



नई दिल्ली
NEW DELHI

याचिका संख्या. /Petition No.: 382/MP/2018

कोरम/ Coram:

श्री पी. के. पुजारी, अध्यक्ष/ Shri P. K. Pujari, Chairperson
श्री आई. एस. झा, सदस्य/ Shri. I.S. Jha, Member
श्री अरुण गोयल, सदस्य/ Shri. Arun Goyal, Member

आदेश दिनांक/ Date of Order: 27th of July, 2020

IN THE MATTER OF:

Petition under Section 79 of the Electricity Act read with Regulations 15 & 16 of the CERC (Ancillary Services Operations) Regulations, 2015 seeking exercise of the power to relax and remove difficulties on the aspect of the severe under-recovery of variable charges under Regulation 13.3 for the Five (5) Gas Based Generating Stations of NTPC, the Petitioner.

AND IN THE MATTER OF:

NTPC Limited
NTPC Bhawan Core-7,
Scope Complex 7, Institutional Area,
Lodi Road New Delhi-110003

...Petitioner

VERSUS

Power System Operation Corporation Limited
B-9, Qutab Institutional Area, Katwaria Sarai
New Delhi-110016

...Respondent

Parties present: Ms. Swapna Seshadri, Advocate, NTPC
Shri S.P. Kesarwani, Advocate, NTPC
Shri Gautam Chakraborty, POSOCO

आदेश / ORDER

The Petitioner, NTPC Limited (hereinafter referred to as 'NTPC') is a 'generating company' as defined under Section 2(28) of the Electricity Act, 2003 whereas the Respondent, POSOCO is the National Load Despatch Centre (NLDC) and is the implementing agency for scheduling and dispatch of electricity.

2. The Petitioner has made the following prayers:

- (i) *Admit the petition;*
- (ii) *Relax the provisions of Regulation 13.3 by application of Regulation 15.1 of the ASO Regulations in so far as the five (5) gas based stations of the Petitioner are concerned;*
- (iii) *Direct that when RLNG power is scheduled, there would be a truing up of the variable charges to the extent of schedule;*
- (iv) *Pass such further order(s) as deemed fit and proper.*

BACKGROUND

3. The Commission notified the Central Electricity Regulatory Commission (Ancillary Services Operations) Regulations, 2015 (hereinafter referred to as the 'ASO Regulations') on 13.08.2015 with an objective to restore the frequency of the grid at desired level and to relieve congestion in the transmission system. On 17.09.2015, the Commission notified the 'Statement of Reasons' for the ASO Regulations.

4. The Commission, vide a Suo-motu Order in Petition No. 01/SM/2016, on 29.02.2016 determined the mark-up of 50 paise/ kWh for delivery of reserve regulatory ancillary services (RRAS) under the ASO Regulations.

5. Subsequently, on 21.11.2016, the Commission approved and directed NLDC to implement the 'Final Detailed Procedure for Ancillary Services Operations' (hereinafter referred to as the "Detailed Procedure").

6. The present petition has been filed by the Petitioner for seeking direction to relax the provisions of Regulation 13.3 by application of Regulation 15.1 of the ASO Regulations, in case of five (5) gas based stations of the petitioner, viz. Anta, Auriya, Dadri, Gandhar and Kawas.

7. The Petitioner has argued that a peculiar issue is being faced by the five (5) gas-based generating stations of NTPC, especially in the months from September to December while providing reserve regulatory ancillary services (RRAS) under the ASO Regulations. When these five (5) gas-based generating stations of NTPC were directed by NLDC to operate so as to maintain the grid frequency, there was a huge difference in the energy charges received and actual fuel cost borne by these generating stations by participating in RRAS. Therefore, as opposed to being incentivized to participate in RRAS, according to the Petitioner, these generating stations suffered losses. Therefore, the Petitioner has prayed that when RLNG power is scheduled, there should be truing up of the variable charges to the extent of schedule and hence the Petition.

SUBMISSIONS OF THE PETITIONER

8. The Petitioner has submitted that one of the regulatory measures taken by the Commission to restore the frequency of the grid at desired level and to relieve congestion in the transmission system is the notification of the ASO Regulations.

9. The Petitioner has submitted that basic premise of the ASO Regulations is that a generator participating in providing RRAS should recover all its reasonable costs and expenses and in fact should even be given an incentive for participation. The ASO Regulations while compelling generators to offer their power to be scheduled in a particular manner also ensures that the generators are commercially protected for providing these services. The Petitioner has stated that the principle of recovery of all reasonable costs and expenses of a generator is a statutory mandate under Sections 61 and 62 of the Electricity Act, 2003.

10. The Petitioner has submitted that the Detailed Procedure provides that for the purpose of RRAS scheduling and settlement, the variable charges of the previous month shall be

applicable from 16th of the current month to the 15th of the next month. On the other hand, for the purpose of billing of schedules received under long term scheduling, variable charges of previous month are applicable from 1st of previous month to the last day of same month.

11. The Petitioner has submitted that the paramount consideration before the Commission while notifying Regulation 13.3 and 13.4 of the ASO Regulations was that both the generating station and the original beneficiaries are remunerated through payment of fixed and variable charges for providing RRAS along with mark-up.

12. The Petitioner has also submitted that the Commission vide Order dated 29.02.2016 in Petition No. 01/SM/2016 determined the mark-up of 50 paise/kWh, for delivery of RRAS under the ASO Regulations. The purpose of mark-up was clarified in the Order as under:

“5. To summarize,

*5.1. Statement of Reasons accompanying Ancillary Services Operations Regulations explained that “mark-up shall be applied to fixed cost, and shall be decided based on factors such as age, ramp rate, loss of efficiency, additional wear and tear of the unit, etc.” It is clarified that both the generating station and the original beneficiary(ies) are being remunerated through payment of fixed and variable charges for providing Regulation-Up service. **The mark-up seeks to only compensate for the additional wear and tear, if any, that may be caused due to increased ramp up and ramp down cycles under Ancillary Services scheduling.**”*

13. The Petitioner has submitted that the markup was introduced to encourage the generators to participate in RRAS and also to take care of the additional wear and tear, if any, that may be caused due to increased ramp up and ramp down cycles under RRAS scheduling. Accordingly, the Commission gave its approval and directed NLDC to implement the Detailed Procedure.

14. The Petitioner has claimed that since the ASO Regulations have been in operation for two (2) years, a peculiar issue was faced by the following five (5) gas-based generating stations of NTPC, especially in the months from September to December while providing RRAS under the ASO Regulations:

- (i) Kawas (656.2 MW)
- (ii) Gandhar (657.39 MW)
- (iii) Dadri (829.78 MW)

- (iv) Anta (419.33 MW)
- (v) Auraiya (663.36 MW)

15. The Petitioner has submitted that when the above generating stations were directed by NLDC to operate to provide RRAS, there was a huge difference in the energy charges received and actual fuel cost borne by these generating stations by participating in RRAS. Therefore, as opposed to being incentivized to participate in RRAS, these generating stations suffered a huge loss. This was noticed both in FY 2017-18 and FY 2018-19. According to the Petitioner, the losses incurred by these gas stations of NTPC, due to difference in normative ECR and ECR considered for RRAS, are as follows:

S. No	Name of the Generating Station	Financial Year	Under-recovery of Variable Charges (Rs Lakhs)
1	Anta	2017-18	1816.74
2		2018-19 (Till Oct 18)	2184.87
3	Auraiya	2017-18	1489.85
4		2018-19 (Till Oct 18)	3095.09
5	Dadri Gas	2017-18	867.47
6		2018-19 (Till Oct 18)	3088.92
7	Kawas	2017-18	724.24
8		2018-19 (Till Oct 18)	431.49
9	Jhanor Gandar	2017-18	614.42
10		2018-19 (Till Oct 18)	363.85

16. The Petitioner has submitted that the gas stations primarily run on Domestic Gas, Liquid Fuel and Re-gassified Liquefied Natural Gas (RLNG). In so far as the Domestic Gas and Liquid Fuel was concerned, the variation in price was not significant on monthly/ weekly basis. However, there were sharp price fluctuations and variations in so far as imported RLNG was concerned due to the following reasons: -

- i) Price of imported RLNG was discovered on weekly/ monthly basis in USD/unit. So, there is variability of price with respect to USD and there was upward increase in RLNG prices during the peak demand months i.e. September to December.
- ii) Price volatility of USD in terms of rupees was quite high which further added to variation of landed price of RLNG.

17. The Petitioner has claimed that in view of the uncertainty in scheduling RLNG by beneficiaries/ through RRAS, the Petitioner has tied up with RLNG suppliers by entering into various short-term contracts, the validity of which is generally one month. The prices of spot/ short term imported RLNG cargos vary as per short term demand globally. Thus, the Petitioner has no control over price of RLNG. Further, as the prices of RLNG were predominantly based on USD, any variation in exchange rate of USD vs. Indian Rupee directly impacts the landed price of RLNG. In such a scenario, when these gas stations are operated under RRAS predominantly with RLNG, there was wide variation on month to month basis in actual monthly variable cost borne by the gas stations. A summarization of month on month variable charges of gas stations billed corresponding to schedules under long term, for financial year 2017-18 and 2018-19, as submitted by the Petitioner, were as follows:

(Amount in Rs./unit)

Sl No	Month	ECR of Anta	ECR of Auraiya	ECR of Dadri Gas	ECR of Kawas	ECR of Gandhar
1	Apr' 17	4.488	6.697	6.274	6.936	5.317
2	May' 17	4.488	6.697	6.274	4.514	4.488
3	June' 17	4.488	6.697	6.274	4.505	4.466
4	July' 17	4.488	6.697	6.274	4.505	4.748
5	Aug' 17	4.488	6.697	6.274	4.577	4.486
6	Sept' 17	5.103	6.123	5.892	5.062	5.248
7	Oct' 17	6.546	7.889	7.531	6.346	6.463
8	Nov' 17	6.849	8.279	7.884	6.650	6.610
9	Dec' 17	6.745	8.152	7.764	6.780	6.726
10	Jan' 18	7.919	9.572	7.764	7.761	8.253
11	Feb' 18	7.982	9.648	9.189	8.189	8.248
12	Mar' 18	7.982	9.648	8.473	7.003	7.162
13	Apr' 18	7.982	9.648	8.473	6.458	6.393
14	May' 18	6.660	8.060	7.675	6.305	6.446
15	June' 18	7.412	8.060	8.507	7.109	7.307
16	July' 18	7.519	9.131	8.655	7.525	7.699
17	Aug' 18	7.519	9.307	8.956	7.649	7.589
18	Sept' 18	8.698	10.635	10.168	7.828	8.022
19	Oct' 18	9.35	11.264	10.756	8.208	8.294

18. The Petitioner has submitted that since as per Para 6.1 of the Detailed Procedure, the variable charges of previous month was used for the dispatch of RRAS from 16th day of current month to 15th day of next month, sharp deviations in the price of RLNG did not get captured properly and the actual cost incurred was not fully recovered.

19. The Petitioner has stated that there was variation in variable charges of RLNG fuel and schedule for RRAS given to respective gas stations and has provided detailed calculation of the loss suffered by the gas stations of the Petitioner by participation in RRAS. The Petitioner has further claimed that in most of the cases, during RRAS, the actual Energy Charge Rate (ECR) was much higher than the charges actually received. However, whenever the ECR happens to be lower than the charges received, there is often no requirement of RRAS Up schedules. Therefore, NTPC has filed the present petition invoking the powers of this Commission under Regulation 15 and 16 of the ASO Regulations which read as under:-

“15. Power to Relax

15.1. The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected by grant of relaxation, may relax any of the provisions of these regulations on its own motion or on an application made before it by an interested person.

16. Power to issue directions

16.1. If any difficulty arises in giving effect to these regulations, the Commission may on its own motion or on an application filed by any affected party, issue such directions as may be considered necessary in furtherance of the objective and purpose of these regulations.”

20. The Petitioner has further argued that the entire purpose behind the ASO Regulations is that the unutilized power of the generating stations be utilized to maintain grid frequency within the desired band by scheduling power from the generating stations to a virtual entity based on certain decided principles. A gas based generating station cannot refuse to participate in the ASO Regulations and has to necessarily operate the generating station as per the directions of the Respondent. The mark-up price determined is only to compensate for the additional wear and tear, if any, that may be caused due to increased ramp up and ramp down cycles under RRAS scheduling. However, there is no mark-up price to take care of any loss on account of under-recovery of variable charges incurred in the present case by these gas based generating stations of the Petitioner. The intention of the ASO Regulations and the Order dated 29.02.2016 in 01/SM/2016 is that the generating companies recover all reasonable costs and expenses and also get incentivized to participate in RRAS and do not incur losses for such participation.

21. The Petitioner has further submitted that the gas based generating companies have no control over the cost of RLNG which depends purely on discovery of price in market and fluctuations in the foreign rate exchange variation. The intention of the proviso to Regulation 13.3 of the ASO Regulations is that there should be no frequent revisions in the fixed and variable charges with respect to the settlement for RRAS operations. However, it is also not the intention that generating stations should suffer losses on account of participation in RRAS. Regulation 13.3 of the ASO Regulations uses the term '*as applicable at the time of delivery of RRAS*' and the intention of the Regulation was to grant the generator, the energy charges for the month in which RRAS are delivered. As per the practice being followed, energy charges are calculated on monthly basis. Therefore, the applicable energy charges should be equal to energy charges for the month in which RRAS are delivered. Even though there is a slight dilution of the above principle in the Detailed Procedure, the main intent of Regulation 13.3 of the ASO Regulations cannot be taken away. The generating companies should be incentivized and not dis-incentivized for participation in RRAS especially in view of the fact the generating companies have no option but to participate in the services.

22. The Petitioner has submitted that only in so far as the gas based generating stations are concerned, the principle for settlement of variable charge should be relaxed under Regulation 15.1 of the ASO Regulations and a new principle should be applied.. The power to relax is a judicial discretion vested in the Commission to be exercised in deserving cases and to ensure that application of a Regulation does not cause injustice to any person. The Petitioner has placed its reliance on *Hindustan Steels Ltd. v. A.K. Roy, (1969) 3 SCC 513, at page 520; NTPC Limited v. Madhya Pradesh State Electricity Board 2007 ELR APTEL 7.*

SUBMISSIONS OF RESPONDENT

23. The Respondent vide affidavit dated 30.05.2019, has submitted that Clause 13.3 of the regulation read with the Para V of the SOR (Statement of Reasons), clearly explains that during the settlement under the ASO Regulations, the rate for fixed charge and variable charge, (provisional or final) will be the same as it is considered at the time of despatch/delivery and no retrospective settlement shall be undertaken. Therefore, the provisions of the ASO Regulations have to be read in their entirety with the SOR and any isolated or fragmented reading would lead to misinterpretation of the Regulations.

24. The Respondent also referred to clause 6.1 of the Detailed Procedure and Regulation 12.1 of the ASO Regulations to state that the case of the Petitioner is not covered under provisions of the Detailed Procedure and the ASO Regulations. The Respondent has submitted that point of difference between scheduling of power to its beneficiaries and that under RRAS is that in case of scheduling of power to its beneficiaries, the charges are paid by the beneficiaries and it is subject to revision. However, in case of RRAS, no retrospective change is permissible.

25. The Respondent has submitted that the principle of despatch of power under RRAS is done with the cheapest available generator to be despatched first, followed by the costlier generation. Due to high variable cost of the imported RLNG, the said plants come in as the last resort in the merit order for despatch under RRAS. The generation needs to follow the load and requires adequate ramping. In case power is despatched under RRAS from the said gas plants in real time and if the energy charges are revised post facto, then the order in the stack of available generators will get disturbed which is against the principle of merit order despatch.

26. The Respondent submitted that in view of the above, the Commission may pass orders as it deems fit.

SUBMISSION OF THE PETITIONER THROUGH REJOINER

27. The Petitioner submitted its rejoinder vide affidavit dated 24.06.2019, in which the Petitioner argued that the Respondent has not dealt with the case set by the Petitioner on merits and has simply relied on the ASO Regulations and the Statement of Reasons for the 'Framework on Ancillary Services Operations Regulations' 2015 dated 17.09.2015 notified by this Commission.

28. The Petitioner has submitted that the petition has been filed for seeking relaxation under the provisions of Regulation 13.3 by application of Regulation 15.1 of the ASO Regulations in so far as the five (5) gas based generating stations of the Petitioner are concerned and also for seeking direction to the extent that when power from use of RLNG is

scheduled, there should be truing up of the variable charges to the extent of schedule. Since the ASO Regulations have operated for 2 years, a peculiar issue is being faced by the five (5) gas based generating stations of the Petitioner, especially in the months from September to December while providing RRAS under the ASO Regulations and hence the Petitioner has sought for a relaxation. In spite of a mark-up for providing RRAS, the Petitioner is incurring heavy losses on the same. This aspect has not been dealt with by the Respondent.

29. The Petitioner has submitted that the Respondent in its response has relied on Regulation 13.3 of the ASO Regulations and Para V of the SOR to contend that the fixed and variable charges will not be trued up. The Petitioner is also aware of this provision and is not denying the same, but at the same time due to the peculiar facts relating to the 5 gas based generating stations, it is seeking relaxation from the above treatment under Regulation 15 and 16 of the ASO Regulations.

30. The Petitioner has submitted that the intent of the proviso to Regulation 13.3 is only that there should not be frequent revisions in the fixed and variable charges with respect to the settlement for RRAS operations. However, it is not the intention of the ASO Regulations that generating stations should suffer losses on account of participation in RRAS.

31. The Petitioner has submitted that the Respondent in its reply has stated that since there is no Regulatory provision for retrospective change and therefore, this principle is cast in stone and cannot be disturbed. However, the argument cannot be accepted since it would make the 'Power to Relax' and the 'Power to remove Difficulties' redundant. A generating company should be incentivized and not dis-incentivized for participation in RRAS especially in view of the fact that the generating company has no option but to participate in the services, and therefore, the relaxation is being sought only in so far as the 5 gas power stations are concerned during the period they use RLNG for generation of power.

32. The Petitioner has submitted that the Respondent has contended that since merit order principle is followed for dispatch of power under RRAS, in case power is despatched under RRAS from the said plants in real time and if the energy charges are revised post facto, then the order in the stack of available generators will get distributed, which is against the principle of merit order despatch. The contention raised is an academic issue without any

relevance. In any case, RLNG based power being an expensive source are lower in the stack for operation of RRAS and barely any other generators after gas based generating stations are despatched. It is admitted by the Respondent itself that gas plants come as the last resort in the merit order for despatch under RRAS. This being the case, unless NLDC points out a specific example of the merit order stack being changed, the relaxation sought by the Petitioner cannot be denied on this technical ground.

DIRECTION OF THE COMMISSION VIDE ROP OF HEARING HELD ON 14.05.2020

33. The Commission vide ROP (Record of Proceedings) of hearing dated 14.05.2020, directed the Petitioner to submit, by 30.05.2020, the further details of cost and recovery on account of participation under the provisions of the ASO Regulations. This information was to be provided, in the format specified in the ROP, in respect of the five generating stations since coming into force of the ASO Regulations and up to the latest period for which such information is available, so that a complete and clearer picture emerges for the entire period for these generating stations.

34. In reply to the RoP of hearing dated 14.5.2020, the Petitioner furnished the following information on 29.6.2020.

- a) Due to the prevailing lockdown, there is a slight delay in submission in the said information for which NTPC had sought an extension vide its letter dated 27.05.2020. The present submission may kindly be taken on record.
- b) The ASO Regulations came into force on 13.08.2015 and the five gas based generating stations of NTPC, namely, Anta, Auraiya, Dadri, Kawas and Gandhar started to get RRAS schedule from April 2016.
- c) A substantial loss was suffered by the generating stations in FY 2017-18 and FY 2018-19. The following table gives the computation of loss:

(Rs. in Crore)

	2017-18	2018-19	2019-20
Anta	18.17	22.38	-0.52
Auraiya	14.90	30.70	-0.67

Dadri Gas	8.68	30.44	-0.26
Kawas	7.24	4.86	-0.29
Gandhar	6.15	3.46	1.03
Total	55.14	91.84	-0.71

ANALYSIS AND DECISION

35. The instant petition has been filed by the Petitioner seeking relaxation of the provisions of Regulation 13.3 by application of Regulation 15.1 of the CERC (Ancillary Service Operation) Regulations, 2015, in case of five (5) gas based generating stations of the Petitioner, viz. Anta, Auriya, Dadri, Gandhar and Kawas. The Petitioner has prayed that when power using RLNG is scheduled from these generating stations, there should be truing up of the variable charges to the extent of schedule.

36. According to the Petitioner, the above generating stations were directed by the Respondent for participation in RRAS, and on account of this, there has been huge loss incurred by the Petitioner due to difference between the energy charges received and actual fuel cost borne by these generating stations. Therefore, participation in RRAS, as opposed to being an incentive, has led to huge losses for these generating stations. This was noticed both in FY 2017-18 and FY 2018-19.

37. The Petitioner has emphasized that in view of uncertainty in the scheduling on RLNG by beneficiaries/ through RRAS, NTPC ties up with RLNG suppliers by entering into various short-term contracts, the validity of which is generally one month and that the prices of spot/ short-term imported RLNG cargos vary as per short-term demand globally. Thus, NTPC has no control over the price of RLNG. Further, as the prices of RLNG are predominantly based on USD, any variation in exchange rate of USD vs Indian Rupee directly impacts the landed price of RLNG.

38. The Commission notes that in the instant petition, the Petitioner is seeking the exercise of power to relax and power to remove difficulties under the provisions of Regulations 15 and 16 of the ASO Regulations. The Petitioner has proposed that in so far as the gas based generating stations are concerned, the principle for settlement of variable charge may be relaxed under Regulation 15.1 of the ASO Regulations. It has requested that

some deviation/ truing up only to the extent of RLNG power scheduled under the RRAS should be allowed by the Commission.

39. The Respondent, on the other hand, has submitted that the proposal of the Petitioner is not covered under the Regulations. In rejoinder, the Petitioner has submitted that the Respondent has not replied on the issue of power to relax/ power to remove difficulty under the provisions of the ASO Regulations. The Petitioner has submitted that its case may be dealt with under provisions of power to relax/ power to remove difficulty.

40. We have examined the proposal of the Petitioner and perused the documents on record. The Commission notified the CERC (Ancillary Services Operations) Regulations, 2015 (ASO Regulations) with an objective of restoring the frequency of the grid at desired level and for relieving congestion in the transmission system. Regulation 13.3 of the ASO Regulations stipulates settlement mechanism for the RRAS providers (i.e. generating stations getting despatched under ASO Regulations) under which it has been specified that no retrospective settlement of fixed or variable charges shall be undertaken even if the fixed or variable charges are revised at a later date. The relevant extracts from the ASO Regulations are as under –

“13.3. The RRAS Provider(s) shall be paid at their fixed and variable charges, with mark-up on fixed cost, as decided by the Commission through a separate order from time to time in case of Regulation Up services for the quantum of RRAS scheduled, from the Regional Deviation Pool Account Fund.

Provided that, the fixed and variable charges allowed by the Commission and as applicable at the time of delivery of RRAS shall be used to calculate the payment for this service and no retrospective settlement of fixed or variable charges shall be undertaken even if the fixed or variable charges are revised at a later date.

13.4. The RRAS Provider(s) shall adjust the fixed charges to the original beneficiaries for the quantum of un-requisitioned surplus scheduled under Regulation Up service.”

41. Subsequently in March 2016, the draft Detailed Procedure was proposed that also stipulated that, for the purpose of RRAS scheduling and settlement, the variable charges of the previous month shall be applicable from 16th day of the current month to the 15th day of the next month. On 21.11.2016, this Commission gave its approval and directed the Respondent No. 1, POSOCO, to implement the Detailed Procedure. The relevant extracts from the Detailed Procedure is as under:

“6. Role of Regional Power Committees (RPC)

6.1. Based on the data provided by the RRAS Providers, the RPCs shall publish the following information (as per Format-AS3) on their respective websites on a monthly basis by the 12th

day of current month (if 12th day is holiday, then next working day) for the period starting 16th of the current month to the 15th of the next month.

.....
The above information will be used for despatch of RRAS from the 16th day of the current month till the 15th day of the next month.

A suitable and mutually agreed file transfer protocol shall be developed for exchange of above information between the RPCs and the Nodal Agency/RLDCs

6.2. The RPCs shall use the above mentioned details of fixed charge, variable charge and any other statutory charges applicable on the RRAS Providers for preparation of Energy/Deviation Accounts of the RRAS providers. Any post-facto revision in rates/charges by RRAS providers shall not be permitted.”

42. Further, the Commission in Statement of Reasons (SoR) for the ASO Regulations dealt extensively on the issue of settlement under the ASO Regulations in the light of the extant practice of accounting and settlement of fixed and variable charge of RRAS providers. In SoR for the ASO Regulations, it was clearly mentioned that participation in RRAS is based on the prices intimated at the time of participation and same cannot be changed subsequently. The relevant extract from the Statement of Reason (SoR) of the CERC (Ancillary Service Operation) Regulations, 2015 is as under:

“7.5 Analysis and Commission’s Decision

NTPC has suggested that mark-up should be high enough compared to DSM payment that the generator can get by over-injecting in cases of low frequency. Some stakeholders have stated that more clarity is required on whether mark-up shall be on both fixed and variable costs or one of them. Several stakeholders have suggested that mark-up should be based on plant performance, which should be tracked. NTPC has also raised the question on how payment for RRAS shall be adjusted if fixed or/and variable charges are modified at a later date. The Commission has taken note of all comments and suggestions above, and would like to respond as follows:

- i. The Commission emphasizes that UI/DSM is not a trading mechanism and generators do not have the unbridled freedom to over-generate lured by high UI rate during low frequency regime. There are deterrents in IEGC and DSM Regulation against such perverse tendencies amounting to gaming.*
- ii. It is clarified that the mark-up shall be applied to fixed cost, through a separate order. The Commission shall decide the same based on factors such as age & ramp rate, loss of efficiency, additional wear & tear of the unit, etc. Mark-up shall be communicated from time to time through a separate order.*
- iii. The Commission appreciates the suggestion of IEDCI highlighting the need for tracking performance of RRAS providers. NLDC being the Nodal Agency is expected to undertake performance evaluations of such providers at regular intervals and submit report to the Commission.*
- iv. Existing billing arrangements are conducive to net settlement of fixed charges between the seller and the buyer. These need not be disturbed.*
- v. The fixed or variable charge that is adopted by the Commission (provisional or final) at the time of delivery of Ancillary Service shall be used to calculate the payment for this service. No retroactive settlement shall be undertaken even if the fixed or variable charge is modified at a later date. (emphasis added)*
- vi. Penalty for non-compliance of dispatch instructions has already been clarified and stated under regulation 13.7.*

*Thus, the regulations are modified as below:
-----"*

43. It is evident from the above that the Petitioner had already raised the question as to how payment for RRAS shall be adjusted if fixed and/or variable charges are modified at a later date and the Commission had clarified that the fixed or variable charge that is determined by the Commission (provisional or final) at the time of delivery of RRAS shall be used to calculate the payment for this service. No retroactive settlement shall be undertaken even if the fixed or variable charge is modified at a later date. The Petitioner in this petition has not raised any new issue and only reiterated the issues raised during formulation of these regulations.

44. Clause 6.1 of the Detailed Procedure provides that:

"Based on the data provided by the RRAS Providers, the RPCs shall publish the following information (as per Format-AS3) on their respective websites on a monthly basis by the 12th day of current month (if 12th day is holiday, then next working day).

- a) RRAS Provider Station Name*
- b) Unit wise and Total Installed/Effective Capacity (MW)*
- c) Type of fuel used*
- d) Maximum possible ex-bus injection (including overload if any)*
- e) Region and Bid Area*
- f) Ramp Up Rate (MW/Min.)*
- g) Ramp Down Rate (MW/Min.)*
- h) Station Technical Minimum (MW and in %), as per the relevant CERC Regulations on technical minimum of plants*
- i) Fixed cost or Capacity Charges (paise/kWh up to one decimal place)*
- j) Variable cost or Energy Charges (paise/kWh up to one decimal place)*
- k) Start-up time for cold start and warm start*
- l) Module constraints, if any, in the case of gas based stations*

The above information will be used for despatch of RRAS from the 16th day of the current month till the 15th day of the next month.

A suitable and mutually agreed file transfer protocol shall be developed for exchange of above information between the RPCs and the Nodal Agency/RLDCs."

45. Regulation 12.1 of the CERC (Ancillary Services Operations) Regulations, 2015 provides that:

"12.1. Energy Accounting shall be done by the respective Regional Power Committee on weekly basis along with Deviation Settlement Account based on interface meters data and schedule."

46. We note from the provisions of the ASO Regulations and the Detailed Procedure that the settlement for RRAS has to be done on weekly basis, taking into consideration the rate which has been intimated by the generator by 12th day of the current month for the period from 16th day of the current month till the 15th day of the next month. Therefore, the settlement procedure for the Reserve Regulatory Ancillary Service (RRAS) is different from that of long term scheduling settlement as done between the generator and its beneficiaries.

47. The Commission also observes that despatch of power under RRAS is based on the principle that the cheapest available generator shall be despatched first, followed by the costlier generation. The relevant extract from the ASO Regulations is quoted below:

“6.1 Nodal Agency shall prepare merit order stack of Inter-State Generating Stations as stipulated in regulation 6.2 and take despatch decision.

6.2. For Regulation-Up, the Nodal Agency shall prepare stack of un-requisitioned surplus capacities available in respect of Inter-State Generating Stations from lowest variable cost to highest variable cost in each time block, and taking into account ramp up or ramp down rate, response time, transmission congestion and such other parameters as stipulated in the Detailed Procedure. For Regulation-Down, a separate merit order stack from highest variable cost to lowest variable cost incorporating technical parameters as above shall be prepared.

6.3. Nodal agency shall prepare merit order stack factoring inter-regional and intraregional transmission constraints, if any.

6.4. Nodal Agency shall monitor the frequency during continuous low frequency or high 4 frequency period, any system contingency, loading on tie line etc.

6.5. Nodal agency shall direct the selected RRAS Provider(s) based on the merit order for economical despatch for Regulation Up and Regulation Down, as and when requirement arises in the system.....”

48. It is evident from the above that for ensuring that the dispatch is merit based, it is important that the variable cost based on which the stack is prepared and power from generating stations is dispatched, remains firm and is not altered. Request for retrospective change/ true up of variable cost of the imported RLNG based generating stations will, therefore, go against this principle specified for implementation of RRAS.

49. The Petitioner has argued that the gas based generating stations have high variable costs and hence are the lowest in merit order and trueing up their variable costs would not alter the merit order. The Commission is of the view that once the principle of merit order stacking and dispatch has been agreed, it would not be advisable to relax the principle. The stack prepared for dispatch under RRAS is dynamic and might vary from time block to time block, subject to technical constraints as specified in the ASO Regulations. In other words, there are possibilities of different sets of generators (dispatched under RRAS) appearing lower in merit order in different points of time. Therefore, relaxation for one set of generators to the

exclusion of others would not only be inequitable but would also go against the basic principle that has gone into the despatch related provisions in the ASO Regulations.

50. In view of above, the Commission is of the view that relaxing the provisions of the regulation and allowing true-up of the variable charges to the extent of schedule when RLNG power is scheduled, would amount to changing the basic structure and principle of despatch of generating stations under RRAS. Participation in RRAS is merit order based and the generating stations are scheduled depending on their variable costs from the lowest to the highest in each time block, subject to technical constraints as specified in the ASO Regulations and the Detailed Procedure. The retrospective adjustment, if any, shall defeat the very purpose of making it a merit order based despatch. Therefore, relaxation sought by the petitioner in provisions of Regulation 13.3 by application of Regulation 15 and true-up of the variable charges for RLNG cannot be agreed to.

51. With the above directions, Petition No. 382/MP/2018 stand disposed of.

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