

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**I.A.No. 37/2015
in
Petition No. 116/MP/2015**

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

Date of Hearing: 19.11.2015
Date of Order: 24.11.2015

In the matter of

Default in payment of Unscheduled interchanges (UI) charges and Deviation charges in excess of the drawal schedule by Essar Power MP Limited and default in opening of Letter of Credit towards the non-payment of UI and DSM charges.

**And
In the matter of**

Essar Power MP Limited
Thane Road, Near Chunkumari Stadium
Waidhan, Distrcit Singrauli,
Madhya Pradesh-486 886

Applicant

**And
In the matter of**

Western Regional Load Despatch Center
F-3, MIDC Area, Marol,
Andheri (East), Mumbai

Petitioner

Vs.

Essar Power MP Limited
Thane Road, Near Chunkumari Stadium
Waidhan, Distrcit Singrauli,
Madhya Pradesh-486 886

Respondent



Member-Secretary
Western Regional Power Committee
F-3, MIDC Area, Marol,
Andheri (East), Mumbai

Proforma Respondent

The following were present:

Shri Alok Shankar, Advocate, EPMPL
Ms. Pragya Singh, WRLDC
Shri S.Barpanda, POSOCO

ORDER

The present Interlocutory Application has been filed by the Applicant, Essar Power MP Limited (hereinafter EPMPL) seeking extension of time for compliance with the order dated 14.9.2015 passed in Petition No.116/MP/2015.

2. The Applicant has submitted that the Western Regional Load Despatch Centre had filed petition seeking directions to EPMPL to clear outstanding UI/deviation charges, and open the LC as per the Regulation 10 of the Central Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2014 (Deviation Settlement Regulations). The Commission vide order dated 14.9.2015 directed the Applicant to liquidate the entire UI/deviation charges and open the LC for required amount within 60 days as per the Deviation Settlement Regulations failing which the Applicant shall be denied short term open access in terms of Regulation 25A of the Open Access Regulations.

3. The Applicant has submitted that it has made efforts to restart the plant and generate revenues to enable it to clear all outstanding dues. The Applicant has



submitted that the following events would enable it to start operation of the plant as under:

- (a) EPMPL has been allocated Tokisud Coal Block which is expected to be operationalized by March 2016;
- (b) 5x25 scheme of rescheduling the debt repayment has been approved for the generating station.
- (c) Prices of imported coal have crashed substantially and the production of coal by Coal India subsidiaries has increased by about 10% resulting in abundant availability of coal and reduction in price of e-auction coal.
- (d) Coal India is coming up with the coal auction exclusively for the consumption by power plant with a minimal 20% premium;
- (e) Additional term loan has been approved by the consortium lenders and sanction from PFC and REC is expected to be received by end of November, 2015;
- (f) Working capital facility to be provided to EPMPL has been agreed to in principle and sanction is to be communicated by December 2015;
- (g) Various distribution companies have invited bids for medium and short term supply and is expected to sign contract in this regard .

4. The Applicant has submitted that it would make efforts to liquidate all dues at the earliest and has requested to approve the following schedule to liquidate outstanding UI/DSM charges and to open the Letter of Credit:



- (a) EPMPL shall pay ₹ 5 crore on 1.4.2016;
- (b) EPMPL shall liquidate entire remaining dues in six equal monthly installments thereafter;
- (c) Payment of equal monthly installment shall be in addition to any current dues under UI. All current dues shall be paid as per the settlement mechanism in the extent regulations;
- (d) EPMPL shall be liable to pay interest as per the Regulations from 1.4.2016 on the entire outstanding dues.

5. During the course of hearing, learned counsel for the Applicant reiterated the submissions made in the IA.

6. We have considered the submission of the Applicant. The reasons for seeking time are financial crisis and non-availability of fuel to run the plant of the Applicant Company. The Commission vide order dated 14.9.2015 allowed a time period of 60 days to the Applicant to liquidate the entire UI/deviation charges and open the LC for required amount as per the Deviation Settlement Regulations. However, the Applicant did not comply with the Commission`s directions. In our view, the Applicant has not only failed to comply with the provisions of the Regulations, but also has not complied with the directions of the Commission. It is further noted that the outstanding deviation charges have accrued against the Applicant in the course of its injection of power under short term open access for selling through the Power Exchange/bilateral trade which was facilitated by WRLDC through interim connectivity granted by CTU through the LILO of 400 kV Vindhyachal-Korba transmission line ckt-I. In other words, the Applicant has earned revenue from sale under short term bilateral and collective

transactions and should have settled the deviation charges from the said revenues. Therefore, reliance by the Applicant on various factors as enumerated in the IA as the reasons for non-payment of UI/DSM charges cannot be accepted. Accordingly, the Applicant`s prayer to grant time to liquidate the outstanding UI/deviation charges and open the LC for as per schedule given in the IA is rejected.

7. We direct the Applicant to liquidate the entire UI/deviation charges and open the LC for required amount as per the Deviation Settlement Regulations immediately as directed by the Commission in order dated 14.9.2015 failing which WRLDC is at liberty to invoke the Regulation 25A of the Open Access Regulations.

8. The IA is disposed of in terms of the above.

SD/-
(Dr. M.K.Iyer)
Member

SD/-
(A.S.Bakshi)
Member

SD/-
(A.K.Singhal)
Member

SD/-
(Gireesh B.Pradhan)
Chairperson