

BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

Quorum

Shri Desh Deepak Verma, Chairman
Smt. Meenakshi Singh, Member
Shri I. B. Pandey, Member

In the matter of:

Petition u/s 86 (1) (c) & (f), 35 & 36 of Electricity Act, 2003 and In the matter of Open Access for conveyance of upto 45MW power being procured from alternate sources at UPPTCL's 132 KV Surajpur Substation for Noida Power Company Ltd.

M/s Noida Power Company Ltd., Commercial Complex, 'H' Block, Alpha II Sector,
Greater Noida (UP)

Petitioner

Versus

1. Uttar Pradesh State Load Dispatch Centre, Uttar Pradesh Power Transmission Company Ltd., 14, Ashok Marg, Shakti Bhawan, Lucknow (UP)
2. Uttar Pradesh Power Transmission Company Ltd., 14, Ashok Marg, Shakti Bhawan, Lucknow (UP)

Respondents

Present in the Hearing:

Respondents

1. Shri Rahul Srivastava, Advocate, Counsel for UPSLDC
2. Shri Ram Swanth, Director, SLDC
3. Shri Zahir Ahmad, Executive Engineer, UPSLDC
4. Mrs. Sangeeta Saxena, Executive Engineer, UPSLDC
5. Shri Arvind Mittal, Executive Engineer, UPSLDC
6. Shri Puneet Chandra, Advocate, UPPTCL

Petitioners

1. Shri M. G. Ramachandran, Sr. Advocate, NPCL
2. Shri Vishal Gupta, Advocate, NPCL
3. Shri R. C. Agarwala, MD & CEO, NPCL
4. Rajeev Goyal, GM – (Projects & Power Trading), NPCL
5. Alok Sharma, Manager - Legal
6. Shri A. K. Arora, Resident Manager, NPCL.

ORDER

(Hearing on 4.6.2015)

Whereas the petitioner Noida Power Company Ltd., Commercial Complex, 'H' Block, Alpha II Sector, Greater Noida (UP), has filed petition no. 934 of 2014, in the matter u/s

86 (1) (c) & (f), 35 & 36 of Electricity Act, 2003 and In the matter of Open Access for conveyance of upto 45MW power being procured from alternate sources at UPPTCL's 132 KV Surajpur Substation for Noida Power Company Ltd.

The operative part of the Commission's order dated 10.9.2014 is as follows:

"The Commission asked UPPCL whether they have any objections in granting Short Term Open Access to NPCL on firm basis to which UPPCL responded that they have no objection to it.

The Commission directs SLDC to grant Short Term Open Access on firm basis up to three months. It is necessary to say according to their requirement for drawal at NPCL Distribution periphery for which they have BPTA with UPPTCL. NPCL is directed to pay Long Term Transmission Charges to UPPTCL on all the power imported by it whether by Interstate or Intrastate transmission.

In Case of Shortage of TTC, it should be proportionately divided among the Discoms including NPCL.

NPCL is directed to make Long Term PPA for its power requirement within six months."

After receipt of the order dated 10.09.2014, NPCL has applied many applications for seeking Short Term Open Access on firm basis; however, UPSLDC did not act upon on first three applications and rejected another three applications.

UPSLDC has filed a Misc. Application dated 26.9.2014 in Petition No. 934 of 2014 praying vacation of the Order dated 10.09.2014 claiming it to an interim order passed by the Hon'ble Commission as there were no specific words /phrase like "Petition is disposed of" or "Petition is allowed". UPSLDC has also challenged the jurisdiction of the

Hon'ble Commission that too after final disposal of the matter by their Order dated 10.09.2014.

Meanwhile, UPSLDC has informed NPCL on 21.10.2014 that it can apply for 95 MW power on firm basis for the month of Nov'14 and Dec'14 only. While our applications for the month of Nov'14 were approved by UPSLDC, our applications for the month of Dec '14 were not accepted for the reasons best known to them.

NPCL on receipt of above letter from UPSLDC has acted promptly and applied for 95 MW power immediately on the same day.

UPPCL has filed a Review Petition No. 976 of 2014 for review of the Commission's Order dated 10.9.2014 in Petition No. 934 of 2014 submitting that the facts mentioned in their letter dated 20.08.2014 have not been considered. Whereas during the final hearing on 13.8.2014 in petition no. 934 of 2014, the Commission had raised specific query to the representatives of UPPCL whether they have any objections in granting Short Term Open Access to NPCL on firm basis to which UPPCL had responded that they have no objection to it.

Subsequently, on 28.11.2014 NPCL filed its Objection to the Misc. Application of UPSLDC and Reply to the Review Petition No. 976 of 2014 of the UPPCL.

During the hearing on 23.4.2015 Shri Rahul Srivastava appearing on behalf of UPSLDC submitted that the Commission's order dated 10.9.2014 is an interim order, so they have filed the interim application dated 26.9.2014.

The UPSLDC submitted that in case Commission's order dated 10.9.2014 is treated as final order, then their interim application may be treated as Review Petition. He further submitted that SLDC is unable to provide short term open access on firm basis for three months due to non availability of transmission corridor and whenever there is corridor they will provide short term open access to the petitioner.

The Commission directed SLDC to submit the following:

1. Total transmission capacity (TTC) and its calculations

2. Total transmission capacity (TTC) of 400 KV line at 400/220 KV Palli sub-station
3. Transmission capacity of 220 KV line from Palli to R.C. Green
4. Transmission capacity of R. C. Green sub-station

During the hearing on 14.5.2015 the Commission finds that SLDC has not submitted the desired information as directed by its order dated 13.5.2015. The Commission enquired SLDC why they have not submitted the information. SLDC replied that they will submit the information shortly.

The Commission took serious view on the issue of non submission of desired information by SLDC. The Commission fixed the next date of hearing as 15.5.2015 and directed SLDC to submit the information on affidavit by 15.5.2015.

During the hearing on 15.5.2015 SLDC submitted the information on affidavit. The desired information in affidavit is as follows:

1. UP-SLDC observes that 6400 MW is quantity that can be maximum limit of power Transfer (import) to UP-Grid and Reliability Margin has been taken 400 MW, means safe available transfer capability is 6000 MW only.
2. It is pertinent to mention here that aforesaid calculation of TTC is validated by NRLDC and Ministry of Power, GoI confirmed by letter no-D.o.No.MOP/SS-DC/2015 dated 31 March 2015.

“Summary of Discussions regarding transmission bottlenecks of Western UP at 400 kV level

Total transfer capability of UP, assessed by UP SLDC UP SLDC has assessed the Total Transfer Capability (TTC) of UP, with the present transmission infrastructure, as 6400 MW. The same has been examined in detail by NRLDC. As per the analysis of NRLDC, this is the maximum acceptable limit and there may not be further margin, with the present constraints. It is observed that most of the load of UP is situated in its Western part (about 50%)---“

3. That State total transmission Capacity at different voltage levels at the end of year March, 2015 is as per records available in UP-SLDC is being quoted below:-

Voltage levels	765 kv S/S	400 KV S/S	220 Kv S/S	132 Kv S/S
Capacity (MVA)	2000	9380	25270	31692

4 a. That total Transmission Capacity of 400 Kv line at 400 / 220 Kv Pali (Greater Noida) S/s-Here it is to be noted that all the loading capacities are dependent on ambient temperature (30 Degree Cent.) 400 / 220 Kv Pali (Greater Noida) S/s – is connected through ISTS line i.e. 400 Kv Dadri-Greater Noida (PGCIL line) and it is only source of power for supply to Noida (PVVNL) and Greater Noida (NPCL) area which comes under National Capital Region (NCR).

b. 400 Kv Greater Noida – Nawada (in Haryana) line also draws power from 400Kv Greater Noida S/s through 400 KV Dadri- Greater Noida line.

c. 400 Kv Dadri –Greater Noida line has CT of 2000/1 and connected at 2000 so load means – 1384Mva(At 0.95 PF 1315 MW), otherwise line may trip at Overload.

d. 400 Kv Greater Noida S/s (UPPTCL) has total four number ICTs of 3*315 MVA + 1*500 MVA (90% loading At 0.95PF 1236 MW).

e. Transmission Capacity of 220 Kv line Pali to R.C. Green Coodctor-Zebra Load 2.80 MVA (keep loading upto 90% at 0.95 PF-240 MW).

f. Transmission Capacity of R C Green Sub station -1*100MVA+2*60MVA i.e. 220 MVA (90% loading at 0.95 PF-188MW) Though as per norms ICTs should not run on more than 80% loading conditions.

g.As per report only 237 MW power to M/s NPCL should be allowed/Scheduled at CTU_STU-periphery.

h. Effective Communication and telemetry, which are essential to secure grid operation as on date that online telemetry data is not provided by M/s NPCL to SLDC, Lucknow. In this matter it is clear violation of CEA Grid standards Intra state Connectivity Regulation of Hon'ble UPERC, which is clear case of case of non compliance under section 142 (non compliance of directions of SLDC) of Act 2003.

i. State owned Discoms / UPPCL has inter-state long term PPAs / CSGS / ISGS allocations of 6557 MW and 661 MW already approved by CTU (PGCIL) subject to commissioning of 765 Gwalior Jaipur Line wef 01 July 2015 (as per records) and at present TTC and ATC is only 6400 and 6000 MW, further to inform the Hon'ble Commission that from 16th May, 15 to 15th August 15, state owned discoms / UPPCL, has arranged the power and fully reserved the inter-intra state transmission corridor.

NPCL requested to grant some time to file the reply.

The Commission directed NPCL to file the reply by 1st June 2015 with a copy to all the respondents including UPPCL and respondents to file the reply if any before 4th June 2015.

During the hearing on 4/6/2015 Shri M.G. Ramachandran submitted that the availability of the transmission capacity for transfer of power sought for by the Petitioner has to be considered with specific reference to the point of inter-connection of Power grid line at Greater Noida (Pali)Substation only and not with reference to other parts of the intra-state transmission network of UPPTCL. This is so as one 315 MVA ICT transformer and two bays for 2x220kV lines emanating from Greater Noida (Pali)Substation of UPPTCL have been constructed from capital cost contributed by the Petitioner and is therefore, dedicated for the Petitioner's use. The lines from the 220kV bays up to the 220kV RC Green Substation as well as the 220kV Gharbara Substation of the Petitioner are owned by the Petitioner as a part of the distribution network. The line from

400kV Greater Noida (Pali) Substation of UPPTCL to 220kV RC Green Substation of the Petitioner is a radial line and RC Green Substation is not connected to any part of the intra-state transmission network of UPPTCL except the above line.

1. In this view the availability of transmission capacity for allowing inter-state open access claimed by the Petitioner need to be considered only with regard to the following aspects:
 - a. The transferable capacity from the Power grid (CTU) line interconnection point at Pali to 400kV Greater Noida(Pali) Substation to enable injection through the 2x220kV bays dedicated for the Petitioner at the Greater Noida(Pali) Sub-station. In this regard, it is also pertinent to mention that 315 MVA ICT Transformer installed at the Greater Noida(Pali) Substation for transforming from 400kV to 220kV has also been contributed by the Petitioner and is dedicated for the Petitioner's use along with the 2x220kV bays mentioned above.
 - b. The capacity available on the 220kV line from the Greater Noida(Pali) Substation connecting to 220kV RC Green Substation is entirely for the Petitioner.
 - c. The availability or non-availability of the capacity generally in the intra-state transmission system of UPPTCL as sought to be included in the computation of Total Transfer Capability (TTC) or available transfer capability (ATC) is irrelevant.
2. He further submitted that the use of the 400kV Greater Noida(Pali) Substation for the purpose of transferring the power imported from outside the State of U.P. and conveyed through the Power grid (CTU) line interconnected at Pali cannot

be in a manner that UPPCL and other distribution licensee will have priority over the Petitioner. The salient aspect in this regard are as under:

- a. The transferable capacity is dependent on the capacity of the ICT installed at the 400kV Greater Noida(Pali)Substation. The total ICT capacity is 1445MVA. Out of the above, one 315MVA ICT has been contributed by the Petitioner and has to be used for the Petitioner exclusively. Neither UPPCL nor any other licensee or entity can claim priority in regard to the above capacity.
 - b. In addition to the above, a 1/3rd of 500MVA ICT contributed by GNIDA is again dedicated for the exclusive use of the Greater Noida area being serviced by the Petitioner as a distribution licensee.
 - c. Thus out of the 1445MVA, 480MVA of transferable capacity at the 400kV Greater Noida (Pali)Substation is exclusively for the Greater Noida area consumers and balance 965MVA capacity is for the use of UPPCL and other distribution licensees..
3. In view of the above, the allegations made by the Respondent in the reply in regard to TTC and ATC constraint are wrong.
 4. In regard to the above, it is also relevant to submit that the Petitioner as an existing distribution licensee has a priority over all others including when the Petitioner seeks open-access for import of power on short-term or medium-term, besides long-term open access.

UPPCL in his review petition no. 976 of 2014 has submitted that the Commission has not taken into cognizance the submissions made vide letter no. 233-HC dated 20.8.2014 and passed order dated 10.9.2014 which is detrimental to be interest of the corporation, so review has been filed under clause 150 (1) of

UPERC (Conduct of Business) Regulations 2004 therefore review is maintainable as laid down in catena of cases by Hon'ble Supreme Court.

It is submitted that presently M/s NPCL is procuring power to meet the requirement in its area of operation from outside the State under short term agreements. Since the power is being wheeled from outside the State it falls under the ambit of Inter-State Open Access and accordingly is governed by the regulation for Open Access framed by CERC. Matters related to Inter-State Open Access do not fall within the jurisdiction of State Commission.

That it is further submitted that long term transmission capacities are created based on detailed transmission planning and for the purpose the Distribution Licensees, Generating companies have to intimate the STU much in advance with all the details as provided under Clause 11 of the UPERC (Open Access) Regulations 2004.

“11. Procedure for Long Term Open Access customer

1. A long term intra state open access customer shall file an application to the Nodal Agency, with details such as capacity needed, generation planned or power purchase contracted, point of injection, point of drawl, duration of open access, peak load, average load and any other additional information that may be required by the Nodal Agency;
2. A consumer may also approach the Commission of his intention of availing open access as per procedure prescribed under UPERC (Conduct of Business) Regulations, 2004 in case charge for open access not determined or there is a dispute with the Nodal Agency, and also provide a copy of his application to the distribution licensee who is supplying electricity to him as well as to state transmission utility.”

15. That UPPCL is procuring power from centre as well as state sector generating station under long term PPAs. UPPTCL has already entered into Long Term Agreement for procurement of around 6894 MW power

from different sources outside the State which also include Central Sector Generating Stations and Inter-State Generating Stations. This power along with power generated from within the State Generating Stations has to be wheeled through the transmission system of UPPTCL.

16. That UPPCL/Discoms have long term agreement of 6894 MW (645 MW excluding NTPC Tanda which is not connected to ISTS) from CSGS/ISGS/LTA. The UPPTCL system therefore has its limitation as indicated in point no. 8 above in wheeling the power coming from the State.

The Commission finds that as per clause 9 of the UPERC (Terms and Conditions for Open Access) Regulations, 2004 allotment priority for open access for different type of customers has been provided as below:

Allotment Priority

1. The priority for allowing open access to customers shall be decided on the following criteria:
 - a. A existing distribution licensee and existing generating company and captive power plant shall have the highest priority in allotment of open access capacity.
 - b. Distribution licensee shall have priority over other customers;
 - c. Other Long-term open access customers shall have the priority over the short-term open access customers but next to those covered under 9(a) and 9(b);
 - d. An existing long-term open access customer shall have the priority over new open access customer under respective category provided he has applied for its renewal 12 months prior to the expiry of existing term of open access;
 - e. -----“

That no differentiation has been provided between the existing distribution licenses. The priority of Long Term Open Access Customer over the Short Term Open Access

Customer is for the other customers, other than existing distribution licenses, existing generating company and captive power plant.

Moreover the Commission finds that NPCL has paid for one 315 MVA ICT AND GNIDA has paid for one third of 500 MVA ICT for supply of power to the consumers to Greater Noida area. i.e. out of 1445MVA, 480MVA transformation capacity at Pali sub-station has been paid by NPCL/GNIDA and for 220 KV bay and associated line form Pali to R C Green sub-station has been paid by GNIDA/NPCL and similarly for Surajpur sub-station. This shows that this transmission facility has been developed by UPPTCL on deposit by NPCL/GNIDA.

The Commission finds that as per Section 39 of the Electricity Act 2003, it was a duty of UPPTCL to ensure development of efficient, co-ordinated and economical system of Intra State Transmission lines for smooth flow of electricity from generating stations to the load centres and to provide non discriminatory open access to its transmission system for use by any licensee and as per Section 32 SLDC shall be responsible for optimum scheduling and dispatch of electricity within a State, in accordance with the contracts entered into with the licensees or the generating companies in the State.

So far as the question of jurisdiction of Commission over the Inter State Open Access Transactions is concerned the Commission is clear that the Short Term Open Access Transactions are granted by RLDC and which in turn falls within the ambit of CERC. The issue of grant of NOC by the SLDC for use of Intra State Transmission System to RLDC for Open Access Transactions is well within the jurisdiction of State Commission.

The Commission was very well in exercising its jurisdiction to issue the order dated 10.9.2014 in this matter.

The Commission finds that SLDC in its counter affidavit dated 15.5.2015 in Para 16 has submitted that as per report only 237 MW power should be allowed / schedule as CTU - STU periphery. The Commission finds that though 480MVA transformation capacity at Pali sub-station has been paid by NPCL/GNIDA and for 220 KV bay and associated line from Pali to R C Green sub-station has been paid by GNIDA/NPCL and similarly for

augmentation of capacity at Surajpur sub-station. This shows that this transmission facility has been developed by UPPTCL on deposit by NPCL/GNIDA.

The Commission is of the view that in UPERC (Open Access) Regulations 2004 there is no discrimination between the distribution licensees in terms of Open Access whether Short Term or Long Term. The priority of Long Term Open Access over Short Term Open Access is for other customers other than existing distribution licensee, generating power plant and captive power plant.

In wake of submission made by SLDC that M/s NPCL should be allowed/scheduled only 237 MW power at CTU-STU periphery, the Commission's order dated 10.9.2014 are amended to the extend of directing SLDC to provide NOC on the request of petitioner M/s NPCL for Short Term Open Access on firm basis for not less than 237 MW. If in exceptional circumstances SLDC is unable to facilitate open access even upto 237 MW in spite of NPCL demand, it will submit reasons for not doing so in writing to the Commission.

The petition nos. 934 of 2014 & 976 of 2014 are disposed off.

(I. B. Pandey)
Member

(Meenakshi Singh)
Member

(Desh Deepak Verma)
Chairman

Dated: 21.07.2015