

CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Petition No. 365/MP/2022

Coram:

Shri Jishnu Barua, Chairperson

Shri I. S. Jha, Member

Shri Arun Goyal, Member

Shri P. K. Singh, Member

Date of Order: 31.12.2023

In the matter of:

Petition under Section 142 of the Electricity Act, 2003 read with Regulation 6.4 of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 in regard to the non-compliance by the Respondents No. 1 - 5 with the provisions of the Indian Electricity Grid Code and other allied Regulations of this Hon'ble Commission and directives issued by the Petitioner - State Load Despatch Centre, Gujarat under Section 33 of the Electricity Act, 2003

And in the matter of:

State Load Despatch Centre, Gujarat
Gujarat Energy Transmission Corporation Limited
132 kV Gotri Substation compound
Gotri, Vadodara – 390021, Gujarat

.....Petitioner

Versus

1. Western Railway
Headquarter Office, Western Railway
Churchgate, Mumbai-400 020Respondent
2. Office of Divisional Railway Manager,
Western Railway, Vadodara
69, Santosh Wadi Road, Railway Colony,
Danteshwar, Vadodara, Gujarat- 390004Respondent
3. Office of Divisional Railway Manager,
Western Railway, Ahmedabad, Naroda Road,
Opposite GCS Hospital, Prem Darwaza, Saraspur,
Ahmedabad, Gujarat- 382345Respondent

4. Office of Divisional Railway Manager, Western Railway,
Rajkot Doctors Quarters, Kothi Compound,
Rajkot, Gujarat- 360001Respondent
5. Office of Divisional Railway Manager,
Western Railway, Bhavnagar, Gadhechi Vadala,
Bhavnagar, Gujarat, 364001
6. Western Regional Load Despatch Centre
F-3, M.I.D.C. Area, Marol
Andheri (East), Mumbai-400093Respondent
7. National Load Despatch Centre
Power System Operation Corporation Limited
B-9 (1st Floor), Qutab Institutional Area, Katwaria Sarai,
New Delhi -110016Respondent

Parties Present:

Ms. Kriti Soni, Advocate, SLDC
Ms. Puja Priyadarshini, Advocate, WR
Shri Devyanshu Sharma, Advocate, WR
Shri Debajyoti Majumdar, NLDC
Shri Alok Mishra, NLDC

ORDER

State Load Despatch Centre (SLDC), Gujarat/ Gujarat Energy Transmission Corporation Limited (GETCL) has filed the instant Petition under Section 142 of the Electricity Act, 2003 read with the applicable Regulations framed by this Commission on account of consistent and deliberate violations of the directives issued by the Petitioner – SLDC, Gujarat under Section 33 of the Electricity Act, 2003 and non-compliance of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 (Grid Code, 2010) and other allied Regulations of this Commission.

The Petitioner has made the following prayers:

- (a) Admit the present Petition;
- (b) Initiate proceedings under Section 142 of the Electricity Act, 2003 against Indian Railways, Gujarat for non-compliance of the Regulations framed by this Hon'ble Commission;
- (c) Issue appropriate direction(s)/order(s) to the Indian Railways, Gujarat to strictly adhere to the Regulations framed by the Hon'ble Commission in order to ensure grid security;

- (d) Issue appropriate direction(s)/order(s) to the Indian Railways Gujarat to strictly adhere to the directions issued by the SLDC under the Electricity Act, 2003 in order to ensure grid security;
- (e) Pass such other further orders as this Hon'ble Commission may deem just in the facts of the present case;

Submissions of the Petitioner:

2. The petitioner has mainly submitted as follows:

- (a) The status of the Indian Railways as a deemed distribution licensee has been confirmed by this Commission vide order dated 05.11.2015 in Petition No. 197/MP/2015. The Indian Railways, Gujarat is using the transmission system of GETCO to meet their requirements through long-term open access (LTOA) and short-term open access (STOA).
- (b) Since January 2022, the SLDC has noticed that the Indian Railways, Gujarat, while availing STOA, has, on a consistent basis, been overdrawing from the grid through the Unscheduled Interchange (UI)/Deviation Settlement Mechanism (DSM). The analysis of the deviation from the schedule, i.e. over drawl for the period 01.01.2022 to 31.03.2022 in various time blocks, is as under:

Analysis of Deviation (From 01.01.22 to 31.03.22)		
Total Nos. of Blocks	8640	
Zero Schedule Blocks	20	
No. of Blocks in which schedule is >0 MW	8620	
Under drawl Deviation	No. of Time Blocks	% In Blocks
Within 0 to + 12%	646	7.48
Within + 12 to + 30%	195	2.26
Within + 30 to + 50%	4	0.05
More than + 50%	0	0.00
Total % time blocks for Under Drawl	845	9.78
Over drawl Deviation	No. of Time Blocks	% In Blocks
Within 0 to -12%	1861	21.54

Within - 12 to - 30%	3441	39.83
Within - 30 to - 50%	1159	13.41
More than - 50%	1334	15.44
Total % time blocks for Over Drawl	7795	90.22

(c) Noticing the above deviations, the SLDC has been sending the Indian Railways, Gujarat notices time and again, when such deviations have been observed. The summary of the notices sent by SLDC to Indian Railways, Gujarat is as under:

Sr. No.	Msg. No.	Date	Time	Total Schedule in MW	Total Drawl in MW	Deviation in MW
1	619	17-03-2022	16:04	60	85	25
2	620	17-03-2022	19:36	57	88	31
3	625	18-03-2022	12:34	57	84	27
4	626	18-03-2022	19:16	57	94	37
5	628	18-03-2022	23:39	57	92	35
6	632	19-03-2022	10:39	57	87	30
7	661	19-03-2022	22:41	57	90	33
8	679	24-03-2022	08:52	0	79	79
9	751	31-03-2022	15:43	65	81	16
10	803	06-04-2022	15:57	0	82	82
11	808	06-04-2022	17:23	0	80	80
12	810	07-04-2022	08:28	0	79	79
13	817	07-04-2022	19:36	0	83	83
14	821	08-04-2022	07:00	28	76	48
15	852	12-04-2022	08:25	87	100	13
16	859	12-04-2022	17:26	78	120	42
17	861	12-04-2022	18:40	46	75	29
18	862	12-04-2022	21:14	52	99	47
19	865	12-04-2022	23:54	41	126	85
20	867	13-04-2022	01:04	41	119	78
21	880	13-04-2022	21:05	31	75	44
22	897	15-04-2022	00:38	87	118	31
23	983	18-04-2022	16:45	82	94	12

Sr. No.	Msg. No.	Date	Time	Total Schedule in MW	Total Drawl in MW	Deviation in MW
24	1002	20-04-2022	09:42	87	125	38
25	1011	20-04-2022	21:15	23	76	53
26	1013	21-04-2022	00:45	34	78	44
27	1015	21-04-2022	06:30	53	105	52
28	1027	21-04-2022	22:25	35	93	58
29	1029	21-04-2022	23:26	27	102	75
30	1031	21-04-2022	01:12	29	78	49
31	16	22-04-2022	14:09	48	101	53
32	1056	23-04-2022	14:54	30	54	24
33	1058	23-04-2022	21:34	17	74	57
34	1071	25-04-2022	15:50	28	72	44
35	1072	25-04-2022	17:14	38	124	86
36	1075	25-04-2022	19:12	19	90	71
37	1079	25-04-2022	22:50	20	96	76
38	1082	26-04-2022	01:40	21	109	88
39	1092	26-04-2022	21:30	19	95	76
40	1102	27-04-2022	08:31	78	95	17
41	1106	27-04-2022	10:18	70	95	25
42	1112	27-04-2022	14:39	33	65	32
43	1120	27-04-2022	19:27	19	80	61
44	1122	27-04-2022	21:47	20	71	51
45	1124	27-04-2022	22:29	22	63	41
46	1126	28-04-2022	00:17	12	135	123
47	1128	28-04-2022	01:46	9	99	90
48	1130	28-04-2022	08:10	41	99	58
49	1134	28-04-2022	11:31	40	80	40
50	1139	28-04-2022	15:37	14	89	75
51	1146	28-04-2022	21:39	19	64	51
52	1148	28-04-2022	22:59	15	107	98
53	1150	29-04-2022	01:07	19	130	122
54	1158	29-04-2022	10:57	54	82	28
55	1169	29-04-2022	22:05	16	79	63
56	1171	29-04-2022	23:02	20	90	70

Sr. No.	Msg. No.	Date	Time	Total Schedule in MW	Total Drawl in MW	Deviation in MW
57	1204	03-05-2022	14:55	65	93	28
58	1693	18-05-2022	20:37	30	100	70

- (d) SLDC has also been issuing regular messages to the Indian Railways regarding deviation from the schedule. In response to SLDC message No. 1002 dated 20.04.2022, the DRM office, Vadodara, stated that the abrupt rise in load was due to a sudden increase in train movement. It also took the position that presently NOC quantum in the state of Gujarat is 90 MW and that from May' 2022, it is in the process of applying NOC for 120 MW.
- (e) Indian Railways also stated that it is in the process of tying up around 70 MW of power from DVC Thermal plants for Gujarat state and NOC request for DVC power is expected to be submitted in the coming week. Power flow from DVC on bilateral open access is likely to commence from 01.05.2022.
- (f) DRM office, Vadodara, vide letter dated 19.05.2022 informed that Indian Railway Gujarat has been increasing the demand power from 90 MW to 105 MW at the Gujarat periphery. With the power supply taken from IEX through PTC on a collective basis, present, drawl is almost as per demand. They gave a commitment to raise the power demand from 105 MW to 150 MW in future but without committing to any timelines.
- (g) The overdrawl by Indian Railways, Gujarat, is putting grid operations at risk. In several instances, the SLDC has been compelled to take load restriction measures for the Gujarat State-owned Distribution Licensees in order to comply with the Grid Code of the Commission, the Deviation settlement Mechanism regulation, 2014 and 2022 and the WRLDC directives.
- (h) The directives/ instructions of the SLDC are not being adhered to by the Indian Railways, Gujarat. Further, at present the Indian Railways, Gujarat does not have a firm power arrangement in order to meet its demand. The

deviation from the schedule by the Indian Railways is putting the transmission system in Gujarat at risk and has jeopardized the very function of SLDC. The SLDC is not in a position to take any coercive action as Indian Railways is not a consumer in the State and given the essential nature of the functions performed by Indian Railways.

- (i) Given the peculiar nature of the role and functions of the Indian Railways, this Commission, in the interest of grid security, may set out a framework for computing the methodology to be followed by the respective State Load Despatch Centres /Regional Load Despatch Centres in case of deviations from schedule by Indian Railways.

Hearing dated 17.01.2023:

3. The commission, vide RoP for the hearing dated 17.01.2023, admitted the petition as well as directed the petitioner to implead the State Transmission Utility and the concerned Distribution Licensees, with whom, Indian Railways has supply arrangement/ agreement in the State of Gujarat as party to the Petition. The commission further directed the petitioner to file the following information:

- (a) Discuss with stakeholders and suggest some mechanism to resolve the issues of deviations by Indian Railways with the Respondents, including the concerned Distribution licensees and file the outcome of such discussion.
- (b) Provide the details of already allocated firm power and the status of future firm allocation from DVC/other utilities as mentioned in the Petition.
- (c) Clarify whether intra-State DSM Regulations are also in place, and details thereof.

Submissions of Western Railways (WR):

4. The Respondent, Western Railways (WR), vide affidavit dated 19.04.2023, has mainly submitted as under:



(a) Western Railways quoted the orders of APTEL & the Supreme Court to substantiate its point with regard to the jurisprudence of the present matter. The cases referred by the petitioner is compiled as follows:

- i. APTEL Order in Appeal No. 22 of 2021 & Batch titled as *TPDDL v. DERC & Anr*
- ii. Hindustan Steel Ltd. v. State of Orissa, (1969) 2 SCC 627
- iii. Bharjatiya Steel Industries v. CST, (2008) 11 SCC 617

(b) A conjoint reading of Section 142 and the above legal dispensations, reveal the following crucial features of this provision-

- i. Section 142 of the Electricity Act, 2003 is a penal provision.
- ii. Being a penal provision, it has to be construed strictly.
- iii. The legislature, in its wisdom, intentionally deployed the phrase “may” under this Section to make clear that it is the “discretion” of the Appropriate Commission to impose such penalty.
- iv. The wordings contained in Section 142, which mandates the Appropriate Commission to impose a penalty only after giving an opportunity to the person concerned to explain his stand, would reveal that the Commission has to exercise its authority and powers judicially and judiciously by taking into the consideration all the relevant circumstances explained by the person concerned before deciding the necessity to impose a penalty.
- v. The contravention which is to be dealt with under section 142 must be deliberate or intentional, and the existence of *mens rea* is a relevant factor for exercising jurisdiction under Section 142.

(c) It is the case of GETCO that Western Railways has contravened the provisions of the IEGC and other applicable regulations issued by this Commission by overdrawing from the grid for the period from January 2022 to May 2022. However, it is pertinent to note that GETCO itself acknowledges under the Petition that the alleged overdrawals have been occasioned due to the peculiar nature, role and functioning of Indian

Railways and that, therefore, it is necessary to devise a framework for dealing with the deviations from schedule.

- (d) The alleged overdrawals have not been deliberate and were rather forced by circumstances beyond the control of Western Railways.
- (e) The Western Railways has faced genuine and grave difficulties in arranging for the source of power. However, as demonstrated above, Western Railways has been very proactive in finding a resolution to the multiple issues encountered and has finally managed to secure 120 MW power at present on a firm basis, whereas the average power requirement of Western Railways in the State of Gujarat is about 104 MW. Thus, through concerted efforts, Western Railways has been able to tide over the acute and sudden crisis that it was faced with.
- (f) The deviations for the period from January 2022 to May 2022, as alleged by the Petitioner, have been a product of the above-stated exigencies, which were completely beyond the control of Western Railways. Hence, the essential requirements for the levy of penalty under Section 142 of the Electricity Act do not get attracted in the present case.
- (g) The Indian Railways (including Western Railways) owns and operates one of the largest rail networks in the world and plays an essential part when it comes to the transport infrastructure in India. It plays an important role in the growth and development of the national economy as well as in the backward and underdeveloped areas of the country. Indian Railways not only provides an affordable transport facility to the common man but also facilitates the transport of essential items such as coal, minerals, steel, cement, mineral oils, food grains and fertilizers. The efficient functioning of Indian Railways is of strategic importance in the country, and therefore, it is essential for Indian Railways to construct, operate and maintain the railway network in an efficient and economical manner. The power requirements of Indian Railways are for servicing the train operations, which is an essential service.
- (h) It is evident from above, that the Respondent is not in a position to curtail

the drawals as per clause 5.4 of the IEGC as the power requirements of Indian Railways are for servicing train operations, which is an essential service. If the drawal of the Respondent is curtailed, then it would halt the train operations in the country.

- (i) By providing open access under the Act, an entity is being given a “choice” to procure power from a source other than the local distribution licensee. Therefore, it is not an obligation of Western Railways to have a contracted demand with the Discoms of Gujarat.
- (j) The State of Gujarat does not have a DSM Mechanism in place. At present, the GERC has notified the GERC (Forecasting, Scheduling, Deviation Settlement and Related Matters of Solar and Wind Generation Sources) Regulations, 2019. However, there are no DSM Regulations in place for charging DSM charges from other grid-connected entities, including, a deemed distribution licensee like Indian Railways.
- (k) It is a settled principle of law that pecuniary liability cannot be imposed by mere implication. Such liabilities must be created by clear, unambiguous and express enactment. The same principle was held by the Supreme Court in case of in the case of M/s. Khemka & Co. (Agencies) Pvt. Ltd. v. State of Maharashtra, (1975)2 SCC 22.
- (l) Despite this being the legal framework and clearly without any express authority in law, GETCO has consistently been raising DSM invoices on Western Railways applying the CERC DSM Regulations, which are only applicable to “regional entities” and not to STU-connected entities like Western Railways. It is clarified that these DSM invoices have been cleared by Indian Railways under threat of discontinuation of its open access and complete shutdown of train operations in the State of Gujarat.
- (m) The framing of regulations is the sole prerogative of this Commission under Section 178 of the Electricity Act, 2003 and GETCO, of its own will and without any express sanction from this Commission, has been extending the scope and applicability of the CERC DSM Regulations to Western Railways. Under the garb of the present petition, GETCO is

actually seeking a back-dated sanction to legitimize its' illegal DSM invoices, which is impermissible in law.

- (n) At present, the DSM Charges being levied on Western Railways in the State of Gujarat are independent of the charges being levied on GETCO by the WRLDC. The schedule of Western Railways is combined with the total schedule of GETCO (including other open-access customers) and forwarded to the WRLDC. When the total DSM Charges for the regional entity i.e., GETCO are determined after adding the schedule of Western Railways, then the only way to fairly charge Western Railways would be to levy the charges on Indian Railways on a pro-rata basis i.e., in proportion to its share of power on open access and only when Western Railways is in default. The CERC DSM Regulations emphasizes the connect between the DSM accounting for regional entities vis-à-vis intra-state entities – which is not being adhered to by GETCO presently. For example, in the month of April 2022, GETCO incurred DSM charges of Rs. 19.54 crores approximately. In contrast, in the same month i.e., April 2022, GETCO illegally obtained an amount of Rs. 25.46 crores from Western Railways on account of deviation in the schedule.
- (o) The Indian Railways has the utmost respect for the need to maintain grid discipline and is not shying away from making DSM payments if found guilty. Furthermore, Indian Railways is also open to this Commission putting in place the necessary framework or authorizing GETCO to apply the CERC DSM Regulations to Western Railways. However, any framework that is now being devised, must apply prospectively and not retrospectively. Further, the framework put in place must be fair and reasonable and in proportion to Western Railways' share of power on open access in the State of Gujarat. Moreover, any framework set for Indian Railways should take into cognizance the peculiar role and functions of Indian Railways.
- (p) The Indian Railways (through Western Railways) is availing power as a deemed licensee under open access in Gujarat. At present, Western Railways has an LTOA of 105 MW and an MTOA of 120 MW. As

explained in the preceding paragraphs, for reasons completely beyond the control of Western Railways, the LTA capacity of 105 MW is not being utilized by Western Railways, and only the 120 MW MTOA capacity is being utilized. However, when it comes to setting LTA against MToA as permitted by the CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020, GETCO conveniently takes a stand that the regulations issued by this Commission are not applicable to Western Railways. GETCO, in this situation, contends that the relationship between the parties is governed by the GERC Regulations.

Hearing dated 24.04.2023:

5. The commission vide RoP for the hearing dated 24.04.2023 directed the petitioner as well as Western Railways (WR) as follows:
 - (a) The Petitioner to comply with the directions issued vide Record of Proceedings for the hearing dated 17.1.2023 and to file the outcome of the discussions in terms thereof, on affidavit, within three weeks.
 - (b) Keeping in view that WR have increased its open access to 120 MW, the Petitioner to submit the present trend of WR for adherence to the schedule.
 - (c) WR may approach the registry for its mapping on the e-filing portal of the Commission.

Rejoinder of the petitioner to the reply filed by Western Railways:

6. The Petitioner, in its rejoinder vide affidavit dated 03.08.2023 to the reply filed by Western Railways (WR), has submitted as follows:
 - (a) The Petitioner has provided an analysis of the over drawl by the Western Railways from 01/01/2022 to 31/03/2022 in the Petition to which the Western Railways has not provided any justification other than defending its over drawl as a result of it providing public transportation services. The Petitioner, therefore, has submitted that there is no such exception under the Grid Code, and no public utility ought to be permitted to violate the

provisions of law. The expression *mens rea*, as applicable in criminal proceedings, cannot be the touchstone for the applicability of civil consequences under the Electricity Act. It is stated that the burden of proof is on the Western Railways to establish that its actions were bona fide. However, Western Railways has not given an iota of evidence to suggest that the deviation was not intentional. On the contrary, the Western Railways has provided reasons for the deviation from schedule, which in itself showcases that it was deliberate and intentional. The only reply received from Western Railways was that it was in the process of tying up power with DVC and was, at that point in time, drawing power from IEX. The Western Railways has admitted that it has faced a crisis in acquiring power. It is only on 01.12.2022 that the MTOA with DVC PPA has been operationalized.

- (b) The deviations from the schedule have put the transmission system at risk and have jeopardized the functioning of SLDC. The SLDC is not in a position to take any coercive action as Indian Railways is not a consumer in the State.
- (c) The Petitioner, therefore, seeks that in the interest of grid security, a framework may be set out for computing the methodology to be followed by the respective State Load Despatch Centres/ Regional Load Despatch Centres in case of deviations from schedule by Indian Railways.
- (d) The reliance of Western Railways on the Judgements of *Khemka and Co. v. State of Maharashtra* (1975) 2 SCC 22; *Oswal Facts and Oils Limited v. Commr. (Admn.)*, (2010) 4 SCC 728; *KD Sharma v. SAIL* (2008) 12 SCC 481 is misplaced. Vide notices as relied upon hereinabove, the Petitioner has clearly informed Western Railways regarding the over drawl. In such a circumstance, the Petitioner is liable to pay UI charges.

Hearing dated 10.08.2023:

7. The commission vide RoP for the hearing dated 10.08.2023 reserved the matter for order as well as directed the petitioner & the respondent, Western Railway,



to file the following information:

- (a) The petitioner was directed to file information on the aspect as to the sufficiency of WR's increased tied-up capacity vis-à-vis its demand/schedules.
- (b) The Respondent, WR, was directed to file an additional affidavit indicating actions taken by it to reduce the overdrawal, including an increase in the firm tied-up capacity.

Submissions of Western Railways:

8. The Respondent, Western Railways (WR), vide affidavit dated 23.08.2023 in compliance with the RoP for the hearing dated 10.08.2023, has submitted as follows:

- (a) In compliance with the RoPs dated 17.01.2023 and 24.04.2023, a meeting was held on 02.06.2023 between SLDC, Gujarat and Western Railways wherein the mechanism to curtail the deviations by Western Railways was discussed at length. In pursuance to the meeting dated 02.06.2023 and as per directions of the SLDC, the action taken report was submitted by Western Railways to the Petitioner. The relevant points of the report are compiled as follows:

- i. Power Tied Up & Supply

The open access load requirement of Railways in Gujarat state in FY 2022-23 has been an average of 108 MW (with a minimum load requirement of 47 MW and a maximum load requirement of 142 MW as observed from the data of 15 minute time blocks from June 2022 onwards). As against this requirement, the following power tie-up and supply have been arranged

- a) Agreement with M/s Jindal Power Ltd., Chhattisgarh, for supply of 90 MW power to Railways executed on 28.01.2022 and after grant of NOC and five months for CTU to start supply with conditional MTOA subject to commissioning of Lakadia-Vadodara ISTS Transmission line, 90 MW

power supply on Short Term commenced from 21.12.2022 and supply under Medium Term commenced from 01.02.2023.

- b) Agreement with Raghunathpur Thermal Power Station of Damodar Valley Corporation for supply of 30 MW power under MTOA. Supply under Short Term commenced from 08.06.2022 and subsequently on Medium Term commenced from 01.12.2022.
- c) Additionally, Railways had been issued NOC for the required quantum from SLDC on a monthly basis (currently up to 50 MW) to meet its additional load requirement from Energy Exchange. Thus, as against the average load requirement of 108 MW, Railways has successfully made arrangements for 170 MW of power (120 MW on MTOA and 50 MW on STOA).

In an affidavit dated 23.08.2023, Western Railway mentioned that STOA of 60 MW is being taken on a month-to-month basis and being permitted by GETCO on a continuous basis.

ii. Further Precautionary Steps taken for Management of Schedule Vs Drawal Load

Railways have set up a State Energy Management Centre at Vadodara for monitoring its time block-wise load requirement based on real-time data received from ABT meters. Power is being availed through Exchange on a real-time basis in time blocks wherein there is an additional load requirement beyond the MTOA tied-up quantum.

iii. Future Planning for Power Tie-up

- (a) Further, in view of the anticipated revision in power requirement, Indian Railway-Gujarat has tied up 19 MW of Solar power from Rewa Ultra Mega Solar for which NOC has been issued.
- (b) Indian Railway-Gujarat has additionally been allocated 100 MW from Grid Connected Renewable Energy on Round the Clock mode (RE-RTC) plants to be set up by BTPC Renewable Energy Limited (NREL) with a tentative commissioning date of June 2025.

- (c) The following efforts have been taken by Western Railways to curtail the over draws in the state of Gujarat:
- a. The quantum of open access mentioned under the petition was 90 MW, and since then, through its incessant efforts, Western Railways has increased the tie-up of power to 180 MW (120 MW MTOA + 60MW STOA).
 - b. The STOA of 60 MW is being taken on a month-to-month basis and is being permitted by GETCO on a continuous basis.
 - c. For the month of June 2023, the average load of Western Railways in the State of Gujarat was 112 MW, and the maximum load was 153 MW. Thus, the power tie-up of 180 MW is sufficient to meet the current average as well as the maximum load of Western Railways.
 - d. Further, Western Railways is carefully carrying out load flow studies and recalibrating its scheduling and forecasting methods. For this purpose, Western Railways has already engaged the services of IIT Kanpur and issued an LoA to it for assisting in the load balancing exercise.

Submissions of Petitioner:

9. The Petitioner, vide affidavit dated 03.09.2023, has submitted MOM of the meeting dated 02.06.2023; the relevant extracts of the Minutes of the Meeting are as follows:

“
SLDC enquired regarding any long term / Medium term tie up for meeting their demand reliably to avoid over drawl from the Grid.

The Railway representative informed that their existing tie-ups are:

- 1. MTOA with DVC for supply of 30 MW power from 01.12.2022 to 30.11.2024*
- 2. MTOA with Jindal Power Limited for supply of 90 MW power from 01.10.22 to 30.09.25.*

Moreover, Railway has taken NOC for 60 MW power supply under Short term through exchange.

As per directive of order, SLDC enquired regarding any arrangement / agreement

with State Discoms for backup power supply. The Railway team informed that the railway itself is distribution licensee.

SLDC informed that despite of having firm tie up of 120 MW, the unscheduled over drawl remains around 28% of time blocks during May 23. SLDC requested that the proper load forecasting to be carried out and if require, the required balancing power shall be procured through real time market also. Railway team informed that all efforts are being made for accurate load forecasting and they are using real time market platform too for balancing the requirement.

SLDC team requested Western Railway Gujarat team to take all possible measures to adhere drawl schedule.”

10. The Petitioner, vide affidavit dated 06.09.2023, in compliance with the RoP for the hearing dated 10.08.2023, has submitted as follows:

(a) Despite measures taken by Western Railways to address the concerns raised in the Petition, there has been significant overdrawal in the months of April 2023 to June 2023, details of which are set out below, which clearly demonstrates that the measures are insufficient:

Summary of over drawl by IR - Gujarat for the period April - 23 to July - 23				
	Apr-23	May-23	Jun-23	Jul-23
Total number of blocks	2880	2976	2880	2976
No. of over drawl blocks	2316	2670	2272	2336
% of over drawl blocks	80.42	89.72	78.89	78.49
No. of over drawl blocks when over drawl was more than 12% of schedule	1094	1425	1076	994
% of more than 12% over drawl, compare to over drawl blocks	47.24	53.37	47.36	42.55

A perusal of the data for the month of June 2023, clearly establishes that contrary to the claims of Western Railways, the efforts taken by it are insufficient to reduce the overdrawal by Western Railways.

Analysis and decision:

11. We have perused the submissions of the Petitioner and Respondents.



12. Petitioner has submitted that the Western Railways, Gujarat, while availing short-term open access, had consistently overdrawn power from January 2022 to March 2022, which also includes some blocks wherein the schedule was zero. SLDC, Gujarat, time and again, served notices to Western Railways to maintain actual drawl as per the schedule, insisting that the deviation should not be beyond permissible limits.

13. The Petitioner has submitted that the GERC guidelines for procurement of power by Distribution Licensees provide that distribution licensees shall have long-term/ medium-term tie-ups to meet load requirements of at least 85% duration of the year. However, Western Railways, Gujarat does not have a firm power arrangement in order to meet its demand. The deviation from the schedule by the Railways is putting the transmission system in Gujarat at risk and has jeopardized the very functioning of SLDC. The Western Railways, Gujarat has mentioned that due to the peculiar nature, role and functioning of Indian Railways and difficulties faced by it in procurement of power, was forced to overdraw by circumstances beyond its control. The overdrawal was not deliberate.

14. SLDC Gujarat, has submitted that despite the CERC DSM Regulations being operative, Respondents have failed to have a stable supply. The ABT Mechanism in Gujarat has been implemented vide GERC Order No. 3 of 2010 dated 01.04.2010 and subsequent amendments where the GERC has held that UI rates as notified by CERC shall be applicable in the State. The relevant extract of the order is reproduced below;

“8. The basic UI rate for intra-State entities in Gujarat shall be in line with the CERC notifications on the matter as amended from time to time. The present UI rates, as per CERC Notification dated 30.03.2009, are included in

Annexure-1.”

- 15.** GERC vide order dated 27.12.2019 in petition 1776 of 2019 filed by SLDC Gujarat in respect of the implementation of the Deviation Settlement Mechanism (DSM) has further clarified as under:

“9. ...it is inevitable for the SLDC to observe the stipulations made in CERC DSM Regulations at State periphery in order to harmonise actions of SLDC for State Constituents, the Commission has clarified to adopt the CERC DSM Regulations vide letter dated 05.03.2015.”

...

“10. ...It is also to clarify that the Petitioner is required to follow the CERC DSM Regulations and its amendments issued from time to time in order to fall in line with the compliance of the Central Regulations at Regional and National level, keeping in mind the State specific issues to be taken care of by the State ABT Order/s”

- 16.** Western Railways, Gujarat, vide affidavit dated 23.08.2023, submitted that it has proactively taken actions to avoid overdrawal of power. It has been mentioned that the average open access load requirement of Railways in Gujarat state in FY 2022-23 was 108 MW (with a minimum load requirement of 47 MW and a maximum load requirement of 142 MW as observed from the data of 15 mins time blocks from June 2022 onwards) against which it has made arrangement of 180 MW power

- 17.** In order to cater to power requirements, a meeting was held on 02.06.2023 between SLDC, GETCO and Railways as directed by the Commission vide RoP dated: 17.01.2023. The Western Railways, Gujarat has submitted an action taken report, which includes:

- (i) Firm power tie-ups of 180 MW of power (120 MW on MTOA and 60 MW on STOA).

(ii) A State Energy Management Centre (SEMC) at Vadodara has been established for a real time monitoring of drawal so as to power is availed from Power Exchange on real time basis in case of additional load requirement beyond MTOA tied up quantum.

(iii) Western Railways, Gujarat has arranged 100 MW Round The Clock Renewable Energy (RTC-RE), which shall be available from June, 2025. Also, tied up 19 MW Solar power from Rewa Ultra Mega Solar, for which NOC has been issued.

(iv) Western Railways, Gujarat is carrying out load flow studies and recalibrating its scheduling and forecasting methods. For this purpose, Western Railways has already engaged the services of IIT Kanpur and issued an LoA to it for assisting in the load balancing exercise.

18. The Petitioner, SLDC Gujarat, in its additional submission dated 06.09.2023, has mentioned that the efforts taken by Western Railways, Gujarat, to reduce the overdrawal of power are insufficient, as indicated by the drawal reports.

19. We are of the view that Railways have a typical demand profile which varies with the movement of trains. In the instant case, Respondents are embedded in the State network and scheduling is carried out by SLDC for Railways. SLDC is required to manage the State grid, which makes it imperative for Railways to minimise its deviation. In the instant case, Western Railways, Gujarat has prepared an action plan so as to readily meet its present and future power demand. We are of the view that Western Railways, Gujarat, should follow the action plan to meet its demand so that deviation is minimised. Western Railways, Gujarat is directed to schedule power as per its requirement and should adhere to such drawal schedule. In case Western Railways, Gujarat deviates from its drawal schedule, SLDC, Gujarat may take necessary actions as per the applicable regulations and laws.

20.In light of the above discussions and action plan already taken up by Western Railways, Gujarat, at present, we are not initiating any action under Section 142 of the Electricity Act, 2023. In case of any issues regarding the implementation of the action plan or non-compliance with directions, the Petitioner may approach the Appropriate Commission under Section 33 of the Act as per law.

21.Respondent has raised certain issues on the manner of allocation of DSM charges by Gujarat SLDC. We observe that Railways is an embedded entity within the State of Gujarat under the control area of SLDC. Hence the DSM charges shall be governed as per SERC DSM Regulations. We have already noted above that GERC adopted the CERC DSM Regulations. Hence the DSM charges shall be levied in terms of GERC Regulations and Orders.

22.The petition No. 365/MP/2022 is disposed of in terms of the above.

Sd/

Sd/

Sd/

Sd/

(P. K. Singh)
Member

(Arun Goyal)
Member

(I. S. Jha)
Member

(Jishnu Barua)
Chairperson