties in implementing some of the directions given in the Order dated 16.2.2015 in Petition Nos. 92/MP/2014 along with I.A. No.s. 43/2014, 51/2014, 52/201454/2014, 56/2014 and 59/2014, Petition Nos.376/MP/2014, Petition Nos. 382/MP/2014, Petition Nos. 393/MP/2014 and Review Petition No. 25/RP/2014.

Petitioner : Power Grid Corporation of India Limited.

Respondents : Kerala State Electricity Board and others

Petition No. 99/MP/2015 along with I.A. No. 11/2015

Sub: Petition for directions in regard to the allocation and operationalisation of Long Term Open Access by Power Grid Corporation of India Limited, CTU for the applications received in the month of November, 2013.

Petitioner : KSK Mahanadi Power Company Limited

Respondent : Power Grid Corporation of India Limited.

Date of hearing : 9.4.2015

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

Parties present : Shri Sanjey Sen, Senior Advocate, KSK
Shri Anand K. Ganesan, Advocate, KSK
Shri C. Narasimha, KSK
Shri N. Ramakrisana, KSK
Shri P.C. Sen, Advocate, KSK
Ms. Purna Priyadarshini, Advocate, PGCIL
Shri Swapnil Verma, PGCIL,
Ms. Jyoti Prasad, PGCIL
Shri Anil Kumar Meena, PGCIL
Ms. Suparna Srivastava, Advocate, KSEB
Shri Sitesh Mukherjee, Advocate, EMCO
Shri Jafar Alam, Advocate, EMCO
Shri Payal Chandra, Advocate, EMCO

Shri Aditya Mathur, Advocate, EMCO
Shri Deepak Khurana, Advocate, DB Power
Shri Vikas Adhia, DB Power
Shri S. Vallinayagam, Advocate, TANGEDCO
Shri S. Thirunavukkarasa, TNEB
Shri K. Seshadri, TNEB
Shri Hemant Sahai, Advocate, Essar Power MP Ltd./MB
Power Ltd./ Jal Power Corporation Ltd.
Ms. Esha Shekhar, Advocate, Essar Power MP Ltd./MB
Power Ltd./ Jal Power Corporation Ltd.
Shri Vineet Sarawagi, MB Power (MP) Limited
Shri Abhishek Gupta, MB Power (MP) Limited
Ms. Pragya Singh, POSOCO
Ms. Abilia Zaidi, POSOCO
Ms. Jayantika Singh, POSOCO
Shri Prashanto Chandra Sen, Advocate, BALCO
Shri T. Srinivaiaamvrty, Advocate, Ind-Barath Energy Ltd
Ms. Divya Chaturvedi, JPL
Shri Vikas Saxena, JPL
Ms. Gunjan Thakri, JPL

Record of Proceedings

Learned counsel for EMCO Energy Limited (EMCO) submitted as under:

- (a) The petition filed by the KSK Mahanadi Power Company Limited (KSK) is a blatant attempt at forum shopping;
- (b) KSK has preferred an appeal against the Commission`s order dated 16.2.2015 before the Appellate Tribunal for Electricity and High Court of Delhi;
- (c) The Commission may issue necessary direction to CTU for guidance/clarification with regard to MOP allocation;
- (d) The issue regarding determination of the relinquishment charges be taken up through a separate suo-moto petition; and
- (e) EMCO may be impleaded in Petition No. 99/MP/2015 since it is a necessary party as the decision on its MTOA application is affected due to the stay granted by the Commission on the LTA allocation based on the petition filed by KSK.

2. Learned senior counsel for KSK submitted that the Commission in its order dated 16.2.2015 held that the Available Transmission Capacity for consideration of November 2013 LTA applications was 1250 MW plus 316 MW which aggregates to more than

1550 MW. However, CTU in its Agenda note for processing long term access and medium term open access applications received during November, 2013, wrongly proceeded on the basis that the ATC for consideration of the LTOA allocation for November, 2013 applicants is only 900 MW. He submitted that CTU has misinterpreted the Commission's order dated 16.2.2015 as it has not considered the capacity as communicated on 9.12.2013 to the LTA applicants.

3. Learned counsel for CTU opposed the maintainability of Petition No. 99/MP/2015 by alleging that KSK has pursued similar issues before various fora i.e. before the Commission, Appellate Tribunal for Electricity (ATE) and Hon'ble High Court of Delhi. Learned counsel for CTU submitted that during the pendency of the current proceedings, and while maintaining three different litigations in different fora, KSK on 31.3.2015 has issued a notice to CTU alleging failure in complying with statutory duties and making other baseless allegations

4. The Commission enquired from the learned senior counsel for KSK as to whether the issue agitated before the Commission in Petition No. 99/MP/2015 is also agitated before any other judicial forum.

5. Learned senior counsel for KSK responded as under:

(a) As regards the letter dated 31.3.2015 to CTU, the same would be withdrawn;

(b) In the present petition, issue has been raised with regard to allocation of long term open access as per agenda circulated by CTU on 18.3.2015. However, appeal filed before ATE is with regard to part LTA which is not a principal issue in the present case; and

(c) As regards the issue of MoP allocation being raised before the High Court as well as before this Commission, the same will be clarified after checking the records.

6. After hearing the learned counsels for the parties, the Commission observed as under:

(a) EMCO is a respondent in Petition No. 92/MP/2015 filed by CTU. The issue of MoP allocation has been raised in Petition No. 92/MP/2015 in which EMCO is a party and both Petitions (92/MP/2015 and 99/MP/2015) are being heard together. EMCO has the opportunity to file its reply with regard to MoP allocation. Therefore, there is no need for impleadment of EMCO in Petition No. 99/MP/2015. The IA filed by EMCO was disposed of accordingly. However, EMCO was permitted to file its written submission in Petition No. 99/MP/2015;

(b) The issue with regard to determination of relinquishment charges would be dealt with in due course and parties were directed to file their replies on this issue by 25.4.2015;

(c) The Commission directed the petitioners, the respondents and EMCO to file their written submissions on other issues by 20.4.2015;

(d) CTU was directed to share copy of reply filed by the Ministry of Power in Petition No. 99/MP/2015 with the respondents, who may file their responses, if any, on affidavit, by 20.4.2015 with an advance copy to the CTU; and

(e) KSK was directed to place on record the copy of Writ Petition filed before the Hon`ble High Court of Delhi. The Commission will take a view on the maintainability of the Petition No. 99/MP/2015 after perusing the Writ Petition.

7. The Commission directed that the interim direction in ROP dated 31.3.2015 in Petition No. 99/MP/2015 shall continue till further orders.

8. Subject to the above, the Commission reserved order on all issues in the petitions except the relinquishment charges.

By order of the Commission

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