



Chhattisgarh State Electricity Regulatory Commission

Civil Lines, G.E. Road, Raipur – 492001

Tel: 0771-4073555, Fax-4073553

Petition No. 03/2007 (M)

M/s Arasmeta Captive Power Company Pvt. Ltd. Petitioner

V/s

Chhattisgarh State Electricity Board Respondent

ORDER

(Passed on 03/02/2007)

Shri Ramesh Kumar with Shri Sanjay Sen, Advocate for petitioner. Shri Arun Bhatnagar, SE for respondent. Reply submitted on behalf of the respondent CSEB and a copy of the same is given to the petitioner.

2. Heard the parties.

3. The petition is for modification of our order dated 25/11/2006 passed in petition No.27 of 2006(D). The following directions were given in para 8 of the order:

- (i) Open access be allowed to the petitioner under section 9(2) of the Act for a period of one year as per the agreement the petitioner has entered into with the CSEB(SLDC).
- (ii) Open access for carrying power for captive use under section 9(2) of the Act is of permanent nature. Therefore, although the present agreement is for a period of one year from the effective date 'i.e. the date of disconnection of ACP from the grid', the petitioner may apply for and enter into an agreement with the CSEB for long-term open access under the provisions of the Open Access Regulations.
- (iii) The respondent CSEB shall provide the estimates for the petitioner's connectivity with EHV sub-station as early as possible, if not already provided. The petitioner shall complete the formalities in this regard within a period of three months from the date of receipt of the estimates. On completion of formalities by the petitioner the respondent CSEB shall expeditiously construct the independent EHV connectivity. Open access shall not be denied to the petitioner in the meantime only on the ground that he is not having independent EHV connectivity except in case the petitioner defaults in completion of formalities, as above.
- (iv) Disconnection of supply to ACP which is to be undertaken by the respondent CSEB and is a conditionality in the open access agreement, shall be effected by the CSEB most urgently.

Thus the CSEB has been directed to provide open access to the petitioner under Sec. 9(2) of the Electricity Act (the Act) for a period of one year, as per the agreement the CSEB has entered into with him. The petitioner has been provided a tapped connectivity to the captive power plant and does not have connectivity to the Board's EHV sub-station. In para 4 of our orders we have mentioned the need for such connectivity. We had granted a time period of three months to the petitioner to complete the formalities for connectivity with EHV sub-station of CSEB and with a view to ensure compliance with the condition had also directed that open access provided by the latter may be discontinued if such formalities are not completed in time. The petitioner has come up with an application for modification of this condition on the ground that the above condition in para 8(iii) of the order aforementioned be deleted as such a condition for open access is not warranted by law or regulations. This contention was, however, withdrawn subsequently and the petitioner's plea is to delete the above part of the order so as to enable the petitioner to avail of open access for the full period of the agreement. The deletion of this condition has now been sought on the ground that the petitioner intends to construct his dedicated transmission line from the Arasmeta captive plant to the captive consumer located at Sonadih. Although this will take some time, since a decision has been taken for the same, connectivity with CSEB's EHV sub-station would not be required and the petitioner would not like to incur a huge expenditure which would be infructuous. In other words, the petitioner wants to continue with the open access without the conditionality of connectivity with EHV sub-station with CSEB for the period of the agreement. During argument today it was argued by the petitioner that if the construction of the dedicated transmission line would take some time, so would the connectivity with CSEB's EHV sub-station, although the time taken for the latter may be less.

4. In their reply, submitted today, the respondent CSEB has contended that the Commission had allowed the petitioner to avail short-term open access as an exception subject to certain conditions. The petitioner is not entitled to claim any relief under any rule or regulations for open access in force today. The open access granted to him is governed by the conditions of the Commission's order only and not by the regulations. The Board has also permitted open access in compliance of the order of the Commission and not as per the norms of the relevant regulations. The conditionality, therefore, should not be relaxed for the petitioner.

5. While we agree with the respondent that open access has been provided to the petitioner in relaxation of the connectivity conditions, we have clearly stated in para 4 of our order of 25/11/2006 why relaxation of the rules of open access are necessary in this case. The agreement CSEB had entered into with the petitioner recognizes the petitioner's tapped connectivity. We have held that in the interest of justice, the Board after having entered into an agreement with the petitioner for providing open access to him *inspite of* the tapped connectivity and making necessary provision for the same in the agreement, should not deny him open access. By the same token of logic we are inclined now to relax the condition which we have imposed in para 8(iii) of the order regarding connectivity with EHV sub-station of the CSEB.

6. The second contention of the respondent CSEB is that open access is always subject to the availability of system capacity to carry the power and that the existing

line which was tapped for providing connectivity may be shortly over-loaded with the commissioning of the proposed 220 KV sub-station at Champa. Therefore, even if the direction in the order regarding connectivity with EHV sub-station is relaxed by the Commission now, the fact of availability of system capacity should be taken into account. This is a valid argument. The petitioner, however, accepts the situation and is willing to take the risk. In other words, the open access shall be operative as per the agreement for a period of one year unless the system capacity does not permit such access as a result of commissioning of 220KV sub-station at Champa.

7. In view of the above we direct that the open access granted by the CSEB to the petitioner shall continue for a period of one year as per the agreement and as per our order of 25/11/2006 without the conditionality contained in para 8(iii) of the order.

8. This order may be conveyed to the parties and the case closed.

Sd/-
Member

Sd/-
Chairman

True Copy

(N.K. Rupwani)
Secretary