



UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

Petition No 1712/2021

Quorum:

Hon'ble Shri Raj Pratap Singh, Chairman

Hon'ble Shri Kaushal Kishore Sharma, Member

Hon'ble Shri Vinod Kumar Srivastava, Member (Law)

In the matter of:

Petition under Regulation 37 (Power to amend) of UPERC Open access Regulations 2019 and Sections 9, 86(1)(e), 181(1) r/w 181(2)(p), 2(47) of the Electricity Act, 2003, imploring this Hon'ble Commission that in exercise of its regulatory power under the Act, allow the Petitioner to avail open access under captive mode for its facilities, having contract demand less than 1 MW (of around 8-10 KW) at different locations in Uttar Pradesh, to source electricity from its captive renewable (solar) plant of around 400 MW to be set up in the same State and also to allow the Petitioner to use Smart meters at consumer end for the purpose of Open Access.

And

In the matter of:

Amend/ relax Regulation 7.1 (Eligibility and Conditions of Open Access) and Regulation 29.1 (requirement of special energy meters) of the UPERC Open access Regulations 2019, for the purpose of allowing the renewable energy captive power plants to carry power to their own captive facilities having contracted demand of less than 1 MW, through open Access and allow use of smart meters by open access consumers.

The Associated Chambers of Commerce and Industry of U.P. ('ASSOCHAMUP)

..... Petitioner

Versus

1. Uttar Pradesh Power Transmission Corporation Limited, Shakti Bhawan, 14 Ashok Marg, Lucknow-226001.
2. Uttar Pradesh Power Corporation Limited, Shakti Bhawan, 14 Ashok Marg, Lucknow- 226001.
3. Dakshinanchal Vidyut Vitaran Nigam Limited (Agra Discom), Urja Bhawan, Agra - Delhi, Bypass Road, Sikandra, Agra- 282007.
4. Madhyanchal Vidyut Vitaran Nigam Limited (Lucknow Discom), 4A Gokhale Marg, Block I, Gokhale Vihar, Butler Colony, Lucknow- 226001.
5. Paschimanchal Vidyut Vitaran Nigam Limited (Meerut Discom), Urja Bhawan, Victoria Park, Meerut- 250001.



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6. Purvanchal Vidyut Vitaran Nigam Limited (Varanasi Discom), DLW Bhikharipur, Varanasi-221004.
7. Noida Power Corporation Limited (NPCL), Electric Sub-Station, Knowledge Park-IV, Greater Noida - 201310 (District Gautam Buddha Nagar).

..... Respondents

The following were present:

1. Sh. Sanjay Sen, Sr. Advocate, Petitioner
2. Sh. Puneet Chandra, Advocate, UPPTCL
3. Sh. Pankaj Saxena, UPPTCL
4. Sh. R.S. Mathur, UPPCL
5. Sh. Anurag Verma, Advocate
6. Ms. Neha Dabral
7. Ms. Supriya Rastogi
8. Sh. Mukesh Rathoor
9. Sh. Roberta Elwin
10. Ms. Harshita Singh
11. Sh. Shankar Srivastava
12. Sh. Ashok Singh
13. Sh. Hemant Singh
14. Ms. Kirti Veeaya Singh
15. Sh. Amey Nember
16. Sh. Alok Sharma

ORDER

(Date of Hearing : 20.07.2021)

1. The instant petition is filed by the Associated Chambers of Commerce and Industry of U.P. (ASSOCHMUP) with following Prayers: -
 - a) Initiate steps to amend/ relax Regulation 7.1 (Eligibility and Conditions of Open Access) of the UPERC Open access Regulation 2019, for the purpose of allowing the renewable/ solar energy based captive power plants to carry power to their own captive facilities/ load centres scattered at various locations across the State, having a load of less than 1 MW, and connected at LT voltage levels, through open access;
 - b) Initiate steps to amend/ relax Regulation 29.1 (use of meters) of the UPERC Open Access Regulation 2019 for the purpose of allowing use of Smart Meters as interface meters, instead of the ABT compliance Special energy meters, in line with the recent clarification issued by CEA.
 - c) pass any other Order as may be appropriate under the circumstances.





2. Sh. Sanjay Sen, Learned Sr. Counsel appeared on behalf of the Petitioner and submitted that Section 42(2) of Electricity Act, 2003 (the Act) states that the State Commission shall introduce open access in phases. The common carrier principal has been given in Section 42(3) wherein duties of the distribution licensee shall be of a common carrier providing open access. Further, he submitted that as per Section 9(2) of the Act every person, who has constructed a captive generating plant and maintains and operates such plants, shall have the right to open access for the purposes of carrying electricity from his captive generating plant to the destination of his use. He argued that right to open access for any person from its captive generating plant as envisaged under Section 9(2) is not subject to any Regulations.
3. Further, Sh. Sanjay Sen, Learned Sr. Counsel submitted that UPERC Open Access Regulations provide for limitation of 1 MW contract load for getting Open Access considering Section 42(2) of the Act. However, it is pertinent to mention that whether restriction or limitation contained under Section 42(2) is applicable to Section 9 for captive generation. He argued that there are no regulatory or jurisdiction issues contained under the proviso of Section 9(2) of the Act, but only constraint specified is regarding availability of adequate transmission facility determined by the CTU/ STU unlike Section 10(2) of the Act where supply of electricity to any consumer by generating company is subject to Section 42(2) of the Act. Therefore, no restriction or limitation is specified for the captive generation because Section 10 specifically refers to Section 42 whereas there is no such reference made under Section 9. Hence, in case of captive generating plant, the limitation of 1 MW contract demand as provided under Section 42(2) of the Act may not be applicable.
4. The representative of UPPCL submitted that copy of the petition has not been received by UPPCL as the same is not served. Therefore, he was unable to submit his reply before the Commission.
5. The Commission heard the parties and directed the Petitioner to serve the copy of the petition along with supporting documents through affidavit to the Respondents within one week. Respondents to file their replies in hard and soft copy within two weeks of receiving the advance of reply.
6. The matter is listed for next hearing on 31st August, 2021.

(Vinod Kumar Srivastava)
Member (Law)

(Kaushal Kishore Sharma)
Member

(Raj Pratap Singh)
Chairman

Place: Lucknow

Dated: 02.08.2021

