

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL

Sub :-In the matter of complaint/application under section 86 of the Electricity Act, 2003

ORDER

(Date of hearing: 15th September, 2009)

(Date of Order: 7th December, 2009)

M/s Bhopal Builder & Developers,
Association Samiti,
157, Zone-II, M.P.Nagar, Bhopal

- Petitioner

V/s

M.P.Madhya Kshetra Vidyut Vitaran Co. Ltd.
Nishtha Parisar, Govindpura, Bhopal.
(Central Discom)

- Respondent

Shri Shashank Pande, Advocate appeared on behalf of the Petitioner.

Shri A.R.Verma, SE (Com), MPMKVVCo. Ltd. appeared on behalf of the Respondent.

2. The petitioner has filed this petition in the matter of complaint/application under Section 86 of the Indian Electricity Act, 2003.

3. The petitioner had submitted that earlier the respondent used to take from developer/builder/society/consumer 5% of supervision charges and cost of 11 KV line @ Rs. 500/- per KVA load but now in addition to this respondent company has also raised bill for payment of supervision charges which is calculated arbitrarily and illegally by the respondent. The respondent is a sole supplier of electricity and has monopoly in this service and all the users are bound to take service of the respondent for taking electricity and so the respondent company has imposed the supervision charges which is bad in law and is a clear misuse of powers and hence it is ultra virus and should be quashed by the Commission.

4. The petitioner has prayed to the Commission that -

- (i) To admit this petition and to set aside the order passed by the respondent company for imposing supervision charges vide order for compliance of the regulation 2006 (G-31 2006) dated 20.11.2006 in the interest of justice.
- (ii) To carryout internal as well as external electrification work of their colony / land etc.

5. The Commission had admitted the petition and a hearing was fixed on 11.8.2009 which was subsequently adjourned and rescheduled on 21.8.2009.

6. During the hearing on 21.8.2009, the Petitioner submitted that according to Section 86 of the Indian Electricity Act, 2003 the Commission can entertain complaint and petition related to determination of tariff for generation, supply, transmission and wheeling of electricity. The Respondent has imposed arbitrary, illegal supervision charges on all the builders, developers, colonizers and consumers before starting electrification work of the colony/land. The Respondent earlier used to take 5% of supervision charges and cost of 11 KV line at the rate of Rs. 500/- per KVA load but now in addition to this the company has raised bill for payment of supervision charges which is calculated arbitrarily and illegally by the Respondent Company.

The Petitioner further submitted that earlier the Respondent has imposed Capacity Building Charges on external electrification of colony/land but the same were challenged by some members of the Petitioner Society and the Commission had ordered quashing of the Capacity Building Charges vide letter dated 08.04.2008. The Respondent has stopped external electrification of all the members of the Petitioner Society and raised arbitrary illegal supervision charges which need to be quashed by the Commission. The Petitioner took over the work of internal and electrification of colony on their own cost. Each colonizer, builder and developer paid 5% supervision charges and charges of 11 KV line to the Respondent. As the Respondent is the sole supplier of electricity, therefore, all the users are bound to take service of the Respondent and pay the charges imposed by them. The Petitioner has requested to set aside the order passed by the Respondent Company for imposing supervision charges vide order for compliance of the Regulation 2006 (G-31 2006) dated 20.11.2006 in the interest of justice.

The representative of Respondent had made written as well as oral submission that the application is voluminous which took time to respond and therefore has requested to permit one week's time to file the reply. The Commission had allowed the time as requested by the Respondent.

The Commission sought certain clarification from the Petitioner on the submissions made in the petition. The Petitioner submitted that apparently there are some mistakes in the petition and sought the Commission's permission to rectify such mistakes. The permission was granted. The Commission also sought clarification on the charges in the name of MPEB/MPSEB charges being recovered by the Builders/Developers from their members. The Petitioner submitted to clarify this issue also. The Commission allowed one week's time to the Petitioner for making revisions and additional submission. The next date of hearing was fixed on 8.9.2009.

7. During the hearing on 8.9.2009, the representative of the Petitioner informed that the reply has been submitted on 29.8.09. The representative of the Petitioner further submitted that the Petitioner does not come under the definition of consumer according to Section 2(15) of the Act and therefore, this petition is maintainable because the line extension charges imposed by Respondent Company are not ordered by the Commission. He has further submitted that the Respondent Company has issued demand note towards line extension charges to the Developers in respect of the Colonies which are already electrified and handed over to the Respondent Company. The representative of the Petitioner has informed that no amount has separately been taken in the name of MPMKVVCL by the members of the Petitioner in recent years. He has requested to grant stay on the payment of the line extension charges till disposal of the petition. The representatives of the Respondent submitted that factual details relating to 8 cases listed in the reply shall have to be obtained from the field which may take some time. The Commission had directed the Petitioner and the Respondent to handover copies of reply to each other and to submit written submission 3 working days before the next date of hearing i.e. 15.9.09.

8. During the hearing on 15.9.09, the representative of the Petitioner made a submission that the Petitioner has filed the petition because they are affected parties. He has further submitted that the Respondent Company has issued demand note towards line extension charges to the Developers in respect of the colonies which are already electrified and handed over to the Respondent Company. He has also requested to grant stay on the payment of line extension charges till disposal of the petition. The representatives of the Respondent submitted that the Commission has no jurisdiction for redressal of aforesaid grievance of the Petitioner in view of the judgment given by the Appellate Tribunal for Electricity.

9. Section 2 (19) of the Electricity Act, 2003 defines "Distribution system" as follows :

“ Distribution system” means the system of wires and associated facilities between the delivery points on the transmission lines or the generating station connection and the point of connection to the installation of the consumers.”

10. As per clause 5.1 of the concerned Regulations, 2006 notified on 24.11.2006 ;

“ In case of applications where there is a need to erect a new Power Sub-station, HT line/EHT line from the sub- station or extend the existing HT/EHT line or undertake improvement/augmentation works in the station or works of strengthening the line in order to extend supply up to the metering point to the applicant, the Distribution Licensee in case of HT, and Distribution Licensee in co-ordination with Transmission Licensee in case of EHT shall prepare an estimate for arranging such power supply corresponding to the applicant’s actual requirement and provide the estimate to the applicant for arranging payment to the Licensee.”

11. As per clause 5.4 of the concerned Regulations, 2006 notified on 24.11.2006;

“Where the provision of supply to an **applicant entails works of augmentation of the distribution system**, the Distribution Licensee shall be authorized to recover from the applicant such proportion of the expenses reasonably incurred on such works of the incremental capacity that will be created by augmentation of the distribution system.”

12. On hearing both the Petitioner and the Respondents, the Commission holds that EHT lines and EHT sub-stations are not a part of **Distribution System**. Further, the distribution licensee should recover such charges if the said work for augmentation of distribution system was executed. The Commission further directs the Petitioner to approach the appropriate Forum (ECGRF) for redressal of the grievance, if he so wishes, in the light of the above analysis and also the decisions of the Commission conveyed in Suo-Motu Petition No. 49/2009.

13. With the above directions, the Petition No. 25/2009 stands disposed off.

Ordered accordingly,

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

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

(Dr. J.L. Bose)
Chairman