

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 198/MP/2019  
along with IA No.57/2021**

- Subject : Miscellaneous Petition under Section 29(5) of the Electricity Act, 2003 read with Regulations 111& 115 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and Regulation 2.3(7) & Part 7 of Indian Electricity Grid Code 2010 for harmonious interpretation and application of Regulations for meeting the ends of justice and for consequential orders on revision of schedule in case of Forced Outage attributable to Force Majeure for reasons beyond the control of the generating company.
- Petitioner : Teesta Urja Limited
- Respondents : Eastern Regional Load Despatch Centre & 4 Ors.
- Date of Hearing : **6.8.2021**
- Coram : Shri P.K. Pujari, Chairperson  
Shri I.S. Jha, Member  
Shri Arun Goyal, Member  
Shri Pravas Kumar Singh, Member
- Parties Present : Sh. Tarun Johri, Advocate TUL  
Ms. Swati Jindal, TUL  
Sh. Shishir Kumar Pradhan, ERLDC/NLDC  
Sh. Nadim Ahmad, ERLDC/NLDC  
Sh. Shabari Pramanick, ERLDC/NLDC

**Record of Proceedings**

Case was called out for virtual hearing.

2. The learned counsel for the Petitioner submitted that the present Petition has been filed *inter-alia* seeking direction to set aside and quash the invoice No. ERPC/COM-II/ABT-DC/3596-3630 dated 12.7.2019 raised by Eastern Regional Power Committee ('ERPC') towards deviation charges and additional deviation charges of Rs. 9.66 crore for the period from 11.30 hrs of 17.6.2019 to 13.45 hrs of 18.6.2019. The learned counsel mainly submitted the following:

(a) The Petitioner is a 1200 MW hydropower plant and has operational capacity of 840 MW of which the Petitioner is selling 300 MW under PSAs and the balance power is being sold under collective transaction, through IEX.

(b) On 17.7.2019, severe cloudburst upstream of the project led to forced outage of the plant due to high discharge and high silt condition and decision to shut down the plant was taken in line with the SOP of the plant and was aimed to ensure safety of



the plant. The Petitioner had duly informed ERLDC about the ground condition by 12:00 hrs on 17.7.2019. The generation was again reinstalled fully on 18.7.2019 at 16:00 hrs. However, the request of the Petitioner for revision of schedule was not allowed by the nodal agency and instead the Petitioner was levied the deviation charges of Rs. 9.66 crore.

(c) Regulation 5.2(j) of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 (in short 'IEGC, 2010') provides that *"except under an emergency, or to prevent an imminent damage to a costly equipment, no User shall suddenly reduce his generating unit output by more than one hundred (100) MW (20 MW in case of NER) without prior intimation to and consent of the RLDC. Similarly, no User / SEB shall cause a sudden variation in its load by more than one hundred (100 MW) without prior intimation to and consent of the RLDC....."* This implies that under any emergency situation or any situation that would result in imminent threat to the safety of the generating plant equipment, the consent to revise the schedule must be given by NLDC.

(d) Regulation 6.5.19 of the IEGC, 2010 mandates that *"Notwithstanding anything contained in Regulation 6.5.18, in case of forced outage of a unit of a generating station (having generating capacity of 100 MW or more) and selling power under Short Term bilateral transaction (excluding collective transactions through power exchange)..."* As per this provision, revision of schedule is permitted for short term bilateral transaction but this excludes collective transactions.

(e) However, Regulation 6.5.28 of the IEGC, 2010 mandates that *"The short-term customer shall be curtailed first followed by the medium-term customers, which shall be followed by the long-term customers and amongst the customers of a particular category, curtailment shall be carried out on pro rata basis."* This implies that RLDC has been empowered to revise the schedule of all type of transactions including collective transactions as per this provision.

3. On a specific query by the Commission as to how relief can be granted given the specific exclusion for revision of schedule for collective transactions in Regulation 6.5.19 of IEGC 2010, the learned counsel for the Petitioner submitted that the relief can be considered by reading harmoniously the Regulation 6.5.19 together with Regulation 5.2(j) and Regulation 6.5.28 or by invoking power to relax or by amendment of the Regulations.

4. The representative of the Respondents (NLDC and ERLDC) submitted that in the Central Electricity Regulatory Commission (Power Market) Regulations, 2010, there is a provision for the generator to buy the power from the Real Time Market (RTM) to rebalance its portfolio in the event of force majeure. Further, the Petitioner has also purchased one-third of the volume sold in the Day Ahead Market (DAM) from the RTM to save on DSM. If they had purchased more volume from the RTM, their DSM liability would have been reduced. The submission of the Petitioner regarding grid imbalance is denied, since grid frequency management is the responsibility of the system operator and there are sufficient secondary/ tertiary reserves available. In response, the learned counsel of the Petitioner submitted that the power purchased from the RTM was costlier.



5. After hearing the learned counsel for the Petitioner and the representative of the Respondents, the Commission reserved the order in the Petition.

**By order of the Commission**

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

