

**Before the
MAHARASHTRA ELECTRICITY REGULATORY
COMMISSION**
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Case No. 64 of 2009

**In the matter of
Indo Rama Synthetics (I) Limited for payment of dues for injection of
excess power into the MSETCL network**

**Shri V. P. Raja, Chairman
Shri S. B. Kulkarni, Member
Shri V. L. Sonavane, Member**

Indo Rama Synthetics (I) Ltd.

A 31, MIDC Industrial Area, Butibori,
Nagpur – 441122

.... Petitioner

V/s

Maharashtra State Power Committee

... Respondent

ORDER

Dated: March 29, 2010

M/s Indo Rama Synthetics (I) Ltd (“IRSL”) submitted a Petition under affidavit before the Commission) on May 04, 2009 (and rectified the deficiencies on June 19, 2009), with the following prayers:-

“

It is humbly and respectfully prayed that the Hon’ble Commission be pleased to consider all the aspect in proper perspective and pass necessary order for release of Rs. 121.25 lacs at the earliest.”



2. The Petitioner states that it is a company incorporated under the Companies Act, 1956 and having a Captive Power Plant with generating capacity of 52.5 MW (52.5 MW D.G. sets) and is in the business of sale of excess power of 22 MW to 24 MW after meeting its captive requirements.

3. The Petitioner submits that it had entered into a contract with Tata Power Trading Co. Ltd. ("TPTCL") for sale of power. The Petitioner further submits that from May 1, 2008 to May 8, 2008, due to some technical operational misunderstanding, the 22 MW power was scheduled to JSW and TPTCL. It is also submitted that SLDC maintains all the accounts of intake of power into the system through internal balancing mechanism system. SLDC realized a shortfall of 22 MW from the Petitioner and for that the UI calculated by MSPC is at the highest cost and they levied a UI bill (4.04 million units) amounting to Rs. 3.08 crore, which has been paid by the Petitioner.

4. The Petitioner submits that during the period from June 1, 2008 to June 8, 2008, the Petitioner had injected excess power to the tune of 1.607 million units into MSETCL network due to some technical operational misunderstanding between the applicant and TPTCL in the time slot of 00:00 hrs to 09:00 hrs. The cost for this amount of electricity, as calculated by the Petitioner, is Rs. 121.25 lakh.

5. The Petitioner submits that it had written to the Chief Engineer, SLDC, MSETCL, Navi Mumbai who is also the Secretary of MSPC about the claim against MSPC in regard to the abovementioned excess injection of power.

6. The Petitioner submits that, it has a contract with TPTCL for sale of about 22 MW power on RTC basis from May 1, 2008 to June 16, 2008. It is stated that, from June 1, 2008 to June 8, 2008, TPTCL could not schedule the power between 00:00 hrs to 09:00 hrs and on the pretext that TPTCL was scheduling the power, the Petitioner went on injecting the power during this period, leading to the excess pumping of power to the tune of 1.607 million units. The Petitioner had requested to adjust the UI charges for the 1.607 million units, but it had not been considered by SLDC, MSETCL.

7. The Petitioner submits that, Reliance Energy Ltd. has offered to realize the excess power @ Rs. 4.5/- per unit, but the same is held up.

8. The Petitioner had, in its Petition, requested the Commission to settle the energy consumption as per Internal Balancing Settlement Mechanism. The Petitioner further submits that it would be unreasonable and not commercially sound to ignore the payment for the consumed power, and that the Petitioner is prepared to settle with the actual cost plus appropriate administrative charges estimated Rs 121.25 Lacs at the rate of Rs 7.55 per kwh.



9. The Commission vide its letter to the Petitioner dated October 14, 2009 directed the Petitioner to file documentary evidences on the fact that the Petitioner has been pursuing with SLDC for release of the payments and the replies given by SLDC.

10. The Commission, vide its Notice dated October 30, 2009, scheduled a hearing in the matter on November 9, 2009, in the presence of four consumer representatives authorised on a standing basis under Section 94(3) of the EA 2003. The Commission also directed the Petitioner to serve a copy of its Petition, along with its accompaniments, to all the Respondents and the four consumer representatives.

11. During the hearing, Shri S. G. Kelkar, Chief Engineer, SLDC, MSETCL admitted that there was an excess injection of power during June 1, 2008 to June 8, 2008 and the same was not paid in accordance with Regulation 40.3 of MERC's Tariff Regulations, 2005. MSLDC also submitted that the injected power was not scheduled as no contract was in place.

12. The Commission directed MSLDC to file its para-wise reply including the factual position on or before November 27, 2009. Further, the Commission directed the Petitioner to submit its rejoinder within seven days after receipt of reply from SLDC, MSETCL. The Commission scheduled the next hearing in the matter on December 04, 2009.

13. SLDC, MSETCL vide its letter dated November 26, 2009 submitted its para-wise reply on behalf of MSPC. In its reply, SLDC, MSETCL submitted that the Petitioner had a contract with TPTCL for sale of 22 MW of power to BEST for the period of April 1, 2008 to June 30, 2008 between 9:00 Hrs. to 24:00 Hrs and for sale of 22 MW of power to APPCC for a period of May 1, 2008 to May 15, 2008 between 00:00 Hrs to 9:00 Hrs. Simultaneously, the Petitioner also signed a contract with JSW PTC on RTC (Round the Clock) basis for sale of power to APTRANSCO for the period of May 1, 2008 to May 8, 2008. Due to double scheduling of the 22 MW power, MSPC had raised UI bill of Rs. 3.08 Crores for less injection of energy by the Petitioner, which has been paid by the Petitioner.

14. As per the contract agreed upon between TPTCL and the Petitioner, SLDC, MSETCL had given approval for sale of power to BEST for the period of April 1, 2008 to June 30, 2008 during a time block of 09:00 Hrs to 24:00 Hrs, excluding Sundays and other holidays. Further it has been mentioned by SLDC, MSETCL that there was no contract between the Petitioner and TPTCL for sale of 22 MW of power during a time block of 00:00 hrs to 09:00 hrs for the period from June 1, 2008 to June 8, 2008, even though the Petitioner had injected 22 MW (1.607 MUs) of power into the grid without any contract and schedule or knowledge of MSLDC.



15. SLDC, MSETCL referred to the Section 32(2)(a) of EA 2003, which is reproduced below:

“The State Load Despatch Centre shall... be responsible for optimum scheduling and despatch of electricity within a State, in accordance with the contracts entered into with the licensees or the generating companies operating in that State.”

16. SLDC, MSETCL also referred to the Commission’s order dated May 17, 2007 in Case No. 42 of 2006 in Clause 2.2.11 where it is stated, *“the Commission has not considered generators as a part of imbalance pool settlement”*. Also, SLDC has referred to Clause 40.3 of MERC (Terms and Conditions of Tariff) Regulations, 2005.

17. SLDC, MSETCL referred to its 5th meeting conducted on September 30, 2008 where it was decided that, *“...in order to ensure accounting of the injected power, the volume of injected power shall be allocated amongst the State Pool Participants in proportion to their drawal without any obligation on the commercial front.”*

18. SLDC, MSETCL also stated that there has been no communication to MSPC from R-Infra or any other utility regarding the purchase of this unscheduled power of 22 MW @ Rs. 4.5 per unit.

19. Further, as directed by the Commission, the data of central sector drawal and the corresponding frequency for the period from June 1, 2008 to June 8, 2008 during the time block of 00:00 hrs to 09:00 hrs has also been submitted by the SLDC, MSETCL.

20. SLDC, MSETCL further submitted that, since the Petitioner injected the energy without any contract / schedule or knowledge of SLDC, MSETCL the question of making payment for the same does not arise. If such transaction is permitted, it will result in creation of wrong precedence and result in more such cases. Further, SLDC, MSETCL added that in future, a number of open access generators, who are unable to sell their costly off peak power especially during night hours, will simply inject the power without any contract / schedule at the time when such power is not needed. Considering the above facts, SLDC, MSETCL requested the Commission, not to consider the present Petition.

21. The Petitioner vide its letter dated December 2, 2009 submitted its rejoinder. In its rejoinder, the Petitioner submitted that the sale of power was through TPTCL from April 1, 2008 to June 30, 2008 to different utilities which is on the record with SLDC, MSETCL as the SLDCs are the sole authorities for issue of corridor for transmitting the scheduled power.

22. It has been stated by the Petitioner that, through oversight, the Petitioner had made the RTC contract with JSW PTC for sale of 22 MW power to APTRANSCO for the period from May 1, 2008 to May 8, 2008. Due to this double scheduling, UI charges have been paid to the tune of Rs. 3.08 crores. It has been also stated that the SLDCs are mandated u/s 32 of EA, 2003 to ensure integrated operation of the power system and they cannot thus, escape the responsibility of monitoring and accounting.

23. In the instant case, RTC power was injected upto May 31, 2008 and unknowingly the power evacuation was continued up to June 8, 2008 on RTC basis and after realizing on June 8, 2008 that the power from June 1, 2008 onwards was not scheduled by TPTCL for APPCC for 00:00 hrs to 09:00 hrs on weekdays and RTC on Sundays and holidays, M/s IRSL stopped the supply of power.

24. The Petitioner submitted that the Order issued by the Commission in Case No. 42 of 2006 issued on May 17, 2007 is not applicable in this situation. The Petitioner further submitted that SLDC, MSETCL had given approval from April 1, 2008 to June 30, 2008 for supply of power by the Petitioner to BEST through TPTCL from 09:00 hrs. to 24:00 hrs., and from 00:00 hrs. to 09:00 hrs., it was scheduled to be supplied to APPCC through TPTCL. The Petitioner came to know that TPTCL had not sought the extension of corridor for STOA from June 1, 2008 onwards during 00:00 Hrs. to 09:00 Hrs and RTC on Sundays and Holidays and had not communicated to the Petitioner about the same and therefore, the Petitioner was under the impression that the power was to be supplied. Further, SLDC, MSETCL was in the knowledge of receipt of energy as it was an unscheduled evacuation. However, the same had not been communicated to the Petitioner so that the evacuation could have been stopped. Since the Petitioner did not receive any such communication from MSLDC, it was presumed that the injection was scheduled.

25. The Petitioner submitted that the power injected into the grid was consumed by the pool members and the beneficiaries are MSPC members. The MSPC members have accepted power in their system and recovered the charges from the consumers, and now they are denying the payment for such power to M/s IRSL.

26. During the hearing, the Petitioner submitted that R-Infra vide its letter dated October 20, 2008 proposed that in case MSLDC, TPC, BEST and MSEDCL permit, then R-infra was ready to purchase the 1.607 MUs of power extra injected by the Petitioner at the rate of Rs. 4.5/- per unit. Further, it was submitted by the Petitioner that, if the power is supplied, then the Petitioner is entitled to get the compensation for that power. MSLDC submitted that there



was no communication to MSPC from M/s. Reliance Infrastructure Limited (RInfra) or any other utility regarding the purchase of this unscheduled power of 22 MW (1.607 MUs) at the rate Rs. 4.5 per unit.

27. A hearing in the matter was held on December 4, 2009. Thereafter, on December 8, 2009, the Petitioner refuted SLDC's contention that allowing payment for injected energy without any contract / schedule or knowledge of SLDC, would result in creation of wrong precedent. Only in this regard, the Petitioner has relied upon certain judgments.

28. The Commission notes as per MSLDC's submission that the energy injection of 1.607 MU under consideration pertains to the period June 1, 2008 to June 8, 2008 for the duration 00:00 hrs to 09:00 hrs for which no contract was valid or no intimation was provided to MSLDC for scheduling such power, the fact which has not been denied by the Petitioner. The Commission opines that any injection, without valid contract and/or complying with scheduling requirements as per prevalent procedures for scheduling and dispatch, (however, unintentional and caused due to technical operational misunderstanding as submitted by the Petitioner) would not in principle be in the interest of disciplined operations of the grid which is of paramount concern from the perspective of reliable and safe operations of the Grid. Accordingly, the Section 32 (2) mandates the SLDC to be responsible for optimal scheduling and dispatch of electricity within State, in accordance with the Contracts entered into with the licensees or generating companies operating in that State.

29. Further, in this context, the Commission observes the related provisions of MERC (Terms and Conditions of Tariff) Regulations, 2005, viz. (Regulation 40.3 - in case of long term contracts by Generating Company) and Final Balancing and Settlement Code (Clause 15.1.3 - in case of short term contracts for merchant generation) which are summarized below:

40.3 Where the declared capacity of the generating station is on the lower side and actual generation is more than the declared capacity, then any charges for unscheduled interchange due to the Generating Company on account of such extra generation shall be reduced to zero and the amount shall be credited to the account of the Distribution Licensee in proportion to the share of the Distribution Licensee in the installed capacity of such generating station (Ref. Regulation 40.3 of MERC (Terms and Conditions of Tariff) Regulations, 2005.



15.1.3 Applicability of UI charges to Merchant Generator

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 - *Case of Inter-State sale: In case of over-generation, the generator shall be compensated at the lowest variable cost of the State owned generating stations. Further, in case of under-generation, the generator shall be liable to pay at state SMP applicable for the relevant time-block.*
- (Ref. Clause 15.1.3 of Final Balancing & Settlement Code)**

30. Thus, even in cases where valid contract exists, the over-generation shall be compensated at the lowest variable cost of the State owned generating stations. Due to the peculiar circumstances of this case, in the absence of valid contract or confirmation of the schedule for power off-take for the duration (00:00 hrs to 09:00 hrs from June 1, 2008 to June 8, 2008), the Commission hereby rules that the injection may be compensated at the lowest variable cost of the State owned generating station, as applicable for the period under consideration. Further, as regards allocation of injected power, the Commission hereby rules that such quantum of injected power shall be allocated amongst the State Pool Participants in proportion to their drawal, as recorded in the Minutes of 5th Meeting of the Maharashtra State Power Committee (MSPC). However, this order shall not be quoted as any kind of precedent by anybody including open access generators injecting power without any contract / schedule at the time when such power is not needed.

Accordingly, the petition filed by M/s IRSL in Case 64 of 2009 stands disposed of.

(V.L.Sonavane)
Member

(S.B.Kulkarni)
Member

(V.P.Raja)
Chairman



(K.N. Khawarey)
Secretary, MERC