

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH

Petition No. 30 of 2021
Date of Order: 17.09.2021

Petition under Section 86 of the Electricity Act, 2003 read with Article 17 of the Power Purchase Agreement dated 01.09.2018 entered into between the Petitioner and Punjab State Power Corporation Limited, erstwhile Punjab State Electricity Board (PSEB)) seeking issuance of correct Energy Accounts by Punjab State Load Despatch Centre (SLDC) as per its declared availability and payment of Capacity charges by PSPCL.

AND

In the matter of: Talwandi Sabo Power Limited, Village Banwala, Talwandi Sabo Road, District Mansa- 151302.

.. Petitioner

Versus

1. Punjab State Load Dispatch Centre, Ablowal, Patiala, Punjab- 147004.
2. Punjab State Power Corporation Limited, the Mall, PSEB Head Office, Patiala, Punjab -147001.
3. Punjab State Transmission Corporation Limited, the Mall, PSEB Head office, Patiala, Punjab- 147001.

..Respondents

Present: Sh. Viswajeet Khanna, Chairperson
Ms. Anjuli Chandra, Member
Sh. Paramjeet Singh, Member

ORDER

Talwandi Sabo Power Limited (TSPL) has filed the present petition under section 86 of Electricity Act, 2003 read with article 17 of Power Purchase Agreement (PPA) dated 01.09.2018 entered into between the petitioner and Punjab State Power Corporation Limited (PSPCL/PSEB) for seeking issuance of correct energy accounts by Punjab State Load Despatch Centre (PSLDC) as per its declared availability and payment of capacity charges.

2. TSPL has entered into a PPA on 01.09.2008 with PSEB, to sell its 100% Power generated to erstwhile PSEB now PSPCL for a period of twenty five years and the dispute has now emanated between the parties on account of incorrect state energy accounts as issued by PSLDC (R-1) and non-payment of capacity charges by PSPCL (R-2) to TSPL as per its Declared Capacity (availability). Accordingly, TSPL submitted that it is entitled to capacity charges as per the Declared Capacity (availability) but has been denied the same by PSPCL (R-2) and its position is of an unpaid seller and therefore, claiming relief under the PPA and has prayed the commission to admit the petition; hold and declare that the petitioner is entitled to capacity charges based on the declared availability; direct PSLDC to correct the State Energy Accounts for the months of December 2015, November and December 2016, November 2017, December 2018 and January 2019; direct PSPCL to pay Capacity Charges based on Declared availability for December 2015, November and December 2016, November 2017, December 2018 and January 2019 and direct PSPCL to pay Late Payment Surcharge on the unpaid capacity charges in terms of the PPA.

3. The petition was taken up for hearing on admission on 30.06.2021, wherein the Respondents submitted that the petition is not maintainable and the Respondents were directed to file their reply on the issue of

maintainability of the petition and vide order dated 01.07.2021 the matter was adjourned for hearing on admission on 11.08.2021.

4. In compliance of the order dated 01.07.2021, PSLDC vide memo no. 1538 dated 15.07.2021 filed its reply submitting that as per clause no. 2.7.6 of the Punjab State Grid Code, Commercial and Metering Committee (CMC) is authorized to deliberate and decide the issues relating to the monthly energy account and settlement prepared by PSLDC. The claim of TSPL in the petition was already deliberated in detail in CMC meetings held on various dates and after the detailed discussion and study of available data, all the claims related to Declared Capacity of TSPL were disallowed by CMC. These facts were not disclosed by TSPL in the petition. Accordingly, PSLDC has prayed that the petition of TSPL is not maintainable and liable to be rejected.

5. PSPCL vide memo no 6768 dated 22.07.2021 filed its reply submitting that, the petition filed by TSPL is not maintainable, since, TSPL has suppressed the material fact that the CMC has given his conclusive findings in terms of the Punjab State Grid Code and has held that TSPL is not entitled to a revision of the energy accounts. TSPL has not even challenged the findings of the CMC which are therefore, deemed to have been accepted by TSPL.

6. In compliance of order dated, 01.07.2021, PSTCL vide memo no. 1663 dated 04.08.2021 filed its reply submitting that, TSPL has not reported true facts and has concealed the decisions taken by CMC in its petition and failed to explain the facts before the Commission. On these grounds, PSTCL has prayed that petition of TSPL is not maintainable and is liable to be rejected.

7. TSPL vide letter dated 04.08.2021, filed its rejoinder to the reply filed by PSPCL submitting that, as per clause 14.1.6 of Punjab State Grid Code, TSPL has to approach CMC for raising an objection and correction of SEA

in the first instance. Further, as per clause 2.7.6 of the State Grid Code, the CMC is also responsible for coordinating the preparation of SEA as well as for resolution of any disputes arising out of the same. TSPL had written various letters to the respondents, requesting them to convene the meeting of CMC for resolving the issue regarding SEA. After a significant delay, the CMC was convened, for the first time on 27.05.2019. After the CMC had given its final findings, TSPL could have approached the Commission regarding the said decision given on 24.10.2020, therefore, the petitioner had a period of three years from 24.06.2020 onwards for approaching the Commission and accordingly, the petitioner had approached the Commission well within the limitation period of three years.

8. TSPL also submitted that as per clause 1.10.1 of the Punjab State Grid Code, any dispute arising with reference to the safe, secure and integrated operation of the State Grid shall be referred to the Commission for decision. Therefore, TSPL has approached the Commission for seeking relief as prayed in the petition and has submitted that the instant petition is maintainable.

9. The matter was taken up for hearing on admission on 11.08.2021, wherein, after hearing the parties on the issue of maintainability of the petition, Order was reserved.

10. Observations and Decision of the Commission

Keeping in view the averments made by the parties, the Commission refers to Regulation 2.7.6(v) of PSERC (State Grid Code) Regulations, 2013 which specifies that the Commercial and Metering Committee (CMC) shall deliberate and decide the issue relating to the monthly energy account and settlement prepared by SLDC. In this regard Regulation 2.7.6 ibid is reproduced below:

2.7.6 Commercial & Metering Committee (CMC)

Commercial & Metering Committee shall coordinate the implementation of the Metering Code (Part VI) to ensure that the respective constituents discharge their obligations under the Metering Code. The committee shall also be responsible for coordinating the preparation of state energy account in accordance with the provisions of the State Grid Code.

The committee shall comprise of Chief Engineer level members to be nominated by the State Grid Code Review Committee, which shall meet every month. The rules to be followed by the Commercial & Metering Committee in conducting its business shall be formulated by the committee itself and shall be approved by the State Grid Code Review Committee.

The committee shall perform the following functions:-

- (i) Keep Metering Code and its implementation under scrutiny and review and to ensure compliance thereof;
- (ii) Consider all requests for amendment to the Metering Code which any User makes;
- (iii) Create awareness about various issues related to the Metering Code;
- (iv) Review deviations in the existing CTs and PTs/CVTs from the minimum specifications prescribed in the State Grid Code and upgradation/ replacement of the same within one year of coming into effect of the State Grid Code;
- (v) Deliberate and decide the issues relating to the monthly energy account and settlement prepared by SLDC;
- (vi) Resolve any energy accounting and settlement disputes arising out of metering failure;

- (vii) Review and propose amendments, if necessary, in the methodology and principles for maintaining State Energy Accounts;
- (viii) Resolve billing disputes and complaints regarding Open Access consumers as per the redressal mechanism under PSERC (Terms and Conditions for Intra-state Open Access) Regulations 2011, as amended from time to time.

Further Regulation 14.1.6 of PSERC (State Grid Code) Regulations, 2013 specifies as under:

14.1.6

Monthly State Energy accounts for Punjab shall be prepared by SLDC by 7th of every month and shall be conveyed to all concerned for raising bills. Such energy accounts shall be subject to inspection/ verification/checking and raising any objection within 15 days of date of issue. If no objection is raised, energy accounts shall be finalized. In case, any objection is raised, same shall be deliberated in Commercial and Metering Committee and finalized as per their decision. Supplementary bills/credit note shall be raised accordingly.

Thus it follows that as per (State Grid Code) Regulations, 2013, the Commercial and Metering Committee (CMC) is the designated authority to deliberate upon and decide the issue relating to the monthly energy account and settlement prepared by SLDC and in case any objection is raised, the same is to be deliberated upon in the CMC and finalized as per its decision. In the instant case, the matter has already been considered by the CMC and as per the copies of minutes of meetings of the CMC placed on record by the respondents, the CMC, in its 20th and 21st meetings held on 19.05.2020 and 24.06.2020 respectively, has clearly disallowed the

claims made by the petitioner. The petitioner has not referred to or assailed the findings and decisions of the designated authority i.e. the CMC. Since the matter already stands deliberated upon and decided by the CMC whose findings and decision have not been challenged; the Commission holds that no case is made out by the petitioner at this juncture hence the petition is held to be not maintainable and is dismissed in limine.

Sd/-
(Paramjeet Singh)
Member

Sd/-
(Anjuli Chandra)
Member

Sd/-
(Viswajeet Khanna)
Chairperson

Chandigarh
Dated: 17.09.2021

