

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 28/MP/2022

- Subject : Petition under Regulation 13 “Power to issue directions” of the Central Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2014 read with Regulation 111 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 in the matter of dealing with persistent default in payment of deviation charges applicable under the Central Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2014 and Regulation 40 “Removal of Difficulty” of Central Electricity Regulatory Commission (Fees and Charges of Regional Load Despatch Centre and other related matters) Regulations, 2019 by regional entities and other associated issues.
- Date of Hearing : 23.6.2022
- Coram : Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : National Load Despatch Centre (NLDC)
- Respondents : Gujarat State Load Despatch Centre and 252 Ors.
- Parties Present : Ms. S. Usha, WRLDC, POSOCO
Shri Aditya Prasad Das, WRLDC, POSOCO
Shri Gajendra Singh Vasava, WRLDC, POSOCO
Shri Hemant Singh, Advocate, GIRPL & GIWEL
Shri Lakshyjit Singh Bagdwal, Advocate, GIRPL & GIWEL

Record of Proceedings

Case was called out for virtual hearing.

2. The representative of the Petitioner submitted that the present Petition has been filed *inter-alia* seeking necessary directions of the Commission in the matter of dealing with persistent default in payment of deviation charges under the Central Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2014 (‘DSM Regulations’) by the regional entities. The representative of the Petitioner further submitted as under:

- (a) In the DSM Regulations, the Commission has given the highest priority to the timely payment of deviation charges and the regional entities are required to pay the deviation charges amount within 10 days of issuance of statement by the Regional Power Committees. DSM Regulations also provide that if the regional entity fails to make payment of such charges within the specified time, it shall be required to open a Letter of Credit (LC).

(b) However, certain regional entities (approximately 30) are persistently defaulting in payment of deviation charges in specified time and opening of the requisite LC against the said defaults thereby violating the provisions of the DSM Regulations. In this regard, reliance was placed on Annexure-I of the Petition to indicate list of defaulting regional entities.

(c) A number of regulatory provisions have been provided by the Commission for dealing with such defaults and/or delays in payment of various regulatory charges including deviation charges. For instance, Regulation 25A of the Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) (Second Amendment) Regulations, 2013 permits RLDCs/NLDC to refuse the grant of Short-Term Open Access (STOA) to the entities which consistently and wilfully default in payment of various charges including deviation charges.

(d) The issue as to what would constitute “consistent and wilful default” has been clarified by the Commission in order dated 2.9.2015 in Petition No. 142/MP/2012, wherein the Commission has specified the default in payment for a period of 90 days from the due date to be considered as the trigger date for invocation of Regulation 25A to deny STOA to defaulting entities.

(e) However, the certain regional entities are taking undue advantage of above provision of 90 days for commencement of default trigger date and are generally making the payments only after 30-40 days of issuance of DSM account. Thus, the Commission may consider reducing the aforesaid period for commencement of default trigger date to 30 days from the due date of payment of deviation and other regulatory charges.

(f) In many of the cases, the regional entities also do not have any STOA transactions and transact through Long-term Access (LTA) and Medium-Term Open Access (MTOA) and therefore, are insulated from such regulatory measures. Thus, RLDCs may also be suitably empowered to take appropriate measures in respect of LTA and MTOA transactions of defaulting entities after the default trigger date.

3. Learned counsel for the Respondent Green Infra submitted that insofar as the Respondent is concerned, it is making the complete payment of deviation charges and be permitted to file an affidavit to this effect.

4. After hearing the representative of the Petitioner and learned counsel for the Respondent, 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 four weeks after serving copy of the same to the Petitioner, who may file its rejoinder within three weeks thereafter.

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

5. 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)**