WEST BENGAL ELECTRICITY REGULATORY COMMISSION
WEST BENGAL

Petition No. OA-302/18-19

Date of hearing: 8th July, 2019

Time of hearing: 13.00 hours

Coram:

Shri Sutirtha Bhattacharyya, Chairperson
Shri Durgadas Goswami, Member

In the matter of
Application by OCL Bengal Cement Works, a unit of OCL India Limited (OCL) seeking clarification on DSM mechanism under WBERC (Open Access) Regulations, 2007 as urged upon by SLDC, WBSETCL on OCL's application for inter-state Short Term Open Access for 7 MW power from OCL's Captive Power Plant at Rajgangpur, Odisha to their works at Godapiasal, Salboni, West Medinipur.

And

In the matter of
OCL Bengal Cement Works
A unit of OCL India Limited
Sangam Garden, Saraswati Block
Tantigeria
P.O. Vidyasagar University
P.S. Medinipur Kotwali
Dist. West Medinipur. .................. Petitioner

And

West Bengal State Electricity Transmission Company Limited
Vidyut Bhavan
Block DJ, Sector – II
Salt Lake City
Kolkata 700 091. .................. Respondent

And

Certified true Copy
West Bengal State Electricity Distribution Company Limited  
Vidyut Bhavan  
Block DJ, Sector – II  
Salt Lake City  
Kolkata 700 091.  

Representatives attended:  

OCL Bengal Cement Works (OCL) [Petitioner]  
1. Sri Manoranjan Sahoo, Deputy Executive Director,  
2. Sri Sri Ahmer Ali Khan, Senior Manager  
3. Sri Prasant Pradhan, Senior Consultant,  

West Bengal State Electricity Transmission Company Limited (WBSETCL) [Respondent]  
1. Sri Prabir Kumar Kundu, CE, SLDC.  

West Bengal State Electricity Distribution Company Limited (WBSEDCL) [Respondent]  
1. Shri Vishrov Mukherjee, Partner, J. Sagar Associates  
2. Sri Subrata Chowdhury, Senior Manager (HR&A)  
3. Shri Mahab Das, Superintending Engineer (E),  

CASE IN BRIEF  
The petition of OCL praying before the Commission to clarify provision for DSM mechanism under the West Bengal Electricity Regulatory Commission (Open Access) Regulations, 2007 was heard by the Commission on 25th April, 2019 and 10th June, 2019. Upon hearing both OCL, WBSETCL and WBSEDCL on 10.06.2019, the Commission passed an order dated 14.06.2019 with, inter-alia, direction to hold next hearing on 8th July, 2019 at 13.00 hours. Accordingly, the hearing was held on 8th July, 2019 at 13.00 hours.
SUBMISSION DURING HEARING

The representative of WBSEDCL submitted that as per the direction of the Commission, upon receipt of the copy of the petition from OCL, they have submitted their written argument in reply to the petition filed by OCL, which, inter-alia states that –

a) OCL is an embedded entity within the licensed area of WBSEDCL and therefore any deviation by OCL in terms of under injection and over drawal or over injection and under drawal jeopardize the grid stability of West Bengal as a whole. Further this will make WBSEDCL liable to pay penalties as per CERC Regulations for no deviation done by WBSEDCL;

b) No provision has been provided in the Open Access Regulations of the Commission for WBSEDCL to recover such penalties from an Open Access customer who actually deviates from the Schedule;

c) OCL is a customer of WBSEDCL having contracted load of 14.5 MVA at 132 KV voltages;

d) WBSEDCL is a distribution licensee and is carrying out the business of distribution and retail sale of electricity in the State of West Bengal;

e) OCL like to import power through inter-state STOA from its CPP to its cement plant using WBSEDCL’s distribution network;

f) Import of power by OCL from their CPP at Odisha to cement plant at Salboni, West Bengal constitutes an inter-state open access transaction. This transaction consists of two parts i.e., inter-state transmission system and the intra-state transmission system. It is pertinent to mention that for supply of electricity from interconnection at State periphery to OCL’s cement plant, OCL is utilizing WBSEDCL’s distribution network as an embedded entity of WBSEDCL;

g) Supply of power from OCL’s CPP in Odisha to OCL’s cement plant in West Bengal constitutes an interstate transaction which would be governed by the
CERC OA Regulations. CERC enacted the CERC DSM Regulations with an aim to maintain grid discipline and grid security through the mechanism of deviation settlement to regulate the drawal and injection of electricity by users of the grid;

h) In terms of regulation 5 of CERC DSM Regulations, charges for all time blocks shall be payable for over drawal by buyer and under injection by seller or for under drawal by buyer and over injection by seller. In terms of regulation 7(1), limits have been specified beyond which any over drawal or under drawal by any buyer will lead to levy of additional charges in addition to charges for deviation as specified in regulation 5;

i) The sum total of all over drawal or under drawal by all entities including the distribution licensees and open access consumers shall be calculated at the State periphery of the respective State. As per the Regulations, the distribution licensees and all intra-State consumers such as OCL shall be considered collectively, and will be considered as the representative of each unit in the licensed area of distribution and all impact of deviation, unscheduled interchange etc. would be adjusted qua the concerned distribution licensee irrespective of the person responsible for deviation within the State. Therefore, it is the distribution licensee that would be held liable to pay deviation charges, even if the deviation is done due to under drawal or over drawal by the Open Access consumer;

j) If OCL under draws or over draws the power in comparison to the scheduled drawal, it will have caused deviation in the grid. Since OCL is making use of WBSEDCL’s network, OCL’s requirement will be accommodated in the existing distribution capacity of WBSEDCL and the transaction will form part of the scheduling done by WBSEDCL. Therefore, any deviation in the drawal schedule by OCL will in essence be considered as deviation in drawal by WBSEDCL. This would make WBSEDCL liable to pay the deviation charges without itself having committed any deviation;

k) In terms of regulation 7(1) of CERC DSM Regulations, the permissible deviation allowed is 150 MW. West Bengal as a whole has tended to over draw power in the past, the reasons for over drawal are attributable to both, buyers who over
draw and generators who under inject. Therefore, the State as a whole becomes a defaulter and the ERLDC effect deviation settlement with the distribution licensee (WBSEDCL) without considering the entities that were actually responsible for over drawal or under injection;

I) In case of purchase or sale of power under any contract between the buyer and the seller, only the network of the distribution licensee is used. In such case, if there is any deviation due to over injection or under injection by the seller and/or under drawal or over drawal by the buyer, the distribution licensees cannot be required to bear the impact of such unscheduled deviations;

m) Since the open access consumer (OCL) is an entity embedded in the distribution licensee's network, the schedule of power for the open access consumer is done by the distribution licensee as part of the latter's own schedule. Therefore, any deviation in drawal by the open access consumer will reflect as deviation from the scheduled drawal of the distribution licensee. Accordingly, there is an urgent need to devise a mechanism wherein the penalty for deviation in scheduled drawal vis-à-vis the actual drawal by the open access consumer is not levied on the distribution licensee;

n) Therefore, there is a need to establish a mechanism to settle deviation committed by open access consumers such as OCL who are merely using WBSEDCL's network and WBSEDCL has no control over either their scheduled drawal or actual drawal. Until appropriate amendments are introduced to the WBERC Open Access Regulations to deal with real time energy deviation by open access consumers from their drawal schedule, uncontrolled drawal by the open access consumers would lead to grid instability and disruption of power flow in the West Bengal. Further, this deviation can have significant financial impact on the distribution licensees. The consumers or the public receiving electricity from WBSEDCL cannot be asked to bear the financial consequences of such deviation in the scheduling and despatch of electricity by open access consumer;
The issue of payment of deviation penalties by open access consumers has been recognized by the Commission in draft WBERC (Open Access) Regulations, 2017 and draft WBERC (Balancing and Settlement Code) Regulations, 2017;

In view of above, a mechanism needs to be created by the Commission for dealing with deviation from drawal schedule by the open access consumers. The mechanism so created shall entail levy penalty for deviation directly on the open access consumers or shall provide a mechanism for appropriate compensation to the distribution licensee for losses incurred on account of deviation by the open access consumer who used the distribution licensee's network. In absence of appropriate measures to tackle deviation by open access consumers, the grid stability and security in the entire State of West Bengal is being jeopardized.

The representative of OCL submitted that –

a) The regulations 6.5.1 and 6.5.4 (v) of the West Bengal Electricity Regulatory Commission (Terms and Conditions of the Tariff) Regulations, 2011, as amended (in short the ‘Tariff Regulations, 2011’), provides that in case of over drawal than the scheduled drawal, it is to be considered as power supplied by WBSEDCL as per the power supply agreement and rates should be the same in consumer mode. If there is any drawal in excess to CD, then additional demand charges will be applicable. In case of under drawal, there shall not be any UI charges receivable by open access customer which means WBSEDCL will take the scheduled power free of cost. If UI charges become applicable then rates shall be as per the rates specified by CERC from time to time.

b) In case of under injection by injecting utility, which is outside the State of West Bengal, the approved power will be supplied to West Bengal network from GRIDCO’s power pool and in such case, GRIDCO will charge the UI charges to injecting utility. Therefore, approved quantity will be fully supplied to WBSETCL/WBSEDCL.

c) For proper scheduling and accounting of 15 minute time block schedule / actual, RTU is not required as dump data of the APEX meter and schedule approved by
RLDC will be more than sufficient as per the regulation 6.5.4 (vi) of the Tariff Regulations.

d) APEX meter of WBSEDCL installed at the receiving end of power will solve the purpose. Netting of scheduled v/s actual to be done on each 15 minute time block. After netting if actual comes below schedule, then excess power injected is to be considered as free power to WBSEDCL and if after netting actual comes more than the scheduled, then power in excess to schedule is to be billed by WBSEDCL as per the prevailing consumer mode tariff rate.

e) Dump data of the APEX meter is the authentic data as it does not have any manual intervention. Apex meter can save three months' data. 15 minutes time block data can be downloaded in (.emd) file which can be opened with it's M-Cube software. This procedure is being following in Odisha and other States for computation of schedule / actual.

f) From the above, it can be construed that in the instant case the DSM will be applicable in Odisha where power will be injected. Since the petitioner is a consumer of WBSEDCL, it is entitled to draw the balance required power from the system for which it has been allowed.

g) The petitioner undertakes that actual drawal from WBSEDCL and power from open access, if any, together will be within the sanctioned load permitted by WBSEDCL. Accordingly, the system will never be subject to any overloading.

**OBSERVATIONS OF THE COMMISSION**

The Commission observes that detailed provisions related to deviation by the Open Access consumers has been specified in regulations 6.5.4(v), 6.5.4(vi) and 6.5.6 of Tariff Regulations. Relevant provisions of the Tariff Regulations are reproduced below:

"6.5.4 (v) Notwithstanding anything contained contrary elsewhere in any Regulations of the Commission, for computation of UI charges in open access mode and charges for power drawal in consumer mode in any time block in the case of an open access customer who is also a consumer, the implemented injection schedule in open access mode reduced by normative transmission and
distribution losses, shall be treated as the actual drawal in the relevant time block under open access mode. The said computation will be subject to the following conditions:-

a) For any composite drawal involving both open access mode and consumer modes, the consumption in consumer mode at any instant will always be the total drawal at that instant reduced by the scheduled drawal in open access mode at the same instant.

b) Notwithstanding anything contrary contained elsewhere in any other Regulations of the Commission for deviation from drawal schedule including that of under drawal of power in UI mechanism by any open access customer in open access mode, no charge will be payable to such open access customer for any reason whatsoever. However, if any charges become payable by such open access customer for deviation from drawal schedule in the open access mode then such amount shall be paid by such customer to the distribution licensee in whose network its drawal point is connected.

c) Any over drawal at drawal point with respect to drawal schedule in open access customer mode by an open access customer, will be considered as power supplied by the licensee to the open access customer as a part of supply in consumer mode at an applicable rate in consumer mode or UI rate prevailing at the time of over drawal whichever is higher. Where such open access customer has an agreement with the licensee for drawal of power in consumer mode also to meet its partial demand or full demand simultaneously with its open access drawal, then also such over drawal in excess to the drawal schedule of open access mode or consumer mode is to be considered as drawal in consumer mode.

Provided that such applicable rate in consumer mode will also include the additional demand charge, if any, for the excess demand over the sanctioned contract demand. Moreover, drawal of power in excess of sanctioned contract demand shall attract additional energy charge on such excess power drawal at any applicable penal rate if stipulated in the
concerned tariff order of the Commission or UI charge whichever is higher

d) If the open access customer has no agreement with the licensee of any power drawal through consumer mode, then in such case any over drawal at drawal point beyond the implemented drawal schedule will be considered as back-up power or stand-by power as agreed between the Open Access customer and the licensee under the commercial agreement for wheeling and applicable price for such back-up power or stand-by power will be in accordance with the commercial agreement for wheeling.

6.5.4 vi) For open access source outside the state, the schedule / actual injection declared by RLDC concerned to the state shall be taken by SLDC as schedule / actual injection.

6.5.6 The eligible open access customer at the point of drawal will be subject to the UI charges only with reference to their schedule and actual drawal. Rate for UI shall be same as per the applicable rate framed by Central Electricity Regulatory Commission.”

It is further observed that, at present in terms of regulation 6.5.1 of Tariff Regulations 2011 for settlement of deviations among Intra-State entities the frequency specific rates of Deviation Settlement Mechanism issued by CERC shall be considered. Relevant portion of the regulation 6.5.1 of the Tariff Regulations, 2011 is reproduced below:

“6.5.1 Variation of actual injection or actual drawal with scheduled injection or scheduled drawal respectively shall be accounted for through unscheduled interchange (UI) Charges. UI for a generating station or injecting entity shall be equal to its actual injection minus its scheduled injection. UI for a beneficiary or drawal entity shall be equal to its total actual drawal minus its total scheduled drawal. The quantum of unscheduled interchange shall be inclusive of applicable transmission loss and shall be borne by the entities, who will be liable for paying UI charges at that instant. UI shall be worked out for each 15-minute time block. Charges for all UI transactions shall be based on average frequency of the time block and the rates applicable are as per rate specified by Central Electricity Regulatory Commission. Accounting of UI in case of pumped storage
hydroelectric generating stations both in generating and pumping mode shall be on net basis."

Hence Commission finds that from mere reading of regulations 6.5.1, 6.5.4 (v), 6.5.4 (vi) and 6.5.6 of the Tariff Regulations, 2011 as mentioned above, the petitioner’s application for open access for 7 MW power cannot be denied solely on the ground of the non-availability of any specific mechanism/regulation on deviation settlement as submitted by the respondent. Rather the provisions of Tariff Regulations clearly specify procedure to recover the charges from Open Access consumers when their actual drawal varies indemnifying the interest of Distribution Licensees.

ORDER

Upon hearing the parties present the Commission directs that:

a) WBSEDCL will submit a report on their proposed roadmap to accommodate the petitioner’s requirement in regard to import of 7 MW power from Odisha, as per the extant Regulations of the Commission within 15th July, 2019 and serve a copy of the same on the petitioner;

b) Next date of hearing is fixed on 17th July, 2019 at 14.30 hours.

Sd/-
(DURGADAS GOSWAMI)
MEMBER

Sd/-
(SUTIRTHA BHATTACHARYA)
CHAIRPERSON

DATE: 15.07.2019

(T. K. MUKHERJEE)
SECRETARY

Certified true Copy