

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL

Sub : In the matter of taking over of business of distribution of Gramin Vidyut Sahkari Samitis, Nowgong and Amarpatan by MP Poorv Kshetra Vidyut Vitaran Co. Ltd.

Petition No. 38/2010

ORDER

(Date of hearing – 20th July, 2010)

(Date of order – 28th July, 2010)

MP Poorv Kshetra Vidyut Vitaran Co. Ltd. (MPPKVVC) - Petitioner
Jabalpur (M.P.)

V/s

Gramin Vidyut Sahkari Samiti, Amarpatan

Gramin Vidyut Sahkari Samiti, Nowgong

MP Rajya Gramin Vidyut Sahkari Sangh,
Shakti Bhawan, Rampur, Jabalpur

Madhya Pradesh State Electricity Board,
Jabalpur

Secretary, GoMP, Energy Department,
Bhopal

- Respondents

Shri S.K.Baghel, EE (Comm.) appeared on behalf of the Petitioner.

Shri K.K.Agrawal, Administrator appeared on behalf of GVSS, Amarpatan.

Shri U.K.Dubey, MD appeared on behalf of GVSS, Nowgong.

None appeared on behalf of Government of MP.

2. The Petitioner has filed this petition for merging of Gramin Vidyut Sahkari Samitis Ltd. (GVSS), Nowgong and Amarpatan in MP Poorv Kshetra Vidyut Vitaran Co. Ltd. (East Discom). The case was listed for hearing on 20.07.2010.

3. During the hearing on 20.07.2010, the representative of the Petitioner submitted that the petition may be considered for handing over the business of distribution of Electricity to the East Discom. The representative also submitted that at present there is no stay from any court of law regarding the above matter. He has also submitted that the Board of Directors of the East Discom has principally agreed to take over the business of distribution of Electricity with consideration of following issues by the Commission :

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- (i) The normative loss level of East Discom will increase by 2.35% in case the four Societies (Laundi, Sidhi, Nowgong and Amarpatan) are taken over by East Discom.
- (ii) Writing off of the liabilities of GVSS in excess of their assets and permit the East Discom to amortize over a period of not more 5 years. The Employees of GVSS shall be initially taken over on deputation for 1 year and shall be absorbed or otherwise on the terms and conditions decided by the MPSEB.

4. The Commission has observed that tariff orders do not provide any tariff for such consumers and hence basis of billing to GVSS, Nowgong and Amarpatan need be explained. The representatives of the Petitioner and the Respondents could not reply satisfactorily.

5. The Energy Department, Govt. of MP on 27.04.2007 had filed Petition No. 12/2007 before the Commission. The Commission after hearing all the parties issued an Order on 29.10.2007 and granted time up to 31.12.2007 to Shri P.N.Shukla who appeared on behalf of the objectors residing in the areas of GVSS, Nowgong for submission of objections. The Commission vide Order dated 31.01.2008 directed to constitute Task Force and to take over the business of distribution of electricity to the consumers w.e.f. 01.06.2008 on 'As Is Where Is' basis subject to the terms and conditions specified by the Commission. The Commission vide Order dated 17.11.2008 had laid down the Scheme for operation and management of GVSS, Nowgong as an interim arrangement to protect the interests of the consumers. The GVSS, Nowgong is still working under Task Force as per terms and conditions specified in the Scheme. However, the Commission after reviewing the performance, noted that the arrears are increasing month after month. The Managing Director, GVSS, Nowgong vide letter dated 19.07.2010 has also submitted that it is difficult to run the Society under present circumstances.

6. Regarding GVSS, Amarpatan, the Commission vide Order dated 29.07.2007 had directed the East Discom to appoint an Administrator to take over the business of distribution of electricity to the consumers w.e.f. 01.01.2008 on 'As Is Where Is' subject to terms and conditions specified in the Order. Shri Mathura Prasad Kushwaha, a consumer of GVSS, Amarpatan filed a Miscellaneous Appeal No. 5516/2007 before the Hon'ble High Court, Jabalpur and obtained stay order on 31.12.2007 against execution of Commission's Order dated 29.10.2007. The applicant on 31.03.2010 requested the Hon'ble High Court for withdrawal of his application. The Hon'ble High

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Court has considered the request and dismissed the appeal as withdrawn. The East Discom vide Order dated 20.04.2010 has then appointed an Administrator for GVSS, Amarpatan w.e.f. 22.04.2010. The East Discom has filed this petition for taking over the business of distribution of electricity of GVSS, Nowgong and Amarpatan.

7. The State Government had taken following decisions on 18.04.2005 in respect of all the Rural Cooperative Societies :

- (i) As all the six societies have MPSEB arrears outstanding against them towards the cost of energy supplied to them. It was decided not to recommend their cases regarding exemption under Section 13 of Electricity Act, 2003 and as under Section 14 for operating as deemed Licensee.
- (ii) It was also agreed that Registrar Cooperative Societies will issue orders for liquidation of 6 Societies after revocation of their licenses.
- (iii) MPSEB shall take over the supply of electricity to consumers of the areas serviced by these societies immediately after revocation of their licenses so that no inconvenience is caused to consumers.
- (iv) As regards employees of these societies, it was decided to take over their services in MPSEB as was done earlier in case of the 8 societies already taken over as per the terms and conditions adopted in the past.

8. The Commission enquired from the representative of the Petitioner regarding implementation of the aforesaid decision of the State Government by MPSEB/Distribution Licensee. The representative of Petitioner informed that there had been certain difficulties due to which the above decision could not be implemented in respect of all RECs so far.

9. The Commission is of the view that the Societies should not have been and cannot be allowed to function without having proper license for distribution of electricity as the State Government had neither recommended exemption from Licensee under Section 13 of the Electricity Act, 2003 nor for operating the Societies as deemed Licensees under Section 14 of the Electricity Act, 2003. Onus of ensuring that distribution business is carried out with valid license is on the State Government.

10. On hearing the Petitioner and the Respondents, the Commission has directed the Petitioner

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to ensure that the decisions taken by the State Government in the meeting held on 18.04.2005 which was attended by predecessor of the Petitioner besides others in respect of the Rural Co-operative Societies which interalia includes Gramin Vidyut Sahkari Samiti, Nowgong and Amarpatan is implemented at the earliest and compliance is reported to the Commission within two months.

11. With the above directions, the Petition No. 38/2010 stands disposed off.

Ordered accordingly,

(C.S.Sharma)
Member (Eco.)

(K.K.Garg)
Member (Engg.)