



Chhattisgarh State Electricity Regulatory Commission
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P. No. 57 of 2018(M)

"In the matter of review petition under section 94 of the Electricity Act, 2003 read along with section 151 of the Code of Civil Procedure, 1908, for seeking modification of the order dated 08.06.2018 in petition No. 47 of 2017 and the matter of Appeal No. 203 of 2018 order dated 10.08.2018 passed by the Hon'ble Appellate Tribunal for Electricity."

M/s SKS Ispat & Power Ltd. ... Petitioner
versus
Chhattisgarh State Power Distribution
Company Limited ... Respondent

PRESENT : D.S.Misra, Chairperson
Arun Kumar Sharma, Member
Vinod Deshmukh, Member (Judicial)

Appearance: Shri Ashish Barnard, Counsel for petitioner.
Shri Apoorv Kurup, Counsel for respondent.

ORDER
(Passed on 31.03.2021)

This petition has been filed by M/s SKS Ispat & Power Ltd. under section 94 of the Electricity Act, 2003, read with section 151 of the Code of Civil Procedure 1908, seeking modification in the order of this Commission dated 08.06.2018 passed in petition number 47 of 2017.

2. Petition No. 47/2017 relates to billing of parallel operation charges (POC) based on the formula given by the Commission in its order dated 30.04.2016. While passing the order dated 08.06.2018 in petition No. 47 of 2017, Commission had stated as follows:

"Further, the CSPDCL has filed a petition No. 09/2018, in which they have requested to issue suitable guidelines for installation of complete metering system for billing of POC as per order dated 30.04.2016. It appears that for implementation of order dated 30.04.2016, a detailed

deliberation and consultation is needed with all the stakeholders. Accordingly, it has been decided that due deliberation and consultation shall be carried out in petition No. 9 of 2018 with all stakeholders. The petitioner is at liberty to offer their views / suggestions in this petition. Since some issues are involved in implementation of order dated 30.04.2016, till the matter is decided in petition No. 09 of 2018, the billing of POC is to be carried out in line with old formula prevailing prior to order dated 30.04.2016."

The above order of the Commission was challenged by the petitioner before Hon'ble Appellate Tribunal. Hon'ble APTEL, vide order dated 10.08.2018, disposed the appeal reserving liberty to file necessary application for modification of the impugned order dated 08.06.2018 passed in petition number 47 of 2017 by CSERC. Hence, this petition.

3. The petitioner subsequently filed an amendment application seeking a direction to the CSPDCL to levy and collect POC in accordance with the formula prescribed by the Commission in order dated 05.04.2019 from the date of enforcement of original order dated 30.04.2016 for calculation of POC. It is worth mentioning here that in its order dated 05.04.2019 passed against petition No. 09 of 2018, the Commission stated that "*a few captive generators went in appeal before the Hon'ble Appellate Tribunal and the Tribunal has remanded the appeals with the direction to pass appropriate orders after giving opportunity of hearing to the concerned parties. These are being dealt with in separate petitions; number 33 and 47 of 2017.*"

4. The contention of the petitioner is that they have made necessary metering arrangement at all the generation points and auxiliary consumption points to indicate exact generation in terms of KVA in 15 minutes time block and the meters have been duly tested and sealed by CSPDCL in line with the direction given by the Commission in its order dated 30.04.2016 passed in suo motu petition 56 of 2015(M). Therefore, they should be billed POC by CSPDCL based on the formula given in the Commission's aforesaid order.

5. The respondent CSPDCL submitted that the above formula involves summation of several thousands of data sets, which is not possible manually and may also lead to data tempering and, therefore, installation of appropriate summation meters would be necessary in order to bill POC as per the said formula.

6. Heard the parties and perused the records. The arguments extended by the parties are the same as given in the facts of the case.

Commission's View:

7. The Commission notes that the sole requirement for billing the POC as per the formula given in its order dated 30.04.2016 is that CSPDCL has to ensure that all the generation points and auxiliary consumption points are properly metered to indicate exact generation in terms of KVA and installation of KVA recording (in 15 minutes time block) meters is to be carried out either by the generator or by the licensee, but invariably tested and sealed by the licensee at the generator's cost. The requirement of summation meter has not been stipulated in the Commission's order which implies that CSPDCL would need to carry out all necessary summations.

8. Since, the petitioner has installed the meters required as per the Commission's order dated 30.04.2016 which have been duly tested and sealed by CSPDCL, we are of the view that the billing of POC based on the formula given in the order dated 30.04.2016, can be done by carrying out appropriate summations, by the CSPDCL.

9. Accordingly, we direct CSPDCL to bill POC to the petitioner based on the formula given in the order dated 30.04.2016 from 01.05.2016 till 30.03.2019. The billing of POC from 01.04.2019 will be as per order dated 05.04.2019 passed by the Commission in petition No. 09 of 2019.

10. As regards the relief sought by the petitioner vide its amendment application to levy and collect POC in accordance with the formula prescribed by the Commission in order dated 05.04.2019 from the date of enforcement of original order dated 30.04.2016, the Commission is of the view that as per the general principles concerning retrospectivity and settled law in the matter i.e. *lex prospicit non respicit* (law looks forward not backward), the said relief cannot be granted.

11. Petition is disposed accordingly.

Sd/-
(Vinod Deshmukh)
Member (Judicial)

Sd/-
(Arun Kumar Sharma)
Member

Sd/-
(D. S. Misra)
Chairperson