

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL**

**Sub : In the matter of filing of petition with regard to surrender of contract demand over and above 1250 KVA on 33 KV line.**

**Petition No. 61/2011**

**ORDER**

**(Date of hearing 19<sup>th</sup> December, 2011)**

**(Date of order 22<sup>nd</sup> December, 2011)**

M/s Madhya Pradesh Jaypee Minerals Ltd. - Petitioner  
Village – Majhauri,  
PO Banda, Tehsil – Deosar,  
Dist. Singrauli (MP).

V/s

M.P.Poorv Kshetra Vidyut Vitaran Co. Ltd., - Respondent  
Shakti Bhawan, Rampur, Jabalpur.

Shri Pankaj Verma, Sr. Vice President appeared on behalf of Petitioner.

Shri P.K.Singh, CE (Comm.) and Shri S.K.Okhade, EE (Comm.) appeared on behalf of Respondent.

2. The present petition has been filed for permitting surrender of contract demand over and above 1250 KVA on 33 KV line.

3. A load of 5 MVA in phased manner was sanctioned to Petitioner, for coal mining on 12.03.2007. Consequently, Petitioner paid the requisite charges and executed the HT agreement with Respondent on 23.06.2007. The line was energized on 18.02.2008. The HT agreement had been amended from time to time with extension of initial period of agreement and re-phasing of the sanctioned contract demand. The last supplementary agreement was executed on 14.09.2010 for reduction of contract demand. As per the said supplementary agreement phase wise contract demand was under :

- (1) 100 KVA w.e.f. commencement of HT agreement
- (2) 300 KVA w.e.f. 01.05.2008
- (3) 250 KVA w.e.f. 01.09.2010
- (4) 750 KVA w.e.f. 18.12.2010
- (5) 1250 KVA w.e.f. 18.06.2011
- (6) 1750 KVA w.e.f. 18.09.2011
- (7) 2500 KVA w.e.f. 18.12.2011

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4. Subsequently, Petitioner vide its letter dated 13.06.2011 requested for further deferment of the said contract demand on the ground that the statutory forest clearance was awaited from MOEF and State Government. No reply was received from Respondents in this regard. Petitioner again made a representation to Respondent on 01.09.2011 for deferment of power beyond the existing demand i.e., 1250 MVA in terms of Clause 28(a) of the original agreement and the MP Electricity Supply Code, 2004 and further requested for cancellation of two subsequent phasing i.e. 1750 KVA and 2500 KVA. Respondent vide its letter dated 09.12.2009 accepted the request of Petitioner subject to the condition that the same shall pay minimum tariff charges including energy and fixed charges for the unexpired period of agreement.

5. Petitioner has made the following prayer :

- (a) Permit Petitioner to surrender the balance contract demand over and above 1250 KVA on 33 KV without payment of the tariff minimum charges including energy and fixed charges for the unexpired period of the agreement as follows :
- (i) Contract demand 1750 KVA from 18.09.2011 to 17.12.2011
  - (ii) Contract demand 2500 KVA from 18.12.2011 to 18.08.2012

6. The case was listed for hearing on 08.11.2011.

7. During the hearing, the representative of Petitioner reiterated the contents of the petition and requested to allow surrendering the balance contract demand over and above 1250 MVA without payment of tariff minimum charges.

8. During the hearing, the Commission enquired from Petitioner under what provision of the Electricity Act, 2003 and/or the Commission's regulations the petition is filed. The representative of Petitioner requested to allow sometime (i.e. after 25.11.2011) to submit the reply.

9. The Commission also enquired from the representative of Respondent how phasing in more than 2 years was sanctioned against the initial period of agreement for

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2 years. Also why the extensions of initial period of agreement were allowed for more than 6 months against the provisions of Clause 11.2 of the Electricity Supply Code. The representative of Respondent could not reply satisfactorily.

10. On hearing Petitioner and Respondent, the Commission granted permission to Petitioner to submit reply by 28.11.2011. The Commission also directed to fix the next date of hearing after receipt of reply from Petitioner.

11. Petitioner has accordingly submitted reply on 28.11.2011 stating that the petition was filed with the request for interpretation of various Clauses namely, 7.15, 7.16 and 7.26 of MP Electricity Supply Code, 2004. Petitioner has also requested to fix the next date of hearing.

12. The Commission considered the representation of Petitioner and the case was listed for hearing on 19.12.2011. Respondent has also filed a written submission stating that :

- (a) It is admitted that phasing of contract demand extending beyond 2 years initial period was not necessary.
- (b) The period of reduced supply was considered for 6 months on the request of consumer under force majeure conditions for each occasion in terms of provisions of Clause 11.2 of MP Electricity Supply Code.

13. During the hearing on 19.12.2011, the representative of Petitioner reiterated the contents of reply dated 28.11.2011. The Commission enquired from Respondent whether the provision under Clause 11.2 of MP Electricity Supply Code is for future supply. The representative of Respondent submitted that the provision in the Supply Code is also for future supply. However, the Commission was not convinced with the interpretation of Respondent.

14. On hearing Petitioner and Respondent, the Commission holds that Respondent has misinterpreted the provisions of Clause 11.2 of MP Electricity Supply Code. The aforesaid Clause neither allows extension of period for maximum of six months at each

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occasion for force majeure nor is the aforesaid provision meant for reducing future supply. The Commission holds that the consumer's request for rephasing of contract demand was not within the ambit of aforesaid Clause and hence extension in initial period of agreement for rephasing the contract demand for future supply is not valid. The period of agreement remains 2 years from its commencement date i.e. 18.02.2008. The Commission, after considering the facts of the case and representations from Petitioner and Respondent, holds that the agreements/supplementary agreements entered into by Respondent with Petitioner for rephasing and extensions in initial agreement period are infructuous. The contract demand should be as under:

100 KVA	-	w.e.f 18.02.2008
300 KVA	-	w.e.f. 01.05.2008
1500 KVA	-	w.e.f. 01.12.2008
2500 KVA	-	w.e.f. 18.06.2009
1250 KVA	-	w.e.f. 18.06.2011 onwards

A supplementary agreement to give effect to the above be executed. Also, the consumer can terminate agreement after giving one month's notice as per Clause 28(b) of the agreement.

15. With the above directions, the Petition No. 61/2011 stands disposed of.

Ordered accordingly,

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

Sd/  
(Rakesh Sahni)  
**Chairman**