

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

I.A.No. 31/2015
in
Petition No. 55/MP/2015

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

Date of Hearing: 08.12.2015
Date of order: 16.12.2015

In the matter of

Petition for the relinquishment of the long term open access under the Bulk Power Transmission Agreement dated 13.5.201 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

**And
In the matter of**

Jindal India Thermal Power Limited
Plot No. 12, Sector B-1, Pocket-1,
Local Shopping Complex,
Vasant Kunj, New Delhi-110 079

...Petitioner

Vs.

1. Power Grid Corporation of India Limited
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi-110 016

2. Central Electricity Authority
Sewa Bhawan, R.K.Puram,
New Delhi-110 066

.....Respondents

Following were present:

Shri Sanjey Sen, Senior Advocate, JIPTL
Shri Matrugupta Mishra, Advocate, JIPTL
Shri Tushar Nagar, Advocate, Vedanta, JIPTL
Shri Swapna Seshadri, Advocate, PGCIL
Shri Chinmayee Chandra, Advocate, PGCIL
Ms. Jyoti Prasad, PGCIL
Shri Swapnil Verma, PGCIL
Shri Akshi Seem, PGCIL
Shri A.M Pavgi, PGCIL
Shri Aryaman Saxena, PGCIL

ORDER

The petitioner, Jindal India Thermal Power Limited, had filed the petition with the following prayers:

“(a) direct relinquishment of the Long Term Open Access under the Bulk Power Transmission Agreement dated 13.05.2010 to the extent of 949 MW of power without any liability to the Petitioner;

(b) direct Respondent No. 1, being PGCIL, to return the bank guarantee bearing no. 2164ILG010910 dated 04.05.2010 of an amount of Rs. 52,20,00,000/- (Rupees Fifty Two crores Twenty Lacs Only) issued by Punjab National Bank, on behalf of the Petitioner;

(c) pass any order and/or any such orders as this Hon’ble Commission may deem fit and proper under the facts and circumstances of the present case and in the interest of justice.”

2. The matter was heard on merit on 10.9.2015 and after hearing the parties, the Commission reserved order in the petition. Meanwhile, PGCIL vide letter dated 9.10.2015 sent legal notice to the petitioner for complying with the existing terms of the LTA Agreement on the granted quantum and furnish the appropriate security mechanism within 7 days from the receipt of notice, failing which the petitioner would be liable for necessary action.

3. The petitioner has filed the present Interlocutory petition to pass an ad-interim stay of the operation of the PGCIL's letter dated 9.10.2015 and for direction to PGCIL not to take any coercive action till disposal of the petition.

4. During the course of hearing of IA, learned senior counsel for the petitioner submitted that JITPL has already relinquished LTA of 1044 MW of power, therefore the question of opening of LC does not arise. During the hearing of the petition on 27.8.2015, the petitioner had categorically stated that is had relinquished the LTA of 1044 MW. In response, PGCIL had requested to be allowed to utilize the said capacity to other eligible LTA customers. The above submissions have been recorded in the Record of Proceedings. Despite the categorical submission regarding relinquishment of LTA, PGCIL vide its letter dated 9.10.2015 has issued notice to the petitioner to open LC for operationalization of LTA failing which PGCIL has threatened to encash Bank Guarantee. Learned senior counsel submitted that in view of the said development, the IA has been filed to either quash the letter dated 9.10.2015 or pass an ad interim stay of the operation of the said order directing CTU not to take any coercive action in terms of the said letter till pending disposal of the petition.

5. Learned counsel for PGCIL submitted that in terms of Regulation 18 of the Connectivity Regulations, relinquishment would take effect only when the relinquishment charges are paid. Learned counsel for PGCIL further submitted

that in absence of the actual relinquishment, the capacity is utilized for medium term or short term open access.

6. We have heard learned senior counsel for the petitioner and learned counsel for PGCIL. Under Regulation 18 of the Connectivity Regulations, long term transmission customer may relinquish long term access rights fully or partly, before the expiry of full term of long term access, by making payment of compensation for stranded capacity as provided herein. The Commission vide its order dated 28.8.2015 in Petition No. 92/MP/2015 has constituted a Committee for assessment/determination of stranded transmission capacity with regard to relinquishment of LTA right by a long term customers and relinquishment charges in terms of the provisions of the Connectivity Regulations. Assessment of stranded capacity on account of relinquishment of LTA and determination of relinquishment charges shall be decided by the Commission after considering the recommendations of the Committee.

7. Learned senior counsel for the petitioner during the hearing submitted that the petitioner has relinquished the entire capacity under the LTA. In the present case, since the petitioner has relinquished 1044 MW, the said capacity should be utilized for granting the LTA to the pending applications so that capacity does not remain unutilized. The liability for relinquishment charges of the petitioner will be decided in terms of the order in the petition, and if the petitioner is held liable to pay the relinquishment charges, the quantum of relinquishment charges will be

decided in the light of the decision taken on the basis of the recommendations of the Committee.

8. In view of the relinquishment of the LTA by the petitioner, there is no requirement for the petitioner to open the LC. However, the petitioner is directed to keep the Bank Guarantee alive till the issue of relinquishment charges is decided in the light of the recommendations of the Committee. It is clarified that all other aspects of relinquishment including the date of relinquishment and notice period shall be dealt with in the final order

9. Pending issue of the final order, we direct PGCIL to consider the capacity of 1044 MW for calculation of ATC/TTC for allocations of capacity under LTA to the pending applications. Within one week of the decision taken by PGCIL for allocation of LTA in which the relinquished capacity of 1044 MW is considered, PGCIL shall place on record the capacity allocated to new applicants out of the 1044 MW relinquished by the petitioner.

10. I.A. No. 31/2015 is disposed of in terms of the above.

Sd/-
(A.S.Bakshi)
Member

sd/-
(A.K.Singhal)
Member

sd/-
(Gireesh B.Pradhan)
Chairperson