

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
New Delhi**

**Petition No. 151/MP/2021**

<b>Subject</b>	:	Petition under Section 79(1)(c) & 79(1)(f) of the Electricity Act, 2003 read with Regulation 32 and the detailed procedure as envisaged under the Central Electricity Regulatory Commission (Grant of Connectivity, long Term, Medium Term Open Access in intra-State and related matters) Regulations, 2009.
<b>Date of Hearing</b>	:	18.12.2023
<b>Coram</b>	:	Shri Jishnu Barua, Chairperson Shri Arun Goyal, Member Shri P. K. Singh, Member
<b>Petitioner</b>	:	Jindal India Thermal Power Limited (JITPL)
<b>Respondents</b>	:	Northern Railway (NR) & Another
<b>Parties Present</b>	:	Shri M.G. Ramachandran, Sr. Advocate, NR Shri Pradeep Dahiya, Advocate, JITPL Shri Palak Srivastava, Advocate, JITPL Shri Pulkit Agarwal, Advocate, NR Ms. Kanupriya Sharma, REMCL Ms. Sonali, SLDC, Delhi Shri Pawan, SLDC, Delhi

**Record of Proceedings**

Learned counsel for the Petitioner submitted as follows:

- (i) In terms of the directions of the Commission in RoP dated 27.9.2023 to SLDC, SLDC in its reply did not answer manifestly the specific query of the Commission whether an intra-State entity such as Railways can procure NOC or the generator who enters into a PPA with intra-State entity can apply for such NOC and Open Access for the intra-State System of Delhi State, for the supply of power at the delivery point to Northern Railways, as per its regulations.
- (ii) The Petitioner was supplying power to NR under the Agreement for Procurement of Power (APP) dated 13.4.2016 for a period of three years i.e. from 1.2.2018 to 31.3.2021 through Medium Term Open Access (MTOA) on NOC being provided by the NR from the SLDC, Delhi for



getting connected to intra-State system for this duration. The Petitioner submitted the said NOC to CTUIL, and CTUIL, in turn, granted MTOA for the above duration.

- (iii) The Petitioner and NR entered into Supplementary Agreement for Procurement of Power (SAPP) dated 19.8.2020 for extending the contract of supply of power for a further period of 9 months from 1.3.2021 to 30.11.2021, for which NR sought NOC from SLDC, Delhi for this extended duration. However, SLDC rejected the request of NR for a grant of NOC for MTOA on the premise that MTOA is meant for a period of more than one year and less than three years and as such NR should apply for the same under STOA.
- (iv) NR is connected with SLDC, Delhi, and it, being the intra-State entity, can only procure NOC from SLDC, Delhi. However, NR failed to procure NOC from SLDC, Delhi.
- (v) Under these circumstances, since the SAPP dated 19.8.2020, is a part of APP dated 13.4.2016, and if the NR terminates the Power Purchase Agreement unilaterally, the Petitioner is entitled to fixed charges and compensation as agreed under the PPA.

3. Learned counsel for SLDC, Delhi, submitted that there is no provision for extension of an MTOA for 9 months as per the Delhi Electricity Regulatory Commission (Terms and Conditions for Open Access) (First Amendment) Regulations, 2017. For a period of 9 months, a fresh application has to be made under STOA. NR applied for an MTOA of 9 months, but the same was not granted to it as it was not in the proper format of STOA. It is not mentioned in the regulations anywhere as to who can apply for LTOA and MTOA i.e. intra-State entity or the generator who enters into the PPA with intra-State entity.

4. Learned senior counsel for NR submitted that APP and SAPP come to an end if MTOA was not available to NR. APP and SAPP were intended for MTOA. SLDC has communicated to NR that NOC for MTOA cannot be granted and the same was duly informed to the Petitioner. In view of this, NR is not levying any penalty or charges on the Petitioner. It was also submitted that NR cannot function on a short-term basis as the quantum of power required fluctuates regularly. It was further submitted that while deciding similar issues between. Jindal India Thermal Power Limited and Indian Railways and Anr. involving identical Power Purchase Agreements (PPAs), the Commission vide common order dated 7.12.2022 in Petition No. 278/MP/2018 and batch matters did not agree with the Jindal India Thermal Power Limited's argument that the Indian Railway being the intra-State entity could only have obtained NOC from SLDC. He submitted that the NOC should have been obtained by the Petitioner as per the Regulations and it was required to do so as per PPA which the Petitioner failed to do.

5. In response, learned counsel for the Petitioner submitted that the said case is



different from the present one, and the Petitioner has appealed against the said order.

6. Upon hearing the learned counsel for the parties, the Commission directed the parties to file their respective Written Submission with an advance copy to each other by 12.1.2024.

5. Subject to the above, the Commission reserved its order in the matter.

**By order of the Commission**

sd/-  
(V. Sreenivas)  
Joint Chief (Law)

