

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**I.A. No. 53/2016 and 54/2016 in
Petition No. 84/MP/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: 9th of November, 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

Chhattisgarh State Power Trading Company Limited,
2nd Floor, Vidyut Sewa Bhawan,
Dagania, Raipur

.....**Petitioner**

Vs

1. The Central Transmission Utility
Powergrid Corporation of India Limited
Saudamini, Plot No. 2,
Sector 29, Gurgaon-122 001, Haryana

2. Power System Operating Company Limited,
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi-110015

3. Western Regional Power Committee,
F-3, MIDC Area, Marol,
Opposite SEEPZ, Central Road,
Andheri East, Mumbai-400 093

4. Bhopal Dhule Transmission Company Limited
F-1, "The Mira Corporate Suites" 1 & 2 Ishwar Nagar,
Mathura Road, New Delhi-110 065

.....Respondents

**And
In the matter of**

MB Power (Madhya Pradesh) Limited

.....Applicant

**And
In the matter of**

KSK Mahanadi Power Co. Ltd.

.....Applicant

Following were present:

Shri Hemant Shai, Advocate,
Ms. Puja Priyadarshini, Advocate, MB Power
Shri Abhishek Gupta, MB Power
Shri Anand K. Ganesan, Advocate, , KSKMPCL
Ms. Swapna Seshadri, Advocate, KSKMPCL
Ms. Suparna Srivastava, Advocate, PGCIL
Ms. Jyoti Prasad, PGCIL

ORDER

The Commission in its interim order dated 28.10.2016 in Petition No. 84/MP/2016
has directed CTU as under:

"16. CTU has submitted that a capacity of 590 MW is available for operationalization of MTOA w.e.f. 30.10.2016. In addition, CTU has submitted that on account of the uncertainty of the project of Lanco-Babandh Power Limited, capacity of 520 MW is locked up which may be permitted for utilization for grant of MTOA. In this connection, it is noted that Lanco-Babandh Power Limited has filed a Petition No. 38/MP/2016 for deferment of its LTA. The Commission is of the view that this is a generic issue and may arise in case of other generators who are unable to commission their generating stations/dedicated transmission lines in time as a result of which the capacity granted under LTA cannot be utilised. The Commission directs the staff to initiate the process to amend the Connectivity Regulations to address this generic situation. At this stage, the Commission cannot issue

any direction to CTU with regard to utilization of 520 MW of Lanco-Babandh Power Limited.

17. CTU is directed to carry out the exercise with regard to operationalization of LTA within a period of 10 days from the date of issue of this order and submit a report by 15.11.2016.”

2. M.B. Power (Madhya Pradesh) Ltd. (MB Power) has filed the IA No. 53/2016 and KSK Mahanadi has filed IA No. 54/02016 seeking clarification and direction with regard to the manner of allocation of 590 MW capacity available for MTOA.

3. MB Power has submitted that it has been supplying 361 MW power to the distribution companies of UP from its 1200 MW Anupur Thermal Power Project since August 2015 under its fully operational PPA with aggregated contracted capacity of 361 MW out of which 169 MW was supplied through MTOA which was valid till 29.10.2016. In order to ensure seamless supply to UP Discoms, CTU has granted MTOA to MB Power for the same quantum i.e. 169 MW from 30.10.2016 onwards. MB Power has submitted that MTOA granted have not been operationalized by CTU due to lack of clarity on modalities for operationalisation of 1169 MW (169 MW MTOA granted to MB Power and 1000 MW MTOA granted to KSK Mahandi) from the currently available MTOA capacity of 590 MW. MB Power has submitted that due to non-operationalization of MTOA, it is incurring enormous financial losses on daily basis due to non-supply of part capacity to UP under its currently operational PPA. MB Power has suggested that 169 MW MTOA granted to MB Power be fully operationalized as it can easily and fully get accommodated on the existing MTOA margin of 590 MW and that balance MTOA capacity (590 MW -169 MW) be allocated to KSK Mahanadi. Alternatively, a solution should be worked out for allocating this capacity of 590 MW between MB Power and KSK Mahanadi on pro-rata basis.

4. KSK Mahanadi Power Co. Ltd. (KSK Mahanadi) has submitted that it was granted MTOA for 1000 MW for the period from 30.10.2016 to 29.10.2019. Subsequently, CTU granted LTA for 1000 MW to KSK Mahanadi on 29.7.2016. Available capacity of 590 MW is required to be operationalized to the MTOA grantees in proportion to the MTOA granted. KSK Mahanadi has sought a direction to CTU to immediately operationalize the available MTOA capacity of 590 MW from WR-NR to eligible allottees on proportional basis in accordance with applicable regulations at the earliest.

5. During the hearing of the IAs, Leaned counsels for the applicants submitted that necessary directions be issued to CTU for part operationalization of MTOA. Learned Counsel for CTU submitted that as per Clause 9.4 of the Detailed Procedure, part operationalization of MTOA is not permitted and therefore, the Commission may issue suitable directions for grant of part MTOA to the applicants.

Analysis and Decisions

6. MB Power has submitted that it is affected by the order dated 28.10.2016 in Petition No. 84/MP/2016 and therefore, it is a necessary party and may be allowed to be impleaded as a respondent. We have considered the submission of MB Power. It is noted that Petition No. 84/MP/2014 has been filed by CSPDCL for relinquishment of LTA. On the other hand, MB Power is aggrieved by non-operationalization of MTOA. In our view, MB Power is not a necessary party in Petition no. 84/MP/2016 and therefore, cannot be impleaded as a respondent. However, since, MB Power and KSK Mahanadi have been affected on account of non-operationalization of MTOA by CTU, we consider

it appropriate to deal with the problem brought out in IAs.

7. CTU had sought permission for operationalization of available 590 MW capacity plus 522 MW capacity of Lanco-Babandh under MTOA for the purpose of full operationalization of 1169 MW of MTOA granted w.e.f 31.10.2016. However, the Commission in the order dated 28.10.2016 declined to permit CTU to utilize 522 MW of capacity allocated to Lanco-Babandh for operationalization of MTOA as the Commission decided to address the generic issue of utilization of LTA capacity for MTOA separately. Consequently, CTU is only left with 590 MW capacity for operationalization of MTOA. Since, CTU has granted MTOA to two generators for 1169 MW capacity w.e.f 31.10.2016, their requirements cannot be accommodated within 590 MW and consequently, their MTOAs cannot be operationalized. In the IAs, both MB Power and KSK Mahanadi have requested that the available capacity of 590 MW may be operationalized under MTOA in proportion to their MTOA allocations so that they are able to schedule power in discharge of their contractual obligations under the respective PPAs. CTU has submitted that in terms of Para 9.4 of the Detailed Procedure, CTU cannot permit part operationalization of MTOA and therefore, the permission of the Commission is required for that purpose. Para 9.4 of the Detailed Procedure provides as under:-

“9.4. MTOA is the right to use the ISTS for any period exceeding three months but not exceeding three years and shall be provided on the basis of availability of transmission capacity in the existing transmission system or transmission system under execution and likely to be available from the intended date of MTOA. In case of delay in commissioning of transmission system under execution considered for such grant, which was beyond the control of the CTU, then date of commencement of MTOA shall be extended upto the date of commercial operation of the above system.”

As per the above provision, CTU is required to defer commencement of MTOA upto the date of commercial operation of the transmission system under execution based on which MTOA was granted. In our view, this provision does not prevent CTU to partly operationalize the MTOA, if, capacity is available to meet part requirement of the MTOA.

8. In view of the above, CTU may take necessary action to deal with the cases of the applicants/any other MTOA customers in terms of Connectivity Regulations and Detailed Procedure.

9. IA. No. 53/2016 and 54/2016 are 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