

BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

Petition no.407/06

IN THE MATTER OF: Seeking withdrawal of banked energy during peak hours.

AND

IN THE MATTER OF:

M/s UP Sugar Mills Co-gen Association
2/95, Vishal Khand,
Gomti Nagar
Lucknow : Petitioner

Vs.

UP Power Corporation Ltd.
7th Floor, Shakti Bhawan,
14th Ashok Marg,
Lucknow :Respondent

The following were present:

1. Mr. K.N Ranasaria, President, UP Co-gen Association
2. Mr. R.K Chakravarti , Secretary, UP Co-gen Association
3. Mr. Durga Prasad, UP Co-gen Association
4. Mr. Nirankar, M/s Tikaula Sugar Mills Ltd.
5. Mr. Ram Sharma, Director , M/s Simbhaoli Sugar Ltd.

ORDER

(Date of hearing 27.12.06)

1.0 The Petitioner in its affidavit dt.26.10.06 has sought amendment to the Regulations dt.23.3.06 permitting withdrawal of energy banked during peak hours on the ground that during shut down, whether peak or off peak hours, the plants need power from the distribution or transmission system. It is stated that withdrawal during peak hour is treated as power purchase from distribution licensee that entails a high cost to the plant. The Petitioner has further stated that since the Co-generators bank energy during peak hours as such they should also be permitted withdrawal of the banked energy during these hours also. The Petitioner has also raised objection to the installation of meter at the sub-stations of the distribution/transmission licensee.

2.0 UP Power Corporation Ltd.(UPPCL) in its reply dt.12.12.06 has submitted that the Commission has framed Regulations based on orders dt.18.7.05, 15.9.05 & 12.1.06 after long process of discussion with the interested parties and stakeholders including the present Petitioner. The UPPCL has objected to admission of the Petition until the Petitioner shows that the orders of the Commission suffer from inherent error or omission of material facts causing illegality or perversity. The

UPPCL has further expressed difficulty in obliging the Petitioner on the ground that during peak hours, it suffers a shortage of power in the range of 1500-1700 MW and the exchanges electricity from the regional pool at very high UI rate, the aspect taken under consideration while framing guidelines for banking of energy. Regarding installation on meters, it is stated that the Petitioner has withdrawn this issue by letter dt.13/14.12.06.

3.0 The Petitioner in its rejoinder affidavit dt.21.12.06 has submitted the sugar plant needs power continuously and in case of breakdown/shutdown and maintenance, withdrawal of electricity should be permitted without any restriction. The Petitioner has further emphasized that the rate charged for purchase of power during peak hours compared to the rate at which the power is sold by the plants to UPPCL and for that reason the power withdrawn during peak hours should not be treated as the sale of power by UPPCL to the plant.

4.0 During hearing Sri. Durga Prasad has submitted on behalf of the Petitioner that the difficulty has arisen in implementation of the scheme of banking specified in the regulations as it results costly power to the plants if the power is drawn during peak hours. Sri. M.K Goel representing DSCL, Akbarpur has submitted that the plant needs backup power during power failures and therefore it is necessary that the plants be allowed to withdraw banked energy at any time during the day. The Petitioner was required to show operational and technical difficulty experienced in implementation of banking or withdrawal of banked energy or any other factor that warrants amendment in the regulations rather making the issue of rate of power drawn by it during peak hours. The Petitioner has not been able to cite any operational and technical difficulty faced in implementation of the scheme of banking. UPPCL has reiterated the written submissions made in reply to this Petition.

5.0 The basic issue in this Petition is in respect to rate of power drawn by Co-gen plants during peak hours when withdrawal of banked energy is not permitted. The Petitioner has not raised any operational and technical problem in implementation of the scheme.

6.0 The Commission initiated suo-moto proceedings to specify terms & conditions for supply of tariff for captive, renewable and non-conventional source based generating

plants and did not consider to allow banking vide Order dt.18.7.05. On Review Petitions seeking, inter alia, banking of energy, the Commission passed Order dt.15.9.05 in consideration of the prayer of the then Petitioners including the present Petitioner to allow banking during peak hours and withdrawal during off-peak hours, de-linking banking from grid frequency and reduced rate for supply of electricity by distribution licensee to such plants. The relevant portion of the said order is worth mentioning here as below:

“6.6 Banking of Power

The Petitioners have stated in their Petition that the banking of power enable them to bank a certain percent of the power sold to the distribution licensee during the period they generate electricity with an option to draw the same during off season months when the power is required by the co-generators. It is further submitted that in absence of banking they would have to pay double the HT tariff along with high demand charge of Rs.330/KW for import of power to start co-generation plant which would be quite exorbitant and need to be reviewed. In case the banking is allowed such export of power could be charges against the power banked with the distribution licensee.

Sri. K.N Ranasaria appearing on behalf of M/s Balrampur Chini Mills submitted that a part of the power be allowed to be banked during peak hours in crushing season to be drawn back in non crushing period at certain specified banking charges. Sri. Durga Prasad on behalf of the Association submitted that there was a need to relax the frequency linked provisions of the banking provided in the then existing Practice Direction as the same were very difficult to implement because of their linking with the frequency of the grid. Sri. Prasad suggested that banking be allowed during peak hour and drawing back during off peak hours.....

In banking of energy, unless linked to grid frequency, it would be difficult to balance the commercial interest of co-generator and the distribution licensee because the cost of supply in respect to them can not be brought at par on the basis of mere commodity exchange. Past experience is also not in favor of frequency linked banking. In case of frequency linked banking, the co-generator will be required not to draw power from the distribution licensee more than the declared load subject to commercial penalty to off set the adverse commercial impact on the licensee due to UI exchange with the grid under ABT. Such scheme, if implemented, would be akin to the scheme of ABT, which these petitioners are objecting.

In the impugned order, the Commission took a view that the banking is not required because distribution in licensee now has an obligation to purchase up to 100% of the surplus capacity on an offer from such co-generator subject to the percentage specified for purchase of power from such sources of energy. Since the Commission in the Draft Practice Direction, has allowed these generators to supply electricity to any other person in case, surplus power is still left with them. In the situation where vast market for sale of electricity has been made available to such generators, the banking is not a commercial option to be exercised and particularly in view of practical difficulties experienced by the parties to these Petitions in implementation of banking in past.

Further, in the draft Practice Direction, the Commission considered that the supply of electricity from these co-generators to distribution licensee and purchase of electricity by them from distribution licensee are two distinct

commercial aspects and for that reason proposed that in case these generators require power, it shall be supplied by the distribution licensee of their area to be charged under the category of consumer, to which it belongs to, at tariff specified by the Commission for retail supply for that distribution licensee. The Commission is convinced, that instead of banking of energy, there should be a tariff for sale of electricity by distribution licensee to such generators whenever the power is required by them in emergency or during shut down/maintenance of the plant. All generating stations in the State including captive generating plants and other non-conventional and renewable energy source based plants also requires such support from distribution licensee, therefore it would be appropriate to rationalize the tariff that shall be charged from such generators for supply of electricity required by them in the event of emergency or shut down or maintenance of the plant because the tariff options available under clause 10 of the then existing tariff direction are exorbitantly high. The UPPCL submitted that the Commission might decide the issue of banking.

.....
In consideration of above, the Commission considers it appropriate that the banking of energy may be allowed by providing a framework that address the concerns of all the stakeholders and comply with the regulatory requirements. The Commission has accordingly decided to allow banking of power by captive generating plants, Non-conventional source based generating plants and cogeneration plants subject to following conditions:

- a. Banking of power shall be allowed during the peak hours specified by SLDC.*
- b. Withdrawal of power shall be allowed only during the period when the grid frequency is more than 50 Hz.*
- c. The plants shall provide ABT compliant Special Energy Meters and the monthly settlement of energy sales shall be done based on:
 - i. Power supplied during the peak hours as per SEM meter readings*
 - ii. Power banked as per daily schedules given for banking of power during the month.**

The lower of the two shall be considered as banked power and monthly settlement shall be done for the balance energy supplied by the plant at the rate specified for supply of electricity to distribution licensee.

Provided that till implementation of intra-state ABT in the state of Uttar Pradesh, lower of the Power supplied during the peak hours as per SEM meter readings and the power banked as per the declaration given by the generating plant shall be considered as banked power.

- d. Upon introduction of intra-state ABT in the state of Uttar Pradesh, the banking as well as withdrawal of power shall be subject to day ahead scheduling.*
- e. The power withdrawn by the plant as ascertained by SEM readings, which could not be considered as withdrawal of banked power due to frequency conditions at the time of actual withdrawal, shall be considered as power purchased by the plant.*
- f. The purchase of power by these plants under clause (e) or otherwise shall be charged for the maximum-recorded demand and the energy at rate specified in the Schedule of retail Tariff corresponding to the declared load by the generator. No minimum consumption guarantee or other charges shall be levied on such generators. Excess load over and above the declared load shall be billed according to the provision of the relevant Schedule of Tariff specified by the Commission. This shall apply*

only to those generators who have commissioned the supply of power under the PPA with the licensee.

- g. A Generating Plant shall be allowed to withdraw power that was banked during a particular financial year in the same year or during the following financial year.*
- h. The banked power remaining unutilized on the expiry of the following financial year would be treated as sale and the financial settlement shall be made at the scheduled tariff for the year during which the power was banked subject to deduction of banking charges.*
- i. Banking charges shall be 12.5% of the energy banked”*

7.0 The Commission further reviewed Order dt.15.9.05 on its on motion and de-linked the banking of energy and its withdrawal from the grid frequency as reproduced below:

“2.0 Banking of Energy

2.1.0 The Commission reviewed order dated 18.7.05, passed in the matter of Suo-moto proceedings in the matter of terms and conditions of supply and tariff for captive generating plants and renewable and NCE source based plants, and allowed, in order dated 15.9.2005, inter alia the banking of energy by these plants with the distribution licensee with whom they have an arrangement for sale and purchase of electricity. The review petitioners, who were bagasse based Co-generators, sought banking for meeting the requirement of power during non crushing period. It was also submitted during hearing of the said review petitions that condition of frequency should be relaxed and banking be allowed during peak hours and its withdrawal during off-peak hours. The parties to the said petitions also stated that the effect of banking in past was almost nil due to its link with the grid frequency. It was found by the Commission in the proceeding that the banking practices adopted by those petitioners were not consistent with the provisions of banking specified by the Commission in the then Practice Direction. The Commission’s decision to allow banking was based on the consideration of the fact that these generating plants would require power from the distribution licensee in emergency or during shut down or maintenance of the plant and for that purpose it would be appropriate to allow banking and rationalize the tariff that shall be charged from such generator for supply of power in such events, because the tariff options available under clause 10 of the then Practice Direction were exorbitantly high.

2.1.1 In order dated 15.9.2005, it was recognized that frequency linked banking scheme was necessary to balance the commercial interest of these plants and the distribution licensee as the cost of supply in respect to them could not be brought at par merely on the basis of commodity exchange.

The banking of electricity was not allowed to captive generating plants in earlier Practice Direction but it was decided that similar support would also be required for such plants as such they should also be allowed banking of energy.

2.1.2 The Commission has received letter-dated 26.2.05 from M/s Balrampur Chini Mills Ltd. requesting for withdrawal of banked energy during off-peak hours or when the frequency is more than 50 Hz.

The Commission while considering the approval of PPA dated 13.5.05 signed with M/s Hindalco Industries Ltd. by UPPCL in Petition No.294/2005, came across with a different mechanism of banking agreed between the parties providing therein adjustment of a percentage of energy sold by Hindalco against the energy purchased from the licensee irrespective of withdrawal linked to

peak/off-peak hours or grid frequency. In the case of M/s Hindalco, the parties to the agreement submitted that the scheme of banking of the energy in the Agreement had been agreed to facilitate withdrawal of energy suitably for its industrial process, whenever captive generation was not adequate.

2.2 The Commission is baffled with the different procedures being adopted for banking of energy for different purposes. There could be several other schemes of banking which have so far not come in the knowledge of the Commission. There cannot be any scheme, which has neither been specified nor approved by the Commission. Therefore, the Commission decides to review the scheme of banking specified in order dated 15.9.05 on its own motion having regards to schemes of banking, which have been vogue in the past, arising out of different needs of these generating plants, subject to rationalization of such schemes. .

2.3

2.4 It is observed in the provisions of banking specified in order dated 15.9.05 that linking of withdrawal of banked energy with grid frequency may not deliver the results as the generating plants, which have no control over the frequency, shall not be in a position to plan the withdrawal of banked energy. Therefore, Commission decides to do away with the condition of frequency for withdrawal of energy.

Captive generating plants, setup and operated by industry, are mandatorily required to consume a minimum of the total 51% of generation for their self use on an annual basis. The Central Govt. in National Electricity Policy requires the Regulatory Commission to specify the commercial arrangement between the captive generating plant and the licensee for harnessing surplus power. Since, industrial processes are such that they may not require supply of power continuously at a constant load , therefore captive generating plants connected with the grid, shall have option of exchange of power with the grid unless they regulate their own generation. The regulation of generation would not be desirable, as that would deprive the State of surplus power, which could otherwise be made available to consumers. We are of the opinion that if the surplus capacity of generating plant is to be harnessed, it would be imperative that the plants are allowed to exchange energy with the grid on real time basis and an option also be given to captive generator and licensee to agree for supply of power from such plant and consider a part of such energy as banked energy with the Licensee for drawing back subject to conditions laid down by the Commission for that purpose. Therefore, the Commission decides to specify a separate scheme of banking for captive generating plants as such the provisions of banking as specified for captive generating plants in order dated 15.9.05 shall not apply on such plants.

2.5 In consideration of the discussion in foregoing Paragraphs, the Commission specifies the provision of banking of energy applicable for captive generating plants and co-generating plants, renewable & non-conventional energy sources based plants as below:

(A) Co-generating plants, renewable & non-conventional energy sources based plants:

The banking of power as provided under Para 6.6 of order dated 15.9.05 shall apply to co-generating plants, renewable & non-conventional energy sources based plants subject to modifications that banking of energy up to 100%, as agreed between such plants and the distribution licensee, shall be allowed in respect of the energy supplied during the period between 17:00 Hrs. to 22:00 Hrs. (specified as peak hours) and withdrawal of such banked energy, subject to

deduction of banking charges, shall be allowed during period other than the said period .

The settlement of unutilized banked power at the expiry of the following financial year would not be subject to deduction of banking charges as provided in Para 6.6 (h) of the banking scheme provided in Order dated 15.9.05.

Provisions of banking in the said Para of order-dated 15.9.05 shall be suitably modified in the regulation to be issued by the Commission.

.....”

8.0 It may be noted from Order dt.15.9.05 read with Order dt.12.1.06 that the Commission in consideration of the submissions made before it and difficulties, technical as well as commercial, expressed in implementation of the scheme of banking provided in the then existed Practice Directions, has framed the scheme of banking to meet the requirement of power in the events of emergency or shut down or maintenance of such plants by these Orders and subsequent Regulations; which provides for banking during peak hours and withdrawal during off peak hours irrespective of grid frequency and the provisions of billing for purchase of electricity from the distribution licensee is also rationalized. It may be seen that Para 6.6 (f) of Order dt.18.7.05, as mentioned above, has effect to modify the provisions of billing for sale of electricity to such plants resulting into reduced financial burden. It is erroneous to compare the cost of supply from these plants and that from the distribution licensee because the cost to serve of distribution licensee includes diverse expenditures & losses, which are not present in case of such plants. The Commission, in above Orders, has struck a balance between the commercial interests of both the parties and no further reduction can be afforded at the cost of the Respondent. We don't find any issue, which has either not been considered or decided by the Commission. The Petitioner has also failed to show any operational and technical difficulty being faced in implementation of the scheme. Therefore, we do not find any ground to review our decision. It may be noted that the commercial issues raised in this petition are the subject matter of the retail tariff and this is not the occasion to deal with in this Petition. The Petitioner is at liberty to agitate the issue at appropriate opportunity.

9.0 The Petition is disposed of.

(R.D Gupta)
Member

(P.N Pathak)
Member

(Vijoy Kumar)
Chairman

Lucknow; Dated: 3rd Jan, 2007