

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

Case No. 28 of 2023

M/s Tata Steel Limited **Petitioner**

Versus

Jharkhand Bijli Vitran Nigam Limited and Ors..... **Respondents**

**CORAM : HON'BLE MR. MAHENDRA PRASAD, MEMBER (LAW)
HON'BLE MR. ATUL KUMAR, MEMBER (TECHNICAL)**

For the Petitioner : Mr. P.S. Pati, Advocate

For the Respondent: Mr. Rajesh Kumar, Mr. Rajesh Ranjan and Mr. Mayank Deep, Advocates

Date – 24th September, 2024

1. The Petitioner M/s Tata Steel Limited, Gamharia (erstwhile Tata Steel Long Products Ltd.) a company registered under the provisions of Indian Companies Act having its registered office at Bombay House, 24 Homi Modi street, Fort, Mumbai-400001, Maharashtra and having its steel manufacturing plant at Adityapur Industrial Area, Phase-V, Gamharia, District-Seraikella Kharsawan, Jharkhand-832108 has submitted an affidavit petition purported to be filed under section 86(1)(f) of the Electricity Act, 2003 read with regulation A- 13.2 of JSERC (Electricity Supply Code) Regulations, 2016 inter alia for direction upon the Respondents to take a time bound decision upon the request made by the Petitioner seeking HT Industrial connection from the earlier CPP arrangement as contained in the letter dated 06.12.2022 effective from 01.07.2023 onwards for its steel plant at Gamharia.

2. The Petitioner in its petition has prayed for the following relief:

- (a) For seeking a direction upon the Respondents to take a time bound decision upon request made by the Petitioner seeking HT Industrial connection from the earlier CPP arrangement as contained in the letter dated 06.12.2022 effective from 01.07.2023 onwards for its steel plant at Gamharia.
- (b) For a declaration that the scope of regulation A-8(1)(b) of the JSERC (Utilization of Surplus Capacity of Captive Power Plants based on conventional fuel) Regulations, 2010 is applicable to the Petitioner and the Petitioner is entitled for synchronous operation of its Captive Power Plant with simultaneous injection of the surplus power into the grid of Respondent and also have separate contract Demand together with standby support under a HT

Industrial Supply Power Connection.

- (c) For issuance of suitable order directing the Respondents to continue supply of uninterrupted power to the Respondent under applicable terms and conditions of HT Industrial Supply with effect from 01.07.2023 till final disposal of the instant proceeding.
- (d) For a direction upon the Respondents to raise demand on the Petitioner in terms of applicable tariff for HT Industrial supply connection and or otherwise forbear the Respondents to realize any sum in excess of bills raised in terms of applicable tariff rates for HT Industrial supply till disposal of the instant proceedings and be further pleased to restrain the Respondents to take coercive action impeding the uninterrupted supply of power to the Petitioner.
- (e) For issuance of any other relief as the Learned Commission may deem fit and proper in consideration of the facts and circumstances.

Submission of the Petitioner

3. Learned Counsel of the petitioner submitted that, M/s Tata Steel Limited, Gamharia (formerly Tata Steel Long Products and previously Tata Sponge Iron Limited), operates a steel plant in the Adityapur Industrial Area, Gamharia, SeraikellaKharsawan district. The company manufactures speciality steel, pellets, bars, wire rods, pig iron, and sponge iron, and the plant falls under the jurisdiction of this Commission.
4. The petitioner stated that their company acquired the Alloy Steel Business unit of M/s Usha Martin Ltd, located in Gamharia, Seraikela-Kharsawan, Jharkhand, effective from April 9, 2019. The acquisition also includes a captive power plant with a total capacity of 130 MW.
5. The petitioner further stated that before the petitioner acquired the Alloy Steel unit from M/s Usha Martin Ltd (UML), UML had entered into a power purchase agreement with the then Jharkhand State Electricity Board (JSEB) on May 17, 2002. This agreement, under the general terms for the synchronous operation of the captive power plant (CPP) with the JSEB system, was effective from May 1, 2002, to April 30, 2012. A supplementary agreement was made on July 13, 2004, for the continued synchronous operation of UML's CPP. These agreements were revised by another agreement on April 27, 2009, which was valid until April 26, 2019. These agreements covered various aspects, including the injection of surplus power into the JSEB grid, wheeling of power, a contract demand of 46.11 MVA, scheduling of power outages, billing arrangements, and other related terms, with the possibility of renewal upon mutually agreed

terms.

6. The Learned Counsel for the petitioner further submitted that the Commission, JSERC, framed the JSERC (Utilization of Surplus Capacity of Captive Power Plant Based on Conventional Fuel) Regulations, 2010, which took effect on January 27, 2010. These regulations govern the use of surplus generation capacity of captive power plants (CPPs) to help reduce peak-time shortages in the system. The regulations apply to all captive power plants with an installed capacity of 1 MW or above that are willing to supply surplus power to the licensee within the state of Jharkhand. The key provisions of the 2010 Regulation are as follows:

A2: DEFINITIONS:

(j) "Firm Power" shall mean the power agreed for supply by a CPP to a Distribution Licensee in the Power Purchase Agreement executed between the Distribution Licensee and the CPP. The variation upto plus or minus 10% from the agreed capacity shall be treated as firm power;

(m) "In-firm Power" shall mean the power supplied by a CPP to a Distribution Licensee if it is less than 90% or more than 110% of the Firm Power as defined above;

(q) "Stand-by period" shall mean a period worked out by the Licensee as per the procedure for requisitioning Stand-by support as provided in these Regulations;

(r) "Stand-by support" shall mean the contractual arrangement between the CPP user and the Distribution Licensee of his area of supply to provide power in case of planned or forced outage of the CPP;

(u) "TYPE A CPP" shall mean CPP which is not connected to the grid

(v) "TYPE B CPP" shall mean CPP which is located within the premises of the captive user and connected to grid.

(w) "TYPE C CPP" shall mean CPP which is located at premises other than that of the captive user.

A3: SCOPE OF APPLICATION

3.1 These regulations are applicable to all the captive power plants, having installed capacity of 1 MW and above, agreeing to supply the surplus power to the Licensee within the state of Jharkhand.

A8: STAND-BY SUPPORT

8.1 The Stand-by support shall be provided to the following type of Captive Users:

(a) Where the Captive User and his CPP are located within the same premises but the CPP is not connected to the grid at all; and

(b) Captive Users whose CPP is connected with the grid, but the Captive User does not have any other supply contract, other than a Contract Demand with the Distribution Licensee of Captive User's area of supply.

8.2 The applicability of Stand-by support to the different types of Captive Power Plants shall be as under:

Type	Description	Additional power supply arrangements of CPP	Stand-by support
A	CPP is not connected to grid	No other power supply arrangement except own CPP	Allowed
B	CPP is located within the premises of the captive user and connected to grid	From Distribution Licensee only	Allowed
C	CPP is located at premises other than that of the captive user	From Distribution Licensee only	Allowed as per the provisions of the JSERC (Balancing & Settlement Mechanism for Open Access) Regulations, 2010

8.3 The Licensee shall be compulsorily obliged to provide facility of Stand-by support to the CPP identified in the table above. The Stand-by support sought by the user shall not exceed the contracted stand-by demand.

7. The petitioner stated that even after the 2010 Regulations came into effect, the respondent continued to supply power to UML's plant and issue bills based on the agreement dated April 27, 2009. However, shortly after acquiring the UML plant, the petitioner applied on April 15, 2019, to renew this agreement on the same terms and conditions before it expired on April 26, 2019. Furthermore, the petitioner submitted that the respondent continued to bill them according to the terms of the agreement dated April 27, 2009, until June 2021, even though the agreement had expired on April 26, 2019.
8. The Petitioner submitted that under the backdrop of the aforesaid facts, the following events have led to the filing of the instant petition before the Learned Commission:

- a. The petitioner's CPP is falling under the category of Type-B CPP ('CPP located within the premises of captive user and connected to grid), under Regulation 2010 and can inject and draw power into Respondent's grid as and when required.
- b. Due to the operation of Arc Furnaces in steel melting shop at the Gamharia Plant of the petitioner, high range of power flow is needed during operation. As the power demand varies based on the sequence of the operation, there is intermittent power flow to grid from CPP when arcing does not occur, and this phenomenon happens very frequently. Considering this process requirement at Gamharia steel manufacturing plant, petitioner company injects and draws power simultaneously in the same slot. Since beginning i.e. prior to acquisition of the said steel plant from UML, the plant was being operated and power was being supplied by JBVNL in the same methodology and all the technical and operational requirements to measure the import and export of the power for billing purpose is already in place. Moreover, till June 2021, the Respondent used to raise the energy bills under the same mechanism as per the earlier PPA dated 27.04.2009 and the petitioner used to pay it regularly.
- c. That, presently the CPP at Gamharia is generating power upto 72 MW (average) and the petitioner requires total power of around 120 MW and it may go upto 135 to 140 MW in future. Hence, for operation of the steel plant and to meet its power requirements, in addition to the power generated from its CPP at Gamharia, Petitioner would require fixed contract demand of around 55 MVA.
- d. In addition to the above contract demand, the petitioner shall require about 5 MVA of standby support for any forced or unplanned outage of the CPP. The petitioner will continuously draw power against the contract demand during its normal plant operation and take standby support against stand by demand during the breakdown / shutdown stage of the CPP through existing connectivity (Tie-Line) with the Respondent's Grid.
- e. For billing purposes, the following billing practice was proposed:
 - (i) Charges as per applicable rates for normal HT Industrial supply for contract demand.
 - (ii) Charges for standby support as per the Regulations 2010 for the duration of standby support for particular month. This

power shall be in addition to the power supplied under existing contract demand.

(iii) Banking of the surplus generated power from the CPP.

9. The petitioner further stated that after acquiring the steel plant, they repeatedly requested the respondent to renew the existing agreement dated April 27, 2009. During some of these discussions, there were productive deliberations on the terms and conditions of the proposed Power Purchase Agreement (PPA), which included a composite arrangement for contract demand and standby support under the 2010 Regulation. However, the renewal did not conclude due to an alleged lack of clarity on the part of JBVNL regarding the 2010 Regulation. Meanwhile, the respondent directed the petitioner to execute the PPA with a condition that they assume responsibility for UML's past dues, including disputed dues of Rs.47.15 crore for the power factor surcharge from April 2002 to September 2014, before the petitioner acquired the plant in April 2019. This demand had been set aside by the Commission in Case No. 25 of 2014, with the respondent's appeal pending before the APTEL in Delhi without any interim order. The petitioner noted that they were not a party to this dispute, and UML had agreed to cover any such liabilities if they arose. As a result, the petitioner refused to accept the liability for UML's past dues. These discussions consumed significant time and effort, causing major delays in executing the PPA. Additionally, the respondent continued to list the disputed amount with interest as due in the monthly energy bills for the petitioner's unit.
10. The petitioner further submitted that while they were requesting the renewal and signing of the PPA, the respondent continued to supply power to them based on the same terms and conditions of the previous agreement dated April 27, 2009. The respondent also continued to issue monthly energy bills in the name of UML. The petitioner regularly paid these dues without any delay or default.
11. The petitioner stated that while discussions were ongoing, the respondent issued an energy bill for December 2021 on January 7, 2022, treating all power supply, including the contract demand of 46.11 MVA, as 'standby power' and charging 1.5 times the normal rate for HT industrial consumers. The petitioner protested this billing while paying the agreed charges for December. From July to December 2021, the respondent billed at this higher rate, which the petitioner continued to dispute while paying the admitted amounts. Additionally, the respondent issued a supplementary bill of Rs. 73,91,39,327 on January 10, 2022, incorrectly

equating 'Contract Demand' with 'Standby Demand,' which the petitioner protested in a letter dated January 29, 2022.

12. The petitioner further noted that the contract demand is defined under regulation 2.3(v) of the JSERC (Electric Supply Code) Regulations, 2015, while standby demand is defined under regulation 2.1(r) of the 2010 Regulation as power supplied during CPP outages. The petitioner claimed that the respondent incorrectly treated contract demand as equivalent to standby demand due to a misinterpretation and misunderstanding.
13. The petitioner highlighted that, from the start, they have consistently requested the respondent to execute a power purchase agreement that covers both the supply of power (contract demand) and the sale of surplus power for their Gamharia steel plant. However, the respondent did not accept this request, citing a lack of explicit clarity under the 2010 Regulation. Despite this, the petitioner continued to pursue the agreement and regularly paid the monthly energy bills for the Gamharia steel plant.
14. The petitioner further stated that since the expiration of the agreement dated April 27, 2009, in 2019, they have consistently requested a renewal of the agreement on the same terms and conditions. The renewed agreement would include:
 - (i) Supply of power as per contract demand.
 - (ii) Injection of surplus power generated by the CPP into the respondent's grid.
 - (iii) Standby support as a Type B entity under the 2010 Regulations.
15. To ensure continuous power supply to its steel plant and regularize the supply since acquiring the plant in April 2019, the petitioner, after persistent follow-up and discussions with the respondent and its officials, accepted the respondent's suggestion to execute a CPP Agreement with a power banking facility as per the 2010 Regulations. Following this advice, the petitioner submitted a revised proposal for the CPP Agreement, in accordance with the 2010 Regulations, through letter no. 150 dated March 3, 2022, to Respondent No. 3.
16. Learned Counsel of the Petitioner further submitted that after over three years of extensive deliberation and mutual discussions, a CPP Agreement was signed between the respondent and the petitioner on September 27, 2022. This agreement, which considers the operational and technical requirements of the petitioner's Gamharia steel plant, was executed under the 2010 Regulations and includes power banking facilities.
17. In addition to signing of the CPP Agreement, a separate tripartite

agreement was executed between the respondent, petitioner, and UML to address UML's past dues related to the plant before the acquisition date of April 9, 2019. Under this agreement, UML accepted responsibility for all past dues. The CPP Agreement has been mutually effective from May 1, 2019, to December 31, 2022.

18. The Petitioner stated that considering the technical and operational requirement of the steel plant and the CPP of the Petitioner at Gamharia, it would be difficult for petitioner to continue with the present CPP Agreement dated 27.09.2022. In view of this, the petitioner decided to convert the existing connection to HT Industrial Supply having CPP as an additional power support effective from 01.01.2023 in terms of regulation 7.(1)(c) of the JSERC (Electricity Supply Code) Regulations, 2015. That on advice, of the Respondent an application was made through the online portal on 06.12.2022, which is since pending with the concerned Respondents. The application was for the period 01.01.2023 onwards for existing contract demand of 46.11 MVA through Single Window Jharkhand online portal vide application reference no NC35345694HT. The intimation of the application was submitted by the petitioner to the Respondent including respondent no 2 & 3 vide petitioner's letter no 210, dated 06.12.2022.
19. In line with its request, the petitioner has made several appeals to the respondent for converting to an HT Industrial connection. These requests were communicated through letters dated December 23, 2022, December 27, 2022, January 12, 2023, and March 23, 2023. The petitioner emphasized the need for this conversion due to being forced to draw electricity on a standby support basis for the entire contract demand. In each communication, the petitioner requested that the conversion to an HT Industrial connection be made effective from January 1, 2023.
20. While the energy reconciliation process was taking time on the respondent's end, Respondent No. 2, in a letter dated January 19, 2023, informed the petitioner that their proposal to convert to an HT Industrial connection lacked clarity regarding the connectivity and synchronization of the petitioner's CPP with the JBVNL system. The letter also raised concerns about standby support during planned or unplanned shutdowns and suggested extending the CPP Agreement. The petitioner acknowledged these concerns and responded, citing the provisions of the 2010 Regulations, which do not require disconnection for simultaneous standby support and contract demand. To comply with the regulations, the petitioner proposed converting the CPP arrangement to an HT Power

Connection effective April 1, 2023, while maintaining standby support under the 2010 Regulations through the same Tie Line.

21. On March 28, 2023, the respondent issued a supplementary energy bill of Rs. 58.22 crore for the period from April 2019 to February 2023. To settle these past dues, ensure uninterrupted power supply, and maintain a good business relationship, the petitioner promptly paid the full amount. Notifications of this payment were sent to the respondent on March 29, 2023, and April 4, 2023. In both communications, the petitioner reiterated their request for conversion to an HT Industrial connection.
22. Following verbal instructions from Respondent No. 2 and recognizing delays in the respondent's internal administrative processes, the petitioner agreed to extend the CPP Agreement to ensure continuous power supply. On May 25, 2023, the petitioner requested an extension of the CPP Agreement validity until June 30, 2023, and asked to convert to an HT Industrial connection effective July 1, 2023. To facilitate this, the petitioner signed an extended CPP Agreement on June 9, 2023, covering the period from January 1, 2023, to June 30, 2023.
23. The learned Counsel further referred to regulation 8.1(b) of the 2010 Regulation addresses captive users with CPPs connected to the grid who do not have any other supply contracts except a contract demand with the local Distribution Licensee. Such contract demand is typically met through an HT Power Supply Agreement or a similar arrangement between the licensee and the consumer. The petitioner's situation aligns with this regulation, as their CPP's electricity needs are met through a contract demand with the licensee. Following detailed discussions with JBVNL, the petitioner submitted a draft Power Purchase Agreement to Respondent No. 2 to address this requirement.
24. That, it is relevant to note that the Regulation 2010 the term 'captive user' is defined under regulation 2.1(e) read with regulation 2.3 of the Regulation 2010 and is reproduced hereunder:

“Captive User” shall mean the end user of the electricity generated in a captive generating plant and the term “Captive Use” shall be construed accordingly’.

25. The Petitioner submitted that it is clearly covered under the definition of the “Captive User” as provided under the Regulation 2010. The Regulation 2010 explicitly provides for supply of power by the Distribution licensee to the Captive User under contract demand and in fact the Petitioner is

entitled to seek stand by support from the distribution licensee of its area to deal with any situation of outage of the CPP.

26. The Petitioner submitted that since the 2010 regulations specify that standby support must be obtained solely from the area's distribution licensee, the respondent corporation is legally obligated to provide this support in accordance with the 2010 Regulations. It is clear that under the 2010 Regulations, a captive user is entitled to request additional power as standby support to cover power needs during a CPP outage, which is in addition to the contract demand from the distribution licensee.
27. That the Respondent being the distribution licensee is under an obligation to provide power supply to the petitioner's steel plant simultaneously under both the arrangement of 'contract demand' as well as 'stand by support' even when the Petitioner has a separate 'contract demand' supply with the Respondent, who is the distribution licensee for the area where the plant of the petitioner is situated.
28. The Petitioner further stated that it appears that the respondent is reluctant to fully implement the 2010 Regulations due to a perceived lack of clarity in their understanding of these regulations. This situation has led the petitioner to seek a declaration that regulation A-8(1)(b) of the 2010 Regulations applies to them. The petitioner argues that they are entitled to synchronous operation of their Captive Power Plant, simultaneous injection of surplus power into the respondent's grid, and a separate contract demand along with standby support under an HT Industrial Supply Power connection.
29. That in connection with the pending application of the petitioner for being converted from CPP to HT Agreement, an inspection was conducted at the premises of the petitioner on 18.04.2023. The inspection report was signed by representatives of JBVNL and Tata Steel limited, Gamharia.
30. That the report has technically recognized the synchronization of the generation units of the petitioner with the Grid at 132 KV Voltage Level having contract demand of 46.11 MVA. The Report has further noted that all loads are connected with synchronization system in between JBVNL supply at 132KV and Own Generation at 33KV. Hence, the plant is integrated with one process, hence power segregation is technically not feasible.
31. That, upon plain reading of the regulation A-8 and the relevant portion thereunder, it can be manifestly clearly seen that, the Regulation 2010

does not restrict and / or provide any bar for simultaneous provision of the power / electricity in one premises under a Contract Demand as well as under the Standby contract demand. Rather, under regulation A-8 sub regulation 8.3, the Respondent being the distribution licensee is compulsorily obligated to provide the facility of Standby support to the CPP identified in the table under regulation 8.2. Under regulation 8.2, additional power supply arrangement for Type-B CPP is permitted / allowed by the distribution licensee.

32. The Petitioner reiterated that an HT Industrial Supply Agreement with the respondent is essential for the petitioner to be considered for standby support under the 2010 Regulations. This standby support would provide additional power beyond the existing contract demand. The specific amount of standby support can be determined based on the operational needs of the petitioner's steel manufacturing process.
33. The Petitioner further submitted that the power generated by the CPP does not fully meet the operational needs of the Gamharia steel plant. Therefore, the petitioner requires a fixed amount of power on a continuous basis under the contract demand to run the plant efficiently. By utilizing both the CPP-generated power and the power drawn under the contract demand from the respondent, the petitioner will be able to operate the plant smoothly.
34. That the application of the Petitioner dated 06.12.2022 is under consideration of the Respondents since long and the Respondent has not passed any conclusive order on the said request of the Petitioner. Such delay has put the Petitioner into much hardship and uncertainty. In fact, the current terms of supply by the Respondent to the petitioner is very onerous as the petitioner is forced to draw all the power under contract demand on standby basis contrary to the provisions enumerated under Regulations 2010. It may be pertinent to note here that the supply of such power is not contemplated as standby support even under the Regulations 2010.
35. That the Petitioner has fulfilled all requirements for the purpose of conversion of the CPP arrangement to HT arrangement and responded to all queries as and when raised. In fact, the inspection was also carried out in the premises of the petitioner in the month of April 2023 and the petitioner was expecting a sooner favorable disposal of the pending application dated 06.12.2022.

Submission of the Respondent

36. Learned Counsel for the Respondent stated that they have no objection to drawing up to 135 to 140 MW in the future under the conditions of the CPP agreement, based on the JSERC (Utilization of Surplus Capacity of Captive Power Plants based on conventional fuel) Regulation, 2010. However, regarding the fixed contract demand of around 55 MW requested by the petitioner, there is no provision for this in the agreement. The petitioner may only draw power according to the terms and conditions of the existing agreement.
37. The Respondent further stated that power can only be drawn under the standby support mode. However, instead of standby support, the petitioner may draw power under the temporary tariff as notified by the JSERC.
38. The Respondent also stated that the billing practices proposed by the Petitioner are based on the Petitioner's own views. Billing and charges for standby support have already been applied as per the agreement and in accordance to JSERC CPP Regulations 2010.
39. The Respondent further stated that under regulation 2.3(v) of the JSERC (Electricity Supply Code) Regulations, 2015, the contract demand is defined as the demand in kilowatts (kW) or kilovolt-amperes (kVA) as mutually agreed between the Distribution Licensee and the consumer, as outlined in the agreement or other written communication. In contrast, regulation 2.1(r) of the JSERC (Utilization of Surplus Capacity of Captive Power Plants based on conventional fuel) Regulation, 2010, defines standby demand as the arrangement between a CPP user and the Distribution Licensee to provide power during a planned or forced outage of the CPP. The Respondent believes the petitioner is trying to interpret these two regulations to suit their own purposes and fails to distinguish between a consumer and a CPP user. It is important to note that a consumer has a connectivity agreement with the Licensee for drawing power under contract demand, governed by the Supply Code Regulations, while a CPP user has a synchronized connectivity agreement, or CPP agreement, for supplying and drawing power under standby support, regulated by the JSERC CPP Regulations, 2010.
40. The Respondent further stated that the nature of service connection under CPP connectivity and consumer connectivity cannot operate simultaneously. These two facilities are governed by separate regulations: the JSERC (Electricity Supply Code) Regulations, 2015, and the JSERC

(Utilization of Surplus Capacity of Captive Power Plants based on conventional fuel) Regulation, 2010, respectively.

41. The Respondent stated that the petitioner applied to avail power under contract demand with a CPP synchronizing connectivity arrangement, which does not comply with the CPP Regulations, 2010. Therefore, the petitioner was asked to extend the CPP agreement for the next period.
42. The Respondent also stated that the JSERC CPP Regulations 2010 do not specify whether regular power (under normal contract demand) and standby power can be drawn simultaneously. The regulations do not differentiate between power drawn under contract demand and standby demand. And this it is challenging to separate the energy drawn through a single connection or single energy meter between regular contract demand and standby support during planned or unplanned outages.
43. The Respondent further stated that the Petitioner's request to draw power under contract demand while also having standby demand is not feasible due to complications with energy accounting and billing.
44. The Respondent further stated that if the power generated by the CPP does not meet the operational needs of the steel plant at Gamharia, the petitioner may draw fixed power continuously under the standby demand mode for the plant's operation, as per the CPP Regulations, 2010.

Commission's Observation and findings

45. The Commission has considered the submission made by the parties and perused the materials/information's available on records.
46. The Commission has referred to regulation 2.3 of the JSERC (Utilization of Surplus Capacity of Captive Power Plants based on Conventional Fuel) Regulations, 2010 as stated below:

"Definition of CPP

2.3 A power plant shall be identified as a Captive Power Plant only if it satisfies the conditions contained in clause 3 (1) (a) and 3 (1) (b) of the Electricity Rules, 2005 notified by the Ministry of Power, Government of India, on 8th June 2005, reproduced as under:

3(1) No power plant shall qualify as a 'captive generating plant' under section 9 read with clause (8) of section 2 of the Act unless-
(a) in case of a power plant-

- (i). not less than twenty-six percent of the ownership is held by the captive user(s), and
- (ii). not less than fifty-one percent of the aggregate electricity generated in such plant, determined on an annual basis, is consumed for the captive use.....”

47. The Commission has also referred to definition of stand by support as stated in regulation 2.1(r) of the JSERC (Utilization of Surplus Capacity of Captive Power Plants based on Conventional Fuel) Regulations, 2010 as referred below:

“(r) “Stand-by support” shall mean the contractual arrangement between the CPP user and the Distribution Licensee of his area of supply to provide power in case of planned or forced outage of the CPP;”

48. The Commission has further referred to Chapter A8: Stand by support of the JSERC (Utilization of Surplus Capacity of Captive Power Plants based on Conventional Fuel) Regulations, 2010 as stated below:

“A8: STAND-BY SUPPORT

8.1 The Stand-by support shall be provided to the following type of Captive Users:

- (a) Where the Captive User and his CPP are located within the same premises but the CPP is not connected to the grid at all; and*
- (b) Captive Users whose CPP is connected with the grid, but the Captive User does not have any other supply contract, other than a Contract Demand with the Distribution Licensee of Captive User’s area of supply.*

8.2 The applicability of Stand-by support to the different types of Captive Power Plants shall be as under:

Type	Description	Additional power supply arrangements of CPP	Stand-by support
A	CPP is not connected to grid	No other power supply arrangement except own CPP	Allowed
B	CPP is located within the premises of the captive user and connected to grid	From Distribution Licensee only	Allowed
C	CPP is located at premises other than that of the captive user	From Distribution Licensee only	Allowed as per the provisions of the JSERC (Balancing & Settlement Mechanism for Open Access) Regulations, 2010

8.3 The Licensee shall be compulsorily obliged to provide facility of Stand-by support to the CPP identified in the table above. The

Stand-by support sought by the user shall not exceed the contracted stand-by demand.....”

49. From the above provisions of the Regulation, it is evident that for a Type B CPP the onus of providing standby support to the CPP in case of exigencies is the responsibility of the DISCOM of the area in which the CPP is established.

50. The Commission has also referred to clause 6.18 (c) of JSERC (Electricity Supply Code) Regulations, 2015 wherein conditions for grant of connection and timeline for providing connection has been specifically mentioned as:

“(c) where HT or EHT supply to an applicant is to be given from an existing network of the Distribution Licensee, the Distribution Licensee shall intimate the charges to be borne by the applicant not later than twenty (20) days from the date of receipt of application form for supply;”

51. In the present case the Petitioner is a Captive Power Plant who intends to avail standby support demand of 5MVA from the Respondent along with a specific contract demand of 55MVA.

52. The Commission has outlined clause 4.11 of the JSERC (Utilization of Surplus Capacity of Captive Power Plants based on Conventional Fuel) Regulation, 2023 as stated below:

“4.11. For a grid connected CPP that requires drawal of power at regular basis, the drawal up to contract demand shall be billed at retail supply tariff (HT Industrial tariff) and the drawal beyond contract demand shall be deemed as Stand-By Support.”

53. The Commission has noted the fact that the Respondent have shown their willingness to provide power supply upto 46.11 MVA under HT industrial connection including contract demand and standby support in their counter affidavit dated 17.05.2024.

54. The Commission has further noted the fact that the earlier agreements between the Petitioner and Respondent had ambiguity which has been clarified through the JSERC (Utilization of Surplus Capacity of Captive Power Plants based on Conventional Fuel) Regulation, 2023.

55. In view of the above the Commission directs both the parties to execute suitable CPP agreement in accordance with JSERC (Utilization of Surplus Capacity of Captive Power Plants based on Conventional Fuel) Regulation, 2023.

56. Further, the Respondent is also being directed to comply in providing HT connection to the Petitioner as per necessary contract demand along with Standby demand as per agreed terms or as mentioned in JSERC (Utilization of Surplus Capacity of Captive Power Plants based on Conventional Fuel) Regulation, 2023 from the date of notification of the above mentioned Regulations ie from 22.11.2023

ORDER

57. The Petition stands disposed off, with the aforesaid directions.

Sd/-
Member(T)

Sd/-
Member(L)