

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL**

**Sub : In the matter of removal of difficulties under MPERC (Methods and principles for fixation of charges including miscellaneous charges recoverable by Distribution Licensee for supply of electricity) Regulation RG-22 of 2006 and Revision-I Notification dated 07.09.2009.**

**Petition No. 40/2011**

**ORDER**

**(Date of hearing 21<sup>st</sup> June, 2011)**

**(Date of order 29<sup>th</sup> June, 2011)**

M/s Satya Infrastructure Ltd.,  
82, Mahaveer Nagar, Kanadia Road,  
Indore – 452016. - Petitioner

V/s

M.P.Paschim Kshetra Vidyut Vitaran Co. Ltd.,  
GPH Compound Pologround, Indore. - Respondent No. 1

M.P.Power Transmission Co. Ltd.,  
Shakti Bhawan, Rampur, Jabalpur. - Respondent No. 2

Shri Tej Singh, Chief Technical Service Engineer and Shri Ajay Porwal, Electrical Consultant appeared on behalf of the Petitioner.

2. The Petitioner has filed this petition seeking clarification under Clause 1.14 of MPERC (Methods and principles for fixation of charges including miscellaneous charges recoverable by Distribution Licensee for supply of electricity) (Revision-I), Regulation, 2006 and Section 43(1) of Electricity Act, 2003 and Clause 4.74 and 4.76 of MP Electricity Supply Code, 2004.

3. The Petitioner is a developer of Malwa County Township at bypass road, Indore. The Petitioner submitted an application to West Discom requesting for construction of 11 KV and LT underground electricity infrastructure for the said township.

4. In response to the above request, the Respondent No.1 sanctioned an estimate on 15.06.2007 initially and then revised on the request of the Petitioner for Rs. 8.81 Crore. The Petitioner has paid the requisite expenses of Rs. 34,61,406.00 towards 5% supervision charges vide letter dated 04.08.2009, required for construction of entire “Distribution System”. In addition to the above cost, the Petitioner has also paid Rs.

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**Sub : In the matter of removal of difficulties under MPERC (Methods and principles for fixation of charges including miscellaneous charges recoverable by Distribution Licensee for supply of electricity) Regulation RG-22 of 2006 and Revision-I Notification dated 07.09.2009.**

30.52 Lakh for a separate 33 KV bay at 132/33 KV MPPTCL Transmission grid.

5. Further, while erecting the poles for 33 KV line from Bicholi 132/33 KV grid to Malwa Country, some difficulties have arisen, as other developer viz. Omax I Township is also laying the 33 KV line in the same area for laying another 33 KV line from Bicholi grid to their Township. The Petitioner has stated that raccoon conductor can carry about 10 MW power and if a double circuit line is laid then 20 MW power can be transmitted on single pole and this can meet demand of many townships in the area. However, Respondent No.1 while sanctioning the estimates for various townships coming up in the area did not consider this important design issue as well as Right of Way (RoW) issue and sanctioned single line estimates for many townships. As a result, the problem of RoW for laying multiple 33 KV feeders aroused. In order to solve this problem, the Petitioner alongwith Omax sent proposal to Respondent No.1 for allowing laying of either double circuit line on same pole in the area or allow laying of single circuit on panther conductor so that both the townships may get power supply from single 33 KV bay and single panther conductor line emerging from Bicholi grid and terminating at Omax as well as Malwa County. However, till date the Petitioner has not received any response from the Respondent No.1.

6. Petitioner has further submitted that all the external electrification, including the incoming 33 KV line work (from Bicholi Transmission Grid to Malwa County via Omax City), would be completed by 30.10.2011, if Respondent No. 1 allows laying of double circuit line on single H beam from Bicholi grid to Omax city.

7. The Petitioner came to learn from a newspaper report that the Respondent is planning to recover the KVA charges on proportionate basis for laying 33 KV lines for entire area. The Petitioner has stated that as per the description given in the newspaper, the actual power carrying capacity of the proposed line after it is changed from three different 132/33 KV grids would be 24 circuits (8 circuits from each grid x 3 grids) x20 MW = 480 MW approx. The Petitioner further submitted that it is not clear as to

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how the capacity of line is calculated and what is the justification for laying both the lines at this stage when the demand is not assured in near future (say next 5 years). It is also mentioned that the Petitioner has not received any written communication in this regard, however, the same has been communicated verbally to the Petitioner during personnel meeting with CMD and Chief Engineer.

8. The Petitioner has also submitted that the present petition inter alia is filed on the following grounds:

- i) That the proposal of demanding proportionate cost of line on KVA basis by Respondent no.1 is discriminatory against the townships and thus on the consumers who are coming first in the area. Later on, through this line the other townships/consumers will be benefited without any cost/burden. Respondent No.1 may claim additional charges in future towards line cost. However, no document has been filed by the petitioner to substantiate this averment.
- ii) Claiming of proportionate cost over and above the cost/charges prescribed by the Commission is incorrect. To substantiate this allegation, the petitioner has relied only on the newspaper report. However, no other documentary evidence has been submitted to prove that the respondent has demanded the proportionate cost of line on KVA basis.
- iii) There is no justification for creating a line capacity of 480 MW when only 90 MW capacity loads is expected that too in unknown period.
- iv) Having acted upon the representations/sanctions/permissions given by the Respondents, the Respondents are stopped from changing the policy with regard to the case of the Petitioner herein. It is contended that as per settled law “whenever any representation is made by the government or its instrumentality, which induces the other party to act, the government, should not be permitted to withdraw from that.”
- v) The notice dated 11.5.2011, is beyond the jurisdiction of the Respondent and only the Commission may decide regarding the time lines for development of distribution system for an area.
- vi) That Distribution licensee is only required to meet the cost of metering at the outgoing terminal of the Transmission network as per clause 2.1(q) of the Supply Code, 2004. Hence, recovery of the cost of 33 KV bay is contrary to the provisions of Supply Code.

9. The Petitioner has sought following relief from the Commission:

- i) The petitioner may be allowed to complete the 33 KV line as per original  
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**Sub : In the matter of removal of difficulties under MPERC (Methods and principles for fixation of charges including miscellaneous charges recoverable by Distribution Licensee for supply of electricity) Regulation RG-22 of 2006 and Revision-I Notification dated 07.09.2009.**

sanction along with another developer Omax to lay a double circuit line from Bicholi transmission grid to Malwa County. If at all Respondent No. 1 is allowed to implement its integrated scheme at this stage for laying of double circuit, double feeder panther line for an estimated capacity of 480 MW along the bypass then the Petitioner's contribution shall be restricted to the extent of its original sanctioned estimate.

- ii) Cost of 33 KV bay amounting to Rs. 30.00 lakhs recovered from the petitioner shall be refunded, as this is not a part of the distribution system.
- iii) For estimates above Rs. 5 Crores, supervision charges are payable @1.5% of estimated cost of the material from HT/EHT consumers; however, the Petitioner has paid @ 5% supervision charges hence the excess supervision charges paid may be refunded to the petitioner.
- iv) Petitioner may be given time upto 31.10.2011 for completion of the electrification work.

10. The case was listed on 21.06.2011 for motion hearing.

11. During the motion hearing, the representative of the Petitioner reiterated the contents of the petition. It was also submitted that timelines for completion of work by the agencies other than the Licensee are not given in the MP Electricity Supply Code and therefore a reasonable time may be allowed.

12. On hearing the petitioner and considering the facts of the case, the Commission observed that the present dispute is related to the construction of electricity infrastructure for the petitioner's township, which relates to section 46 of Electricity Act, 2003. As the MPERC (Recovery of Expenses and Other Charges for the Purpose of Giving Supply) Regulations 2006 and (Revision-I), 2009 are framed under Section 46 Electricity Act, 2003, hence, the matter should be governed by the said regulations, instead of MPERC (Methods and principles for fixation of electricity charges) Regulations, 2006. Further, Section 43(1) of the Electricity Act, 2003 mandates the

**(Cont. to next page)**

**Sub : In the matter of removal of difficulties under MPERC (Methods and principles for fixation of charges including miscellaneous charges recoverable by Distribution Licensee for supply of electricity) Regulation RG-22 of 2006 and Revision-I Notification dated 07.09.2009.**

Distribution Licensee to give supply within the prescribed time limit, after receipt of the application, provided that, where supply of electricity requires extension of distribution mains or commissioning of new Sub-Stations, the distribution licensee is to supply the electricity immediately after such extension or commissioning or within such period as may be specified by the Commission. But, in the present case, delay in completion of the electrification work is on the part of the Petitioner only.

13. The Clause 4.12 of MP Electricity Supply Code, provides ;  
 “The consumer shall get the work done within the timeframe as provided in Clause 4.74 failing which the Licensee may, **on giving fifteen days notice treat the requisition for supply as cancelled.**”

14. The Clause 4.74 of the Supply Code in respect of High Tension Connection provides following time limit for rendering the service.

S. No.	Type of Services	Time Limit for Rendering the Service
2.	High Tension Connection	
	a) Informing feasibility after receipt of the application	15 working days
	b) Issue of demand note of estimated charges (after issue of notice of feasibility)	30 days
	c) Serving of power availability notice for commencement of supply/release of connection after receipt of estimated charges subject to receipt of clearance from Electrical Inspector	
	(i) If no extension is involved	30 days
	(ii) If extension work is involved	90 days

It is seen from the above that the said time limit is meant for rendering the service by the Licensee. However, the above timelines are also applicability to the consumer as per Clause 4.12 of the MP Electricity Supply Code.

15. The Petitioner has also submitted in the petition that the Respondent No.1 vide letter dated 11.05.2011, has issued a notice to it, seeking an explanation for

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**Sub : In the matter of removal of difficulties under MPERC (Methods and principles for fixation of charges including miscellaneous charges recoverable by Distribution Licensee for supply of electricity) Regulation RG-22 of 2006 and Revision-I Notification dated 07.09.2009.**

delay in completing the estimated work. The Respondent No.1 vide aforesaid letter has also informed that, if the reply is not found to be satisfactory, the estimate will be cancelled. In response to the said letter, the petitioner vide its letter dated 23.05.2011, has already given a detailed reply explaining the difficulties involved in completing the said work. Since, the Petitioner itself has not completed the work in time as per Clause 4.12 of MP Electricity Supply Code, the Distribution Licensee is not responsible for any default.

16. Regarding levy of supervision charges payable by the developer, the Commission observed that the Licensee has charged as per applicable provisions of Clause 4.1 (aII) of MPERC (Recovery of expenses and other Charges for providing Electric Line or Plant used for the purpose of giving Supply) Regulations, 2006.

17. Regarding problem of RoW, Clause 4.22 of MP Electricity Supply Code provides that it shall not be incumbent on the Licensee to ascertain the validity or adequacy of way leave, license or sanction obtained by the consumer.

18. In view of above observations, the Commission decides that the petition is premature in terms of the provisions of MP Electricity Supply Code and Regulations notified by the Commission. Hence, the petition is not maintainable at the admission stage. However, the Commission advised the Petitioner to again approach the Respondent No.1 for resolution of the difficulties being encountered in early completion of the work.

19. With the above directions, the Petition No. 40/2011 stands disposed of.

Ordered accordingly,

Sd/-  
**(C.S.Sharma)**  
**Member (Eco.)**

Sd/-  
**(K.K.Garg)**  
**Member (Engg.)**

Sd/-  
**(Rakesh Sahni)**  
**Chairman**