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ODISHA ELECTRICITY REGULATORY COMMISSION
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Present: Shri G. Mohapatra, Officiating Chairperson
Shri S.K. Ray Mohapatra, Member

Case No. 60/2024

M/s. TP Northern Odisha Distribution Ltd. (TPNODL) Petitioner
Vrs.
M/s. Tata Steel Ltd. & Others Respondents

In the matter of: Application by TPNODL seeking approval of Special Tri-partite Agreement executed between TP Northern Odisha Distribution Ltd. (TPNODL), M/s. Tata Steel Ltd. Khandbandh Mines and M/s. Tata Steel Ltd., Joda East Iron Ore Mines under Regulation 139 of the OERC Distribution (Conditions of Supply) Code, 2019, for providing power supply to M/s. Tata Steel Ltd., Khandbandh Mines through 33 kV D/C line from MRSS of M/s. Tata Steel, Joda East Iron Ore Mines along with approval of proposed power supply arrangement and billing modalities.

For Petitioner: Ms. Malancha Ghose, DGM (RA), TPNODL

For Respondents: Shri K.P. Dash & Shri D. Mohanta on behalf of M/s. Tata Steel Ltd., Shri Subhashis Samantaray, DGM (EL) RT&C, along with Ms. Subhashree Das, AGM (EL), RT&C on behalf of OPTCL and Shri B.K Das, Sr. GM (PP), GRIDCO Ltd.

ORDER

Date of Hearing: 10.09.2024

Date of Order: 04.11.2024

The Petitioner-TPNODL has filed the present petition praying for (a) approval of Special Tri-partite Agreement executed between TP Northern Odisha Distribution Ltd. (TPNODL), M/s. Tata Steel Ltd., Khandbandh Mines (in short M/s. TSL, Khandbandh) and M/s. Tata Steel Ltd., Joda East Iron Ore Mines (in short M/s. TSL, Joda). under Regulation 139 of the OERC Distribution (Conditions of Supply) Code, 2019 and (b) approval for providing power supply to M/s. Tata Steel Ltd., Khandbandh Mines through 33 kV D/C line from MRSS of M/s. Tata Steel, Joda East Iron Ore Mines along with approval of proposed power supply arrangement and billing modalities therein.

2. The Petitioner-TPNODL has submitted as under:

- a) M/s. Tata Steel, Joda East Iron Ore Mines i.e. M/s. TSL, Joda is an existing consumer of TPNODL availing power supply for Contract Demand (CD) of 10 MVA from 220/132/33 kV Joda Grid Sub-Station of OPTCL through 220 kV Single Circuit line. M/s. Tata Steel Ltd. has also its mines at Khandbandh i.e. M/s. TSL, Khandbandh around 14 Kms away from M/s. TSL, Joda.
- b) M/s. OPTCL, vide its letter dated 09.03.2011, had intimated M/s. Joda East Iron Ore Mines of Tata Steel Ltd. that the OPTCL network will be adequate to transmit 27 MVA power at 220 kV to their MRSS at Joda subject to its terms and conditions.
- c) In 2013, M/s. Tata Steel Ltd. had applied to erstwhile NESCO Utility to avail additional 30 MVA load to their washing and beneficiation plant at Khandbandh through 33 kV double circuit line from its proposed 220/33 kV MRSS at Joda over and above 10 KVA load of its Joda East Iron Ore Mines. The same was then sent by the erstwhile NESCO Utility to OPTCL for approval with a copy to the Director (Commercial) and Sr. GM (PP) of GRIDCO.
- d) Due to non-availability of space for bay extension in Joda grid of OPTCL and the right of way issues, the erstwhile NESCO Utility had permitted M/s. Tata Steel Ltd. to provide power supply to their Khandbandh Mines by extension of 33 kV D/C line from their MRSS of Joda East Iron Ore Mines. Further, the erstwhile NESCO Utility, vide its letter dated 11.08.2017, had intimated 'No Objection' to Department of Energy, Govt. of Odisha in the matter of construction of 33 kV D/C line from M/s. Tata Steel Ltd. from Joda to their proposed plant at Khandbandh.
- e) M/s. Tata Steel Ltd. applied to TPNODL for enhancement of its CD from 10 MVA to 40 MVA in 220 kV supply system for their Iron Ore Project and TPNODL, vide its letter dated 14.07.2022, forwarded the above application of M/s. Tata Steel Ltd. to OPTCL for necessary action at their end. After conducting system study, OPTCL made assessment of the system adequacy for additional load of 7 MVA. Thereafter, M/s. Tata Steel Ltd., vide its e-mail dated 24.01.2024, again requested TPNODL for interim CD enhancement of at least 7 MVA for their plant operation.

Accordingly, TPNODL requested OPTCL to release additional 7 MVA load to M/s. Tata Steel Ltd., East Iron Ore Mines, Joda. Thereafter, OPTCL, vide its letter dated 18.06.2024, has accorded in principle approval for release of 7 MVA power in favour of M/s. Tata Steel Ltd. Joda East Iron Ore Mine, Joda by enhancing the CD from 10 MVA to 17 MVA through 220 kV dedicated feeder emanating from the 220/132/33 KV GSS, Joda. GRIDCO has also released the additional quantum in favour of Tata Steel Ltd., vide its letter dated 11.06.2024.

- f) Since the premises of Tata Steel Ltd., Joda Iron Ore Mines (M/s. TSL, Joda) and M/s. Tata Steel Ltd., Khandbandh (M/s. TSL, Khandbandh) are different at a distance of about 14 Km and also due to right of way issues & technical constraints, the feasibility of providing power supply to M/s. TSL Khandbandh from the MRSS of M/s. TSL, Joda was permitted by the erstwhile NESCO Utility. Now, M/s. Tata Steel Ltd. has submitted the work completion certificate in respect of construction of 33 kV line from the MRSS of M/s. TSL, Joda to M/s. TSL, Khandbandh and requested for availing 7 MVA load at present by the new consumer M/s. TSL Khandbandh. Thus, the total power of 17 MVA allowed by GRIDCO/OPTCL will be drawn from Joda GSS of OPTCL through 220 kV S/C line upto MRSS of M/s. TSL, Joda and therefrom power supply shall be provided to M/s. TSL, Khandbandh through 33 kV D/C line. Out of the total availability of 17 MVA power, M/s. TSL, Joda will avail 10 MVA and M/s. TSL Khandbandh will avail 7 MVA.
- g) The Regulation 139 of the OERC Supply Code, 2019 enables the Licensee to execute a special agreement subject to approval of the Commission, in case special tariff and special conditions of supply is required to extend power supply to an intending consumer. In the instant case, to extend power supply to the intending consumer M/s. TSL, Khandbandh, special arrangements are required in respect of metering, billing and utilisation of substation of another consumer. Accordingly, a special agreement detailing the supply conditions, quantum of supply, type of supply and billing modalities/methodology was executed between M/s. TSL, Joda, M/s. TSL, Khandbandh and the Licensee-TPNODL on 07.08.2024 under Regulation 139 of the OERC Supply Code, 2019.
- h) Facilitating power to an intending consumer in adherence to the Supply Code is the prerogative of the Distribution Licensee. However, distribution licensee needs to take clearance from transmission licensee as system adequacy of the transmission network involved. In the instant case, the business of the transmission licensee is not affected, if the total drawal by the distribution licensee is completely accounted for in the interface meters of OPTCL and if it is within the permitted quantum. In case any consumer will opt to avail power supply through open access it is bound to abide by the applicable rules and regulations of the Commission and will be liable to pay all the applicable charges as determined or directed by the Commission. As per the vesting order dated 25.03.2021, TPNODL is obligated to meet the full extent of its power purchase requirement from GRIDCO. Therefore, before releasing the

additional quantum of load for confirming the power availability clearance from GRIDCO was also taken.

- i) The provisions of the Supply Code, 2019 do not permit to consider two units having separate premises (separated by 14 km) as a single consumer, for which M/s. TSL, Khandbandh, needs to be considered as an independent consumer. The 33 kV D/C line from the MRSS of M/s. TSL, Joda upto M/s. TSL, Khandbandh will be the deemed network of the distribution licensee.
 - j) In view of the above facts and circumstances, the Petitioner-TPNODL has prayed before the Commission for approval of the supply arrangement and billing modalities and approval of the special tripartite agreement executed between TPNODL, M/s. TSL, Khandbandh and M/s. TSL, Joda.
3. The Respondent-GRIDCO has submitted the following:
- a) M/s. TSL, Joda had applied to GRIDCO for enhancement of their CD from 10 KVA to 17 MVA in the 220 KV system emanating from 220/132/33 kV GSS of OPTCL at Joda, which was approved by GRIDCO in the month of June, 2024. No information was provided to GRIDCO indicating that this enhanced quantum of CD would be extended to another consumer M/s. TSL, Khandbandh in 33 KV system.
 - b) M/s. TSL, Khandbandh and M/s. TSL, Joda are classified as “Large Industry” category under Section 138 of the OERC Distribution (Conditions of Supply) Code, 2019. Thus, according to the Supply Code, both the consumers, M/s. TSL, Joda & M/s. TSL, Khandbandh do not qualify to execute a special agreement for supply of power from the system of one consumer to another consumer. The reasons provided by TPNODL for pursuing such an agreement are not sufficiently substantiated. It remains unclear what impediments, if any, discouraged M/s Tata Steel Ltd., Khandbandh mines from directly applying to the DISCOM as a new consumer and availing power supply in accordance with the prevailing practices under the OERC Distribution Supply Code, 2019.
4. The Respondent-OPTCL has submitted the following:
- a) The Petitioner-TPNODL has applied for approval of special tripartite agreement executed between TPNODL, M/s. TSL, Khandbandh and M/s. TSL, Joda under Regulation 139 of OERC Distribution (Conditions of Supply) Code, 2019 with the intention to extend power supply to an Industrial Consumer M/s. TSL, Khandbandh from the premises of another Industrial Consumer M/s. TSL, Joda instead of

proposing M/s. TSL, Khandbandh for getting connected to any GSS of OPTCL or any PSS of TPNODL as per the prevailing practice.

- b) The provisions of the Regulation 139 of OERC Supply Code, 2019 are as under:

“The licensee/supplier may, having regard to the nature of supply and purpose for which supply is required, fix special tariff and conditions of supply for the consumers not covered by the classification enumerated in this Code. For such purpose licensee/supplier may enter into special agreements with the approval of the Commission with suitable modifications in the Standard Agreement Form. The tariff in such cases shall be separately approved by the Commission.”

The above provision of the Supply Code clearly stipulates that it is applicable to those consumers who are not covered by the classification enumerated in this Code and the extension of power supply to such consumers through special agreement is also subject to special tariff and special conditions of supply and such special tariff to be approved by the Commission.

- c) In the instant case, as per the Clause 9 of the said tripartite agreement dated 07.08.2024, M/s. JSL, Khandbandh is classified as “Large Industry category” in consonance with the classifications under Regulation 138 of the OERC Supply Code, 2019. Thus, it is not coming under the purview of Regulation 139 of the Supply Code, 2019. This Regulation has not mandated for execution of special agreement between the licensee/supplier and the consumer(s) for extension of power supply from the premises of one consumer to the premises of another consumer due to ROW/Corridor issues of the second consumer as proposed by TPNODL, instead of getting directly connected to the licensee/supplier. Thus, the request of TPNODL for approval of the special tripartite agreement is misconceived and not tenable under Regulation 139 of OERC (Conditions of Supply) Code, 2019.
- d) Further, as per Rule 21 of the Electricity (Amendment) Rules, 2024 of Ministry of Power, notified on 10th January, 2024, “Establishment, Operation and Maintenance of dedicated Transmission Lines. – A generating company or a person setting up a captive generating plant or an Energy Storage System or a consumer having load of not less than twenty five Megawatt in case of Inter State Transmission System and ten Megawatt in case of Intra-State Transmission System shall not be required to obtain license under the Act for establishing, operating or maintaining a dedicated transmission line to connect to the grid, if such company or person or consumer complies with the Regulations, technical standards, guidelines and procedures issued under the provisions of the Act”.

As per the aforesaid Rule, the dedicated 33 kV feeder constructed by the Respondent-1 should be connected to Grid of the Licensee and not to any other consumer.

- e) The Commission, vide its order dated 17.11.2023, for resolving the complicity in energy accounting arising due to similar type of special tripartite agreement executed between RSP, TPWODL and Linde/SE Railway, after commissioning of a 250 MW CGP by the RSP, has directed the licensee-TPWODL and M/s. SAIL (RSP) to initiate action in coordination with OPTCL for providing power supply to M/s. Linde and M/s. SE Railway directly from the Grid at the earliest, basing on which M/s. Linde and M/s. SE Railway have applied OPTCL through TPWODL for their separate connectivity with the OPTCL Grid at 132 kV voltage level.
- f) M/s TSL, Khandbandh may be directed to take their power supply directly from OPTCL GSS/TPNODL PSS (depending on their load demand) to avoid any future complicity.
- g) The present method of connectivity as proposed by TPNODL in its application due to non-availability of space for bay extension in Joda Grid of OPTCL is not correct. In fact, the erstwhile NESCO has never approached OPTCL about connectivity of M/s. TSL, Khandbandh with Joda GSS of OPTCL while issuing NOC dated 11.08.2017 for construction of 33 kV line between the premises of M/s. TSL, Khandbandh and M/s. TSL, Joda. Two nos. of 33 kV spare bays are available at 220/132/33 kV GSS, Joda of OPTCL since the time of issuance of NOC by erstwhile NESCO for construction of 33 kV lines by M/s. Tata Steel Ltd. Therefore, M/s. TSL, Khandbandh can avail power supply directly from Joda GSS through available 33 kV spare bays. In such scenario, M/s TSL, Khandbandh can be connected to a more reliable system as compared to their proposal where both consumer (TSL, Joda & TSL, Khandbandh) will rely only on one S/C 220 kV feeder. As M/s. TSL, Khandbandh has already constructed 14 Kms. long 33 kV D/C line through difficult terrains comprising of private/Govt. lands and forest area, there will be no inconvenience in constructing another 0.5 Km OH/UG 33 kV line for obtaining direct connectivity from OPTCL GSS.
- h) While submitting about the charges towards drawl of energy by M/s. TSL, Khandbandh through Open Access, the Petitioner-TPNODL has not mentioned about the transmission charges of OPTCL in its submission. OPTCL is entitled to get transmission charges on Open Access drawl of M/s. TSL, Khandbandh through

OPTCL system, as per the prevailing Open Access Regulations and ARR & Transmission Tariff Orders of the Commission.

- i) OPTCL, vide its letter dated 09.03.2011, has intimated M/s. TSL, Joda about the network adequacy of OPTCL for transmission of 27 MVA power from 220 kV Joda GSS to the MRSS of M/s. TSL, Joda through one number of 220 kV feeder. OPTCL has never permitted for extension of power supply to M/s. TSL, Khandbandh from M/s. TSL, Joda. as wrongly assumed by TPNODL.
- j) In the correspondences of TPNODL to OPTCL, vide letters dated 14.07.2022 and 24.04.2024, for enhancement CD of M/s. TSL, Joda (Consumer No.622000000181), TPNODL has never mentioned that M/s. TSL, Khandbandh and M/s. TSL, Joda are separate consumers and applying for enhancement of CD of M/s. TSL, Khandbandh by clubbing their individual CDs. This clearly indicates that TPNODL has considered them as a single consumer.
- k) As per the Regulations both M/s. TSL, Khandbandh and M/s. TSL, Joda will have separate connectivity. However, the erstwhile NESCO has permitted M/s. Tata Steel to construct 33 kV line from the premises of M/s. TSL, Joda to the premises of M/s. TSL, Khandbandh for power drawal by M/s. TSL, Khandbandh, instead of guiding them for obtaining separate connectivity for their power consumption. Further, TPNODL has never tried to rectify such flaw of erstwhile NESCO after taken over by the distribution business from 1st April, 2021. Since all the end users of electricity are consumers of DISCOMs, it is the duty of the licensee/supplier to adhere to the Regulations while extending power supply to a consumer. It is evident that both the erstwhile NESCO and TPNODL have treated M/s. TSL, Khandbandh and M/s. TSL, Joda as a single consumer and communicated to all concerned accordingly till filing of the present petition.
- l) Since the 33 kV lines between M/s. TSL, Khandbandh and M/s. TSL, Joda will be treated as the deemed assets of TPNODL to satisfy the provision of 'separate connectivity for separate consumers' as submitted by TPNODL, then the 220 kV MRSS of M/s. TSL, Joda may also be treated as deemed asset of OPTCL for satisfying the same provision. In such case the accounting of energy transaction (including Open Access) of both the consumers can be taken care of by installing separate ABT compliant meters at MRSS end and also further connectivity to other prospective consumers can also be extended by TPNODL from the MRSS of M/s. TSL, Joda.

- m) It is evident that the erstwhile NESCO/ TPNODL has always considered M/s. TSL, Khandbandh and M/s. TSL, Joda as a single consumer till filing of the present case, where TPNODL wants to treat them as separate consumers with single point of connectivity.
 - n) Considering the aforesaid submissions of OPTCL, the Commission may direct TPNODL to allow M/s. TSL, Khandbandh for getting connected as the MRSS of M/s. TSL, Joda considering both of them as single consumer (M/s. TSL, Joda) with single point of connectivity with STU at Joda GSS by executing a special agreement or may pass any other order as per the facts and circumstances of the case.
5. The Respondent-M/s. Tata Steel Ltd. has submitted the following:
- a) M/s. TSL, Joda and M/s. TSL, Khandbandh are agreeable to all the points submitted by the Petitioner-TPNODL and also fully agreed to the conditions in the tripartite agreement.
 - b) Though, OPTCL, vide its letter dated 09.03.2011, had permitted to avail 27 MVA, M/s. TSL, Joda was availing 10 MVA power from the grid. M/s. TSL, Joda had applied for enhancement of CD from 10 MVA to 40 MVA, vide its application dated 18.02.2013, with the proposal that additional 30 MVA will be utilised at M/s. TSL, Khandbandh which is around 14 Kms. from M/s. TSL, Joda. M/s. TSL, Joda had applied to erstwhile NESCO for evacuation of this 30 MVA to M/s. TSL, Khandbandh by constructing 33 kV dedicated lines and the application was forwarded to OPTCL, vide letter dated 25.02.2013 of erstwhile NESCO. In their application, it was clearly mentioned that the 30 MVA load been applied by M/s. Tata Steel Ltd. for washing and beneficiation plant at Khandbandh to be evacuated in 33 kV D/C line from their MRSS at Joda and OPTCL was requested for according approval for connectivity and release of additional power.
 - c) The Government of Odisha in Department of Energy, vide their letter dated 19.06.2017, had sought views of OPTCL for administrative approval for construction of 33 kV D/C lines from M/s. TSL, Joda to M/s. TSL, Khandbandh and the CGM (O&M), OPTCL, vide letter dated 04.08.2017, had communicated to the Authorised Officer of erstwhile NESCO to offer views on the same to the Government directly under intimation to OPTCL. Accordingly, the erstwhile NESCO Utility, vide letter dated 11.08.2017, had communicated 'no objection', if M/s. Tata Steel Ltd. would be given administrative approval for construction of 33 kV line from Joda to their proposed plant at Khandbandh.

- d) After obtaining approval from different Government Authorities, M/s. Tata Steel Ltd. had executed the work of 33 kV D/C line from the MRSS of M/s. TSL, Joda to M/s. TSL, Khandbandh. As the work was challenging, it took around six years for completion with a cost of around Rs.45 crore and prior to that M/s. Tata Steel Ltd. had constructed its MRSS at Joda with a cost of around Rs.70 crore envisaging Khandbandh power to be evacuated therefrom. After completion of the work we had approached TPNODL for release of additional load of 7 MVA which was forwarded to OPTCL and GRIDCO for necessary clearance.
 - e) For harnessing of the power at M/s. TSL, Khandbandh, TPNODL has executed the aforesaid tripartite agreement citing some Regulatory Issues wherein M/s. TSL, Joda and M/s. TSL, Khandbandh and TPNODL are necessary parties. At present the plant of M/s. TSL, Khandbandh is running on consumption of huge diesel fuel, which costs around Rs.5 crore per month. Therefore, M/s. Tata Steel Ltd. has prayed the Commission for approval of the aforesaid tripartite agreement at the earliest possible so that they can save the fuel cost.
6. We heard the parties through hybrid mode of arrangement and their written notes of submissions are taken on record. From the submissions of the Petitioner and Respondents, we observe the followings:
- a) The Joda East Iron Ore Mines of M/s. Tata Steel (M/s. TSL, Joda) is an existing consumer of TPNODL availing power supply from 220/132/33 kV Grid Sub-Station of OPTCL at Joda through 220 kV Single Circuit line for Contract Demand (CD) of 10 MVA. M/s. TSL, Joda has also its washing & beneficiation plant for mines at Khandbandh (i.e. M/s. TSL, Khandbandh), which is around 14 Kms away from M/s. TSL, Joda.
 - b) M/s. TSL, Joda had planned from the very beginning to avail power for its washing & beneficiation plant at Khandbandh from its MRSS through 33 kV line. Accordingly, in the year 2013, M/s. TSL, Joda had applied to the erstwhile NESCO Utility for enhancement of its CD from 10 MVA to 40 MVA with the proposal that the additional 30 MVA load would be utilised in their plant at Khandbandh and had constructed 220/33 kV MRSS substation at Joda. According to M/s. TSL, Joda execution of the work of 33 kV D/C line from the MRSS of TSL, Joda to M/s. TSL, Khandbandh was started after obtaining approval from different Government Authorities consequent upon 'no objection' from erstwhile NESCO Utility, vide

their letter dated 11.08.2017 and now the construction work of 33 kV D/C line has been completed.

- c) It is understood from the written submission and supporting documents of M/s. TSL, Joda that though they have not communicated their intention of connecting M/s. TSL, Joda with M/s. TSL, Khandbandh through 33 KV line directly to OPTCL but it can be presumed that OPTCL is aware of the same from the communication of the DoE, GoO, letter dated 19.06.2017 regarding administrative approval for construction of 33 kV D/C line from M/s. TSL, Joda to M/s. TSL, Khandbandh as well as the letter dated 25.02.2013 of the erstwhile NESCO Utility addressed to the Sr. GM (TP&C) of M/s. OPTCL on the matter, requesting for release of additional 30 MVA load in favour of M/s. TSL, Joda.
- d) Basing on the request of TPNODL, M/s. OPTCL, vide letter dated 18.06.2024, had accorded in principle approval for enhancement of CD from 10 MVA to 17 MVA for M/s. TSL, Joda and GRIDCO, in the month of June 2024, has also allowed drawal of 17 MVA (M/s TSL, Joda: 10 MVA + M/s TSL, Khandbandh: 7 MVA) from GSS of M/s. OPTCL.
- e) According to M/s. TSL, Joda the work of 33 kV D/C line from the MRSS of M/s. TSL, Joda to M/s. TSL, Khandbandh has been executed with much difficulty over a period of six years due to ROW challenges/technical constraint since the line passes through forest and mining area. The line has been constructed at a very high cost (Rs.45 crores) after obtaining approval from different Government Authorities. Further, their plant at Khandbandh mines is now running on diesel, for which about Rs.5 crore per month is being spent with huge carbon emission. Therefore, the extension of electricity supply to their plant is essential at the earliest to reduce the carbon emission.
- f) According to the Petitioner-TPNODL, the provisions of the Supply Code, 2019 do not permit to treat power consumption in two separate premises as a single consumer. M/s. TSL, Khandbandh needs to be considered as an independent consumer. Further, the 33 kV D/C line from the MRSS of M/s. TSL, Joda upto M/s. TSL, Khandbandh needs to be considered as deemed asset of the Distribution Licensee.

7. As per the Tripartite Agreement, the period of agreement, contract demand, the metering and billing methodology are as stated hereunder:

- a) The duration of the Tripartite Agreement shall commence from the date of approval by the Commission or date of power supply whichever is later and shall continue to be in force until the expiry of five years from the date of supply as per the Regulations and shall continue until either party gives two calendar months' notice in advance, in writing to other parties, for termination of the Agreement. Further, subject to the provisions of the Tripartite Agreement, the Licensee-TPNODL shall supply power to the Consumer (M/s. TSL, Khandbandh) through 33 kV network for a CD not exceeding 7000 KVA.
- b) The Consumer (M/s. TSL, Khandbandh) shall pay TPNODL, for power demanded and electrical energy supplied under the agreement, such as “minimum monthly fixed charges”, “demand charges”, “energy charges” and “other charges” in accordance with the provisions of the OERC Distribution (Conditions of Supply) Code, 2019 and as are notified in Tariff order from time to time under “Large Industry Category Tariff” (HT Category).

Further, the Consumer shall pay the electricity duty or such other levy, tax or duties as may be prescribed under any other law in addition to the charges, fuel surcharge and transformer loss payable under the OERC Distribution (Conditions of Supply) Code, 2019

- c) A set of ABT compliant Main and Check Energy Meters of 0.2 accuracy class shall be installed, as per the CEA (Installation and Operation of Meters) Regulations, 2023 as amended from time to time, at the point of commencement of supply to the Consumer premises (M/s. TSL, Khandbandh).
- d) M/s. TSL, Joda shall be billed for the energy charges on the basis of total energy actually and collectively consumed/recorded in the main Energy Meter installed at 220 kV (Grid) deducting the energy consumed/recorded by the meter installed at the 33 kV incomers of M/s. TSL, Khandbandh.
- e) The Maximum Demand (MD) of M/s. TSL, Joda shall be calculated by deducting the MD recorded at M/s. TSL, Khandbandh from the MD recorded in the billing meter of M/s. TSL, Joda considering and comparing 15 minutes demand integration period wise demand recorded in both the meters. All efforts must be made for time synchronisation of both the meters. M/s TSL, Khandbandh shall be billed such demand charges as per the demand recorded in the meter installed at the MRSS of TSL, Joda for recording the consumption of M/s. TSL, Khandbandh in accordance with prescribed guideline and applicable tariff determined by the Commission.

f) If the Consumer M/s. TSL, Khandbandh wants to draw power through Open Access (OA), the same shall be subject to the following terms and conditions:

- M/s. TSL, Khandbandh shall obtain monthly permission for drawl of power through OA from the Licensee-TPNODL/ SLDC/ GRIDCO.
- Every 15 minute time block of OA schedule drawl of M/s. TSL, Khandbandh shall be deducted from the corresponding 15 minute time block consumption recorded in the meter at the interface point of power supply to M/s. TSL, Khandbandh at 33 kV incomers and the balance consumption shall be billed on M/s. TSL, Khandbandh as per the applicable RST.
- The energy charges payable by M/s. TSL, Joda under the prevailing 220 kV Mains power supply agreement between M/s. TSL, Joda and TPNODL, shall be calculated on the net consumption of M/s. TSL, Joda, which shall be obtained after deducting the total Open Access drawal of M/s. TSL, Joda and the total recorded consumption in the meter of M/s. TSL, Khandbandh from the total consumption recorded in M/s. TSL, Joda 220 kV Mains Meter installed at Grid-End, and billed as per applicable RST.
- The Cross Subsidy Surcharge and other charges on Open Access drawal shall be applicable as per the prevailing OA order of the Commission.

8. According to the proposal of the Petitioner-Licensee (TPNODL), the new consumer M/s. TSL, Khandbandh, is situated at a distance of about 14 Kms. away from M/s. TSL, Joda and to extend the power supply to M/s. TSL, Khandbandh from the MRSS of TSL, Joda, a tripartite agreement between the concerned parties is required as per the provision of Regulation 139 of the OERC Distribution (Conditions of Supply) Code, 2019 which is reproduced below:

“The licensee/supplier may, having regard to the nature of supply and purpose for which supply is required, fix special tariff and conditions of supply for the consumers not covered by the classification enumerated in this Code. For such purpose licensee/supplier may enter into special agreements with the approval of the Commission with suitable modifications in the Standard Agreement Form. The tariff in such cases shall be separately approved by the Commission.”

Accordingly, a tripartite agreement was executed between TPNODL (the Distribution Licensee), M/s. TSL, Khandbandh (the Consumer) and M/s. TSL, Joda (the Consenting Party) on 07.08.2024 and has been placed now before the Commission for approval.

9. As per submissions of OPTCL & GRIDCO, the above provision under Regulation 139 stipulates the applicability of the special agreement with approval of the Commission

for consumers not covered by the classification categorised in the Code and the special tariff for that consumer shall be separately approved by Commission. In the instant case, M/s. TSL, M/s. TSL, Joda is classified as “Large Industrial consumer” under Regulation 138 of the OERC Supply Code, 2019. It is proposed that M/s. TSL, Khandabandh shall also be covered under “Large Industrial consumer category”. The two different units of M/s. Tata Steel Ltd. are separated by a distance of around 14 kms and are connected through 33 kV D/C line constructed by M/s. Tata Steel Ltd. M/s TSL, Joda is connected with STU network at Joda (220/132/33 kV GSS of OPTCL). Thus, the single point of power supply (i.e. single point connectivity) cannot be extended to the premises of two industrial consumers separated through a distance of about 14 km.

10. Regarding non-applicability of Regulation 139 of Supply Code, 2019 since M/s. TSL Khandbandh is categorized as large industry we want to clarify that, Regulation 139 of OERC Supply Code, 2019 covers consumers who cannot be covered under Regulation 138 which classifies consumers in to different categories depending upon their usage of Electricity. M/s. TSL Khandbandh is one such prospective consumer who though requires Electricity for large industry purpose does not qualify to become a consumer in view of the provision under Section 2 (15) of the Electricity Act, 2003 which makes it mandatory to be connected to the works of a licensee to become a consumer. But M/s. TSL Khandabandh is not connected directly to the network of distribution licensee. Therefore, M/s. TSL Khandbandh is automatically excluded from the array of the consumers as mentioned in Regulation 138 of OERC Supply Code, 2019 who are required under law to be connected with the distribution system of the licensee.

However, M/s. TSL has constructed 33 kV D/C line (about 14 km) from MRSS of M/s. TSL, Joda to M/s. TSL, Khandbandh passing through forest & mining areas with much difficulties at a cost of Rs.45 Cr. over a period of six (6) years with prior intimation to DoE, GoO and after obtaining the approval of different Govt. authorities & NOC from erstwhile NESCO. Perhaps the act of M/s. TSL constructing a dedicated line for the purpose of getting power from TPNODL which also provides power to M/s. TSL, Joda is otherwise bolstered by the doctrine of legitimate expectation. For the sake of further clarity, it can be stated that for a long period, when M/s. TSL applied for clearance of different Government Departments for the construction of the dedicated line from Joda to Khandbandh, through the forest and other areas, covering a distance of 14 Kilometers, no objection was raised by the Respondent- M/s.OPTCL or any other Government Authority. Such being the scenario, the drawl of power by M/s. TSL, Khandbandh through the dedicated line from M/s TRS, Joda is protected by the

application of doctrine of legitimate expectation. Without having a regular Electricity connection, M/s. TSL Khandbandh has been spending Rs.5 Cr./month for running its plant at Khandbandh by using Electricity from Diesel Generating set which is responsible for huge carbon emission which has very deleterious effect on the environment. Unless the Special Agreement under Regulation 139 is made effective, M/s. TSL, Khandbandh cannot get consumer status of TPNODL and tariff attached to it. Therefore, the Tripartite Special Agreement is approved now with the following stipulations.

- (a) The 33 kV D/C line constructed by M/s. Tata Steel Ltd. from the MRSS of M/s. TSL, Joda upto M/s. TSL, Khandbandh shall be considered as the “deemed distribution system” of the Licensee-TPNODL in view of continuity of the system including faults upto MRSS of M/s. TSL, Joda and metering of M/s. TSL, Khandbandh at MRSS of M/s. TSL, Joda. However, the maintenance of 33 kV line shall rest with M/s’ TSL, Joda. The Tripartite Agreement needs to be modified accordingly.
- (b) The terms of the Tripartite Agreement shall be for an initial period of five years from the date of execution of agreement between the consumers and licensee, which may be extended further on approval of this Commission. However, M/s TSL, Khandbandh shall take action for switching over to Direct connectivity with STU network (GSS) of OPTCL or PSS of TPNODL (depending on their load demand) to avoid unnecessary complication in future. As per the submissions of M/s. OPTCL, 33 kV spare bays are available at 220/132/33 kV Joda substation of OPTCL, which is only about 0.5 km. away from M/s TSL, Joda. The direct connectivity with OPTCL’s substation at Joda at 33 kV level will improve reliability of power supply to M/s TSL, Khandbandh.
- (c) The tariff and directions issued in the tariff orders of the Commission for the Large Industrial Consumer in respective financial year(s) shall be applicable.
- (d) In case of OA transaction by the Consumers (i.e. M/s. TSL, Joda and M/s. TSL, Khandbandh), applicable OA charges as per the OERC Open Access Regulations shall be paid by the Consumers including the applicable transmission charges as raised by M/s. OPTCL.
- (e) The revenue loss to the Licensee-TPNODL, if any, due to extension of power supply under above Tripartite Agreement, shall be borne by the Licensee and the agreement shall cease with immediate effect under intimation to the Commission.

- (f) The Licensee-TPNODL shall ensure that there would not be any loss of revenue to M/s. GRIDCO & M/s. OPTCL under such arrangement of supply of power to the Consumer - M/s. TSL, Khandbandh. The Respondents-GRIDCO & OPTCL are at liberty to approach the Commission, in case of any genuine loss of revenue to them.
- (g) M/s. TSL, Joda and M/s. TSL, Khandbandh shall not extend power supply to other places through the 220 kV Joda grid of M/s. OPTCL by installing their CGP(s) without approval of the Commission.

11. With the aforesaid observations and directions, the Case stands disposed of.

Sd/-
(G. Mohapatra)
Officiating Chairperson

I have the privilege of going through the observations of my Learned Chairperson-in-Charge as stated above. In this connection, considering the backgrounds of the case, submission of the parties and analysis of the Commission in paragraph 1 to 11, my observations are as under:

- (a) In last sentence of paragraph-9
“as per provision under OERC Distribution (Conditions of Supply) Code, 2019” is missing.
- (b) I do not agree with the statements regarding applicability of Regulation 139 in paragraph-10 i.e. “Regarding non-applicability Distribution system of the licensee”.
- (c) I also do not agree with statement in paragraph-10 “Unless the Special Agreement under Regulation 139 is made effective, M/s. TSL, Khandbandh cannot get consumer status of TPNODL and tariff attached to it.”
- (d) The statement in paragraph-10 (a) “in view of continuity of the system including faults upto MRSS of M/s. TSL, Joda and metering of M/s. TSL, Khandabandh at MRSS of M/s. TSL, Joda” is not required.”
- (e) In paragraph-10(b) “five years” needs to be corrected as “three years”.

“A prospective consumer need to provide details asked for in the Application form (Form No.2) mentioning the purpose of power supply like private residence/factory/industry/irrigation ... etc., Contract Demand etc. and apply accordingly for availing power supply. Based on his application, the supplier / Discom has to make arrangement for connectivity with nearby transmission / Distribution network considering the consumer category and quantum of power

demand. Since all consumer categories are covered under Regulations 138 of OERC's Supply code 2019 and accordingly the tariff is being decided by the Commission in ARR of Distribution licensee every Financial Year, the provision of Special Agreement covered under Regulation 139 of the OERC's Supply code 2019 does not apply in the instant case.

However, considering the submission of the Respondents (OPTCL & GRIDCO), provisions in OERC Distribution (Condition of Supply) Code 2019 and prevailing situation for extending power supply immediately to an Industrial Consumer (generating employment opportunity) without further delay, I agree with the approval of the Tripartite Special Agreement as a special case exercising the power of the Commission under Regulation 201 i.e. "Power to Remove Difficulties" of OERC Distribution (Condition of Supply) Code 2019 subject to stipulations as in Clause 10 (a) to (g) with my observations as stated above.

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

I have the benefit of going through the dissenting opinion/observation given by Learned brother Shri S.K.Ray Mohapatra , Member. In the context, may I mention here for the sake of clarification that mere submission of an application by a person/establishment does not put him in the footing of the consumer as per the statutory definition under section 2 (15) of the Electricity Act, 2003 and Regulation 138 of the OERC Distribution (Conditions of Supply) Code, 2019.

Hence, in following the provisions under Section 92 (3) of the Electricity Act, 2003, I hereby exercise the second/casting vote vested on me. Accordingly, the order of the Officiating Chairperson shall be the order of the Commission.

The order is signed, today i.e. on 4th day of November, 2024 and be issued by the Odisha Electricity Regulatory Commission.

Sd/-
(G. Mohapatra)
Officiating Chairperson