

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 28 of 2010

In the matter of
Petition of M/s. Wardha Power Company Limited for grant of transmission capacity rights for evacuation of 270 MW (second phase) of power from the Petitioners generating substation at Warora through MSETCL's existing 220kV Warora Substation.

Shri. V.P. Raja, Chairman
Shri. Vijay L. Sonavane, Member

M/s.Wardha Power Company Limited. ... Petitioner

Versus

1. Maharashtra State Electricity Transmission Company Ltd.
2. EMCO Energy Ltd. (EMCO) ... Respondents

ORDER

Dated: March 17, 2011

M/s. Wardha Power Company Limited (“WPCL”) submitted a Petition under affidavit on 09.06.2010, under Section 86(1) (e), (f) and (k) read with Section 39 of the Electricity Act, 2003 (“EA 2003”), for grant of transmission capacity rights for evacuation of 270 MW (second phase) of power from the Petitioners’ generating substation at Warora through Maharashtra State Electricity Transmission Company Ltd.’s (MSETCL) existing 220kV Warora Substation.



2. The main prayers in the Petition are as follows:

- “a) to direct the Respondent No. 1 to grant transmission capacity for the second phase of the Petitioner’s generating station (270MW) to the existing 220Kv Warora Substation in lieu of the 400/220Kv Proposed substation at Warora, subject to compliance of the MERC (Transmission Open Access) Regulations, 2005 and to take such steps as is necessary in accordance therewith;*
- b) to declare that the Respondent No. 2 has no subsisting/ vested right or interest in the existing 220Kv Warora Substation, for grounds set out in the present petition; and*
- c) to pass such other order or orders as this Hon’ble Commission may deem appropriate.”*

*[** Prayer (b) stands withdrawn as per application filed for deletion of prayer (b) on January 23, 2011].*

3. The Petitioner WPCL, in its Petition dated 12.07.2010, submitted as under:

- a) WPCL is setting up a Captive Power Generating Plant at Warora of capacity 540MW (4 x 135MW). WPCL was required to supply 270MW (Phase I- 2 x 135MW) to M/s.Viraj Profiles, a captive consumer of the Petitioner.
- b) WPCL had executed Bulk Power Transmission Agreement (BPTA) dated 12.06.2008 and Connection Agreement (CA) dated 09.11.2009 with MSETCL for evacuation from Phase I (2 x135MW=270MW) through MSETCL’s existing 220kV Warora substation. MSETCL granted rights for evacuation of generation from Phase II of WPCL (2 x135MW) through the MSETCL’s proposed 400/220kV substation at Warora.
- c) WPCL was able to complete Phase-I of the Generating station at Warora within the projected time frame. WPCL was compelled to write a letter dated 23.02.2010 to the Respondent No.1 stating that the BPTA cannot be effected due to failure of M/s.Viraj Profile to draw power, which resulted in reduction in capacity at the drawl point and overall change in evacuation scheme. As a result of the aforesaid, WPCL executed short term power purchase agreement for sale of power i.e., one short term Power Purchase Agreement (PPA) with MSEDCL for one year under supply obligation from 1st April 2010 to 31st March 2011; and another PPA for a period of 3 years with Reliance Energy Trading Ltd for 260MW(upto 320MW) from Phase II of project from April 2011. Further, the Petitioner stated that having set up its generating station in Maharashtra for supply of power to consumers in Maharashtra, it has been qualified as a long term transmission system user, in terms of the MERC (Transmission Open Access) Regulations, 2005.



- d) WPCL stated that M/s. EMCO Energy Ltd (EMCO) is setting up a 2 x 135MW power plant also at Warora for which MSETCL has granted in principle long term transmission capacity rights for evacuation of 2 x 135MW at MSETCL's existing 220kV Warora substation. However, WPCL believed that EMCO has not executed the BPTA and the CA, as mandatorily required under the MERC (Transmission Open Access) Regulations, 2005, and also not paid the statutory charges for obtaining open access.
- e) Although the EMCO power plant configuration has changed from 2 x 135MW to 2 x 300MW, WPCL claimed that EMCO have failed to apply for fresh open access since under changed configuration generation capacity is more than the existing transmission capacity rights granted to EMCO and also for which the requisite system study etc has to be done before grant of transmission capacity rights. WPCL further stated that EMCO project was left abandoned for nearly 3 years and the project has subsequently been taken over by GMR. Also, commissioning of the generating station of EMCO is not likely to be achieved in the next 30 months. In view of the same, the transmission capacity rights granted to EMCO cannot be allowed to continue and that the same deserves to be cancelled on this ground.
- f) WPCL submitted that, it is in need of additional transmission capacity (rights through MSETCL's 220kV existing substation) to evacuate a further 270MW, from Phase II of the WPCL project. In the aforesaid facts and circumstances the petitioner approached MSETCL (for additional transmission capacity), who have spare capacity at the existing 220kV Warora substation on the basis that the capacity reserved for EMCO is not likely to be utilized.
- g) As per WPCL instead of granting such additional transmission capacity in accordance with the provisions of the EA 2003 and MERC (Transmission Open Access) Regulations, 2005 MSETCL directed WPCL to engage in a dialogue with EMCO, so as to enable execution of a mutually acceptable agreement. WPCL further stated that the attempt to secure such mutual consent has failed. WPCL also stated that WPCL will be ready to synchronize the first unit of the second phase of its power plant sometime in October 2010.

4. WPCL vide its letter dated July 30, 2010 to the Chief Engineer, State Transmission Utility, with a copy to the Secretary, MERC, informed that the Commercial operation of 1st Unit of 135MW out of 4x135MW has commenced w.e.f. July 1, 2010.

5. The Commission vide its Notice dated August 13, 2010, scheduled a hearing in the matter on September 3, 2010 and directed WPCL to serve a copy of the Petition along with its accompaniments to the Authorised Consumer Representatives and to the Respondents by August 23, 2010. The Respondents were directed to file their comments, if any, with a copy served on Petitioner and Authorised Consumer Representatives by August 30, 2010.



6. Due to non-completion of service as on September 3, 2010 next date of hearing was fixed on 29th September, 2010, with directions to parties to complete service prior to that date.

7. The Respondent No. 1, MSETCL filed its affidavit in reply on September 27, 2010. In its reply MSETCL stated that State Transmission Utility (STU) has granted grid connectivity for 2x135MW of EMCO's Phase-I generation at MSETCL's existing 220kV Warora substation and no connectivity has been granted to 2x300MW generation of EMCO. Therefore, EMCO will have to apply afresh in the prescribed format for their new/changed generation configuration. Also, no BPTA has been executed between MSETCL and EMCO for their (2x135) MW phase-I generation. At present both EMCO and WPCL have been granted only grid connectivity and no transmission capacity rights are granted for evacuation of power through MSETCL's existing 220kV Warora substation. After cancellation of BPTA executed between the WPCL & MSETCL for evacuation Phase-I generation, WPCL has been granted Short Term Open Access for selling power to MSEDCL. MSETCL further submitted that the MERC (State Grid Code) Regulations, 2006 has permitted the STU to either accept or reject the application for Grid connectivity; however there are no guidelines for cancellation once it is granted. MSETCL further clarified that having granted connectivity for WPCL phase-I (2 x 135) generation and EMCO (2 x 135) Phase-I generation at existing 220kV Warora substation it was not feasible to grant third connectivity at existing 220kV Warora substation for WPCL phase-II (2 x 135MW) generation which was granted connectivity on proposed 400/220kV Warora substation. Hence, STU desired that WPCL & EMCO should enter into mutual agreement for deciding the duration of transmission corridor for Phase-II of WPCL, so that there can be at least partial evacuation of Phase-II of WPCL. It is further submitted that WPCL has never raised any objection for their connectivity of their Phase-II generation earlier; they have raised the objection when the delay that has occurred in construction of proposed 400kV Warora Substation for which WPCL is primarily responsible. Vide clause (ix) of reply, MSETCL has submitted that presently WPCL qualifies for the allocation of long term Transmission Capacity Rights (TCR) for evacuation of technically feasible power through existing 220kV Warora substation as at present no long term TCR have been allocated through the same.

8. The Respondent No.2, EMCO submitted an interim application dated September 27, 2010 with a prayer that MSEDCL may be made a respondent in this matter. EMCO also



submitted a copy of PPA dated March 17, 2010 with MSEDCL under Case-I bidding for sale of 200MW.

9. During the hearing held on September 29, 2010, the counsel for the Petitioner submitted that it has not been served with a copy of the interim application. The Commission directed that service should be completed before the next date of hearing on November 3, 2010. Further, the Commission directed the Respondent No.2 to file its reply to the original Petition with a copy served on the other parties.

10. The Respondent No. 1, MSETCL filed its additional affidavit in reply on November 1, 2010. In its reply MSETCL stated that EMCO was granted Grid Connectivity on April 24, 2007 for their 270MW (2x135MW) generation at existing 220kV Warora substation for availing start up power only. Subsequently EMCO was also intimated that evacuation of their proposed 270MW generation will be effected only after interconnection of the existing 220kV Warora substation, with the proposed 400/220kV Warora substation and existing 220kV Bhugaon substation. MSETCL further submitted that WPCL has applied for connectivity & Long Term Open Access for their Phase-II generation at existing Warora substation on September 20, 2010. MSETCL further mentioned that after going through PPA between MSEDCL & EMCO it is apparent that configuration of generation plant has changed from 270MW(2x135MW) to 600MW(2x300MW); hence EMCO will have to apply afresh for Grid Connectivity for their proposed 300MW generation plant at Warora as per Regulation 13.1 of Part C of State Grid Code.

11. Respondent No. 2, EMCO filed their reply on November 2, 2010. In its reply EMCO stated that WPCL is mixing up commercial issue i.e. concepts of open access for the purpose of sale of energy, with technical issue i.e. with issue relating to connectivity with grid at the 220kV Warora existing substation. EMCO submitted that the delay in the commissioning of the 1st Unit was due to reasons and circumstances beyond its control. EMCO stated that the signing of BPTA is not a pre-condition for availing grid connectivity. Also whether EMCO has obtained open access rights or not is not relevant for connectivity to grid. As per the PPA signed with MSEDCL, MSEDCL is obliged to obtain open access. EMCO further submitted that the change in configuration of the plant capacity cannot by any stretch of imagination be a ground for cancellation of the rights accrued in favour of the EMCO. EMCO submitted the progress towards the execution of the projects. EMCO contended that the petition filed by WPCL should be dismissed.

12. The Petitioner, WPCL submitted its reply to the Impleadment application of EMCO on November 23, 2010. WPCL submitted that PPA signed between EMCO and MSEDCL is a



separate contract and as it is not disclosed as to how MSEDCL is necessary party for adjudication of the present proceedings. WPCL also submitted that execution of PPA cannot confer any right on EMCO for utilization of transmission capacity. Admittedly, EMCO has not executed any CA or BPTA. Hence reliance on the PPA in support of its case is wholly misplaced. WPCL further submitted that the Impleadment application is filed for collateral purposes with a view to delay the adjudication of the present petition. WPCL submitted that making MSEDCL a party to the Petition is wholly unnecessary.

13. WPCL also submitted its rejoinder dated November 23, 2010 to the reply filed by MSETCL, respondent No.1. WPCL submitted that MSETCL has spare capacity at the existing 220kV Warora Substation. WPCL further submitted that in view of the fact the EMCO generation configuration has been changed, the principal connectivity has no meaning and EMCO will have to apply afresh, and as MSETCL has accepted this position, MSETCL should not have any objection in granting long term capacity rights to the WPCL for additional 270MW at the existing 220kV Warora substation.

14. Vide the Commission's Notice dated November 2, 2010; the hearing scheduled on November 3, 2010 was rescheduled on November 24, 2010. During the hearing the Commission indicted that MSEDCL need not be made a party to the proceedings. The Commission directed that a Technical Feasibility Study be taken up by the Commission Officers with STU, MSLDC and MSETCL officers to check the possibility of evacuation of the generation from Wardha Power Company Unit No.3 & 4, through MSETCL's existing 220kV Warora Substation which is expected to be synchronized in next two months.

15. Accordingly, a meeting was held with STU on November 25, 2010 wherein STU was asked to submit the load flow studies with the addition of 3rd & 4th Unit and the commissioning schedule of the proposed 400/220kV Warora substation and interconnection with existing substations. STU submitted the preliminary Load flow studies vide their mail dated November 26, 2010 and thereafter vide their mail dated December 8, 2010 submitted a detailed report along with revised studies giving the network changes to be carried out and recommendations regarding the technical feasibility of evacuation Unit 3 & 4 generation through the existing MSETCL's 220kV Warora substation.

16. In the mean time the petitioner submitted an application dated December 27, 2010 for interim directions upon MSETCL to accord permission for synchronization of Unit No. 3 of (4 x 135MW), pending final disposal of the Petition in Case No.28 of 2010. Petitioner



further submitted that it is submitting the present bonafide application and unless orders/directions are issued, the petitioner will suffer severe loss and injury. WPCL submitted that to permit to synchronize & evacuate power from the existing 220kV substation, when admittedly there is capacity available will not cause any prejudice to other party. EMCO cannot have a claim on the said capacity for reasons elaborated in the Petition. WPCL believes that the refusal on the part of the Respondent No.2 is due to the pending proceedings before the Commission and that unless appropriate directions are issued, Petitioner will not be able to synchronize the unit. In any event at this stage the Petitioner is only seeking an interim arrangement.

17. During the hearing held on December 28, 2010 the counsel for EMCO submitted that they have received a copy of the Interim application two days back only and they needed time to submit reply. He also argued that EMCO's technical officers have not been involved in the discussions and the Commission cannot prejudge the matter. The technical representative of WPCL submitted that they are also not aware of the details of the Special protection scheme suggested by the STU to enable synchronization of WPCL's 135MW Unit-3. Hence, the Commission directed that the study report submitted by the STU to the Commission on the feasibility of evacuating the generation from 3rd unit (1 x 135MW) of Wardha Power Company Limited through existing MSETCL 220kV Warora substation with certain network modifications and Commissioning of Special Protection Scheme('SPS') to reduce the generation in case of tripping of one of the outgoing 220kV lines from Warora to Wardha be circulated to the Petitioner, Respondents and also to the MSLDC & MSETCL, and their response should be obtained on an urgent basis. The Commission also directed that a joint meeting be held by the Commission's technical Officers with Technical Officers of the Petitioner, Respondents, STU and MSLDC to discuss the required measures for implementation of Special Protection scheme and also the operating procedures, for the same. The Commission fixed the next hearing on January 12, 2011.

18. In the joint technical meeting held on January 4, 2011, the technical officers of WPCL stated that Unit-3 is ready for synchronization. EMCO indicated that their 1st unit is likely to be synchronised by March 2012 considering two months delay due to rainy season and they need start up power of around 20MW in advance from MSETCL's existing 220kV Warora substation. EMCO representatives also stated they have no objection in evacuation of power of WPCL Unit-3 from existing Warora substation, as responsibility of evacuating of EMCO power resides with MSEDCL since delivery point mentioned in the PPA is ex-bus generating unit. As per the Load Flow study carried out by STU maximum load on



220kV Warora-Hinganghat S/C reaches to maximum 190 MW, with 3x135 MW WPCL Units connected to Warora S/s. Technical expert from PRDC informed that as per St. Clair curve it is possible to load short lines beyond SIL, therefore the line loading can be restricted presently to 190MW on any of the 220kV lines. WPCL submitted that Special Protection Scheme('SPS') is prepared in consultation with STU & MSETCL which shall be implemented in coordination with STU, MSLDC & MSETCL. WPCL agreed to bear the cost of SPS scheme. In the meeting it was also decided that till the SPS is in place, whenever the line loading is more than 190MW, WPCL will have to back down their generation to limit the line loading up to 190MW. WPCL also agreed to withdraw Prayer No.2 i.e. (b) of the present Petition.

19. The reply was filed by EMCO on January 11, 2011 countering the submissions of WPCL as made in the application seeking interim relief and seeking the dismissal of the said application seeking interim relief.

20. During the hearing held on January 12, 2011, mutually agreed and signed minutes of meeting ('MoM') of the technical officers of all concerned parties held on January 4, 2011 were read out by the Counsel for the petitioner (copy of signed minutes are at **Annexure-I** to this Order). The counsel for WPCL stated that he has submitted the letter dated January 8, 2011 addressed to Chief Engineer, MSETCL (Transmission Project) with a copy to MSLDC giving the details of two special protection schemes namely scheme-1 and scheme-2. The copy of the same was submitted to the Commission. As implementation of Scheme-2 will take about 30 days, for the time being WPCL will implement scheme-1 which can be completed in one day. Once the scheme-2 is ready implementation, it will replace the scheme-1. The Counsel for the EMCO stated that he is in agreement with the recorded minutes of meeting; however he reiterated that EMCO needs 20MW start up power before March 2012, which is the expected date of commissioning of EMCO Unit-1. The STU also confirmed that startup power as required by EMCO can be provided from the existing 220kV Warora Substation. The Counsel for WPCL stated that he withdraws the 2nd prayer (payer (b)) made in the present petition, however he pleaded for the Interim Orders. Further the Commission enquired the status of the implementation of MSETCL's proposed 400/220kV Warora substation. MSETCL representative stated that the initial phase is likely to completed by December 2011 and balance work will be over by March 2012. The Commission observed that the commissioning of 400/220kV Warora substation is important in view of its requirement for evacuation of substantial amount of new generation coming up in the vicinity. The Commission directed MSETCL to submit the monthly progress report on the implementation of the proposed substation and review the same with the



Commission Officers and along with concerned parties/contractors to ensure timely completion.

21. The Commission noted that Counsel and representatives for EMCO unambiguously agreed and stood by the Minutes of Meeting of Technical Officers held on 4th January 2011 between EMCO; WPCL; STU; MSETCL; SLDC and the Commission's Officers, particularly in regard to no objection of EMCO in evacuation of Unit 3 of WPCL by the synchronisation with the existing 220kV sub-station of MSETCL at Warora. They also stood by the said Minutes in regard to the responsibility of evacuation of EMCO power resting with MSEDCL since delivery point as per the PPA is ex-bus generating unit. In any case assets cannot be kept stranded, irrespective of who owns it, especially if that can be used for generation in the shortage scenario. The proposed 400/220kV Warora substation where WPCL Phase-II has been granted the connectivity is unlikely to be completed before December 2011. The STU has recommended that the evacuation of 3rd Unit is possible with certain measures. EMCO Phase-I generation is unlikely to come before December 2011 and EMCO needs only the start up power of around 20MW by March 2012. In view of the aforesaid reasons, the Commission was satisfied that there was a need for issuance of an interim order for enabling evacuation of power from the 3rd Unit WPCL by its synchronisation with the existing 220kV sub-station of MSETCL at Warora.

22. Accordingly the Commission vide its Order dated January 12, 2011 directed STU, MSETCL and MSLDC that, as an interim arrangement, synchronization of Unit-3 of Phase-II (2 x 135MW) of WPCL with the Maharashtra Grid at MSETCL's existing Warora Substation should be allowed immediately subject to the mutually agreed conditions as stated in the minutes of meetings of technical officers of all concerned parties held on January 4, 2011. In the said Order Commission also directed WPCL to implement the Special Protection Schemes 1 and 2 expeditiously in co-ordination with STU, MSETCL and MSLDC.

23. WPCL vide its letter dated January 27, 2011 to the Chief Engineer State Transmission Utility, with a copy to the Secretary, MERC, informed that the Commercial operation of 3rd Unit of 135MW out of 4x135MW has commenced w.e.f. January 27, 2011.

24. The Commission vide its Notice dated February 1, 2011, scheduled a hearing in the matter on February 24, 2011.



25. WPCL filed application for deletion of prayer (b) from Case No. 28 of 2010 on January 23, 2011. In its application WPCL submitted that, in the meeting dated January 4, 2011, the parties after discussing the issues agreed that EMCO has no objection in evacuation of Unit-3 power of the WPCL and WPCL agreed to withdraw prayer No.(b) of present petition.

26. WPCL vide its email dated January 23, 2011 to the Commission informed that, the WPCL has synchronised Unit-3 on January 14, 2011 and unit is presently running on full load. WPCL further communicated that relays for final Special protection scheme are installed on February 2, 2011 and tested and the same are connected and commissioned on February 23, 2011. WPCL further informed that they have discussed the issue of Unit 4 power evacuation with MSETCL. They submitted the mutually agreed and signed minutes of meeting (copy of signed minutes are at **Annexure-II** to this order). They also submitted that as per MoM, MSETCL has agreed in principle for evacuation of power from Unit-4 also through the existing MSETCL 220 KV Warora substation.

27. Vidarbha Industries Association (VIA), one of the authorised Consumer Representatives, vide its letter dated February 23, 2011 submitted that MSPGCL has stopped injecting power from Koradi Thermal Power Station totalling to 420MW from January 7, 2011 (4 x 105MW) in the same 220kV grid in which WPCL units are connected. They further sought the clarification that, whether this was one of the measures suggested by STU for evacuation of additional power of WPCL. VIA also stated that the issue of stopping of generating plant of Koradi was raised by MD, MSPGCL and they had suggested that these units can be operated as merchant generators considering the shortage scenario in the State.

28. During the hearing the Counsel for WPCL submitted the MoM between MSETCL and WPCL dated February 15, 2011 regarding evacuation of generation from Unit-4 of (4 x 135MW) WPCL power plant through the existing 220kV MSETCL Warora substation. WPCL also informed that they have implemented the Special Protection Scheme No.2 in co-ordination with STU, MSETCL and MSLDC. As regards to the objection raised by the VIA, the Commission clarified that the STU has not suggested any such measure, as generating units of Koradi (4 x 105MW) were vintage units.

29. The Commission noted that Counsel and representatives for STU; MSETCL and WPCL unambiguously agreed and stood by the Minutes of Meeting of Technical Officers held on February 15, 2011 between WPCL; STU; MSETCL and MSLDC, particularly in regard to permitting WPCL to evacuate power from Unit 4 also through the existing 220kV MSETCL Warora substation subject to the mutually agreed conditions as stated in the MOM dated



February 15, 2011. Accordingly the Commission hereby directs STU, MSETCL and SLDC that, synchronization and evacuation of generation from Unit-4 of WPCL (in addition to present WPCL Unit 3 evacuation through 220kV existing Warora substation, as directed vide the Interim Order dated January 12, 2011 and as recorded in Para 22 above) with the Maharashtra Grid at MSETCL's existing 220kV Warora Substation should be allowed immediately subject to the mutually agreed conditions, as stated in the MoM held on February 15, 2011. The Commission clarifies that all concerned parties should follow the grid discipline as stated in the EA 2003 and Rules & Regulations made thereunder. From the various submissions made, it is noted that the new 400/220kV Warora substation will be completed in December 2011 by MSETCL. The Commission also directs MSETCL to ensure the timely completion of new 400/220 KV Warora substation as per the schedule stated in Para 19 above. Further, during the hearing the Commission permitted WPCL to delete prayer (b) in the present Case. However, if EMCO requires the start up power before December 2011 (as recorded in Para 21 above), it should be provided from the 220kV existing Warora substation.

Accordingly, with the above, the Commission disposes of WPCL's Petition in Case No. 28 of 2010.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman



(K.N Khawarey)
Secretary, MERC