ORDER
OF THE
WEST BENGAL ELECTRICITY REGULATORY COMMISSION
IN THE MATTER OF
CASE NO: OA-306/19-20

IN REGARD TO THE APPLICATION SUBMITTED BY WEST BENGAL STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED (WBSEDCL) FOR APPROPRIATE ORDER FOR ACCEPTANCE OF LETTER OF MANDATE ISSUED BY THE RESERVE BANK OF INDIA (RBI) AS SECURITY DEPOSIT AGAINST SERVICE CONNECTIONS PROVIDED BY WBSEDCL AT DIFFERENT PREMISES OF INDIAN RAILWAYS FOR REMOVAL OF DIFFICULTY IN TERMS OF REGULATION 6 OF THE WEST BENGAL ELECTRICITY REGULATORY COMMISSION (MISCELLANEOUS PROVISIONS) REGULATIONS, 2013.

PRESENT:
SRI SUTIRTHA BHATTACHARYA, CHAIRPERSON
SRI DURGADAS GOSWAMI, MEMBER
SRI PULAK KUMAR TEWARI, MEMBER

DATE: 25.11.2019

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In regard to the application submitted by West Bengal State Electricity Distribution Company Limited (WBSEDCL) for appropriate order for acceptance of Letter of Mandate issued by Reserve Bank of India (RBI) as security deposit against service connections provided by WBSEDCL at different premises of Indian Railways for removal of difficulty in terms of regulation 6 of West Bengal Electricity Regulatory Commission (Miscellaneous Provisions) Regulations, 2013.

FACTS IN BRIEF

The West Bengal State Electricity Distribution Company Limited (in short 'WBSEDCL') submitted an application dated 29.04.2019 for appropriate order for acceptance of "Letter of Mandate" in lieu of "Letter of Assurance" issued by the Reserve Bank of India (RBI) as security deposit against service connections provided by WBSEDCL at different premises of Indian Railways for removal of difficulty in terms of regulation 8.10 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended from time to time.

Subsequently, WBSEDCL submitted a fresh application dated 22.07.2019 praying for issuance of an appropriate order for acceptance of 'Letter of Mandate' issued by the Reserve Bank of India (RBI) as security deposit against service connections provided by WBSEDCL at different premises of Indian Railways for removal of difficulty in terms of regulation 6 of the West Bengal Electricity Regulatory Commission (Miscellaneous Provisions) Regulations, 2013, in replacement of WBSEDCL's earlier application dated 29.04.2019.

WBSEDCL submitted that –

a) In terms of regulation 4 of the west Bengal Electricity Regulatory Commission (Miscellaneous Provisions) Regulations, 2013, HV/EHV consumer, may deposit irrevocable Bank Guarantee as security deposit. The validity of the Bank Guarantee shall be for a period of 2 years with a further claim period of 3 months for lodging the claim.

b) Indian Railway, being a Govt. entity, was not providing any Security Deposit against power supply to different Traction Substation. Subsequently, while WBSEDCL has sought security deposit from Indian Railways, Indian Railways have been providing "Letter of Assurance" issued by RBI since 2009 – 2010 as security deposit in place of Bank Guarantee.

c) Approval for continuing with the provision of "Letter of Assurance" issued by RBI as security deposit in place of Bank Guarantee as stated in paragraph (a) above was not
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d) That Eastern Railway authority has now approached to WBSEDCL vide letter dated 05.03.2019 for acceptance of "Letter of Mandate" in lieu of prevailing practice of accepting "Letter of Assurance" issued by the Reserve Bank of India (RBI) as security deposit against service connections provided by WBSEDCL at different premises of Indian Railways. As stated, presently RBI had stopped Assurance, based on RBI's internal decisions and RBI now agreed Mandate" in lieu of "Letter of Assurance". Such letter dated 05.03.2019 as referred to above was annexed with the letter dated 21.02.2019 of the Railway Board confirming such arrangement of 'Letter of Mandate' in lieu of 'Letter of Assurance' along with prescribed format for implementing such arrangement.

e) In view of above, WBSEDCL prayed before the Commission to –

i) Condone the non-submission of application by WBSEDCL seeking approval of accepting "Letter of Assurance" from Indian Railways instead of Bank Guarantee;

ii) Discard the application of WBSEDCL dated 30.04.2019 and accept this application for approval; and

iii) Allow WBSEDCL to accept "Letter of Mandate" issued by the Reserve Bank of India (RBI) as security deposit against service connections provided by WBSEDCL at different premises of Indian Railways for removal of difficulty in terms of regulation 6 of west Bengal Electricity Regulatory Commission (Miscellaneous Provisions) Regulations, 2013.

Subsequently WBSEDCL also made available a letter issued by the Reserve Bank of India to the Railway Board vide No. DGBA.GBD.No. 643/31.03.002/2019-20 dated 23rd September, 2019 confirming that RBI has advised Government Banking Divisions in their regional offices to

West Bengal Electricity Regulatory Commission
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accept Letter of debit mandates issued by Railways in favour of the entities/beneficiaries to RBI. It was further clarified therein that debit mandates will be issued by the Railways to the Government Banking Division (GBD) in RBI's regional office and GBD of RBI will prepare 'Forwarding Letter of Mandate' in the prescribed format and will forward the same along with the copy of debit mandate received from Railways to the designated beneficiary/State Electricity Board for which necessary instructions have already been issued by RBI to GBDs in their regional offices.

**OBSERVATIONS OF THE COMMISSION**

The Commission observes that as per regulation 4.2.2 of WBERC (Miscellaneous Provisions) Regulations, 2013, for HV/EHV consumers the security deposit may be deposited either in cash or through an irrevocable bank guarantee as will be decided by the licensee. However, the present arrangement of 'Letter of Mandate' for Railways, as framed by RBI is unique to Indian Railways. Eastern Railway, which is a body under Indian Railways, is a consumer of WBSEDCL. Such unique arrangement framed for Indian Railways under the aegis of RBI deserves to be considered separately.

From the letter issued by RBI to Railway Board, it is also observed that Letter of Mandate to be issued to WBSEDCL by GBD of RBI on behalf of Eastern Railways will have the similar effect as that of requisite Bank Guarantee under the aegis of RBI. Since such arrangement is not specifically provided for in WBERC (Miscellaneous Provisions), 2013, a difficulty has arisen in giving effect to such arrangement.

The Commission has general powers under regulation 6 (a) for removing any difficulty in giving effect to any provisions of WBERC (Miscellaneous Provisions), 2013.

The Commission also observes that although it was mandatory on the part of WBSEDCL to seek approval from the Commission for opting deviation from the provisions as specified in the West Bengal Electricity Regulatory Commission (Miscellaneous Provisions) Regulations, 2013 before accepting Letter of Assurance in lieu of Bank Guarantee, WBSEDCL has not complied

West Bengal Electricity Regulatory Commission

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with the same. The Commission has taken a note of it, and directs that WBSEDCL shall follow the Regulations and remedies prescribed therein for removal of difficulty.

ORDER

Upon going through the application submitted by WBSEDCL and the observations as above, the Commission, in exercise of its general power under regulation 6(a) of WBERC (Miscellaneous Provisions) Regulations, 2013 to remove any difficulty, directs that –

a) Letter of Mandate to be issued by the Reserve Bank of India (RBI) on behalf of Eastern Railways to WBSEDCL as security deposit against service connections provided by WBSEDCL at different premises of Indian Railways be accepted;

b) The above direction shall also be applicable for all utilities in the State under the jurisdiction of this Commission.

The Commission also accepts –

The prayer of WBSEDCL in regard to condoning the non-submission of application by WBSEDCL seeking approval of accepting "Letter of Assurance" from Indian Railways instead of Bank Guarantee. However, the Commission directs WBSEDCL to follow the provisions of relevant Regulations of the Commission in future. The earlier application of WBSEDCL dated 29.04.2019 is considered to have been replaced by the further application under consideration.

Thus the petition dated 22.07.2019 of WBSEDCL is disposed off.

Let a copy of this order be served upon WBSEDCL.

Sd/-
(PULAK KUMAR TEWARI)
MEMBER

Sd/-
(DURGADAS GOSWAMI)
MEMBER

Sd/-
(SUTIRTHA BHATTACHARYA)
CHAIRPERSON

DATED: 25.11.2019

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T. K. MUKHERJEE
SECRETARY

West Bengal Electricity Regulatory Commission