

Chhattisgarh State Electricity Regulatory Commission

Civil Lines, G.E.Road, Raipur (C.G.)

Website: www.cserc.gov.in, e-mail: cserc.sec.cg@nic.in

Petition No.34 of 2007(M)

In the matter of providing Short Term Open Access through transmission lines of CSEB for captive use by M/s UltraTech Cement Ltd.

UltraTech Cement Limited
Hirmi Cement Works, Hirmi, Raipur.

.... Petitioner

V/s

Chhattisgarh State Electricity Board
Raipur

.... Respondent

Present: S.K.Misra, Chairman
Sarat Chandra, Member

ORDER

(Passed on 16.1.2008)

A suo motu petition for review of this Commission's order passed on 13.11.2007 in petition No. 37 of 2006(M) was registered to rectify the mistake apparent on the face of record which has been observed in para 8 of the order. The facts of this case are that Rule 3 of the Electricity Rules, 2005 which provides for the requirement of captive generating plants stipulates that a generating plant shall be treated as a captive plant when the captive user(s) apart from their ownership of not less than 26% of the shareholding of the plant, consume 'not less than 51% of the aggregate electricity generated in such plant, determined on an annual basis'. In para 8 of the order aforementioned the Commission has directed as under:

"We shall assess at the end of one year from the date the plant started commercial production if there has been captive consumption to the extent of 51% of the electricity generated by the plant as required under rule 3 of the Rules. Authenticated data in this regard shall be made available the petitioner to the Commission within one month of the completion of one year period".

While this is in conformity with Rule 3, this is a case in which M/s Ultratech Cement Ltd has become a captive user of the power plant set up by M/s KVK Energy Ltd., by acquiring 26% of the shareholding in the latter company.

The plant was already established and had gone into commercial production and before acquisition of 26% shareholding by M/s Ultratech Cement Ltd it was an independent power plant and not a captive generating plant. It attained captive status only after Ultratech purchased shareholding of the company. Therefore, its captive status has to be determined

with effect from the date from which M/s Ultratech Cement Ltd starts utilizing the electricity produced by this generating company. Under the circumstances of this case, consumption of 51% electricity generated by the plant has to be reckoned not from the date of the commercial production of the plant but from the date M/s Ultratech Cement Ltd started using its electricity. There has thus been an apparent mistake in the order of the Commission.

2. We had accordingly ordered a suo motu review case to be registered to remove this lacuna in our order of 13.11.2007. Notice was served on both M/s Ultratech Cement Ltd and the Chhattisgarh State Electricity Board, the concerned two parties, about our intention to review the order. In spite of adequate notice both have not responded. It is, therefore, presumed that they have no objection to the suo motu review of the order proposed.

3. We order that for the words 'We shall assess at the end of one year from the date the plant started commercial production' in para 8 of our order the words "*We shall assess at the end of one year from the date the petitioner M/s Ultratech Cement Ltd starts using the electricity produced by this plant*" shall be substituted. Our

order dated 13.11.2007, passed in petition No.37 of 2006(M) shall stand modified accordingly.

This order may be conveyed to the two concerned parties.

sd/-
Member

sd/-
Chairman