



Petition No. 1599 of 2020

BEFORE

THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

PRESENT:

1. **Hon'ble Sh. Raj Pratap Singh, Chairman**
2. **Hon'ble Sh. Kaushal Kishore Sharma, Member**
3. **Hon'ble Sh. Vinod Kumar Srivastava, Member (Law)**

IN THE MATTER OF: Petition under Regulation 59 of the UPERC (Conduct of Business) Regulations, 2019 read with clause 7 of UPERC (Captive and Renewable Energy Generating Plants) Regulations, 2019 and other relevant provisions of the Electricity Act, 2003.

Sh. Deepak Guptara, Secretary,
M/s U.P. Sugar Mills Co-gen Association,
4th Floor, Room No. 403, Chintels House,
Trade Centre, 16, Station Road,
Lucknow

----- **Petitioner**

1. U.P. Power Corporation Ltd.,
(through its Managing Director),
14th Floor, 14 Shakti Bhawan Extn.,
14-Ashok Marg, Lucknow
2. The Superintending Engineer,
Electricity Import Export and Payment Circle,
U.P. Power Corporation Ltd.,
Shakti Bhawan Extn., 14-Ashok Marg,
Lucknow



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3. The Chief Engineer,
Power Purchase Directorate,
Shakti Bhawan Extn., 14-Ashok Marg,
Lucknow

4. Director,
U.P. State Load Despatch Center,
Vibhuti Khand, Gomti Nagar,
Lucknow

-----Respondents

Following were present:

1. Sh. Kanwar Pal Malik
2. Sh. Piyush Shukla
3. Sh. Rahul Srivastava, Advocate, UPSLDC
4. Sh. Sandeep Agarwal
5. Sh. Sanjay Srivastava, UPPCL
6. Sh. D.D. Chopra, Advocate, B&G Renewable Energy Pvt. Ltd.
7. Sh. B.K. Saxena, Advocate, UPPCL
8. Sh. Vivek Dixit
9. UPCOGEN, Lucknow

ORDER

(Date of Hearing 18.12.2020)

1. The instant Petition is filed by Petitioner viz. Uttar Pradesh Sugar Mills Cogen Association, which is a representative body of sugar mills in the State of U.P. having 15 members. The members of Association are engaged in generation of power through co-generation technology using bagasse as fuel. The members of the petitioner association have entered into separate Power Purchase Agreements, approved by the Commission with the DISCOMs through Opposite Party No. 1 to supply electricity generated from their bagasse based generating plants as per the terms of the PPA. The above members have raised their bills towards energy exported to the DISCOM.





2. The Prayers of the Petitioner in its Petition is as follows: -

- a) In the bills submitted by the members of the Petitioner, the settlement of the unutilized banked energy from 2018-19 to 2019-20 shall be settled as per CRE Regulations 2014.
- b) The energy banked from April 2019 to November 2019 shall be settled as per CRE 2014 as no TOD system was in place to bank the energy in TOD basis as per CRE 2019.
- c) The bills for energy withdrawn from UPPCL shall be adjusted from the bills of energy sold to UPPCL.
- d) The DSM mechanism shall keep in abeyance for at least 18 months from the date of publication of CRE Regulations, 2019 in view of the non-availability of the relevant software by SLDC till November, 2019 and in view of global pandemic of covid-19 situation.
- e) The Commission may issue any other further order or directions in favor of the Petitioner as it may be deem fit and proper under the facts and circumstances of the case.

3. Sh. Desh Deepak Chopra, Counsel of the Petitioner submitted that during last hearing, the Commission had granted two weeks' time to Petitioner to file rejoinder(s) on the Counter Affidavit of UPPCL and UPSLDC. However, the same could not be submitted as he was unwell. He submitted that rejoinder will be filed on the same day.

4. The Commission asked the Petitioner to inform under which provisions of the Regulations the Petition is being filed and whether it is in the nature of clarification or relaxation. Further, the Commission also asked the Petitioner whether he has submitted the copy of the Writ Petition filed in the Hon'ble High Court challenging the provisions of CRE Regulation, 2019.





5. Sh. Desh Deepak Chopra, Counsel of the Petitioner submitted that he has filed the amended Petition with the permission of the Commission. He further submitted that in the amended petition it is clarified that the Petitioner is not seeking to reagitate the issue of retrospective application of regulations or seeking any concession in the provisions of CRE Regulations, 2019. By way of this petition the Petitioner has approached the Commission to invoke statutory power under "Removal of Difficulty" in giving effect to the Regulations. He submitted that he would also file the copy of Writ Petition on the same day.
6. Sh. Rahul Srivastava, Counsel of UPSLDC submitted that the present Petition is not maintainable as the Petitioner amongst other issues has also challenged the retrospective application of Regulations w.e.f 01.04.2019. The decision of Hon'ble High Court on the issue of retrospective application of Regulation may materially affect the decision on the relief sought by the Petitioner through the present Petition filed before the Commission as the matter is already sub-judice before the Hon'ble High Court. Therefore, the Commission may treat the Petition as non-maintainable.
7. Sh. Rahul Srivastava, Counsel of UPSLDC further submitted that banking and withdrawal of Bank Power does not in any manner affect the DSM calculations because while injecting power, DSM bills are generated based on deviation from the injection schedule and on withdrawal of power, any surplus power withdrawn by co-generators over and above the energy already banked is treated as power purchased from the concerned Discom. It is further submitted that the day ahead scheduling of power to be banked and withdrawn is more from the point of view of security of grid operations as per provisions of IEGC/UPEGC. Sh. Sanjay Srivastava, on behalf of UPPCL submitted that UPSLDC has to provide complete energy account as per the provisions of ABT mechanism.
8. The Commission considered the submissions made by the parties and directed as follows: -



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- a. UPSLDC and UPPCL shall sit together and discuss the issues of scheduling, metering, energy accounting, banking and shall identify any operational issues/hinderance in implementation of the CRE Regulations, 2019. The outcome of joint meeting shall be placed on record of the Commission.
- b. The Petitioner shall submit within two weeks its written submission on maintainability of the petition in view of the similar issues already being challenged before the Hon'ble High Court. The Petitioner shall also submit a copy of Writ Petition filed before the Hon'ble High Court.

9. Next date of hearing shall be intimated through a separate notice.

(Vinod Kumar Srivastava)
Member (Law)

(Kaushal Kishore Sharma)
Member

(Raj Pratap Singh)
Chairman

Place: Lucknow

Date: 18, 01.2021

