

WEST BENGAL ELECTRICITY REGULATORY COMMISSION

WEST BENGAL

Petition No. OA-341/20-21

Date of hearing: 7th February, 2023

Time of hearing: 15.30 hours

Quorum:

Dr. Mallela Venkateswara Rao, Chairperson

In the matter of

Application under section 86(1)(a) read with section 86(1)(f) 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)] and for directions pursuant to unbundling of erstwhile Durgapur Projects Limited (DPL).

And

In the matter of

**Phillips Carbon Black Limited
3rd 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

And

Durgapur Projects Limited
Durgapur
West Bengal

..... Respondent

And

West Bengal State Load Despatch Centre
P.O. Danesh Seikh Lane, Andul Road
Howrah 711 109

..... Respondent

And

RPG Power Trading Company Limited
1st Floor, 2A Lord Sinha Road
Kolkata 700 071

..... Respondent

Representatives attended:

Phillips Carbon Black Limited [Petitioner]

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

West Bengal State Electricity Distribution Company Limited (WBSEDCL)

[Respondent]

1. Sri Subrata Chowdhury, Addl. General Manager (HR&A),
2. Sri Rajeev Nandan Sinha, Addl. Chief Engineer,
3. Sri Somanjan Ponda, Superintending Engineer.

West Bengal State Electricity Transmission Company Limited (WBSETCL)

[Respondent]

1. Sri R. Das, Addl. Chief Engineer (CPD)

Durgapur Projects Limited (DPL) (Respondent)

1. Sri Sudipto Pal, DGC (PPC),
2. Sri Ranjan Biswas, Sr. Manager (Commercial & Regulatory)

RPG Power Trading Company Limited (Respondent)

Absent

CASE IN BRIEF

1. Phillips Carbon Black Limited (PCBL) 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.
2. The contention of WBSEDCL is that as per clause 10 (1) of the 2019 Wheeling Agreement PCBL would pay WBSEDCL wheeling charges as fixed/approved by this Hon'ble Commission. In the interim, PCBL would pay Wheeling Charges as on 31.12.2018 as being paid to DPL. WBSEDCL further contended that this Commission has issued Tariff Order for 2018-19 and 2019-20 on 25.08.2021 in case no: TP-84/19-20, inter-alia, detailing the Wheeling Charges determined in Chapter 9 (Order on Wheeling Charge for 2018-19 and 2019-20) of the said order considering distribution assets of DPL. In terms of the said Order, the Wheeling Charges for the period from 01.01.2019 to 31.03.2019 comes to @ 97.77 paisa/kWh and @ 105.09 paisa/kWh for 2019-20. PCBL, cannot be allowed to avoid its obligations and responsibilities of remitting the Wheeling Charges as provided under the express terms of the 2019 Wheeling Agreement executed by and between PCBL and WBSEDCL.
3. The Commission took several hearings in order to resolve the issue and opportunities were provided to the parties, in question, to resolve the issue amicably. Ultimately, the Commission, vide its interim order dated 24.05.2022 that—
 - a) The status-quo be maintained in respect of the wheeling charges as was being paid by PCBL to DPL as per the rate prevalent as on 31.12.2018 (i.e. prior to

restructuring of DPL) for wheeling of power through DPL system until further direction is issued by the Commission.

- b) The Commission shall pass final order in due course of time.
4. In the meantime, WBSEDCL has submitted an application on 22.09.2022 seeking clarification / modification of order dated 24.05.2022 issued by the Commission in the case, in question, as mentioned hereinabove.
5. In view of above, an e-hearing was held on 7th February, 2023 at 15.30 hours where representatives of the parties were present.

OBSERVATION OF THE COMMISSION

6. Upon hearing the parties, the Commission felt that the direction given in interim order dated 24.05.2022 may be continued till the final order is issued in this respect. However, based on the request of the representative of WBSEDCL, a final hearing may be held before issuance of the final order.

ORDER

7. In view of the above, the Commission directs that –
- a) The status-quo be maintained in respect of the wheeling charges as was being paid by PCBL to DPL as per the rate prevalent as on 31.12.2018 (i.e. prior to restructuring of DPL) for wheeling of power through DPL system until final order is issued by the Commission.
- b) The date of final hearing will be intimated in due course
8. Let copy of this order be served upon PCBL, WBSEDCL, WBSETCL, DPL, SLDC and RPG Power Trading Company Limited.

Sd/-
(MALLELA VENKATESWARA RAO)
CHAIRPERSON

DATE: 09.02.2023

Sd/-
SECRETARY