



Suo motu Petition No. 13 of 2017(M)

In the Matter of

“Generation and consumption of power plant for the year 2015-16”.

NTPC-SAIL Power Company Ltd. (NSPCL), Bhilai ... Respondent 1

SAIL-BSP ... Respondent 2

PRESENT : **Narayan Singh, Chairman**
: **Arun Kumar Sharma, Member**

APPEARANCE : Shri Nilesh Dangayach, DGM (Comml.) for respondent No.1 NSPCL. Ms. S. Laxmi, AGM for respondent No. 2 SAIL-BSP. Shri S.K. Sinha for office of CEI. Shri M.Khare, SE for CSPDCL.

ORDER
(Passed on 05.12.2017)

This Suo Motu petition was initiated by the Commission on the basis of the report submitted by the Chief Electrical Inspector (CEI) in regard to the generation and consumption of power plants in the State for the year 2015-16.

2. The Commission observed, from the details submitted by the CEI, that the installed capacity of respondent No.1 NSPCL power plant was 250 MW. Net electricity generation in the relevant year was 1580.15 MUs, out of which the captive consumption was 114.69

MUs, which was 7.26% of the net generation. Accordingly, a notice was served upon the respondent No.1 to show cause why an action should not be taken against the respondent No.1 according to the provisions of the Act, Rules and relevant regulations.

- 3.** The respondent No.1 filed reply to the notice and submitted that capacity of power station of NSPCL, Bhilai was 500 MW comprising two units of 250 MW each. From these two units, SAIL was allocated 280 MW, CSPDCL 50 MW, Union Territory of Dadara & Nagar Haveli 100 MW and Union Territory of Daman-Diu 70 MW. It was also submitted that from Unit-I, total power was supplied to SAIL-BSP and other units of SAIL. From Unit-II, power was supplied to CSPDCL, Union Territory of Dadara & Nagar Haveli and Union Territory of Daman-Diu. Ex-bus generation from Unit-II was 1580.156 MUs out of which 114.69 MUs was scheduled /supplied to SAIL-BSP (i.e. 66.171 MUs to SAIL-BSP and 48.527 MUs to SAIL-TEED). According to the respondent No.1, Unit-I is captive power plant and Unit-II is an Independent Power Producer (IPP). As 100% power from Unit-I was supplied to SAIL, the captive status of the unit was unaffected. Respondent No.1 further submitted that Unit-I data was not considered while calculating captive status, which was actually captive unit of SAIL-BSP.
- 4.** Earlier, the case was initiated against Respondent No.1 only, but on application made by SAIL-BSP, it was also impleaded as Respondent No 2.

- 5.** SAIL-BSP, Respondent No.2 in the petition, submitted that NSPCL, PP3 is a 50:50 joint venture of SAIL & NTPC. The principal PPA was signed between SAIL & NSPCL for supply of 280 MW Power to SAIL-BSP from PP-3 thereby making whole station captive.
- 6.** Respondent No.2 further submitted that initially, due to low load requirement, unit-I of the plant was declared captive plant. Subsequently through another PPA, SAIL started procuring 8.5 MW from unit-II from 03.04.2014 which was subsequently enhanced to 30 MW from 01.04.2016.
- 7.** Ms Laxmi, who represented Respondent No .2 submitted that, Township Electrical Engineering Department of BSP (BSP-TEED) is a distribution licensee for distribution of power in it's distribution area. BSP-TEED draws power through BSP network for distribution. To facilitate such drawl of power by BSP-TEED from BSP network, a Power Supply Arrangement (PSA) between Power System Department (PSD) of BSP and BSP-TEED was signed on 18.04.2009.
- 8.** Respondent No.2 further submitted that the power from PP-3 was supplied to BSP Township for distribution in it's designated area at the tariff fixed by the Commission. As there was no unit wise scheduling of power from PP-3, NSPCL (respondent No. 1) was submitting a composite schedule for supply of power for BSP and CSPDCL to WRLDC. This power was transmitted through BSP network. The power scheduled for BSP was used by BSP-TEED which is distribution licensee and also for industrial consumption of BSP. Power to BSP-TEED is allocated internally to the extent of

capacity as per the PSA. Energy balance of PP-3 is provided to the Electrical Inspector on monthly basis.

- 9.** Respondent No.2 further submitted that the issue of payment of cross subsidy surcharge was referred to CSPDCL and the Commission earlier, but it could not be resolved. Therefore, BSP had been making payment of the bills raised for cross subsidy surcharge amount. Earlier also, in suo-motu petition No. 32 of 2016(M), the issue of cross subsidy surcharge could not be brought to the notice of the Commission as the BSP was not a party in that petition. Generation and consumption data is submitted by the respondent No. 1 to the Electrical Inspector and not by the respondent No. 2 and therefore, the power consumed for BSP-TEED from PP3 could not be brought to the notice of the Commission.
- 10.** Ms. Laxmi of BSP mentioned that under the circumstances stated above, CSPDCL raised bills for recovery of cross subsidy surcharge on the energy drawn for distribution by BSP-TEED as a distribution licensee which was paid also Respondent No. 2 requests for refund of such amount.
- 11.** CSPDCL submitted that the prayer of SAIL-BSP for refund of amount paid for cross subsidy surcharge against the power procured by BSP-TEED is not acceptable as CSPDCL has not billed cross subsidy surcharge to BSP-TEED at all. As per clause 33(6) of the CSERC (Connectivity and Intra-State Open Access) Regulations, 2011, the CSS is payable by the "Consumer". CSPDCL has billed CSS to "consumer" SAIL-BSP for the energy

received by them from Unit-II of PP3 which is an IPP and not a Captive Power Plant of BSP.

- 12.** CSPDCL submitted that, BSP-SAIL has PPA with NSPCL PP3 and NSPCL is supplying power to BSP-SAIL and accordingly, scheduling of power from NSPCL is being done for BSP-SAIL only. As per tariff petitions filed, BSP-TEED has no PPA with NSPCL. Moreover, no accounting of energy purchase by BSP-TEED from NSPCL is covered in REA by SLDC or WRLDC. Therefore, there is no question of billing/non-billing of Cross subsidy surcharge to BSP-TEED.
- 13.** It is also submitted by CSPDCL that in absence of legal procedure of energy accounting there is no ground on which BSP-SAIL is contending that the whole power injected by Unit-2 of PP3 is supplied to BSP-TEED only. BSP-TEED is a licensee, whereas BSP-SAIL is a consumer. Therefore, only licensee itself can dispute the matter, not a consumer. Also no authenticated report of power consumption by BSP-TEED has been submitted by CEI.
- 14.** SAIL-BSP submitted that they are licensed by the Commission to supply power to it's consumers in Bhilai Township of the SAIL-BSP. On behalf of SAIL-BSP, as per their internal arrangement, BSP-TEED, which is a department of SAIL-BSP, is supplying power and discharging other obligation of a distribution licensee. It is submitted that TEED is procuring power through BSP network from Unit-2 of PP3. SAIL BSP-TEED receives power at its load center named Township Distribution System-1 (TDS-1) and Township Distribution System-2 (TDS-2) from TSS-1 & MSDS-2

through 11 KV lines to cater to the power distribution in the area of Bhilai Township. The energy accounting is done by 9 Energy Meters installed at TDS-1 & TDS-2. Total energy supplied to SAIL BSP-TEED is the sum of the meter readings of these 9 Energy Meters.

- 15.** It is also submitted that there is no unit wise scheduling of power from PP3 NSPCL. NSPCL is submitting a composite schedule for supply of power for BSP and CSPDCL to WRLDC. Power for TEED is transmitted through network of BSP. The power scheduled for BSP is used by BSP-TEED and also for industrial consumption of BSP. Power allocation for BSP-TEED is according to the power supply arrangement between the power system department of BSP and the TEED.
- 16.** It is submitted that NSPCL-PP3 presents a single energy bill to SAIL-BSP. SAIL-BSP makes the payment to NSPCL-PP3. SAIL-BSP internally segregates the energy consumed for its industrial use and energy supplied to BSP-TEED for distribution as a distribution licensee, based on the energy meter readings at TDS-1 & TDS-2.
- 17.** The energy supplied to BSP TEED is mentioned under the column "Sale to distribution licensee" in the unit wise annual generation and consumption data of NSPCL-PP3 submitted to CEI as per the format approved by the Commission on monthly and annual basis. CEI submits the same to the Commission for assessing the captive status of NSPCL-PP3 generator on annual basis.
- 18.** We considered the pleadings of the parties. As per provisions of the Act, no licensee is required to pay cross subsidy surcharge to

any other licensee for power procured by it to supply to the consumers in its distribution area. As per Electricity Act, a distribution licensee can procure power from any available source and cross subsidy charge/surcharge cannot be levied on such procurement of power.

- 19.** We also consider the objection that there is no legal procedure of energy accounting under which the power from Unit-II supplied to BSP can be separated for industrial consumption and distribution business. We asked the Chief Electrical Inspector for the data of power supplied to BSP-TEED and BSP for industrial consumption. The CEI on 15.09.2017 submitted that revised submission has been made by NSPCL wherein energy supply to BSP-TEED has been mentioned, which is true.
- 20.** As per revised information submitted by the CEI on 08.06.2017, it appears that out of the net generation of 1580.16 MUs, 66.17 MUs was supplied for captive consumption and 48.53 MUs was supplied to BSP-TEED. The respondent No.1 has also in their reply, given similar data. As the CEI is authorized to collect, scrutinize and verify the data related to captive plants status, we find no ground to disbelieve the data submitted by the CEI.
- 21.** We therefore, conclude that Unit-II of NSPCL is an IPP who supplies power to various entities including SAIL-BSP for captive use and for supply to the consumers in Bhilai Township through TEED. The SAIL-BSP has consumed 66.17 MUs power for its industrial load and therefore, liable to pay cross subsidy surcharge to CSPDCL on this consumption only. Balance power i.e. 48.53

MUs supplied to BSP-TEED, which is a distributing licensee for supply of power to the consumers in the Bhilai Township, is used for distribution business. Hence, no cross subsidy surcharge is payable on this quantum (48.53 MUs) of power.

The petition is disposed off accordingly.

Sd/-
(ARUN KUMAR SHARMA)
MEMBER

Sd/-
(NARAYAN SINGH)
CHAIRMAN