

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 291/MP/2018

- Subject : Petition under Section 79(1)(c) and 79 (1)(h) of the Electricity Act, 2003 and the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008 and Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 for Deviation Settlement Account.
- Petitioner : Indian Railways
- Respondents : State Load Despatch Centre, Rajasthan and Anr.
- Date of Hearing : 27.9.2019
- Coram : Shri P. K. Pujari, Chairperson
Dr. M. K. Iyer, Member
Shri I. S. Jha, Member
- Parties Present : Shri M. G. Ramachandran, Sr. Advocate, Indian Railways
Shri Pulkit Agarwal, Advocate, Indian Railways
Shri Harish Chander, Indian Railways
Shri Anurag, Indian Railways
Shri S. Vallinayagam, Advocate, SLDC

Record of Proceedings

Learned senior counsel for the Petitioner submitted that the present Petition has been filed on the limited issue regarding applicability of Unscheduled Interchange/Deviation Settlement charges on the inter-State Open Access transactions undertaken by the Petitioner during the period from 1.1.2017 to 31.12.2017. Learned senior counsel submitted that in terms of Regulation 20 of the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008 and Regulation 29 of the Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009, any mismatch between the scheduled and actual drawal at drawal points is to be determined by the SLDC and unless specified otherwise by the State Commission concerned, UI rate for intra-State entity shall be 105% (for over-drawals) and 95% (for under-drawals) of the UI rate at the periphery of regional entity i.e Rajasthan State. Though Rajasthan Electricity Regulatory Commission (RERC) has enacted Rajasthan Electricity Regulatory Commission (Intra-State ABT) Regulations, 2006, the same were kept in abeyance. Accordingly, in the present case, UI/DSM charges would be applicable as per this Commission`s Regulations.



2. Learned counsel for the Respondent, State Load Despatch Centre, submitted that issues raised by the Petitioner, including the issue of jurisdiction, has already been adjudicated by the Rajasthan Electricity Regulatory Commission in its order dated 23.4.2019 in Petition No. RERC-1367/18. Aggrieved by the said order, the Petitioner has filed an appeal before the APTEL which is pending for adjudication. Learned counsel submitted that the present Petition is barred by the principle of *res judicata* and requested to adjourn the matter till the outcome of the said appeal.

3. In response, the learned senior counsel for the Petitioner submitted that the APTEL has stayed the order of RERC and the principle of *res judicata* is not applicable in the present case as the order without the jurisdiction is *no-est* in law and the matter has not been finally decided.

4. After hearing the learned senior counsel for the Petitioner and learned counsel for the Respondent, the Commission adjourned the matter till the outcome of the appeal filed by the Petitioner before APTEL. However, the parties were granted liberty to approach the Commission if any development takes place in the meanwhile.

By order of the Commission

**Sd/-
(T.D. Pant)
Deputy Chief (Law)**

