

**IN THE JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION AT
RANCHI**

Case No. 01 of 2021

Indian Railways..... Petitioner
Versus
Jharkhand Urja Sancharan Nigam Limited (JUSNL) & Ors.Respondents

**CORAM: HON'BLE JUSTICE MR. AMITAV KUMAR GUPTA, CHAIRPERSON
HON'BLE MR. MAHENDRA PRASAD, MEMBER (LAW)
HON'BLE MR. ATUL KUMAR, MEMBER (TECH)**

For the Petitioner : Ms. Puja Priyadarshini, Advocate
For the Respondent : Mr. Sachin Kumar, Advocate

Date – 11th July, 2023

1. The Petitioner-Indian Railways has filed this petition under section 86(1)(c) and (f) of the Electricity Act, 2003 read with section 39 of the Electricity Act, 2003 and Regulations 41 of the JSERC (Terms and Conditions for Intra State Open Access) Regulations, 2016 and Regulation 14 of JSERC (Conduct of Business) Regulations, 2016.
2. The prayers of the petitioner are as under: -
 - (a) To invoke the power under Regulation 41 of the Jharkhand State Electricity Regulatory Commission (Terms and Conditions for Intra-State Open Access) Regulations, 2016 and direct JUSNL / SLDC to operate and maintain the installed ABT Meters and associated equipment including upgradation of software and hardware for DSM calculation at their own costs;
 - (b) To direct JUSNL to execute the supplementary connection Agreement(s) for inclusion of new Traction Substation on the same terms and conditions as provided in the connection agreement dated 17.10.2017;
 - (c) To direct SLDC/JBVNL to prepare DSM bills for Indian Railways for the power procured through Open Access in terms of Central Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2014 as amended from time to time; and
 - (d) To pass such further order or orders as this Hon'ble Commission may deem just and proper.

Facts of the case

3. Learned Counsel for the petitioner has submitted that Indian Railways (The petitioner), Government of India is represented by the South Eastern Railway, Kolkata and operates the rail system in India as per the provisions of the Railways Act, 1989.
4. It was submitted that respondent no. 1, Jharkhand Urja Sancharan Nigam Limited (herein after referred to as (**JUSNL**)), is the State Transmission Utility (STU) as per the provisions of the Electricity Act, 2003 entrusted with the transmission business and respondent no. 2 State Load Despatch

Centre (herein after referred to as SLDC) is responsible for discharging all the functions prescribed under section 32 of the Electricity Act, 2003 and respondent no. 3 Jharkhand Bijli Vitran Nigam Limited (**JBVNL**) has been incorporated primarily to carry out distribution of electricity to retail and bulk consumers in the State of Jharkhand.

5. Learned Counsel for the petitioner has submitted that this Commission, in exercise of its power conferred upon under section 181 read with Sections 39, 40, 42 and 49 of the Electricity Act, 2003 has notified Jharkhand State Electricity Regulatory Commission (Terms and Conditions for Intra-State Open Access) Regulations, 2016 (hereinafter referred to as 'Open Access Regulations 2016) for the purposes of regulating intra-state transmission of electricity in the State of Jharkhand. For better appreciation of the case learned counsel has referred to relevant clauses of the JSERC (Open Access Regulations) 2016, CEA Regulations as well as of the Act as under:-

Clause 3.1(o) of the Open Access Regulation 2016 states:

*“(o) **“Interface Meters”** means interface meters installed in accordance with the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 and as amended from time to time;”*

Clause 10 of the Open Access Regulation 2016 stipulates as under:

“10: ELIGIBILITY FOR OPEN ACCESS AND CONDITIONS TO BE SATISFIED

10.1 Subject to the provisions of these regulations, the licensees, generating companies, captive generating plants and Consumers shall be eligible for Open Access to the intra-State transmission system of the State Transmission Utility or any intra-State transmission licensee on payment of transmission and other charges as may be determined by the Commission pursuant to these regulations.

10.2 Subject to the provisions of these regulations, the licensees, generating stations, captive generating plants and Consumers shall be eligible for Open Access to distribution system of a distribution licensee on payment of the wheeling and other charges as may be determined by the Commission pursuant to these regulations.

10.3 Subject to the provisions of these Regulations, Open Access shall be permissible to all Consumer having demand of 1 MW and above (except generating plants):

Provided that when a person, who has established a captive generating plant, opts for Open Access for carrying the electricity to the destination of his own use, the limitation of 1 MW shall not be applicable;

Provided further that duties of the distribution licensee with respect of such Open Access Consumers shall be of a common carrier providing non-discriminatory Open Access as per section 42(3) of the Act;

Provided that the Commission may allow Open Access to Consumers

seeking Open Access for capacity less than 1 MW at such time as it may consider feasible having regards to operational constraints.

10.4 A person having been declared insolvent or bankrupt or having outstanding dues against him for more than two months billing of distribution/transmission licensee at the time of application shall not be eligible for Open Access.

10.5 The Open Access Consumer generator shall have to install ABT compliant meters at their place for energy accounting and Remote Terminal Unit (RTU) to facilitate SLDC in real time monitoring, which shall be duly certified by the licensee concerned.

10.6 Subject to the provisions of these Regulations, Consumers who are connected at 33 kV or below Sub Station or connected on common feeder irrespective of their voltage of supply, shall be allowed open access subject to the condition that they agree to rostering restrictions including power cut imposed by the licensee on the feeders serving them.

10.7 No power cut shall be imposed by the licensee on open access consumers who are on independent feeders connected to 66 kV or above Grid Sub Station irrespective of their supply voltage to the extent of power availed through open access. Provided that in case power is drawn from the licensee beyond the scheduled power during power cut period, the licensee shall bill the excess energy drawn during this period at four (4) times the tariff applicable to that consumer category. The licensee may also disconnect the feeders if system conditions so warrant and no compensation shall be paid for the un-utilized open access power. The supply shall be restored on submission of written undertaking to adhere to the schedule. In case the default persists for a continuous period of 3 days, the facility of open access shall be liable to be withdrawn for a month.

10.8 The consumers availing single point supply from the distribution licensee and making electricity available to multiple users shall not be eligible to avail open access.”

Further, clause 41 of the Open Access Regulations 2016 reads as under:

“41: POWERS TO REMOVE DIFFICULTIES

41.1 If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may by general or special order, direct the State Transmission Utility, State Load Despatch Centre, licensees and the Open Access Consumers, to take such action, as may appear to the Commission to be necessary or expedient for the purpose of removing difficulties.”

6. Learned Counsel for the petitioner, while drawing attention to the terms of the provisions of the Open Access Regulations 2016, has contended that an Open Access customer is required to have the ABT compliant meters, i.e., interface meters installed at their place for energy accounting and Remote Terminal Unit (RTU) to facilitate SLDC in real time monitoring, which has to

be duly certified by the licensee concerned and the said interface meters are required to be installed in compliance with the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 (hereinafter referred to as '**CEA Metering Regulations 2006**').

7. It was pointed out that Open Access Regulations, 2016 do not have any provision with regards to responsibility/liability towards cost of maintenance/upgradation of the interface meters, including ABT complaint meters along with associated equipment including software upgradation for the purposes of DSM Calculation, therefore the question has arisen as to whether the Indian Railways, being an Open Access Customer is liable to bear the costs towards AMC/ATS of the interface meters and associated equipment installed by the Respondents at the interconnection point under deposit work by Indian Railways?
8. It has been argued that due to non-maintenance as well as non-upgradation of software, SLDC has not been able to prepare the DSM bills in terms of the applicable Central Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2014 (CERC DSM Regulation 2014) as amended from time to time for the power being procured by Indian Railways under Open Access.
9. It is argued that Indian Railways, for meeting its energy requirements, is procuring power as a Deemed Licensee on Long Term Inter-state Open Access(LTA) from the Power Plant of Ratnagiri Gas and Power Private Limited (RGPPL) situated in Dist. Ratnagiri at its traction substations (10 in number) situated in the State of Jharkhand since 17.01.2016. It is stated that initially, Indian Railways was granted LTA for 100 MW from 17.01.2016 which was later revised to 80 MW from 18.03.2016 and was further revised to 70 MW with effect from 17.08.2016.
10. It is submitted that pursuant to the above, a tender was floated by JUSNL/SLDC for the purposes of supply, installation and commissioning of ABT Meters along with servers and accessories for the purposes of energy accounting and calculation of DSM Charges payable by the Indian Railways for the power being sourced through Open Access. Thereafter, M/s, Secure Meters Limited was selected and JUSNL vide letter dated 19.12.2016 (**Annexure - A**) directed Indian Railways to deposit an amount of Rs.2,44,48,980.14 towards cost of supply, installation & commissioning of ABT Meters alongwith servers and accessories at 9 GSSs (Deoghar, Jamtara, Rajkarwan, Kendposi, Chakradharpur, Goilker, Namkum, Hatia & Kamdera) and for supervision charges by JUSNL.
11. It was submitted that in compliance with the aforementioned letter, Indian Railways paid the amount on March, 2017 and an additional amount of Rs.10,77,298/- for one additional GSS at Pakur was deposited by the Indian Railways in November, 2017 as sought by JUSNL. On deposit of the above amount M/s. Secure Meter Limited installed the ABT Meters and other associated equipment and software including installation of software for DSM calculation at SLDC/Ranchi which was commissioned for operation on 26.11.2018.
12. It is contended that on 17.10.2017, a connection agreement was executed

between Indian Railways and JUSNL with regard to the LTA being availed by the Indian Railways in the State of Jharkhand (**Annexure – B**).

The energy data of the Indian Railways was shared by SLDC/JUSNL for the period from 26.11.2018 to 25. 11.2019. Thereafter, due to some problems in the system the data sharing was hampered.

13. It is submitted that Central Electricity Regulatory Commission, vide its Notification No. L-1/132/ 2013 CERC, dated 20.11.2018, notified the Fourth Amendment, amending the Central Electricity Regulatory Commission (Deviation Settlement Mechanism and Related Matters) Regulations, 2014 (“**CERCDSM Regulations**”). which provided for revised deviation calculation methodology and it came into effect from 01.01.2019. Therefore, for the purposes of implementing the revised deviation calculation methodology, certain modifications were required to be carried out in the software installed at the SLDC and equipments which were installed under deposit work by JUSNL. In view of the above, JUSNL vide its letter dated 28.02.2019 (**Annexure – C**), called upon the Indian Railways to execute a comprehensive 5 year AMC & ATS contract with M/s. Secure Meters Limited for a total amount of Rs.2,08,20,000/- (excluding GST).

It is submitted that the Petitioner opposed the same on the ground that the demand being raised by JUSNL for the cost of maintenance and upgradation of software to be borne by the Indian Railways, was illegal and unjustified since the ownership of the said Meters and associated equipment including software at SLDC was of JUSNL/SLDC, therefore obligation to bear the cost of maintenance and upgradation was of JUSNL/SLDC.

14. It is pointed out that due to the non-upgradation of software and problems in some of the ABT Meters and equipment installed, DSM Bills as regards to the power being procured through Open Access by Indian Railways, was being prepared on provisional basis for the period commencing from 01.01.2019 and thus there were certain issues in connection with DSM Charges levied upon Indian Railways for the period from 26.11.2018 to 31.12.2018.
15. Learned Counsel for the petitioner has submitted that consequently meetings were held between the officials of Indian Railways and JUSNL/SLDC on 18.07.2019 and 20.12.2019 (**Minutes attached at Annexure –D**) to discuss and deliberate on the issues of AMC & ATS, but no consensus could be arrived at between the parties.
16. It was submitted that on 16.03.2020, another meeting was held between the officials of Indian Railways and JUSNL to discuss the issue concerning AMC and ATS and regarding connectivity of additional TSS at Karamtola. On the issue of connectivity at Karamtola TSS, it was agreed that the connectivity on open access shall be provided subject to signing of a supplementary connection agreement. Consequently another meeting was held on 24.06.2021 between the officials of Indian Railways, JUSNL and M/s. Secure Meters Limited to deliberate and discuss the issues pertaining to Repair/ Maintenance/Amendment of ABT Meters and its accessories (**Minutes attached as Annexure – G**).
17. Learned Counsel has submitted that on 17.07.2020, JUSNL forwarded a

draft of supplementary agreement-1 to the Principle Connection Agreement dated 17.10.2017 for inclusion of new TSS at Karamtola (**Annexure - H**) and the said draft supplementary agreement was forwarded by JUSNL vide its letter dated 17.07.2020, including the clauses for maintenance/installation of the ABT Meters and associated equipment including communication systems which were not there in the connection agreement dated 17.10.2017.

Learned counsel has drawn attention to the additional clauses of the draft supplementary agreement as extracted hereunder:

“15.6 SER shall abide by the metering standards notified by the Central Electricity Authority (CEA) vide its notification dated 17 March, 2006, as amended from time to time. For communication and real time monitoring SER connected at 132kV or above shall establish and operationalize broadband communication link such as VSAT, leased line with SLDC for real time data, voice and fax communication. Such communication facility as mentioned should be established to the satisfaction of SLDC before the commencement of open access transaction. SER shall bear the cost of such arrangements.

15.7 Implementation of communication link from the substation upto nearest wide band node of JUSNL as per clause no. 7.8 (i) of CERC, communication regulation 2017 "user may have utilized the available infrastructure for establishing communication upto nearest wide band node for meeting communication requirement from there stations to concerned control centre.

15.9 Maintenance of communication system and telemetry System owned by user and Open Access consumer shall provide ABT compatible SEM at the point of injection and point of drawl.”

Learned counsel has contended that the above conditions, as sought to be imposed by the JUSNL is de hors of any provision in the Regulations framed or approval of this Hon'ble Commission. In fact, certain proposed conditions, as per the applicable Central Commission's/Central Electricity Authority's Regulations are within the domain of the State Transmission Utility unless otherwise provided for.

18. It was submitted that the petitioner vide its letter dated 25.09.2020 (**Annexure - I**) had requested JBVNL to review its provisional bills for DSM Charges for the period 26.11.2018 to 10.11.2019 as there were certain discrepancies with regard to the charges levied from 26.11.2018 to 31.12.2018. Further, the charges levied for the period commencing from 01.01.2009 was not in terms with the charges prescribed by CERC by way of the notified 4th amendment.
19. It was submitted that on 07.10.2020, Indian Railways sent its comments with respect to the supplementary agreement forwarded by JUSNL and also proposed a draft supplementary agreement (**Annexure - J**).
20. It was submitted that as per JSERC Open Access Regulations 2016, an Open Access Customer is liable to install the ABT Meters and other

associated equipment, i.e., interface meters at the interconnection for the purpose of being eligible for getting power through Open Access. It was pointed out that in terms of Regulation 10.5, Indian Railways has provided the ABT Meters and other associated equipment and also software and hardware at SLDC for the purpose of energy accounting and calculation of Deviation Charges pertaining to the power sourced by Indian Railways through Open Access under the deposit work. The said meters and software & hardware were installed by M/s. Secure Meters Limited, which were selected by JUSNL and supervised by JUSNL/SLDC for which supervision charge was also paid by the Indian Railways. However, there is no such requirement and/or condition that the said meters were also to be maintained by the Open Access Customer and that too, at the cost of the customer. It is argued that the demand by the JUSNL/SLDC, as regards to the cost of maintenance/upgradation to be borne by the Indian Railways, is de hors of the provisions of the Open Access Regulations 2016. It was pointed out that in the absence of any specific provision, Indian Railways cannot be saddled with the burden of the cost towards the same and as such, the demand raised by JUSNL/SLDC is unjustified and untenable in law being violative of and/or in contravention with the extant Regulations.

21. It was submitted that in terms of Regulation 3.1(o) Open Access Regulations 2016 as framed by this Hon'ble Commission, the interface meters are to be installed in accordance with the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 (**CEA Metering Regulations 2006**). It was stressed that in terms of Clause 28.12 of Open Access Regulations 2016, all open access consumers are to abide by the CEA Metering Regulations. Thus, in absence of any contrary provisions to the Regulations framed by this Hon'ble Commission, provisions of CEA Metering Regulations 2006 shall be applicable and Regulations 6(1)(b) and 10 of the CEA Metering Regulation 2006 provides:

“6. Ownership

(1) Interface meters

.....

(b) All interface meters installed at the points of interconnection with Intra-State Transmission System excluding the system covered under sub-clause (a) above for the purpose of electricity accounting and billing shall be owned by STU.

.....

10. Operation, Testing and Maintenance of meters. –

The operation, testing and maintenance of all types of meters shall be carried out by the generating company or the licensee, as the case may be.”

It was submitted that in view of the above facts the ownership of all the interface meters vests with STU, i.e., JUSNL and as such, the interface meters installed at the interconnection points under deposit work by Indian Railways are exclusive property of the JUSNL and the operation testing and maintenance of the same are also to be carried out by the licensee, i.e., JUSNL.

22. It was further submitted that in terms of the Jharkhand State Electricity

Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2015 (**JSERC Transmission Tariff Regulations 2015**) the Operation and Maintenance Expenses to be incurred by the Transmission Licensee form a part of their Multi Year Tariff, therefore, any cost that is required to be borne, or is actually paid by the JUSNL shall form part of the ARR or MYT of the JUSNL.

In support of the contention, learned counsel has drawn attention to Regulations 2.1(33), 2.1(35) & 2.1(44) of the JSERC Transmission Tariff Regulations, 2015 which reads as under:

“33) **“Operation and Maintenance Expenses”** or **“O&M Expenses”** means the expenditure incurred on operation and maintenance of the project, or part thereof, and includes the expenditure on manpower, repairs, spares, consumables, insurance and overheads:

.....

35) **“Project”** means the transmission system;

.....

44) **“Transmission System”** means the system consisting mainly of extra high voltage electric lines and associated equipments and substations having design voltage higher than 66 KV including any other system of lower voltage as per the Transfer Scheme or the Commission may specifically recognize, owned or controlled by the Transmission Licensee, and used for the purposes of the transportation of electricity, between the Switchyards of two Generating Stations or from the switchyard of a Generating Station to a substation, or between substations, or to or from any external interconnection and includes all bays/equipment up to the interconnection with the Distribution System, and any plant, apparatus and meters owned or used in connection with the transmission of electricity, but shall not include any part of a Distribution System.”

It is argued that the combined reading of the aforementioned provisions show that the interface meters installed at the interconnection points under the deposit head from Indian Railways shall form part of the transmission system of JUSNL and accordingly it shall fall within the scope and ambit of the term ‘project’ and any amount spent or to be spent for the purpose of maintenance of the said interface meters, including ABT Meters and such other associated equipment shall form part of the Operation and Maintenance expenses of JUSNL and as such shall also form part of their MYT and/or ARR.

23. It was pointed out that in the connection agreement dated 17.10.2017, executed between Indian Railways and JUSNL, there is no provision that the maintenance cost is to be borne by Indian Railways. It is argued that the additional clause proposed by JUSNL in the draft supplementary connection agreement for the additional Traction Substations of Indian Railways is arbitrary and unjustified as the additional clauses propose to cast an obligation/liability on the Indian Railways as regards to cost of maintenance and/or upgradation of the ABT Meters and other associated equipment including the communication system for the purpose of calculation of DSM, on the Indian Railways.

24. It is argued that JUSNL should be directed to execute the supplementary

connection agreement at the earliest for inclusion of new Traction Substation on the same terms and conditions as in the connection agreement dated 17.10.2017. It was submitted that any delay in execution of the Supplementary Connection Agreement will result in delay in commissioning/charging of the new Traction Substations. Consequently there will be delay in electrification of the Railway Tracks and shall cause irreparable loss to the Indian Railways.

25. It is stressed that due to the inaction/ delay on the part of the JUSNL/SLDC as regards maintenance and upgradation of the ABT meters and other associated equipment including Hardware & Software for DSM Calculation, SLDC has not been able to prepare the DSM bills for the Indian Railways. SLDC has not been able to implement and raise invoices on the Indian Railways in terms of the Fourth Amendment of the CERC DSM Regulation 2014 notified by CERC on 20.11.2018. SLDC has been raising invoices on provisional basis resulting in delay in finalizing of accounts between the parties. It is submitted that it is the obligation of the SLDC to maintain appropriate software for the purpose of energy accounting and for calculation of DSM Charges.
26. Learned Counsel for the petitioner has submitted that the present petition is being filed for a direction to the respondent-JUSNL/SLDC to operate and maintain the ABT Meters and associated equipment including upgradation of DSM Hardware Software at SLDC for the purpose of energy accounting and calculation of DSM Charges for the Indian Railways and the cost has to be borne by JUSNL. The JUSNL has to be directed to execute Supplementary Connection Agreement for inclusion of new Traction Substations on the same terms and conditions as incorporated in agreement dated 17.10.2017.

Contention of the Respondent

27. Learned counsel for the respondent has submitted that the installation of ABT meters along with its accessories (hardware and software) at GSS and at SLDC, Ranchi has been carried out by JUSNL under the deposit head of Railways and the whole infrastructure, involving installation of ABT Meters and its accessories had been developed for the sole purpose of fulfilling Railways requirement of power drawl under Open Access from JUSNL. Thus, in order to comply with Clause 28.2 of the JSERC (Terms and Conditions for Intra-State Open Access) Regulations, 2016 for maintaining the Special Energy Meters always in good condition, the responsibility shall lie on Railways for bearing the cost of maintenance as well.
28. Learned Counsel for the respondent has cited the case of other constituents/entities as under: -
 - i. **Bihar:** As per Chapter 6, Clause 27(4) of the Bihar Electricity Regulatory Commission (Terms and Conditions of Intra-State Open Access) Regulations, 2018, "*Special Energy Meters shall always be maintained in good condition by the open access customers and shall be periodically tested and calibrated by the State Transmission Utility/Distribution Licensee.*"

AMC for DSM Software and hardware installed at SLDC, BSPTCL for Open Access to Railways is arranged by BSPTCL and the same is reimbursed by Railway on submission of demand note by BSPTCL.

- ii. **CTU and JUSNL:** Special Energy Meters installed at STU (Jharkhand) and CTU interface (tie-lines associated with JUSNL) are being maintained by POWERGRID (CTU) whose cost is being borne by ER constituents itself (here, JUSNL).
- iii. **DVC and JBVNL:** JBVNL is an open access Consumer of DVC. For the interface meters installed between DVC and JBVNL for open access, the cost of AMC is being borne by JBVNL.

29. It was submitted that the ABT software and hardware system installed at SLDC, Ranchi for calculation of DSM charges for Railways drawing power under Open Access was installed to fetch ABT meter data from the field to SLDC, Ranchi for each time-block through online mode. However, due to problems occurring in DCU, UPS and other ABT related equipments at GSSs and due to cyber threats reported in FTP services (as security measure FTP services have been closed), the online meter data fetching has now completely stopped. Hence, the meter data are now being manually uploaded in the software at SLDC.

However, manual uploading of meter data has not solved the problem of generating DSM Bills through the software as all the amendments in CERC DSM Regulations notified from time to time has not been completely incorporated in the software by M/s Secure due to lack of AMC and as per the decision taken in the meetings dated 19.05.2022, 08.06.2022 and 08.07.2022 (**Annexure - E of Reply**) between SER, JUSNL and SLDC, Provisional DSM Bills are now being manually prepared in excel format by SLDC using drawl reports and frequency for each time-block from the DSM Software (at SLDC) and ACP rates from NLDC, POSOCO website. The manually prepared DSM Bills are sent to SER for verification and after confirmation from SER, the Provisional DSM Bills are submitted to JBVNL for raising and settlement of payment of the DSM bills.

30. Learned Counsel for the respondent has submitted that the payments for manually prepared provisional DSM Bills from 26.11.2018 to 31.12.2018 and 01.09.2021 to 30.11.2021 has been already made by SER. However, for some period i.e. ABT Meter data of GSS end from 2019 onwards could not be retrieved and hence is posing difficulty in preparing DSM Bills even manually, therefore, Railways have been requested for providing their TSS and meter end data but the required data from the TSS end has not been provided by the petitioner till date. In this context, it was pointed out that as per clause-28.5 of the JSERC (Terms and Conditions for Intra-State Open Access) Regulations, 2016 : -

“The Open Access Consumer shall provide along with Main Meters, Check Meters of the same specifications as Main Meters at the point(s) of injection and point(s) of drawal.”

Hence, Railways must provide the requested TSS end meter data at the earliest.

31. Learned Counsel for the respondent has submitted that clause 7.8(iii) of the CERC (Communication System for Inter-State Transmission of Electricity) Regulations, 2017 reads as under: -

“7.8. Role of Users:

(iii) The Users shall also be responsible for expansion/up-gradation as well as operation and maintenance of communication equipment owned by them”.

Thus, the expansion/up-gradation as well as maintenance of communication equipment like DCU, Modem, etc. shall be done by S.E. Railway.

Commission’s observation and findings

32. The Commission has considered the submissions of both parties and perused the materials available on records.

33. It is pertinent to note that Section 86 (1)(f) of the Electricity Act, 2003 stipulates that the responsibility to adjudicate upon the disputes between the licensees, and discharge such other functions as may be assigned to it under the Act lies on the Commission. The relevant provision of Sections 86 is extracted hereunder: -

“Section 86 Function of State Commission: - (1) *The state Commission shall discharge the following functions, namely: -*

.....

(f) adjudicate upon the disputes between the licensees, and generating companies and to refer any dispute for arbitration;

.....

(k) discharge such other functions as may be assigned to it under this Act.

34. The Commission observed that clause 10.5, 28.1, 28.5& 28.10 of the JSERC (Terms and Conditions for Intra-State Open Access) Regulations, 2016 provides as under:

“10.5 The Open Access Consumer/ generator shall have to install ABT compliant meters at their place for energy accounting and Remote Terminal Unit (RTU) to facilitate SLDC in real time monitoring, which shall be duly certified by the licensee concerned.

.....

28.1 The Open Access Consumer shall provide ABT compatible Special Energy Meters at the point(s) of injection and point(s) of drawal, if not already provided. Special Energy Meters installed shall be capable of time-differentiated measurements for time-block-wise active energy and voltage differentiated measurement of reactive energy in accordance with the State Grid Code.

28.2 Special Energy Meter shall always be maintained in good condition

.....

28.5 The Open Access Consumer shall provide along with Main Meters, Check Meters of the same specifications as Main Meters at the point(s) of injection and point(s) of drawal.

.....

28.10 Main and Check Meters shall have facility to communicate their

readings/data to the State Load Despatch Centre on real time basis.”

35. It is evident that Indian Railways is meeting its energy requirements, from the Power Plant of Ratnagiri Gas and Power Private Limited (RGPPL) situated in Dist. Ratnagiri and is drawing power at its traction substations (10 in number) situated in the State of Jharkhand since 17.01.2016. Accordingly the point of injection of power for the Indian Railways, as an Open Access consumer is at RGPPL Ratnagiri, and the point of drawal is at its 10 Traction Sub-stations (TSS) in the State of Jharkhand.

36. On combined reading of the above stated Regulations, the inference drawn is that the Open Access consumer must bear the cost of installation of meters and allied equipments at their drawal points, which shall have the facility to communicate their readings/data to the State Load Despatch Centre on a real time basis for energy accounting.

In the given facts, the meter installed at GSS for energy accounting is not as per the Regulations and energy accounting ought to be done by the energy meter installed at the point of drawal.

In view of the discussion made herein and considering the provisions of the Regulations, the Commission orders as hereunder:

ORDER

37. On joint reading of Clause 10.5, 28.1, 28.2, 28.5 and 28.10 it is observed, the Open access consumer i.e. the petitioner-Indian Railways, shall install ABT Meters and associated equipment including upgradation of software and hardware as required for DSM calculation at their drawal points of power for energy accounting having the facility to communicate their readings/data to the State Load Despatch Centre on a real time basis.

38. The Respondent, Jharkhand Urja Sancharan Nigam Limited (JUSNL) shall operate and maintain the ABT Meters and associated equipment including upgradation of software and hardware as required for DSM calculation at the drawal points of the petitioner- Indian railways and the cost of the operation and maintenance shall be borne by the petitioner- Indian Railways.

39. The Respondent-JUSNL shall execute the supplementary connection Agreement(s) for inclusion of new Traction Substations on the terms and conditions agreed by the parties in consonance with the appropriate Regulations and the Orders of the Commission.

40. SLDC/JBVNL shall prepare DSM bills for Indian Railways for the power procured through Open Access in terms of Central Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2014 as amended from time to time.

41. With the aforesaid observations the petition is hereby disposed off.

Sd/-
Member (T)

Sd/-
Member (L)

Sd/-
Chairperson