



**ORDER  
OF THE  
WEST BENGAL ELECTRICITY REGULATORY COMMISSION  
IN CASE NO. RP – 5 / 24 - 25**

IN REGARD TO THE APPLICATION SUBMITTED BY WEST BENGAL STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED UNDER REGULATION 3.3 OF THE WEST BENGAL ELECTRICITY REGULATORY COMMISSION (CONDUCT OF BUSINESS) REGULATIONS, 2013 SEEKING REVIEW OF THE ORDER DATED 23.03.2023 IN CASE NO. OA – 440 / 22 – 23 REGARDING APPLICABILITY OF REGULATION 18.2.1 (H) FOR INTRA-STATE TRANSMISSION CHARGES FOR WIND SOLAR HYBRID RENEWABLE ENERGY

**PRESENT:**

**DR MALLELA VENKATESWARA RAO, CHAIRPERSON  
SRI PULAK KUMAR TEWARI, MEMBER**

**DATE: 21.08.2024**



**Facts in brief:**

- 1.0 The Commission, in regulation 18.2.1(h) of the West Bengal Electricity Regulatory Commission (Open Access) Regulations, 2022 has allowed transmission charges for wind and solar sources as 1/4<sup>th</sup> of the transmission charge applicable for conventional sources in normal long-term and medium-term open access. In the Statement of Reasons (SOR), it has been mentioned that this reduced transmission charges are considered in view of low-capacity utilization factor (CUF) of solar and wind sources, which generally varies between 17% to 30%.
- 2.0 Subsequently, IPCL vide an application dated 22.12.2022 prayed to consider their purchase from Solar Wind Hybrid source to be eligible for 1/4<sup>th</sup> transmission (STU) Charge under regulation 18.2.1 (h) of the WBERC Open Access Regulations 2022. Accordingly, the Commission considering the spirit of the Open Access Regulations allowed 1/4<sup>th</sup> STU Charges from solar-wind hybrid source up to CUF of 30% vide order dated 23.03.2023.
- 3.0 Now, West Bengal State Electricity Distribution Company Limited (WBSEDCL), petitioner in this case, has submitted a review petition on 23.05.2023 under regulation 3.3 of the West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013 seeking review of the order dated 23.03.2023 in Case No. OA – 440 / 22 – 23 on the following grounds:
  - A. Allowing 1/4<sup>th</sup> transmission charge to solar-wind hybrid source is contrary to the provision of regulation 18.2.1(h) of the WBERC Open Access Regulations, 2022.
  - B. Such concessional tariff of 1/4<sup>th</sup> STU charges allowed to IPCL for its 100 MW Wind – Solar RE Power will impose additional financial burden on WBSEDCL in terms of increased STU charges.
  - C. Prayed to keep the order dated 23.03.2023 in Case No. OA – 440 / 22 – 23 in abeyance till disposal of the review petition.
- 4.0 The Commission initially registered the instant review petition in Case No. OA – 440 / 22 – 23, in the file in which the original petition of IPCL was registered. To rectify the inadvertent error, the Commission subsequently decided to register the review petition of WBSEDCL in Case No. RP – 5 / 24 – 25.



Application submitted by WBSEDCL seeking review of the order dated 23.03.2023 in Case No. OA – 440/ 22 – 23 regarding applicability of regulation 18.2.1 (h) of WBERC Open Access Regulations for intra-state transmission charges for wind solar hybrid renewable energy



### **Observations of the Commission:**

- 5.0 The Commission noted that IPCL had filed an appeal before the Hon'ble Appellate Tribunal for Electricity (APTEL) in DFR No. 555 of 2023, challenging the order dated 23.03.2023 of Case No. OA – 440 / 22 – 23. However, no stay has yet been granted by the Hon'ble APTEL on the said order. In view of this, the Commission decides to proceed with review application following the provisions of the Open Access Regulations.
- 6.0 Now, the Commission proceeds to find whether any case for review has been made out by the Review Petitioner in terms of section 114 read with Order 47 Rule 1 of CPC, according to which a person aggrieved by order of a Court can file review on the following grounds, if no appeal against the said order has been filed:
- (a) Discovery of new and important matter of evidence which after the exercise of due diligence was not within his knowledge or could not be produced by him when the decree was passed or order made.
- (b) On account of some mistake or error apparent on the face of record; and
- (c) For any other sufficient reason.
- 7.0 In view of the above, the review sought by WBSEDCL on the items mentioned in paragraph 3.0 above are discussed below:

#### **A. Review on Concessional Tariff of 1/4<sup>th</sup> STU Charges allowed to IPCL:**

##### Submission of WBSEDCL:

WBSEDCL vide their application dated 23.03.2023 has inter-alia submitted that the concessional tariff of 1/4<sup>th</sup> STU Charges allowed by the Commission to IPCL for its 100 MW Wind – Solar Hybrid RE power procured through SECI on the ground of separate scheduling of Wind and Solar Power is misconceived and beyond the provisions of regulation 18.2.1(h) of the WBERC Open Access Regulations, 2022.

##### Observation of the Commission:

In regulation 18.2.1(h) of the WBERC Open Access Regulations, 2022 transmission charges applicable to wind and solar long-term and medium-term open access has



been kept 1/4<sup>th</sup> of the transmission charges applicable to conventional power, in view of lower CUF of solar and wind sources. The matter has been adequately clarified in the Statement of Reasons published by the Commission, where it has clearly mentioned that utilization factor of solar and wind sources varies from 17% to 30%. Thus normal transmission charge based on capacity contract will make per unit transmission charge 4 to 6 times higher compared to a conventional source. This will increase the landed cost of Solar and Wind power and make their tariff less competitive. In order to remove this distortion, it has been decided by the Commission to allow 1/4<sup>th</sup> transmission charge to solar and wind sources to put its per unit transmission charges in equal footing than that of thermal power.

Now, with the same spirit and principles, the Commission in its order dated 23.03.2023 in Case No. OA-440 / 22-23 allowed 1/4<sup>th</sup> transmission charge for the solar-wind hybrid sources whose CUF is within 30%.

The Commission further notes that, WBSEDCL has prayed to review the decision taken by the Commission in the impugned order dated 23.03.2023. Thus, this does not even come under the scope of review under section 94(1)(f) of the Electricity Act 2003 read with Order 47 Rule 1 of CPC.

**B. Additional financial impact on WBSEDCL in terms of STU charges owing to the concessional tariff allowed to IPCL:**

Submission of WBSEDCL:

WBSEDCL stated that in terms of the Tariff Order of WBSETCL, the intra-state transmission (STU) charges are realized from different distribution licensees. Thus, WBSEDCL has to bear entire residual Aggregated Revenue Requirement (ARR) of WBSETCL beyond the amount of part of ARR that would be realized from other distribution licensees viz. IPCL and CESC and other Open Access Customers, if any. WBSEDCL submitted that there would be additional financial impact on WBSEDCL in terms of STU charges owing to the concessional tariff allowed to IPCL for procuring 100 MW Hybrid Renewable Energy Power since the corresponding unrealized ARR of WBSETCL would be automatically passed on to WBSEDCL.



Application submitted by WBSEDCL seeking review of the order dated 23.03.2023 in Case No. OA – 440/ 22 – 23 regarding applicability of regulation 18.2.1 (h) of WBERC Open Access Regulations for intra-state transmission charges for wind solar hybrid renewable energy



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### Observation of the Commission:

The Commission determines the Aggregated Revenue Requirement (ARR) of WBSETCL in terms of the provisions of the Tariff Regulations. To recover the ARR of WBSETCL, the Commission specifies the long term transmission charges recoverable from the long term open access customers of WBSETCL based on per MW per month basis. The Commission observes that CESC and IPCL have long term MW contract with WBSETCL and accordingly pays the transmission charges on the basis of their contracted MW. In the absence of any MW specific agreement between WBSEDCL and WBSETCL, the residual ARR of WBSETCL is paid by WBSEDCL. Therefore, the concessional tariff, if any, allowed to open access customers purchasing energy from solar or wind sources will have an impact on the long term transmission charges of WBSEDCL. To avoid this impact, WBSEDCL is advised to make long-term MW contract with WBSETCL. Once such MW-specific contract is made between WBSEDCL and WBSETCL, then WBSEDCL will be well insulated from the impact of concessional tariff to any open access customers purchasing solar and wind energy.

Thus, the prayer of WBSEDCL does not come under the scope of review under section 94(1)(f) of the Electricity Act 2003 read with Order 47 Rule 1 of CPC.

- 8.0 Thus, the review sought for on the issue raised in paragraph '7.0' above is prayer to review ratio of prudence adopted by the Commission and has no substance for review and the Commission keeping in mind that it is estopped from encroaching upon the jurisdiction of the appellate Court does not propose to entertain the above prayers for review.

### Order:

- 9.0 On the basis of observations given above, the Commission finds that there is no error on the face of the order and thus, there is hardly any scope of review on the issues raised by WBSEDCL in the instant review petition and thereby directs the review petition to be disposed of having no merit and thereby affirming the decisions already taken in the order dated 23.03.2023.



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- 10.0 This order is subject to any decision of the Hon'ble APTEL on the appeal preferred by IPCL in DFR No. 555 of 2023.
- 11.0 A copy of the order shall be posted in the website of the Commission.
- 12.0 WBSEDCL shall download the copy of the order from the website of the Commission and act on it. Certified copy of the order, if applied for, be given to the parties on completion of formalities laid down in the West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013, as amended and on submission of necessary fees.

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

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

**Dated: 21.08.2024**

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