

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 16/SM/2015

Coram:

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

Date of Order: 17thOctober, 2017

In the matter of

Difficulty encountered in implementation of the Commission order dated 5.10.2015 in Petition No. 310/MP/2014 regarding scheduling of unscheduled Surplus Power from the Inter-State Generating Stations.

And

In the matter of

1. Southern Regional Load Despatch Centre
29, Race Course Cross Road,
Bangalore-560 009

2. AP Eastern Power Distribution Co. Ltd.
P&T Colony, Near Gurudwara Junction
Seethammadhara
Visakhapatnam

3. AP Southern Power Distribution Co. Ltd.
H.No. 19-3-93 (M) Upstairs
Renigunta Road
Tirupathi-517 501.

4. AP Northern Power Distribution Co. Ltd.
H.No. 1-1-504, Opp. NIT Petro Pump,
Chaitanyapuri, HanamKonda
Warrangal- 506 004.

5. AP Central Power Distribution Co. Ltd.,
3rd Floor, Singareni Bhavan,
Lakri Ka Pul,
Hyderabad- 500 004.

6. National Thermal Power Corpn. Ltd.,
NTPC Bhawan, SCOPE Complex,
7, Institutional Area, Lodhi Road,
New Delhi- 110 003.

7. Member Secretary,
Southern Regional Power Committee
29, Race Course Cross Road,
Bangalore-560 009

8. Kerala State Electricity Board Ltd.,
Vydyuthi Bhavanam,
Pattom, Thiruvananthapuram,
PIN - 695004,
Kerala, India.

9. Bangalore Electricity Supply Company Ltd.
Corporate Office, BESCOM K.R.Circle,
Bengaluru-560001

10. Mangalore Electricity Supply Company Ltd.
Old Kent Road, Pandeshwar,
Mangaluru, Karnataka - 575001.

11. Hubli Electricity Supply Company Ltd.
Navanagar, P.B.Road,
HUBLI-580025.

12. Gulbarga Electricity Supply Company Ltd.
Station Road, Kalaburagi,
Gulbarga, Karnataka.

13. Chamundeshwari Electricity Supply Corporation Ltd.
927, L.J Avenue Commercial Complex,
New Kantharaj Urs Road,
Saraswathipuram, Mysore-570009.

14. Neyveli Lignite Corporation Limited
No.135, Periyar E.V.R. High Road, Kilpauk,
Chennai - 600 010, Tamil Nadu, India.

15. NTPC Tamil Nadu Energy Company Limited
G-Block, No. 123 & 123A, 12th Street,
Anna Nagar (East),
Chennai 600102

Respondents

The following were present:

Ms. Jayantika Singh, POSOCO
Shri S.S. Barpanda, NLDC
Shri Anil Thomas, SRPC
Shri Hasan Murtaza, Advocate, SPL
Shri Surya Kant, SPL
Shri Amit Kapur, Advocate, CGPL

Shri Abhishek Munot, Advocate, CGPL
Shri Malcolm Desai, Advocate, CGPL
Shri Ajay Dua, NTPC
Shri Nishant Gupta, NTPC

ORDER

The Commission in order dated 5.10.2015 in Petition No. 310/MP/2014 had decided the issue of scheduling of Un-requisition Surplus Power (URS) as under:

“32. The order dated 11.1.2010 in Petition No. 134/2009 was issued in the context of Indian Electricity Grid Code, 2006 in the then prevailing condition of shortage of power. Since then ground situation has undergone changes. The power supply position in the country has improved during the past 5 years. The Commission has adopted the tariff of 4 UMPPs out of which two are in operation. The Commission has also introduced 24x7 market in power exchanges and notified the regulations on ancillary services. In view of these developments, the directions given in the order dated 11.1.2010 in Petition No.134/2009 are modified as under:

(a) All generating companies whose tariff is determined by this Commission under section 62 or adopted by this Commission under section 63 of the Act shall be permitted to revise their schedule for URS power from one beneficiary to another beneficiary of the same power station in terms of Regulation 6.5.18 of the Grid Code within 4 time blocks. Consent of the original beneficiary and the new beneficiary shall be submitted by the ISGS intending to avail revision of schedule to the concerned RLDC by mail.

(b) If the original beneficiary requests back its share of power, then its schedule and the schedule of beneficiary who had availed URS power shall be revised in 4 time blocks again. Concerned ISGS shall submit the request of the original beneficiary to recall the power to concerned RLDC by mail.

(c) The revision of schedules shall be permitted under Regulation 6.5.18 in respect of URS power subject to availability of transmission corridor and in case of congestion, RLDCs shall be at liberty to revise the schedule in terms of Regulation 6.5.20 of the Grid Code.

(d) Revision of schedule for sale of URS power to third parties shall not be permitted. Concerned ISGS may seek short term open access for sale of URS power to third parties.

(e) NLDC and RLDCs are directed to implement the above directions. In case any difficulty is experienced, NLDC/RLDCs/ISGSs/Beneficiaries are granted liberty to bring such difficulty to the notice of the Commission.”

2. Southern Regional Power Committee in its letter dated 3.12.2015 brought to the notice of the Commission certain difficulties encountered in implementation of the above directions in terms of para 32 (e) of the order. SRPC has submitted that implementation of the order dated 5.10.2015 was deliberated in the 113th Meeting of OCC held on 6.11.2015 and in a Special Meeting held on 20.11.2015. In the said meetings, Southern Regional Load Despatch Centre (SRLDC) interpreted the direction of the Commission in Para 32 (a) and (b) of the order to the effect that URS power re-allocation for each block need to be carried out by the inter-State Generating Station (ISGS) and all the beneficiaries would be required to interact with respective ISGS to avail URS power. SRPC has submitted that the generators of the Southern Region such as NTPC, NLC and NTECL unanimously suggested during the meeting that the scheduling of URS power should continue to be carried out by SRLDC/POSOCO. SRPC has submitted that all the entities are willing to furnish a consent letter which would insulate SRLDC from any legal or commercial or operational implications/disputes that could arise in scheduling of URS power. SRPC has submitted that since only consent was required as per the order dated 5.10.2015 from the original beneficiary and the new beneficiary for the purpose of URS rescheduling in real time, the scheduling of URS power (alongwith computation) could be carried out directly by SRLDC, if the consent letters are ensured.

3. SRPC has submitted the following points for consideration of the Commission:

(a) Grid Code provides for scheduling of ISGS/drawal schedule computation of beneficiary by RLDC.

(b) Objective of utilizing URS power to the maximum may get diluted due to procedural delays on account of involvement of multiple agencies. For

instance, congestion in corridors would be known only to RLDC/NLDC and there would, therefore, be one more avoidable loop of rescheduling as per the congestion.

(c) ISGSs effectively get three time blocks (counting the block where URS is recalled/surrendered as the first block). This may get further reduced if multiple agencies, congestion feedback, etc. are involved.

(d) Rescheduling of URS Power needs to be on equitable principles which can be ensured by RLDC/NLDC in a non-partisan manner. Rescheduling of URS power by the generators could also be based on the payment position of utilities. For addressing such issues, ISGSs may need to take recourse to other Regulations such as Regulations of Power Supply.

(e) It is the responsibility of ISGSs to generate up to Declared Capacity (DC). In case, URS scheduling is carried out by the generating station, there could be some scope of the generating station not generating as per DC, due to URS not getting rescheduled within the time allowed.

(f) As per the order, there have been no operational difficulties stated by RLDC/POSOCO in scheduling the URS power. The Commission in Para 32 (c) of the order has already clarified the issue of congestion. Such practice during congestion is being followed in Southern Region across S1-S2 seam. Moreover, URS rescheduling in multiple regions could be better handled by RLDC/NLDC since they are well aware of the congestion across Regions.

(g) The Commission, in Para 32 (a) of the order, has already addressed the issue of insulation of RLDC/POSOCO from commercial disputes.

4. The Commission initiated a Suo-moto proceeding vide order dated 18.12.2015 and directed all concerned to file their views on affidavit on the issues highlighted by SRPC. It was further directed that pending issue of clarification by the Commission, as may be considered necessary, RLDC shall continue to schedule URS power in accordance with the order dated 5.10.2015.

5. TANTRANSCO has submitted that rescheduling of URS power needs to be on equitable principles which can be ensured by RLDC/NLDC in a non-partisan manner and rescheduling of URS power by generators could also be based on the payment position of utilities. The objective of utilizing URS power to the maximum may get diluted due to procedural delays on account of involvement of multiple agencies. In case, rescheduling is carried out by the Generating Station, there could be some scope of generating station not generating as per DC, due to URS power not getting rescheduling within the time allowed. TANTRANSCO has submitted that prevailing scenario of scheduling of URS power may be continued with RLDC/POSOCO.

6. NTPC in its reply has submitted that there has been no major objection from the generators or beneficiaries during the past in scheduling the URS power. NTPC has submitted the procedures for obtaining consent from the beneficiaries/generator and in turn intimation to RLDCs will consume considerable time and the very objective of utilizing URS power may be defeated due to involvement of multiple agencies. Moreover, as per Regulation 6.5.18 of Grid Code, original beneficiary can recall the quantum of URS power within 4 time blocks. Therefore, obtaining consent from those beneficiaries whose entitlement remain un-requisitioned would not serve any purpose and would only add to time taken in the process. NTPC has submitted

that the willingness of the generator to generate the power is reflected in the Declared Capability and any issue regarding non-payment can be addressed through the Central Electricity Regulatory Commission (Regulations of Power Supply) Regulation, 2010. NTPC has submitted that as per the revised methodology for sale of URS power i.e. sale only after getting the intimation from the generator along with the consent of the beneficiaries may cause significant time delay and scheduling of power may not become effective since, surrender of power is only for a short duration. NTPC has submitted that the information regarding congestion in inter-regional/intra-regional corridors are precisely available with system operator i.e. NLDC/RLDCs are in best position to handle and manage the task of rescheduling considering all aspects of grid security and reliability. NTPC has expressed its agreement with the views of SRPC that the process of taking consent by the generator from the original beneficiary and the purchaser and communicating the same to RLDC will result in non-utilization of URS power. NTPC has suggested that scheduling of URS power should be continued by RLDCs as was being done prior to order dated 5.10.2015. NTPC has submitted that utilization of URS power should be carried out through RLDC web-enabled mechanism and should be treated as temporary reallocation.

7. Sasan Power Limited (SPL) in its reply has submitted that since the Commission`s order dated 5.10.2015 has not been challenged by any of the parties before any higher forum, it has become final and binding. SPL has submitted that it is in agreement with certain issues raised by SRPC. The Commission had issued the directions in the order dated 5.10.2015 after hearing all the issues raised by NLDC/RLDC/POSOCO. SPL has submitted that pursuant to the Commission`s order dated 5.10.2015, considerable delays are being caused as ISGS is now required to complete the necessary procedure in terms

of consents, etc. However, the consent can be given in the form of real time consent or standing consent. A standing consent from the original beneficiary who is backing down can be taken. SPL has submitted that number of beneficiaries, who are helping in real time scheduling of URS power and minimizing loss of such competitive power, have already given their standing consents to SPL. SPL has requested that the methodology of standing consent accepted in Commercial Coordination Meeting (CCM) of Western Region Power Committee (WRPC) dated 3.11.2015 be continued. SPL has further requested to direct RLDC/POSOCO to continue schedule of URS power to the beneficiaries and to implement the directions issued in order dated 5.10.2015.

8. NLC in its reply has submitted that in Southern Region, SRLDC is scheduling URS power from one beneficiaries to another beneficiaries of the same generating station on the requisition by these beneficiaries based on the Commission`s order dated 11.1.2010 in Petition No. 134/ 2009 filed by NTPC seeking amendments in regulations for facilitating trading and utilization of URS power. NLC has submitted that in case the original beneficiary requests back its share of power, then its schedule and schedule of beneficiary who has availed URS power would be revised in the six time blocks again, or as specified in the Grid Code (as amended from time to time). These schedule revisions would be treated as re-allocation of power on temporary basis and would not be taken as open access transactions. The tariff would be governed by the terms and conditions of the tariff regulations applicable to the generating stations. NLDC has submitted that in the web based scheduling programme implemented by SRLDC, provision is also made for scheduling of URS power. The surrendered quantum in the ISGSs by the beneficiaries will be displayed and is being reallocated to other beneficiary on willingness. If more beneficiaries are opting for availing the URS power, same will be allocated in proportion to their original shares in that ISGS. Therefore, SRLDC will communicate final generation

schedule to ISGSs after reallocation of URS power and it ensures maximum utilization of generation capacity available in that generating station.

9. Transmission Corporation of Andhra Pradesh Limited (APTRANSCO) in its reply has requested to direct RLDC to continue with the present practice being followed in Southern Region or direct to utilize URS power from CGS stations among beneficiary States. APTRANSCO has projected the following difficulties in real time for ISGS consent and routing for scheduling URS power:

(a) Since, the surrender of power is for short duration only, the proposal of SRLDC to allow URS after getting the intimation from the generator along with the consent from the utilities, may cause significant time delay and scheduling of power may not become effective.

(b) The practice being followed for surrendering the power and taking the same by the constituent is not practicable within a short time.

(c) When multiple constituents take the URS power, it may cause congestion in certain part of the grid sometimes which would again necessitate the entire actions to be re-carried out by the generator and the same would again tend to non-materialization of utilization of surplus in the generating stations. RLDC can better handle it in the present methodology.

(d) Existing methodology discourages deviation by ISGS as it can easily schedule backed down power to other beneficiaries and there is no requirement to generate excess power and collect deviation charges from the drawn beneficiary for the same.

(e) RLDC has not mentioned any issue regarding the present operations, but has informed that continuing the existing practice may be seen in violation of the Commission's order in Petition No. 310/MP/2014.

10. Kerala State Electricity Board Limited (KSEBL) in its reply has submitted that in the method followed by SRLDC, there have been certain spurious instances of disputes regarding the intervention of SRLDC with respect to the determination of the ATC and some of the constituents putting exorbitant requests to grab more share of available surrender. Issue regarding surrender of power being put at the end of the time block causes a race in time for other constituents in the same time-block. However, all such issues have been resolved in the OCC forums. SRLDC has raised the matter for changing the above procedure on the basis of the Commission's order dated 5.10.2015. However, the said order is not applicable to SRLDC to effect a change in the methodology followed by the generic order of the Commission on petition filed by NTPC. The points furnished by SRPC vide its letter dated 3.12.2015 are genuine and requires consideration of the Commission as under:

(a) The proposal of SRLDC to allow URS after getting the intimation from the generator along with the consent from the utilities may cause significant time delay and scheduling of power may not become effective. The surrender of power is only for short duration only.

(b) The availability of surrender of power if available through the RLDC's web site on line when any constituent surrenders, the prospective constituent can immediately take action. When this facility is not available, the generator has to contact each constituent regarding its intention to take additional power and this coordination may not be practicable within short time.

(c) When multiple constituents take the URS, it may cause congestion in certain part of the grid which would necessitate the entire actions to be redone by the generator and would again tend to non-materialization of utilization of surplus in the generating stations. RLDC can better handle it in the present methodology.

(d) RLDC has not mentioned any issue regarding the present operations, but informed that continuing the existing practice may be observed as a violation of the Commission`s order dated 5.10.2015.

(e) RLDC and POSOCO are insulated from the commercial impact of this capacity as per the present methodology.

(f) Since, the new procedure implemented in SR with effect from 25.12.2015 has caused undue and unnecessary operational difficulties for scheduling of URS, the existing mechanism of scheduling of URS power which is time tested and dispute free should be continued.

11. Electricity Department, Puducherry in its reply has submitted that implementation of the Commission`s order dated 5.10.2015, is likely to result in operational difficulties on a real time basis in case of scheduling URS power in the SR. Electricity Department, Puducherry has further submitted that it concurs with the views of SRLDC and has requested to pass suitable order to facilitate the continuance of scheduling of URS power by SLRDC/POSOCO as being done now.

12. Power System Operation Corporation (POSOCO) in its reply has submitted that the issue of transferring the obligations of re-allocation of URS power to RLDCs has been over simplified and shall have the far reaching implications. NLDC has examined the

difficulties projected by SRPC. The views of RLDCs were invited. POSOCO has submitted the views of NLDC and RLDCs as under:

(a) Power to make contract: As per Section 28(3) of the Act, RLDCs can only schedule and dispatch electricity in terms of existing contract, and do not have the statutory function of creating contracts to schedule and dispatch electricity. SRPC has suggested for a blanket consent/declaration by the beneficiaries to the RLDCs. However, the said suggestion is (i) against the statutory framework within which RLDCs are to function under the Act, (ii) seeks to shift the onus on RLDCs which is not tenable and practically expedient. In case SRPC's suggestion is taken, it would amount to scheduling URS power to another beneficiary of the ISGS without the prior consent of such ISGS, which would in fact be (i) nullification or disregard to the existing commercial contract between the sellers and the buyers, and (ii) creation of a new (and loose) contract by RLDC with the associated commercial risks and disputes.

(b) Beneficiaries' freedom to negotiate: The Commission vide order dated 4.1.2000 had emphasized on the beneficiaries' freedom to negotiate any transaction for utilization of their shares of the capacity in ISGS. In the light of the said order dated 4.1.2000, suo-motu scheduling of URS by RLDC would (i) be against the statutory mandate to schedule in accordance with contracts, (ii) nullification or disregard to the existing commercial contract between the sellers and the buyers, (iii) creation of a new (and loose) contract by RLDC with associated commercial risks and disputes, and (iv) amount to diluting the beneficiary's responsibility to negotiate any transaction for utilisation of their capacity shares in ISGSs. Therefore, the Commission in order dated 5.10.2015 appreciated the legal and contractual

implication in scheduling the surplus power and rightly held that ISGS was the nodal agency for arranging the consent of the beneficiaries.

(c) Dispatch URS through Ancillary Services: As per the Central Electricity Regulatory Commission (Ancillary Services Operations) Regulations, 2015 (hereinafter referred to as “Ancillary Services Regulations”), RLDCs/NLDC can harness URS power for further optimisation in an orderly manner. The Commission, vide order dated 11.1.2010 in Petition No. 134/2009 with I.A. No. 54/2009, had decided that scheduling of URS power from one beneficiary to another beneficiary of a generating station would be treated as reallocation of power on temporary basis. Thereafter, in its subsequent order in Petition No. 310/MP/2014 with respect to the reason why such a dispensation was done, with respect to generating stations whose tariff is determined by the Commission, the Commission upheld the sanctity of PPAs.

(d) Appropriate Agency to schedule: The Commission vide order dated 5.10.2015 has rightly designated the ISGS as the nodal agency for working out a schedule that matches the requisition by one or more beneficiary/procurer with the URS power of the original beneficiary/procurer in its generating station. Pursuant to the said order and the Grid Code, RLDCs have been uploading the updated URS power in different ISGS for the different time blocks on the websites of the respective RLDCs for reference of ISGS as well as the beneficiary desirous of requisitioning the same. SRPC, vide its letter dated 3.12.2015, has proposed to make RLDCs as the nodal agency for URS match making without involving the ISGS as envisaged in the Commission`s order dated 5.10.2015. POSOCO has submitted that ISGS is the appropriate agency

for matching the short term requirement of a beneficiary/procurer with its own un-dispatched power due to surrender by another beneficiary owing to the following reasons:

(i) This provision/onus on ISGSs would motivate them to assess the varying pattern of requisition of its beneficiaries and proactively assist them in adjusting their schedules to meet their short-term deficits by availing the surplus power in the time blocks that matches its need.

(ii) It would help ISGS and its beneficiaries to arrive at a mutually agreed schedule in terms of technical minimum generation, ramp up and ramp down constraints, reserve shutdown, etc.

(iii) In this process, the ISGS could manage variations in its injection schedule and the final mutually agreed schedules could be checked by RLDCs for transmission constraints, before integration in the schedules at the interface boundaries.

(e) The Commission's orders regarding evolution of dispatch mechanism: The Commission in ABT order dated 4.1.2000 had envisaged that mechanism for dispatching the surplus power, whereby the need for mutual understanding between the beneficiary States and the generator was discussed. The ABT order went to the extent of encouraging the ISGS to go aggressively marketing the surplus power. The Commission in the said order had considered the ISGS as the owner of the surplus power and encouraged it to search for buyers. The Commission vide order dated 5.10.2015 has further encouraged the ISGS to proactively identify potential beneficiaries who could requisition to schedule the URS power.

(f) Mutually agreed schedule: Regulation 6.4.14 of the Grid Code provides for mutually agreed schedules for all ISGS. Therefore, ISGS should play a proactive role in scheduling un-dispatched power rather than relating the responsibility to RLDCs.

(g) Past issues: In the past, several issues had emerged related to scheduling of URS like apportionment of URS power between multiple beneficiaries. With the increase in the number of ISGS, number of users, number of contracts and regional entities, the scheduling complexity has increased manifold over the years. Under such cases, the RLDCs were forced to assume the role of a mediator in real-time between the licensees, SLDCs and the ISGS for resolving the issues related to scheduling the URS power. This diverts the precious time and attention of RLDC operators in the real-time towards resolving the scheduling issues rather than quickly compiling the boundary schedules and concentrating on pressing concerns related to grid operation. However, subsequent to the Commission's order dated 5.10.2015, ISGSs started to advise the RLDCs regarding the exact quantum of power to be scheduled from one beneficiary to the other beneficiary along with the specific time blocks. The Commission has streamlined the methodology of scheduling coordination in real-time. Moreover, the Commission vide order dated 5.10.2015 upheld the sanctity of PPAs with respect to scheduling of URS. Therefore, SRPC's suggestion of providing blanket consent to RLDCs tantamount to relegation of the entire responsibility of URS scheduling along with its commercial/technical risks and implications on the RLDCs, which are neither mandated to be nor are a party the Power Purchase Agreements between the sellers and the

beneficiaries/procurers. Therefore, implementing the suggestion of SRPC would undo the orderliness introduced by the Commission vide order dated 5.10.2015.

(h) Revisions of Schedules: There is a statutory difference between reallocation to be done by the generators *vis-a-vis* revision to schedules by RLDC. The Commission in order dated 5.10.2015 had observed that Regulation 6.5.18 is *parimateria* to Regulation 6.5.20 of the Grid Code, in the sense that they both pertain to revisions to be made to the schedule. However, there exists essential difference between these two Regulations. The revisions by RLDCs under Regulation 6.5.20 are done only in the interest of secure grid operation whereas the revision under Regulation 6.5.18 is done by the concerned beneficiary or generator as per their specific requirements. Therefore, mixing the roles under Regulations 6.5.18 and 6.5.20 shall expose the system operators to endless litigations and as such it is advisable to keep the system security distinct from commercial operation of the grid.

(i) Practical Difficulties: POSOCO has submitted the SRPC and Regional entities have expressed the perceived difficulties in the implementation of the Commission's order dated 5.10.2015 which are discussed below with the practical solutions and suggestions.

(i) Time lag: As the ISGS shall submit request for URS re-allocation, there is no increase in processing time. Temporary re-allocation will only alter the entitlement/requisition of beneficiary/regional entity but the drawal/injection schedule would be done by RLDC where congestion would also be factored. However, the same has been implemented in a seamless manner in the Western Region **(WR)** and Northern Region **(NR)**. Further, the blanket

consent given by the beneficiary regional entities to ISGS may facilitate immediate temporary re-allocation by ISGS. The URS power scheduling in WR and NR is being done by NRLDC and WRLDC as per the Commission's order dated 5.10.2015. Standing consent is given by the beneficiary to the generators which coordinates with NRLDC/WRLDC for scheduling the URS on day to day basis thereby complying with the Commission's order. CGPL, Mundra has also requested to follow the Commission's order dated 5.10.2015, in letter and spirit. This only highlights the significance of the CERC order which suggests a pro-active role by the generators in URS scheduling.

(ii) Congestion issues: Information on any transmission network constraint/ congestion / ATC limit, etc. are up-loaded on the websites of NLDC/ RLDC from time to time. The same can be factored by the ISGS while temporarily reallocating to the beneficiary or revising their schedule requirement.

(iii) Commercial disputes can be averted: Temporary re-allocation by ISGS will be based on the surrender, requirement quantity, and consent with freedom to the generators to consider the allied issues like payment. Similar issue was faced in the Eastern Region as well.

(iv) Verification of Power of Attorney: The Commission, vide order dated 5.10.2015, mandates that prior consent for sale of un-requisitioned power from the beneficiary (who had surrendered the power originally entitled) to the beneficiary (who is desirous of requisitioning) of the same ISGS is essential before scheduling the un-dispatched power. During a discussion in the 478th OCC meeting of the WRPC, the issue of "Standing Consent" for the sale of

power was taken up along with other scheduling related issues. In the meeting, SLDC, Maharashtra stated that it was not authorized to scheduling of power from Jhanor ISGS for issuing standing consent for sale of power. The above incident of SLDC, Maharashtra indicates that the RLDC would have to verify the authenticity of the standing consents submitted and to ensure whether the entity submitting the consent is really authorized/empowered to submit such consent. SPRC's suggestion of having blanket consent may be infructuous as (i) the allocations in the ISGS keep changing; (ii) the PPA may undergo changes; (iii) a beneficiary, who had submitted a blanket consent to ISGS, is no longer has an allocation in that station; and (iv) a commercial dispute between the parties.

(v) Room for Arbitrariness: There shall be lack of clarity on the manner of allocation as to (i) whether to allocate the power in a first cum first served manner or pro rata, (ii) whom to give URS power if number of the beneficiaries are overdrawing and the same is diabolically changing, (iii) when to withdraw in case some beneficiaries start under drawing and (iv) how much quantum of URS to be allocated to whom. All these concerns will lead to a situation in which it will be difficult to address how to eliminate the beneficiary preference.

(vi) Lack of clarity on ownership of the unscheduled power: There is no clarity on whether the owner of the un-dispatched power is (i) the entity who has surrendered it or (ii) the entity coordinating the scheduling on behalf of the buyer or (iii) the RLDC or (iv) the Seller also needs to be addressed.

(vii) Fixed cost credit: This is another such issue which would arise in case of more than one entity surrendering and more than one beneficiary seeking scheduling of URS power.

(viii) Loose contract: Suo-motu scheduling of URS by RLDCs would lead to creation of a new (and loose) contract by RLDC with associated commercial risks and disputes, and amount to taking away beneficiaries' right to negotiate any transaction for utilization of their capacity shares.

(ix) Payment disputes: In the case of existing payment settlement, issues between the generator and the beneficiary would arise in this regard as certain Eastern Region ISGSs have expressed their reservations in the past while temporarily allocating URS power to some of their beneficiaries.

(x) Instance of refusal of SLDC to issue standing consent: SLDC, Kalwa refused to issue Standing Consent to ISGS for scheduling the power surrendered by its DISCOM. Similar objections were raised by the representatives from the Governments of Gujarat, Maharashtra and Madhya Pradesh during the Power Sub-committee meeting of Sardar Sarovar Project ("**SSP**") when Narmada Control Authority proposed SLDCs as coordinators for scheduling SSP's power.

(xi) Complex PPAs and issues thereof: With the existence of complex PPAs and portfolios certification of DC, availability should be left to be settled between the buyers and sellers. Thereafter, mutually agreed bilateral schedules should be informed to RLDCs and SLDCs for interface schedules and to check transmission constraint.

POSOCO has submitted that in the light of the above practical difficulties, there should not be any deviation/dilution of the directions of the Commission`s order dated 5.10.2015 in Petition No. 310/MP/2014 about demarcation of URS scheduling. All the regions including SR have already implemented the direction of the Commission. All the stakeholders should implement the directions of the Commission. If the suggestions/prayers of SRPCs and other Regional entities are allowed, it will dilute the requirements of scheduling URS on the basis of contract and lead to disputes during real time grid operations.

13. Coastal Gujarat Power Ltd. (CGPL) in its reply has submitted as under:

(a) As per Section 28 of the Act, RLDC is only to schedule/despatch power in accordance with the provisions of the PPA executed between CGPL and its Procurers, based on the availability of the power station and demand from the beneficiary(ies). Article 4.4.2 of the PPA recognizes scheduling of URS power, either to the Procurers or to third parties, as the case may be and lays down the procedure for scheduling URS power in the event that CGPL wishes to exercise its right to sell such URS power to third parties. CGPL has submitted that should there be a part of Available Capacity which has not been dispatched by a Procurer, who is ordinarily entitled to receive such part (URS) and such URS/un-despatched power may be offered by CGPL to the other Procurers/third parties, as the case may be (who are not ordinarily entitled to receive such part). In such eventuality the other Procurers shall elect to avail such power or waive their rights to avail such power within two hours of so being offered, pursuant to which CGPL may sell power to third parties. As per Article 4.4 of the PPA, in the event that the Procurer(s) who have not availed the Available Capacity, as envisaged, intimates its intention

and willingness to CGPL for availing the unavailed part of the Available Capacity (which was either being availed by other Procurers/or being sold to third parties), CGPL shall be bound to restore supply of such capacity to the concerned Procurer (s) from: (i) two hours from receipt of notice in this regard from the Concerned Procurer(s); or (ii) the time for commencement of supply specified in such notice; whichever is later. The PPA envisages that, the ISGS (CGPL in the present case) shall be the coordinating agency/interface for scheduling of URS power. CGPL has submitted that URS power may be scheduled to other beneficiaries, in the event of shortage of power so that the generating assets are optimized to meet the power requirements of the beneficiaries.

(b) The Commission, vide its order dated 5.10.2015, has rightly held that (i) the ISGS shall be permitted to revise its schedule for URS power from one beneficiary to another beneficiary of the same power station, (ii) Consent of the original beneficiary and the new beneficiary shall be submitted by the ISGS, intending to avail revision of schedule, to the concerned RLDC, and (iii) If the original beneficiary requests back its share of power, then its schedule and the schedule of beneficiary who had availed URS power shall be revised in 4 time blocks again. Concerned ISGS shall submit the request of the original beneficiary to recall the power to concerned RLDC.

(c) The Commission has also recognized the fact that it is the ISGS that shall be the coordinating agency/interface for scheduling of URS power. The said findings are in line with the provisions of CGPL's PPA and therefore, acceptable to it. As regards CGPL/ISGS being the coordinating agency/interface for scheduling of URS power, the same has been supported

by WRLDC/NRLDC, being the relevant RLDC's for scheduling power to CGPL's beneficiaries (who are located within the Northern and Western Region).

(d) There may be a situation where a beneficiary has been continuously defaulting in making timely payment of the power availed under the PPA, and therefore, any additional billing an account of scheduling URS power would also be defaulted, which would aggravate/magnify the impact on the ISGS and its revenues. Therefore, taking into account the financial health of the beneficiary(ies), scheduling of URS power ought to be with the generating companies/ISGS. Further, the RLDC except being a System Operator should not have any role to play in the scheduling of URS power, which is primarily a commercial transaction between the ISGS and the beneficiaries. The financial health of a beneficiary/Discom may be good at present. However, there is no certainty that it would retain its sound financial health in the future (i.e. during the total tenure of PPA, which is 25 years). In other words, considering the fact that it is difficult to anticipate the future financial health of the beneficiaries/Discoms at present, there is little justification to set the ground rule for scheduling of URS power for next 25 years.

(e) RLDCs being System Operators are required to ensure grid security. It is reiterated that considering selling URS power is primarily a commercial transaction between the parties to PPA, the RLDCs should not have any role except implementation i.e. scheduling/dispatch of URS power. However, CGPL is following the provisions of the PPA in true spirit and would continue to honor the directions of the Commission dated 5.10.2015.

(f) Grid security is of paramount importance. In case, there is revision in Declared Capacity during scheduling URS power, the same may put grid security under threat, considering that as per the Grid Code, such revision will be effective only after six time blocks and during such period, there may be mismatch in injection and drawal, leading to grid instability. Furthermore, during such period, there may be under-injection and the ISGS may have to bear its adverse commercial implications/losses. Therefore, scheduling of URS power cannot be at the cost of grid security.

(g) Scheduling of URS power ought to be in line with the provisions of the PPA, as mandated by Section 28 of the Electricity Act.

Analysis and Decision:

14. Member Secretary, SRPC in his letter dated 3.12.2015 highlighted certain difficulties with regard to the implementation of the Commission`s order dated 5.10.2015 in Petition No. 310/MP/2014 and has requested that scheduling of URS power may be continued by RLDC/POSOCO for continued utilization of URS power. Considering the importance of issues highlighted by SRPC, the Commission vide order dated 18.12.2015 directed all concerned to file their views on the issues.

15. The Commission in Para 32 (a) directed that all generating companies whose tariff is determined by this Commission under Section 62 or adopted by this Commission under Section 63 of the Act shall be permitted to revise their schedules for URS power from one beneficiary to another beneficiary of the same power station in terms of Regulation 6.5.18 of the Grid Code within 4 time blocks. Consent of the original beneficiary and the new beneficiary shall be submitted by the ISGS intending

to avail revision of schedule to the concerned RLDC by mail. The Commission in Para 32 (b) further directed that if the original beneficiary requests back its share of power, then its schedule and the schedule of beneficiary who had availed URS power shall be revised in four time blocks again. Concerned ISGS shall submit the request of the original beneficiary to recall the power to concerned RLDC by mail. SRPC has submitted that the implementation of the Commission`s order dated 5.10.2015 was deliberated in the 113th meeting of OCC held on 6.11.2015 and also in a Special meeting held on 20.11.2015. In the said meetings, all the beneficiaries of Southern Region, NTPC, NLC and NETCL have suggested that scheduling of URS power should be continued by SRLDC/POSOCO and the above utilities are willing to furnish a consent letter which would insulate SRLDC/POSOCO from any legal/commercial/operational implications/disputes that could arise in scheduling of URS power. In the said meetings, it was pointed out that only consent was required from original beneficiary and new beneficiary for the purpose of URS scheduling in real time. In case, consent letter is ensured, scheduling of URS power could be carried out directly by SLDC/POSOCO without any violation of the order. SRPC has submitted that the utilities of Southern Region are facing difficulties in obtaining real time consent each time for URS re-allocation from original beneficiary to new beneficiary. SRPC has argued that to facilitate scheduling, all the beneficiaries and ISGSs have submitted their un-conditional consents for allocation of URS power as per the existing procedure adopted in Southern Region. However, SRLDC is inviting consent every time citing the requirement of the Commission`s order dated 5.10.2015.

16. TANTRANSCO has submitted that the prevailing scenarios of scheduling of URS power may be continued with RLDC/POSOCO. According to NLC, for effective

utilization of URS power, the scheduling of URS power from one beneficiary to another beneficiary may continue to be implemented by SRLDC as per the existing practice. APTRANSCO has submitted that RLDC may be directed to continue with the present practice being followed in the Southern Region. KSEBL has argued that difficulties projected by SPRC are genuine and requires consideration of the Commission. KSEBL has submitted that since, the new procedure implemented in Southern region with effect from 25.12.2015 has caused undue and unnecessary operational difficulties for scheduling URS, the existing mechanism of scheduling of URS power which is time tested and dispute free may be continued.

17. CGPL has submitted that scheduling of URS power ought to be in line with the provisions of the PPA, as mandated by Section 28 of the Electricity Act and in accordance with the order of the Commission dated 5.10.2015. SPL has sought direction to RLDC/POSOCO to continue schedule of URS power to the beneficiaries and to implement the directions issued in order dated 5.10.2015.

18. POSOCO has submitted that the issue of transferring the obligation of re-allocation of URS power to RLDC has been over-simplified and shall have far reaching implications. POSOCO has submitted that the Commission`s order dated 5.10.2015 should be followed and the responsibilities of the ISGSs and the beneficiaries with regard to scheduling of URS power should not be passed on to the RLDCs who are neither parties to the contracts between ISGSs and their beneficiaries nor are they authorized to take decisions in the contractual matters between the generators and their beneficiaries. POSOCO has further highlighted that the Commission`s order dated 5.10.2015 has been smoothly implemented in the Western Region and Northern Region and there is no basis as to such

implementation cannot be done in the Southern Region. POSOCO has also pointed out the instances where the representatives from the Governments of Gujarat, Maharashtra and Madhya Pradesh raised objections during the Power Sub-committee meeting of Sardar Sarovar Project when Narmada Control Authority proposed SLDCs as coordinators for scheduling SSP's power. In other words, all beneficiaries are not in favour of giving standing consent for scheduling of their shares of power under URS. Both SPL and CGPL have supported the methodology given in the order dated 5.10.2015.

19. Prior to the issue of order dated 5.10.2015 in Petition No. 310/MP/2014, RLDCs were rescheduling URS power from ISGSs as per order dated 11.1.2010 in Petition No. 134/2009 without any express consent by the beneficiaries in this regard and the same was treated as temporary reallocation. At the time of issuing of order dated 11.1.2010, the sector was in a deficit situation and power was supplied by either under Central Government allocation or with State Generating Companies. Therefore, there were no issues with reallocation of URS. However, while dealing with order dated 5.10.2015, the Commission had to consider the ISGSs which do not have Central Government allocations such as the UMPP and inter-State generating stations supplying power to more than one State. Further, POSOCO cited instances of non-payment of dues by certain beneficiaries due to which reallocation of URS was being challenged by the generating station. Accordingly, the provision regarding consent by the surrendering and the receiving beneficiaries was incorporated in order dated 5.10.2015. While we have not been reported about any difficulties faced by the ISGSs and their beneficiaries in the Northern and Western Regions with regard to the scheduling of URS power in accordance with our order dated 5.10.2015, the ISGSs and the beneficiaries of the Southern Regions have pointed out about the time consuming process of obtaining and communicating consent which has

impact on the scheduling of URS power.

20. After hearing all parties during the hearing on 5.1.2016, we observed that some of the Central Generating Stations and their beneficiaries have no difficulty in giving standing unconditional consents with regard to scheduling of URS power. As an interim measure, we had issued the following directions in partial modification of our directions in the order dated 5.10.2015, pending final decision on the issue:

“Where both the generating station and its beneficiaries (surrendering and requesting beneficiaries) give their standing consents in writing to RLDC that the decision of the concerned RLDC will be binding on them with regard to scheduling and dispatch of URS power, the concerned RLDC shall schedule such URS power to the requesting beneficiaries in relative proportion to the quantum requested by them. In other cases, RLDCs shall schedule URS power on the basis of the consents submitted by the generating stations in terms of the order dated 5.10.2015.”

After issue of the interim directions as above, no difficulty with regard to scheduling of URS power has been brought to the notice of the Commission. Therefore, we are of the view that the directions in para 32 of the order dated 5.10.2015 and the interim direction vide Record of Proceedings dated 5.1.2016 will help in smooth scheduling of the URS power from ISGSs. Accordingly, we confirm the interim directions as quoted above and direct that the same shall be read as sub-para (bi) under para 32 of the order dated 5.10.2015. Accordingly, where both the generating station and its beneficiaries (surrendering and requesting beneficiaries) give their standing consents in writing to RLDC to the effect that the decision of the concerned RLDC will be binding on them with regard to scheduling and dispatch of URS power, the concerned RLDC shall schedule such URS power to the requesting beneficiaries in relative proportion to the quantum requested by them.

21. SPL and CGPL are comfortable with the methodology of obtaining consent at each instance of rescheduling of URS power. We observe that there may be cases where a generator wants to sell URS power to particular beneficiaries or may not want to sell URS power to certain beneficiaries with whom it has a payment dispute. In such cases, URS power can be sold by the generator as per the provisions of the PPA. Since, in such cases standing consent will not be available with RLDC, it will reschedule URS power as requested by a generator.

22. The Commission vide Central Electricity Regulatory Commission (Indian Electricity Grid Code) (Fifth Amendment) Regulations, 2017 provides the option to a generating station to sell the share of power of a beneficiary in the generating station based on the latter's standing consent. The said Regulation is extracted as under:

" 6.5.4(a) The original beneficiary shall communicate its consent to the ISGS by 9.45 AM each day about the quantum and duration of power for next day for sale in the market.

(b) The original beneficiary may also provide a standing consent to the ISGS for sale of power in the market for specified duration and specified quantum.

(c) The ISGS shall not sell the power of any beneficiary in the market without its express consent.

(d) The beneficiary shall not be allowed to schedule the power for which consent has been given by the beneficiary to the ISGS except in cases where power is still available with the ISGS after sale through bilateral and collection transactions.

(e) The ISGS shall intimate the details of the share of power of individual beneficiaries sold in the market to the respective RLDC.

6.5 (A) (c) In case of sale of share of original beneficiaries in market by ISGS for which consent has been given, the realized gains shall be shared between the ISGS and the concerned beneficiary in the ratio of 50:50 or as mutually agreed by the ISGS and concerned beneficiary in the billing of the following month. This gain shall be calculated as the difference between selling price of such power and fuel charge including incidental expenses:

Provided that such sale of power by ISGS shall not result in any adverse impact on the original beneficiary(ies) including in the form of higher average energy charge vis-à-vis the energy charge payable without such sale: Provided further that there shall be no sharing of loss between the ISGS and the beneficiary(ies):

Provided also that, the liability of fixed charge in such cases shall remain with original beneficiary(ies) as determined in accordance with the Tariff Regulations notified by the Commission from time to time.”

23. The following cases of resale of power by a generating station to a beneficiary other than its original beneficiary are covered in the above quoted regulation:

(a) Sale in power market i.e. Power exchange or bilateral short term contract or bilateral medium term contract in case of express consent by original beneficiary allowing sale of its power in which case original beneficiary loses the right to recall its power once it is sold. In this case, the liability of fixed charge remains with original beneficiary. The proceeds of sale of power shall be shared as provided in IEGC.

(b) Rescheduling by RLDC on express standing consent given by the generating station and its original beneficiaries in which case it is treated as temporary reallocation and liability of payment of fixed charge is with beneficiary to whom the power has been temporarily allocated. This is affected from 4th time block as per the Grid Code and original beneficiary retains the power to call back the unscheduled power. There is no express provision of sharing of proceeds of sale of power with original beneficiary since it is temporary reallocation due to which fixed charge and variable charge liability is on beneficiary availing the URS power.

24. Our directions in the order dated 5.10.2015, direction in this order and the provisions of the Regulation 6.4(a) to (e) and Regulation 6.5(A)(c) of the Grid Code should be harmoniously constructed for smooth scheduling and accounting of URS power from the ISGS.

25. An associated issue arises in cases where a generator has regulated the power of a beneficiary either for default in payment or for non-opening of letter of credit in accordance with the provisions of Central Electricity Regulatory Commission (Regulation of Power Supply) Regulations, 2010 and wishes to sell the regulated power to other beneficiaries or third parties. In such cases, if the generator wishes to sell the regulated power as URS power or in the market including power exchange, the consent of beneficiary whose share of power is regulated will not be required.

26. POSOCO has submitted that the RLDCs are forced to assume the role of a mediator in real-time between the licensees, SLDCs and the ISGS for resolving the issues related to scheduling the URS power which are primarily contractual in nature. While we share the concern of POSOCO that the RLDCs should not be involved in the commercial decisions of the generators or the beneficiaries, the fact remains that a pro-active role on the part of RLDCs in scheduling the URS power will result in optimum utilisation of such power. In order to insulate RLDCs from being dragged into any commercial disputes between the ISGSs and the beneficiaries, the Commission has prescribed the consent including standing consent of both ISGSs and the beneficiaries(surrendering and requesting beneficiaries) to enable the RLDCs to schedule URS power. We further clarify that the RLDCs shall be indemnified against all consequences for the loss or damage suffered by any party arising out of the scheduling of URS power in terms of the order dated 5.10.2015, this order and Sixth Amendment to the

Grid Code.

27. POSOCO has raised an issue of requirement of checking the authenticity of standing consent as raised by SLDC, Maharashtra. In this regard, we are of the view that all the ISGS and the beneficiaries who intend to exercise their option of standing consent shall intimate the names of the authorised officers of the level of Executive Director/General Manager duly approved by the CMD or head of the ISGSs or the beneficiary distribution companies as the case may be. Any standing consent received from such authorised officers shall be binding on the ISGS or the beneficiary distribution companies as the case may be.

28. POSOCO also brought to our notice few cases where standing consent were not made available by the beneficiaries. As standing consent is a voluntary option to be exercised by the ISGSs and the beneficiaries, in case of non-availability of standing consent, RLDCs shall schedule the power as per the instructions received from the ISGSs in terms of para 32(a) of our order dated 5.10.2015.

29. POSOCO has sought clarity on the following aspects: (i) whether to allocate the power in a first cum first served manner or pro rata, (ii) whom to give URS power if number of beneficiaries are overdrawing and the same is diabolically changing, (iii) when to withdraw in case some beneficiaries start under-drawing and (iv) how much quantum of URS to be allocated to whom. In regards to how much quantum to be allocated to whom, we have already held that "the concerned RLDC shall schedule such URS power to the requesting beneficiaries in proportion to the quantum requested by them". Further we observe that URS scheduling shall be based on the requisition and under-drawal/over-drawal by a beneficiary **as** of now since beneficiary has no relevance to the scheduling of URS. Regarding other questions we have

perused the Operating Procedure of SRLDC available on SRLDC website which is extracted as under:

“9.2 ALLOCATION OF UN-REQUISITIONED SURPLUSES....The URS Re-Allocation will be on first come first serve basis however the request received in the same time block will be treated at par & shared on proportional basis”.

Accordingly, we direct that respective RLDCs should decide the protocol in this regard after consultation with ISGSs and beneficiaries in the region and place the protocol in the public domain for the information and compliance of all concerned.

30. This disposes of Petition No. 16/SM/2015.

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

sd/-
(A.S. Bakshi)
Member

sd/-
(A. K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson