

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 257/MP/2022

Coram:

Shri Jishnu Barua, Chairperson

Shri Arun Goyal, Member

Shri P. K. Singh, Member

Date of Order: 18.05.2024

In the matter of:

Petition under section 142 and 146 of the Electricity Act, 2003 for issuing necessary directions against Respondents for non-compliance of the Order dated 29/09/2017 of this Hon'ble commission in petition no. 15/MP/2016 and initiating penal action against the Respondents.

And in the matter of:

Rajasthan Steel Chambers,
B-234, Road No. 9, VKI Area, Jaipur - 302013

.....Petitioner

Versus

- 1. State Load Dispatch Centre,**
Rajasthan Vidyut Prasaran Nigam Limited,
Vidyut Bhawan, Jyoti Nagar, Jaipur – 302005
- 2. The State Power Committee,**
Rajasthan Vidyut Prasaran Nigam Limited
Vidyut Bhawan, Jyoti Nagar, Jaipur – 302005
- 3. Jaipur Vidyut Vitran Nigam Limited,**
Vidhyut Bhawan, Jyoti Nagar, Jaipur – 302005
- 4. Jodhpur Vidyut Vitran Nigam Limited,**
New Power House, Industrial State, Jodhpur-342003
- 5. Ajmer Vidyut Vitran Nigam Limited,**
Vidyut Bhawan, Panchsheel Nagar Makarwali Road, Ajmer-305004
- 6. Rajasthan Vidyut Prasaran Nigam Limited,**
Vidhyut Bhawan, Jyoti Nagar, Jaipur - 302005

.....Respondent(s)

Parties Present:

Shri Anand K. Ganesan, Advocate, RSC
Ms. Harsha V Rao, Advocate, RSC
Ms. Parinitoo Jain, Advocate, AVVNL
Shri Pradeep Mishra, Advocate, SLDC, SPC-RVFN & RVPNL
Shri Manoj Kr. Sharma, Advocate, SLDC, SPC-RVFN & RVPNL

ORDER

The instant petition has been filed by the Petitioner, Rajasthan Steel Chambers (RSC), under Sections 142 and 146 of the Electricity Act, 2003, to issue necessary directions against the Respondents for non-compliance with this Commission Order dated 29/09/2017 in Petition No.15/MP/2016 and initiate penal action against the Respondents.

The Petitioner has made the following prayers:

- (a) *Direct the Respondent No.5 to settle the UI Charges for over-drawl, and adjust any over-recovery it has done for the such drawl;*
- (b) *Direct the Respondent No.5 to refund Rs. 56,24,219.85/- to M/s Jagdamba TMT Mills Pvt. Ltd.;*
- (c) *Direct the Respondent No.5 to refund Rs. 1,11,41,582/- to M/s Shri Jindal Tor (India) Ltd.;*
- (d) *To initiate penal action against the Respondent No.5 for willful violation of the directions of the Hon'ble Commission; and*
- (e) *Pass such other further Order or Orders as the Hon'ble Commission may deem just, fit and proper.*

Submissions of the Petitioner:

2. The Petitioner has mainly submitted as follows:

- (a) The Petitioner, RSC, is an association of Steel Industries in the State of Rajasthan, formed for the purpose of representing the interest of its Members, who are the consumers of the Distribution Companies in the State of Rajasthan i.e. Jaipur Vidyut Vitran Nigam Limited (JVVNL), Jodhpur Vidyut Vitran Nigam Limited (JdVVNL) and Ajmer Vidyut Vitran Nigam Limited (AVVNL).
- (b) The Members of the Petitioner Association have contract demands with Ajmer Vidyut Vitran Nigam Limited (AVVNL) for the supply of power for their industrial activities. Members also procure electricity from time to time through the Indian Energy Exchange (Power Exchange) by availing inter-State Open Access as per

the provisions of the Central Electricity Regulatory Commission (Open Access to inter-State Transmission) Regulations, 2008, as amended from time to time.

- (c) The State Load Dispatch Centre (Rajasthan) had not prepared the UI accounts for Members of the Petitioner Association and other Intra-State entities procuring electricity by means of collective transactions through the power exchange. In view of the same, the Members of the Petitioner Association had to be paid for under-drawl during low frequency and charged for over-drawl otherwise.
- (d) This Commission, vide Order dated 29.09.2017 in Petition No. 15/MP/2016, directed the State Load Dispatch Centre (Rajasthan) to finalize and settle the UI accounts of the members of the Petitioner association within 3 months of the Order.
- (e) Pursuant to the Order dated 29.09.2017 in Petition No. 15/MP/2016, the SLDC vide letter dated 23.05.2018 conveyed to AVVNL the final UI Accounts of the AVVNL's consumers.

(i) The UI Accounts furnished by the SLDC for the period November 2012 to February 2016 with respect to M/s Jagdamba TMT Mills Pvt. Ltd, show that the amount payable for over drawl was Rs. 27,12,146.30 and the amount receivable on account of under drawl was Rs. 6,95,099.60.

(ii) Similarly, with respect to M/s Shri Jindal Tor (India) Pvt. Ltd., for the period April 2013 to February 2016, the amount payable for over drawl was Rs. 49,98,801.71, and the amounts receivable on account of under drawl was Rs. 8,39,367.53 (UI accounts were not finalized and sent for the period from January 2013 to March 2013).

The above computations were based on an email dated 13/04/2018 from the AVVNL to the SLDC, in which the UI Accounts with respect to its consumers were furnished.

- (f) Pursuant to the above, both the consumers i.e. M/s Jagdamba TMT Mills Pvt. Ltd. and M/s Shri Jindal Tor (India) Ltd., wrote to SLDC (Rajasthan) and AVVNL, seeking information under the RTI Act, 2005 with regard to details of the UI account as received from/ submitted by AVVNL and the details of UI Account as finalized by the SLDC (block-wise). In addition, M/s Jindal Tor (India) Ltd. had also sought the UI Accounts for January 2012 to March 2013.

- (g) SLDC (Rajasthan) and AVVNL provided the required details to the consumers (both M/s Jagdamba TMT Mills Ltd. and M/s Shri Jindal Tor (India) Ltd.). In terms of the UI Accounts furnished by AVVNL, the amount receivable by M/s Jagdamba TMT Mills Pvt. Ltd. was Rs. 59,43,995, and the amount receivable by M/s Shri Jindal Tor (India) Ltd. was Rs. 1,11,41,582. This is for the reason that the UI accounts finalized by the SLDC only considered the UI charges to be paid and received based on over drawl and under drawl. However, during the period of over drawl, the consumers had already paid AVVNL for such over-drawl based on the prevalent tariff of AVVNL. Therefore, these amounts had to be refunded to the consumers.
- (h) While the UI Charges for under drawl during the relevant period had been paid to the consumers in the August 2018 billing, however for the period of over-drawl, firstly, the tariff charged by AVVNL is yet to be refunded to the consumers, and further, the UI charges for the said period are to also be paid to AVVNL by consumers. In terms of the above adjustment, the net amounts become payable to the consumers, as they had paid excessive amounts to AVVNL based on energy charges instead of UI charges for the period of over-drawl.
- (i) M/s Jagdamba TMT Mills Pvt. Ltd. had communicated to AVVNL on 04.05.2021 that the charges for under-drawl had been paid to it by AVVNL in the August 2018 billing. However, the adjustment for over-drawl i.e., the refund of tariff paid by M/s Jagdamba TMT Mills Pvt. Ltd. against the UI charges to be paid by it, has not been done even after passing of more than two years from the Order of the Commission dated 29.09.2017 in Petition No. 15/MP/2016.
- (j) On 22.06.2021, M/s Jagdamba TMT Mills Pvt. Ltd. communicated to AVVNL that a total refund of Rs. 56,24,219.85 was due from AVVNL.
- (k) The Respondent, AVVNL, vide letter dated 28.07.2021, communicated and took a stand that the Commission, in its Order dated 29.09.2017, had only directed the SLDC to finalize the UI Accounts of the members of the Petitioner Association, and there was no further direction to the Discoms for making payments. Furthermore, AVVNL has taken a stand that for open access consumers under collective transactions, Intra-State ABT Regulations are not applicable. Hence, no payment towards over drawl is admissible.
- (l) The AVVNL's above stand is not only misconceived but is in complete contravention

of the Order dated 29.09.2017 in Petition No. 15/MP/2016. In the Order of the Commission, there can be no dispute on the applicability of the CERC Open Access Regulations and that the accounts are to be prepared for under drawl and over drawl, as per Regulation 20 of the CERC Open Access Regulations 2008, as was prevailing at the relevant period.

- (m) In the proceedings before the Commission in Petition No. 15/MP/2016, the SLDC had vide affidavit dated 10.07.2017 submitted that all the three Discoms had not provided the UI account for (-) 5% to (+)5% permissible deviation (actual drawl against scheduled drawl of the consumers at drawl end) for 96 blocks of each day in reference to Regulation 20 and 25 of the RERC Open Access Regulations 2004.
- (n) It may be noted that (-)5% deviation from schedule would obviously mean under-drawl, and (+)5% deviation would mean over-drawl. Moreover, the direction of the Commission was not only to finalize the UI account but also to “settle” the accounts. The Respondent, AVVNL today seeks to interpret the Order of the Commission to state that there was no direction to make payments.
- (o) Even otherwise, once the UI Accounts have been finalized by the SLDC, the UI charges are to be paid for under-drawl, and UI charges are to be recovered for over-drawl. Admittedly, for the over-drawl the Discoms have recovered tariff from the members of the Petitioner as per its own supply tariff instead of the UI rate for over-drawl. Once the UI Accounts are finalized, and directed to be settled, such supply is to be billed only at the UI rate, and any other tariff so recovered is to be refunded.
- (p) The RERC (Intra-State) ABT Regulations provide for Unscheduled Interchange accounting. Regulation 20(4), the RERC (Intra-State) ABT Regulations are applicable to the extent they provide for the State UI accounting scheme. However, the entire RERC ABT Regulations would not apply. For collective transactions, inter-state transmission systems, intra-state transmission systems, and distribution systems are utilized in the ISTS, and as such, only this Commission’s regulations would apply.
- (q) Without prejudice to the above, even if it was to be assumed that the RERC ABT Regulations were not applicable to the members of the Petitioner Association, the provisions under Regulation 20(5) of the CERC Open Access Regulations would then be applicable. The entire under-drawl and over-drawl by UI charges are to be

worked out respectively at 95% and 105% of (Inter-State) UI Rate. In any case, there can be no billing for UI at the energy charges of the Discom. The same has to be refunded by the Discom, once the UI Accounts have been finalized.

(r) M/s Jagdamba TMT Mills Pvt. Ltd, vide communication dated 07.08.2021, responded to AVVNL highlighting all of the above discrepancies in AVVNL's stand. Similarly, on 14.09.2021, M/s Shri Jindal Tor (India) Ltd. communicated to AVVNL that it was entitled to a refund of Rs. 1,11,41,582 as an adjustment for the period of over-drawl during which it had paid the tariff to AVVNL instead of UI charges.

(s) Despite several representations to AVVNL by the members of the Petitioner association, AVVNL has not settled the UI charges for over-drawl, for the relevant period. The Respondents showing complete disregard for the Order passed by the Commission, have not taken any initiative for refunds to be made to the members of the Petitioner Association. Hence, the Petitioner is filing the present Petition seeking necessary directions to be issued to AVVNL for not complying with the order of the Commission dated 29.09.2017 in Petition No. 15/MP/2016.

Hearing dated 02.05.2023

3. The Commission admitted the Petition and directed the Petitioner to submit/ clarify on the following:

“(i) Computation of Rs. 1,11,41,582/- which is claimed to be refunded in respect of Jindal TOR (India) Limited on account of UI charges for over-drawl.

“(ii) Copy of document w.r.t. tariff rates at which billing has been done for the disputed period by the AVVNL in respect of Jagdamba TMT Mills Private Limited and Jindal TOR (India) Private Limited.”

Submission of the Petitioner

4. The Petitioner vide affidavit dated 25.05.2023 in compliance with the RoP for the hearing dated 02.05.2023 has mainly submitted as follows:

(a) The computation of the amount payable in respect of Jagdamba TMT Mills Private Limited and Jindal TOR (India) Limited is as follows:

PARTICULARS	Jagdamba TMT Mills Private Limited		Jindal TOR (India) Limited	
	AMOUNT (IN RS.)		AMOUNT (IN RS.)	
Amount already paid by consumer as per tariff for over drawl (up to 5% of schedule)	1,55,46,826		80,24,669	
UI charges as payable as per AVVNL calculation for over drawl (up to 5% of schedule)	48,16,954		24,54,263	
Balance payable to consumer (for over drawl up to 5% of schedule)	1,07,29,872		55,70,406	
UI charges as payable as per AVVNL calculation for under drawl (up to 5% of schedule)	12,51,347		7,48,913	
UI charges actually paid (as per SLDC's letter dated 23/05/18)	8,39,367		6,95,099	
Balance UI charges (for under drawl up to 5%) payable to consumer	4,11,980		53,813	
Total amount payable (for over drawl and under drawl up to 5% of schedule)	1,11,41,852		56,24,219	
		Less 3% voltage of supply rebate		Less 3% voltage of supply rebate
Tariff 2012 Effective from 8 th Aug 2012	Rs. 5.50/ unit	Rs. 5.335 per kWh	Rs. 5.50/ unit	Rs. 5.335 per kWh
Tariff 2013 Effective from 7 th June 2013	Rs. 5.50/ unit	Rs. 5.335 per kWh	Rs. 5.50/ unit	Rs. 5.335 per kWh
Tariff 2015 Effective from 1 st Feb 2015	Rs. 6.50/ unit	Rs. 6.305 per kWh	Rs. 6.50/ unit	Rs. 6.305 per kWh

Reply of the Respondents, viz. SLDC Rajasthan, SPC Rajasthan and Rajasthan Vidyut Prasaran Nigam Limited (RVPNL)

5. The Respondents, SLDC Rajasthan, SPC Rajasthan & RVPNL, in their common reply, vide affidavit dated 21.06.2023, have submitted that in compliance with the Order dated 29.09.2017 passed by this Commission in Petition No. 15/MP/2016, the provisional UI account of Jagadmba TMT Mills Pvt. Ltd. and Shree Jindal Tor (India) Pvt. Ltd. was received from Ajmer Vidyut Vitran Nigam Ltd. and Respondent no. 1, SLDC has settled the UI account of Petitioners as per RERC (Terms and Conditions for Open Access) Regulations and accordingly the bills were raised to the Distribution Licensee. Now, further action has to be taken by Ajmer Vidyut Vitran Nigam Ltd., the Discom concerned.

Reply of the Respondent, Ajmer Vidyut Vitran Nigam Limited (AVVNL)

6. The Respondent, AVVNL, vide affidavit dated 04.08.2023, has mainly submitted as

follows:

- (a) The RERC (Intra-State ABT) Regulation, 2006 was not implemented in the State of Rajasthan till 31.07.2017, and the claim in petition No. 15/MP/2016 was for the under-drawl charges for the period November 2012 to February 2016. However, till 2013, the intra-state ABT Regulations were not implemented due to the non-functioning of Central Billing Station because M/s L&T, which was awarded the project of supply installation and commissioning of CBS, could not establish the system due to various problems. Hence, M/s L&T failed to complete the project of commissioning of CBS and therefore, RVPNL decided to close the Order awarded to M/s L&T. It was further decided to float a new tender for the award of the contract.
- (b) RVPNL filed a petition before the RERC in the year 2013. In the petition, one of the reliefs sought was the approval of tariff for recovery of transmission charges for collective power exchange transactions and charges for inter-state short term open access (STOA) customers. The RERC decided the matter on 09.01.2014 in Petition No. RERC 373/2013 and directed SLDC to complete the entire exercise of allocation of UI charges to the open access consumers within three months from the date of issue of this order. Prior to 01.11.2017, the ABT Regulations were not in operation in the State.
- (c) The Petitioner has paid only for the Scheduled power, and associated losses and overhead charges have also been paid for said scheduled power only. Thus, taking advantage of +5%, it has to be seen whether the petitioner has paid for and deducted losses for these +5% units. In the absence of such a payment and deduction of loss, the Petitioner cannot derive any advantage of +5%.
- (d) Some members of the Petitioner association fall under the jurisdiction of JVVNL and JdVVNL, which were also required to receive payment of under drawl charges. The other Discoms of the same State have not paid any charges for the reason that the jurisdictional Commission had observed in a few cases that since ABT Regulations were not in force in the State no charges were payable.
- (e) The Petition 15/MP/2016 filed by the Petitioner before the Commission, the over drawl charges were never prayed for, and the Commission only directed that the SLDC to finalize and settle such UI Accounts. The Petitioner now has prayed in this petition that this Commission should expand the scope of the original Order passed

on 29.09.2017 by including the over drawl charges also, thereby asking this Commission to go beyond the relief claimed in the original petition and issue direction for payment of over drawl charges. It is pertinent to mention here that AVVNL has complied with the Order of the Commission, keeping in view the prayer made by the Petitioner in respect of under drawl charges, and, accordingly, have paid the same.

- (f) The State has already incurred the UI charges for the inter-state deviation, which includes under/over drawl, but the same cannot be done with the various consumers of the State of Rajasthan in the absence of RERC Intra State ABT Regulations, 2006. If SLDC was to see/calculate the mismatch of a particular consumer in the State of Rajasthan then it could have been done only as per the RERC Intra State ABT Regulations, 2006. Therefore, in the instant case, the SLDC has determined the mismatch, but the same has been done without any legal provisions being in force. It is not understandable how such a mismatch, as determined by the SLDC, can be said to be authentic and legal, specifically when the Regulations on the basis on which the SLDC could have determined the mismatch were not in force in the State of Rajasthan. Therefore, the amount of under drawl charges determined and paid contrary to the provisions of the law will be refunded instantly to AVVNL with interest at the PLR from the date of payment made by AVVNL till the date of payment made to AVVNL.
- (g) AVVNL has only given the details of Power exchange (IEX) power at the drawl end of the consumer and also the details of load drawl from AVVNL's network on the basis of 15-minute blocks. The over drawl and under drawl calculations have been made by SLDC (Rajasthan) in the absence of RERC Intra State ABT Regulations, 2006.
- (h) AVVNL has already paid Rs.6,95,099 to M/s. Jagdamba TMT Mills Pvt. Ltd. and Rs.8,39,367 to M/s. Shri Jindal Tor (India) Ltd. for under drawl.
- (i) The jurisdictional Commission, i.e., RERC in Petition No. 503/2015 (M/s Ramayana Ispat Pvt. Ltd. v. RVPN & JVVNL) and in Petition No. 1949/2021 (AVVNL v RSWM & SLDC) has categorically held that since the RERC Intra State ABT Regulations, 2006 was not in force during the period for which the over/under drawl charges are being claimed, therefore such consumers are not eligible for any charges in the

absence of applicability of the RERC Intra State ABT Regulations, 2006.

Rejoinder by the Petitioner to the Reply filed by AVVNL

7. The Petitioner, in its rejoinder vide affidavit dated 28.09.2023, in response to the reply filed by AVVNL, has mainly submitted as follows:

(a) The Commission, vide Order dated 29.09.2017, examined its jurisdiction and decided that collective transactions on the Power Exchange fall under the purview of the Central Electricity Regulatory Commission (Open Access to Inter-State Transmission) Regulations, 2008 ("CERC Open Access Regulations"). It is pertinent to mention that AVVNL was a party to the said Order and cannot seek to avoid it at this stage.

(b) AVVNL is reopening the question of jurisdiction and the correct regulation to be applied at this stage because of two recent Orders of the Rajasthan Electricity Regulatory Commission dated 13.02.2023 in Petition No. 503/2015 (M/s Ramayana Ispat Pvt. Ltd. v. RVPN & JVVNL) and Order dated 05.05.2023 in Petition No. 1949/2021 (AVVNL v RSWM & SLDC), in which RERC has decided that UI charges cannot be paid because the RERC ABT Orders were not implemented. It is reiterated that the decisions of the RERC are not relevant to the present situation. In any case, since this Commission has decided the matter on merits in the instant case, the Order with respect to the instant case becomes binding on all the parties. It is not open to the Respondents to cite a contrary case on the law and evade responsibility for enforcing the instant case.

(c) AVVNL has submitted that non-payment of the associated charges renders the Petitioner ineligible for UI payments. AVVNL billed the overdrawl on the prevalent tariff and paid the Petitioner, and the appropriate transmission charges have been recovered. It is denied that the Petitioner members have only paid for the scheduled power. AVVNL raised bills for the actual drawn power, and the Petitioner members have paid the bills in full.

(d) AVVNL has contended that the Petitioner had prayed only for under drawls and that the refund of over drawl charges was never prayed for. However, the Order of the Commission dated 29.09.2017 is unequivocal in its direction to the SLDC to finalize and settle the UI accounts of the Petitioner association members.

(e) AVVNL had already billed and received payments for such over drawl. The Order of the Commission can only be given effect by AVVNL by refunding the amounts, which would eventually settle the accounts for the Petitioner.

Hearing dated 21.02.2024

8. After hearing the counsels for the petitioner and the Respondents the commission reserved the matter for Orders with the liberty to the parties to file their short-written submissions.

Written Submission by Respondent AVVNL

9. The Respondent, AVVNL, vide written submission dated 06.03.2024, apart from the submissions already made during the course of hearing of the petition, mainly submitted that in compliance with the Order of this Hon'ble Commission dated 29.09.2017, the payment of Rs.61,32,481 in respect of under drawl has already been made to seven members of the Petitioner Association on August 2018 and January 2019. Hence, nothing is pending to be paid by AVVNL to the Petitioner. It would be appreciated that since the Petitioner has paid for the entire transmission, overhead charges, and losses only for the contracted power purchase from IEX, the over drawl power cannot be adjusted when the same exceeds the power purchased from IEX. Thus, the scope of the contempt petition cannot be enlarged than what was prayed for in the main petition. Against the Order dated 29.09.2017 passed by this Commission in the case of Rajasthan Steel Chamber Vs. SLDC & Ors., the Discoms had preferred an appeal before APTEL, which is appeal No. 111/2018 titled JVVNL Vs. CERC & Ors. connected with 112/2018 titled JVVNL Vs. CERC & Ors Both the appeals pending adjudication at APTEL.

Written Submission by the Petitioner

10. The Petitioner, apart from the submissions already made during the course of the petition vide-written submissions dated 06.03.2024, has mainly submitted that the APTEL, while hearing the appeal against the Order of this commission, has not granted any interim stay Order and hence, the distribution licensee is obligated to comply with the Order of the Commission.

Analysis and Decision

11. We have considered the submissions of the Petitioner and the Respondents.

12. The Petitioner, RSC, an association of Steel Industries in the State of Rajasthan, was formed for the purpose of representing the interest of its Members, who are the consumers of the Distribution Companies in the State of Rajasthan i.e. Jaipur Vidyut Vitran Nigam Limited (JVVNL), Jodhpur Vidyut Vitran Nigam Limited (JdVVNL) & Ajmer Vidyut Vitran Nigam Limited (AVVNL). The Members of the Petitioner Association have contract demands with AVVNL for the supply of power for their industrial activities. In addition to the contract demand, the Members also procure electricity from time to time through the Indian Energy Exchange (IEX) by availing inter-State open access as per the provisions of the Central Electricity Regulatory Commission (Open Access to inter-State Transmission) Regulations, 2008, as amended from time to time.

13. The instant petition has been filed by the Petitioner seeking directions to AVVNL to refund the amount collected by AVVNL against over draw by two members of its association viz M/s Jagdamba TMT Mills Pvt. Ltd and M/s Shri Jindal Tor (India) Ltd. The Petitioner has submitted that AVVNL has not complied with this Commission Order dated 29.9.2017 in Petition No. 15/MP/2016.

14. We have perused the Order dated 29.9.2017 in Petition No. 15/MP/2016 quoted below:

“

39. Having decided that the Commission has the jurisdiction to deal with the matter and the Petition is therefore maintainable, we proceed to dispose of the case on merits. According to Regulation 20(5) of the Inter-State Open Access Regulations, 2008, the UI rates as specified by the concerned State Commission are applicable for deviation from the schedule by an intra-State entity involved in inter-State open access. In case the State Commission has not specified the UI rates, the intra-State entity is governed by the UI rates specified by this Commission. In such cases, the intra-State entity is liable to pay the UI Charges for over-drawal and under-generation at the rate of 105% of the UI rate applicable at the periphery of the regional entity. In case the intra-State entity becomes entitled to receive the UI Charges for under-drawal and over generation, these charges are receivable at the rate of 95% of the applicable UI rate.

.....

40. SLDC has submitted that the data received in excel sheet from all the three discoms is being examined to ascertain whether these data and the energy account provided could be utilized to finalize the UI account or not. The SLDC has also submitted that it is not practically possible for SLDC to finalize UI accounts of 41 consumers for the period March, 2012 to 25.2.2016 in a short period of time. It has further stated that it is

poised to put all efforts to implement the direction of the Central Commission in minimum possible time. In this background, we direct that SLDC shall finalize and settle the UI accounts of the members of the Petitioner association within 3 months from the date of this order.”

As per the above, Commission directed that in case the intra-State entity becomes entitled to receive the UI Charges for under-drawl and over generation, these charges are receivable at 95% of the applicable UI rate, and the Commission directed SLDC, Rajasthan to finalise and settle UI accounts of the members of the Petitioner association within 3 months of the date of the Order.

15. The entire grievance of the Petitioner is for the period from November 2012 to February 2016 for M/s Jagdamba TMT Mills Pvt. Ltd. and for the period April 2013 to February 2016 for M/s Shri Jindal Tor (India) Pvt. Ltd. The contention of the Petitioner is that during the stated period, the over drawl by its said members was charged by AVVNL on the prevalent tariff of AVVNL which should be refunded back to them and they should be charged at rate of UI for such over drawl. The Petitioner has also mentioned that in terms of the above adjustment, the net amounts become payable to the consumers, as they had paid excessive amounts to AVVNL based on energy charges instead of UI charges for the period of over drawl.

16. The Respondent, AVVNL, has submitted that the claim in petition No. 15/MP/2016 was for the under drawl charges for the period November 2012 to February 2016, which has been paid by AVVNL, and Petitioner cannot raise issues with respect to the treatment of over-drawl in the instant case.

17. From submissions of the parties, we observe that the main issues which need to be decided are whether treatment of over-drawl by the Members of Petitioner Association was prayed for and decided in Petition No. 15/MP/2016 or not and whether there is any non-compliance of Order dated 29.9.2017 in Petition No. 15/MP/2016. In order to correlate, let us peruse the prayers of the Petitioner in Petition No. 15/MP/2016, which are quoted as follows:

“The Petitioner, Rajasthan Steel Chambers has filed this petition seeking the following reliefs:

a) Direct the Respondents to compile and provide UI energy accounts of the members of the Petitioner from March, 2012 (billing month) till date and continue to provide the same on a regular basis in future;

b) Direct the respondents to pay for the under drawals, the UI charges computed based on the energy accounting in terms of the Inter-State Regulations, 2008 of the Hon“ble Commission as

applicable to intra-state entities, namely under drawals worked out at the periphery of the Regional entity (interface of RRVNL with Northern Grid) and intra-state UI as per the regulations;

c) Direct that on or after 17.2.2014, frequency linked charges for deviation as per CERC (Deviation Settlement Mechanism and related matters) Regulations, 2014 is to be considered as inter-state UI rate and applied for the payment of under drawals;

d) Direct the Respondents to pay interest at the rate of 15% per annum for delay in payment of UI compensation in terms of the Regulations;

e) Award cost of the present proceedings; and

f) Pass such other further order(s) as the Hon^{ble} Commission may deem just in the facts of the present case.”

We have further perused the submissions of the Petitioner in Petition No. 15/MP/2016 as noted in Order dated 29.9.2017; it is extracted below; -:

3. *The Petitioner in the petition has submitted as under:*

- (i) For the Petitioner, SLDC was required to determine the under drawal and preparation of the UI accounts (in terms of energy) based on which the UI charges have to be applied and paid by the members of the Petitioner Association. The entire energy contracted at power exchange and due at delivery point after accounting for Intra state losses has not been considered by Respondents and no details of difference have been supplied or made available to the Members of the Petitioner Association.*

4. In the above background, the Petitioner has submitted that it has been constrained to approach this Commission against the failure of the Respondents to provide UI accounts for the members of the Petitioner. The Petitioner has also submitted that based on the UI accounts, the individual consumers will be in a position to calculate and claim the UI charges that they are entitled to for under drawal during low frequency period. Hence, the present petition.

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Rejoinder of the Petitioner

8. *The Petitioner vide its rejoinder affidavit dated 11.6.2016 has submitted as under:*



...

(e) It is clear from Regulation 20(5) of the Open Access Regulations that in the absence of Intra-State UI rate specified by the State Commission, UI rate for intra-State entity shall be 95% (for under drawals) of UI rate at the periphery of the regional entity and the same is being sought by the Petitioner. According to the regulations of RERC, inter-State losses to work out the UI rate is to be done at the periphery of RVPNL system. The same is considered as the intra-State UI rate. Had there been some specific provision regarding inter-State UI rate in the RERC regulations for collective transactions, the Petitioner would have got the same. In the absence of the same, the members of the Petitioner Association are entitled to 95% of the applicable UI charges for under drawal at the periphery as specified by the Central Commission.

From the conjoint reading of the prayer and the submissions of the Petitioner in Petition No. 15/MP/2016, it is evident that the Petitioner sought relief only for under drawl, and there is no prayer of any relief against charges taken by AVVNL for over drawl.

18. We have further perused the letters written by Members of Petitioner to AVVNL submitted in Petition No. 15/MP/2016 and are quoted as follows:

Jagdamba TMT Mills Ltd.
An ISO 9001:2008 Certified Company
(Authorised Manufacturer of :
Kamdhenu Structural Steel Under License user Agreement)
Plot No. A-127-128A, S. K. S. Industrial Area, Reengus - 332 404 (Dist. Sikar - Rajasthan)
E-mail : jagdamba_ispat2005@yahoo.com



To, office copy. 6
CIN No. : U01132WB1985PLC039921

The Sr. Accounts Officer (HTB)
Ajmer VidyutVitran Nigam Limited,
VidyutBhawan, Panchsheel Nagar,
Makarwalli Road, Ajmer-305004

Sub: Payment of UI Charges for under-drawls against short term purchases from IEX.

Sir,


We are purchasing power on Short term basis from IEX. We have observed that payment towards underdrawls against such purchases has not been made so far / since December-12 Underdrawl, as per our calculations, are as per statement attached.

We submit that short term purchases from IEX is done under Collective transactions under the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008 (CERC's reg). Its clause 20(4) provides that any mismatch between the scheduled and the actual drawl at drawl points shall be determined by the concerned State Load Despatch Centre and covered in the Intra-state UI accounting scheme. Accordingly payment for under-drawl is due to us.

We submit that as per our understanding, provisions of clause 20(2) and 20(4) of CERC's regulations mismatch between schedule and drawl is to be worked out for individual consumer at the periphery of inter-state entity (that is at the periphery of RVPN's transmission system) and applicable UI rate shall be intra-state UI rate specified by the RERC vide clause 4 of the RERC (Intra-state ABT) Regulations, 2006.

We request you kindly to effect payment of due UI charges from the billing month of December-12 to date and supply us the soft copy of relevant calculations.

For JAGDAMBA TMT MILLS LTD.
Yours faithfully


Auth. Signatory/Director
Director
For M/S JAGDAMBA TMT MILLS LTD.
A/C No.-314199000107

Encl:-statement as above

As per the above, Jagdamba TMT Mills clearly stated that payments for under drawl were requested vide the above-said letter; there is no mention of a dispute on treatment for over drawl.

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M/S JAGDAMBA TMT MILLS LTD.
A-127/128A,S.K.S.INDUSTRIAL AREA
REENGUS-DISTT.-SIKAR RAJASTHAN
Account No.:314199000107

2014-15														
S.NO.	BILLING MONTH	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	TOTAL
1	Underdrawal as per AVVAL STATEMENT (EX PURCHASE)	63,991.20	39,836.23	41,590.86	22,344.15	16,142.54	14,060.67	19,766.49	14,859.49	69,196.55	36,497.53	46,574.08	51,635.22	437,114.99
2	UNDER DRAWAL @ ROPR'S PERIPHERY WITH LOSSES @ 4.2%	86,678.83	41,509.35	43,337.68	23,282.61	16,820.53	15,276.42	20,596.68	15,483.59	72,102.81	38,090.43	48,530.14	53,803.90	455,114.99

2013-14														
S.NO.	BILLING MONTH	Apr-13	May-13	Jun-13	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	TOTAL
1	Underdrawal as per AVVAL STATEMENT (EX PURCHASE)	52,003.23	86,008.28	64,269.49	84,224.51	135,525.09	100,200.46	28,848.95	60,006.93	46,019.75	50,756.35	51,544.49	46,059.46	815,114.99
2	UNDER DRAWAL @ ROPR'S PERIPHERY WITH LOSSES @ 4.2%	64,607.37	89,620.63	66,968.81	87,761.94	141,217.14	104,408.88	30,060.61	62,527.22	47,952.58	52,888.12	53,709.36	47,993.96	849,114.99

2012-13						
S.NO.	BILLING MONTH	Dec-12	Jan-13	Feb-13	Mar-13	TOTAL
1	Underdrawal as per AVVAL STATEMENT (EX PURCHASE)	13,124.94	64,269.49	43,639.64	45,942.89	166,976.96
2	UNDER DRAWAL @ ROPR'S PERIPHERY WITH LOSSES @ 4.2%	13,676.19	66,968.81	45,472.50	47,872.49	173,989.99

For JAGDAMBA TMT MILLS LTD.

[Signature]

Auth-Signatory/Director

For Rajasthan Steel Chamber
[Signature]
President

The above-said calculations provided by the Petitioner in Petition No. 15/MP/2016 also contain statements for only under drawl.



Jagdamba TMT Mills Ltd.

An ISO 9001:2008 Certified Company

(Authorised Manufacturer of :

Kamdhenu Structural Steel Under License user Agreement)

Plot No. A-127-128A, S. K. S. Industrial Area, Reengus - 332 404 (Dist. Sikar - Rajasthan)

Fax : 0141-2460018

E-mail : jagdamba_ismat2005@yahoo.com



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Date 08, May, 2015

To,

The Chief Engineer (LD),

Rajasthan Rajya Vidhyut Prasaran Nigam Limited,

Vidhyut Bhawan, Jyoti Nagar,

Jaipur

Sub: Payment of UI Charges for under-drawls against short term power purchases from IEX.

Sir,

We are the HT consumer of Ajmer discom with contract demand of 4000 kVA and for meeting a part of our requirement since Nov, 2012 we have effected power purchases on short term basis from IEX under Collective transactions vide the Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2008 ('CERC OA Reg 08'). We have been billed by ajmer discom under HT supply tariff for energy consumption (as per meter-reading at point of supply) adjusted for utilisation of the energy out of the energy scheduled through IEX. Such adjustment is less than the energy scheduled. The payment towards under-drawal against energy scheduled through IEX, admissible as per CERC Reg 08, has not been made so far. We have undertaken the matter with AO/HTB, AVVNL, Ajmer vide our letter dated 17-04-2015 with copy Interalla to SE/SO&LD. We have learnt that similar reference by other HT consumers have been forwarded by the Suprintending Engineer (comm), JVVNL, Jaipur to you vide no. JPS/SE(c)/C-If/D 169 dated 22.4.15 for necessary action in the matter.

We reiterate that as per clause 20(4) of CERC OA Reg 08, mismatch between the scheduled and actual drawal at drawal point shall be determined by the State Load Despatch Centre and covered in the Intra-State UI accounting scheme. On account of HT supply contract with Ajmer discom, only the payment for underdrawal against scheduled drawal through IEX is due at the rate of intra-state UI charges as per clause 20(4) of CERC OA Reg 08 and clause 4 of the RERC (Intra-state ABT) Regulations, 2006. We understand that adjustment of energy utilisation (out of the energy purchased through IEX) has been based on statement of energy account already prepared, wherein such adjustment is considered for every 15 minute's timeblock as lesser of (i) the open access drawal under collective transaction at point of supply and (ii) the actual drawal at point of supply. No detailed calculations have been supplied to us and we request you to supply the soft copy of such calculations on CD or on our E-mail id jagdamba_ismat2005@yahoo.com We feel that with such statement for energy account already prepared, underdrawal against schedule (that is difference between (i) and (ii), wherever positive) can be worked out at RVPN's boundary (i.e. underdrawal at point of supply plus applicable transmission and distribution losses) can be worked out and payment due thereon as per applicable Intra-state UI charges based on average frequency stamped on CMRI record for each 15 minute's time block, can be worked out easily.

We therefore request you to kindly arrange to prepare such statement of energy and UI account expeditiously and supply the calculations for underdrawal and due payment thereon to the SE/comm. and AO/HTB, to enable effect payment towards underdrawal from the billing month of December, 2012 to date. You are also requested to supply soft copy thereof on CD or E-mail id 'jagdamba_ismat2005@yahoo.com'. An expeditious action is requested as matter has already been overdelayed.

Thanking You

Yours faithfully

For M/s Jagdamba TMT Mills Limited

Director

Account No.314199000107

As per the above letter, Jagdamba TMT Mills acknowledged that it is an HT consumer of the discom, and any drawl of energy is treated at the HT tariff adjusted for utilisation of energy under IEX. Jagdamba TMT Mills has specifically stated that "On account of HT supply contract with Ajmer Discom, only payment for under drawl for scheduled drawl from IEX is due at the rate of intra-state UI. "



JINDAL TOR (INDIA) PVT. LTD.

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Manufacturers : M. S. Ingots

Date 04th May, 2015

To,
The Chief Engineer (LD),
Rajasthan Rajya Vidyut Prasaran Nigam Limited,
Vidyut Bhawan, Jyoti Nagar,
Jaipur

Sub: Payment of UI Charges for under-drawls against short term power purchases from IEX.

Sir,

We are the HT consumer of Ajmer discom with contract demand of 4995 KVA and for meeting a part of our requirement since Nov. 2011 we have effected power purchases on short term basis from IEX under Collective transactions vide the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008 ("CERCOA Reg 08"). We have been billed by Ajmer discom under HT supply tariff for energy consumption (as per meter-reading at point of supply) adjusted for utilisation of the energy out of the energy scheduled through IEX. Such adjustment is less than the energy scheduled. The payment towards under-drawal against energy scheduled through IEX, admissible as per CERC Reg 08, has not been made so far. We have undertaken the matter with AO/HTB, JVVNL, Jaipur vide our letter dated 14/04/2015 with copy interalia to SE/SO&LD. We have learnt that similar reference by other HT consumers have been forwarded by the Superintending Engineer (comm), JVVNL, Jaipur to you vide no. JPS/SE(c)/C-II/D 169 dated 22.4.15 for necessary action in the matter.

We reiterate that as per clause 20(4) of CERC OA Reg 08, mismatch between the scheduled and actual drawal at drawal point shall be determined by the State Load Despatch Centre and covered in the intra-State UI accounting scheme. On account of HT supply contract with Ajmer discom, only the payment for under drawal against scheduled drawal through IEX is due at the rate of intra-state UI charges as per clause 20(4) of CERC OA Reg 08 and clause 4 of the RERC (Intra-state ABT) Regulations, 2006. We understand that adjustment of energy utilisation (out of the energy purchased through IEX) has been based on statement of energy account already prepared, wherein such adjustment is considered for every 15 minute's time block as lesser of (i) the open access drawal under collective transaction at point of supply and (ii) the actual drawal at point of supply. No detailed calculations have been supplied to us and we request you to supply the soft copy of such calculations on CD or on our E-mail id hrijindaltorindiapvtltd@gmail.com. We feel that with such statement for energy account already prepared, under drawal against schedule (that is difference between (i) and (ii), wherever positive) can be worked out at RVPN's boundary (i.e. under drawal at point of supply plus applicable transmission and distribution losses) can be worked out and payment due thereon as per applicable intra-state UI charges based on average frequency stamped on CMRI record for each 15 minute's time block, can be worked out easily.

We therefore request you to kindly arrange to prepare such statement of energy and UI account expeditiously and supply the calculations for under drawal and due payment thereon to the SE/comm. and AO/HTB, to enable effect payment towards under drawal from the billing month of Dec.2011 to date. You are also requested to supply soft copy thereof on CD or E-mail id 'shrijindaltorindiapvtltd@gmail.com'. An expeditious action is requested as matter has already been over delayed.

As per the above, Jindal TOR also acknowledged that "On account of HT supply contract with Ajmer Discom, only payment for under drawl for scheduled drawl from IEX is due at the rate of intra-state UI. "

19. Now let us peruse the prayers of the Petitioner in the instant case quoted as follows:

“

- i. *Direct the Respondent No.5 to settle the UI Charges for over-drawl, and adjust any over-recovery it has done for the such drawl;*
- ii. *Direct the Respondent No.5 to refund Rs. 56,24,219.85/- to M/s Jagdamba TMT Mills Pvt. Ltd.;*
- iii. *Direct the Respondent No.5 to refund Rs. 1,11,41,582/- to M/s Shri Jindal Tor (India) Ltd.;*
- iv. *To initiate penal action against the Respondent No.5 for willful violation of the directions of the Hon'ble Commission; ..”*

20. From the combined reading of prayers in Petition No. 15/MP/2016 and the quoted letters therein seeking charges for under drawl, it is clear that the Petitioner filed Petition No. 15/MP/2016 seeking charges for under drawl, which was allowed by the Commission. In this context, AVVNL has submitted that it has paid under drawl charges to the Petitioner way back in 2018.

21. The Petitioner has now filed the instant Petition seeking treatment of charges for over drawl, which it never raised in Petition No. 15/MP/2016, nor was the same adjudicated in Petition No. 15/MP/2016. The Petitioner has sought penal action against AVVNL for non-compliance with the Commission's Order in Petition No. 15/MP/2016.

22. We observe that Petitioner's members themselves have acknowledged that they are HT consumers of the DISCOM AVVNL and hence billed according to such contract entered into between the discom and the consumer. The members, only sought treatment of under drawl, which was granted by the Commission, and AVVNL has confirmed that it has paid the amount. The Petitioner has also not disputed the payments towards under drawl. Therefore, we are of the considered view that treatment of over drawl was neither dealt with in Petition No. 15/MP/2016 nor were any directions given in regard to the same vide Order dated 29.9.2017 in the absence of any pleadings for the same. The contention of the Petitioner that the Commission directed to treat over drawl at UI rates as per the CERC Open Access Regulations is incorrect. We observe that the Petitioner has entered into an HT supply contract with discom, which is required to be considered while giving any directions on the treatment of over drawl as stated by the Members of the Petitioner in the above-quoted letters. We are of further view that the Petitioner has brought fresh issues for the period of 2012-2016, which it never brought in Petition No. 15/MP/2016. Hence, there is no non-compliance with the Order dated 29/09/2017 in Petition No. 15/MP/2016, and no action is warranted against

the Respondents. Needless to say, in a proceeding under Section 142, this Commission cannot travel beyond its own order passed in the original petition.

23. Hence, we reject all the prayers of the Petitioner.

24. Accordingly, Petition No. 257/MP/2022 is disposed of in terms of the above.

sd/-

(P. K. Singh)

Member

sd/-

(Arun Goyal)

Member

sd/-

(Jishnu Barua)

Chairperson