

 <p>CIN - U40108CT2003SGC015820</p>	<p>CHHATTISGARH STATE POWER TRANSMISSION COMPANY LIMITED छत्तीसगढ़ राज्य विद्युत पारेषण कम्पनी मर्यादित (C.G. Govt. Undertaking) (छत्तीसगढ़ शासन का एक उपक्रम) CHHATTISGARH STATE LOAD DESPATCH CENTRE: RAIPUR छत्तीसगढ़ राज्य भार प्रेषण केन्द्र, रायपुर दूरभाष PHONE : 0771- 2574172 Website: www.sldccg.com</p> <p>फैक्स FAX NO. 0771-2574174 Email- sldc.cg.uib@gmail.com</p>
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Ref: 03-02/SLDC/DSM/7/1468

Raipur, dtd.- **17-Oct-2017**

To,

The Chief Engineer (R.A. & P.M.),
C.S.P. Distribution Co. Ltd,
Dangania, Raipur.

Sub: - UI/DSM bill of M/s Sai Lilagar Power Company Limited (formerly known as M/s ACPCL) and others for the period 17-Feb-2017 to 30-Dec-2017.

Ref: - (1) Your letter no. 02-02/SE-I/Arasmeta/2484, dtd. 11/09/2013.
(2) T.O. letter no. 03-02/SLDC/UI/7/1547, dtd. 29/10/2013.
(3) Your letter no. 02-02/ACE-I/EE-I/1834, dtd. 22/08/2014.
(4) The CE (C&P) CSPTCL's letter no. 1154, dtd. 03/10/2016.
(5) T.O. letter no. 03-02/SLDC/UI/7/1736, dtd. 26/11/2016.
(6) T.O. letter no. 03-02/SLDC/UI/2/328, dtd. 16/05/2017.
(7) Your letter no. 02-02/ACE-I/SLPGL/1376, dtd. 02/08/2017.
(8) T.O. letter no. 03-02/SLDC/UI/7/1035, dtd. 17/08/2017.
(9) Your letter no. 02-02/SE-I/1957, dtd. 06/10/2017.

This is in continuation to all above correspondences in subject matter. Kindly refer your letter dtd 06/10/17 vide which it is requested -

“in compliance of the orders of CSERC and APTEL, in the above matter, SLDC shall **either release** the amount recovered, to M/s SLPCL towards UI/DSM charges for the period 7th Sept. 13 to 12th Oct. 14 **or revise the bill** of UI/DSM charges for the disputed period, so that CSPDCL may make payment to M/s SLPGL (formerly known as M/s ACPCL)...”

Pl refer para 2 of the letter, where it is confirmed that payment of Rs.1,74,74,629 has been adjusted **by CSPDCL**, Thus SLDC has not recovered any amount from M/s ACPCL; therefore the request with SLDC **to release** the amount, (which is recovered/adjusted by CSPDCL) has no meaning. However, as per regulations all payment/receipt has to be done through this UI/DSM pool account and as per CSERC order dtd 09/10/2014, The UI /DSM pool account has been transferred to CSPDCL along with all balances in 2014 and since then it is being maintained by CSPDCL.

SLDC has worked out the approximate amount payable on account of revision of UI/DSM bills in respect of 3 entities as per CSERC/CERC orders and communicated vide its letter dtd 17/8/17.

SLDC issued DSM charges bills to all entities as per the provisions of regulation 7(5) of the CERC (DSM) regulations 2014. The scope of the above regulation are being reproduced below for kind perusal-

“4. Scope – These regulations shall be applicable to sellers and buyers involved in the transactions facilitated through **short term open access** or **medium term open access** or **long term access** in inter state transmission of electricity. ”

Accordingly, DSM bills can be issued only to the Buyer/Seller for the power purchase/sale transactions scheduled through open access.

In the case of M/s ACPCL, the CE (C&P) CSPTCL informed vide letter no 1154 dtd 03/10/16 that “**long term open access not granted**” for such transactions.

However as per your request the DSM bills are being revised in anticipation that the transactions with M/s ACPCL might have been regularised or will be regularised at your end. The facts and issues related to individual entity are detailed in annexure for kind perusal and needful appropriate action in the matter.

Enclosed –

1. Annexure 1 – Revised DSM bill of M/s ACPCL
2. Annexure 2 – Revised DSM bill of M/s MIEL
3. Annexure 1 – Revised DSM bill of CSPGCL

Chief Engineer
SLDC, CSPTCL, Raipur

Copy to:-

- (1) The Director (RA & PM) CSPDCL – for information please.
- (2) The ED (Finance), CSPDCL, Dangania, Raipur - For information please.
- (3) The Staff officer, the MD CSPTCL – for information please.

Annex 1- Revised DSM bill in respect of M/s ACPCL

The out come of revision of DSM bill for the period are as under -

Name of Generator/ Seller	Period	Entity_id	Total DSM Charges already issued as per regulation (in Rs.)	Total DSM Charges worked out as per CSERC order dtd 07/05/15 (in Rs.)	Difference of DSM bill (in Rs.)
M/s Sai Lilager Power Generation Co. Ltd. (formerly known as M/s ACPCL Aresmeta)	17-Feb-2014 to 30-Dec-2014	ACPCL CSEB	-1,63,81,298 (out of total bill (UI+DSM)for Rs. 1,74,74,629)	-9,83,909	1,53,97,388
Note: Negative (-ve) amount implies payable by Seller and Positive (+ve) amount implies receivable by Seller.					

The details of facts and issues related to above revision are as under -

1. As per CE (Comml.) CSPDCL letter no. 2484, Dtd. 11/09/2013, scheduling of M/s ACPCL started by SLDC.
2. As per CE (Comml.) CSPDCL letter no. 1834, Dtd. 22/08/2014, UI/DSM billing of M/s ACPCL started by SLDC. The relevant part of letter is being reproduced as:-

“A PPA has been executed between CSPDCL and M/s Arasmeta Captive Power Co. Pvt. Ltd. on dt.09.12.13 for supply of 75 MW power to CSPDCL. Copy of PPA has already been forwarded to your good office vide this office letter No.3396 dt.09.12.13. The supply of 75 MW power has been connected from 07.09.2013. To draw aforesaid power CSPDCL has applied for grant of Long Term Open Access to ED(C&P) CSPTCL which is under process.”

In this connection it is to state that transaction of this 75 MW power will be govern under Deviation Settlement Mechanism. It is therefore requested that scheduling and accounting of power may be done in accordance to Deviation Settlement Mechanism and data may be provided to this office.”

3. SLDC issued DSM charges bills to all entities as per the methodologies of the provisions of regulation 7(5) of the CERC (DSM) regulations 2014.
4. Two inadvertent errors appeared in original CERC (DSM) regulations 2014, which was rectified by CERC on dtd. 18/12/2014 vide issuing amendments as CERC (DSM) (first amendment) regulations 2014 and clearly mentioned that the amendment shall be effective prospectively i.e. from dtd 31st Dec 2014.

5. As per regulation 33(4) of the CSERC (Intra-State Open Access) Regulations 2011, CERC (UI/DSM) regulation shall be applicable till CSERC issues its own regulation, therefore CERC (DSM) (first amendment) regulations 2014 is now CSERC's regulation and accordingly both errors have to be rectified prospectively i.e. from dtd. 31st Dec 2014.
6. M/s ACPCL Aresmeta filed a petition in CSERC making CSPDCL respondent. Then later SLDC included as another respondent. On dtd. 07/05/2015, Hon'ble CSERC has issued order and directed to SLDC to rectify the bills of M/s ACPCL in order of the Petition no. 06 of 2015 considering only one inadvertent error-1 (i.e. Part A of Annexure-II of CERC (DSM) Regulation 2014), retrospectively i.e. from the date of effect of original regulation i.e. 17th Feb 2014.
7. SLDC immediately on dtd 16/6/15 wrote a letter to Hon'ble CSERC that one error, which was disadvantageous (causing undue losses) to seller has been ordered to be rectified retrospectively (from dtd. 17/2/14) whereas no direction given regarding second error, which was advantageous (causing undue benefit) to seller and therefore, as per CERC (DSM) first amendment regulations, it (second error) has rectified prospectively (31st Dec 2014), thus revision of DSM bills as per CSERC order (dtd 7/5/15) will cause undue financial loss to CSPDCL and thus end consumers.
8. Further SLDC requested Hon'ble CSERC recently vide letter no 1376 dtd. 02/08/2017 to regularize the above both the errors and other inadvertent errors retrospectively by suitable amendment in CSERC (Open Access) Regulation 2011, the matter is perhaps under consideration at CSERC. The revised draft of amendment regulation also submitted to CSERC on dtd.03/10/17 and a copy of it also endorsed to CSPDCL officials.
9. Later CSPDCL and CSPTCL decided to challenge the decision of CSERC in APTEL but SLDC only could file petition as petitioner and later CSPDCL joined as respondent but couldn't file its reply. On dtd 05/12/2016 APTEL ordered and upheld the decision of CSERC.
10. Later only SLDC filed petition in Apex court, but Apex court dismissed petition and issued order on dtd. 10th April 17 as " we find no merit in the appeals accordingly the civil appeals are dismissed however having regard to the facts and circumstances of this case, the question of law is kept open.

11. Meanwhile on dtd. 03/10/2016, CSPTCL informed vide letter no 1154 that long term open access not granted to CSPDCL for power purchase from M/s ACPCL, the relevant part of letter is reproduced as under:-

“In this regard, it is to intimate that the LTOA/MTOA is not granted to M/s Aresmeta Captive Power Co. Pvt. Limited till now. Therefore, it is not reflected in the monthly LTOA/MTOA information.”

From above it is obvious that open access for power purchase from M/s ACPCL for period 7th Sep 2013 to 27th Dec 2015 was not regularised by CSPDCL. And as per provision of regulation 33(4)(b) of the CSERC (Intra-State Open Access) Regulations, 2011, UI/DSM bills can be issued only to “open access customers”.

12. Therefore SLDC further requested to regularise the case vide letter no. 1736 dtd. 29/11/2016, the relevant part of letter is being reproduced as under –

“On dtd. 3rd Oct 16, the CE (C&P) CSPTCL has confirmed that LTOA/MTOA is not granted to CSPDCL/CSTRADECO/M/s ACPCL till now.

You may appreciate that as per regulations the scheduling, UI/DSM billing and billing of SOC/MOC charges cannot be done without availing open access so to regularise above it is requested to avail LTOA/MTOA as assured. Otherwise the scheduling and UI/DSM bill already issued for the aforesaid period shall become null & void.”

13. Further SLDC also endorsed a copy to CSPDCL of the letter written to CSERC vide letter no. 328 dtd. 16/05/2017, explaining the following details of the case – and requested to regularise the case by appropriate agency. The relevant part of letter is reproduced as below –

“It is requested to pursue for corrective action of the above mentioned inadvertent errors at appropriate Commission/Court, otherwise SLDC will have no option left other than to revise the UI/DSM charges bills as per the prevailing regulations/judgements; which may result in payment of huge financial implication to CSPDCL/end consumer.”

14. It is obvious from point no. 5 and point no. 6 that there is inconsistency between CSERC regulation and its order. And in past, CSERC categorically clarified that what to do in such situation vide its letter no. 1632, dtd. 31/12/2007 (copy of the letter enclosed for ready reference), the relevant part of the letter is being reproduced as below-

“Regulation promulgated by the Commission cannot supersede/modified by an order of the Commission.”

15.SLDC has filed a review petition before CSERC against the Tariff Order for FY16-17 vide which penalty of interest imposed on SLDC for non-revision of DSM bills of CSPGCL and other matters. CSPDCL is also respondent in this case. SLDC raised many legal issues like CSPGCL and others were not the petitioners in the Petition no. 06 of 2015 of CSERC, so how the order of the CSERC shall be applicable on them etc. and the petition is pending at CSERC.

16.It is also pertinent to mention that CERC in its order dtd. 10/03/2017 (in case of M/s Monnet Ispat) directed to revise the bill on same ground, but without interest.

Needful action regarding payment as per above revision may please be taken on considering above points.

Chief Engineer
SLDC, CSPTCL, Raipur

Annex 2- Revised DSM bill in respect of M/s Monnet Ispat & Energy Ltd.

The out come of revision of DSM bill for the period are as under -

Name of Generator/ Seller	Period	Entity_id	Total DSM Charges already issued as per regulation (in Rs.)	Total DSM Charges worked out as per CSERC order dtd 07/05/15 (in Rs.)	Difference (in Rs.)
M/s Monnet Ispat & Energy Ltd.	17-Feb-2014 to 30-Dec-2014	MIEL CSEB	-62,12,259	-13,20,019	48,92,240
		MIELMH CSEB	-18,52,245	-10,50,130	8,02,115
		RSPPL CSEB	-16,46,726	-4,42,299	12,04,427
Note : Negative (-ve) amount implies payable by Seller and Positive (+ve) amount implies receivable by Seller.					

The details of facts and issues related to above revision are as under -

1. SLDC issued DSM charges bills to all entities as per the methodologies of the provisions of regulation 7(5) of the CERC (DSM) regulations 2014.
2. Two inadvertent errors appeared in original CERC (DSM) regulations 2014, which was rectified by CERC on dtd. 18/12/2014 vide issuing amendments as CERC (DSM) (first amendment) regulations 2014 and clearly mentioned that the amendment shall be effective prospectively i.e. from dtd 31st Dec 2014.
3. As per regulation 33(4) of the CSERC (Intra-State Open Access) Regulations 2011, CERC (UI/DSM) regulation shall be applicable till CSERC issues its own regulation, therefore CERC (DSM) (first amendment) regulations 2014 is now CSERC's regulation and accordingly both errors have to be rectified prospectively i.e. from dtd 31st Dec 2014.
4. M/s Monnet Ispat filed petition (563/MP/2014) in CERC making respondent SLDC only. SLDC raised issue of "jurisdiction" and requested to make party to CSPDCL but CERC did not agreed and finally CERC issued order on dtd. 10/03/2017 and directed to revise the bill on same ground, but without interest.
5. Whereas M/s ACPCL Aresmeta has already filed a petition in CSERC making CSPDCL respondent. Then later SLDC included as another respondent. On dtd. 07/05/2015, Hon'ble CSERC has issued order and directed to SLDC to rectify the bills of M/s ACPCL in order of the Petition no. 06 of 2015 considering only one inadvertent error-1 (i.e. Part A of Annexure-II of CERC (DSM) Regulation 2014), retrospectively i.e. from the date of effect of original regulation i.e. 17th Feb 2014.

6. SLDC immediately on dtd 16/6/15 wrote a letter to Hon'ble CSERC that one error, which was disadvantageous (causing undue losses) to seller has been ordered to be rectified retrospectively (from 17/2/14) whereas no direction given regarding second error, which was advantageous (causing undue benefit) to seller and therefore, as per CERC first amendment regulations, it (second error) has rectified prospectively (31st Dec 2014) thus revision of DSM bills as per CSERC order (dtd 7/5/15) will cause undue financial loss to CSPDCL and thus end consumers.
7. Further SLDC requested Hon'ble CSERC recently vide letter no 1376 dtd. 02/08/2017 to regularize the above both the errors and other inadvertent errors retrospectively by suitable amendment in CSERC (Open Access) Regulation 2011, the matter is perhaps under consideration at CSERC. The revised draft of amendment regulation also submitted to CSERC on dtd. 03/10/17 and a copy of it also endorsed to CSPDCL officials.
8. Later CSPDCL and CSPTCL decided to challenge the decision of CSERC in APTEL but SLDC only could file petition as petitioner and later CSPDCL joined as respondent but couldn't file its reply. On dtd 05/12/2016 APTEL ordered and upheld the decision of CSERC.
9. Later only SLDC filed petition in Apex court, but Apex court dismissed petition and issued order on dtd. 10th April 17 as "we find no merit in the appeals accordingly the civil appeals are dismissed however having regard to the facts and circumstances of this case, the question of law is kept open.
10. It is obvious from point no. 3 and point no. 5 that there is inconsistency between CERC regulation and its order. It is settled law that in case of inconsistency between order and regulation, the regulation prevails.
11. Further SLDC and CSPTCL filed a petition (1143/2017) in BSP high court and challenged the decision of CERC given in petition (134/MP/2011) in the matter of UI billing to M/s Balco on the ground of "Jurisdiction of CERC" and the case is pending. (whereas here in same case of DSM billing both CERC and CSERC admitted petitions of generators and given decisions)
12. SLDC has filed a review petition before CSERC against the Tariff Order for FY16-17 vide which penalty of interest imposed on SLDC for non-revision of DSM bills of CSPGCL and other matters. CSPDCL is also respondent in this case. SLDC raised many legal issues like CSPGCL and others were not the petitioners in the Petition no. 06 of 2015 of CSERC, so how the order of the CSERC shall be applicable on them etc. and the petition is pending at CSERC.

Needful action regarding payment as per above revision may please be taken on considering above points.

Chief Engineer
SLDC, CSPTCL, Raipur

Annex 3- Revised DSM bill in respect of CSPGCL

The out come of revision of DSM bill for the period are as under -

Name of Generator/ Seller	Period	Entity_id	Total DSM Charges already issued as per regulation (in Rs.)	Total DSM Charges worked out as per CERC order (in Rs.)	Difference (in Rs.)
CSPGCL Generating Stations	01-Oct-2014 to 30-Oct-2014	DSPM CSPGCL	-3,05,10,077	41,66,838	3,46,76,915
		HTPS CSPGCL	-3,88,30,606	2,43,55,316	6,31,85,922
		KTPS CSPGCL	-1,37,20,038	66,04,699	2,03,24,737
Note : Negative (-ve) amount implies payable by Seller and Positive (+ve) amount implies receivable by Seller.					

The details of facts and issues related to above revision are as under -

1. SLDC issued DSM charges bills to all entities as per the methodologies of the provisions of regulation 7(5) of the CERC (DSM) regulations 2014.
2. Two inadvertent errors appeared in original CERC (DSM) regulations 2014, which was rectified by CERC on dtd. 18/12/2014 vide issuing amendments as CERC (DSM) (first amendment) regulations 2014 and clearly mentioned that the amendment shall be effective prospectively i.e. from dtd 31st Dec 2014.
3. As per regulation 33(4) of the CSERC (Intra-State Open Access) Regulations 2011, CERC (UI/DSM) regulation shall be applicable till CSERC issues its own regulation, therefore CERC (DSM) (first amendment) regulations 2014 is now CSERC's regulation and accordingly both errors have to be rectified prospectively i.e. from dtd 31st Dec 2014.
4. M/s ACPCL Aresmeta filed a petition in CSERC making CSPDCL respondent. Then later SLDC included as another respondent. On dtd. 07/05/2015, Hon'ble CSERC has issued order and directed to SLDC to rectify the bills of M/s ACPCL in order of the Petition no. 06 of 2015 considering only one inadvertent error-1 (i.e. Part A of Annexure-II of CERC (DSM) Regulation 2014), retrospectively i.e. from the date of effect of original regulation i.e. 17th Feb 2014.
5. SLDC immediately on dtd 16/6/15 wrote a letter to Hon'ble CSERC that one error, which was disadvantageous (causing undue losses) to seller has been ordered to be rectified retrospectively (from 17/2/14) whereas no direction given regarding second

error, which was advantageous (causing undue benefit) to seller and therefore, as per CERC first amendment regulations, it (second error) has rectified prospectively (31st Dec 2014) thus revision of DSM bills as per CSERC order (dtd 7/5/15) will cause undue financial loss to CSPDCL and thus end consumers.

6. Further SLDC requested Hon'ble CSERC recently vide letter no 1376 dtd. 02/08/2017 to regularize the above both the errors and other inadvertent errors retrospectively by suitable amendment in CSERC (Open Access) Regulation 2011, the matter is perhaps under consideration at CSERC. The revised draft of amendment regulation also submitted to CSERC on dtd.03/10/17 and a copy of it also endorsed to CSPDCL officials.
7. Later CSPDCL and CSPTCL decided to challenge the decision of CSERC in APTEL but SLDC only could file petition as petitioner and later CSPDCL joined as respondent but couldn't file its reply. On dtd 05/12/2016 APTEL ordered and upheld the decision of CSERC.
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10. Therefore SLDC further requested to regularise the case vide letter no. 1736 dtd. 29/11/2016, the relevant part of letter is being reproduced as under –

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You may appreciate that as per regulations the scheduling, UI/DSM billing and billing of SOC/MOC charges cannot be done without availing

open access so to regularise above it is requested to avail LTOA/MTOA as assured. Otherwise the scheduling and UI/DSM bill already issued for the aforesaid period shall become null & void.”

11. Further SLDC also endorsed a copy to CSPDCL of the letter written to CSERC vide letter no. 328 dtd.16/05/2017, explaining the following details of the case – and requested to regularise the case by appropriate agency. The relevant part of letter is reproduced as below –

“It is requested to pursue for corrective action of the above mentioned inadvertent errors at appropriate Commission/Court, otherwise SLDC will have no option left other than to revise the UI/DSM charges bills as per the prevailing regulations/judgements; which may result in payment of huge financial implication to CSPDCL/end consumer.”

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SLDC, CSPTCL, Raipur