



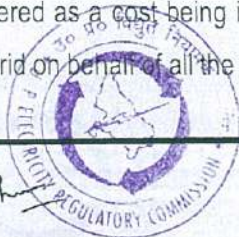
following manner:

- i. For BUYER and SELLER – Having interstate open access.
- ii. For BUYER & SELLER who are also REGIONAL ENTITY

Further, Regulation 2(kkk) of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 defines "Regional Entity" as under:

"Regional Entity" means such persons who are in the RLDC control area and whose metering and energy accounting is done at the regional level,"

5. Sh. Pulkit Agarwal, Counsel of Indian Railways added that on perusal of the aforementioned provisions exhibits that unlike the rest of the regime of DSM charges as envisaged by the Central Commission, the specific provisions inserted by the Fourth Amendment only applies to regional entities. The Petitioner is not a regional entity within the state where its TSSs are connected to the STU network, namely Uttar Pradesh area in case of the instant Petition. Further, the Central Commission vide its order dated 05.11.2015 has held that the scheduling, metering, balancing etc. of the said TSSs shall vest with the State Load Despatch Centers. The Respondent No.2 has levied the Charges on account of Sign Change on the Petitioner. However, CERC DSM Regulations is only applicable on the Regional Entities and not all inter-state entities as sought to be inferred by the Respondents. The Central Commission while enacting this DSM Regulations was clear that Regional Entities and only Regional Entities will have to be treated separately from any other BUYER or SELLER. Thus, creating a subset of 'Regional Entity' within a Set of 'BUYER /SELLER'.
6. Sh. Pulkit Agarwal, Counsel of Indian Railways advanced his argument and submitted that Clause 6.4.2 of the Electricity Grid Code, 2007 provides that for any deviation in schedule of the beneficiary operating within the State of Uttar Pradesh shall be treated in terms of the Regulations specified by the Central Commission unless otherwise specified by the Commission. It is submitted that the Commission has not framed any specific as regards Deviation / Unscheduled Interchange except for the entities such as generation station or a unit thereof. Thus, the provision providing for Sign Change Penalty also being specific to a Regional Entity and not to all buyers/sellers under the DSM Regulations, the same cannot be adopted as it is by a State Commission.
7. Sh. Pulkit Agarwal, Counsel of Indian Railways further submitted that without prejudice to the above submission, it is submitted that the charges being levied on Respondent No.2 on account of sign change penalty can at best be considered as a cost being incurred by SLDC for the purposes of procuring power through the national grid on behalf of all the intra-state entities operating within the



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State of Uttar Pradesh, which can be recovered by UPSLDC based on Cost Apportionment. The same practice is followed in Delhi and Gujarat. Moreover, UPSLDC have one hand raised invoices on the Petitioner for Sign Change Penalty however, it has failed to raise invoice on the State Distribution Companies as the same has been computed considering all the five state discoms as one single entity whereas all the five state discoms are independent entity. Thus, treating all the five state utilities as one single entity, will substantially bring down the charges to be paid by the five state utilities as they shall be benefiting from each other's overdrawal/underdrawal. The status of Petitioner as a Distribution Licensee is the same as that of the five State Discoms. Thus, the difference in methodology for calculating DSM charges including Sign Change Penalty by treating all state discoms as one and the Petitioner as independent is wholly arbitrary and discretionary on the part of the UPSLDC. The same is also evident from the point of view that the total charges levied on UPPTCL by NRPC on account of sign change for the period from 01.01.2019 to 02.06.2019 is Rs.31,36,65,499/- (payable) whereas UPSLDC has levied amount of Rs.57,48,74,586/- (payable) approx. on the Petitioner as additional deviation charges on account of sign change violations.

8. Sh. Rahul Srivastava, Counsel of UPSLDC submitted that UPSLDC has issued DSM Bills for N. Railway- U.P. as per provisions of CERC (Deviation Settlement Mechanism and related Matters) Regulations 2014 and amendments thereof including sign violation charges introduced by Fourth Amendment of this regulation dated 20th Nov. 2018 which was also approved by the Commission vide Order dated 31.12.2018. Further, DSM Bills are being issued for NR - UP on all N.R. - U.P. points which are connected with STU, therefore N.R. - U.P. is also an Intra-state entity. The Commission vide its order dated 31.12.2018 has clearly instructed SLDC to prepare Intrastate Entity DSM Bills as per the CERC provisions and hence approved the CERC (deviation Settlement Mechanism and related Matters) Fourth Amendment dated 20th Nov. 2018. Therefore, DSM charges including sign violation charges are applicable on N. R. - U.P. NRPC computes DSM for UP Control Area as a whole over CTU-STU periphery whereas SLDC in the instant matter computes DSM for N.R. - U.P. on drawl points connected at STU as per provisions of the regulation. Therefore SLDC has levied amount of Rs.57,48,74,586/- (payable) approx. on the Petitioner as additional deviation charges on account of sign change violations correctly in accordance with the CERC DSM Regulations.
9. On hearing the arguments of the parties the Commission enquired Sh. Rahul Srivastava whether SLDC prepares the day wise Intra-state DSM Account for all the Distribution Licensees i.e. NPCL, Indian Railways and State owned Discoms (or Consolidated of State-Owned Distribution Licensees)

