

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 176/MP/2022**

- Subject : Petition under Regulation 26 of the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008 read *inter alia* with Sections 79(1)(c) and (f) of the Electricity Act, 2003 seeking Registration in the NOAR for inter-state short term open access for the energy generated by ITC Limited at the wind power project in Anantapur District, Andhra Pradesh for captive consumption at its factories at Bollaram and Bhadrachalam, Telangana.
- Date of Hearing : 5.7.2022
- Coram : Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri P. K. Singh, Member
- Petitioner : ITC Limited
- Respondents : National Load Despatch Centre (NLDC) and 4 Ors.
- Parties Present : Shri K. Gopal Choudary, Sr. Advocate, ITC Limited  
Shri S. Vallinayagam, Advocate, ITC Limited  
Shri V. Lakshmi Kumar, ITC Limited  
Shri Ramasahayam Veman, ITC Limited  
Shri Harsha Peechara, Advocate, Telangana Discoms  
Chief Engineer, TSLDC  
Shri Subhendu Mukherjee, NLDC  
Shri Venkateshan M, SRLDC

**Record of Proceedings**

Case was called out for virtual hearing.

2. Learned senior counsel for the Petitioner submitted that the present Petition has been filed against the non-registration of the Petitioner in the National Open Access Registry ('NAOR') for inter-State Short Term Open Access ('STOA') for energy generated by the Petitioner at Wind Power Project in Anantapur District, Andhra Pradesh for captive consumption at its factories at Bollaram and Bhadrachalam, Telangana due to unwarranted discrepancies and objections being raised time and again by the Respondent No. 3, Telangana SLDC ('TSLDC') insisting on undertakings and documents which are unauthorized and contrary to law and the regulations. The learned counsel mainly submitted the following:

- (a) The Petitioner has established and commissioned 46 MW Wind Power Project ('the Project') as a captive generating plant in Anantapur District, Andhra Pradesh to meet the electricity requirement of the Petitioner's industrial undertakings including the ones at Bhadrachalam and Bollaram in the State of Telangana.

(b) The electricity requirements of its industrial unit at Bhadrachalam is being met by the Petitioner from its captive co-generation plant under STOA through power exchanges and from the Contracted Maximum Demand (of 5000 kVA) with Respondent No.5 Distribution licensee. This industrial unit has availed inter-State open access from September, 2016 onwards in terms of the Commission's order dated 13.6.2016 in Petition No. 121/MP/2015 wherein the Commission held that the denial of concurrence and open access by AP SLDC and SRLDC was incorrect and to process the application of the Petitioner as per this Commission's Open Access Regulations.

(c) The electricity requirement of its industrial unit at Bollaram is being met by the Petitioner from its aforesaid captive Project through STOA and partly or wholly from Contracted Maximum Demand (2501 kVA) with Respondent No.4 distribution licensee. The said unit has been availing inter-State open access from March, 2017.

(d) After introduction of NOAR in terms of Central Electricity Regulatory Commission (Open Access in inter-State Transmission) (Fifth Amendment) Regulations, 2018 read with order dated 1.4.2022 approving the "Procedure for Short Term Open Access in Inter-State Transmission System through National Open Access Registry" ('Detailed Procedure'), the Petitioner made the application to TSLDC for grant of NOAR registration for both the units on 7.12.2021.

(e) However, the said applications have not been approved by the Respondent No.3, TSLDC till date by raising the unwarranted discrepancies and objections time and again, and also insisting on the undertaking and documents which are not required under any law or the regulations.

(f) The outstanding issues/discrepancies raised by TSLDC in respect of Bollaram unit are (i) latest NABL test report, (ii) Open Access undertaking, (iii) DSM undertaking, and (iv) RPPO undertaking. Whereas the outstanding issues/discrepancies in respect of Bhadrachalam unit are (i) DSM undertaking and (ii) drawee quantum to be equal to or less than CMD of the unit with distribution licensee.

(g) As regards NABL test report, the Petitioner has repeatedly filed the NABL test report in respect of its Bollaram unit and such repeated demand by TSDLC is incomprehensible. Moreover, as per the CEA Regulations, the responsibility of testing the meters is entirely on the licensee. Requirement of such document is neither prescribed under the Regulations nor under the Detailed Procedure.

(h) The requirement of OA undertaking and undertaking to the effect that drawee quantum to be equal to or less than CMD of the unit with licensee are without any basis, unauthorised and unlawful. CMD is the power that consumer has contracted to purchase from the licensee and to require that in order to avail the power from any other sources including one's captive source, the consumer has to necessarily contract an additional CMD with licensee to purchase the same amount from the licensee is absurd, irrational and contrary to the law.

(i) As per this Commission's DSM Regulations, the liability for deviation charges for wind generation, being a regional entity, is entirely on the wind generator and there is no liability at all for the drawal entity. Similarly, in the Andhra Pradesh Commission's Forecasting, Scheduling and Deviation Settlement of Solar and Wind Generation Regulations, 2017 also, there is no liability whatsoever for any drawal entity/consumer for any deviation settlement charges. Therefore, the

requirement of DSM undertaking in respect of drawal entity/ consumer in Telangana is misconceived and without any basis.

(j) Similarly, the requirement of RPPO undertaking is also misconceived as the Petitioner is seeking open access for captive consumption of wind power from its captive wind generating plant, which is not subject to any Renewable Power Purchase Obligation.

(k) In the above circumstances, the Petitioner has also prayed for interim relief i.e. direction to Respondent No.1 – NLDC to immediately register the Petitioner in NOAR provisionally on the basis of the information and documents already uploaded onto NOAR portals with respect to the Petitioner's applications so as to enable it to continue to apply for inter-State STOA for captive consumption at its industrial units without insisting on the undertakings or any curtailment of drawal quantum.

(l) Keeping in view the upcoming wind season, if the Petitioner is not able to secure the open access, the wind energy generated at its captive generating plant for captive consumption will get stranded and the Petitioner will be put to irreparable harm and injury. The Petitioner has already served the copy of the Petition on the Respondents.

(m) Alternatively, the Commission may take note that for the timely registration in NOAR, the Petitioner is willing to furnish the undertakings as sought for by the Respondent, TSLDC provided such undertakings be subject to the outcome of the present Petition.

3. The representative of the Respondent, NLDC accepted the notice and submitted that as per the Detailed Procedure, for the intra-State entities, the registration has to be first approved by SLDC and thereafter, the concerned RLDC. The representative further pointed out that the documents by the various SLDCs for the purpose of registration in NOAR vary from State to State.

5. After hearing the learned counsel for the Petitioner and the representative of NLDC the Commission ordered as under:

(a) Admit. Issue notice to the Respondents.

(b) The Petitioner to serve copy of the Petition on the Respondents and the Respondents to file their reply within three weeks after serving copy of the same to the Petitioner, who may file its rejoinder within two weeks thereafter.

(c) The Respondent, TSLDC to furnish the following information/detail along with its reply:

(i) Procedure issued under Clause 5.2 of the TSERC (APERC) Regulation 2 of 2005.

(ii) If the Petitioner was allowed to avail STOA in the existing regulatory framework with metering and transmission system in place during the pre-NOAR regime, justification/explanation as to on what basis the Petitioner is not being allowed to register in NOAR and subsequent denial of concurrence and STOA in ISTS after implementation of NOAR.

(d) The request of the Petitioner for issuing interim direction will be considered on the next date of hearing after taking into the account the

submissions of the Respondents in the matter, if any. In the meantime, as suggested, the Petitioner is also at liberty to furnish the undertakings to the Respondent TSLDC in order to complete the registration in NOAR, which shall be without prejudice and subject to the outcome of the present Petition. The Respondent TSLDC is directed to take into the account such undertakings strictly for the purpose of completion of registration of the Petitioner's applications in NOAR, which shall be subject to the outcome of the present Petition.

(e) Parties to comply with the above directions within the specified timeline and no extension of time shall be granted.

6. The Petition shall be listed for hearing in due course for which separate notice will be issued.

**By order of the Commission**

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