



Chhattisgarh State Electricity Regulatory Commission

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

Tel: 0771-5073555, Fax-5073553

Petition No. 22/2005(M)

M/s Real Ispat & Power Ltd

..... **Petitioner**

V/s

Chhattisgarh State Electricity Board

..... **Respondent**

ORDER

(Passed on 29.10.2005)

This petition has been filed by M/s Real Ispat & Power Ltd (RIPL). RIPL has set up a sponge iron plant of 200 TPD and is setting up a 12 MW captive generation plant based on cogeneration principle at village Borjhara near Raipur. M/s Gaurav Krishna Ispat India Pvt.Ltd. (GKIPL) is a sister concern of RIPL with a share holding of 26.33% in the latter. GKIPL has a steel melting shop and re-rolling mill and is a consumer of the CSEB, the respondent, and has a sanctioned contract demand of 7995 KVA. The generation capacity of the petitioner's CPP will be 85 MU per annum after deducting auxiliary consumption of 10%. The petitioner proposes to consume 15MU annually for running his iron and steel plant and intends to wheel about 30MU annually to GKIPL; the balance energy of 40MU is proposed to be sold to the CSEB. The petitioner seeks CPP status and permission for open access to supply power to its sister concern GKIPL. Although the petitioner had raised a number of issues concerning CPPs, the Commission, in so far as these issues are concerned, considered it premature and has admitted the petition only for the limited purpose mentioned above.

2. CSEB, the respondent in their reply has emphasized the premature nature of the petition and has also stated that the petitioner has not yet sought open access for wheeling of power to its sister concern.

3. A captive generating plant has been defined in Section 2(8) of the Electricity Act, 2003 (the Act, for short) as '*a power plant set up by any person to generate electricity primarily for his own use*'. Section 9(2) of the Act gives the right to such a person '*to*

open access for the purpose of carrying electricity from his captive generating plant to the destination of his use' provided adequate transmission facilities are available. The key issue here is what constitutes 'own use'. This has been clarified in the Electricity Rules, 2005 (the Rules, for short). Rule 3 of the Rules, which deals with requirement of captive generating plants lays down the criteria for 'own use and provides that a power plant may be categorized as a CPP if '(i) not less than 26% of the ownership is held by the captive users, and (ii) not less than 51% of the aggregate electricity generated in such plant, determined on an annual basis, is consumed for the captive use'.

4. The petition has been examined in the light of the above criteria. GKIPL holds 26.33% of the share capital of RIPL and this has been certified by a Chartered Accountant. As per the petitioner of the total of 85MU electricity available from the CPP, RIL and GKIPL will consume 45MU which constitutes more than 51% of the total availability. Prima facie therefore the RIPL and GKIPL qualify to be categorized as captive users. The petitioner is, therefore, entitled to open access to the transmission lines of the CSEB for wheeling power to GKIPL in terms of the provisions of Sec.9(2) of the Act. However, it would appear that the petitioner has not yet applied for open access as per the provisions of the Open Access Regulations of this Commission and notified on 26th July, 2005. As per these regulations a CPP may be provided open access for one MW and above with immediate effect [clause 5(1) of the Regulations].

5. In the light of the above, it is held that RIPL and GKIPL are captive users of the CPP set up by the former, subject to the condition that the captive use of the electricity generated by the CPP shall be at least 51% of the electricity generated on an annual (financial year) basis. If this percentage is not maintained in an year 'the entire electricity generated shall be treated as if it is a supply of electricity by a generating company' in terms of rule 3 (2) of the Rules. The petitioner may apply for open access and the CSEB shall provide open access for wheeling of power to GKIPL. The wheeling charges shall be as per the prevailing rates of CSEB subject to the wheeling charge as may be fixed by this Commission from time to time. The Commission had

specifically asked the CSEB regarding availability of transmission capacity to which no reply was received and hence it is presumed that necessary capacity is available.

6. In so far as other issues regarding reduction of contract demand b GKIPL or the contract demand applied for RIPL having fallen short of 4000KVA is concerned, the petitioner may approach the Commission for reduction of demand at appropriate time.

7. The petition is disposed of accordingly.

Sd/-
Member

Sd/-
Chairman

True Copy

(N.K. Rupwani)
Secretary