



Madhya Pradesh Electricity Regulatory Commission

5th Floor, Metro Plaza, Arera Colony, Bittan Market, Bhopal 462 016

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Petition No. 22/2005

ORDER (Passed on this day 04th April 2007)

Sub : In the matter for limiting the electricity charges payable during the strike, lock-out period under the provisions section 9 of the MP Vidyut Sudhar Adhiniyam 2000 and clause 23 of the HT Supply Agreement.

M/s PBM Polytex Limited	Petitioner
Raheja Chambers, 12 th Floor 213, Nariman Point Bombay	
V/s	
MP State Electricity Board	Respondent

Shri P.L. Nene, Consultant, and Shri R. Ramanujam, Consultant appear on behalf of the Petitioner. Shri P.V. Sathe, Addl. S.E. (Com) O/o CMD, East Zone appears on behalf of the Respondent.

2. The petition is in the matter of request for limiting the electricity charges payable during the strike / lock-out period under the provision of the HT Supply Agreement and clause 11 of MP Electricity Supply Code 2004.

3. During the course of hearing held on 18.10.2006, the Commission directed the Joint Director (RE) to issue the recommendations of the Review Panel and submit the report on the same on the next hearing date. The Joint Director (RE) has submitted that the matter indicated therein was duly examined and after approval of the Commission, an amendment to Supply Code has been published in the official gazette on 09.02.07. The amendment to clause 11.2 of the Supply Code is as follows:

"CLAUSE 11.2 - If at any time during the continuance of the agreement between the licensee and the consumer, if the use of electricity is not possible fully or partially by the consumer due to Force Majeure conditions such as war, mutiny, civil commotion, riot, terrorist attack, flood, fire, strike (subject to certification by Labour Commissioner), cyclone, tempest, lightning, earthquake or act of God, the consumer may, on giving 7 days notice in writing to the licensee, about such a situation, take a reduced supply of power as may be necessary and feasible within permissible limits of contract demand at relevant voltage levels. In all cases where the consumer claims Force Majeure conditions, the licensee's authorized representative shall verify the same. Such a facility shall be available to the consumer only if the period of reduced supply is for a minimum period of 30 days and up to a maximum of six months. The aforesaid period of reduced supply shall not be counted towards the initial period specified in the agreement and the period of agreement shall be extended for a further period equal to the period of reduced supply."

4. The Petitioner submitted that the factory was under lockout from 10.11.04 followed by worker's strike for a period from 10.11.04 till the date of restarting the factory. However, the respondent stated that as per the certificate of the Labour Commissioner, the plant was under lock-out for 36 days from 10.11.04 to 15.12.04 whereas the qualifying period for temporary load reduction as per the provisions of Supply Code clause 11.2 prevailing at that time was 60 days. Therefore, the petitioner's case was rejected vide order dated 03.02.05. The petitioner subsequently applied for permanent disconnection and the consumer's connection was permanently disconnected with effect from 28.02.05. It has also been submitted by the respondent that notification of the aforesaid amendment under the Supply Code has been made applicable from the date of its publication in the official gazette from 09.02.07. Therefore, the petitioner is not entitled for relief sought by him on the ground that the said amendment has not been made applicable from the date of enforcement of M.P. Electricity Supply Code 2004.

5. The Commission agrees with the view of the Respondent. Therefore, the Commission directs to close the case.

Ordered accordingly.

Sd/-
(R.Natarajan)
Member (Econ.)

Sd/-
(D.Roybardhan)
Member (Engg.)

Sd/-
(P.K. Mehrotra)
Chairman

