

# Rajasthan Electricity Regulatory Commission

**Petition No. 2168/2023**

Petition filed under Section 86 of the Electricity Act, 2003 read with regulation 31 of RERC (Terms and Conditions of Open Access) Regulations, 2016 for removal of difficulties and seeking amendment in RERC (Terms and Conditions of Open Access) Regulations, 2016.

**Coram:**

**Dr. B.N. Sharma, Chairman.**

**Sh. Hemant Kumar Jain, Member.**

**Dr. Rajesh Sharma, Member.**

**Petitioner:** Rajasthan Rajya Vidyut Prasaran Nigam Ltd (RVPN).

**Respondent:** Indian Railways through North Western Railway (NWR).

**Date of Hearing:** 05.10.2023, 21.11.2023, 11.01.2024 and 23.01.2024.

**Present:**

1. Sh. Rahul Lodha, Advocate for Petitioner.
2. Ms. Puja Priyadarshini, Sh. Kunal Kashyap & Sh. Karan Sirohi, Advocates for Respondent.

**Order Date:**

**13.02.2024**

## ORDER

1. Rajasthan Rajya Vidyut Prasaran Nigam Ltd. (in short "RVPN" or 'Petitioner'), had filed this Petition on dated 13.09.2023, under Section 86 of the Electricity Act, 2003 read with regulation 31 of RERC (Terms and Conditions of Open Access) Regulations, 2016 for removal of difficulties and seeking amendment in RERC (Terms and Conditions of Open Access) Regulations, 2016.
2. The matter was listed on 05.10.2023, 21.11.2023, 11.01.2024 and finally heard on 23.01.2024. Sh. Rahul Lodha, Advocate appeared for Petitioner and Ms. Puja Priyadarshini, Sh. Kunal Kashyap & Sh. Karan Sirohi, Advocates appeared for Respondent.
3. Respondent Indian Railways filed its replies and written submission on dated 28.09.2023, 18.10.2023, 05.01.2024 and 05.02.2024. Accordingly, Petitioner filed Rejoinder on dated 29.12.2023.
4. Petitioner, Rajasthan Rajya Vidyut Prasaran Nigam Ltd. (RVPN) in its Petition, Rejoinder and during hearing has submitted as under:
  - 4.1 CERC vide its order dated 05.11.2015 passed in Petition No. 197/MP/2015 titled as "Indian Railways Vs. Power Grid Corporation of India Ltd. &Ors." was pleased to declare Indian Railways as a deemed licensee under third proviso to Section 14 of the Electricity Act, 2003. It was also held that the drawl points of Indian Railways from Interstate Transmission System (for short 'ISTS') located within a state shall be treated as a single entity for the purpose of scheduling and that the group of Traction Sub-Stations (for short 'TSS') situated in a State and connected directly with ISTS may be treated as one "fragmented control area".

- 4.2 Thereafter, Indian Railways was allocated and connected to a transmission capacity of 300 MW with connectivity agreements for 48 TSS with the State Grid at various points within the State of Rajasthan on different date since 2017.
- 4.3 Presently total of 183.66 MW quantum of open access is being availed by Indian Railways in Rajasthan against connected contracted capacity of 300 MW. Thus, there is a gap of 116.34 MW between contracted capacity for which connectivity is issued and operational open access quantum for Indian Railways in Rajasthan.
- 4.4 Vide Petition No. 1958/2021 titled 'RVPN V. NWR & Anr.' the Commission was requested to confirm/define the methodology for computation of the charges to be levied upon the deemed licensee in terms of RERC (Terms and Conditions of Open Access) Regulations, 2016, RERC Terms for Tariff Regulations, 2014 and any other applicable Regulations in this regard.
- 4.5 It is very clearly mentioned in CERC judgement dated 05.11.2015 that, "The drawl points from ISTS located within a state shall be treated as a single entity for the purpose of scheduling". Further, the said order provides that responsibility for scheduling, metering, balancing, applicability of ISTS charges and losses shall vest in the concerned SLDC. Nothing has been mentioned regarding energy accounting/billing as claimed by the Respondent.
- 4.6 Petitioner has not forced separate Connectivity Agreements on the Respondent instead Respondent is being seeking Connectivity separately one by one for its Traction sub-station in Rajasthan since 2017 till date. RVPN has been providing Connectivity to Railway TSS in accordance to CEA(Technical Standards for connectivity to the grid) Regulation'2006.

- 4.7 As per RERC Tariff Regulations'2019 the expenditure incurred by the transmission licensee are required to be recovered from state distribution licensees (JVNL, AVNL, JdVNL), Long Term and Medium Term open access customers and deemed licensees in proportion to their contracted capacity.
- 4.8 The contracted capacity of the transmission system booked by Railways for each TSS (totalling to 300 MW) is kept operational and usable by the transmission licensee for use by Railways at any point of time. The capacity in the State Transmission Utility, which Indian Railway has reserved for its use, under the connectivity agreements, cannot be allocated to anyone else.
- 4.9 RERC (Terms and Conditions of Open Access) Regulation 2016 does not contain provisions for allowing open access to a deemed licensee and treating multiple drawl points of deemed licensee as single entity.
- 4.10 Due to lack of provisions in regard to methodology for levy of transmission and other charges from deemed licensee, undue financial benefit is being availed by Railways leading to extra financial burden on end consumers.
- 4.11 Since there are no specific provision in OA Regulations'2016 for treating multiple drawl locations of deemed licensee as single entity, methodology for levy of transmission and other charges from deemed licensee, provisions in this regard are required to be included in the existing Regulations.
- 4.12 The present Petition is being filed by the Petitioner seeking the following amendment in RERC (Terms and Conditions of Open Access) Regulations, 2016 which are as under:

Clause Number	Existing Provision	Proposed Amendment
New Clause		<p>Special Provisions for Deemed Licensees</p> <p>Subject to provisions of these Regulations, deemed licensees which are connected to RVPN's system at 132kV or above voltage level are entitled to avail open access for multiple draw locations within the state and these multiple drawl points may be treated as single entity for the purpose of scheduling. Addition of new drawl locations in existing open access may be allowed on deposition of requisite application fees if found technically feasible.</p>
Amendment in existing clause 15(1)	<p>15. Charges for Open Access</p> <p>(1)The open access customer shall pay the transmission charges and wheeling charges as determined from time to time.</p> <p>Provided that the transmission and wheeling charges shall be payable and the basis of open access capacity contracted or open access capacity utilized whichever is higher. The excess open access capacity utilized up to 5% of open access capacity allocation occurring to the extent of two time blocks of 15 minutes each during a month shall be exempted.</p>	<p>15. Charges for Open Access</p> <p>(1)The open access customer shall pay the transmission charges and wheeling charges as determined from time to time.</p> <p>Provided that the transmission and wheeling charges shall be payable and the basis of open access capacity contracted or open access capacity utilized whichever is higher. The excess open access capacity utilized up to 5% of open access capacity allocation occurring to the extent of two time blocks of 15 minutes each during a month shall be exempted.</p>

		<p>Provided further that, in case of open access availed by deemed licensees, transmission and wheeling charges shall be payable on the basis of cumulative contracted demand of all drawl locations or open access capacity contracted or open access capacity utilized whichever is higher.</p>
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4.13 While examining technical feasibility for desired LTOA to Indian Railway it was observed that actual load at most of the TSS was much above the allowable maximum demand. Recently over drawl from one of the TSS by Railways has resulted in tripping of complete system which caused financial as well as technical damage to the system.

4.14 In considerations to above the Petitioner prayed:-

- Issue appropriate order or direction for amendments, additions, clarifications and change in RERC (Terms and conditions of open access) Regulation, 2016 as suggested hereinabove.
- Issue appropriate directions to Indian Railways to restrict the loading of each Traction substation up to the maximum contract demand.

5. Respondent Indian Railways in its replies, written submission and during the hearing has submitted as under:

- 5.1 It is an admitted position between the parties that all TSS of Railways situated within the State shall be treated as single entity and there is no dispute whatsoever to that effect. The only rift between the parties is regarding the “purpose” for which a TSS is to be considered as single entity within the State.
- 5.2 CERC, having regard to the peculiar nature and essential role of Indian Railways sought advice from technical experts like Central Electricity Authority (CEA) & Power System Operation Corporation Ltd. (POSOCO) and after duly considering the contentions and issues at hand, laid down a specific procedure for Scheduling and Energy Accounting of Indian Railways and directed all RLDCs, SLDCs and STUs to accordingly facilitate the open access for Indian Railways.
- 5.3 CERC of its order dated 05.11.2015 in Petition No. 197/MP/2015, had conclusively settled all issues with respect to the operations of Indian Railways. The dispensation rendered by the CERC is applicable for all aspects of scheduling and energy accounting (billing) including sharing of charges and losses. RVPN is selectively reading the CERC Order to suit its purposes. As held by the Hon'ble Supreme Court in a catena of judgments, it is trite law that an order should be read in its entirety and not on a selective basis.
- 5.4 In all other States, Railways seeks connectivity considering the total power demand in a State i.e. considering the combined/simultaneous demand for all its TSSs located within the State. Further, Indian Railways signs a single connectivity agreement with the STU, which is subject to revisions upon increase in power demand in the State.

- 5.5 In Rajasthan, a separate connectivity agreement has been forced on Indian Railways for each TSS by RVPN. Accordingly, the 'cumulative contracted demand of all drawal locations' as canvassed by RVPN is nothing but a notional number evolved by RVPN by first assuming the notional contract demand at an individual TSS level and mentioning it in a connectivity agreement and then, by summing up these notional values of contract demand of each TSSs mentioned under the individual connectivity agreements.
- 5.6 The application submitted by Railways for grant of open Access, Railways sought open access for 26 MW for 12 TSS/Drawal Points collectively. However, as against Railways' demand of 26 MW, RVPNL forced Railways to sign separate connectivity agreements for each TSS aggregating to a capacity of 92 MW, which was never the requirement of Railways in the first place. A comparative analysis makes it abundantly clear that, of its own accord, RVPNL has been assuming a notional number/capacity for the purposes of connectivity rather than adhering to the applied capacity of Railways.
- 5.7 From the six-month data (January, 2023 to June, 2023) of Indian Railway of its maximum drawal in the State of Rajasthan, it is clear that the maximum drawal in the State of Rajasthan (even if it was only for a single time block) has never exceeded the contracted open access of 183.66 MW.
- 5.8 Grant of connectivity has no relevance as regards payment of transmission charges. Connectivity with the grid and signing of a connectivity agreement does not give any rights to an entity to transfer power through the transmission system. It is only upon obtaining open access that the said entity can commence power flow through the

transmission system. It is for this very reason that the levy of transmission charges is linked to open access and not to the quantum contracted under the connectivity agreement. Even the Connectivity Agreements signed between RVPN and Indian Railways contemplates payment of transmission charges basis power flow and not connected capacity or quantum.

5.9 Thus, the prayer of RVPN to levy transmission charges on 300 MW by delinking it to the open access or power flow, is actually an attempt on the part of RVPN to re-write the terms of the contract and to wriggle out of the extant law as laid down by the CERC.

5.10 Out of the 183.66 MW of open access being availed, only 36 MW is under LTOA whereas 147.66 MW is under MTOA/STOA. As per the OA Regulations, MTOA and STOA are granted if the resultant power flow can be accommodated in the existing transmission system and no augmentation is carried out by the STU to the transmission system for the sole purpose of granting MTOA and STOA. In such case, no special dedicated network has been created for 300 MW for Indian Railways alone and there is no financial loss being incurred by RVPN on this account.

5.11 The cost involved in creation of infrastructure for transmission of power being availed by Indian Railways in the State of Rajasthan is being borne by Indian Railways itself. Therefore, it is abundantly clear that when the costs for creation of an infrastructure to bear the load is being borne by the Railways, RVPN's allegations of undue financial gains on the part of Indian Railways and/or tripping of the network, are completely frivolous and not sustainable.

5.12 As on 01.10.2023, the General Network Access (GNA) for Rajasthan i.e., the open access quantum allocated to Rajasthan is 5755 MVA. For the State Discoms, the total capacity at 33kV level connected to STU is approximately 35,650 MVA whereas, the contracted quantum of open access is only 6000 MVA approximately. Thus, for each discom as well the cumulative connected capacity is about 12,000 MVA whereas, the open capacity is only about 2,000 MVA and RVPN has no cavil if this so-called "gap" remains unabridged. However, it is discriminating against Indian Railways for this very reason.

5.13 Petitioner also relied on the judgement of Hon'ble Supreme Court of India in the matter of Islamic Academy of Education v. State of Karnataka, (2003)6 SCC 697 and Noida Entrepreneurs Assn. v. Noida, (2011) 6 SCC 508.

5.14 Thus, as against the proposal of RVPN, the proposal of Indian Railways is as under:

Subject to the provisions of these Regulations, deemed licensees which are connected to RVPN's system at 132 kV or above voltage level are entitled to avail open access for multiple draw locations within the state and these multiple drawal points may be treated as single entity.

Addition of new drawal locations in existing open access shall be allowed provided the total power drawal upon addition of new TSS is not likely to exceed 110% of the total quantum of contracted open access for all TSSs within the State.

If the power drawal upon addition of new TSS is likely to exceed 110% of the total quantum of contracted open access for all TSSs within the State, then the quantum of contracted open access shall first be enhanced by

the deemed licensee in terms of the OA Regulations and thereafter, the addition of new TSS shall be allowed.

**Commission's view:**

6. Commission has considered the submissions, replies, rejoinder, written submission and oral arguments made on behalf of the Petitioner and Respondent.
7. Petitioner submitted that presently total of 183.66 MW quantum of open access is being availed by Indian Railways in Rajasthan against contracted capacity of 300 MW. Thus, there is a gap of 116.34 MW between operational open access quantum and contracted capacity for which connectivity is issued for Indian Railways in Rajasthan.
8. Petitioner has sought amendment in RERC (Terms and Conditions of Open Access) Regulations, 2016 and proposed incorporation of Special Provisions for Deemed Licensees for charges of open access availed by deemed licensees.
9. Petitioner further submitted that the actual load at most of the TSS of Indian Railways was much above the allowable maximum demand. Recently over drawl from one of the TSS by Railways has resulted in tripping of complete system. Petitioner requested to restrict the loading of each Traction Substation of Indian Railway up to the maximum contract demand.
10. Per Contra, Indian Railways submitted that CERC in its order dated 05.11.2015 in Petition No. 197/MP/2015, had conclusively settled all issues with respect to the operations of Indian Railways.

11. Respondent further submitted that in all other States, Railways seeks connectivity considering the total power demand in a State i.e. considering the combined/simultaneous demand for all its TSSs located within the State. In Rajasthan, a separate connectivity agreement has been forced on Indian Railways for each TSS by RVPN. Accordingly, the 'cumulative contracted demand of all drawal locations' as canvassed by RVPN is nothing but a notional number evolved by RVPN. Further, Grant of Connectivity has no relevance as regards payment of transmission charges.
12. Indian Railways also submitted that as per the OA Regulations, MTOA and STOA are granted if the resultant power flow can be accommodated in the existing transmission system and no augmentation is carried out by the STU. Out of the 183.66 MW of open access being availed, only 36 MW is under LTOA whereas 147.66 MW is under MTOA/STOA.
13. Further, Indian Railways also proposed amendment in RERC (Terms and Conditions of Open Access) Regulations, 2016 as against the proposal of RVPN.
14. Commission observe that by way of present petition, Petitioner is seeking amendment in RERC (Terms and Conditions of Open Access) Regulations, 2016. Respondent, in his submission, also purposed amendment in RERC (Terms and Conditions of Open Access) Regulations, 2016.
15. The proposal of amendment in RERC (Terms and Conditions of Open Access) Regulations, 2016 could be considered only after following the due procedure as per Electricity Act, 2003 which includes previous publication.

16. Accordingly, Commission has noted the suggestions of the Petitioner and Respondent regarding amendment in RERC (Terms and Conditions of Open Access) Regulations, 2016. However, Petitioner and Respondent are at liberty to give more inputs when Commission invites comments/suggestions on the draft amendment in RERC (Terms and Conditions of Open Access) Regulations, 2016.
17. Further, Petitioner has also submitted that actual load at most of the TSS was much above the maximum contract demand and Railways over-draws the power at TSS beyond contracted capacity as per connectivity agreement which results in tripping of system.
18. We are of the view that over-drawal /under-drawal of power from the grid leads to grid indiscipline, which has adverse impact on grid security. This can cause equipment failures, voltage instability, and disruptions in power supply. Since the grid security is a paramount concern, all Users should adhere to the condition envisaged as per their connectivity agreement.
19. Thus, in order to ensure safety and stability of the grid, the Indian Railways is directed to comply with all conditions of connectivity agreement.
20. The petition stands disposed of accordingly.

(Dr. Rajesh Sharma)  
Member

(Hemant Kumar Jain)  
Member

(Dr. B.N. Sharma)  
Chairman