

**ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
PLOT NO.-4, CHUNOKOLI, SHAILASHREE VIHAR
BHUBANESWAR - 751 021**

**Present: Shri U. N. Behera, Chairperson
 Shri S. K. Parhi, Member**

Case No. 43/2015

NESCO Utility	Petitioner
Vrs.		
M/s. Jindal Steel & Power Ltd. & Others	Respondents

In the matter of: **An application under S. 86 (1) (f) of the Electricity Act, 2003 for adjudication of disputes regarding non-payment of cross subsidy surcharge by M/s. JSPL availing power through Intra-State short term open access.**

For Petitioner: **Ms. Malancha Ghose, AGM (RA), NESCO Utility,**

For Respondent: **Shri Bibhu Prasad Mishra, Director, M/s. JSPL and Shri Srimat Ray, AGM, M/s. JSPL.**

ORDER

Date of Hearing: 29.08.2017

Date of Order: 05.02.2018

The petitioner NESCO Utility had submitted that M/s. JSPL was allowed to avail power of 40 MW on RTC basis through open access from its CGP at Angul, for which surcharge is to be levied as per Section 42 (2) of the Electricity Act, 2003 read with Regulation 4 (2) (1) of the OERC (Determination of Open Access Charges) Regulations, 2006. The Commission in its order dated 03.01.2013 passed in Case No. 129/2010 had pronounced that cross subsidy surcharges is to be levied on the CGPs who have not maintained their CGP status and selling more than 49% of the total generation outside the parent industry. Accordingly, the cross subsidy surcharge due from M/s. JSPL for the FY 2013-14 to 2014-15 is to the tune of Rs. 60.52 Cr. Therefore, the NESCO Utility had prayed the Commission for checking of the CGP status of M/s. JSPL, Angul for the FY 2013-14 & 2014-15 and seeks appropriate direction to M/s. JSPL for payment of cross subsidy surcharge.

2. The representative of M/s. JSPL has submitted that as per the Commission's order dated 01.02.2014 passed in Case No. 89/2012 it is specified that M/s. JSPL unit at Barbil is authorized to avail power through open access from captive generating plant at Angul without paying any cross subsidy surcharge to NESCO Utility if it satisfies the captive consumption status for the respective year. The petitioner does not have any information

with regard to consumption of electricity made by M/s. JSPL at its Barbil plant which was supplied by its CGP at Angul. Unless the above information is found out and the CGP status of Angul plant is ascertained on an annual basis during the FY 2013-14 & 2014-15, the prayers of the Petitioner may not be granted. These information are available with Chief Electrical Inspector who is not a party to this proceeding.

3. Heard the parties. The EIC-cum-Chief Electrical Inspector was impleaded in this proceeding vide our interim order dated 08.06.2017. After hearing the Chief Electrical Inspector, he was directed on 18.07.2017 to submit the generation and consumption details of M/s. JSPL for the FY 2013-14 & 2014-15 to NESCO Utility for ascertaining the status of the CGP of M/s. JSPL. During the hearing on 29.08.2017, the representative of NESCO Utility submitted that they have received the required data from the EIC-cum-Chief Electrical Inspector, Bhubaneswar and they found that the CGP of M/s. JSPL maintains the CGP status based on the said data.
4. In view of the above, the Commission observed that no cross subsidy surcharge is to be levied on M/s. JSPL as its CGP status is maintained for the FY 2013-14 & 2014-15. Regarding payment of cross subsidy surcharge for succeeding years, NESCO Utility must ascertain the CGP status of M/s. JSPL from the information to be obtained from Chief Electrical Inspector and decide the matter.
5. Accordingly, the case is disposed of.

Sd/-
(S. K. Parhi)
Member

Sd/-
(U. N. Behera)
Chairperson