

**Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005
Tel. 022 22163964/65/69 Fax 22163976
Email: mercindia@merc.gov.in
Website: www.mercindia.org.in / www. merc.gov.in**

Case No. 125 of 2015 and Case No. 15 of 2016

Dated: 4 October, 2016

**CORAM: Shri. Azeez M. Khan, Member
Shri. Deepak Lad, Member**

1. In the matter of Petition filed by Indo Rama Synthetics Limited (IRSL) under Section 86(1)(f) of the Electricity Act, 2003 for willful neglect / default in payment of the License fee by the Distribution Licensee to the Generating Company in accordance with the agreed terms under the proposal dated 08.03.2010 made by the Generating Company and the Letter of Intent (LOI) dated 08.03.2010 issued by the Distribution Licensee.
- **(Case No. 125 of 2015)**

Indo Rama Synthetics Limited (IRSL)Petitioner

V/s.

Reliance Infrastructure Limited (Distribution) (RInfra-D).Respondent

And

2. In the matter of Petition filed by Reliance Infrastructure Limited (Distribution) under Section 86(1)(f) of the Electricity Act, 2003 for claiming compensation from the generating company for breach of Letter of Intent dated 08th March 2010 issued by the Petitioner for supply of 37 MW for the Period 1st April 2010 to 30th June 2010.
- **(Case No. 15 of 2016)**

Reliance Infrastructure Limited (Distribution) (RInfra-D).Petitioner

V/s.

Indo Rama Synthetics Limited (IRSL)Respondent

Appearance:

Representatives for IRSL:

Adv.Dinesh Pednekar

Adv. A.A. Mujawar

Representative for RInfra-D:

Adv. Anjali Chandurkar

Consumer Representative:

Shri.Ashok Pendse, TBIA

Daily Order

Heard the Advocates of the Petitioner and the Respondent.

Advocate of RInfra-D set out the chronology of events and stated that the Letter of Intent (LoI) was for the firm power supply of 37 MW from 1 April to 30 June, 2010, and there was provision in Clause 16 of the LoI regarding compensation for short supply/ off-take. In the LoI, RInfra-D was bound to have minimum 22 MW off-take. This minimum 22 MW is due to technical reasons. RInfra-D informed that IRSL from the very beginning i.e., from 1 April, 2010 had applied for 22 MW Open Access as against the contracted 37 MW. Even the period of the Open Access applied for was only from 1 April to 12 April, 2010. On 7 April, 2010, IRSL informed RInfra-D that due to unavoidable circumstance it is unable to supply power from 13 April, 2010 onwards. IRSL did not specify any particular reasons for not supplying the power. Advocate of RInfra-D further submitted that IRSL traded its power to other parties after 12 April, 2010. The supporting documents as could be gathered from the public domain have been submitted to the Commission with the Petition in Case No. 15 of 2016 and Rejoinder dated 18 April, 2016.

Advocate of IRSL stated that RInfra-D has not paid the invoice for the power supplied from 1 April to 12 April, 2010. On 7 April, 2010, IRSL informed RInfra-D that, due to some unavoidable circumstance, it could not supply power from 13 April, 2010 to 30 June, 2010 and had surrendered the Contract. He submitted that IRSL could supply the power as supplies of spare parts got disturbed, over heating of the 50 MVA transformer and annual maintenance of boiler. IRSL employed all prudent utility practices to control the overheating issues. Advocate of IRSL also referred to the Clause relating to Force Majeure in the LoI dated 8 March, 2010. In reply to RInfra-D's submission regarding sale of power to third parties post 12 April, 2010, he stated that the power sold was mainly at night during 0.00 hrs to 8.00 hrs. and not round the clock.

The Commission noted that the specific reasons related to unavoidable circumstances though being argued, are not explicitly set out in IRSL's Petition. Besides the initial Open Access application bears the note that IRSL is intending to propose annual maintenance of the boiler from 1 April to 12 April, 2010, and hence Open Access being sought for a lower quantum of 22 MW as against 37 MW earlier envisaged. The Commission is surprised to note that while submitting the quotation, IRSL was unaware of its annual maintenance due from 1 April, 2010.

The Commission directs IRSL to submit the following:

1. Actual Generation of power from 1 April, 2010 to 30 June, 2010 (15 minute time block)
2. Actual power sold to different parties from 1 April, 2010 to 30 June, 2010 (15 minute time block)

3. Copies of PPAs/LoIs between IRSL and Purchasers for sale of power during 1 April, 2010 to 30 June, 2010, and dates
4. Maximum Load reached on 50 MVA transformer 1 April, 2010 to 30 June, 2010 with temperature recorded during this period.

Both parties may also submit their views on the Commission referring this case under Section 86 (1) (f) of the Electricity Act, 2003 for Arbitration.

The Commission directed IRSL to submit the above details within 3 weeks and RInfra-D may respond within 15 days thereafter.

The Secretariat of the Commission will communicate the next date of hearing.

Sd/-
(Deepak Lad)
Member

Sd/-
(Azeez M. Khan)
Member