

**ODISHA ELECTRICITY REGULATORY COMMISSION  
BUDYUT NIYAMAK BHAWAN  
PLOT NO.-4, CHUNOKOLI, SHAILASHREE VIHAR  
BHUBANESWAR - 751021**

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**Present: Shri G. Mohapatra, Officiating Chairperson  
Shri S. K. Ray Mohapatra, Member**

**Case No. 03/2022**

Jindal Steel & Power Ltd. Vrs. Chief Load Despatcher, State Load Despatch Centre (SLDC) & GRIDCO Ltd.	.....	Petitioner
	.....	Respondent

**In the matter of: Application u/s 86(1)(f) of Electricity Act, 2003 for Revision of Short-term Open Access Schedule reflecting in the website of SLDC, Odisha and the corresponding energy accounting for the month of November, 2021 consequent upon which apprehending a huge amount of Energy Bill may be charged by GRIDCO Ltd.**

For Petitioner: Shri Deba Kumar Rath, Advocate.

For Respondents: Shri P.K. Das, CGM (PP), Shri M. K. Das, Sr. GM (PP) and Ms. Sasmita Patjoshi, AGM (PP), GRIDCO Ltd.

**ORDER**

**Date of Hearing: 10.05.2022**

**Date of Order: 23.05.2022**

The petitioner, M/s. Jindal Steel & Power Ltd. (JSPL), has its steel plants, one at Angul and another at Barbil in Keonjhar District in the State of Odisha and also a Captive Generating Power plant (CGP) of 810 MW at Angul for meeting its power requirement. The petitioner company supplies power to its Barbil plant through open access and after meeting its power requirements, surplus power is sold to GRIDCO. The petitioner has prayed for issuing notice/order/direction by Commission to

- (a) SLDC to revise Short-Term Open Access Schedule reflecting in its website.
- (b) GRIDCO not to generate the energy bill on the petitioner company for the month of November, 2021 till the disposal of the case.

2. The Petitioner has following submissions.

- (a) The Petitioner is distinguished as a short-term open access customer and supplying necessary power to its Barbil (Keonjhar) plant from the month of July, 2011 and was continuing in a very unimpeded manner till 31<sup>st</sup> October, 2021 as per provision of OERC (Determination of Open Access Charges) Regulations, 2006. Accordingly, the day ahead schedule with downward/upward revision, if required by the Petitioner, was being sent to SLDC before 18.00 hours and the open access schedule is confirmed and uploaded to the SLDC website after 19.30 hours every day and subsequently the Petitioner follows the schedule of injection.
- (b) The Petitioner had taken prior approval from SLDC (Odisha), the nodal agency for Short-Term Open Access (STOA), vide letter No. 1772 dated 28.10.2021, to inject power from its CGP at Angul to its Barbil plant from 01.11.2021 to 31.11.2021. Due to some unavoidable constraints petitioner could not supply/inject even a single unit of power during the month of November, 2021 which was unintentional.
- (c) The OERC (Terms & Conditions of Intra-state Open Access) Regulations, 2020 came into effect from 18.11.2020. The relevant extracts of Regulations relating to this matter are reproduced below.

*“Regulation 40 (3) Short-term open access customer*

- (a) *The short-term open access schedules accepted by the nodal agency in advance or on first-come-first-served basis may be cancelled or revised downwards on an application to that effect made to the nodal agency by the short-term open access customer; Provided that such cancellation or downward revision of the short-term open access schedules shall not be effective before expiry of a minimum period of two (2) days; Provided further that the day on which notice for cancellation or downward revision of schedule is served on the nodal agency and the day from which such cancellation or downward revision is to be implemented, shall be excluded for computing the period of two (2) days.*
- (b) *The person seeking cancellation or downward revision of short-term open access schedule shall pay the transmission charges for the first two (2) days of the period for which the cancellation or downward revision of schedule, as the case may be, has been sought, in accordance with the schedule originally approved by the nodal agency, and thereafter in accordance with the revised schedule prepared by the nodal agency during the period of such cancellation or downward revision.*
- (c) *In case of cancellation, operating charges specified in Regulations 21 of these regulations shall be payable for two (2) days or the period of cancellation in days, whichever is less.”*
- (d) The Petitioner was unable to produce required power in its CGP in the month of November, 2021, but could not submit the appropriate downward/surrender

request to SLDC inadvertently within the mandated time against the aforesaid STOA approval due to its ignorance/oversight. The entire period of November, 2021 the Petitioner company injected “0” power from its CGP to its Barbil plant, which was not intentional.

- (e) Every record shows that no power transmission has been made between Angul and Barbil in the entire period of November 2021, rather the petitioner company had made alternate arrangement of power for its Barbil plant through power exchange which is clearly reflected in the bills of TPNODL (for the month of November, 2021) raised on JSPL.
- (f) The day-ahead dispatch schedule from JSPL (Angul) to its Barbil plant was showing Zero (0) at SLDC website for the entire month of November 2021. But the same was revised by SLDC subsequently in the next month i.e. in December, 2021 and 41.904 MU i.e. the full quantum corresponding to STOA approval of 60 MW for the month of November, 2021) was figured by SLDC whereas the actual drawal was Zero (0).
- (g) The Petitioner has ventilated the matter before the Chief Load Despatcher, SLDC, the appropriate authority, as the petitioner is deprived of getting justice due to a huge amount of liability in lieu of the claim raised by GRIDCO.

3. SLDC – Respondent No.1 has submitted the following :

- (a) The Petitioner had availed intra-state open access to wheel power from M/s. JSPL, Angul to M/s. JSPL, Barbil for the period from 01.11.2020 to 31.10.2021 and also from JSPL, Angul to M/s. Sarda Mines Ltd., Barbil for the period from 30.01.2020 to 24.01.2021 in accordance with provisions of OERC (Determination of Open Access Charges) Regulations, 2006.
- (b) As per OERC (Terms & Conditions of Intra-state Open Access) Regulations, 2020, SLDC had intimated all the registered users of the system including the Petitioner about this Notification vide email dated 25.11.2020.
- (c) The Petitioner had applied to SLDC for wheeling 60 MW RTC power from M/s. JSPL, Angul to M/s. JSPL, Barbil through intra-state STOA for the month of

November, 2021 which was approved by SLDC on dated 28.10.2021 in accordance with provision of above OERC Regulations, 2020.

- (d) On dated 03.12.2021 at 18.02 Hrs., the consolidated drawal schedule of 41904 MU by M/s. JSPL, Barbil from M/s. JSPL, Angul for the month of November, 2021 was prepared by SLDC and mailed to the applicant as well as the drawee entity i.e. M/s. JSPL, Angul and M/s. JSPL, Barbil for cross checking. As no communication in this connection was received from either the drawee or injecting entity till the afternoon of 04.12.2021, the consolidated drawl schedule of M/s. JSPL, Barbil was sent to TPNODL, OPTCL and GRIDCO at 16.39 Hrs. of 04.12.2021 for preparation and raising of monthly bills.
- (e) On 05.12.2021 the drawee entity M/s. JSPL, Barbil sent an email informing that they have not drawn any power from M/s. JSPL, Angul during the month November, 2021 and requested for the revision of schedule accordingly. But as the applicant M/s. JSPL, Angul had not furnished any downward revision or surrender request as per OERC (Terms and Conditions of Intra-state Open Access) Regulations, 2020 for the said transaction, SLDC did not act upon the request of M/s. JSPL, Barbil.
- (f) During the regime of new Regulations, the petitioner has availed intra-state STOA for wheeling power to M/s. Sarda Mines Ltd., Barbil during the month of April-2021 and July-2021, wherein the petitioner/applicant had sought for downward revision/surrender request which was considered by SLDC and revised approval was issued to the applicant in accordance with the OERC (Terms and Conditions of Intra-state Open Access) Regulations, 2020. Thus, the applicant is well aware of the relevant terms and conditions and operating procedures of the new Regulations, 2020.
- (g) SLDC admitted that the day-ahead dispatch schedule of the petitioner was displayed as 'Zero' MW in the SLDC website which was an inadvertent error on the part of SLDC. However, the same was subsequently rectified after it was brought to the notice of SLDC by the petitioner.

- (h) No Objection Certificate (NOC) / Standing Clearance No.283/2021-22 dated 28.10.2021 for 50 MW RTC was also issued by SLDC in favour of M/s. JSPL, Barbil for purchase of power through power exchange for the period from 01.11.2021 to 30.11.2021.
  - (i) The SLDC operation is based on the defined procedures laid down in the applicable Regulations. So, in absence of the downward revision request which is a mandatory requirement as per the OERC (Terms and Conditions of Intra-state Open Access) Regulations, 2020, it was not feasible on part of SLDC to consider such downward revision request of the Petitioner.
4. The submission of GRIDCDO – Respondent No.2 are as follows :
- (a) The Petitioner wheels/sales power from its Captive Power Plant at Angul to Barbil and Power exchanges or any other third party through short term open access after meeting its own consumption.
  - (b) In absence of Intra-State Availability Base Tariff (ABT), Intra-State Deviation Settlement Mechanism (DSM) and Charges for under-injection by the Open Access consumers, GRIDCO has adopted its prudent to implement a under injection charges, which has been accepted by the petitioner and also by all other CGPs those are selling or wheeling of power through open access to any entity other than GRIDCO.
  - (c) GRIDCO is calculating the monthly under injection charges considering the frequency collected from ERLDC website, DSM charges from NLDC website, STOA Schedule from SLDC (Odisha) website and Dump Meter Data from GRIDCO Energy Billing Center for the CGPs those who are wheeling / selling power through open access. Accordingly, GRIDCO has calculated the under injection charges of the petitioner for a sum of Rs.22,79,41,853/- considering aforesaid parameters for the month of November, 2021.
5. In response to the replies of the Respondents-SLDC & GRIDCO, the petitioner has submitted the followings:-

- (a) The petitioner has skipped to surrender/downward revision of the schedule due to its ignorance/oversight, which was not intentional or deliberate.
  - (b) The petitioner is duty bound to obey the mandated provisions of the said Regulations, 2020, but a hypothetical value has been entered into the drawl schedule for the month of November, 2021 in later date without considering the metered data. Although SLDC has got the infrastructure of Time Block wise metering and accounting mechanism, it has never communicated about the latches of the petitioner within the entire month of November 2021, rather uploaded a figure in the next months which is not metered. Also, the basic legislative intent of the said Regulations, 2020 is not to levy charges for the service and infrastructure not availed by the petitioner, which is quite illegal and arbitrary and against the principle of natural justice.
  - (c) After receiving the communication from SLDC on 03.12.2021 at 6.12 PM, for cross checking the schedule, the petitioner herein requested SLDC on 05.12.2021 through its drawee unit i.e. M/s. JSPL, Barbil to revise the same. The petitioner has taken only one day to take action on the matter. SLDC has not issued any reminder prior to sending the drawl schedule to TPNODL, OPTCL and GRIDCO for preparation and raising of monthly bill which is quite unjust.
  - (d) For the month of November, 2021, the petitioner has not transmitted a single unit of power to its Barbil Unit from its Angul CGP, rather it met the requirement of its Barbil plant by purchasing power from GMR Kamalanga Energy Ltd. for which the petitioner is billed/charged and accordingly paid.
  - (e) While granating STOA approval for the month of November, 2021, assuming the full quantum of units to be 43200 MWh SLDC has estimated the entire operational expenses including the SLDC fees as Rs.1,21,56,000/-. Though the petitioner has not transmitted any power through the OPTCL infrastructure, he has paid the claimed amount towards transmission charge/ operation charges for the month of November, 2021.
6. Heard the petitioner and respondents through virtual mode. The Commission observed that

- (a) The petitioner was allowed by SLDC on 28.10.2021 for wheeling of 60 MW RTC power through Short Term Open Access (STOA) from its CGP at Angul to its industry at Barbil for the month of November, 2021.
- (b) The Petitioner has not supplied/injected a single unit of power during the month of November, 2021 and request for revision of schedule, which is a mandatory requirement as per OERC Open Access Regulations, 2020, was also not communicated to SLDC, the Nodal agency responsible for transaction of STOA.
- (c) In absence of downward revision requested by petitioner, consolidated drawal schedule of 41.904 MU by M/s. JSPL, Barbil from M/s. JSPL, Angul for the month of November, 2021 was prepared by SLDC and mailed to the petitioner (M/s. JSPL, Angul) as well as drawee entity (M/s. JSPL, Barbil) on 03.12.2021 as per OERC Regulations, 2020 for cross checking.
- (d) The petitioner vide its letter dated 09.12.2021 intimated SLDC that they have not injected any power from their CGP under such open access approval and SLDC has also declared 'zero' MW day ahead dispatch schedule at SLDC site for every day in a month of November, 2021.
- (e) SLDC has admitted that the day-ahead dispatch schedule of the petitioner was displayed as Zero (0) in the SLDC website for the entire month of November, 2021 and stated that it was an inadvertent error on the part of SLDC and the same was rectified after it was brought to the notice of SLDC by the petitioner.
- (f) The petitioner has not furnished cancellation/downward revision request for such open access approval and was expecting a reminder from SLDC prior to sending revised drawal schedule to TPNODL, OPTCL & GRIDCO for preparation and raising of monthly bills.
- (g) After revision of day-ahead schedule by SLDC, GRIDCO has calculated the under injection charges and raised a sum of Rs.22,79,41,853/- on the petitioner on 02.02.2022 for the month of November, 2021.
- (h) The Petitioner has mentioned about its ignorance/oversight regarding intimation to SLDC for cancellation/downward revision of such open access and has stated

that its action is unintentional/not deliberate, for which it should not be punished and penalized with such a huge amount.

7. In view of the above observations, the Commission feels that ignorance/oversight of the petitioner to intimate SLDC for cancellation/downward revision of the open access schedule is not an excuse and therefore, is not acceptable under law. Under Section 32 (2) (a) of the Electricity Act, 2003, SLDC is also responsible for optimum scheduling and despatch of electricity within a State, in accordance with the contracts entered into with the licensees or the generating companies operating in that State for smooth operation of the grid. In absence of any intimation from the Petitioner for day ahead scheduling, SLDC has scheduled it as 'Zero' power. However, the Petitioner had also not submitted any intimation for cancellation/downward revision of its approved open access schedule. Therefore, the Petitioner is liable to pay Transmission charges and Operating charges of SLDC for the entire month of November, 2021 as per the Regulation 40(3) of the OERC (Terms and Conditions of Intra-state Open Access) Regulations, 2020. As understood from the submission of the Petitioner that they had also paid such charges to SLDC. However, SLDC revised the schedule for the said open access transaction later in the month of December, 2021. Since schedule had been made 'Zero' by SLDC in the month of November, 2021, there was no question of under injection by the Petitioner during that month. Therefore, the claim of under injection charges amounting to Rs.22,79,41,853/- by GRIDCO on the petitioner for the month of November, 2021 is not acceptable and is to be withdrawn by GRIDCO. However, we direct the Petitioner to pay the applicable Transmission charges and Operating charges for the entire month of November, 2021 towards the said open access transaction to SLDC, if it is not paid earlier as stated above.
8. With the above observation and Order, the case is disposed of.

Sd/-  
**(S. K. Ray Mohapatra)**  
**Member**

Sd/-  
**(G. Mohapatra)**  
**Officiating Chairperson**