

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

- 1. Shri Bhanu Bhushan, Member**
- 2. Shri R. Krishnamoorthy, Member**

Petition No. 13/2007

In the matter of

Petition to allow regulation of power supply to the beneficiaries in case of default in opening and maintaining of Letter of Credit(s) in accordance with provisions of the Tripartite Agreement signed by the State Governments, Union Government of India and Reserve Bank of India as deemed to have been issued under the "Generic Procedure of Regulation of Power Supply" of Hon'ble Commission.

And in the matter of

National Thermal Power Corporation Ltd., New Delhi ... **Petitioner**
Vs

1. Northern Regional Load Despatch Centre, New Delhi
2. Western Regional Load Despatch Centre, Mumbai
3. Eastern Regional Load Despatch Centre, Kolkata
4. Southern Regional Load Despatch Centre, Bangalore
5. Uttar Pradesh Power Corporation Limited, Lucknow
6. Jaipur Vidyut Vitran Nigam Ltd., Jaipur
7. Ajmer Vidyut Vitran Nigam Ltd., Ajmer
8. Jodhpur Vidyut Vitran Nigam Ltd., Jodhpur
9. Delhi Transco Limited, New Delhi
10. Haryana Power Generation Corporation Ltd., Panchkula
11. Punjab State Electricity Board, Patiala
12. Himachal Pradesh State Electricity Board, Shimla
13. Power Development Deptt., Govt. of Jammu & Kashmir, Jammu
14. Power Department (Union Territory of Chandigarh), Chandigarh
15. Uttaranchal Power Corporation Limited, Dehradun
16. Madhya Pradesh Power Trading Co. Ltd., Jabalpur
17. Maharashtra State Electricity Distribution Co. Ltd., Mumbai
18. Gujarat Urja Vikas Nigam Ltd., Vadodara
19. Chhattisgarh State Electricity Board, Raipur
20. Electricity Department, Govt. of Goa, Panaji, Goa
21. Electricity Department, Administration of Daman & Diu, Daman
22. Electricity Department, Admn. Of Dadra Nagar Haveli, U.T. Silvassa
23. West Bengal State Electricity Board, Kolkata
24. Bihar State Electricity Board, Patna
25. Jharkhand State Electricity Board, Ranchi

26. Grid Corporation of Orissa Ltd., Bhubaneshwar
27. Power Department, Govt. of Sikkim, Gangtok
28. Eastern Power Distribution Company Ltd., Visakhapatnam
29. Southern Power Distribution Company Ltd., Tirupathi
30. Northern Power Distribution Company Ltd., Warangal
31. Central Power Distribution Company Ltd., Hyderabad
32. Electricity Department of Puducherry, Puducherry
33. Tamil Nadu State Electricity Board, Chennai
34. Kerala State Electricity Board, Thiruvananthapuram
35. Bangalore Electricity Supply Company, Bangalore
36. Mangalore Electricity Supply Company, Mangalore
37. Chamundeshwari Electricity Supply Corpn., Mysore
38. Gulbarga Electricity Supply Corpn., Gulbarga
39. Hubli Electricity Supply Company, Hubli
40. Assam State Electricity Board, Guwahati
41. Tripura Power Corporation, Agartala
42. Damodar Valley Corporation, Kolkata

....Respondents

The following were present:

1. Shri S N Goel, NTPC
2. Shri Ajay Dua, NTPC
3. Shri S D Jha, NTPC
4. Shri S K Samvi, NTPC
5. Shri Vivake Kumar, NTPC
6. Ms. Pranav Kapoor, NTPC
7. Shri A K Juneja, NTPC

ORDER
(DATE OF HEARING: 13.9.2007)

The Commission had issued a generic procedure for regulation of power supply in case of default in payments by the State utilities. The procedure issued through an order dated 11.1.2002 is being continued and stands extended up to 30.9.2008 at present.

2. NTPC in the present petition has stated that Tripartite Agreements have been signed by the Central Government, State Governments and the Reserve Bank of India for recovery of dues of the Central power sector utilities and these

agreements mandate that the State utilities shall open LCs or establish any other security payment mechanism in consultation with the central power sector utilities, and in the event of failure of the State utilities to do so, in addition to suspension of APDRP, liberty has been granted to reduce the power supply to them. It is stated that the State utilities have not honoured the commitment made by the State Government in the Tripartite Agreements. Therefore, the petitioner seeks to be allowed implementation of regulation notices for default in opening and maintaining LCs in accordance with the provisions of the Tripartite Agreements, in the similar manner as provided by the Commission for payment defaults in the generic procedure.

3. We heard Shri S N Goel on admission of the petition.

4. It is to be noted that under the tariff regulations specified by the Commission, opening of LCs by the State utilities is not mandatory, though the tariff regulations provide that in case of payments through LCs, the State utilities will be allowed rebate of 2%.

5. The Tripartite Agreements were finalized and signed in 2001-2002 when Availability Based Tariff (ABT) was not implemented. At that time, there was no proper way for curtailing supply from a generating station to the defaulting State, other than opening of lines supplying power to that State, which is always a difficult proposition. The Tripartite Agreements, therefore, laid much stress on

opening of LC, leaning on the threat of supply curtailment if LC was not opened, as a pre-emptive measure against payment default by the States. The provision for curtailment of power supply now has a totally different connotation after implementation of ABT, wherein the supply from a generating station to the defaulting utility can be readily curtailed (notionally), through the curtailment of schedule. After such curtailment of schedule, the generator's receivables would stop rising, and in case the defaulting utility still continues to draw power from the grid, it would amount to over-drawal for which the defaulter would have to pay at the prevailing UI rate into the regional UI pool account.

6. Since the above measure can be readily adopted in case of a payment default, opening of revolving LC for the generating companies, though desirable, is no longer of such criticality which would warrant supply regulation for not opening an LC. It is no longer required as a pre-emptive measure against payment defaults.

7. Therefore, in our opinion, it is not a fit case for admission. It is, however, clarified that for the view we have taken, the provisions of opening of LCs in the Tripartite Agreements should not be deemed to have been diluted by this order, since we have held that a payment default itself (for generators) can be tackled under ABT mechanism. Nevertheless, we expect that the spirit of the Tripartite Agreements shall be maintained by the State utilities.

8. In the light of above observations, the petition stands disposed of at admission stage.

Sd/-
(R KRISHNAMOORTHY)
MEMBER

Sd/-
(BHANU BHUSHAN)
MEMBER

New Delhi dated 18th June 2008