

**WEST BENGAL ELECTRICITY REGULATORY COMMISSION**

**WEST BENGAL**

**Petition No. OA-341/20-21**

**Date of hearing: 7<sup>th</sup> September, 2021**

**Time of hearing: 14.30 hours**

**Quorum:**

**Shri Sutirtha Bhattacharya, Chairperson**

**Shri Durgadas Goswami, Member**

**Shri Pulak Kumar Tewari, Member**

**In the matter of**

**Application under section 86(1)(f) read with section 86(1)(a) of the Electricity Act, 2003 for adjudication of disputes between Phillips Carbon Black Limited [PCBL (Petitioner)] and West Bengal State Electricity Distribution Company Limited [WBSEDCL (Respondent no. 1)] and West Bengal State Electricity Transmission Company Limited [WBSETCL (Respondent no. 2)] in regard to determination/adoption of charges payable by the Petitioner to the Respondent no. 1, if any, for conveyance of surplus power from Petitioner's co-generation plant through open access pursuant to the restructuring of erstwhile Durgapur Projects Limited (DPL).**

**And**

**In the matter of**

**Phillips Carbon Black Limited  
3<sup>rd</sup> Floor, Duncan House  
31 Netaji Subhas Road  
Kolkata 700 071.**

**..... Petitioner**

**And**

**West Bengal State Electricity Distribution Company Limited  
Vidyut Bhavan  
Block DJ, Sector – II  
Salt Lake City  
Kolkata 700 091.**

**..... Respondent**



And

West Bengal State Electricity Transmission Company Limited  
Vidyut Bhavan  
Block DJ, Sector – II  
Salt Lake City  
Kolkata 700 091

..... Respondent

Representatives attended:

Phillips Carbon Black Limited [Petitioner]

1. Sri M. G. Ramachandran, Sr. Advocate,
2. Smt. Divya Chaturvedi, Advocate,

West Bengal State Electricity Distribution Company Limited (WBSEDCL)  
[Respondent]

1. Sri Shiv Shankar Banerjee, Advocate,
2. CE (Regulation),

West Bengal State Electricity Transmission Company Limited (WBSETCL)  
[Respondent]

1. Sri Sukanta Biswas, CE, CPD,
2. Sri Chinmoy Kumar Halder, CE (SLDC)

### CASE IN BRIEF

Phillips Carbon Black Limited (PCBL) has submitted a petition praying before the Commission for determination/adoption of charges payable by the petitioner to respondent no. 1 for conveyance of surplus power from petitioner's co-generation plant through open access pursuant to the restructuring of erstwhile Durgapur Projects Limited. The contention of PCBL is that the petitioner is not liable to make any payment of wheeling charges to the respondent no. 1. However, even if the petitioner is liable to pay any charge to respondent no. 1, the same cannot be in excess of what was earlier being paid by the petitioner to erstwhile DPL, before restructuring and transfer of erstwhile DPL's business and assets to the respondent no. 1, i.e., at the rate of 22.65 paise per kWh, since there was no change in the assets being used by the petitioner for supply of power through open access to its consumer.



A wheeling agreement called "2019 Wheeling Agreement" has been entered into by and between the petitioner and the respondent no. 1 on 31.12.2019 and a "Tripartite Connection Agreement" by and between the petitioner and the respondents no. 1 & 2 as well. In terms of clause 10(1) of the 2019 Wheeling Agreement, PCBL is required to approach the Commission for determination of wheeling charges, if any.

### **SUBMISSION DURING HEARING**

- a) On query from the Commission, the Ld. Advocate, on behalf of the petitioner, submitted that there was some procedural defect in submission of the rejoinder which has been rectified and resubmitted as it is on 6<sup>th</sup> September, 2021. There was no change in the contention and/or no new documents have been added.
- b) The Ld. Advocate, on behalf of WBSEDCL, submitted that no copy of the rejoinder, in question, was served upon the advocate on record or the respondent no. 1, excepting an e-mail to the Chairman of the respondent no. 1. He urged upon the petitioner to send a copy of the rejoinder submitted to the Commission to the Ld. Advocate on record of the respondent no. 1 or to the office of the respondent no. 1 so that he can go through the said rejoinder and make comments, if any.
- c) the Ld. Advocate of the petitioner submitted that the copy of the rejoinder was sent to the address available with them. However, he has agreed to serve a copy of the rejoinder to the office of the Advocate-on-Record of the respondent no. 1.

### **OBSERVATIONS OF THE COMMISSION**

The Commission observed that the rejoinder, duly rectified accompanying with an affidavit on non-judicial stamp paper of Rs. 10.00, was submitted to the office of the Commission only on 6<sup>th</sup> September, 2021 evening, just before the date of the hearing, as a result of which there was hardly any time to verify as to whether the rejoinder was submitted as it is as was submitted earlier or there has been change in contention and/or any new document has been added. .

It is further noticed that the original petition submitted on 31<sup>st</sup> July, 2020 was also not



accompanied with an affidavit sworn in on a Non-judicial stamp paper of Rs. 10.00. The Commission opined that this needs to be rectified.

### **ORDER**

Upon hearing the parties present and based on the observations made by the Commission, the Commission directs the following:

- a) The petitioner shall verify the original petition submitted to the Commission on 31<sup>st</sup> July, 2020 and rectify the same if found to be defective;
- b) The petitioner shall serve copy of the rejoinder submitted to the Commission, to the office of the Advocate-on-Record of the respondent no. 1 and to the office of the respondent no. 2;
- c) The entire proceedings as in (a) and (b) above shall be completed within 14 days from the date of the present hearing i.e., 7<sup>th</sup> September, 2021 and shall be intimated to the Commission,
- d) The next date of hearing will be fixed after 21<sup>st</sup> September, 2021 upon receipt of the confirmation as to the directions as above from the parties involved.

sd/-  
(PULAK KUMAR TEWARI)  
MEMBER

sd/-  
(DURGADAS GOSWAMI)  
MEMBER

sd/-  
(SUTIRTHA BHATTACHARYA)  
CHAIRPERSON

**DATE: 29.10.2021**

sd/-  
**Secretary**