

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No. 35/MP/2016
With IA. No. 7/2016**

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

Date of Order : 20th of October, 2016

In the matter of

Petition under Section 38 (2) of the Electricity Act, 2003 read with Regulation 79 (1) (c) and Section 79 (1) (k) of the Act, along with (i) Central Electricity Regulatory Commission (Grant of Regulatory Approval for execution of Inter-State Transmission Scheme to Central Transmission utility) Regulations, 2010; (ii) Regulation 111 and 114 of the Central Electricity Regulatory Commission Conduct of Business Regulations, 1999 (iii) Central Electricity Regulatory Commission (Grant of Connectivity, Long Term Access and Medium Term Access in inter-State transmission and related matters) Regulations, 2009 (iv) Central Electricity Regulatory Commission (Sharing of IST Charges and Losses) Regulations, 2010 and for directions for signing of LTA agreement and grant of regulatory approval for execution of the Transmission System associated with Nabinagar-II STPP.

**And
In the matter of**

Power Grid Corporation of India Ltd.
B-9, Qutab Institutional Area, Katwaria Sarai,
New Delhi- 110016.

....Petitioner

Vs

1. Nabinagar Power Generating Co. Pvt. Ltd.
1st Floor, Vidyut Bhawan-II,
Bailey Road, Patna-800001
2. North Bihar Power Distribution Co. Ltd.
2nd Floor, Vidyut Bhawan,
Bailey Road, Patna-800001
3. South Bihar Power Distribution Co. Ltd.
2nd Floor, Vidyut Bhawan,
Bailey Road, Patna-800001

4. Energy and Power Department
Govt. of Sikkim, Kaji Road
Gangtok-727101, Sikkim
5. Jharkhand State Electricity Board
Engineering Bhawan, HEC Building,
Dhurwa, Ranchi-834002, Jharkhand
6. West Bengal State Electricity Distribution Company
7th Floor, DJ Block, Vidyut Bhawan,
Salt Lake City, Kolkata-700091
7. GRIDCO Ltd.
Bidyut Bhawan, 4th Floor,
Saheed Nagar, Bhubhaneshwar-751007
8. Damodar Valley Corporation
DVC Tower, VIP Road,
Maniktala, Kolkata-700054
9. Uttar Pradesh Power Corporation Ltd.
(Formerly Uttar Pradesh State Electricity Board)
Shakti Bhawan, 14, Ashok Marg, Lucknow-226001

...Respondents

Following were present:

Shri Amit Bhargava, PGCIL
Ms. Poorva Saigal, Advocate, NPGCPL
Ms. Anushree Bardhan, Advocate, NPGCPL
Shri Sanjeev Kumar Bharati, NPGCPL

ORDER

The petitioner, Power Grid Corporation of India Limited, has filed the present petition seeking directions to the respondents to sign Long Term Access Agreements (LTA Agreements) for transmission system for evacuation of power from Nabinagar-II generation project (generating station) and grant of Regulatory Approval for execution of the associated transmission system.

2. Gist of the submission of the petitioner is as under:

(a) M/s Nabinagar Power Generating Co. Private Ltd. (NPGCPL), a Joint Venture Company of NTPC Ltd and Bihar State Power Generation Co. Ltd. planned to set up a 1980 MW (3X660 MW) Nabinagar super thermal power project at Aurangabad district in the State of Bihar. On 28.9.2010, Government of India, Ministry of Power allocated the power from the generating station to the various beneficiaries, namely, Odisha, West Bengal, Bihar, Jharkhand, Sikkim and DVC. The major share (1294.52 MW) of the generation project has been allocated to the State of Bihar.

(b) The following transmission system has been finalized for evacuation of power from Nabinagar-II STPP:

- Nabinagar-II-Gaya 400 kV D/C line with quad moose conductor

- Nabinagar-II-Patna 400 kV D/C line with quad moose conductor

- Extension of 765/400 kV sub-station at Gaya

- 765/400 kV, 1500 MVA ICT along with bays

- 2 nos 400 kV line bays

- Extension at 400/220 kV Patna sub-station

- 2 nos 400 kV line bays

- 2 nos 420 kV, 80 MVAR switchable line reactor.

(c) In the 11th meeting of Standing Committee on Power System Planning of Eastern Region, 15th and 16th Eastern Regional Power Committee meetings held on 20.9.2010, 28.10.2010 and 28.12.2010 respectively, the transmission system for thermal power project was discussed and finalised. Subsequently, in the 16th Standing Committee meeting on Power System Planning in Eastern Region held on 2.5.2014, the arrangement of start up power was discussed.

(d) Despite all the requisite approvals, due to delay in the generation project the transmission system could not be taken up for implementation. NPGCL vide its letter dated 2.7.2014 informed PGCIL that COD of 1st unit of the generation station is expected by August 2017. Accordingly, system implementation activities were revived.

(e) On 24.2.2015, NPGCPL made an application for grant of connectivity and LTA of 1866.15 MW and the same was granted by PGCIL on 28.5.2016. Details of tentative allocation as per LTA application is as under:

Entity	Allocation (In MW)
North Bihar Discom	478.97
South Bihar Discom	815.55
WBSEDCL	168.71
DVC	50.90
GRIDCO	146.08
JUVNL	56.55
Sikkim	9.425
Unallocated	139.96
Total	1866.15

(f) Bihar, Jharkhand and Sikkim have signed LTA Agreement. However, DVC, Odiha and West Bengal have proposed to surrender their shares from the generation station. Ministry of Power vide its letter dated 7.1.2016 allocated the share of DVC and Odisha to Uttar Pradesh and directed UP to sign PPA with NPGCPL and other requisite commercial agreements for the allocated power.

(g) Delay in signing of LTA Agreement is delaying the implementation of the transmission line resulting in adverse impact on commissioning/evacuation of the generation project.

(h) As per Regulation 15 of the Central Electricity Regulatory Commission (Grant of Connectivity, Long Term Access and Medium Term Access in inter-State transmission and related matters) Regulations, 2009 (Connectivity Regulations) and detailed Procedure made thereunder, the applicants are required to sign the agreement for long term access with the CTU in case long term access is granted. However, neither all the beneficiaries nor the LTA applicant have turned up to sign the LTA Agreement.

(i) The petitioner vide its letter dated 15.1.2016 requested NPGCPL to sign the LTA Agreement without any delay so that power may be evacuated without any hindrance or delay.

(j) As per Govt. of India, Ministry of Power allocation, West Bengal and Uttar Pradesh are beneficiaries of the generation project, they should sign LTA Agreement. In the absence of signing of LTA Agreement by all the beneficiaries, the petitioner is not in position to implement the project.

3. Against the above background, the petitioner has made the following prayers:

“(a) Direct Respondents No. 6 and 9 to sign LTA Agreement as per Regulations and Procedure.

Alternatively, direct Respondent-1 to comply with the Regulation 15 of Central Electricity Regulatory Commission (Grant of Connectivity, Long Term Access and Medium Term Access in inter-State transmission and related matters) Regulations, 2009 and sign the LTA Agreement for balance quantum;

Alternatively, grant regulatory approval for taking up implementation of identified transmission systems at Annexure-6;

(b) Grant approval for recovery of transmission charges of the assets through CERC (Sharing of Transmission charges and losses for ISTS) Regulations, 2010 or any other sharing mechanism notified by CERC from time to time.”

4. The petitioner has filed Interlocutory Application seeking urgent hearing in the light of the fact that the first unit of the generating station is scheduled for commissioning in August 2017.

5. The matter was admitted on 29.3.2016 and notice was issued to the respondents to file their replies. NPGCPL was directed to explain the agency who would sign the PPA for the unallocated power, submit the list of the beneficiaries with whom PPAs have been signed, copies of the PPA, and status of the project. The petitioner was directed to facilitate signing of the LTA Agreement by States of UP and Bihar.

6. The petitioner and NPGCPL have submitted the information called for.

Analysis and Decision:

7. We have considered the submissions of the petitioner and NPGCPL. The petitioner in its first prayer has requested to direct WBSEDCL, GRIDCO, DVC and UPPCL to sign LTA Agreement or alternatively, grant regulatory approval for taking up implementation of identified transmission systems. It is noted that LTA Agreements were signed by Bihar, Jharkhand and Sikkim. However, DVC, Odisha and West Bengal proposed to surrender their shares from the generation project. Govt. of India, Ministry of Power vide its letter dated 7.1.2016 allocated the shares of DVC and Odisha to UP. During the course of hearing on 14.7.2016, learned counsel for NPGCPL informed that West Bengal has surrendered its share and Bihar has sent its requisition for the same and the requests are under process. The

petitioner and NPGCPL, vide Record for Proceedings for the hearing dated 14.7.2016 were directed to facilitate signing of the LTA Agreements by all the beneficiaries including the surrendered power from West Bengal. Subsequently, Ministry of Power vide its letter dated 25.7.2016 allocated the surrendered power of West Bengal to Bihar.

8. NPGCPL vide its affidavit 20.8.2016 has submitted as under:

“3. As on 14.7.2016, the LTA had been signed by all the beneficiaries i.e Sikkim, Odisha, Jharkhand, UP and Bihar to extent of their allocated capacities. The only subsisting issue is in regard to 179 MW of power surrendered by West Bengal.

4. The Ministry of Power, Government of India has since issued the allocated letter on 25.7.2016 in respect of the surrendered power from West Bengal (179 MW) in favour of Bihar.

5. The Government of Bihar is already a beneficiary of the Nabinagar Power Station and has signed the LTA with Powergrid on 26.10.2015 for 1373.5 MW. In terms of clause 5 of the LTA, ‘any changes in the MW quantum allocated to LTTC by MoP, GOI, shall automatically stand incorporated in the Agreement.’ Thus, the 179 MW shall automatically form part of the LTA Agreement already entered into.”

9. During the course of hearing on 22.9.2016, the representative of the petitioner submitted that NPGCPL has not informed PGCIL formally about re-allocation of surrendered share by West Bengal to Bihar. Learned counsel for NPGCL submitted that the final allocation of power from the project by Govt. of India, Ministry of Power is as under:

Entity	Allocation (In MW)
Bihar	1373.5+179= 1552.5
Jharkhand	60
Sikkim	10
UP	209
Unallocated	148.5
Total	1980

11. From the above discussion, it is apparent that the beneficiaries have signed LTA Agreements. Therefore, the petitioner’s prayer to direct the respondents to sign

LTA Agreement has become infructuous. NPGCPL is directed to formally communicate to the petitioner regarding re-allocation of 179 MW surrendered share by Govt. of West Bengal to Bihar, if already not communicated.

12. The petitioner in its second prayer has prayed for grant of approval for recovery of transmission charges of the assets through CERC (Sharing of Transmission charges and losses for ISTS) Regulations, 2010 (Sharing Regulations). In this regard, it is clarified that since the assets being implemented by the petitioner are ISTS in nature, the same shall be considered for inclusion of PoC under the provisions of Sharing Regulations after the commercial operation of the said assets.

13. The petition along with IA is disposed of with the above.

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

sd/-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson