

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**I.A. No. 33/2020  
in Petition No. 214/MP/2019**

Subject : Petition under Section 79 (1)(c) and 79(1)(f) of the Electricity Act, 2003 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 impugning the wrongful rejection of open access.

Petitioner : Tata Power Trading Company Limited

Respondent : Power Grid Corporation of India Limited .

Date of Hearing : 29.5.2020

Coram : Shri P. K. Pujari, Chairperson  
Shri I. S. Jha, Member  
Shri Arun Goyal, Member

Parties present : Shri Amit Kapur, Advocate, TPTCL  
Shri Vishrov Mukerjee, Advocate, TPTCL  
Ms. Raveena Dhamija, Advocate, TPTCL  
Shri Abhijeet Rajendra, TPTCL  
Shri Bikram Singh, TPTCL  
Shri Bhaskar Sarkar, TPTCL  
Shri Abhay, TPTCL  
Ms. Suparna Srivastava, Advocate, PGCIL  
Ms. Jyoti Prasad, PGCIL  
Shri Debasis De, POSOCO  
Shri Nadim Ahmad, POSOCO

**Record of Proceedings**

The matter was heard through video conferencing.

2. Learned counsel for the Petitioner, Tata Power Trading Company Limited (TPTCL) submitted that present IA has been filed seeking direction to Power Grid Corporation of India Ltd.(PGCIL)/Power System Operation Control Limited (POSOCO)/Eastern Region Load Despatch Centre (ERLDC) to comply with the Commission's directions dated 15.10.2019 and to grant Short-Term Open Access (STOA) to TPTCL as has been granted in the past. Learned counsel requested to implead ELRDC as party to the main Petition. Learned counsel for the Petitioner submitted as under:



(a) The captioned Petition No. 214/MP/2019 has been filed by the Petitioner, challenging PGCIL's wrongful rejection of TPTCL's application for Medium-Term Open Access for supplying power to West Bengal State Electricity Distribution Company Limited from Dagachhu Hydro Power Corporation (DHPC) owing to failure to furnish approval from the Designated Authority (Central Electricity Authority) in terms of Regulation 12 of the Central Electricity Regulatory Commission (Cross Border Trade of Electricity) Regulations, 2019 ('CBTE Regulations').

(b) As an interim arrangement, TPTCL has been supplying power to WBSEDCL on short-term basis. Based on the request of the Petitioner to continue present arrangement of supply of power by TPTCL to WBSEDCL, the Commission vide Record of Proceedings for the hearing dated 15.10.2019, directed PGCIL/POSOCO not to take any coercive measures against the Petitioner till further order.

(c) In compliance with the Commission's directive, ERLDC/POSOCO approved the STOA application of TPTCL until 29.4.2020. However, ERLDC rejected TPTCL's application for STOA for further period on account of failure to furnish approval from CEA under the CBTE Regulations.

(d) ERLDC/POSOCO again started approving TPTCL's application for STOA from 4.5.2020 till 24.5.2020. However, with effect from 25.5.2020, ERLDC/POSOCO rejected TPTCL's application for grant of STOA in absence of approval of the CEA.

(e) ERLDC/ POSOCO's refusal is contrary to the Commission's direction dated 15.10.2019 and despite the said direction being communicated to ERLDC/POSOCO on multiple occasions by TPTCL, ERLDC/POSOCO has failed to give effect to the said direction.

(f) As advised by ERLDC/POSOCO, TPTCL had also approached the Designated Authority under CBTE Regulations to approve Dagachhu transaction under Clause 4.4 of the Guidelines dated 18.12.2018 and under Regulations 11(2), 12 (2) and 6 of the CBTE Regulations. However, CEA has taken a view that the matter is *sub-judice* before the Commission.

(g) Since the issue of whether any approval from CEA is required by TPTCL under the CBTE Regulations for supply of power from DHPC to domestic entities such as WBSEDCL is pending adjudication in the captioned Petition, ERLDC/POSOCO ought not to have refused TPTCL's application on the basis of failure to furnish approval from CEA.

3. Learned counsel for the Respondent, PGCIL submitted that as far as present IA is concerned, PGCIL has no role in consideration of TPTCL's STOA applications. She further submitted that interim arrangement may be continued and the main Petition be listed for hearing as per the Commission's convenience.

4. The representative of POSOCO/NLDC submitted that POSOCO had been granting STOA to TPTCL in compliance with the Commission's direction dated 15.10.2019. However, POSOCO was under doubt as to whether each STOA application by TPTCL would constitute a new transaction or not. Accordingly,



POSOCO had sought clarification from Designated Agency under CBTE Regulations in respect to TPTCL's application. POSOCO got a communication to the effect that there is no approval in respect of TPTCL's application. On the basis of above intimation from CEA, POSOCO did not approve TPTCL's STOA applications. The representative of NLDC/POSOCO submitted that NLDC/ERLDC had no intention of not complying with the Commission's direction dated 15.10.2019 and NLDC/ERLDC will comply with the directions of the Commission.

5. After hearing the learned counsels for the Petitioner and the Respondent, PGCIL and the representative of the POSOCO/NLDC, the Commission observed that in terms of the direction of the Commission dated 15.10.2019, PGCIL/POSOCO was required to continue the present arrangement of supply of power by TPTCL to WBSEDCL till further order. The Commission expressed displeasure towards non-compliance of the Commission's direction dated 15.10.2019 and observed that in case of any doubt, ERLDC/POSOCO should have approached the Commission for clarification in this regard. The Commission also observed that NLDC/POSOCO have not refuted the existence of Power Purchase Agreement between TPTCL and DHPC predating the CBTE Policy and Regulations. Also, as per CBTE Regulations, once the power has been delivered to the Indian Territory, the evacuation/transfer of such power has to be governed by the Commission's relevant Open Access Regulations. Therefore, the Commission directed ERLDC/POSOCO to comply with the Commission's direction dated 15.10.2019 and to consider TPTCL's STOA application in accordance with law till disposal of the main Petition. Accordingly, the Commission disposed of the IA No.33/2020.

6. The Commission directed the Petitioner to implead ERLDC/POSOCO as party to the Petition and file revised memo of parties by 12.6.2020. POSOCO and ERLDC were directed to file their reply to the Petition, if any, by 26.6.2020 with advance copy to the Petitioner, who may file its rejoinder, if any, by 15.7.2020

7. The Petition No. 214/MP/2019 shall be listed for hearing in due course for which separate notice will be issued.

**By order of the Commission**

**Sd/-  
(T.D. Pant)  
Deputy Chief (Law)**

