

**WEST BENGAL ELECTRICITY REGULATORY COMMISSION**

**WEST BENGAL**

**Petition No. OA-418/22-23**

**Quorum:**

**Dr. Mallela Venkateswara Rao, Chairperson**

**Shri Pulak Kumar Tewari, Member**

**In the matter of**

**Petition under Reg 5.13 of WBERC (Deviation Settlement Mechanism & related matters) Regulations, 2021 seeking relaxation in volume limit for additional deviation charges as per regulation 3.3 of DSM Regulations (except regulation 3.3.9, 3.3.11 and 3.3.12), Additional Deviation charge for sign change violation and under-drawal limit**

**And**

**In the matter of**

**M/S India Power Corporation Limited (IPCL)  
Plot No. X1-2&3, Block-EP, sector V,  
Salt Lake City, Kolkata – 700091 (West Bengal)**

**CASE IN BRIEF**

1. IPCL had appealed before the WBERC on 20.05.2022 in respect of regulation 5.13 of WBERC DSM Regulations 2021 for the following:
  - (a) To relax the volume limit for additional deviation charges for distribution utility as specified in regulation 3.3 of WBERC DSM Regulations 2021 at par with the CERC DSM Regulations i.e. for petitioner/ Buyer (with schedule up to 400 MW) effective from 03.01.2022 i.e. effective date of WBERC DSM Regulation 2021;
  - (b) To modify the range of violation of sign change for additional deviation charges for sign change as specified in regulation 3.3.10 of WBERC DSM Regulations 2021 at par with the CERC DSM Regulations effective from 03.01.2022 i.e., effective date of WBERC DSM Regulation 2021;
  - (c) To modify under drawal limit for receivable amount as specified in regulation 3.2.2 (ii) of WBERC DSM Regulations 2021 at par with the CERC DSM Regulations effective from 03.01.2022 (the effective date of WBERC DSM Regulation 2021);

2. IPCL had also preferred a writ (WPA No. 1179 of 2023) before the Hon'ble Calcutta High Court in a similar matter which is disposed of by granting liberty to IPCL to move to the WBERC with the dispute, if necessary, by filing an additional statement or other pleadings before the WBERC. The single judge in the said case directed in the order dated 24.03.2023 that the WBERC shall, thereafter, decide the issue in accordance with law upon giving opportunity of hearing to all interested parties as expeditiously as possible.
3. IPCL has filed Additional Submission on 13.04.2023 before the WBERC in respect of the petition filed on 20.05.2022 (case no. OA-418/22-23) with the following additional prayers:
  - (a) To admit/take on record the additional submission/pleading along with the original petition no. OA-418/22-23 in light of the Hon'ble Calcutta High Court order dated 24.03.2023 in WPA No. 1179 of 2023.
  - (b) To relax the volume limit for additional deviation charges as specified in regulation 3.3 of WBERC DSM Regulations 2021 by considering separate volume limit norms for distribution licensees having smaller schedules up to 400 MW and modifying the under drawal limit for receivable amount as specified in regulation 3.2.2 (ii) of WBERC DSM Regulations 2021 on a similar principle as adopted by the CERC DSM Regulations 2022.
  - (c) To allow further relaxation in volume limit for RE rich power purchase portfolio based on a similar principle as in Regulation 8 of CERC DSM Regulation 2022.
  - (d) To provide one-time relief by extending relaxation in the provision of regulation 5.17.2 of the WBERC (Terms and Conditions of Tariff) (first amendment) Regulations 2012 because of the abnormal increase in DSM-related charges.
  - (e) To direct WBSLDC to re-adjust the DSM arrears billed on IPCL with effect from 03.01.2022 to the extent the relief is granted in this respect in the petition along with the revised adjustment amounts under regulation 3.2.3.2 of the WBERC DSM Regulations 2021 on a retrospective basis as well, based on the principle specified in WBERC order dated 10.03.2023 in case no. SM-32/22-23.
  - (f) That pending the hearing and final disposal of the petition:
    - (i) The operation of the impugned Additional Charges billed on IPCL by WBSLDC for the period from 03.01.2022 onwards to the extent challenged be stayed.

- (ii) WBSLDC be restrained by an order of the Commission from implementing or enforcing the said regulations to the extent challenged in any manner whatsoever.

(g) Interim relief in terms of prayers (e) and (f) above.

#### **ORDER**

4. Considering the petition filed by IPCL before the Commission on 20.05.2022 and the direction contained in the order of the Hon'ble Calcutta High Court in WPA No. 1179 of 2023 and filing of additional submission by IPCL before the Commission based on the liberty granted by Hon'ble Calcutta High Court to IPCL in the order dated 24.03.2023, the Commission hereby directs that:

(I) IPCL shall serve copy of the petition submitted before the Commission on 20.05.2022 along with additional submission made on 13.04.2023 before the Commission on (a) WBSLDC (b) WBPDC (c) WBSEDCL (d) CESC (e) HEL and (f) Hiranmaye Energy Ltd. within 10 (ten) days from the date of issue of this order.

(II) The above parties who have been served with the copy of the petition may submit comments/ suggestion/ objections on the plea of IPCL to the Commission with a copy to IPCL within a further period of 10 days.

(III) IPCL may submit to the Commission rejoinders of the replies submitted by the concerned parties within a period of 7 days from the date of receipt of the same after causing service of the copy thereof upon the added parties.

5. After receiving comments/suggestions/objections the Commission shall decide the next course of action.

**Sd/-**  
**(PULAK KUMAR TEWARI)**  
**MEMBER**

**Sd/-**  
**(MALLELA VENKATESWARA RAO)**  
**CHAIRPERSON**

**DATED: 08.08.2023**

**Sd/-**  
**SECRETARY**