

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 130/MP/2017

Subject : Petition under Section 79 of the Electricity Act, 2003 read with Part 7, Clause 4 of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations 2010 in regard to difficulties faced in implementation of the Mechanism for compensation for degradation of Heat rate, Auxiliary Power Consumption and Secondary Fuel Consumption due to Part Load Operation and Multiple Start/ Stops of Units.

Date of hearing : **30.1.2018**

Coram : Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member

Petitioner : NTPC Limited

Respondents : GRIDCO and Others

Parties present : Shri Anand K. Ganeshan, Advocate, NTPC
Ms. Swapna Seshadri, Advocate, NTPC
Shri Ashwin Ramanathan, Advocate, NTPC
Ms. Parichita Chowdhury, Advocate, NTPC
Shri U.S. Mohanty, NTPC
Shri Somes Bandyopadhyaya, NTPC
Shri Vikram Singh, NTPC
Shri R.B. Sharma, Advocate, WBSEDCL & BSP(H)CL
Shri Rajkumar Mehta, Advocate, GRIDCO
Shri S. Vallinayagam, Advocate, TANGEDCO
Shri Ashutosh K. Srivastav, Advocate, TPDDL
Shri Rahul Kinra, Advocate, TPDDL
Shri Pratyush Pandey, TPDDL
Shri Manish Garg, UPPCL
Shri S.S. Barpanda, NRLDC
Shri Ashok Ranjan, NRLDC
Shri H.K. Chawla, POSOCO & NRLDC

Record of Proceedings

During the hearing, the learned counsel for the respondent, GRIDCO raised issues on 'maintainability' of the petition and submitted as under:

- (i) The prayer of the Petitioner for relaxation of the provisions of Clause 6.3B of the IEGC would amount to amendment of the said regulation. While rejecting the prayer to grant provisional tariff on transmission systems, the Commission in order dated 11.4.2017 in Petition No. 83/MP/2014 (PGCIL Vs. KPTCL & Ors.) had observed that the execution of Power to Relax would amount to amendment of the regulation;
- (ii) In terms of the judgment dated 6.5.2011 of Appellate Tribunal for Electricity in Appeal No. 170 of 2010 (MP Power Generation Company vs. MPERC & Ors.), the Power to Relax can be exercised under specific instances and cannot be general in nature;

(iii) The Commission in order dated 5.5.2017 had approved the detailed procedure for taking unit(s) under Reserve Shut down and mechanism for Compensation for degradation of Heat rate, auxiliary Consumption and Secondary Fuel Consumption due to Part load Operation and multiple start/stop of units.

(iv) Reply filed in the matter may be considered.

2. In response, the learned counsel for Petitioner clarified as under:

(i) The petition has been filed with prayer for relaxation and 'Removal of Difficulties' in accordance of Regulation 4 part 7 of the IEGC, Regulations, 2010 read with Regulation 115 of the CERC (Conduct of Business Regulations), 1999. The petition is maintainable as the difficulty is in the implementation of the regulation itself;

(ii) This Commission has jurisdiction in terms of the decisions of the Hon'ble Supreme Court in various cases namely, Liverpool & London S.P. & I Assn. Ltd. vs. M.V. Sea Success I [(2004) 9 SCC 512], D. Ramachandran vs. R.V. Janakiraman [(1999) 3 SCC 267] and Vijai Pratap Singh vs Dukh Haran Nath Singh [AIR 1962 SC 941];

(iii) In terms of Regulation 6.3B of the IEGC Regulations notified on 6.4.2016 the technical minimum scheduling limit has been lowered to 55% and also provided for compensation to the coal based and gas based generating stations on account of partial loading of the units.

3. The representative for respondent, NRLDC submitted that IEGC (Fourth Amendment) Regulations, 2016 was notified on 6.4.2016 except Regulation 6.3B which was notified on 15.5.2017 i.e. from the date of publication by the Commission in the official gazette. Accordingly, the claim of the petitioner for compensation, the mechanism for which has been given in detailed procedure will come into effect from 15.5.2017 after the same was notified.

4. The learned counsel for the respondents, WBSEDCL & BSP(H)CL and TANGEDCO adopted the above submissions made by GRIDCO and prayed that the reply filed in the matter may be considered.

5. The learned counsel for respondents, BRPL & TPDDL prayed for grant of time to file reply on the issue of 'maintainability' of the petition.

6. The Commission after hearing the parties, directed the parties to file their written submissions on the issue of 'maintainability' of the petition with advance copy to the other, on or before 22.2.2018.

7. Subject to above, the Commission reserved its order on 'maintainability' of the petition.

By order of the Commission

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