

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 28/MP/2016

Subject : Petition under Regulation 111 of Central Electricity Regulatory Commission (Conduct of Business Regulations, 1999) seeking clarification on the methodology of computation of availability for inter-State generating stations such as Maithon Power Limited for which capacity has been tried up in Mega war basis.

Date of hearing : 30.6.2016

Coram : Shri Gireesh B. Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member

Petitioner : Maithon Power Limited

Respondents : Damodar Valley Corporation & Others

Parties present : Shri Amit Kapoor, Advocate, MPL
Shri Vishal Anand, Advocate, MPL
Shri Janmau .M, MPL
Ms. Ranjana Roy Gauri, Advocate, TPDDL
Shri Pushkar Taimni, Advocate, TPDDL
Ms. Molshree Bhatnagar, Advocate, WBSEDCL
Sh. Sakya Singha Chaudhari, Advocate, WBSEDCL
Shri Manoranjan Sahoo, DVC

Record of Proceedings

Learned counsel for the petitioner submitted that the present petition has been filed seeking clarification regarding the appropriate methodology for computation of Plant Availability for the generating station for which the share of the contracted capacity for different beneficiaries is based in terms of megawatt and not under any pre-determined percentage allocation. Learned counsel for the petitioner further submitted as under:

(a) The petitioner has set up and operates the 1050 MW (2X525 MW) Maithon Right Bank Thermal Power Project in Jharkhand. Out of the total installed capacity of 1050 MW, 300 MW remained untied from the date of commercial operation of the project till 31.3.2013. Subsequently, 150 MW was contracted with WBSEDCL and the remaining 150 MW remained untied from 1.4.2013 to 27.12.2015.

(b) The petitioner has been calculating plant availability on the basis of tied up contracted capacity on mega watt basis with each of the beneficiaries and has been declaring capacity *qua* the 900 MW contracted capacity. Since 150 MW was not contracted or tied up with any beneficiary, availability for the same was not declared by the petitioner.

(c) As per DVC, the entire installed capacity of the project ought to be taken into account while computing the plant availability and the allocation of capacity is to be done in percentage terms instead of the contracted capacity in mega watt terms with each long term beneficiaries.

(d) The petitioner could not schedule capacity on percentage basis of installed capacity as entire capacity of the project was not contracted at that time and PPAs were executed on megawatt basis.

(e) The issue was discussed in 31st ERPC and Technical Co-ordination Committee and 116th Operation Co-ordination Committee meetings held on 13.11.2015 and 23.12.2015 respectively wherein it was mutually decided that the clarification should be sought from the Commission on methodology and computation of the Plant Availability in terms of the 2009 Tariff Regulations and 2014 Tariff Regulations.

(f) As per Section 62(1)(a) read with Section 79(1)(b) of the Act, the Commission is required to determine the tariff of a generating company which has entered into or otherwise have composite scheme for generation and sale of electricity in more than one State, and for supply of electricity by a generating company to a distribution licensee. The unallocated capacity of the petitioner would not come under the purview of 2009 and 2014 Tariff Regulations. The long term sale of power by a generating company to a distribution licensee can take place only *qua* a PPA, i.e when there is a contracted capacity for the generating company. Therefore, the Act does not contemplate determination of tariff for the un-contracted capacity of a generating company for which there is no sale of power to a distribution licensee.

(g) As per Section 28 (3) of the Act read with Regulation 6.4.9 of the Grid Code, ERLDC is responsible for scheduling of power from the Project in accordance with the PPAs entered into by the generating stations.

(h) In terms of Regulation 6 (5) of the 2014 Tariff Regulations, where there is united capacity for the generating stations, the beneficiaries are required to pay annual fixed charges only for the capacity which is contracted in terms of the PPA.

2. In response to the Commission's query regarding the availability of Coal in equivalent to 1050 MW capacity, learned counsel for the petitioner submitted that it would submit the details in this regard within one week.

3. Learned counsel of WBSEDCL submitted that the arguing counsel in the matter is not available and requested to adjourn the matter. Learned counsel further

requested for time to file reply to the petition.

4. The representative of DVC submitted that in terms of the PPA, allocation should be on percentage basis and not on the basis of contracted power.

5. The Commission directed WBSEDCL to file its reply by 12.7.2016 with an advance copy to the petitioner who may file its rejoinder, if any by 15.7.2016. The Commission directed that due date of filing the replies and rejoinders should be strictly complied with. No extension shall be granted on that account.

6. The Commission directed Officer-in-charge of ERLDC to present in the next date of hearing to assist the Commission.

7. The petition shall be listed for hearing on 28.7.2016.

By order of the Commission

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