

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Diary No. 159/2022

Subject : Petition under Section 79 of the Electricity Act, 2003 read with Article 11 and 22 of the Agreement for Procurement of Power dated 25.10.2021 seeking directions to Southern Regional Load Despatch Centre seeking revision of schedule in accordance with notified declared Availability by Jindal Thermal Power Limited.

Date of Hearing : 21.4.2022

Coram : Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Petitioner : Jindal India Thermal Power Limited (JITPL)

Respondents : Southern Regional Load Despatch Centre (SRPC) and 2 Ors.

Parties Present : Shri Amit Kapur, Advocate, JITPL

Record of Proceedings

The matter was mentioned by the learned counsel for the Petitioner through video conferencing.

2. The learned counsel for the Petitioner submitted that the present Petition has been filed challenging the arbitrary, illegal and unreasonable actions of the Respondent, SRPC viz. (i) refusal to perform its statutory function to downward revise the approved Short-Term Open Access ('STOA') schedule in accordance with notified declared availability by the Petitioner, and (ii) forcing the Petitioner to declare availability and supply 270 MW power to the Respondent, Kerala State Electricity Board Limited ('KSEBL'). The learned counsel mainly submitted the following:

(a) The Petitioner has entered into an Agreement for Procurement of Power ('APP') dated 25.10.2021 with the Respondent No.1, PTC India Limited for generation and supply of 270 MW power to PTC from its 1200 MW Thermal Power Project, Odisha for a period of 3 years (6 months only from January to June each year) for onward supply to the Respondent No.2, Kerala State Electricity Board under the Power Supply Agreement dated 27.10.2021 on back-to-back basis.

(b) SRPC by its email dated 2.4.2022 and reports dated 3.4.2022 and 6.4.2022 has arbitrarily and illegally rejected the Petitioner/PTC's application requesting for downward revision of the Petitioner's STOA schedule (with respect of supply of power to KSEBL) from 270 MW to 0 MW for the period from 4.4.2022 to 30.4.2022 and from 1.5.2022 till 31.5.2022 based on the e-mail sent by KSEBL and on the pretext that consent from State/buyer i.e. KSEBL is required for processing such

request for downward revision. Moreover, copy of the e-mail sent by KSEBL has not even been provided to the Petitioner.

(c) SRLDC's denial/refusal to revise the Petitioner's schedule, when it has notified its declared availability as 0 MW, is violative of Regulation 14 of the Central Electricity Regulation (Open Access in inter-State Transmission) Regulations, 2008 as amended from time to time ('Open Access Regulations, 2008') and the Statement of Reasons issued along with the Open Access Regulations, 2008.

(d) As per Regulation 14 of the Open Access Regulations, it is the right and prerogative of STOA customer to seek downward revision of the approved STOA schedule and nodal agency, SRLDC is statutorily obliged to downward revise the approved STOA schedule upon the request of the STOA customer.

(e) The downward revision of the Petitioner's STOA schedule by SRLDC is not contingent upon the consent or concurrence of the buyer of such power i.e. KSEBL and SRLDC does not have the discretion to reject such request made by the STOA customer for downward revision of the approved schedule.

(f) In the Statement of Object and Reasons issued along with Open Access Regulations, 2009 has also been stated that (i) flexibility of revising or cancelling previously approved STOA schedule is being granted to the STOA customer/generating company to take care of any contingencies, and (ii) the power of nodal agency to allow revision/cancellation of STOA schedule only in extraordinary circumstances has been omitted. This implies that the nodal agency is mandated to revise the STOA schedule upon the request of STOA customer/generating company.

(g) As a result of the aforesaid arbitrary and illegal action of SRLDC, the Petitioner is constrained to use coal procured under other schemes like linkage coal and Shakti B-vii(a), etc. which is not meant for use under the APP on account of forced supply of 270 MW power to KSEBL and thus, is having an adverse impact of approximately Rs. 1.45 crore per day on the variable cost.

(h) Accordingly, the Petitioner is praying for an ad-interim relief of direction to the Respondent, SRLDC to comply with the provisions of the Open Access Regulations, 2008 and accordingly, to downward revise the approved STOA schedule of the Petitioner through PTC from 270 MW to 0 MW for the period from 4.4.2022 to 30.4.2022 and for the period from 1.5.2022 to 31.5.2022.

(i) The Petitioner has already served the copy of the Petition on the Respondents in advance.

3. After hearing the learned counsel for the Petitioner, the Commission directed to list the aforesaid Petition after completion of the registration process. The Commission further directed to issue notice to the Respondents and observed that prayer of the Petitioner for grant of interim direction will be taken-up on the next date of hearing after taking into the account the response of the Respondents, if any.

4. The Commission directed SRLDC to clarify the provision under which it has sought consent of buyer for downward revision of STOA.

5. The Petition shall be listed for hearing in due course for which separate notice will be issued.

By order of the Commission

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