



नई दिल्ली
NEW DELHI

याचिका संख्या./ Petition No. 296/MP/2019

कोरम/ Coram:

श्री पी. के. पुजारी, अध्यक्ष/ Shri P. K. Pujari, Chairperson
श्री आई. एस. झा, सदस्य/ Shri I. S. Jha, Member
श्री अरुण गोयल, सदस्य/ Shri Arun Goyal, Member
श्री पी. के. सिंह, सदस्य / Shri P. K. Singh, Member

आदेश दिनांक/ Date of Order: 21st of January, 2022

IN THE MATTER OF:

Petition under Section 79 (1) (b) and Section 79 (1) (f) of Electricity Act, 2003 for amendment of PPAs dated 27.01.2012 to align them with Regulation 15 of the RERC (Forecasting, Scheduling, Deviation Settlement and Related Matters of Solar and Wind Generation Sources) Regulations, 2017.

AND IN THE MATTER OF:

1. Lexicon Vanjiya Pvt. Limited,
138, Ansal Chambers-II,
Bhikaji Cama Place,
New Delhi-110066
2. Symphony Vyapar Pvt. Limited,
138, Ansal Chambers-II,
Bhikaji Cama Place,
New Delhi-110066

...Petitioners

VERSUS

1. NTPC Vidyut Vyapar Nigam Limited,
Core-7, SCOPE Complex,
7, Institutional Area, Lodi Road,
New Delhi-110003
2. Rajasthan State Load Despatch Centre,
38, Ajmer Rd Subhash Colony, Heerapura,
Jaipur, Rajasthan 302026

...Respondents

Parties Present:

Shri Sanjay Sen, Senior Advocate, LVPL and SVPL
Shri Parinay Deep Shah, Advocate, LVPL and SVPL
Ms. Surabhi Pandey, Advocate, LVPL and SVPL
Ms. Mandakini Ghosh, Advocate, LVPL and SVPL
Shri M. G. Ramachandran, Senior Advocate, NVVN
Ms. Anushree Bardhan, Advocate, NVVN
Shri Anish Maheshwari, Advocate, RRVPNL
Shri Ishan Nagpal, LVPL and SVPL
Ms. Priya Dwivedi, LVPL and SVPL
Shri Sujoy Das Verma, NVVN
Shri Anurag Gupta, NVVN

आदेश/ ORDER

The Petitioners, Lexicon Vanjiya Pvt. Ltd. and Symphony Vyapar Pvt. Ltd. are subsidiaries of M/s Renew Power Limited and have a solar power generation facility with an installed capacity of 10 MW each. After participating in the bidding process and meeting the eligibility requirements, the Petitioners have been selected by NTPC Vidyut Vyapar Nigam Limited (NVVN) for development of Solar Power Projects and generation and sale of solar power under the National Solar Mission. The Petitioners have executed two separate Power Purchase Agreements (PPAs) dated 27.01.2012 with NTPC Vidyut Vyapar Nigam Limited (NVVN) and are seeking directions to amend and align Article 10.2 of the two PPAs dated 27.01.2012 with Regulation 15 of the Rajasthan Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement and Related Matters of Solar and Wind

Generation Sources) Regulations,2017 (hereinafter referred to as “RERC Forecasting Regulations 2017”).

2. The Respondent No. 1, NTPC Vidyut Vyapar Nigam Limited (NVVN) has been identified by the Government of India as the nodal agency for facilitating purchase & sale of (33 kV and above) grid connected Solar PV Power Plants under the National Solar Mission of Government of India (GoI).
3. The Respondent No. 2, Rajasthan State Load Despatch Centre (RSLDC) is the State Load Despatch Centre of the State of Rajasthan and is required to keep record and provide requisite data of the scheduled energy for inter-State transactions and actual energy for the intra-State transactions, which forms the basis of the bills raised by the Petitioners on NVVN.
4. The Petitioners have made the following prayers:
 - a. *Direct the Parties to amend the PPAs dated 27.01.2012 in order to align Article 10.2 of the PPAs with Regulation 15 of the Forecasting Regulations 2017 in the manner suggested in Table No. 1 of the instant Petition.*
 - b. *In the alternate, clarify that the Parties shall bill in accordance with Regulation 15 of the Forecasting Regulations 2017.*
 - c. *Pass such further order/orders as this Hon’ble Commission may deem fit and proper in the facts and the circumstances of the case.*
5. The petition came on hearing on 25.11.2019 for admission. The hearing on 06.08.2020 was adjourned to implead Rajasthan State Load Despatch Centre (RSLDC).

Submissions of the Petitioners

6. The Petitioners have submitted that:
 - a) There is a composite scheme for generation and sale of power in more than one State as contemplated in section 79(1) (b) of the Electricity Act, 2003. The Projects are located in the State of Rajasthan and are generating electricity and supplying power to the States of Rajasthan, Punjab, Uttar Pradesh, Karnataka, Orissa, West Bengal,

Assam and Chhattisgarh. Therefore, the Commission has the jurisdiction to adjudicate on any dispute under the PPAs.

- b) Letters dated 25.01.2018 from the Respondent to the Petitioners show the percentage share of the energy generated by the Petitioners and to be scheduled to the above-mentioned beneficiary States.
- c) The Petitioners have approached the Commission seeking to amend and align Article 10.2 of the two PPAs dated 27.01.2012 with Regulation 15 of RERC Forecasting Regulations 2017.
- d) In terms of Article 10.2 of the PPAs, the Monthly Bill amount shall be the product of the energy metered and the applicable tariff. However, in terms of Regulation 15 of the RERC Forecasting Regulations 2017, the wind and solar generators connected to the State Grid and selling power outside the State shall be paid by the buyer as per scheduled generation.
- e) While in terms of Article 10.2 of the PPAs, billing and payment is done on the basis of energy metered for both intra-State and inter-State transactions, in terms of Regulation 15 of the RERC Forecasting Regulations 2017, billing and payment for intra-State transactions is done as per actual energy supplied and billing and payment for inter-State transactions is done on the basis of scheduled generation.
- f) Thus, a conflict between the RERC Forecasting Regulations 2017 and the PPAs will lead to huge losses to the Petitioners since the charges for deviation with respect to schedule submitted by the generator for inter-State transactions are calculated in accordance with proviso to Regulation 18 read with Appendix 1 of the RERC Forecasting Regulations 2017, which is premised over the fact that billing for all inter-state transaction is done on the basis of the scheduled electricity.
- g) The deviation charges for inter-State transactions have been fixed keeping in view the fact that the billing and payment for inter-State transactions is done on basis of the scheduled energy in terms of Regulation 15.
- h) By way of the deviation charges under the RERC Forecasting Regulations 2017, SLDC will be recovering the charges for difference between the Scheduled Energy and the Actual Energy supplied, considering that the billing by Petitioners would ordinarily be on the basis of scheduled energy if Regulation 15 of the RERC Forecasting Regulations 2017 was being complied with.

- i) In the instant case, the Petitioners are getting paid on the basis of Actual Energy supplied in terms of the Article 10.2 of the PPAs for inter-State transactions and not on the basis of the Scheduled Energy, as is mandated under the RERC Forecasting Regulations 2017. Thus, while the Petitioners are being paid on basis of Actual Energy supplied for inter-state transaction, SLDC is recovering the charges for the difference between the Scheduled Energy and Actual Energy, from the Petitioners, by way of deviations charges as per the RERC Forecasting Regulations 2017, considering that the SPDs are paid on the basis of the scheduled electricity. In an event the SPDs under-inject against the schedule, SPDs will be liable to pay huge amount of penalty, even though no additional recovery has been made by the Petitioners in the first place, since the billing is being done on Actual Energy supplied (as per PPAs) and not as per Scheduled Energy (as per RERC Forecasting Regulations 2017).
- j) The Petitioners sent two separate letters dated 29.07.2019 to NVVN, requesting that since there is a clear conflict between provisions of Article 10.2 of the PPA and Regulation 15, therefore in terms of Article 17.11 of the PPAs and the law laid down by the Hon'ble Supreme Court, Article 10.2 may deem to be amended. The Petitioners have not received any reply to the said letters from NVVN.
- k) It can be seen by way of an illustrative example regarding the magnitude of commercial impact which the Petitioners will be incurring if the PPAs are not aligned with Regulations 15 of the RERC Forecasting Regulations 2017. Tables capturing financial impact on revenue realization by the Petitioners in case of under injection against the schedule under both the scenarios i.e., 1) billing and payment basis scheduled generation 2) billing and payment as per actual generation have been submitted. It is evident from the tables that even if the Petitioners manage to contain their deviations in penalty free range of $\pm 15\%$, there will be loss of revenue of 25% in case billing and payment is done as per actual generation.
- l) Keeping in mind the intermittent nature of natural resources and difficulty to project availability with accuracy, the RERC Forecasting Regulations 2017 allows deviations of generation within band of $\pm 15\%$ without any penalty. In case the PPAs are not aligned with the Regulations 15 of RERC Forecasting Regulations 2017, the operational liberty available with the Petitioners will be at jeopardy and will lead to

loss of revenue sufficient enough to turn the projects into non-performing assets. Magnitude of such loss of revenue will increase with the degree of deviations and will start yielding negative returns as soon as it crosses 47% (common scenario for a solar project during monsoon period due to difficulty in prediction of cloud movements). Further, such non alignment of PPAs with the RERC Forecasting Regulations 2017 makes it susceptible to gaming and thereby allowing wind fall gains by under-declaring the scheduled generation.

- m) In terms of the Judgment of the Hon'ble Supreme Court in the matter of PTC India Ltd. vs. Central Electricity Regulatory Commission (2010) 4 SCC 603, if the PPA is in conflict with the prevailing Regulations, the PPA has to be amended and aligned with the Regulation. Further, Article 17.11 of the PPA provides that if any clause of the Agreement is in conflict with any provision or rule made under Electricity Act, 2003, the said clause shall be deemed to be amended to the extent required to bring it in compliance with the aforesaid provision of law. Therefore, Article 10.2 of both the PPAs ought to be amended and aligned with Regulation 15.
- n) The RERC Forecasting Regulations 2017 mandate that the payment for inter-state energy supplied be on the basis of Scheduled Energy and not Metered Energy and it is a settled law that Parties must amend their PPAs so as to ensure that the provisions conform to the Regulations enacted by the State Commissions or any other statutory body. In view of the settled law, it is submitted that the Parties be directed to amend the provision of billing and payment as provided in Article 10.2 of the PPAs so as to align the billing and payment mechanism with Regulation 15 of the RERC Forecasting Regulations 2017.

Submissions of Respondent No. 1 NVVN

- 7. The Respondent No.1 has submitted that:
 - a) the PPAs dated 27.01.2012 are on a back to back basis with the Power Sale Agreements (PSA) dated 10.01.2011 entered into by NVVN with the Rajasthan Distribution Companies, namely, Jaipur Vidyut Vitaran Nigam Limited, Ajmer Vidyut Vitaran Nigam Limited, and Jodhpur Vidyut Vitaran Nigam Limited and as such, Rajasthan Discoms are necessary parties in the above mentioned petition filed

by the Petitioners. Therefore, the petition filed without impleading the Rajasthan Discoms is bad for non-joinder of necessary parties.

- b) The issue of scheduling and dispatch is a matter between the grid connected entities viz. the Petitioners and the Rajasthan Discoms. NVVN is an electricity trader facilitating the purchase and resale of electricity for implementing the Jawaharlal Nehru National Solar Mission Scheme notified by the Government of India. NVVN is not a grid connected entity. Accordingly, the issue relating to scheduling and dispatch has to be settled between the Petitioners and the Rajasthan Discoms as procuring entities of power and anything binding on the above two parties shall be the basis for billing the electricity generated and supplied by the Petitioners to NVVN for resale to the Rajasthan Discoms.
- c) NVVN will proceed to accept the monthly bills/supplementary bills etc. raised by the Petitioners as generating companies so long as the same is acceptable to the Rajasthan Discoms under the billing arrangement in terms of the provisions of the PSAs entered into by NVVN with the Rajasthan Discoms. Accordingly, the Commission may direct the parties to follow the same methodology with regard to raising the monthly bills/supplementary bills etc. under both the PPAs and PSAs to avoid any discrepancy or differential method of billing.
- d) No case is made out by the Petitioners for amendment of the PPA dated 27.01.2012 entered into between the parties with regard to Article 10.2. Subject to the above, if the Petitioners have any issue on the activities of the State Load Dispatch Centre (SLDC) including with regard to providing requisite data for scheduled energy for the Inter State transaction and actual energy for the intra state transaction (which form the basis of the bills raised by the Petitioners on NVVN), the Petitioners are required to take necessary action against SLDC in the appropriate Forum for redressal. With regard to any direction to SLDC, the Petitioners are required to make the concerned SLDC a party in the proceedings.
- e) This Commission's Regulations are applicable insofar as the inter-State transactions are concerned and with regard to the intra-State transactions, the RERC Forecasting Regulations 2017 (effective from 01.02.2018 read with the Order dated 27.09.2019) are applicable.

- f) Once the SLDC provides the bifurcated energy data for each Solar plant i.e. actual energy supplied for intra state transaction and scheduled energy for inter-state transaction, the last part of Article 10.2 of the PPA which provides *‘monthly bill amount shall be the product of energy metered and applicable tariff’* would require to be interpreted for relating the energy metered to be scheduled energy for the inter-State transactions in accordance with the provisions of the Regulations notified by the Commission . For the intra-State transaction, (where the generator and the procurer are within the State of Rajasthan), it would be in terms of the intra-State Regulations notified by the State Commission of Rajasthan read with the Order dated 27.09.2019.
- g) Regulation 15 of the RERC Forecasting Regulations 2017, inter alia, provides that the wind and solar generators connected to the State Grid and selling power outside the State shall be paid by the buyer as per the scheduled generation. It also provides that the wind or solar generators connected to the State Grid and selling power within the State shall be paid by the buyer as per the actual energy supplied irrespective of the quantum of energy scheduled by it.
- h) The RERC Forecasting Regulations 2017 were notified on 14.09.2017 and came into effect on 01.02.2018. These Regulations govern the forecasting, scheduling, deviation and settlement mechanism and related matters effective 01.02.2018 with regard to solar and wind generation.
- i) The implications of the above Regulations were considered by RERC in the Order dated 27.09. 2019 passed in Petition No. 1495 of 2019 and batch petitions. The submissions of NVVN is recorded at para 165 to 167 of the Order. RERC has decided as under:-

“Issue-10: Whether in case of the combined schedule of inter-state & intrastate transactions, the actual generation should be adjusted on prorata basis based on allocated capacity amongst inter-state and intra-state transactions? What should be the method of payment of energy charges in case of PPAs executed for inter-state transactions vis-à-vis the existing provisions of the Regulations?”

*247. The Generators, Stakeholders and QCA all requested for pro-rata allocation of capacity amongst inter-state and intra-state transactions. The Commission agrees with the unanimous view of the stakeholders and directs that in case of electrical separation not being possible, then a combined schedule of inter and intra state transaction with bifurcated interstate (with state wise bifurcation) and intra state (with Discoms/ deemed licensee wise bifurcation) schedule shall be allowed and **actual generation of the connected generators shall be considered and adjusted in the ratio of inter and intra state schedules.** These directions shall*

be effective from the date of operation of commercial mechanism of the Regulations i.e.1.10.2018.

248. SLDC shall certify the schedule Generation for Inter-State sale within 7 days after the end of month and actual Generation of Intra State within 3 days after receipt of JMR.

249. As regards payment of Energy to Generators in case of interstate transactions, the Commission is of the view that the NVVN and such interstate traders should make payment strictly as per Regulations of appropriate Commission and in case of noncompliance of Regulation by the inter-state traders, the Generator may raise dispute before appropriate Commission.”

- j) Accordingly, the grid connected entities, namely, the solar/wind power projects situated in the State of Rajasthan and the Rajasthan Discoms and others procuring power from the projects situated within the State of Rajasthan are governed by the directions contained in the Order dated 27.09.2019. To the extent provided for in the Order dated 27.09.2019, the provisions contained in the PPA dated 27.01.2012 entered into between the Petitioners and NVVN and consequently the PSA entered into by NVVN with the Rajasthan Discoms have to be read consistent with the Order dated 27.09.2019.
- k) No amendment to the PPA is required. NVVN has not challenged the Order dated 27.09.2019 passed by RERC in the appeal before the Tribunal or in any other proceedings. The Petitioners, NVVN as well as the Rajasthan Discoms are bound by the directions contained in the Order dated 27.09.2019.
- l) The petition filed by the Petitioners can be disposed of with a direction that the provisions of the PPA in relation to billing, namely, Article 10.2 of the PPA dealing with the monthly bills/supplementary bills to be raised by the Petitioners on NVVN shall be read to be consistent with the applicable Regulations, namely, in regard to the inter-State transactions in terms of the Regulations notified by this Commission and in regard to the intra-State transactions of the nature described in the Order dated 27.09.2019 as per the RERC Forecasting Regulations 2017 read with the RERC Order dated 27.09.2019. Further, the prayer sought for by the Petitioners has to be considered taking into account other provisions of the PPAs, such as the maximum /minimum committed contracted energy dealt in Article 4.4 of the PPA.

- m) Regarding jurisdiction of this Hon'ble Commission, the above PPAs are within the regulatory control and jurisdiction of this Commission with regard to any dispute or differences that arises between the parties in pursuance thereto. However, in matters relating to scheduling and dispatch of electricity on an intra-State basis, namely, the supply of electricity by the generating company situated in the State of Rajasthan to the Rajasthan Discoms, they shall be governed by the RERC Regulations and the same shall be within the jurisdiction of RERC.
- n) Therefore, the present petition seeking amendment to the PPA is misplaced and is liable to be rejected.

Rejoinder of the Petitioners to the submissions of Respondent No. 1

8. The Petitioners vide rejoinder have reiterated the submissions given in the plaint and as such the same are not being reproduced herewith for the sake of brevity. Additionally, the Petitioners submitted that:

- a) They have a contractual obligation only with NVVN.
- b) In its Statement of Reasons on the Framework on Forecasting, Scheduling and Imbalance Handling for Variable Renewable Energy Sources (Wind and Solar) (hereinafter referred to as "CERC Forecasting Regulations"), while deliberating upon the applicability of the aforementioned Regulations, this Commission has given the following decision:

"2.3.3 As regards the RE projects connected only with the state transmission network but supplying power outside the states, it is clarified that such projects are presently treated as entities under SLDC control area and their scheduling is handled by SLDC. The intent of the current regulatory process is not to disturb the existing arrangement for such projects. In other words, such projects (connected only with the state transmission network but supplying power outside the state) shall, unless decided otherwise through separate regulatory dispensation, continue to operate within the control area of SLDC and their deviation settlement shall also continue to be governed by the State level deviation settlement mechanism."

- c) The Petitioners' solar power plants are connected to the Rajasthan State's grid. Therefore, it is governed by the Rajasthan Electricity Regulatory Commission's (RERC) deviation settlement mechanism i.e., the RERC Forecasting Regulations 2017.
- d) This means that the Petitioners' deviation charges are calculated as per the RERC Forecasting Regulations 2017. Therefore, as per Regulation 18 of the RERC Forecasting Regulations 2017, the Petitioners pay deviation charges assuming that the payments are

received as per scheduled generation in case of inter-State supply of power. This is in accordance with Regulation 15 of the RERC Forecasting Regulations 2017, which provides that payments for inter-State transactions shall be as per the scheduled generation but is in conflict with Article 10.2 of the PPAs which currently provides for payment in inter-State transaction as per actual generation.

- e) On 27.09.2019, RERC has passed an Order in Petition No. 1495 of 2019 and batch petitions wherein it gave a specific direction on the issue of billing and payment of energy charges to generators in case PPAs are executed for inter-State transactions vis-à-vis the existing provisions of the RERC Forecasting Regulations 2017. RERC has directed that in all such cases of inter-State transactions, NVVN and such inter-State traders should make payments strictly as per the Regulations of appropriate Commission and in case of non-compliance of Regulations by the inter-State traders, the generators may raise dispute before the Appropriate Commission. Therefore, in view of this Commission's direction in its Statement of Reasons in the CERC Forecasting Regulations and the Order dated 27.09.2019, it is clear that the Petitioners are governed by the RERC Forecasting Regulations 2017. Therefore, the billing and payment has to be as per Regulation 15 of RERC Forecasting Regulations 2017. Furthermore, in terms of the judgment in PTC India Ltd, the PPAs must be amended in order to align them with the RERC Forecasting Regulations 2017.

Submissions of Respondent No. 2 RSLDC

9. The Respondent No. 2 (RSLDC) has submitted as under:
- a) All averments made by the Petitioner in the above matter with regards to RSLDC are specifically denied.
 - b) On 06.08.2020, this Commission passed an Order to implead RSLDC as party in the instant matter. The comments/views of RSLDC regarding the schedule corresponding to the inter-state transactions of the petitioners generating stations are submitted through this instant short reply.
 - c) RERC Forecasting Regulations 2017 and procedure established therein have introduced a new entity i.e. Qualifying Coordinating Agency (QCA) which gets nominated by the RE generators of each pooling substation (PSS) and is responsible for Forecasting &

Scheduling on behalf of all the RE generators connected with the respective PSS and also responsible to settle all DSM commercial as well as operation related matters with RSLDC. There is one QCA for every PSS which submits Forecasting & Schedule regarding the particular PSS before RSLDC. The said schedule which is submitted by the QCA (of the respective PSS) has further bifurcation in terms of inter-state and intra-state schedule. It is again bifurcated Discom wise for intra-State and Long Term Access (LTA) wise for inter-State schedule but not generator wise. RSLDC in the above facts and circumstances is punching LTA wise inter-State power on NRLDC scheduling portal. Therefore, RSLDC only receives LTA wise schedule for inter-State transaction from the respective QCA of the petitioners and the generator centric schedule shall be available with the respective QCA.

- d) In the instant matter, NVVN is having 8 Nos. of Long Term Access (LTAs) for selling power of 54 Nos. of RE generators which are injecting their RE power through 22 Nos. of PSS viz. PSS_132KV_PS3_WELSPUN; PSS_132KV_NOKHA DHAIYA_3No_33KV; PSS_132KV_RAMGARH_RVUN_GTPP; PSS_220KV_TINWARI_3NO_33KV; PSS_132KV_SANWREEJ_SANWREEJ; PSS_220KV_GAJNER_8NO_33KV; PSS_220KV_BAP_MAHINDRA; PSS_220KV_BAP_14NO_33KV; PSS_132KV_OSIAN_2No_33KV; PSS_220KV_GULABPURA_GULABPURA; PSS_132KV_PS3_8NO_33KV; PSS_220KV_BADISID_3NO_33KV; PSS_132KV_POKARAN_2NO_33KV; PSS_132KV_POKARAN_POKARAN; PSS_220KV_BALOTRA_BALOTRA; PSS_132KV_PS2_GODAWARI_GREEN; PSS_132KV_PS2_PRECISION; PSS_132KV_AAU_AAU; PSS_220KV_DECHU_RSTEPL; PSS_132KV_JAYAL_JAYAL; PSS_132KV_KOLAYAT_8NO_33KV; PSS_220KV_NEEMRANA_NEEMRANA to different States.
- e) There are 2 QCAs, namely Manikaran Analytics Limited and RE-Connect Energy Solutions Private Limited, who are forecasting & scheduling power PSS wise, on behalf of the RE generators contracted by NVVN, on the basis of open access granted by PGCIL to the said respondent.
- f) The cumulative quantum of agreement between NVVN and RE generators for the intra-State and inter-State is 620 MW (solar power), out of which 585 MW was implemented. The said cumulative quantum is further bifurcated as follows – inter-State quantum- 310 MW out of which 275 MW (Implemented) (47.01% of the total LTAs quantum) to be

transacted through inter-State open access transaction and intra-State quantum - 310 MW (52.99% of the total LTAs quantum) to be transacted through intra-State transaction to the Rajasthan Discoms.

- g) In the facts and circumstances above, both the Petitioners herein are connected through 132KV GSS PS-3 at Rajasthan Rajya Vidyut Prasaran Nigam Ltd. (RVPN)-end (Petitioner's PSS). The QCA responsible for LTA wise forecasting and scheduling on behalf of the Petitioners (and for other RE Generators connected to the said PSS) is RE-Connect Energy Solutions Private Limited.
- h) RE-Connect Energy Solutions Private Limited (QCA) submits bifurcated inter-State and intra-State schedule for the aforesaid PSS before RSLDC. The said schedule is again bifurcated Discom wise for intra-State and Long Term Access (LTA) wise for inter-State schedule but not petitioner/generator wise, as per the Order of RERC dated 27.09.2019 and amended procedures established therein for RE Forecasting Regulations 2017.
- i) For better clarity, RSLDC seeks liberty to place on record the sample of the aforementioned data pertaining to the months of July/August 2020 available with RSLDC and the detailed material on record if so required or ordered by the Hon'ble Commission.
- j) RE-Connect Energy Solutions Private Limited shall be able to provide the RE Generator wise schedule/Petitioners' Schedule with bifurcation for inter-State and intra-State transaction as required by this Commission.
- k) RSLDC denies the submission of NVVN as recorded in paragraph 3(a) of the aforementioned Order dated 06.08.2020 of this Commission that the ABT mechanism is yet to be fully implemented in the State. It submitted that ABT mechanism is fully implemented in the State.
- l) In view of the aforesaid submissions, it is submitted that the instant short reply of the RSLDC may be taken on record and appropriate Orders may be passed and the delay in filing the reply may be condoned.

Rejoinder of the Petitioners to the submissions of the Respondent No.2

10. The Petitioner has submitted point wise response through rejoinder as under:

- a) As per the Detailed Procedure notified by the Commission, clause 5(2)(d) of the RERC Forecasting Regulations 2017 (as amended on 23.10.2019) states that the Qualifying Coordinating Agency (QCA) is obligated to undertake de-pooling of payments received on behalf of the generators from the State Pool account and settle them with individual generators in accordance with the said Regulations. Therefore, the Commission may allow the amendment of the PPAs as prayed for by the Petitioners and further direct RSLDC to collect the requisite data pertaining to the generator wise schedule. Accordingly, NVVN may be directed to make payments to the Petitioners at ‘scheduled generation’ and not ‘actual generation’.
- b) RSLDC has submitted that both the Petitioners are connected through 132 kV GSS PS-3 at the Rajasthan Rajya Vidyut Prasaran Nigam Ltd and that the QCA responsible for LTA wise Forecasting and Scheduling on behalf of the Petitioner is RE Connect Energy Solutions Pvt Ltd.
- c) RE Connect Energy Solutions Pvt Ltd. (RE Connect) submits the inter-State and intra-State schedule for the aforesaid PSS to the Respondent No. 2, whose schedule is further bifurcated Discom-wise for intra-State and LTA wise for inter-State, no generator wise schedule is submitted. The reason behind RE Connect submitting the schedules for inter-State/intra-State transactions and for Discom-wise/ Generator-wise is the inadequate procedure established by RSLDC. RSLDC utilizes a soft-ware, namely ELTRIX wherein there is no provision for generator wise submission of schedules by the QCAs. It is for this reason that the QCAs submit inter-State/intra-State and Discom-wise/LTA-wise schedules. In view of the same, RSLDC may be directed to seek the necessary information pertaining to the schedules, generator wise, from the QCA, RE Connect and accordingly calculate the deviation charges and NVVN may be directed to pay the Petitioners at ‘scheduled generation’. As per the procedure laid down for implementation of the Framework on Forecasting and Scheduling in clause 7 (h) of the RERC Forecasting Regulations 2017 (as amended on 23.10.2019), explicit and specific options are given to the Qualifying Coordinating Agency (QCA) for implementing the de-pooling of the energy deviations as well as for calculating deviation charges for each generator. This illustrates that the idea behind calculation of deviation charges is on the basis on available capacity of each generator and the methodology adopted by RSLDC of bifurcating the inter-State transactions on the basis of Long Term Access (LTA’s) is

inadequate and insufficient. This Commission may consider directing RSLDC to seek such information from the respective QCA. The Commission may further also direct RSLDC to upgrade/modify its software accordingly to enable the QCAs to submit generator wise schedules.

- d) RSLDC has submitted that the QCA (RE Connect) shall be able to provide the requisite schedules from the Petitioners' generating stations with bifurcation for inter-State and intra-State. In view of the same, the Commission may allow the Petitioners' prayer for amendment of the PPAs from the date of coming into force of the RERC Forecasting Regulations 2017 and direct RSLDC to collect the generator wise schedule from the Petitioner's QCA to enable generator wise calculation of deviation charges and also payments in terms of the scheduled generation.

11. The case was called out for virtual hearing on 19.07.2021 and the order was reserved.

Analysis & Decision

12. We have heard the learned counsels for the Petitioner and the Respondents and have carefully perused the records.
13. During the course of hearing, the Petitioners submitted that through the present Petition they are seeking directions for allowing the amendment of the Power Purchase Agreements (PPAs) dated 27.01.2012 in order to align Article 10.2 of the PPAs with Regulation 15 of the Rajasthan Forecasting Regulations 2017.
14. The Petitioners have submitted that in terms of Regulation 15 of the RERC Forecasting Regulations, 2017, billing and payment for inter-State transactions are required to be done on scheduled basis and consequently, in terms of Regulation 18 of the RERC Forecasting Regulations 2017, deviation charges in respect of the inter-State transactions are also required to be calculated on the basis of scheduled energy. However, as per Article 10.2 of the PPAs, billing and payment are carried out on the basis of the energy metered for both intra-State and inter-State transactions, thus, leading to a conflict between the provisions of the PPAs and the RERC Forecasting Regulations 2017. Therefore, the contracting parties may be directed to amend the PPAs dated 27.01.2012 in order to align Article 10.2 of the PPAs with Regulation 15 of the RERC Forecasting Regulations 2017 or in the alternate, the Respondents be directed to bill in accordance with Regulation 15 of the RERC Forecasting Regulations 2017.

15. The Respondent No. 1, NVVN has submitted that it has already agreed to billing as per the scheduled energy for inter-State transaction if Respondent No. 2 (RSLDC) provides schedule of the generating stations corresponding to inter-State transactions. Further RSLDC has also agreed to the above position. Accordingly, the Commission may dispose of the matter recording that the contracting parties are in agreement and that RSLDC may accordingly inform the Qualifying Coordination Agency ('QCA') to implement the same.

16. RSLDC submitted that data relating to scheduling and forecasting are received by them through QCA(s) and QCA(s) are currently providing such data pooling sub-station-wise and long-term access-wise. The Petitioners in their rejoinder to the reply of RSLDC have sought direction to RSLDC to collect the requisite data pertaining to generator-wise schedules from the QCAs. RSLDC stated during the hearing held on 19.07.2021 that as such it has no objection to the above.

17. We observe that Article 10.2 of the PPAs stipulates as under:

“10. Article 10: Billing and Payment:

.....

10.2 The SPD shall issue to NVVN a signed Monthly Bill/Supplementary Bill for the immediately preceding Month between the 5th day upto the 15th day of the next Month. In case the Monthly Bill/Supplementary Bill for the immediately preceding Month is issued after the 15th day of the next Month the Due Date for payment of such Monthly Bill/ Supplementary Bill shall be as detailed of Article 10.3.1 below.

Each Monthly Bill shall include all charges as per the Agreement for the energy supplied for the relevant Month based on Energy Accounts issued by RLDC/SLDC or any other competent authority which shall be binding on both the parties. The Monthly Bill amount shall be the product of the energy metered and the applicable tariff.”

18. We observe that Regulation 15 of the RERC Forecasting Regulations 2017 stipulates as under:

“COMMERCIAL AND DEVIATION SETTLEMENT:

.....

15. The wind or solar generators connected to the State grid and selling power within the State shall be paid by the buyer as per actual energy supplied irrespective of quantum of energy scheduled by it. However, the wind and solar generators connected to the State Grid and selling power outside the State shall be paid by the buyer as per the scheduled generation.”

19. The Commission observes that the contracting parties are in agreement for billing as per scheduled energy for inter-State transactions and the RSLDC has also agreed to collect requisite data pertaining to generator-wise schedules along with bifurcation of intra-State and inter-State schedules from the QCA and separately provide schedule of generating stations corresponding to inter-State transactions. Therefore, the Commission holds that the Respondents shall bill in accordance with Regulation 15 of the RERC Forecasting Regulations 2017.
20. Accordingly, the Petition No. 296/MP/2019 is disposed of in terms of the above.

Sd/-
(पी. के. सिंह)
सदस्य

Sd/-
(अरुण गोयल)
सदस्य

Sd/-
(आई. एस. झा)
सदस्य

Sd/-
(पी. के. पुजारी)
अध्यक्ष