

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.162/MP/2017

Subject :Petition under Section 79 (1)(c), (d) and (f) and other applicable provisions of the Electricity Act, 2003 seeking directions against the Respondents in relation to the Medium Term Open Access for transfer of power from the Western Region to the Northern Region.

Date of hearing : **26.4.2018**

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

Petitioner : KSK Mahanadi Power Company Limited (KMPCL)

Respondents : PGCIL and Others

Parties present : Shri Anand K. Ganesan, Advocate, KMPCL
Shri A. Sreekanth, KMPCL
Ms. Suparna Srivastava, Advocate, PGCIL
Shri G. Chakraborty, WRLDC

Record of Proceedings

At the outset, learned counsel for the Petitioner submitted as under:

- (a) The Petitioner has entered into Power Purchase Agreement (PPA) with the distribution licensees of Andhra Pradesh (400 MW), TANGEDCO (500 MW) and UP Discom (1000 MW) for supply of power;
- (b) The Petitioner applied to CTU for grant of LTA of 1000 MW on 26.2.2014. Since the LTA was not available from the intended start date, the Petitioner applied for 1000 MW MTOA against which PGCIL granted MTOA of 1000 MW vide letter dated 10.12.2015. However, PGCIL part-operationalized 505 MW MTOA (as per pro-rata) vide letter dated 10.11.2016 based on the capacity available in the WR-NR Corridor.
- (c) The Petitioner vide its letter dated 13.12.2016 requested WRLDC and NRLDC for scheduling of 505 MW power to UP Discoms. WRLDC vide its e-mail dated 13.12.2016 informed the Petitioner that as against the installed capacity of 1200 MW, the Petitioner had MTOA of 361.5 MW with AP Discoms and LTA of 500 MW with TANGEDCO totaling to 861.5 MW and balance available power is only 258.5 MW, and with the MTOA operationalization of 505 MW by CTU, WRLDC can only commence scheduling of 258.5 MW.
- (d) Further, WRLDC vide letter dated 16.12.2016 informed that with the grant of further 505 MW MTOA for UPPCL, the total approved/ operationalized LTA and MTOA quantum as on date is 1366.5 MW. However, the present ex-bus capacity

of the generating station is only 1120 MW. Therefore, for operationalization of scheduling of power as per the grant of open access, the capacity available falls short by 246.5 MW against 505 MW. Reliance placed by WRLDC upon Regulations 6.4.9 and 6.5.19 (A) of the Grid Code is not related to the operationalization of MTOA or LTA granted by CTU. However, it is related to daily scheduling.

- (e) The decision of WRLDC in restricting the operationalization of MTOA is erroneous and contrary to the applicable regulations. WRLDC has proceeded on the basis that the Petitioner is required to schedule 100% of the capacity under the PPA at all points of time to the procurers. However, with this condition, it is impossible for the Petitioner to schedule more than 258.5 MW for UP Discoms.
- (f) The capacity to be scheduled by the Petitioner in favour of its procurers is a bilateral matter under the PPA, with consequences provided for in the PPA on the normative capacity to be declared and achieving of more or less such normative capacity. Accordingly, the total schedule from the generating station of the Petitioner for all its procurers cannot exceed the total available capacity. The contention of WRLDC that RLDCs are authorized to operationalize the scheduling of various kinds of access at ex-bus, maximum upto IC-Auxilliary is not correct.
- (g) WRLDC has no authority to refuse the operationalization of the open access on the ground of non-availability of the generating capacity. Since, the scheduling is being carried out for 258.5 MW MTOA, bills for 505 MW MTOA cannot be raised by PGCIL. PGCIL vide letter dated 2.2.2017 had reiterated that MTOA of 505 MW has been operationalized and the generator is bound to pay the transmission charges for the total quantum of 505 MW. However, the Petitioner is not using the transmission capacity.

2. On a specific query by the Commission, regarding operationalization of MTOA, the representative of WRLDC clarified that MTOA has been operationalized for 505 MW and scheduling has been restricted upto 258.5 MW. He further submitted that MTOA of 505 MW to UP Discoms was granted by CTU vide letter dated 13.12.2016 and the total approved/ operationalized LTA and MTOA quantum was increased to 1366.5 MW. However, the ex-bus capacity of the generating station as on the said date was only 1120 MW. Therefore, for operationalization of scheduling of power as per the grant of MTOA to UP Discoms, the capacity available was short of 246.5 MW. The representative of WRLDC further submitted that in terms of the Regulation 6.4.9 of the Grid Code, the maximum schedule for UP discoms was only 258.5 MW as against the 505 MW approved by the CTU.

3. Learned counsel for PGCIL submitted as under:

- (i) That the Petitioner has alleged that LTA of 1000 MW as operationalized could not be scheduled from the period from 20.4.2017 to 16.5.2017 in view of pending confirmation from UP Discoms. In this regard, Petitioner has admitted that it had signed PPA on 26.2.2014.
- (ii) LTA was to be effective from 30.10.2016, which got delayed till 20.4.2017 on account of non-availability of transmission system. Therefore, it is difficult to comprehend that during the time from signing of PPA till operationalization of LTA, the Petitioner was not able to coordinate with UP Discoms for availing

power under PPA. However, the said issue regarding operationalization of LTA was resolved by CTU in 15 days.

(iv) Accordingly, the Petitioner cannot claim any relief against CTU for failure to get the LTA scheduled from the date on which operationalization was permitted by CTU.

(ii) As per Regulation 8 (5) of the Sharing Regulations, the Petitioner is obligated for payment of applicable transmission charges irrespective of non-materialisation of approved injection/ withdrawal for any reason whatsoever inter-alia meaning that operationalisation of LTA and its consequent transmission charges payment obligation and the actual scheduling of power is independent to each other.

4. The Commission after hearing the parties directed the Petitioner to submit the copy of PPAs entered into with Andhra Pradesh Discoms, Telengana Discoms, UP Discoms and TANGEDCO on affidavit on or before 20.5.2018. The Commission further directed the parties to file their written submissions on or before 30.5.2018 with copies to each other. The Commission directed that due date of filing the information and written submissions should be strictly complied with. No extension shall be granted on that account.

5. Subject to the above, the Commission reserved the order in the petition.

By order of the Commission

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