

**Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005
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Case No. 165 of 2017

Dated: 6 December, 2017

**CORAM: Shri Anand B. Kulkarni, Chairperson
Shri Deepak Lad, Member**

Petition of Hindustan Petroleum Corporation Limited for arbitrary levy of Cross Subsidy Surcharge on the Open Access consumption for FY 2016 -17 which is a part of Group Captive Power Plant of M/s Sai Wardha Power Generation Limited

Hindustan Petroleum Corporation Limited (HPCL)Petitioner

V/s

1. Tata Power Company Limited –Distribution (TPC-D)
2. M/s Sai Wardha Power Generation Limited (SWPGL) Respondents

Maharashtra State Load Dispatch Centre (MSLDC)Impleaded Party

Appearance:

For the Petitioner : Shri. Rahul Sinha (Adv.)

For the Respondent No-1 : Smt. Deepa Chawan (Adv.), TPC-D

For the Respondent No-2 : None

For Impleaded Party : Shri. E.T. Dengale (Rep.), MSLDC

Daily Order

Heard the Advocates for the Petitioner and Respondents.

1. Advocate of the Petitioner stated that:

- (i) HPCL is a consumer of TPC-D and is also availing power from SWPGL as an Open Access consumer under the Group Captive power Plant (CPP) model since 2015.

- (ii) On 23 November, 2017 TPC-D has raised a supplementary bill levying Cross Subsidy Surcharge (CSS) on its Open Access consumption for FY 2016-17. TPC-D has raised the supplementary bill without ascertaining the CPP status by the Commission.
- (iii) SWPGL has filed the Petition for Captive Power Plant (CPP) status determination for FY 2016-17 on 5 December, 2017. The Commission is requested to stay the Supplementary bill of CSS issued by TPC-D.

2. Advocate of TPC-D stated that:

- (i) The fourth proviso to Section 42 (2) of Electricity Act, 2003 provides that CSS shall not be leviable in case Open Access is provided to a CPP.
- (ii) SWPGL has not filed the Petition for CPP status determination for FY 2016-17. As HPCL is one of the Captive consumer of SWPGL, hence TPC-D on 4 May, 2017 requested HPCL to submit the various documents to ascertain its CPP status for FY 2016-17.
- (iii) HPCL partially provided some data and communicated that SWPGL would provide all necessary information either separately or by filing the Petition for determinations of CPP status for FY2016-17. The limited data provided by HPCL/SWPGL has many discrepancies in the certificates.
- (iv) In absence of requisite information, TPC-D was constrained to levy CSS on HPCL for its Open Access consumption for FY 2016-17 and accordingly raised the bill on 23 November, 2017.
- (v) During the pendency of CPP status determination of SWPGL for FY 2016-17, HPCL may be directed to pay the bill first subject to the outcome of Commission's ascertainment of CPP status of SWPGL.

3. The Commission observed that SWPGL has submitted a separate Petition for ascertaining its CPP status for FY 2016-17 on 5 December, 2017. Therefore the Commission directs TPC-D to refrain from levying the CSS and not to take any coercive action on the Supplementary bill of CSS issued by TPC-D till the further Order of the Commission in the matter.

The Case is reserved for Order.

**Sd/-
(Deepak Lad)
Member**

**Sd/-
(Anand B. Kulkarni)
Chairperson**