

**KERALA STATE ELECTRICITY REGULATORY COMMISSION
Thiruvananthapuram**

Present : Shri.M.K.G.Pillai, Chairman
Shri.C.Balakrishnan, Member

4th May, 2005

Petition No.DP12	Dy.No.00166 Dt.1.8.2003	Binai Zinc (A division of Binani Industries Ltd.) Binanipuram, Kochi 683 502	Petitioner
		Kerala State Electricity Board, Thiruvananthapuram.	Respondent

ORDER

1. Background:

1.1 Binai Zinc, (A division of Binani Industries Ltd.), Binanipuram, Kochi 683 502, had filed a petition with the Commission on 29.7.2003. The petitioner had stated that it was an Extra High Tension Consumer engaged in the manufacture of Zinc and with a view to reducing power cost, which forms about 35% of its total manufacturing cost, it had approached Power Trading corporation of India Ltd (PTC) for sourcing power at a rate cheaper than rate charged by the Kerala State Electricity Board. Power Trading Corporation of India Ltd *vide* their letter dated 18.7.2003 had stated that they were in a position to supply 10 to 15 MW of power to the petitioner, on the condition that approval/clearance from the State Government or Regulatory Commission for allowing direct purchase of power by the petitioner from PTC and approval/clearance from State Electricity Board for using the State Grid for wheeling/banking of power from Power Grid bus to Binani Zinc were obtained. As per Section 39 of the Act, the petitioner had appealed to the Commission to allow them to take power from PTC through the transmission system of Kerala State Electricity Board (the Board) on "open access" basis and to decide an appropriate quantum of the wheeling charges including the T&D Losses in the 110kV system.

1.2 The Commission *vide* its letter dated 1.8.2003 forwarded the petition to the KSEB with copy to Principal Secretary to Government of Kerala, Power (A) Department, calling for the following information by 20.8.2003.

- a) The considered views of the Board on the request of open access with particular reference to technical and financial implications,

- b) The suggested methodology for calculating the wheeling charges and losses to be levied if such open access is permitted and indication regarding the quantum of wheeling charges and the losses,
- c) The current level of cross-subsidy as applicable in respect of the petitioner, and
- d) Board's view regarding the reduction and elimination of cross – subsidy in a phased manner.

1.3 The Board stated the following in its response dated 20.8.2003.

- a) The present network would become insufficient to transmit the full available import of power.
- b) In the absence of separate valuation of assets and other costs relating to transmission profit center, it would not be possible to determine the wheeling/transmission charges. The Board suggested that wheeling charge might be provisionally charged, on the basis of the wheeling charges paid by the Board to PGCIL, (Ps.35 per unit of energy transmitted) which would be adjustable on determination of exact charges.
- c) The transmission losses would be assessed at 8%.
- d) The Board would not guarantee for the supply of power in the event of non-availability of PTC power to Binani Zinc. In case the Board had to supply power under any situation, the charges worked out on the basis of the costliest source of power being purchased/ produced by the Board would be levied
- e) A surcharge @Ps.44/unit of energy based on the cross-subsidy component and additional surcharge to meet the fixed cost arising out of the Board's obligation to supply should be levied.
- f) The Board suggested that the surcharge and cross subsidy might be phased out over a period of 3 to 5 years

1.4 The Commission *vide* letter dated 22.8.2003 forwarded a copy of the above response of the Board to Binani Zinc.

1.5 Binani Zinc submitted a rejoinder on 18.10.2003 in response to the statements filed by the Board, containing the following points.

- a) It is obligatory on the part of the Board to allow open access to its transmission system and arrange for wheeling of power if ordered by the Commission.
- b) Board's Transmission system has sufficient capacity for wheeling and transmission of the quantum of power sought by petitioner without any system constraint.

- c) Transmission/wheeling charges shall be determined specifically with reference to the cost of transmission system to be utilized for transmission of power sought by the petitioner and not on the value of assets and related costs of the whole transmission profit center of the Board.
- d) The petitioner prayed for issuing orders to wheel 15 MW of power from PTC through the transmission system of Board fixing transmission losses at 2.54 % and wheeling charges not exceeding Rs.2.5 per unit.

1.6 The Commission forwarded the copy of the rejoinder filed by the Petitioner to the Board and the Principal Secretary to the Government of Kerala, Power Department *vide* letter dated 22.10.2003 and simultaneously informed the petitioner that as the Electricity Act, 2003 was not in force in Kerala at that time, the Commission was not in a position to take further action on the petition.

1.7 The petitioner filed a fresh petition for open access on 17.12.2003 reiterating the original arguments in favour of open access. The Commission forwarded copies of the fresh petition to the Government of Kerala and the Board on 20.1.2004, seeking their response.

1.8 The petitioner in its filing dated 20.1.2004 stated that the source of power might be from PTC, Global Energy Ltd or any other source and the requirement of the quantum of power may vary from 15 MW to 21 MW.

1.9 The Principal Secretary to Government of Kerala, Power (C) Department *vide* letter dated 24.4.04 stated that in the absence of Regulations on open access it would be difficult to give a proper response to the petition for open access. The Government endorsed the views of the Board that the petition for open access should be considered only after Regulation for this purpose was framed. Government also stated that since import capability of the Kerala Grid was limited, until further strengthening of import lines was done, no further open access might be allowed and the Commission might reject the petition on the grounds of system constraints.

2. Commission's Views:

2.1 On 14.1.2004, the Commission had issued an order allowing open access to INDAL for receiving power from PTC over the transmission system of the KSEB. The open access was allowed, on an experimental basis, in view of the unprecedented and extraordinary situation arising out of the closure of the smelter plant of INDAL. However, supply of power to INDAL from PTC on open access basis did not materialize probably due to the absence of a firm commitment from the supplier for supply of power on a sustained basis at the originally envisaged tariff. The Commission visualizes the same problem in the

case of supply to Binani Zinc from outside sources by using the transmission system of KSEB on open access basis, as there is no evidence of any firm commitment regarding the supply of power including the rate at which power would be supplied.

2.2 The amendment to the Electricity Act, 2003 which came into effect on 31st December, 2003 stipulates that the State Commission shall, not later than five years from that date, by regulations, provide open access to all consumers who require a supply of electricity where the maximum power to be made available at any time exceeds 1 MW.

Further, the National Electricity Policy which was notified by the Central Government on 12th February, 2005 stipulates that the State Commissions should notify the Regulations for open access by June, 2005. The policy also suggests that the State Commissions should ensure realization of load dispatch facilities with state-of-the-art communication and acquisition capabilities at the state level not later than June, 2006, for smooth facilitation of non-discriminatory open access.

2.3 The first and foremost task in facilitating open access is the formulation of the Regulations on the subject. Accordingly, the Commission has framed the draft Regulations for open access, which have been circulated for response of the stakeholders. As per the draft Regulations, the request for open access is required to be filed by the open access customer with the concerned licensee.

2.4 One of the major issues to be addressed under open access is the quantification of the surcharge to be levied. Government of India have issued draft National Tariff Policy which contains guidelines on estimation of surcharge. The National Tariff Policy is under finalisation by the Government of India. The Regulations on open access, which shall have bearing on the National Tariff Policy, will be finalized after taking into account the guidelines on surcharge.

2.5 A preliminary action required in connection with operationalising open access in Kerala is the separation of accounts of KSEB relating to transmission licence. In line with the requirements under National Electricity Policy, the Commission has given time till April 30, 2005 to the Board to submit transmission tariff proposals which would enable the Commission to decide on the charges to be levied under open access. However, this is yet to be received from the KSEB.

2.6 The Commission has noted the contention of the Board on the system constraints. As per Section 172 (a) of the Electricity Act, 2003, the Board is deemed to be the State Transmission Utility. As the State Transmission Utility, the Board has the duty to discharge all planning and co-ordination functions and to ensure development of an efficient, co-ordinated and economical system of intra-state transmission lines for smooth flow of electricity from generating

stations to load centers. Accordingly, the Board shall draw up a programme for removing system constraints on a time bound basis so as to facilitate open access in line with the provisions of the Electricity Act and the National Electricity Policy.

3. Commission's decision:

3.1 In view of the foregoing, the Commission declines to process further the petition seeking permission for open access from the petitioner. The Commission accepts the suggestion of the Govt. of Kerala that open access might be allowed only after the regulations thereof are formulated by the Commission. Under the circumstances, in view of the dynamic nature of the conditions governing open access, a fresh application with updated information and data on the subject may be filed by the petitioner, with the KSEB, in case it is eager to pursue the matter, after the Regulations on open access come into force.

3.2 The KSEB shall furnish complete information on the separation of assets and other costs relating to the transmission licence, not later than 31st May, 2005. The Board shall take necessary steps to remove the system constraints on a time bound basis to facilitate open access to its transmission system, in accordance with the obligations under Section 39 of the Act.

3.3 The State Load Despatch Centre under KSEB should be augmented so as to ensure smooth facilitation of open access. The Board shall submit the requisite proposals in this regard to the Commission latest by 30th June, 2005 bringing out clearly the existing capabilities and the extent of augmentation required along with the physical programme for implementation, fund requirements, etc.

The petition No. DP12 of Binani Zinc is disposed of accordingly

Sd/-

**C. BALAKRISHNAN
MEMBER**

Sd/-

**M.K.G. PILLAI
CHAIRMAN**

Authenticated copy for issue

Secretary

