Chhattisgarh State Electricity Regulatory Commission
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<u>Suo Motu Petition No. 09 of 2026</u>

<u>In the Matter of:</u>

"Clarification on applicability of Wheeling and DSM Charges for consumers availing Intra-State Open Access."

1. M/s Real Ispat & Power Limited.
2. M/s Gravity Ferrous Pvt. Limited
3. Chhattisgarh State Load Despatch Centre
4. Chhattisgarh State Power Transmission Company Limited
5. Chhattisgarh State Power Distribution Company Limited
6. M/s Shri Bajrang Power & Ispat Ltd., Bhorjhara
7. M/s Jindal Steel & Power Ltd., Raigarh
8. M/s Mahendra Sponge & Power Pvt. Ltd.,
9. M/s Ultratech Cement Ltd., Baikunth Cement Works
10. M/s Ultratech Cement Ltd., Rawan Cement Works

... Respondents

<u>Draft Order</u>

(January 23, 2026)

The Commission, vide order dated 23.12.2025 in Suo Motu Petition No. 51 of 2025, issued a clarification regarding implementation of the Chhattisgarh State Electricity Regulatory Commission (Intra-State Availability Based Tariff and Deviation Settlement Mechanism) Regulations, 2016 (hereinafter referred to as the "DSM Regulations, 2016"), based on a letter dated 26.06.2025 received from the State Load Despatch Centre (SLDC).

2. Aggrieved by the said clarification, M/s Real Ispat & Power Ltd. and M/s Gravity Ferrous Pvt. Ltd., vide their letters dated 09.01.2026 submitted that the clarification created ambiguity and financial as well as operational difficulties for them as Intra-State Open Access consumers. They sought removal of difficulties under Clause 14 of the DSM Regulations, 2016 and contended that they were not impleaded as parties in the earlier proceedings, although the order had serious financial and operational implications on them.

3. Taking cognizance of these representations, the Commission initiated Suo Motu Petition No. 09 of 2026 and impleaded M/s Real Ispat & Power Ltd., M/s Gravity Ferrous Pvt. Ltd., SLDC, Chhattisgarh State Power Transmission Company Limited (CSPTCL) and Chhattisgarh State Power Distribution Company Limited (CSPDCL) as parties.

4. During the hearing held on 16.01.2026, SLDC was directed to submit details of all Multi Supply Consumers (MSCs) who had availed Intra-State Open Access after notification of the DSM Regulations, 2016. SLDC, vide submission dated 16.01.2026, furnished a list of such MSCs for whom DSM billing had been undertaken. These MSCs were accordingly impleaded as parties to this petition.

5. The DSM Regulations, 2016 require that the total scheduled drawal of an MSC be computed as the sum of:

   (a) Contract Demand with the Distribution Licensee (converted into MVA at 0.90 power factor); and
   (b) Open access injection schedule (after considering applicable losses).

6. For retail supply billing, demand charges are leviable up to the sanctioned/contracted demand, and energy charges are leviable for energy computed at 100% load factor corresponding to contract demand. Any supply received over and above the contracted retail supply is to be treated as open access supply, and deviation charges are to be applied on the deviations between actual drawal and total scheduled drawal.

7. The regulatory intent underlying the DSM Regulations is that:

   (a) an existing consumer may reduce its Contract Demand (CD) with the Distribution Licensee and meet part of its power requirement through open access; or
   (b) an existing consumer may retain its CD and meet any additional power requirement through open access.

8. However, from the submissions of the parties and the information furnished by CSPDCL and SLDC, it emerges that several MSCs continued with their original Contract Demand without reduction, despite meeting a substantial part of their actual power requirement through open access. Consequently, persistent under

drawal occurred vis-à-vis the total scheduled drawal computed under the DSM Regulations, 2016.

9. The Commission is prima facie of the view that such under drawal did not arise from any intentional or deliberate act aimed at securing undue commercial gain. Rather, it stemmed from misinterpretation and misapplication of the DSM Regulations, 2016 by the stakeholders, including MSCs, SLDC and CSPDCL.

10. The Commission further notes that, due to such misapplication, CSPDCL could not recover even its cost of supply. Applicable Average Billing Rate (ABR) for such MSCs was not applied, resulting in revenue shortfall of CSPDCL. At the same time, MSCs derived a financial advantage due to such regulatory misapplication, albeit without mala fide intent.

11. The Commission notes that Clause 13 of the DSM Regulations, 2016 provides as under:

> ***"SAVINGS AND REPEAL***
>
> *13.1 Nothing in these Regulations shall be deemed to limit or otherwise impede the inherent power of the Commission to revise/review and make such orders as may be necessary, in the absence of sufficient data, to meet the ends of justice or to prevent abuse of the process of the Commission.*
>
> *13.2 Nothing in these Regulations shall impede the Commission from adopting, in conformity with the provisions of the Act, a procedure which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or class of matters, and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters*."

12. In view of the above legal provisions and considering the special circumstances of the present case, the Commission is of the considered view that it is empowered to adopt a special procedure and propose a settlement mechanism for past periods in order to meet the ends of justice, prevent abuse of process, and balance equity among stakeholders.

13. The DSM Regulations, 2016 further define and provide for elimination of "gaming" as under:

> ***Definition of Gaming (Clause 3.20):***
>
> *"Gaming" shall mean an intentional mis-declaration of declared capacity/schedule by any seller in order to make an undue commercial gain through deviation charges.*

ELIMINATION OF GAMING

9.1. Generally the Sellers/Buyers .shall ensure that the injection/drawal schedule. actual injection/drawal shall be near to the injection/drawal schedule.

2. If it is observed that the Sellers is indulging in gaming, then any affected entity or SLDC may intimate the facts with relevant records to the Commission. The Commission on a petition made by any affected entity or SLDC, shall initiate proceedings against any "Seller" on charges of gaming and if required, may order an inquiry in such manner as decided by the Commission. When the charge of gaming is established in the above inquiry, the Commission may, without prejudice to any other action under the Act or regulations there under, disallow any deviation charge receivable by the Sellers/Buyers during the period of such gaming or may take any other action."

14. Although the above provisions primarily refer to sellers, the Commission is of the considered view that the DSM Regulations, when read harmoniously, do not permit either sellers or buyers to derive undue financial gains arising from improper regulatory application, misinterpretation, or the use of the ABT/DSM mechanism in a manner not intended or contemplated.

15. Settlement mechanism of MSC specified in DSM Regulations, 2016 must therefore be read harmoniously to ensure:

    (a) full recovery of regulated retail supply costs by CSPDCL;

    (b) non-distortion of deviation charges ; and

    (c) avoidance of unjust enrichment or revenue leakage.

16. In view of regulatory ambiguity and special circumstances of the present case, the Commission proposes to invoke its inherent powers under Clause 13 of the DSM Regulations, 2016 to adopt a one-time settlement mechanism for transactions completed prior to the issuance of the clarification order dated 23.12.2025.

17. The Commission accordingly proposes that CSPDCL, in coordination with SLDC, shall recalculate bills for the applicable past periods (up to January 2026) for each of the MSCs based on the following methodology:

    (a) Actual energy supplied by CSPDCL to the MSC shall be considered.

    (b) The applicable Average Billing Rate (ABR) for the relevant consumer category shall be applied.

    (c) ABR shall be computed considering demand charges as per Regulations and energy at 100% load factor.

(d) DSM charges already levied or paid for the relevant periods shall be adjusted against the recalculated amount.

18. For the sake of clarity, an illustration of the proposed billing methodology is set out below.

Illustration

Assume an MSC with the following parameters:

• Contract Demand with CSPDCL: 1 MVA

• Scheduled energy at 100% load factor in a month: 720,000 kVAh

• ABR of consumer category: ₹7.29/kWh

Parameters		**Energy at 100% load factor, kVAh**	**Tariff as per Tariff Order for FY 2025-26**	**Charges, Rs.**
Contract Demand (kVA)	1000		Rs. 190 per KVA	190000
Peak hours per day	6	180000	Rs. 8.58 per kVAh	1544400
Off- peak hours per day	8	240000	Rs. 5.72 per kVAh	1372800
Normal	10	300000	Rs. 7.15 per kVAh	2145000
No. of Days per month	30	720000	Total Charges	**5252200**
ABR, Rs. Per kVAh				7.29

Month	**Actual kVAh consumption by the consumer**	**Open access quantum, kVAh**	**kVAh consumption from CSPDCL**	**ABR, Rs per kWh**	**Bill required to be paid to CSPDCL, Rs.**	**Actual bill paid by consumer to CSPDCL, Rs.**	**UI Charges already received by open access consumer, Rs.**	**Actual cost incurred by consumer, Rs.**	**Amount to be adjusted and paid to CSPDCL, Rs.**
	A	**B**	**C = (A-B)**	**D**	**X = (C x D)**	**Y**	**Z**	**P=(Y-Z)**	**Q =(X-P)**
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19. The Commission emphasises that the above methodology is proposed only for settlement of past periods and shall not dilute the strict prospective application of the DSM Regulations, 2016 and the clarification order dated 23.12.2025.

20. In order to ensure transparency and fairness, the Commission hereby invites views, comments and suggestions from all stakeholders, including MSCs, CSPDCL, SLDC and Open Access consumers on the proposed recalculation methodology.

21. Stakeholders may file their views/comments by 11.02.2025.