

**Central Electricity Regulatory Commission
New Delhi**

RECORD OF PROCEEDINGS

Petition No. 122/2011

Subject: Petition under Section 79(1)(c) and (f) of the Electricity Act, 2003 read with CERC (Grant of Connectivity, Long Term Access and Medium Term Open Access to inter-state Transmission and related matters) Regulations, 2009 for considering Korba STPS Stage – III as an ISGS and its beneficiary states/UT as long term customers.

Date of Hearing: 19.5.2011

Coram: Dr. Pramod Deo, Chairperson
Shri V.S.Verma, Member
Shri M.Deena Dayalan, Member

Petitioner: NTPC Ltd, New Delhi

Respondents: PGCIL, WRPC, POSOCO, MSEDCL, MPPTCL, GUVNL, CSPDCL, ED-Govt. of Goa, ED-Admn. of Daman & Diu, ED- Admn. of Dadra & Nagar Haveli.

Parties present: Shri M.G. Ramachandran, Advocate, NTPC
Shri S.K. Sharma, NTPC
Shri S.K. Samui, NTPC
Shri A.S.Pandey, NTPC
Shri Sachin Jain, NTPC
Shri Y.K. Sehgal, PGCIL
Shri Subir Sen, PGCIL
Ms. Kashish Bhambhani, PGCIL
Shri S.K. Soonee, POSOCO (WRLDC)
Ms. S. Usha, POSOCO (WRLDC)
Shri P.K. Jain, GUVNL
Shri Manoj Dubey, MPPTCL

During the hearing, the representative of the petitioner submitted as under:

- (a) In terms of the Central Electricity Regulatory Commission (Grant of connectivity, long term access and medium term open access in inter-state transmission in related matters) Regulations, 2009 the beneficiaries of Korba-III (the generating station) are long term customers and are entitled for long term access of power from the generating station.
- (b) The contention of WRLDC that Short Term Open Access (STOA) has to be applied either by the generator or by beneficiaries, till such time the transmission system of Korba-Raipur D/C line is commissioned was disputable since the non-consideration of the beneficiaries of the generating station as long term customers was contrary to the regulations of the Commission.

- (c) The Commission may direct WRLDC to consider the beneficiaries of the generating station as long term customers for scheduling and dispatch of power from the generating station with effect from the date of commercial operation, in accordance with the provisions of the Open Access Regulations, 2009 and direct the WRPC to revise the regional energy accounts from the date of commercial operation of the generating station.
2. The representative of the respondent No. 1, (PGCIL) submitted as under:
- (a) The petitioner has applied for long term open access during September 2006 in terms of the 2004 Regulations, for transfer of power from the generating station. This generating station which was developed as a merchant project without any long term PPAs and with the commissioning schedule as April, 2009.
 - (b) Long Term Open Access (LTOA) was granted to the petitioner with identified system strengthening (Korba-Raipur 400 kV D/C line) to fulfill the criteria under Clause 5(i) of the IEGC, and the date of commencement of LTOA was from the date of commissioning of the above transmission system. It was also agreed with the petitioner that it would have to apply for STOA till the transmission system planned for the generating station was commissioned.
 - (c) The petitioner signed BPTA with PGCIL during April, 2009 and thereafter the implementation of the transmission system was taken up by PGCIL which was expected to be commissioned by June 2011. After allocation of power to the same beneficiaries by the Ministry of Power, GOI, the petitioner had requested PGCIL to schedule power from the generating station on long term basis without the availability of identified strengthening scheme.
 - (d) In the meeting of the WR constituents, CEA, WRPC, WRLDC and the petitioner on 10.3.2011 it was emphasized that LTOA was being granted on a non-discriminatory basis, where transmission augmentation has been and shall be effected with the commissioning of the augmentation scheme. Till such availability of the line, transfer of power from the generating station was to be effected on the basis of STOA or Medium term Open Access (MTOA). The preponement of the commencement of LTOA without availability of identified strengthening scheme does not fulfill the condition as stipulated in the IEGC.
 - (e) LTOA is granted in consultation and through co-ordination with other agencies involved in Inter-State Transmission system (ISTS) to be used including STUs and CEA. In the instant case also the LTA was granted after consultation with WR constituents and CEA.
3. The representative of the respondent No. 3, POSOCO (WRLDC) submitted as under:
- (a) The reliable evacuation of power from the generating station, irrespective of its status, meant the commissioning of Korba-Raipur D/C lines, as the existing system was not capable of handling the additional generation. When the CTU and CEA have clearly stated that LTOA cannot be granted without the commissioning of the Korba-Raipur D/C line, WRLDC can only consider scheduling through STOA.

- (b) The allocation order of the Ministry of Power clearly states that the allocation is subject to any directives/guidelines issued by the GOI/Central Commission from time to time, which indicates that the Regulations of the Commission need to be honoured. In the meetings held during the period from February, 2011 to April, 2011, it was made clear by CEA, CTU and WRLDC that STOA route for transfer of power needs to be followed till the line was made available.
 - (c) The two-part tariff for the generating station cannot work if there was a transmission uncertainty, since there is no way that the declared capability of the generator could be tested. Hence, STOA has to be an energy contract only and NTPC is to modify its PPA in order to take care of scheduling under STOA.
 - (d) The absence of any of the two conditions for scheduling under long term, namely Long Term Access (LTA) to the ISTS as well as long term PPA, would mean the scheduling through STOA. Allowing the generating station to be scheduled as a long term transaction on the strength of long term PPA would be discriminatory, which would also break down the process of inter-state STOA and upset the market design.
 - (e) The reply filed in the matter may be considered by the Commission.
4. The learned counsel for Respondent No. 4, (MPPTCL) submitted as under:
- (a) The power from the generating station has been allocated by GOI on long term basis to the beneficiaries including this respondent. Therefore, the insistence on the part of WRLDC to schedule power under STOA was incorrect. This respondent beneficiary cannot be equated as short term or medium term open access customers.
 - (b) This respondent fully supports the submissions of the petitioner and prays that the same be allowed.
5. The representative of the respondent No. 6 (GUVNL) submitted as under:
- (a) As per Open Access Regulations, long term open access has a higher priority over Short term open access, which can be granted by RLDC on the margins available after meeting the requirements of LTOA. Since the beneficiary of the generating station are serving the cost of transmission system associated with the generating station, they would have the first right on the available margin in the transmission system. CTU was requested to pre-pone the long term open access to the beneficiaries of the generating station from its date of commercial operation, in order to ensure that the beneficiary states avail power at economical rates.
 - (b) The WR beneficiaries have been shouldering the entire cost of transmission system including the redundancy capacity but cannot utilize the same capacity to avail power from the generating station even though LTOA has to be given priority over STOA. The contention of CTU that LTOA can be granted pursuant to the commissioning of Korba-Raipur D/C line is erroneous and thereby deprives the WR beneficiaries the legitimate right over the transmission capacity.

- (c) The Commission may declare Unit-7 of the generating station as an ISGS of Central government and the beneficiary States as long term customers and direct the scheduling and dispatch as per provisions of IEGC from the date of commercial operation of the unit.
 - (d) This respondent fully supports the submissions of the petitioner and prays that the same be allowed.
6. The Commission after hearing the parties, directed the respondent No. 1 (PGCIL) to submit the following information:
- (a) Copy of the LTA granted on 23.2.2007 and the schedule date of operationalisation of LTA.
 - (b) The reasons for taking delayed decision for evacuation of power on 26.3.2010.
 - (c) The date of investment approval for the Korba-Raipur 400 kV line, its scheduled DOCO and the expected DOCO.
7. The Commission also directed the petitioner to submit the details regarding the date of investment approval of the Korba-III project and its scheduled date of commercial operation.
8. The above information shall be submitted on affidavit, on or before 9.6.2011. Subject to this, order in the petition was reserved.

Sd/-
(T.Rout)
Joint Chief (Law)