



Chhattisgarh State Electricity Regulatory Commission
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Suo motu Petition No. 44 of 2020

In the Matter of:

"Power procurement by Indian Railways through Open Access in the State of Chhattisgarh as a Deemed Licensee".

South East Central Railways (SECR)
Raipur (Chhattisgarh)

... Petitioner

Versus

1. Chhattisgarh State Power Transmission Co. Ltd.
Danganiya, Raipur

... Respondent No. 1

2. Chhattisgarh State Load Despatch Centre (SLDC)
Danganiya, Raipur

... Respondent No. 2

3. Chhattisgarh State Power Distribution Co. Ltd.
Danganiya, Raipur

... Respondent No. 3

PRESENT

:

Hemant Verma, Chairman

Vinod Deshmukh, Member(Judicial)

Pramod Kumar Gupta, Member

APPEARANCE

:

Shri Pulkit Agarwal, counsel along with Shri M.C. Meena, CEE for petitioner.

Shri R.K. Mehta, counsel along with Shri S. Manoj, SE and Shri S.K. Pandey, SE for respondents CSPTCL and CSPDCL.

Shri Saurabh Jain, counsel along with Shri G.K. Mandavi, SE for respondent SLDC.

ORDER

(Passed on 24/02/2022)

M/s South East Central Railway (SECR) has filed a representation before the Commission through its dispatch No. SERC/ELECT/TRD/227/Open Access/903 dated 22.04.2020, which is received in the Commission's office on 24.04.2020. Considering the

representation the Commission has directed to register a Suo-motu petition, treating the representation as petition and the SERC as petitioner. The Chhattisgarh State Power Transmission Company Limited (CSPTCL), Chhattisgarh State Load Despatch Centre (SLDC) and the Chhattisgarh State Power Distribution Company Limited (CSPDCL) are impleaded as respondents.

2. According to the petitioner SERC they are a Zone of Indian Railways and has been declared as deemed licensee under the third proviso to section 14 of the Electricity Act, 2003 by the Ministry of Power vide letter dated 06.05.2014.

3. The petitioner is entitled to procure electricity from any source of its choice including a generating company, a captive generating plant, a trader or through power exchange to meet their electricity requirement.

4. The petitioner applied earlier to the CSPDCL for a No Objection Certificate (NOC), which was denied by the CSPDCL solely on ground that as per clause 5(iii) of the Open Access Regulations, the petitioner is not eligible for open access as there are outstanding dues against them.

5. A petition No. 59 of 2017 (O.A.) was filed before the Commission by the petitioner, which was decided on 06.06.2018. Being aggrieved with that order an appeal No. 132 of 2019 was filed, in which the APTEL had passed order on 23.11.2019 and the appeal was disposed off as only issue of giving Open Access is remained and other controversies between the parties have been settled.

6. The petitioner submitted an application on 13.1.2020 to CSPTCL and CSLDC for Open Access, but the CSPDCL still has not issued NOC till the date, despite their objection with regard to outstanding dues has already been settled.

7. Now, the CSPDCL has raised objection regarding status of Indian Railways as deemed licensee. Further, the CSPDCL has also prayed first time an issue with regard to collective scheduling by the Indian Railways across all the drawal points.

8. The petitioner therefore filed this representation before the Commission with request to pass necessary direction/instruction to CSPTCL/CSPDCL to grant Open Access to Indian Railways.

9. Crux of the replies filed by the respondents including preliminary objections are as under:-

- i. The Ministry of Power, Govt. of India does not have any authority or jurisdiction to issue the clarification dated 06.05.2014;
- ii. The petitioner cannot claim open access as a deemed distribution licensee;
- iii. The petitioner can apply open access as a consumer on payment of Cross Subsidy Surcharge (CSS) and additional surcharge on wheeling charges.
- iv. The petitioner can claim open access only being a consumer and he has to fulfill the following technical requirements:
 - a. RTU (Remove Terminal Unit) facility needs to be extended for online real time data communication facility to SLDC from each and every drawl point;
 - b. Availability Based Tariff (ABT) metering and Automatic Meter Reading (AMR) as per CEA metering Regulation for communication of necessary metering data to SLDC at TSS (drawl point);
 - c. Provision of express speech communication facility for each and every drawl point and EHV grid substation and from where each TSS is concerned.

11. Rejoinders and sur-rejoinders are also filed by the parties, but no new submissions are made apart from the petition and reply submitted earlier.

12. Due course of hearing and going through the pleadings and documents on records it appears that the issues involved in this

petition are also pending before the Hon'ble APTEL in bunch of appeals tagged with appeal no. 276 of 2015 "**West Bengal State Electricity Distribution Company Limited V/s Central Electricity Regulatory Commissions and ors.**" and hearing of the appeals are yet to be held.

13. The petition has been registered by the Commission suo-motu. As the issues involved in this petition are pending before the Hon'ble APTEL as mentioned above, it would not be appropriate in our view to hear the case, which is initiated suo-motu by the Commission.

14. The petition is disposed off accordingly.

No orders as to cost.

Sd/-
(Pramod Kumar Gupta)
Member

Sd/-
(Vinod Deshmukh)
Member(Judicial)

Sd/-
(Hemant Verma)
Chairman