



Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17

No. F. 11(1459)/DERC/2016-17/5655

Petition No. 06/2017

In the matter of: **Petition seeking directions for the Open Access Electricity Charges on Open Access Consumers as per DERC order dated 24.12.2013 and order dated 18.05.2015 along with IA seeking interim direction from the Commission.**

AVDHUT SWAMI METAL WORKS
19, Jawahar Nagar Indl. Area,
Loni Road,
Delhi- 110094

...Petitioner

Vs.

1. BSES Yamuna Power Ltd.
Through its: **CEO**
Shakti Kiran Building,
Karkardooma
New Delhi – 110092

2. State Load Despatch Centre
Delhi Transco Limited
33KV Sub Station Building,
Minto Road,
New Delhi 110 002

...Respondents

Coram: Sh. B.P. Singh, Member

Appearance:

1. Ms. Priya Dwivedi, Advocate, Petitioner
2. Mr. Buddy Ranganathan, Advocate, BYPL
3. Ms. Malavika Prasad, Advocate, BYPL
4. Mr. Naveen Goel, SLDC
5. Mr. Deepak Sharma, SLDC

INTERIM ORDER

(Date of Hearing: 24.10.2017)

(Date of Order: 03.11.2017)

1. The instant Petition has been filed for seeking Order of the Commission for the revision of Open Access Electricity Bill towards Wheeling Charges in compliance with DERC Open Access Orders dated 24.12.2013 & 18.05.2015 read with DERC (Terms & Conditions of Open Access) Regulations 2005. The petitioner has also filed an Interim Application (IA) seeking directions to the Respondents to grant approval to the Open Access application filed by the petitioner.

2. The Counsel for the Respondent BYPL submitted that it has not received the copy of the IA filed by the petitioner.
3. The Counsel for the petitioner submitted that it has been procuring Open Access on Exchange Platform as per the DERC guidelines/Orders dated 24.12.2013 and 18.05.2015. The Respondent BYPL was raising the monthly bills from December 2015 to December 2016 in line with the DERC Open Access Orders dated 24.12.2013 and 18.05.2015 for the collection of wheeling charges but all of a sudden in January, 2017 the Respondent BYPL started calculating wheeling charges on full contract demand and also raised an arrear bill of Rs. 1.2 crores retrospectively.
4. The Counsel for the petitioner further submitted that as per the Order dated 24.12.2013; the wheeling charges imposition should be levied on the quantum in MWH cleared by the concerned SLDC. It was further submitted that even the Order dated 18.05.2015 provides for the same mechanism.
5. The Counsel for the Respondent BYPL submitted that the Regulation 11(1) of the DERC Open Access Regulations, 2005 provides for billing of wheeling charges on the original reserved capacity.
6. The relevant portion of the Orders dated 24.12.2013 and 18.05.2015 vis-à-vis the Regulation 11(1) of the DERC Open Access Regulations, 2005 are reproduced as under:

Para 11A of DERC Order dated 24.12.2013

“Transmission and Wheeling charges shall be levied as determined by DERC. The charges will be levied on the quantum in MWH cleared by the concerned SLDC for bilateral transactions and National Load Despatch Centre (NLDC) in case of collective transactions.”

Clause 4, DERC Order dated 18.05.2015

“The transmission charges, Wheeling charges, Additional Surcharge and Cross Subsidy Surcharge shall be levied on open access quantum cleared by nodal agency.”

Regulation 11(1) of the DERC Open Access Regulations, 2005

*“11(1) Non-Utilization of open access capacity: In the event of inability of the short term open access customer to utilize, continuously for more than four hours, on any day, full or substantial part of the capacity allocated to him, such a short term open access customer shall inform the respective state load dispatch centre of his inability to utilize the capacity allocated to him. **However, such short term open access customer shall bear full transmission and/or wheeling charges based on the original capacity is allocated to the customer.**”*

7. It is relevant to mention that the Orders on Open Access should be read in conjunction with the relevant Regulation and if there is some conflict between the provisions of the Regulations and the provisions of the Orders made thereunder, the law is very clear on the supremacy of the Regulations over the Orders. Therefore, the Regulations will prevail to the extent of such conflict.
8. In view of the above, the parties are directed to reconcile the bills as per the provisions of the DERC Open Access Regulations, 2005, within two weeks.
9. Further, regarding the IA filed on the issue of grant of Open Access approval, the petitioner is directed to provide a copy of the IA to the Respondents within a week. The Respondents may file their reply to the IA within two weeks thereafter, with an advance copy to the petitioner.
10. The next date of hearing will be informed in due course.

**Sd/-
(B.P. Singh)
Member**