

Rajasthan Electricity Regulatory Commission

Petition No. RERC/1783/2020

Petition filed under Section 86 (1) (c), (k) and (e) of the Act seeking directions to Surya Urja Company for facilitating smooth generation of solar energy without undue impediments.

Coram:

Shri Shreemat Pandey,	Chairman
Shri S. C. Dinkar,	Member
Shri Prithvi Raj,	Member

Petitioner : 1. M/s ACME Jodhpur Solar Power Pvt. Ltd.
2. M/s ACME Rewa Solar Power Pvt. Ltd.

Respondents : 1. Surya Urja Company of Rajasthan Ltd.
2. Rajasthan Rajya Vidyut Prasaran Nigam Ltd. (RVPN)

Date of hearings : 11.08.2020, 04.08.2020, 14.08.2020, 26.08.2020 and 06.10.2020

Present : 1. Sh. P. N. Bhandari, Advocate for Petitioners
2. Sh. Arijit Maitra, Advocate for Surya Urja Company
3. Sh. Umang Gupta, Advocate for RVPN

Order Date:

08.12.2020

ORDER

1. Petitioners have filed this petition along with stay application on 28.07.2020 under Section 86 (1) (c), 86(1) (k) and Section 86(1)(e) of the Electricity Act, 2003 seeking directions to M/s Saurya Urja Company of Rajasthan Limited, a solar park developer for not obstructing generation of solar energy.
2. Notices were issued to Respondents on 28.07.2020 to file reply to the petition. Respondent M/s Surya Urja Company of Rajasthan Ltd. (Surya Urja

Company) and Rajasthan Vidyut Prasaran Nigam Ltd. (RVPN) filed their reply on 11.08.2020. Petitioner filed rejoinder to the replies on 24.08.2020. Surya Urja Company submitted their reply to rejoinder on 08.09.2020.

3. The matter was finally heard on 06.10.2020. Sh. P. N. Bhandari, Advocate appeared for Petitioners. Sh. Arijit Maitra, Advocate appeared for Respondent Surya Urja Company and Sh. Umang Gupta, Advocate appeared for RVPN.
4. Petitioners in petition, rejoinder and during hearing submitted as under:
 - 4.1. Petitioners have set up 2X100 MW AC Solar power projects under MNRE Nation Solar Mission (NSM) scheme and have signed PPA with Solar Energy Corporation of India (SECI) which was further signed back to back PSA dated 12.05.2017 with Rajasthan Urja Vikas Nigam Ltd to sell 750 MW solar power. Petitioners project was commissioned on 21.09.2018 and 24.09.2018 and SECI issued COD certificates dated 02.01.2019 to the Petitioners.
 - 4.2. Petitioners have also executed Implementation Support Agreement (ISA) on 03.01.2018 with Saurya Urja Company which is responsible for infrastructure development of the Solar Park.
 - 4.3. Saurya Urja Company is a 50:50 Joint-venture between IL&FS and Government of Rajasthan and has set up the solar park under MNRE NSM scheme for the development of solar parks.
 - 4.4. Petitioners are operating their solar plants under the said solar park and are connected to 220/400 kV substation of Saurya Urja Company. Other than the Petitioners, M/s SB Energy having capacity of 300 MW is also connected to the said substation. Therefore, a total of 500 MW is connected to Saurya Urja Company substation which has a capacity of 625 MVA and which is further connected to RVPN grid substation.

- 4.5. Saurya Urja Company vide email dated 15.01.2019 communicated to the Petitioners that generating station of the Petitioner(s) is occasionally over injecting solar power in the grid and requested to restrict solar generation, even for short spells.
- 4.6. Further, IL&FS vide email dated 25.05.2019 sent a snapshot of the peak load capacity recorded at a specified time on 25.05.2019 as 109 MW and 107 MW at different plots which was slightly higher than the contracted capacity i.e. 100 MW. Saurya Urja Company requested the Petitioners to restrict the power flow.
- 4.7. During peak hours of the day, the solar projects occasionally, for very short spells, tend to generate more electricity due to high solar radiation. Such natural fluctuations are beyond human control. Fluctuations in renewable energy generation are inevitable and unavoidable and are a basic feature of renewable energy whether it is solar or wind. Recognizing the inherent nature of fluctuations in solar/wind generation, the CERC/RERC Regulations provide for such occurrences without levy of any penalty.
- 4.8. Further it is pertinent to note that solar inverters are manufactured with marginal additional capacity to balance any instantaneous fluctuations during any 15 minutes block of peak hours. Therefore, during peak hours of the day, the instantaneous solar generation may be marginally higher for very short spells. In the present case, the project has the capability to generate 10% instantaneous power more than its rated capacity owing to high solar irradiance. In last few months, due to high radiation during peak hours, the project is consuming more solar irradiance and occasionally generating power upto 110% of the capacity.
- 4.9. PPA has been executed between Petitioner and SECI to supply 100 MW power from the generating station to the delivery point. However, the performance obligation of the Petitioner to supply energy is fixed annually

to be maximum 240.900 MU and minimum 186.150 MU. In spite of such occasional rise in generation for a very limited period, it still remains within the range of contracted energy under Article 4.4.1 of the PPA with SECI as the generation is to be counted for the entire contract year and not on daily or monthly basis.

4.10. Capacity of substation to which Petitioners are connected is 125X5 MVA i.e. 625 MVA, thus there is an additional margin of 125 MW. Therefore, the evacuation infrastructure developed by Saurya Urja Company is capable of evacuating more than 20% of the contracted capacity of 100 MW each of Solar Power during the peak hours.

4.11. Neither SECI nor SLDC nor Rajasthan distribution companies have objected to such so called occasional over injection of power during short spells of peak hours. Saurya Urja Company by imposing unilateral limitations in the injection of contracted energy, act beyond its authority and functions as infrastructure developer of the solar park as stipulated in Request for Selection document (RFS) and ISA.

4.12. SLDC is authorized to reduce/curtail solar power generation if any excess generation is adversely affecting the grid generation. Saurya Urja Company should not assume role of SLDC and start monitoring the wheeling and injecting power. If the Regulations of CERC/RERC recognize certain level of fluctuations, the Saurya Urja Company should not issue any direction in violation of the Regulations.

4.13. Restricting solar generation is a criminal waste of natural resources and is against Indian Electricity Grid Code (IEGC)/RERC Regulations which give must run status to Solar/Wind power projects.

4.14. Further Clause 7.8 of Regulation 7 of RERC (Rajasthan Electricity Grid Code) Regulations 2008 (REGC) and Clause 5.2(h) of Regulation 5 of IEGC permit thermal generating units of 200 MW and above and all hydro units of

10MW/25MW to operate beyond 100% of their Maximum Continuous Rating (MCR) and instantaneously pick up to 105% and 110% of their MCR in case of sudden frequency falls.

4.15. Same analogy is applicable with equal force for other renewable sources i.e. solar and wind and allow evacuation of additional energy without endangering grid security. Therefore, in solar/wind energy plants any marginal increase in generation should be tested under the Regulations only. Neither SLDC nor Saurya Urja Company can ignore the Regulations notified by the Commission.

4.16. RERC (Forecasting, Scheduling, Deviation Settlement and Related Matters of Solar and Wind Generation Sources) Regulations, 2017 (DSM Regulations, 2017) unequivocally allow 15% over/under-injection without any penalty.

4.17. CERC has passed an order dated 12.02.2019 in 205/MP/2018 whereby, the CERC allowed schedule of overload capacity upto 10% from the hydro power project under Clause 5.2(h) of Regulation 5 of IEGC. It is pertinent to note herein that the rationale of the order is equally applicable to the generation of solar/ wind power as all these renewable energy sources are variable and intermittent in nature. Both the sources may generate marginally more power during the availability of excess of water and solar irradiance.

4.18. As per Regulation 5.2 (u) of IEGC concerned Load Despatch Centres have to make all efforts to evacuate available solar power and would not place any undue restriction on evacuation of power from solar generating stations unless the excess generation is likely to affect grid security, safety of any equipment or personnel is endangered. In the instant case, evacuation restriction are being illegally & thoughtlessly imposed by Saurya Urja Company who is merely a Solar park developer/implementing

agency and does not have any legal right to place such restrictions on day to day basis.

4.19. Commission has jurisdiction under Section 86 (1) (c) and Section 86(1) (k) read with Section 86(1)(e) of the Electricity Act, 2003 to facilitate intra-state transmission of electricity. It has wide and far reaching powers for promoting generation of renewable energy and for removing any impediments in the smooth generation of renewable energy, including solar energy.

4.20. It is patently wrong and grossly misleading that Petitioners have no grievance against intra-state transmission of electricity. In fact obstruction of generation and intra-state transmission of electricity by Saurya Urja Company is the sole problem. Saurya Urja Company is openly and flagrantly obstructing the Petitioners in generation and evacuation of solar Power.

4.21. Saurya Urja Company has stated that injection of power by Petitioners is directly impacting the internal transmission network created by the Respondent. There is nothing like internal transmission network. The entire transmission network falls under the Regulatory jurisdiction of the Commission and SLDC.

4.22. The DSM Regulations, 2017 have recognised the role of the Qualified Coordinating Agency (QCA) in spite of the fact that the QCA is a private person appointed by the generators in the solar or wind parks. In pursuance of the Regulatory functions, the commission has inherent powers to remove all hurdles and impediments to achieve the objectives of the Electricity Act.

4.23. The MNRE guidelines and all PPAs/contracts lead to the inevitable conclusion that the power generated by the Petitioners is to be injected in the state transmission system and supplied to Discoms. Hence it is wrong to

say, as stated by Saurya Urja Company that Section 86(1)(c) is not attracted. The Commission has the sole & exclusive authority for facilitating intra-state transmission and wheeling of electricity.

4.24. Further as per Sec 2 (37) of the Act, intra-State transmission system means any system for transmission of electricity other than an inter-State transmission system. There is no mention of the State grid starting after power is injected into the transformers of RVPN.

4.25. The solar park may be owned by Saurya Urja Company but every inch of transmission lines fall under the exclusive Regulatory sweep of the Commissions and SLDC. Intra-state transmission as laid down in Section 86(1) (c) starts from the point where the solar energy is injected in the system. Any impediment in facilitating intra-state transmission attracts the jurisdiction of the Commission under Section 86 (1) (c) & (e) of the Electricity Act, 2003.

4.26. Regulation 25 of the DSM Regulations, 2017 provides that if any difficulty arises in giving effect to these Regulations, the Commission may on its own motion or on an application filed by any affected party, issue such directions as may be considered necessary in furtherance of the objective and purpose of these Regulations.

4.27. It cannot be said that the Petitioners have nothing to do with transmission licensee, as they are injecting electricity only upto pooling point of the park developer. In fact, the generated electricity belongs to Petitioners & another generator. The QCAs appointed by the Petitioners, are injecting electricity in the transformer of transmission licensee, on behalf of the Petitioners. Hence in spite of the direct dispute with the park developer, the Petitioners are still injecting electricity in RVPN system, hence Petitioners are directly connected with RVPN.

- 4.28. Clause 86 (1)(k) enables the Commissions to deal with any unanticipated issues. Besides adjudicating, the Commissions have also law making power and at any stage, if required, the Commissions can notify fresh Regulations to deal with certain matters not provided earlier. The DSM Regulations, 2017 also provide power to relax under Regulation 24, power to issue directions under Regulation 25 and power to amend vide Regulation 26.
- 4.29. Further it is submitted that dispute resolution at the level of SECI can deal only with non-Regulatory issues but no bilateral agreement between the parties can deprive the SLDC of its Regulatory functions nor the powers of Commission or SLDC be exercised by SECI while deciding the bilateral issues between the parties.
- 4.30. The constitution bench of the Hon'ble Supreme Court has laid down emphatically in PTC case that if there is a conflict between a contract and a Regulation, then the Regulation will prevail. But in the present case, the contract is in conflict with the Electricity Act itself. As the contract purports to hand over Regulatory functions to SECI. SECI can under the contract resolve any issue so long as it does not encroach upon the Regulatory functions of the Commission.
- 4.31. It is the Park developer who is injecting power from its Pooling Point to the 400 kv GSS of RVPN. Therefore it should have been the responsibility of solar park developers to file day ahead schedules and face penalties for any over or under injection. But in present case schedules have to be given by the generators and penalties are faced by them and not by park developers. Neither the Electricity Act nor the Regulations recognise the entity of Park developer. Similarly SLDC does not recognise the entity of solar park developers.

- 4.32. Hence if the Park developer obstructs or harasses the generator, it cannot shield behind the plea that it is not licensee and therefore cannot amenable to the jurisdiction of the Commission.
- 4.33. RVPN officers have been posted on deputation to Saurya Urja Company from the very beginning. For tactical reasons, the transmission license has kept the Park developer on the front but effectively, behind its back, it is RVPN who is obstructing transmission & wheeling of Petitioners.
- 4.34. All the transmission elements are made with additional margin to handle any such fluctuations in power transmission. Respondents have failed to provide any cogent reasons to show that there is possibility of damaging the equipment or disturbance in the grid system if Petitioners accidentally inject upto 110% of the rated capacity of the solar plant.
- 4.35. RVPN is a necessary party and it is wrong to say that no relief has been claimed against RVPN. In the prayer relief has been claimed against both the Respondents. Both Respondents have majority shareholding of the State Government. Therefore, it is difficult to find out who is acting at whose Instance, because of the close collaboration between the two Respondents, the two organizations are jointly responsible.
- 4.36. In view of above submissions, it is prayed that-
- (a) Respondents may kindly be directed not to raise any impediments in generation of solar power.
 - (b) The excess generation, if any is to be considered as per Regulations and that function is solely within the jurisdiction of SLDC and not the Respondents.
 - (c) Direct the Saurya Urja Company not to prevent/restrict the Petitioners from generating and evacuating the actual instantaneous solar power

upto 110% of the plant's rated capacity as the solar power is infirm in nature.

(d) Heavy cost should be allowed for avoidable harassment of the Petitioners and consequent reduced generation which has been a national loss.

5. Saurya Urja Company in its reply has submitted as under:

5.1. Petition is not maintainable under Section 86(1)(c), 86(1)(k), 86(1)(e) read with DSM Regulations 2017 that has been relied upon by the Petitioner.

5.2. Section 86(1)(c) enjoins upon the Commission to facilitate intra-state transmission and wheeling of electricity. The issues arising inter se between the Petitioner i.e. Solar power generator and the Saurya Urja Company i.e. Solar Power Park Developer (SPPD). Saurya Urja Company has created the internal transmission network on behalf of the Petitioners. Though this network is connected with the intra-state transmission system/State transmission system, the over injection of power by the Petitioners is directly impacting the internal transmission network created by the Respondent exposing the infrastructure to potential risks. As such, the reliance on Section 86(1)(c), that is to facilitate intra-state transmission and wheeling of electricity, is not attracted in the cause of action canvassed by the Petitioners.

5.3. Section 86(1)(e) enjoins upon the Commission the function to promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify for purchase of electricity from such sources a percentage of the total consumption of electricity in the area of a distribution licensee.

- 5.4. Petitioners are generating electricity from the solar park and are selling electricity to the SECI under a PPA pursuant to which SECI is selling solar power to the buying utilities. Therefore, provisions of Section 86(1)(e) has already been fulfilled by the Commission and therefore there is nothing which remains unexhausted under the mandate and the provisions of Section 86(1)(e) of the 2003 Act.
- 5.5. Further, Section 86(1)(k) enjoins upon the Commission the function to discharge such other functions as may be assigned to it under the Electricity Act, 2003. Petitioners have not described which other functions have been assigned to the Commission under the Act which the Commission is required to discharge in order to entertain the present petition.
- 5.6. Since no issues of day-ahead scheduling have been raised by the Petitioners, the question of applicability of RERC (Forecasting, Scheduling, Deviation Settlement and Related Matters of Solar and Wind Generation Sources) Regulations, 2017 would not arise.
- 5.7. There is no dispute between the licensees or between the licensees and generating companies; or between or more generating companies. It is a dispute between the Petitioners generating companies and the solar park developer which cannot be adjudicated under the provisions of Section 86(1)(f) of the 2003 Act.
- 5.8. Commission may refer the matter for arbitration since the words used in Section 86(1)(f) is "any dispute" may be referred for arbitration. Furthermore, as per the RFS document, the issues arising in the present matter may be referred to a Committee constituted by the MNRE.
- 5.9. Saurya Urja Company has asked the Petitioners not to over inject / reduce their output to the rated capacity for preventing possible damage to equipment. The Petitioners are, in any case, under RERC State Grid Code,

mandated not cause a sudden increase of generation to maintain frequency within the permissible band.

5.10. As per Clause 4.4.2 of PPA signed between Petitioner and SECI and Clause 4.16.2 of Implementation Support Agreement (ISA), Saurya Urja Company is empowered to ask the Petitioners not to over inject / reduce their output to the rated capacity to ensure compliance with grid requirements. In view of clause 4.16.2 of ISA, Petitioners have no case at all to object to the instructions of the Saurya Urja Company to the Petitioners to reduce the excess generation/output commensurate with the rated capacity.

5.11. As per ISA signed between the Petitioner and the Respondent, Respondent is providing infrastructure development to generate and evacuate 200 MW of solar power, operation and maintenance of the infrastructure for 25 years and local area development for 200 MW of Solar Power. These facilities are strictly limited to the agreed capacity of the solar power and the Saurya Urja Company is charging fee for the above services against per MW of power. Hence, Saurya Urja Company being governed by the contractual terms of ISA cannot grant over access which is not agreed in the ISA.

5.12. Clause 3.9 of RFS document provides that in case at any point of time the peak of capacity is higher than the contracted capacity and causes disturbance in the system at the point where power is injected, the SPD will have to forego the excess generation and reduce the output to the rated capacity and shall also have to pay penalty/charges (if applicable) as per applicable regulations/requirements/guidelines of CERC, SERC, SLDC or any other competent agency.

5.13. Saurya Urja Company is facing disturbance in the system because the peak injection has touched 111 MW in the month of July 2020 and the over injection by the Petitioner has occurred 25 days in a month and the over

injection stays for 2-3 hours. On an overall basis, the peak injection at Respondent Company's substation has touched about 540 MW at times. With cumulative power injection of more than designed capacity, maintenance frequency has increased and stress on equipment is leading to breakdown of equipment on frequent basis.

5.14. Hon'ble Supreme Court in the case of Kushweshwar Prasad Singh v. State of Bihar, (2007) 11 SCC 447 referred to Mrutunjay Pani v. Narmada Bala Sasmal 1962 (1) SCR Pg. 290, held that where an obligation is casted on a party and if he commits a breach of such obligation, he cannot be permitted to take advantage of such situation.

5.15. Capacity of pooling substation is 500 MVA. Practically, at 0.98/0.99 power factor substation capacity comes down 495 MW or 490 MW not 625 MW or 625 MVA stated by the Petitioners.

5.16. Variation of current will be higher as power injected to the grid varies. Higher the power, lower the voltage and higher the current. With increased band width of variation, equipment is subjected to stress with operating more than full load capacity. This condition is considered as system constraints. The effect of the stress is resulting in flashover of HT cables, leakage in transformer bushing, melting of isolator contacts etc.

5.17. Transmission line current carrying capacity reduces as temperature increases. With the contractual responsibility for providing services to solar power developer in the park, Respondent has to monitor all required parameters to maintain the system in healthy condition to sustain for 25 years.

5.18. CERC Regulations permitting thermal and hydro generation in any manner whatsoever has no relevance to the present matter, as there are no provisions which are in *pari materia* granting any kind of entitlement to solar generators. On the other hand, Regulation 5.2(u) of the IEGC, 2010

entitles backing down of solar generation on consideration of grid security or safety of any equipment or when life of personnel is endangered.

5.19. In the present matter, the over-injection by the Petitioners is endangering the safety of the equipment installed by the Saurya Urja Company apart from there being issues of grid security. Therefore, the issue of must run status cannot be viewed in isolation and has to be viewed from the point of the stability of the infrastructure and the equipment installed by the Respondent and also for securing the safety of the same as also for the stability of the grid.

5.20. Even if the DSM Regulations allow deviation from schedule by 15% without any penalty, that will not automatically mean that the Petitioners could over-generate where the peak of the capacity reached is higher than the rated capacity and would stand exempted from the requirement to reduce the output to the rated capacity as per the Implementation and Support Agreement.

5.21. Petitioners could install battery storage system to absorb the excess generation in peak hours and supply to the grid when solar radiation level reduces. Such action shall not only maintain grid discipline but also will ensure there is no 'National Loss' as claimed by the Petitioners. However, rather than taking advantage of the technology, and help the betterment of the grid discipline and to improve the health and life of the equipment, the Petitioners have chosen to raise misleading facts and unsustainable issues in law.

5.22. It is settled law that when preliminary issue of jurisdiction has been raised in any proceeding, it is the express mandate for the Court to decide upon the issue of jurisdiction. No injunction can be granted in favour of the Petitioner when the jurisdiction itself is in question. Hence, in view of the

above, the present petition is not amenable to adjudication by the Commission under the Electricity Act, 2003.

5.23. Conduct of the Petitioner is extremely harsh, harmful, inequitable, arbitrary as well as illegal in view of the fact that the evacuation station from the solar park is facing disturbance in the system.

5.24. The Respondent in terms of MNRE provisions have inter alia set up 220 kV lines where the disturbance is occurring by way of tripping, since the excess generation is getting injected to grid on account of the failure of generator to manage peak injection upto the contracted capacity of 100 MW.

5.25. It is noteworthy that CERC in its order dated 15.05.2015 in the matter of statement of reasons of amendments to CERC (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 and CERC (Grant of Regulatory Approval for execution of Inter- State Transmission Scheme to Central Transmission Utility) Regulations, 2010 held as follows :-

"As regards the submission of NTPC that SPPD need to be allowed or authorised by Central Government to apply for connectivity on behalf of those generators who wish to sell power outside home State or on behalf of those beneficiaries who wish to draw power through ISTS network, it is clarified that under the present scheme of solar park mooted by MNRE, SPPD shall be responsible for developing on behalf of solar power generators the transmission systems within the park and therefore, power from the solar power generators (SPGs) shall be evacuated through ISTS irrespective of whether a particular generator has an arrangement under the PPA with the distribution company for evacuation of power from its bus bar."

5.26. Prayers sought for by the Petitioners are not capable of being granted in view of the submissions made in the present reply. It is furthermore submitted that the present petition is liable to be dismissed not only because it is not maintainable in law but also because it is devoid of any merits.

6. RVPN in its reply has submitted that:
 - 6.1. RVPN is not a proper party in the present case because PPA had been executed between the Petitioner and the SECI and no relief and direction is sought against the RVPN in the said petition, therefore contentions raised and the allegations made by the Petitioner against the RVPN are devoid of any merit, untenable and unfounded, baseless and vague, RVPN must be deleted from the array of parties.
 - 6.2. Present petition is liable to be dismissed on the ground that alternative and efficacious remedy being available to the Petitioners to approach SECI as per the PPA for the proper adjudication of any dispute between Petitioners and Respondent Saurya Urja Company.
 - 6.3. SLDC has statutory duty to exercise supervision and control over the Intra state transmission system. It has to ensure integrated operation of the power system in the State. For the above purpose, SLDC is responsible for carrying out the real time operations for grid control and dispatch of electricity within the State through secure and economic operation of the State Grid in accordance with the grid standards and State Grid Code.
 - 6.4. M/s. Tata Power who is QCA nominated by the Petitioners submits the schedule on behalf of the generators to the SLDC based on available capacity of the generator for the day as provided by the generator himself and the scheduling cannot be allowed beyond the installed capacity as it is restricted under the eltrix scheduling software.
 - 6.5. RVPN duly complies and abides with the RERC (Forecasting, Scheduling, Deviation Settlement and Related Matters of Solar and Wind Generator Sources) Regulations, 2017 as well as any guidelines issued by the Government and hence, no responsibility or liability can be attached on the RVPN.

6.6. In view of the above the present petition is liable to be dismissed.

Commission's view

7. We have considered all the submissions, documents made by the parties and arguments made during the course of hearings.
8. Petitioners submitted that Respondent Saurya Urja Company is restricting injection of solar power upto contracted capacity while neither SECI nor SLDC or Rajasthan distribution companies have objected to such occasional over injection of power during short spells of peak hours. Saurya Urja Company arbitrarily, unreasonably and without any authority is restricting the Petitioners from over injection of power to the grid.
9. RERC DSM Regulations, 2017 allows 15% over/under-injection without any penalty. Further Clause 7.8 of Regulation 7 of RERC (Rajasthan Electricity Grid Code) Regulations, 2008 and Clause 5.2(h) of Regulation 5 of CERC (Indian Electricity Grid Code) Regulations, 2010 permit thermal generating units of 200 MW and above and all hydro units of 10MW/25MW to operate beyond 100% of their Maximum Continuous Rating (MCR) and instantaneously pick up to 105% and 110% of their MCR.
10. Per contra Saurya Urja Company argued that Commission under Section 86 (1) (f) of the Electricity Act, 2003 can adjudicate disputes between generator and licensee or between licensees whereas dispute before the Commission is between generator and Solar park developer, therefore petition is not within the jurisdiction of the Commission.
11. It is further contended that petition is also not maintainable under the Section 86(1)(c), 86(1)(k), 86(1)(e) read with DSM Regulations 2017. As per Clause 4.4.2 of PPA and Clause 4.16.2 of ISA signed between Petitioner and SECI, Respondent Saurya Urja Company is fully empowered and within its right to ask the Petitioners not to over inject / reduce their output to the rated capacity to ensure compliance with grid requirements.

12. We observe that Saurya Urja Company, a Solar Power Park Developer (SPPD), is a joint venture company between the Government of Rajasthan and IL&FS which has been incorporated with the objective to plan, develop and operate solar park in the State of Rajasthan under the guidelines dated 12.012.2014 issued by Ministry of New and Renewable Energy (MNRE).
13. Further, MNRE, in pursuance of CERC (Grant of Connectivity, Long term Access and Medium term Open Access in Inter-State Transmission and Related Matters) (Fifth Amendments) Regulations, 2015, authorized Saurya Urja Company as the SPPD for obtaining, and maintaining connectivity and long term access in inter-state Transmission system for development of Solar park.
14. Saurya Urja Company has raised preliminary objections on jurisdiction of Commission as the dispute relates to infrastructure developed by Respondent for evacuation of solar power. Which is not an intra-State Transmission system.
15. It is noted that as per Section 86 (1) (c), Commission has to facilitate intra-State transmission. As per Section 2 (37) of Electricity Act, 2003, intra-State transmission system means any system for transmission of electricity other than an inter-State transmission system. The infrastructure developed by Saurya Urja Company is not an inter-State transmission system, therefore, for sure it is intra-State transmission system and should be within jurisdiction of the Commission.
16. Further, as per Section 86 (1) (e) it is responsibility of the Commission to provide suitable measures for connectivity with the grid for generators of Renewable Sources. Since Petitioners are RE generator and the dispute relates to evacuation of power and connectivity etc. the Commission has full jurisdiction to this.

17. In our view, the dispute is not out of the ambit of jurisdiction of Commission and Petitioners cannot be left in the hands of SECI or other agency for such disputes.
18. It is admitted fact that solar power is infirm in nature and depends upon solar irradiance, grid and system availability. Solar power operates during 0600 to 1800 hrs in a day. During peak hours of the day, solar plant is capable of generating upto 10% higher power than the rated capacity.
19. It is observed that as per the PPA executed between Petitioner and SECI, Petitioner is under obligation to supply minimum 186.150 MU energy in a contract year. Any lesser supply will attract penalty under the contract. For this PPA provides for over injection of power also.
20. Further, Clause 4.4.2 of the PPA provides that generation can go beyond the rated capacity and if this additional generation is not allowed to be injected in the grid then Generator will not be able to recover the shortfall in generation due to reasons beyond its control and will end up in paying penalties for lesser generation than the contracted capacity.
21. According to Petitioners their solar project generated upto 110% power during peak hours of the day whereas it operates at much lower CUF during remaining period. Inverter capping is done at 100 MW @55°C and its performance output is upto 110% @40°C as per IEC standards. Solar irradiance is highest during peak hours of the day when temperature may be less than 55°C and that too during few months (4-5 months only) in a year. During this period Solar plant is capable of generating 10% higher power than rated capacity.
22. Commission observes that RERC (Forecasting, Scheduling, Deviation Settlement and Related Matters of Solar and Wind Generation Sources) Regulations, 2017 provides that RE generator can deviate by its schedule

upto 15% without any penalty. Further, any over-injection by 10% is well within the range of 15% as provided by RERC DSM Regulations, 2017.

23. It is observed that the evacuation infrastructure developed by Saurya Urja Company to which Petitioners are connected have capacity of 625 MVA whereas total of 500 MW load is connected to sub-station developed by Saurya Urja Company. Thus, there is an additional margin of 125 MW. Further, transmission elements have additional 10% margin of the rated capacity.
24. Discom can instruct Generator to forthwith reduce the generation in case such injection of additional power causes disturbance in the system. (Petitioners are also to abide by the direction/instructions of SLDC in case of any grid security instances.)
25. In view of forgoing discussions, in Commission's considered view, Petitioners should not be restricted to occasionally inject power over its rated capacity until it creates grid disturbance. Commission, therefore, directs Respondent Saurya Urja Company not to obstruct Petitioners to evacuate the generation of solar power upto 110% of the plant's rated capacity. However, if the power injection creates grid disturbance, SLDC/Discoms is free to issue any direction to Petitioners as per Act and Regulations.
26. Petition stands disposed of accordingly.

(Prithvi Raj)
Member

(S. C. Dinkar)
Member

(Shreemat Pandey)
Chairman