



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

No. F. 11(1503)/DERC/2017-18/

Petition No. 46/2017

In the matter of: **Petition under Section 142 and Section 42 (4) of the Electricity Act, 2003, against the Non-compliance of the DERC Open Access Order dated 18.05.2017 by the SLDC and the Discoms of Delhi towards settlement of Additional Surcharge of the Open Access Consumers.**

Indian Energy Regulatory Services

Through: Mr. Gaurav Nand

T-44, Karampura,
New Delhi 110 015

...Petitioner

Vs.

1) State Load Despatch Centre
Delhi Transco Limited, 33KV substation building
SLDC Building, Minto Road,
New Delhi 110002

2) BSES Yamuna Power Limited
Through its: CEO
2nd Floor, Shakti Kiran Building,
Karkardooma,
New Delhi-110032

3) BSES Rajdhani Power Limited
Through its: CEO
BSES Bhavan, Nehru Place
New Delhi 110019

4) Tata Power Delhi Distribution Limited
Through its: Managing Director
Grid substation building
Hudson lines, Kingsway camp,
New Delhi-110009

....Respondents

Coram: Sh. B. P. Singh, Member

Appearance:

1. Mr. Atul Kumar Shrivastava, Representative for IERS
2. Mr. Buddy Ranganadhan, Adv., BRPL & BYPL
3. Mr. Hasan Murtaza, Adv., BRPL & BYPL
4. Mr. Malvika Prasad, Adv., BRPL & BYPL
5. Mr. Raunak Jain, Adv., TPDDL
6. Mr. Vishvendra Tomar, Adv., TPDDL
7. Mr. Ravi Shandilya, BRPL
8. Mr. Mayank Ahlawat, BRPL
9. Mr. Abhishek Mahapatra, BRPL
10. Mr. Ravi, BRPL
11. Mr. S Goyal, BRPL

12. Mr. Gagan Swain, BYPL
13. Mr. Sameer Singh, BYPL
14. Mr. Shekhar Saklani, BYPL
15. Mr. Brajesh Kumar, BYPL
16. Ms. Prachi Jain, BYPL
17. Mr. Bharat Bhadawat, TPDDL
18. Mr. Varun Sharma, TPDDL
19. Ms. Aditi Sanghi, TPDDL

ORDER

(Date of Hearing 22.05.2018)

(Date of Order: 30.05.2018)

1. The petitioner has filed the instant petition under Section 42 (4) and Section 142 of the Electricity Act, 2003 to issue directions/orders/rule/instruction against the non-compliance of the Open Access Order dated 18.05.2015 by the State Load Despatch Centre and the Discoms of Delhi for the settlement of additional surcharge of the Open Access Consumers.
2. The Authorized representative of the petitioner submitted that the methodology adopted by the Commission for determination of additional surcharge vide its Open Access order dated 01.06.2017 may also be applied for the previous period. Further, the respondents may be directed to refund/settle the additional surcharge taken from Open Access consumers for the duration of 18.05.2015 till 31.05.2017 in line of the methodology adopted in the Open Access order dated 01.06.2017.
3. The Counsel for BRPL and BYPL submitted that by the Tariff Order dated 31.08.2017, the Hon'ble Commission has undertaken the true up of FY 2014-15 and FY 2015-16 a period during which BRPL did not have any open access transaction and BYPL had only one Open Access consumer i.e. M/s ASMW from December-15 to March -16. For FY 2015-16 BYPL had submitted required data of additional surcharge calculation to SLDC on 15.12.2017.
4. TPDDL has submitted that the settlement of additional surcharge has been deferred due to valid reasons, till the true up is done for FY 2014-15, FY 2015-16 and FY 2016-17 by the Commission. Distribution Licensees will only be in a position to settle the additional surcharge when the additional surcharge rate is determined by the Delhi SLDC. Hence, no action is warranted against the respondent under Section 142 of the Electricity Act, 2003 or as alleged by the petitioner since the respondent is completely willing to adjust the additional surcharge of the Open Access consumers immediately when Delhi SLDC communicates the rate of such additional surcharge to the respondent under intimation to the Commission.

5. The Commission noticed that the contention of the petitioner to adopt the order dated 01.06.2017 for the previous period cannot be accepted since the order dated 01.06.2017 was for a different period and not when the orders dated 24.12.2013 and 18.05.2015 were in operation. Such retrospective effect requested by the petitioner is against the well settled principles of prospective operation of orders.
6. Further, since the true up for the period FY 2015-16 and FY16-17 has already been done by the Commission the data regarding refund/settlement of additional surcharge is available. Accordingly, SLDC is directed to settle the surcharges for FY 2015-16 and FY 2016-17 within a month. For the remaining period of April-May, 2017 the adjustment of additional surcharges shall be done after the true up of the same.
7. With the above directions, the petition is disposed of.

Sd/-
(B.P. Singh)
Member