

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 205/MP/2018

Coram:

Shri P.K. Pujari, Chairperson

Dr. M. K. Iyer, Member

Date of order: 12th of February, 2019

In the matter of

Petition under Section 79(1) (c) of the Electricity Act, 2003 read with the Indian Electricity Grid Code seeking direction for scheduling overload capacity.

And

In the matter of

Himachal Baspa Power Company Limited
Through Authorised Signatory, 4th Floor,
NTH Complex, A-2, Shaheed Jeet Singh Marg,
Qutub Institutional Area,
New Delhi -110067

...Petitioner

Vs.

1. Northern Regional Load Despatch Centre & Ors
18-A, Shaheed Jeet Singh,
Sansanwal Marg,
Katwaria Sarai,
New Delhi- 110016

2. Power Grid Corporation of India Ltd.
B-9, Qutab Institutional Area,
Katwaria Sarai,
New Delhi-110 016

3. PTC India Ltd.
2nd Floor, NBCC Tower,
15, Bhikaji Cama Place,
New Delhi-110 066

4. Punjab State Power Corporation Ltd.
The Mall, Patiala-147 001, Punjab

5. Haryana Power Purchase Centre



Shakti Bhawan, Sector-6,
Panchkula-134 109

6. Uttar Pradesh Power Corporation Ltd.
Shakti Bhawan, 14, Ashok Marg,
Lucknow-226 001, Uttar Pradesh

7. Ajmer Vidyut Vitran Nigam Limited
Hati Bhatam, City Power House,
Ajmer-305 001, Rajasthan

8. Jaipur Vidyut Vitran Nigam Limited
Vidyut Bhawan,
Jaipur-302 005, Rajasthan

9. Jodhpur Vidyut Vitran Nigam Limited
New Power House, Industrial Area,
Jodhpur-342 –3 Rajasthan

...Respondents

Parties Present:

Shri Sanjay Sen, Senior Advocate for the Petitioner
Shri Buddy A.Ranganadhan, Advocate for the Petitioner
Shri Avijeet Lala, Advocate for the Petitioner
Shri Nishant Talwar, Advocate for the Petitioner
Ms. Suparna Srivastava, Advocate, PGCIL
Shri Tushar Mathur, Advocate, PGCIL
Ms. Jyoti Prasad, PGCIL
Shri Swapnil Verma, PGCIL

ORDER

The Petitioner, Himachal Baspa Power Company Limited (hereinafter referred to as “the Petitioner”), has filed the present Petition under Section 79(1) (c) of the Electricity Act, 2003 read with the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 as amended from time to time for seeking direction to Northern Regional Load Despatch Centre (NLDC) to schedule overload capacity upto 10% within existing LTOA granted by CTU. The Petitioner has made the following prayers:

“(a) Admit the Present Petition;



- (b) *Direct NRLDC to schedule overload capacity up to 10% within existing LTOA granted by CTU in accordance with the Grid Code and the Order dated 30.03.2017;*
- (c) *Devise a suitable mechanism for scheduling and evacuation of the overload capacity;*
- (d) *Direct transfer the Long-term Open Access presently in the name of Petitioner to the beneficiaries;*
- (e) *Direct the Respondent No 4 and 6 to schedule their respective share in overload capacity;*
- (f) *Pass ad interim orders in respect of Prayer (e) during pendency of this Petition.”*

2. The Petitioner has made the following submissions:

(a) The Petitioner owns and operates the 1000 MW Karcham Wangtoo Hydroelectric power plant comprising four units of 250 MW each. On 21.3.2006, Jaypee Karcham Hydro Corporation Limited (JKHCL) entered into a Power Purchase Agreement with PTC India Ltd. for supply of 704 MW of power from the date of commercial operation for onward sale on long term basis. Subsequent to merger of JKHCL with Jai Prakash Power Ventures Ltd. (JPVL), on 27.3.2012, JPVL entered into a Transmission Service Agreement with PGCIL. On 28.1.2013, PGCIL granted Long Term Access (LTA) to JPVL for 704 MW and a LTA Agreement was entered into between both JPVL and PGCIL on 24.5.2013 for scheduling of 880 MW power from the Project. Pursuant to the scheme of Arrangement between JPVL and the Petitioner, all assets, liabilities, rights and privileges of JPVL stood transferred to the Petitioner with effect from 1.9.2015. Therefore, the Petitioner has stepped into the shoes of the erstwhile JPVL as the project developer for Karcham Wangtoo Hydro Electric Project (KWHEP). On 1.12.2017, PTC entered into a Supplementary PPA with Haryana Power Purchase Centre for sale of additional gross power of 176 MW till 13.9.2023 and thereafter



116 MW till the terms of the existing PSA.

(b) During the summer and monsoon seasons, the project has the capability to generate 10% more power than its rated capacity owing to high water flow. In the past years, during high water flow in summer and monsoon season, the Project was utilizing high water flow and generating overload power upto 10% of the capacity which was supplied to the beneficiaries, proportionate to their PSAs (except Punjab, since the PSA of Punjab was operationalized in April, 2018.)

(c) The Commission in its order dated 30.3.2017 in Petition No. 434/GT/2014, while determining the generation tariff of the Project directed NRLDC to ensure that scheduling of the project is based on the installed capacity of 1000 MW with overload capacity of 10%. As per the above direction, the Petitioner vide its letter dated 5.6.2018 sought permission from NRLDC to schedule 10% overload generation under the existing LTA. However, on 5.6.2018, NRLDC rejected the above request on the ground that it was scheduling LTA to the beneficiaries upto the quantum approved by the CTU and informed the Petitioner that for any change in LTA quantum, the matter may be taken up with the CTU.

(d) The Petitioner vide its letter dated 5.6.2018 informed NRPC that to avoid spillage of water, it intends to schedule up to 110% of the installed capacity in adherence to the Regulation 5.2. (h) of the Grid Code which provides that the scheduling of hydro stations shall not be reduced during the high inflow period in order to avoid spillage. The Petitioner requested NRLDC to take further action so that spillage of water can be avoided.



e) PTC also raised the issue of scheduling of overload capacity with CEA vide letter dated 7.6.2018. Subsequently, upon insistence of the Petitioner, the issue was deliberated in the 36th meeting of Commercial sub-committee of NRPC held on 11.6.2018 in which it was decided that in the national interest, NRLDC should schedule overload capacity upto 10% from the project to prevent spillage of water and loss of free energy.

(f) Despite the Commission`s direction dated 30.3.2017 to NRLDC and PGCIL to treat the project capacity as 1000 MW plus 10% overload and the mandate of the Grid Code, the overload capacity is not being scheduled, resulting in spillage of water in addition to loss of electricity which can be supplied to the beneficiaries.

(g) As per Section 28 (2) of the Electricity Act, the Regional Load Despatch Centres are required to comply with principles, guidelines and methodologies in respect of transmission and scheduling of electricity as the Commission may specify in the Grid Code. NRLDC is under a statutory obligation to ensure that the overload capacity is scheduled to ensure that there is no spillage. However, despite the express mandate of the Grid Code and the Commission`s order dated 30.3.2017, NRLDC continues to decline the scheduling of overload capacity.

(h) Regulation 33A of the Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 (hereinafter referred to as the “Connectivity Regulations”), empowers the Commission to relax the provisions of the Regulations to remove difficulty caused by the application of the Regulations. The



present case deals with a situation covered under the aforesaid provisions in as much as the Petitioner, otherwise entitled to schedule power in order to prevent spillage during peak season is not being permitted to evacuate power. The present case is a fit case for the Commission to exercise its powers under the Grid Code as well as the Connectivity Regulations to devise a suitable mechanism whereby the Petitioner is able to evacuate overload power during the peak months without the need to separately apply for long-term open access. This will be in consumer interest since the charges are being borne by the beneficiaries of the project. Moreover, this will also ensure optimum utilization of transmission capacity since the said facility is required only during the peak season (approximately for 3 months).

(i) Since, NRLDC is scheduling the overload capacity of Government-owned Projects, the Petitioner ought to be treated at par with such projects and the overload capacity of the Project be scheduled in accordance therewith.

(j) The overload capacity is an annual phenomenon which lasts for approximately 3 months in a year. If the Petitioner is required to take LTA, it will be contrary to consumer interest since the open access charges are borne by the beneficiaries of the Project. This is more so since the requirement is seasonal and will lead to the transmission capacity being stranded for the rest of the year.

(k) The Commission might consider transferring the LTA to the beneficiaries as per standard basis so that the charges may be borne by the beneficiaries on bulk-basis as is the standard practice which will be in the interest of the beneficiaries as well.



(l) Presently, the Petitioner is supplying the overload capacity under short-term open access. However, this is not a suitable arrangement since short-term open access depends on availability of corridor. Since the supply of power is on long-term basis, a permanent long-term mechanism ought to be put in place to ensure scheduling and evacuation of overload capacity.

3. Notices were issued to the Respondents to file their replies. Replies to the Petition have been filed by UPPCL, NRLDC, Rajasthan Distribution Companies and PSPCL.

4. UPPCL, vide its reply dated 20.8.2018, has submitted that UPPCL has not entered into agreement with the Petitioner for supply of power and has executed PSA with PTC on 13.5.2006 for power supply to the extent of 200 MW. Therefore, the Petitioner has absolutely no locus to implead UPPCL in the Petition and impleadment of UPPCL as party to the Petition is not acceptable.

5. The Petitioner, vide its rejoinder dated 31.8.2018, has reiterated the submissions made in the Petition and submitted that the contention of UPPCL that the Petitioner has no locus to implead UPPCL in the captioned Petition is erroneous since the power sale through Power Purchase Agreement dated 21.3.2006 ("PPA") entered into between HBPCCL and PTC and Power Sale Agreement dated 13. 9.2006 ("PSA") between PTC and UPPCL constitute a single transaction. Therefore, UPPCL is a proper and necessary party in the present case.

6. NRLDC, vide its reply dated 23.8.2018, has submitted as under:

(a) At no point of time NRLDC refused scheduling of overload capacity upto 10% of the installed capacity as mandated by CERC. However, the Petitioner is required to take an appropriate access in ISTS for the additional capacity.



(b) As per Regulation 8(7) of Connectivity Regulations, any interchange of power with the grid has to be through a form of access in the grid. Regulation 30(1) of CERC (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 provides that scheduling of all transactions pursuant to grant of LTA and MTOA shall be carried out on day ahead basis in accordance with the Grid Code.

(c) As per Regulation 8 (7) of the Connectivity Regulations, any interchange of power with the grid has to be through a form of access in the grid.

(d) In terms of Regulations 6.4.5, 6.4.6, 6.4.9 and 6.4.14 of the Grid Code, some form of bilateral/joint contracts either under LTA, or MTOA or STOA in ISTS is required to schedule power.

(e) Since, Central Generating Stations are covered under LTA and are in percentage (%) basis, change in unallocated quota in these generating stations results in change in allocation of the beneficiaries and quantum on time to time basis.

(e) Karcham Wangtoo HEP has following operationalised LTA.

S.No.	LTA granted to	LTA to	Date of Operationalisation	MW
1.	KWHEP of HBPCL (earlier JVPL)	Haryana	1.5.2014	200
2.		UP	1-6.2014	200
3.		Rajasthan	1.10.2014	104
4.		Haryana	1.1.2018	176
5.		Punjab	1.4.2018	200
6.	Total			880

(f) Out of 1000 MW installed capacity, 880 MW power of the Project is being scheduled under LTA and balance 120MW is being scheduled through STOA. Before operationalisation of above LTAs, the scheduling was being done through STOA in ISTS.

(g) Scheduling in ISTS requires an appropriate access and a good market design would ensure that free rides are discouraged.

7. The Petitioner vide its rejoinder dated 31.8.2018 to the reply of NRLDC has submitted that presently, the Petitioner is supplying the overload capacity under STOA. However, this is not a suitable arrangement since supply of power under STOA depends on availability of corridor. Since the supply of power is on long-term basis, a permanent long-term mechanism ought to be put in place to ensure scheduling and evacuation of overload capacity. The Petitioner has submitted that overload capacity is an annual phenomenon which lasts for approximately 3 months in a year. If the Petitioner is required to take LTA, it will be contrary to consumer interest since the open access charges would be borne by the beneficiaries of the Project which would also lead to the transmission capacity being stranded for the rest of the year.

8. The Respondents, Rajasthan Distribution Companies, vide their joint reply dated 12.11.2018, have submitted that the generating stations should be allowed overload capacity upto 110% within the approved LTA as per the Regulations and NRLDC cannot deny to schedule the overload capacity within the existing LTA quantum. Since the excess generation during high inflow period is for a short duration, it is not justified to force the generator to get additional LTA approved. Rajasthan Distribution companies have submitted that they had directed the NRLDC and PGCIL to schedule the power generated through 10% allowed overload capacity by the



Petitioner in accordance with the provisions of the Grid Code. Rajasthan Distribution Companies have submitted that scheduling of excess energy generated due to overload capacity during high flow of water to avoid spillage should be as per the Commission's Regulations.

9. PSPCL, vide its reply dated 26.11.2018, has submitted as under:

(a) For the period from April 2018 to July 2018, even though the petitioner had claimed that its generating station was available for a higher capacity, it did not produce the NRLDC certificate for availability for the bills raised during the same period. Therefore, PSPCL requested the Petitioner to produce the same or the availability would be considered as 90% as certified by NRLDC.

(b) The availability of generating station is certified by the NRLDC and the bills of the generating companies can only be processed on the above basis. Otherwise, there would be no checks and balances on the generating company declaring any availability.

(c) Distribution Companies of Haryana and Rajasthan have chosen to schedule the overload capacity of the Petitioner's generating station through STOA pending the decision in the present petition. Since this is a commercial decision of the distribution companies, it cannot be binding on PSPCL to pay any additional fixed charges for the same.

(d) The Commission may settle the principle for the future in advance so that all parties are clear about their rights and obligations in advance. Once the Commission decides the principle, the same should be applicable for the future and no additional liability should come for the past period.



10. The Petitioner, vide its rejoinder dated 30.11.2018 to the reply of PSPCL, has submitted as under:

(a) With regard to non-submission of certificate for availability, the Commission in its ROP for the hearing dated 15.11.2018 directed NRLDC to certify DC of the generating station of the Petitioner. In response, NRLDC had submitted that it would certify DC of the Petitioner upto LTA quantum only.

(b) In terms of Clause 4.3.2 of the PPA, PTC is required to receive secondary energy in the same proportion as per its share in Design energy which shall be passed on to PSPCL in terms of Clause 4.3.1 of the PSA. Accordingly, PSPCL is obliged to pay for power received or ought to receive. Further, in case of any loss sustained by the Petitioner on account of restriction of availability by PSPCL, PSPCL would be liable to pay for the loss sustained by the Petitioner.

11. During the course of hearing on 15.11.2018, learned counsel for PGCIL submitted that Central Sector Generating Stations are granted deemed LTA and therefore, any increase in quantum of power gets automatically added to its allocated share and the allocated share as well as the enhanced quantum of power goes through the system of CTU and is billed by CTU, accordingly. However, in the case of LTA grantee, LTA is not granted on the installed capacity of the generating station rather it is granted on basis of request by the generating station. Learned counsel further submitted that whenever there is increase in quantum of power, the enhanced capacity will not get automatically added in the existing LTA quantum and, therefore, the Petitioner is required to take some form of access in the Inter-State Transmission System i.e. LTOA, MTOA or STOA. Learned counsel submitted that Section 38



(2) of the Electricity Act, 2003 empowers the CTU to grant open access on the payment of transmission charges. The transmission charge has to be factored somewhere in the form of open access else CTU will be denied its legitimate transmission charges.

Analysis and Decision:

12. We have considered the submissions of the Petitioner and the Respondents. The following issues arise for our consideration:

Issue No. 1: Whether the power corresponding to overload capacity of a hydro generating station (up to 10%) during peak season shall be scheduled without taking LTA corresponding to the overload capacity?

Issue No.2: Whether beneficiaries with PPAs for fixed quantum of power shall schedule the power generated by the overload capacity of hydro stations during peak season/period of high inflows?

The above issues have been dealt with in succeeding paragraphs.

Issue No. 1: Whether the power corresponding to overload capacity of a hydro generating station (up to 10%) during peak season shall be scheduled without taking LTA corresponding to the overload capacity?

13. The Petitioner has argued that during the summer/monsoon seasons, the Project has the capability to generate 10% more power than its rated capacity (1000MW) owing to high water flow. The Commission in its order 30.3.2017 in Petition No. 434/GT/2014 filed by the Petitioner for determination of tariff for the Project for the period 2014-19 directed NRLDC to ensure that scheduling of the generating station shall be based on installed capacity of 1000 MW with overload capacity of 10%. However, NRLDC vide e-mail dated 5.6.2018 refused scheduling of the overload capacity of 10% on the ground that NRLDC is scheduling LTA to the beneficiaries up to the approved quantum as per approval granted by CTU and for any change in LTA quantum, the Petitioner should take up the matter with CTU.



14. NRLDC has contended that NRLDC has never refused scheduling of overload capacity upto 10% of the installed capacity. However, the Petitioner is required to take appropriate access in the ISTS for the additional capacity in terms of Regulations 8(7) and 30 (1) of the Connectivity Regulations.

15. Rajasthan Discoms have submitted that the generating stations should be allowed overload capacity upto 10% within the approved LTA as per the Commission`s Regulations and NRLDC cannot deny to schedule the overload capacity within the existing LTA quantum as the excess generation during high inflow period is for a short duration and it is not justifiable to force the generator to get additional LTA approved.

16. PGCIL in its written submission has submitted that the Sharing Regulations do not recognize overload capacity in the PoC charges computation where LTA is granted by CTU. Whereas in the case of Central Sector Generating Stations where the allocation is done by the Government of India, Ministry of Power, without any recourse to CTU, the allocated power from the generating station flowing through the ISTS is considered in PoCcharges computation. PGCIL has submitted that the statute itself treats the Central Sector Generating Stations and independent power producers differently in the matter of scheduling. The Connectivity Regulations and the Grid Code also consider them as deemed LTA customers and LTA customers respectively. Therefore, the Petitioner cannot claim that it would inject overload capacity into ISTS without obtaining open access for the same and without discharging the liability of payment of transmission charges. PGCIL has submitted that the beneficiaries of the project have already agreed to the scheduling of additional quantum of power by the Petitioner on payment of short term transmission charges for the said scheduling. PGCIL has submitted that the matter was discussed in the meeting of Northern



Regional Power Committee held on 11.6.2018. In the said meeting, the sub-committee decided that in the national interest, NRLDC should schedule overload capacity upto 10% from the Project to prevent spillage of water and loss of free energy. PGCIL has submitted that the Petitioner should either obtain LTA for the overload capacity or continue to schedule the same under STOA as it has already done without any open access rights for the overload capacity.

17. Thus, Grid Code allows a hydro generator to declare its availability by taking into account the overload capability. Accordingly, a hydro generator, based on water availability combined with machine availability, can declare availability in excess of the ex-bus generation corresponding to installed capacity. This availability declared by the generator is considered for the purpose of PAF calculations which fetches it capacity charges and incentive for declaring availability above NAPAF.

18. We have considered the submissions of the Petitioner and the Respondents. Sub-clause 12 of Regulation 6.5 of the Grid Code provides as under:

"(12).Run-of-river power station with pondage and storage type power stations are designed to operate during peak hours to meet system peak demand. Maximum capacity of the station declared for the day shall be equal to the installed capacity including overload capability, if any, minus auxiliary consumption, corrected for the reservoir level. The Regional Load Despatch Centres shall ensure that generation schedules of such type of stations are prepared and the stations despatched for optimum utilization of available hydro energy except in the event of specific system requirements/constraints."

Further, to ensure primary response to frequency excursions, Regulation 5.2 (h) of the Grid Code provides as under:

"(h) For the purpose of ensuring primary response, RLDCs/SLDCs shall not schedule the generating station or unit(s) thereof beyond ex-bus generation corresponding to 100% of the Installed capacity of the generating station or unit(s) thereof. The generating station shall not resort to Valve Wide Open (VWO) operation of units whether running on full load or part load, and shall ensure that there is margin available for providing Governor action as primary response. In case of gas/liquid fuel based units, suitable adjustment in Installed Capacity should be made by



RLDCs/SLDCs for scheduling in due consideration of prevailing ambient conditions of temperature and pressure vis-à-vis site ambient conditions on which installed capacity of the generating station or unit(s) thereof have been specified:

Provided that scheduling of hydro stations shall not be reduced during high inflow period in order to avoid spillage:

Provided further that the VWO margin shall not be used by RLDC to schedule Ancillary Services.”

The Grid Code also provides that in order to minimize the spillage and maximize the power generation, the schedule of hydro stations cannot be reduced during the high inflow period in order to avoid spillage. The Grid Code further provides that available hydro energy is optimally utilized except in the event of specific system requirements or constraints.

19. The transmission system including connectivity line and corresponding system strengthening schemes are planned to take into account overload capacity of such generating stations. RLDCs do not reduce the schedule of hydro generating stations of the Central Generating Stations during high inflow period i.e. they are allowed to inject the generation over and above the installed capacity and the same is also considered for the purpose of PAF of the generating station. NRLDC in its justification for allowing scheduling of overload capacity to Central Generating Stations has contended that in case of Central Generating Stations, allocations from Central Generating Stations are covered under deemed LTA and are in percentage basis. NRLDC has argued that the change in unallocated quota in these generating stations results change in allocation of the beneficiaries and therefore, allocated quantum changes from time to time. PGCIL has also argued on similar lines.

20. The Commission in its order dated 30.03.2017 in Petition No. 434/GT/2014 had decided as under:

“32. * * * * *



(b) Overload capacity of the generating station shall be 10% as per the provisions of CEA and IEGC. NLDC/ RLDC shall ensure that the scheduling of the station shall be based on the installed capacity of 1000 MW with overload capacity of 10%.

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21. We do not agree with views of NRLDC and PGCIL as regards differential treatment between Central Generating Stations and others. The allocation on percentage basis by Central Government in the Central Generating Stations is only within the installed capacity and does not mention overload capability. In that sense, there is no difference between deemed LTA of CGS and LTA of other (private sector) generating stations. Further, by virtue of tariff being determined by this Commission, the beneficiaries of Central Generating Stations as well as others are required to make payment of annual fixed charges provided the generating station is able to meet the normative obligation of declaring availability over and above the NAPAF. Further, by way of Tariff Regulations and Grid Code, the beneficiaries have a share in the overload capacity in ratio of their PPAs to be delivered to them during high inflow period. In our view, the long term beneficiaries should get the benefits of such overload capacity.

22. The Petitioner has obtained the connectivity equal to installed capacity (1000 MW) of the generating station. Out of 1000 MW, the Petitioner has been granted LTA of 880 MW and remaining 120 MW (free power) has been retained by the home State for receiving the free power.

23. In the light of the express provisions in the Grid Code; dispensation provided to the Central Generating Stations for scheduling the generation corresponding to overload capacity during peak season; LTA being in place in the instant case for 880 MW; and availability of margins in transmission system commissioned at the behest of LTA customers, we are of the considered view that the hydro generating stations irrespective of ownership (private or



government) are not required to obtain LTA corresponding to overload capacity (upto 10%) and the injection of the same should be allowed by concerned RLDC. In our view, even in case of a hydro generating station in the private sector, the RLDCs cannot compel them to obtain LTA/ MTOA/ STOA for overload capacity up to 10% of existing LTA during high inflow period. Accordingly, RLDCs are directed to allow injection of power corresponding to overload capacity upto 10% of LTA without obtaining additional LTA/ MTOA/ STOA for the overload capacity. Needless to mention, the RLDCs shall allow the Declared Capacity declared by the generator for the purpose of PAF calculation of the generating station. In order to ensure that the CTU and RLDCs receive their respective charges, we also think it appropriate to clarify that in case of scheduling of overload capacity up to 10% beyond granted LTA, the hydro generating station or the beneficiary, as the case may be, shall be required to pay additional LTA charges and additional RLDC fees & charges for the overload capacity. These additional charges shall be in proportion to the existing LTA charges and RLDC fees & charges respectively. CTU and respective RLDCs shall raise bills accordingly.

Issue No.2: Whether beneficiaries with PPAs for fixed quantum of power shall schedule the power generated by the overload capacity of hydro stations during peak season/period of high inflows?

24. The Respondent, PSPCL has submitted that no additional burden should be imposed on it if it schedules the generation corresponding to overload capacity in proportion of its PPA. Per Contra, the Petitioner has submitted that PSPCL is obliged to schedule the overload capacity. The Petitioner has submitted that in terms of Clause 4.3.2 of the PPA, PTC is required to receive secondary energy in the same proportion at that of its share in the design energy. The said obligation is passed on to PSPCL in terms of Clause 4.3.1 of the PSA. Therefore, PSPCL is under contractual obligation to take the overload capacity and pay for it.



25. We have considered the submissions of the Petitioner and the Respondents. While agreeing to determination of tariff by the Commission, the beneficiaries have already agreed to pay the entire annual fixed charges provided the generating station is able to meet the normative obligation of declaring availability over and above the NAPAF.

26. Regulation 31 (7) of the 2014 Tariff Regulations provides as under:

“(7) In case the energy charge rate (ECR) for a hydro generating station, computed as per clause (5) of this regulation exceeds ninety paise per kWh, and the actual saleable energy in a year exceeds $\{DEx(100-AUX) \times (100-FEHS) / 10000\}$ MWh, the Energy charge for the energy in excess of the above shall be billed at ninety paise per kWh only.”

As per the above provision, the ex-bus energy over and above the ex-bus design energy is available to be scheduled at 90 paisa/KWh. We have already decided in Issue No. 1 above that the hydro generating station or the beneficiary, as the case may be, shall have to bear additional charges proportionate to overload capacity if they opt to avail of the additional capacity during the high inflow period. In our considered view, the beneficiary shall have the first right of refusal in such overload capacity. If the beneficiary decides to avail of the overload facility, it shall make payments to the generating company in terms of Regulation 31(7) of the 2014 Tariff Regulations. In the scenario of the beneficiary deciding not to avail such power under overload capacity, the generating station shall be free to sell the same to any other entity or in power exchanges and shall be liable to pay the STOA charges, instead of additional LTA charges, for such overload capacity scheduled.

27. The Petitioner has also sought direction to transfer the LTA granted to the Petitioner to the beneficiaries. It is noted that during the course of hearing, the Petitioner did not press this issue. Since there is no provision in the Connectivity Regulations or any other Regulations for



transfer of LTA to the beneficiaries, the Petitioner's prayer in this regard is not sustainable in law.

28. The Petition No. 205/MP/2018 is disposed in terms of the above.

Sd/-
(Dr. M. K. Iyer)
Member

Sd/-
(P.K.Pujari)
Chairperson

