

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 342/MP/2019

Subject : Petition invoking Regulation 1.5(iv) read with Regulation 5.2(u) and Regulation 6.5(11) of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 for enforcement of 'must run' status granted to solar power project and Regulation 11 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking direction to State Load Dispatch Centre to stop issuing backing down instruction to the Petitioner.

Petitioner : Prayatna Developers Private Limited (PDPL)

Respondents : Andhra Pradesh State Load Dispatch Centre & Ors.

Date of Hearing : 25.11.2019

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

Parties present : Shri Amit Kapur, Advocate, PDPL
Ms. Aparajita Upadyay, Advocate, PDPL
Ms. Sakshi Kapoor, Advocate, PDPL
Shri Rakesh Shah, PDPL
Shri Venkatesh, Advocate, NTPC
Shri Suhael Buttan, Advocate, NTPC
Shri S. Vallinayagam, Advocate, APSLDC
Shri M. Muralikrishna, APSLDC
Shri Ashok Rajan, SRLDC
Shri Alok Mishra, SRLDC
Shri Venkateshan, SRLDC
Shri G. Chakraborty, NLDC

Record of Proceedings

Learned counsel for the Petitioner handed over copy of note on argument and advanced his extensive arguments in support of his contentions and reiterated the submission made in the pleadings. Learned counsel mainly submitted as under:

(a) The Petitioner has set up a 50 MW Power Project in 1000 MW Kurnool Ultra Mega Solar Park, at Gani in the State of Andhra Pradesh and has entered into Power Purchase Agreement dated 21.3.2016 with NTPC, who is purchasing



power from the Petitioner and after bundling it with unallocated thermal power, selling it to the distribution licensee of Andhra Pradesh on back to back basis.

(b) Since January, 2019, Andhra Pradesh State Load Dispatch Centre (APSLDC) has been issuing telephonic instructions to the Petitioner to back down the solar generation, resulting into loss of generation and non-realization of tariff by the Petitioner.

(c) The above conduct of APSLDC is contrary to Regulation 5.2(u) and Regulation 6.5(11) of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 (Grid Code), which confers must-run status on Renewable Energy Plants.

(d) In terms of Grid Code, the back down instruction to solar power plants can only be issued if (i) grid security is endangered, or (ii) safety of any equipment or personnel is endangered. However, no such reasons have ever been communicated to the Petitioner and APSLDC has been issuing back-down instruction on account of (i) lower demand in system (ii) alleged unavailability of transmission corridor.

(e) Regulation 6.3B of the Grid Code provides the technical minimum schedule for operation of Central/Inter-State Generating Station. APSLDC has been issuing oral instruction without instructing Central/Inter-State Generating Station to operate on their technical minimum.

(f) Regulation 6.4.2(b) of the Grid Code mandates the scheduling and dispatch of power from Ultra-Mega Power Projects and Wind & Solar based Projects of 500 MW and above to be done by concerned RLDC. Accordingly, SRLDC is the concerned RLDC in the present case as the Petitioner's Project is located in 1000 MW Kurnool Ultra Mega Solar Park. This aspect has also been discussed in various SRPC meetings wherein it was decided that the scheduling of power from Kurnool Solar Park would be done by SRLDC. However, no steps have been taken so far by APTransco/APSLDC to hand over scheduling control of the Solar Park.

(g) As regard jurisdiction of the Commission, the Hon'ble Supreme Court in Central Power Distribution Co. & Ors. Vs Central Electricity Regulatory Commission and Anr. [(2007) 8 SCC 197] has held that the matters of grid discipline even when there is a single State beneficiary would be within the purview of this Commission.

2. Learned counsel for the Respondent, NTPC Limited supported the Petition and submitted that in terms of SRPC meeting, scheduling of Kurnool Solar Park is required to be done by SRLDC and the same has been agreed by SRLDC in its reply. Learned counsel further submitted that the Petitioner is also claiming deemed generation charges on account of backing down instruction on which the extant PPAs are silent. If the Commission allows such prayers, it must be borne by the



actual beneficiaries, as NTPC is only acting as in intermediary. Learned counsel requested the Commission for time to file reply to the Petition.

3. Learned counsel for the Respondent APSLDC also advanced his extensive arguments in support of his contentions and reiterated the submission made in the pleadings. Learned counsel mainly submitted as under:

(a) The issue of 'must run status' and backing down of wind/solar generators has been considered by the Hon'ble High Court of Andhra Pradesh in its order dated 24.9.2019 in Writ Petition No. 9844 of 2019 and batch.

(b) In terms of Section 32 and 33 of the Electricity Act, 2003, State Load Dispatch Centre is the apex body to ensure integrated operation of the power system in a State and may give such directions and exercise such supervision and control as may be required for ensuring the integrated grid operations in the State.

(c) In terms of Section 33(4), any dispute with reference to the quality of electricity or safe, secure and integrated operation of the State grid or in relation of any direction under Section 33(1), it is required to be referred to the State Commission for the decision. One of the generator located in Kurnool Solar Park has also filed a petition before APERC in the matter of must run status relating to the curtailment of solar generation and compensation.

(d) In the instant case, the Petitioner is connected with and using the State grid and not the inter-State Transmission System.

(e) Must run status in terms of the Grid Code is not absolute and is subject to conditions which be imposed by APSLDC in accordance with the grid situation and to protect the grid.

(f) Claim of the Petitioner towards loss of generation as furnished is also incorrect.

4. In response of the Commission's query as to whether APSLDC is required to communicate the backing down instruction in writing, learned counsel for APSLDC submitted that the Act does not require SLDC to communicate the same in writing to the generating company. Learned counsel referred to AP Grid Code and submitted that the generating units above 30 MW is subject to central dispatch instruction. Though, the Petitioner's Plant Capacity is above 50 MW, the generating units are less than 30 MW.

5. The Representative of SRLDC submitted that in compliance of Regulation 6.4.2(b) of the Grid Code, SRLDC has already issued letters to APSLDC seeking data so that power from RE plants in AP can be scheduled by SRLDC. However, no response has been received from SRLDC in this regard. SRLDC was ready and willing to take control of scheduling RE plants.



6. After hearing the learned counsel for the parties, the Commission directed the Respondent, APSLDC to submit on affidavit by 11.12.2019 the reasons for backing down instruction issued to the Petitioner and the actual generation loss, with an advance copy to the Petitioner, who may file its response, if any, on affidavit by 18.12.2019.

7. The Commission directed the Respondent, NTPC to file its reply on affidavit by 11.12.2019 with an advance copy to the Petitioner who may file its rejoinder on or before 18.12.2019.

8. The Petition shall be listed for hearing in due course for which separate notice will be issued.

By order of the Commission

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

