

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 65/MP/2022

Subject : Petition under Section 79(1)(f) of the Electricity Act, 2003 read with Regulation 26 of the Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2008 seeking a declaration that the Respondent No.1, West Bengal Electricity Distribution Company Limited is not entitled to levy and collect the wheeling charges and wheeling losses from the Petitioner who is directly connected to the transmission line of the Respondent No.2, West Bengal Electricity Transmission Company Limited along with other appropriate reliefs.

Date of Hearing : 5.8.2022

Coram : Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Petitioner : Dalmia Cement (Bharat) Limited (DCBL)

Respondents : West Bengal State Electricity Distribution Co. Ltd. (WBSEDCL) and Anr.

Parties Present : Shri Manu Seshadri, Advocate, DCBL
Shri Aveak Ganguly, Advocate, DCBL
Shri Abhijit Lal, Advocate, DCBL
Ms. Pallavi Anand, Advocate, DCBL
Shri Suryakanta Pati, DCBL

Record of Proceedings

Case was called out for virtual hearing.

2. Learned counsel for the Petitioner submitted that the present Petition has been filed, *inter alia*, seeking declaration that the Respondent No.1, WBSEDCL is not entitled to levy and collect the wheeling charges and losses on supply of electricity through Short-Term Open Access for its own captive power, which is directly connected through 132 kV transmission line of the Respondent No.2, West Bengal Electricity Transmission Co. Ltd. (WBSETCL) along with other appropriate and consequential reliefs. Learned counsel further referred to the single line diagram of the Petitioner's West Bengal unit and submitted that the said unit is directly connected to the transmission network of WBSETCL at 132 kV level and in no way connected to the networks of WBSEDCL and therefore, there cannot be any demand of wheeling charges by WBSEDCL. Learned counsel added that this issue has also been settled by the Appellate Tribunal for Electricity ('APTEL') wherein the APTEL has clearly held that no wheeling charges can be levied on consumers not using the distribution system for conveyance of electricity in open access.

3. In response to a specific query of the Commission as to why such dispute relating to the applicable charges for usage of STU/intra-State transmission system in terms of WBERC's Regulations/tariff orders would not lie before WBERC, the learned counsel submitted that the transaction in question involves an inter-State open access as the Petitioner is procuring power for its West Bengal unit from its own generating plants located in the States of Tamil Nadu and Odisha and therefore, the jurisdiction of this Commission gets attracted in the present case. Learned counsel submitted that the Commission has exercised its jurisdiction in such case(s) previously while directing the Respondents to grant the open access, which was denied on the ground of alleged congestion in intra-State network.

4. After hearing the learned counsel for the parties, the Commission ordered as under:

(a) Issue notice to the Respondents on 'admissibility' of the Petition.

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

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

5. The Petition shall be listed for hearing on 'admissibility' in due course for which separate notice will be issued.

By order of the Commission

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