

BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

Petition no.461/07

IN THE MATTER OF: Permission for wheeling of power from Dalmia Chini Mill, Jawaharpur to Dalmia Chini Mill, Ramgarh and vicer-versa.

AND

IN THE MATTER OF:

Petitioner:

1. M/s Dalmia Chini Mills,
Village-Jawaharpur,
Distt-Sitapur,
UP
2. M/s Dalmia Chini Mills,
Village-Ramgarh,
Distt-Sitapur,
UP

Respondents:

1. U.P. Power Corporation Ltd.
(*through MD*)
7th Floor, Shakti Bhawan,
14,Ashok Marg,
Lucknow.
2. Madhyanchal Vidyut Vitran Nigam Ltd.
4-A, Gokhle Marg,
Lucknow

The following were present:

1. Mr Ajay Vikram Singh, Advocate, Dalmia Chini Mills,
2. Mr S.P Pandey, EE(PPA), UPPCL

ORDER

(Date of hearing 17.9.07)

1.0 We have heard the parties.

2.0 The Petitioner has stated in the petition that it has two sugar units situated at Jawaharpur and Rampur for which Power Purchase Agreements has been signed with the Respondents for supply of power. Jawaharpur unit has been commenced generation while Ramgarh unit is due to commence supply by June,07. It is further stated that these units need power from other sources in case of breakdown or maintenance of the plant. For meeting such requirements, the Petitioner is seeking permission to wheel power between units at Jawaharpur and Ramgarh at wheeling charge at the rate of 12% of total wheeled energy.

In written submission made on 4.6.07, the Petitioner has further argued that the generating plants owned by the Petitioner do not have any separate entity but are deemed to be the generating stations of the generating company under Regulation

23(2). As such banked power of these units is to be regarded as the power of M/s Dalmia Cement (Bharat) Ltd. as the generating company and accordingly the Petitioner must have right to wheel the power between the said units.

3.0 The Petitioner in the hearing has pleaded that wheeling between the said units be permitted for reason of being the plant of the same generating company.

4.0 The same issue has been decided by the Commission in order dt.25.9.07 passed in Pet no.450/07, UP Sugar Mills Co-gen Association Vs. UP Power Corporation Ltd.(UPPCL) and the same is reproduced hereunder:

“
.....
4.0 The definition of ‘Generating Company’ under Regulation 6 of the Uttar Pradesh Electricity Regulatory Commission (Terms and Conditions for Supply of Power and Fixation of Tariff for sale of power from Captive Generating Plants, Co-generation, Renewable Sources of Energy and Other Non-Conventional Sources of and Energy based Plants to a Distribution Licensee) Regulations,2005 (referred to as CNCE Regulations) should be read within the context drawn in Regulation 23 (2) and 29 (1) to arrive at a decision whether it refers to a particular plant of such company or all entities under its control. Regulation 23 (2) & 29 are reproduced below:
Regulation 23 (2)

“The Plant shall be deemed to be a generating station of a generating company within the meaning of section 7 of the Act which shall establish, operate and maintain a generating station without obtaining a license under the Act if it complies with the standards specified by the authority under section 53 and section 73 of the Act. However, for hydroelectric generation, the provisions of section 8 of the electricity Act,2003 shall apply.”

Regulation 29(1)

“All Co-Generation, Renewable Source of Energy and Other Non-Conventional Energy Sources based plants shall be allowed to sell power, over and above the capacity required for their own use, to the Distribution Licensee in whose area the plant is located at the rate specified in Schedule II:

Provided that purchases under these regulations shall be restricted to 7.5 percent of total power purchased by concerned distribution licensee in MUs. The distribution licensee on an offer made by the said plants for entering into a power purchase agreement, the same shall be signed by such licensee within two months failing which the generating company may approach the commission for suitable remedy. The distribution licensee shall

purchase such capacity through competitive bidding process as as and when notified by the Commission:

Provided further that the plant shall be allowed to sell the power available after sale to the concerned distribution licensee to any other licensee or a consumer at mutually agreed rate:

Provided further that supply to any distribution licensee other than the distribution licensee of the area in which the plant is located or to any consumer shall be subject to provisions of Open Access Regulations:

Note:- Other Non-conventional Sources of Energy shall include, inter alia, generation from wind, solar, municipal waste, industrial wastes including solid, semi solid, liquid and gaseous wastes and bio-gas.”

The above Regulations state that the plant shall be deemed to be a generating station of a generating company for the purpose of Section 7 of the Act which states that ‘any generating company may establish, operate and maintain a generating station without obtaining a licence under this Act, if it complies with the technical standards relating to connectivity with the grid referred to in class (b) of Section 73’ however an agreement for sale of electricity shall be made on an offer made by the plant and the same shall be signed by the licensee within 2 months. The Regulation 29(1) further provides the plant to sale power, available after sale to distribution licensee of its area, to any other licensee or a consumer at rate mutually agreed subject to provisions made under Open Access Regulations. These regulations and that made for banking in Regulation 39 make references exclusively to the plant only.

Therefore, in consideration of above, we are unable to accept the argument forwarded by the Petitioner that the energy banked by the plant with the distribution licensee could be wheeled for the use of sister unit of generating plant and hold that Regulation 39 provides withdrawal of banked power in the event of emergency or shutdown or maintenance by the concerned plant for which an Power Purchase Agreement for sale of power has been signed between the parties.....”

5.0 We reiterate the decision taken in Pet. no. 450/07, as above, in this petition also.

6.0 The petition is disposed of.

(R.D Gupta)
Member

(P.N Pathak)
Member

(Vijoy Kumar)
Chairman

Lucknow; Dated: 25th Sep, 2007