

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 114/MP/2018

Subject : Petition under Sections 79(1)(b), 79(1)(c) and 79(1)(f) of the Electricity Act, 2003 read with the relevant provisions of the IEGC, 2010 for implementation of the order of the Commission in Proceeding No. L-1/219/2017/CERC dated 5.5.2017 and for seeking issuance of consequential directions to the Respondents for complying with the detailed operating procedure qua reserve shut down of the Unit(s) of the 2x660 MW Mahatma Gandhi Thermal Power Plant at Matenhali, Dist. Jhajjar, Haryana.

Petitioner : Tata Power Delhi Distribution Limited (TPDDL)

Respondents : Jhajjar Power Limited (JPL) and Ors.

Date of Hearing : 24.9.2019

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

Parties Present : Shri Gopal Jain, Sr. Advocate, TPDDL
Ms. Molshree Bhatnagar, Advocate, TPDDL
Ms. Jyotsana Khatri, Advocate, TPDDL
Ms. Shefali Sobti, TPDDL
Shri Anoop Pandey, TPDDL
Shri Sumit Sachdev, TPDDL
Shri Anurag Bansal, TPDDL
Shri Ramanuj, Advocate, JPL
Shri Manpreet Lamba, Advocate, JPL
Ms. Anushree Bardhan, Advocate, Haryana Discoms/HPPC
Ms. Tanya Sareen, Advocate, Haryana Discoms/HPPC
Shri Vikas, HVPNL
Shri Gajendra Singh, NRLDC
Ms. Kavita Parihar, NRLDC
Shri Ashok Rajan, NRLDC

Record of Proceedings

Learned senior counsel for the Petitioner submitted that the present Petition has been filed seeking, *inter alia*, direction to the Respondents to comply with the Para 5.10 of the Detailed Operating Procedure (DOP) dated 5.5.2017 and to allow the Petitioner to avail the complete and maximum contracted capacity from the running unit of the Project, in case another unit is under Reserve Shut Down (RSD) and there is no off-take of power to its allocated contracted capacity of 556 MW by the Haryana Utilities. Learned senior counsel for the Petitioner handed over the copy of notes on submissions and mainly submitted as under:

(a) Respondent No.1, Jhajjar Power Limited (JPL) has set up a 1320 MW Thermal Power Project (generating station) and is supplying 90% of net power generated to Haryana Discoms i.e. Respondents 2 and 3 and the balance 10% of net capacity (123.72 MW) is being supplied to the Petitioner through the



Respondent No. 4, Tata Power Trading Company Limited through back to back agreements.

(b) In terms of Schedule 13 of the PPA, the Petitioner has been allocated 61.86 MW from Unit No.1 and the balance 61.86 MW from Unit No.2 of the generating station. Due to unit-wise allocation, when one unit of the project is under RSD on account of not scheduling of entire contracted capacity by the Haryana Discoms from the generating station, the Petitioner only gets the power upto 61.86 MW, as the other unit of the generating station is on RSD, despite making payment of capacity charges for the full allocated capacity.

(c) DOP dated 5.5.2017 framed under Grid Code and approved by the Commission, lay out a detailed and comprehensive methodology with regard to taking generating station or units under RSD and corresponding compensatory mechanism.

(d) Clause 5.10 of DOP provides that in case one unit of a generating station is under RSD, the generator thereto would be obligated to schedule its maximum contracted capacity (subject to less/non-requisition of power by the other beneficiary), from the other unit which is in operation. Further, Clause 5.9 of the DOP provides that the generators will continue to receive the capacity charges corresponding to total DC from the procurer/beneficiary.

(e) The Respondent, JPL has conveyed its willingness to supply the entire contracted capacity secured under the PPA to the Petitioner from one running unit of the generating station subject to approval of Haryana Discom and SLDC.

(f) Concern of Haryana Discoms that the prayer of the Petitioner will result in curtailing/encroaching upon the power requisitioned by them is based on erroneous understanding as the Petitioner is seeking application of DOP for requisition of power when a unit is taken under RSD and where the same can be accommodated from the on-bar unit i.e. when the Haryana Discoms are not scheduling the contracted capacity. Further, accommodating the Petitioner's requisition does not amount to third-party sale under the PPA and the Petitioner is not liable to pay any additional charge other than those already being paid.

(g) NRLDC, Haryana SLDC and HVPNL are in agreement in respect of scheduling of power in terms of Clause 5.10 of the DOP subject to certain charges. However, the Petitioner is already paying the capacity charges in terms of Clause 5.9 of the DOP corresponding to the contracted capacity.

(h) Intent of DOP is to aid and facilitate such eventualities and to restore the balance between the generator's and the procurer's interest.

2. Learned counsel for the Respondent, Tata Power Trading Corporation Limited supported the submissions made by the learned senior counsel for the Petitioner and submitted that the request of the Petitioner is in harmony with the DOP.

3. Learned counsel for the Respondent, JPL submitted that JPL has no contractual obligation to the Petitioner since the supply arrangement is through inter-State Trading licensee i.e. Respondent No. 4. However, as such, the Respondent has no objection to relief sought by the Petitioner subject to the commercial rights of the Respondent as set-out in the reply not being impacted. Learned counsel submitted that as per the scope of DOP, for those generating stations whose tariff is



determined or adopted by the Commission but are scheduled by the SLDC, similar mechanism of taking such machines under RSDs is to be adopted by SLDCs. Since the Respondent is bound by the scheduling instruction of Haryana SLDC and Haryana Grid Code, unless the DOP is adopted by the Haryana SLDC, the Respondent may have difficulty in implementing the DOP.

4. The Representative of the Respondent, Northern Regional Load Despatch Centre, submitted that since JPL is a State entity, its scheduling, metering and accounting of power is being done by the Haryana SLDC. The role of the NRLDC is limited to consideration of schedule for inter-State exchange of power based on the information submitted to it and it neither takes Declared Capacity of JPL nor gives injection schedule to JPL. Accordingly, NRLDC is neither a party to the disagreement nor any specific prayer has been made against it.

5. Learned counsel for the Respondents 2 and 3, Haryana Discoms handed over the notes on arguments and mainly submitted as under:

(a) Respondents vide letter dated 6.11.2017 have already conveyed that the Petitioner can be allowed to schedule complete contracted quantum of upto 132 MW in case one of the unit is under RSD and the power from running unit is not scheduled to its full allocation by the Respondents but the Petitioner has to pay all the charges i.e. fixed and variable charges subject to recall of power as per the provisions of the Grid Code.

(b) As per the Clause 5.10 of the DOP, if the Petitioner has a share of say 10% in each of the two generating units and there is an excess capacity available in the second unit which is not taken to RSD, only such excess capacity can be utilised for supplying to the Petitioner toward its share of 10% of the RSD unit.

(c) Clause 5.10 does not deal with the price to be paid in this regard and in absence of any specific provision, if the Petitioner were to be supplied additional 10% from the unit not taken under RSD, it has to pay the tariff, both the fixed charges and variable charges.

(d) Contention of the Petitioner that it is already paying the capacity charges corresponding to the contracted capacity as per Clause 5.9 of the DOP and is not required to pay any additional charge, is not correct.

(e) As long as the Respondents are paying the capacity charges for the contracted capacity under the PPA, the Respondents have exclusive right to such capacity and no part of such capacity can be diverted or used for any other person or purpose except as provided in the PPA. The Respondents cannot be deprived of the capacity charges for parting with such capacity in absence of any provision in the PPA or in DOP.

6. After hearing the learned senior counsel for the Petitioner and the learned counsels for the Respondents, the Commission reserved order in matter.

By order of the Commission

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

