

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Review Petition No.36/RP/2018alongwith IA No.88/2018
in Petition No.122/MP/2018**

Subject :Petition for review of Order dated 23.7.2018 in Petition No. 122/MP/2018.

Date of hearing : 15.11.2018

Coram : Shri P.K. Pujari, Chairperson
Dr. M.K. Iyer, Member

Petitioner : LancoAnpara Power Limited (LAPL)

Respondents :Northern Region Load Despatch Centre and Another

Parties present :ShriS.B. Upadhayay, Senior Advocate, LAPL
ShriGauravDudeja, Advocate, LAPL
Ms. Namita Singh, Advocate, LAPL
ShriArunTholia, LAPL

Record of Proceedings

IA No.88/2018 was filed alongwith Review Petition No.36/RP/2018, seeking urgent hearing of the Review Petition. The Commission disposed of the IA and proceeded to hear the Review Petition on maintainability.

2. At the outset, the learned senior counsel for the Review Petitioner submitted that present Review Petition has been filed for seeking review of order dated 23.7.2018 alongwith Corrigendum dated 31.7.2018 in Petition No 122/MP/2018. Learned senior counsel for the Review Petitionerfurthersubmitted as under:

(a) The Review Petitioner has set up a 1200 MW (2x600 MW) coal fired power plant near Anpara in the State of Uttar Pradesh and has entered into the following Power Purchase Agreements (PPAs) for sale of power namely, (i)Sale of maximum net capacity of 1017.5 MW (Gross 1100 MW with normative auxiliary of 7.5%) to UP Discomsthrough PPA dated 12.11.2016 read with Supplementary PPA dated 31.12.2009;and (ii) Sale of 100 MW net power to Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) through back-to-back arrangements with National Energy Trading and Services Limited (NETS).

(b) The Commission vide its order dated 23.7.2018 and corrigendum order dated 31.7.2018 in Petition No. 122/MP/2018 has observed that the Petitioner can supply only 93.5 MW to TANGEDCO which is contrary to TNERC orders dated 21.6.2012 and 31.7.2017 which provides for supply of 100 MW net capacity to TANGEDCO from the Petitioner's power plant.As per law, TNERC orders can only be modified through the Appeal or a Review and it cannot be modified by the Commission.

(c) The grounds raised in the Petition No. 122/MP/2018, were in respect of declaration regarding interpretation and enforcement of 5th amendment of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 (Grid Code) wherein the Petitioner was seeking relief for consideration of actual Auxiliary Electricity Consumption (AEC) as per the norm prescribed by the Commission and AEC mentioned in PPA cannot be considered. However, the Petitioner nowhere raised the ground seeking change in terms of selling capacity of the generating company which is already in accordance with the PPAs executed between LAPL with UP Discoms and TANGEDCO. The Commission vide impugned order dated 23.7.2018 considered two different normative auxiliary consumption for the same plant which defeats the purpose and intent of the 5th Amendment of the Grid Code. A power plant may have two different normative auxiliary consumptions for commercial purposes like for determining availability or net capacity to be supplied to a particular procurer, however, there cannot be two different auxiliary consumption for implementation of grid safety provisions.

(d) The consideration of normative auxiliary consumption and reliance on Statement of Reasons (SOR) by the Commission is error apparent on face of record since the provisions of 5th Amendment of the Grid Code are clear and unambiguous as to allowing a generating station to generate and declare corresponding up to 100% of its capacity. The Commission has failed to notice that the amended Regulation 5.2(h) nowhere specify for using normative AEC instead of actual AEC. However, it is a well established principle that in case of any deviation/ discrepancy in the SOR with respect to the notified Act, the provisions of the said act shall be applicable.

(e) The Commission in the impugned order did not consider the Petitioner's submissions made in the petition as the Commission considered normative auxiliary consumption under TN PPA as 6.5% which is contrary to the terms of the PPA. Accordingly, the Review Petitioner was constrained to schedule power to UP Discoms and TANGEDCO at very higher and dissimilar normative auxiliary consumption rate of 7.5% and 6.5% respectively, due to which Petitioner is suffering adversely since it is being able to Declare Capacity of 1111 MW only as against available capacity of 1131 MW thereby wasting useful capacity of 20 MW.

3. After hearing the learned senior counsel for the Review Petitioner, the Commission reserved the order on the maintainability of the Review Petition.

By order of the Commission

**Sd/-
(T.D.Pant)
Deputy Chief (Law)**