

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 127/MP/2017

With

I.A.No. 36/2017

Coram:

ShriGireesh B. Pradhan; Chairperson

Shri A.K. Singhal, Member

Shri A.S. Bakshi, Member

Dr.M.K.Iyer, Member

Date of Order: 30th June, 2017

In the matter of

Petition under Section 79 (1) (c) and (f) of the Electricity Act, 2003.

And

In the matter of

Essar Power M.P. Limited
Essar House,
11th Floor, 11 KK Marg, Opp Racecourse,
Mahalaxmi, Mumbai-400 034

.... Petitioner

Versus

1. Central Transmission Utility
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi 110 016
2. Western Regional Power Committee
F-3, MIDC Area, Marol,
Opp, SEEPZ, Central Road,
Andheri (East), Mumbai-400 093
3. Essar Power Transmission Company Limited
Lower Ground Floor, Hotel Treebo Conclave Riviera,
A-20, Kailash Colony, New Delhi-110 048
4. Powergrid Corporation of India Limited
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi-110 016

.... Respondents

Parties Present:

Shri RamjeeSrinivasan, Senior Advocate for the Petitioner
Shri Alok Shanker, Advocate for the Petitioner
Shri Swapnil Verma, PGCIL
Ms. Joyti Prasad, PGCIL
Shri S.S. Barpanda, POSOCO
Ms. Pragya Singh, POSOCO
Shri Ashok Rajan, POSOCO

ORDER

The Petitioner Essar Power MP Limited, has filed the present petition seeking a declaration that the Petitioner is entitled to use/extension of usage of LILO arrangement from July 2017 onwards till completion of the 400 kV D/C Maharan-Sipat transmission line for evacuation of power from the petitioner`s generating station. The Petitioner has made the following prayers:

“(a) Admit the present petition;

(b) Direct CTU not to take any steps towards disconnection till the decision is taken by WRPC in its next meeting and/or without the express permission of the Commission;

(c) Direct WRPC to expeditiously consider the request of EPMPPL to continue use of interim LILO, or in the alternative allow EPMPPL to use the interim connectivity till January, 2018;

(d) Pending decision of the WRPC allow the petitioner to use the interim LILO; and

(e) Pass such other and further orders/directions as the Hon`ble Commission may deem appropriate in the facts and circumstances of the case.”

2. The Petitioner, a subsidiary of Essar Power Ltd., is setting up a 1200 MW (2x600MW) thermal power plant at district Singrauli in the State of Madhya Pradesh. The Petitioner has a long term Power Purchase Agreement with MPPMCL for 150 MW and 5% net power under MOU route. The Petitioner has entered into long term Power Purchase Agreement with Essar Steel for supply of 450 MW of power for a

period of 12 years. According to the Petitioner, the first unit of the generating station was declared under commercial operation on 29.4.2013. Due to cancellation of coal block allotted to the Petitioner, the unit was shut down from October 2014 till May 2016. The Petitioner has stated that the unit has operated at a PLF of approximately 55% to 60% during financial year 2016-17.

3. Power evacuation from the generating station of the Petitioner has been finalized by the CTU against the LTA application of the Petitioner. According to the LTA approval, power from the generating station is to be evacuated through the 400 kV D/c Mahan Sipat transmission Line terminating at WR Pooling station at Bilaspur. This transmission line is being executed by Essar Power Transmission Company Limited (EPTCL), a Group Company of the Petitioner after being granted an inter-State Transmission Licence by the Commission on 29.4.2008 to develop the following transmission lines and sub-stations:

- (a) 400 kV D/c Mahan-Sipat along with associated bays;
- (b) LILO of 400 kV Vindhyachal Korba at Mahan;
- (c) 400 kV D/c Gandhar-Hazira Transmission Line along with associated bays;
- (d) 400/220 kV sub-station at Hazira.

The Petitioner has submitted that out of the above, the transmission lines and sub-stations at Sr Nos. (b) to (d) have been commissioned and are already in operation. Only 400 kV D/c Mahan-Sipat line along with associated bays are yet to be completed. According to the Petitioner, EPTCL vide its letter dated 29.5.2017 addressed to CTU with copy to the Petitioner has informed that due to problems associated with project financing, the subject transmission line and bays are likely to be commissioned by January 2018.

4. The Petitioner has submitted that in the absence of the main evacuation line, the power from the generating station is being evacuated through the LILO of 400 kV Vindhyachal-Korba at Mahan.

5. NLDC filed Petition No. 30/MP/2014 seeking certain directions to the transmission utilities for ensuring safe and secure operation of the Grid at all times. One of the prayers in the said petition was for issuing directions to the Central Transmission Utility which is the nodal agency for grant of connectivity to ISTS to stop granting connectivity through the interim LILO arrangement and shifting of the connectivity already granted through interim LILO arrangements to final arrangements. The Commission after detailed examination of the interim arrangement issued the following directions:-

“25. It is noticed that loop in loop out arrangement for connectivity may be permanent or temporary in nature. Where LILO has been planned on account of technical reasons including optimum utilisation of the assets, then connectivity on the said LILO is a part of the planning and shall continue as a permanent feature. If the LILO has been planned as a temporary measure i.e. where generation is likely to be commissioned ahead of the commissioning of the dedicated transmission line which is affected by such events as ROW issues and delay in forest clearance, then CTU may grant conditional connectivity to the generators with a clear-cut timeline for commissioning of the dedicated transmission line and removal of the LILO. The Commission vide order dated 16.2.2015 in Petition No. 92/MP/2014 has deliberated the issue of grant of LTA on LILO as under:

“93. We are of the view that LTA on LILO shall be allowed if the LILO arrangement has been considered at the planning stage. In other cases, LTA may be allowed by CTU on LILO as a temporary measure due to delay on account of reasons like RoW, forest clearance, etc, till the time originally planned system becomes available, subject to the system studies carried out by CTU establishing that grant of LTA on LILO will not affect system security.”

28. In our view, where the construction of dedicated transmission line is within the scope of work of the generation developer, then it will be the responsibility of the generation developer to complete the dedicated transmission line within the stipulated timeframe. The nodal agency shall ensure that the progress of the dedicated transmission line is monitored in the meetings of the RPC of the respective regions and milestones are fixed for completion of the dedicated transmission lines. The generator may be permitted to interchange for the purpose of drawing start-up power or injecting infirm power during testing or full load testing through the connectivity on LILO, subject to the permission by concerned RLDC after taking into

account the grid security. There may be cases where the dedicated transmission line is being constructed by the CTU or any other transmission licensee, and on account of delay in completion of the dedicated transmission line matching with the commissioning of the generation project, CTU or the generator has made the temporary LILO arrangement for connectivity till the dedicated transmission line is commissioned. In such cases, injection of infirm power may be permitted on LILO till the dedicated line is commissioned subject to the permission by concerned RLDC after taking into account that such injection of power does not pose any threat to grid security.

29. As regards the firm power, it should not be allowed to be injected on the interim LILO arrangement as a matter of principle. However, CTU has been allowing injection of firm power in certain circumstances where construction of dedicated transmission line is affected by ROW issues or other reasons beyond the control of the generators or the CTU or the transmission licensee executing the transmission line. Generation developers like GMR Kamalanga, KSK Mahandi, Essar Power MP Limited and Sesa Sterlite have submitted that on account of delay in construction of intra-State or inter-State transmission lines and also in the construction of dedicated lines due to RoW issues, they are relying on interim arrangements for evacuation of firm power from the generating stations. NLDC has submitted that though interim arrangements have been allowed by CTU to the generators in order to avoid the bottling up of generation for short period, the generators continue to rely on interim arrangements for evacuation of power for years together which affects secure operation of the power system. We are of the view that where an interim arrangement is permitted for injecting firm power, there will be perverse incentive for the generators/ CTU/ inter-State transmission licensee not to put efforts to resolve the RoW and forest clearance issues and ensure completion of the dedicated transmission line matching with the COD of the generating station. If the generators/ CTU/ inter-State transmission licensee visualise that the dedicated transmission line cannot be commissioned matching with the COD of the generating station, in that case they shall approach the Regional Power Committee of the respective region at least three months before the anticipated COD of the generating station for continuation of the LILO arrangement for injecting firm power for a specific period only. The Regional Power Committee may consider the proposal in its scheduled meeting (if convened within three months of the date of receipt of the request) or through a Special Meeting convened for the purpose. RPC shall seek details of studies carried out by CTU afresh about the LILO. While considering the proposal, the RPC shall also take into account such factors as the reliability and security of the grid on account of firm power injection through LILO, duration of such firm power injection, the actual progress of the dedicated transmission line and expected date of commissioning of the dedicated transmission line and other relevant factors such as compliance with the regulations of the Commission and CEA. The RPC may permit the injection of firm power for a maximum period of three months. If the dedicated transmission line is still not ready before the expiry of three months due to genuine difficulty beyond the control of the generator/CTU/inter-State transmission licensee, the generator may approach the RPC of the respective region for consideration of its request for further extension. The RPC shall be required to consider the request keeping in view the reliability and security of the grid and may permit further extension limited to maximum three months. If the dedicated transmission line is not commissioned within the period allowed by the RPC, then interchange of firm power shall not be permitted by RLDC concerned on the interim LILO arrangement. The Commission has disallowed Ind-Bharat (Utkal) Power Limited to inject firm power on interim LILO arrangement in order in Petition No. 134/MP/2016 dated 30.8.2016. Ind-Bharat (Utkal) Power Limited is granted liberty to approach ERPC for extension of time of not more than three months if the dedicated transmission line cannot be

commissioned for reasons beyond its control.

In the summary of the decision in the said order, the Commission has issued the following directions:

“37(e). CTU shall take up all the existing cases of connectivity on interim LILO with the RPC of respective regions within a period of one month from the date of issue of this order for review and decision on disconnection of the interim arrangements through LILO. All such interim arrangements through LILO shall be disconnected within a period of three months of the issue of this order unless the RPC grants extension for continuation of LILO keeping in view of all relevant factors.”

6. The Petitioner has submitted that vide order dated 28.9.2016, the Commission had directed review of all interim LILO arrangements and continuance of any LILO arrangement was conditional upon the decision of concerned Regional Power Committee (RPC). The Petitioner has submitted that the interim LILO was not to be disconnected upfront and without giving any opportunity to the generating company to satisfy the concerned RPC about the reasons for delay in commissioning of the dedicated transmission lines. The Petitioner has submitted that in this case, while the generating station has been developed by the Petitioner, the transmission line and the pooling stations are being developed by EPTCL which is an inter-State transmission licensee and a completely independent entity from the Petitioner. The Petitioner has further submitted that in the 33rd WRPC meeting held on 31.1.2017, WRPC directed EPTCL to complete the work of the transmission project before monsoon i.e. June, 2017. The Petitioner has further submitted that keeping in view the balance work in the transmission line and the Commission's order dated 28.9.2016, WRPC allowed time till June, 2017 and also decided that further decision regarding the disconnection of the interim arrangement through LILO may be taken in the WRPC forum. The Petitioner has submitted that notwithstanding the express directions of the WRPC that further decision regarding disconnection of the interim arrangement through LILO may be taken in the RPC

forum, CTU vide its letter dated 26.5.2017 has assumed that the interim LILO is to be removed from June, 2017. The Petitioner has filed the present petition in the above background seeking a direction to CTU not to take any steps towards disconnection till the decision is taken by WRPC in the next meeting and/or without express permission of the Commission. The Petitioner has further sought a direction to WRPC to expeditiously consider the request of the Petitioner to continue use of interim LILO or in the alternative, allow the Petitioner to use the interim connectivity till January, 2018. The Petitioner has filed IA seeking direction to CTU to maintain status quo till the decision in the petition.

7. During the hearing of the petition, learned Senior Counsel for the Petitioner argued that as per the language of para 37 (e) of the order dated 28.9.2016, all interim arrangements through LILO shall be disconnected within a period of 3 months from the issue of the order unless the RPC grants extension for continuation of LILO keeping in view all relevant factors. The WRPC in its 33rd meeting considered the case of the Petitioner and allowed time till June, 2017 to the Petitioner to complete the transmission line and also directed that further decision regarding the disconnection of the interim arrangement through LILO would be taken in the WRPC forum. Learned Senior Counsel submitted that CTU has misread the directions of the Commission in para 37 (e) and has super-imposed the directions in para 37 (d) and has come to the conclusion that interchange of firm power on the interim LILO cannot be made beyond 6 months. Learned Senior Counsel submitted that as per the decision in the WRPC meeting, the issue of disconnection of the interim LILO needs to be discussed in the WRPC forum for a final decision.

8. The representative of CTU submitted that the direction in para 37 (e) of the

order dated 28.9.2016 cannot be read in isolation and has to be read in conjunction with para 29 of the said order wherein it has been clearly stated that after taking all relevant factors into consideration, RPC may permit the injection of firm power for the maximum period of 3 months which can be further extended to a maximum period of another 3 months. The representative of CTU submitted that since clear cut timeline has been laid down in the order dated 28.9.2016 and WRPC has already considered the request of the Petitioner and extended the time till June, 2017, there is no scope for further extension of time as requested by the Petitioner.

9. In response to our query, whether the Petitioner had approached WRPC, learned Senior Counsel submitted that the Petitioner requested WRPC to hold the meeting urgently. However, Member Secretary, WRPC has replied that the request of the petitioner cannot be considered.

Analysis and Decision

10. We have considered the submissions of the learned Senior Counsel for the Petitioner and learned counsel for CTU. The Petitioner has filed the present petition for seeking direction to CTU not to take steps towards disconnection of interim LILO till the decision is taken by WRPC in its next meeting. CTU is of the view that WRPC has already exercised its discretion as per the directions of the Commission in the meeting held on 1.2.2017 and has granted extension of time till June, 2017, keeping in view the progress of the transmission line. The relevant extract of the minutes of the 33rd meeting of WRPC held on 1.2.2017 is as under:-

“Members were of the view that the looking into the quantum of balance work, the line may be completed before monsoon i.e. June 2017.

As per CERC order dated 28.9.2016 in Petition No. 30/MP/2014, CTU shall take up all the existing cases of connectivity on interim LILO with the RPC of

respective regions within a period of one month from the date of issue of this order for review and decision on disconnection of the interim arrangement through LILO. All such interim arrangements through LILO shall be disconnected within a period of three months of the issue of this order unless the RPC grant extension for continuation of LILO keeping in view of all relevant.

In view of the CERC order, further decision regarding the disconnection of the interim arrangements through LILO may be taken in the WRPC forum.

M/s EPML submitted the progress of the dedicated line as below:

Sr. No.	Activity	Nos./Kms	Scope	Completed	Balance
1.	Tower Foundation	Nos.	942	938	4
2.	Tower Erection	Nos.	942	909	33
3.	Conductor Stringing	Kms	337	197	140

M/s EPML further submitted that considering the delay in execution of work during the monsoon season, the line is expected to get completed in December, 2017.

In the EPML case, TCC recommended that hitherto the SCM on PSP decided on such decisions. It noted that the representatives from EPML, CTU, CEA& STUs of WR had deliberated in detail and had given directions to EPML to complete the line by 30th June, 2017. Considering this, TCC endorsed the decision of SCM and recommended that EPML shall complete the line by 30th June, 2017, else the interim connection would be removed by CTU. Henceforth such cases shall be brought to the RPC forum by CTU.

WRPC agreed to TCC recommendations of opening an interim connectivity for M/s VVL by 31st March, 2017, if not already done. Further WRPC agreed to the TCC recommendation for EPML case to complete the line by 30th June, 2017 and CTU to discuss such issues in WRPC forum.”

11. Perusal of the minutes of the meeting of WRPC reveals that the matter was discussed in the Standing Committee Meeting where it was decided that the transmission line would be completed by EPML by 30.6.2017. The said decision was considered by the TCC of Western Region which endorsed the decision of Standing Committee and the TCC further recommended that if the lines were not completed by 30.6.2017, interim connection would be removed by CTU. TCC also

decided that in the light of the Commission's order directing RPCs to take decision in such matters, CTU should bring these matters to the forum of RPC only for decision. WRPC in its meeting held on 1.2.2017 accepted the recommendations of TCC on both counts i.e. the transmission line shall be completed by 30.6.2017 and the cases for extension of time for removal of interim arrangements through LILO shall be decided in RPC forum only. Therefore, we are unable to agree with the learned Senior Counsel for the Petitioner that WRPC directed CTU to bring the issue of opening of the LILO in the case of the Petitioner before WRPC before physically opening the LILO.

12. When the WRPC has granted time till 30.6.2017 to complete the works in the main transmission line after assessing the progress of the work, the Petitioner should have ensured that the inter-State transmission licensee executing the project, namely, EPTCL which is a group company of the Petitioner, completes the transmission line and commissions the same within the stipulated timeline. In the petition, the Petitioner has contended that EPTCL, though a Group Company, is an independent entity over which the Petitioner has no control. We are not in agreement with the Petitioner. If EPTCL did not complete the transmission line in time, the Petitioner should have approached CEA and/or CTU or even this Commission for appropriate directions to EPTCL to complete the line matching with the commissioning of the units of the Petitioner. It appears that the Petitioner did not take any action as the interim LILO arrangement is available.

13. The Petitioner has placed a letter dated 22.2.2017 written by EPTCL on record wherein the progress of the transmission line is given as under:

Sr. No.	Activity	Nos./Kms	Scope	Completed	Balance	% Completion
1.	Tower Foundation	Nos.	942	938	4	99.6
2.	Tower Erection	Nos.	942	909	33	96.5
3.	Conductor Stringing	Kms	337	197	140	59

It is apparent that there is no change in the status of execution of the transmission line between 1.2.2017 and 25.2.2017. The current status of the execution of the transmission line has not been placed on record. Only the expected date of completion of the project has been indicated as December 2017 in the said letter. We are constrained to observe that the transmission licence was granted to EPTCL on 29.4.2008 and even after a lapse of 9 years, EPTCL has not completed the transmission line. This has affected evacuation of power from the generating station of the Petitioner apart from posing grave risk to the grid on account of utilization of the LILO to evacuate the power. We direct the staff to process the case under appropriate provisions of the Electricity Act, 2003 and Transmission Licence Regulations of the Commission against EPTCL for its failure to execute the transmission project in time.

14. On perusal of the minutes as quoted in para 10 above, we find that WRPC has accepted the recommendations of the TCC to grant time till 30.6.2017 for completion of the transmission line. WRPC is silent as to whether the interim LILO will be opened if the transmission line is not completed by 30.6.2017. Accordingly, we direct WRPC to consider the request of the Petitioner and take a decision by 5.7.2017 as regards the timeline for opening the interim LILO arrangement. Till a decision is taken by WRPC which cannot be later than 5.7.2017, status quo shall be maintained. CTU shall take necessary action for disconnection of the LILO

arrangement as per the timeline set by WRPC.

15. The Petition and IA are disposed of in terms of the above directions.

sd/-
(Dr. M.K. Iyer)
Member

sd/-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson