

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION  
BHOPAL**

**Sub: In the matter of Petition under section 86(1) (a), (b) and (f) of the Electricity Act, 2003 and Regulation 46 of MPERC (Conduct of Business) Regulations, 2004 seeking appropriate directions to the Respondents for implementing the sanction order no. CE/IR/WORKS/22-23/5355 dated 26/05/2022 as per MPERC (Recovery of Expenses and Other Charges for Providing Electricity Line or Plant used for the Purpose of giving Supply) Regulations (Revision-I), 2009 for electrification of Petitioner's colony, read with clause 1.3 of MPERC (Recovery of Expenses and Other Charges for Providing Electricity Line or Plant used for the Purpose of giving Supply) (Revision - II), Regulations, 2022. {RG-31 (II) of 2022}.**

**Petition No. 54/2022**

**ORDER**

**(Hearing through Video Conferencing)  
(Date of Order:, 09/11/2022)**

**M/s Emaar India Limited**

Emaar Continental City Part – A,  
Village – Nainod, Indore

- **Petitioner**

1. **M.P. Pashchim Kshetra Vidyut Vitran Co. Ltd.,**

Through Chief Engineer (Indore region)  
GPH Compound, Polo Ground, Indore, MP -452003

- **Respondents**

2. **M.P. Pashchim Kshetra Vidyut Vitran Co. Ltd.,**

Through Superintending Engineer(O&M) Circle,  
GPH Compound, Polo Ground, Indore, MP -452003

Shri Lovenish Jagdhane, Advocate and Shri Mayur Mandhanya, Advocate appeared on behalf of the petitioner.

The petitioner filed the subject petition under Section 86(1) (a), (b) and (f) of the Electricity Act, 2003 and Regulation 46 of MPERC (Conduct of Business) (Revision-I) Regulations, 2016 seeking appropriate directions to the Respondents for implementing the sanction order no. CE/IR/WORKS/22-23/5355 dated 26/05/2022 for electrification of petitioner's colony as per MPERC (Recovery of Expenses and Other Charges for Providing Electricity Line or Plant used for the Purpose of giving Supply) Regulations (Revision-I), 2009 read with Clause 1.3 of MPERC (Recovery of Expenses and Other Charges for Providing Electricity Line or Plant used for the Purpose of giving Supply) (Revision - II), Regulations, 2022. {RG-31 (II) of 2022}.

2. The petitioner by affidavit dated 27.08.2022 broadly submitted the following in the subject petition:

*“(1) The subject petition relates to a residential project being developed by the Petitioner named “Emaar Continental City Part- A” at village Nainod, Indore. The requisite license/permission to commence the development of subject project was granted by the Joint Director, Town and Country Planning, Indore*

on 30/11/2019. The subject project has also been registered with RERA, MP dated 05/09/2020.

- (2) *In order to obtain electrification of the subject project under the existing MPERC (Recovery of Expenses and Other Charges for Providing Electricity Line or Plant Used for the Purpose of Giving Supply) Regulations (Revision-I), 2009, the Petitioner submitted an application in this regard on 08/07/2021.*
- (3) *The above-mentioned application was processed and subsequently, the proposal for electrification was submitted by the Executive Engineer (O&M) Deulpur to Superintending Engineer (O&M) Indore vide letter and detailed report dated 09/05/2022.*
- (4) *On basis of the detailed report dated 09/05/2022, Respondent no. 1 sanctioned the proposed external electrification of the subject project by order no. C.E./IR/Works/22-23/5355 dated 26/05/2022.*
- (5) *Post sanction of estimate vide order dated 26/05/2022, Respondent was required to issue demand notes for payment of amount as per the sanction order. A demand note was issued on 31/05/2022 for part payment of Rs. 32,87,382/- only whereas no demand note was issued for the remaining amount of Rs. 57,72,661/-.*
- (6) *At the time of depositing drafts for payment of the above-mentioned demand note, Petitioner was informed orally that MPERC Recovery and Expenses Regulations of 2009 have been amended vide notification dated 31/05/2022 and the Petitioner shall now follow and comply with the new regulations effective from 31/05/2022 itself. Petitioner was also informed that Respondent would cancel already sanctioned order dated 26/05/2022 and the payment of sanctioned estimate towards electrification was not accepted by Respondent even within the 60 days window provided under sanctioned order.*
- (7) *Clause 1.3 of the amended regulations of 2022 reads as- "These regulations shall come into force from the date of their publication in the Official Gazette of the Government of Madhya Pradesh  
Provided that such applicants who have already paid charges prior to these Regulations namely MPERC (Recovery of Expenses and Other Charges for providing Electricity Line or Plant Used for the Purpose of Giving Supply) Regulations, (Revision-I) 2009 as amended from time to time, shall continue to be governed by those regulations."*
- (8) *Further, electric load of subject project as calculated by Respondents was 1966 KW on the basis of which sanction order was issued. The layout was*

*approved as per 2009 regulations wherein there was no obligation to provide for an electrical substation.*

- (9) Project is a RERA registered project, hence, changes to layout at this stage would derail the entire project.*
- (10) At the time of finalizing layout plans, Petitioner had a legitimate expectation that it would be governed by 2009 regulations. An amendment could not be anticipated.*
- (11) Petitioner's application for approval of Electrification was submitted long back and taken into cognizance vide order dated 08/07/2021.*
- (12) Respondents are erroneously trying to apply the new regulation retrospectively when the subject project has already been approved as per 2009 regulations.*
- (13) There is an existing 33/11 Sub-station installed by the Petitioner that can easily bear load of both projects as it is not fully utilized.*
- (14) Available plots have already been sold, hence, there is no avenue available to Petitioner to recover additional burden.*
- (15) Amended regulations provide for no provision for applicants whose estimates are processed and sanctioned already. Hence, clarification deserves to be issued for guidelines in this regard.*
- (16) Commission has inherent powers; hence, it should intervene to meet the ends of justice."*

3. With the aforesaid submissions, the petitioner prayed the following:

- That the Respondent may kindly be directed to implement their sanction order no. 5355 dated 26/05/2022 and accept deposit of the sanctioned estimate amount as per MPERC (Recovery of Expenses and Other Charges for Providing Electricity Line or Plant Used for the Purpose of Giving Supply) Regulations (Revision-I), 2009.*
- That the lapsed period from 31/05/2022 till the date of the interim/final order may be treated as a zero period and entire 60 days period be made available for the payment.*
- That the Respondent may be directed to immediately issue the demand note for the remaining amount of Rs. 57,72,661/- in order to enable the Petitioner to deposit the remaining amount as well within the 60 days' period provided.*

- *That, appropriate clarification be issued in respect of Clause 1.3 of Regulations of 2022 for granting relief no. 1 to 3.*

**Interim Relief:**

*During pendency of present petition, the Respondent may kindly be restrained from taking adverse action of cancelling the sanction order dated 26/05/2022.”*

4. At the motion hearing held on 11<sup>th</sup> October’ 2022, Ld. Counsel who appeared for the Petitioner explained the genesis of the petition and requested that the demand notice served by Respondents under new set of Regulations be stayed. Having heard the petitioner, the case was reserved for order on admissibility of the subject petition.

**Commission’s Observations and Findings:**

5. The Commission has observed following in the subject matter:
- i. The subject petition is related to a residential project being developed by the Petitioner at village Nainod, Indore. As stated by the Petitioner, requisite license/permission to commence the development of subject project was granted by the Joint Director, Town and Country Planning, Indore on 30.11.2019 and the project was registered with the Real Estate Regulatory Authority (RERA), Madhya Pradesh on 05.09.2020.
  - ii. For electrification of the subject project, the Petitioner submitted an application on 08.07.2021. This application was processed under the then existing MPERC (Recovery of Expenses and Other Charges for Providing Electricity Line or Plant Used for the Purpose of Giving Supply) Regulations (Revision-I), 2009. As per procedure, the proposal for electrification work was submitted by the Executive Engineer (O&M) Depalpur to Superintending Engineer (O&M) Indore vide detailed report dated 09.05.2022 for appropriate approval.
  - iii. On the basis of aforesaid detailed proposal dated 09.05.2022, Respondent No. 1 (CE Indore Region) sanctioned the proposed external electrification of the aforesaid project vide order no. C.E./IR/Works/22-23/5355 dated 26.05.2022. Thereafter, a demand note was issued by the Respondent on 31.05.2022 based on applicable Regulations 2009.
  - iv. The Petitioner has submitted that at the time of depositing draft for payment of the above-mentioned demand note, Petitioner was orally informed by Respondents that MPERC Recovery and Expenses Regulations of 2009 have been amended vide notification dated 31.05.2022 and the Petitioner is now required to follow and comply with the provisions under new Regulations effective from 31.05.2022. Petitioner was also informed that in light of notification of new Regulations, the sanctioned order already issued by the Respondents on 26.05.2022 shall be cancelled and therefore, the payment towards aforesaid sanctioned estimate towards electrification was not

accepted by Respondent.

6. On the above issue, the Commission noted that for Recovery of Expenses and Other Charges, a new notification was published on 31.05.2022 superseding the existing Regulations of 2009. Therefore, Clause 1.3 of the MPERC Recovery and Expenses Regulations of 2022 is the main governing clause in this matter.

7. Let us look into Regulation 1.3 of MPERC (Recovery of Expenses and Other Charges for Providing Electricity Line or Plant used for the Purpose of giving Supply) (Revision – II), Regulations, 2022. {RG-31 (II) of 2022}.which provides as under-

*“These regulations shall come into force from the date of their publication in the Official Gazette of the Government of Madhya Pradesh Provided that **such applicants who have already paid charges prior to these Regulations** namely MPERC (Recovery of Expenses and Other Charges for providing 4 Electricity Line or Plant Used for the Purpose of Giving Supply) Regulations, (Revision-I) 2009 as amended from time to time, **shall continue to be governed by those regulations.**”*

**(Emphasis Supplied)**

As per above provision in new set of Regulations, it is evident that the instant case does not fall under the earlier Regulations 2009 as the charges for electrification were not paid prior to the Regulations, 2022 coming into force on 31.05.2022.

8. MPERC (Recovery of Expenses and Other Charges for Providing Electricity Line or Plant used for the Purpose of giving Supply) (Revision – II), Regulations, 2022. {RG-31 (II) of 2022} have been made effective from 31<sup>st</sup> May, 2022 superseding the Regulations 2009. Regulation 1.3 of Regulation 2022 provides that applicants who had already paid charges based on previous regulation shall be governed by those Regulations. In the instant case, no payment was made by the Petitioner before Regulation 2022 came into force. Therefore, proposal for external electrification submitted by the Petitioner shall be governed under Regulations 2022. Hence, contention made by Petitioner that Respondents are erroneously trying to apply new regulation retrospectively, when the subject project has already been approved as per 2009 Regulations, has found no merit.

9. In view of all foregoing observations, the Commission is of the considered view that the prayers of Petitioner on the grounds placed in subject petition have no merit for further deliberations in this matter as the provisions under new Regulations are amply clear in this matter. Therefore, subject petition is not admissible, and accordingly dismissed and disposed of.

**(Gopal Srivastava)**  
**Member (Law)**

**(Mukul Dhariwal)**  
**Member**

**(S. P. S. Parihar)**  
**Chairman**