

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL

Sub : In the matter of petition under Section 31 of Vidyut Sudhar Adhiniyam for compliance of order dated 07.10.2010 of the Commission in respect of Petition No. 51/2010.

Petition No. 29/2011

ORDER

(Date of hearing 26th July, 2011)

(Date of order 1st August, 2011)

M/s Nahar Spinning Mills Ltd.,
Gram Simrai Mandideep,
Dist. Raisen - Petitioner

V/s

M.P.Madhya Kshetra Vidyut Vitaran Co. Ltd.,
Nishtha Parisar, Bhopal. - Respondent

Shri D.K.Mundra, Vice-President (Comm.) and Shri S.K.Singh, Advocate appeared on behalf of the Petitioner.

Shri M.S.Atre, SE (O&M) and Shri Ashok Kumar Khatare, Advocate appeared on behalf of the Respondent.

2. The present petition has been filed under Section 31 of Vidyut Sudhar Adhiniyam, 2000.

3. The Petitioner has filed the present petition against the Respondent alleging non-compliance of the order dated 07.10.2010 issued by the Commission in Petition No. 51/2010. The Commission vide its order 07.10.2010 had revised the load factor incentive formula provided in condition 1.9 (i) of the tariff order for 2010-11 and had directed the distribution licensees to implement the revised load factor incentive formula with effect from the date of implementation of the tariff order for FY 2010-11.

4. The Petitioner had submitted that pursuant to the aforesaid order of the Commission, it has submitted written applications to the Respondent, requesting for adjusting the excess amount of Rs. 12.24 lakhs recovered from the Petitioner for the month of June, 2010 till October, 2010. However, the Respondent has not acceded to the aforesaid request. Hence, the Petitioner has prayed to direct the Respondent to comply with the directions of the Commission issued in the order dated 07.10.2010.

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5. The Petitioner is seeking to invoke the penal provision of Section 31 of the Vidyut Sudhar Adhiniyam, 2000 against the Respondent for non-compliance of the order issued by the Commission. The case was listed for motion hearing on 31.05.2011.

6. During the hearing, the Petitioner reiterated the requests made in the petition.

7. On hearing the representatives of the Petitioner, the Commission was of the view that the petition is related to the non-compliance of order of the Commission. The Commission has, therefore, admitted the petition under Section 142 of the Electricity Act, 2003 and issued a notice to the Respondent to appear on the next date of hearing and submit the reply. The case was listed on 21.06.2011.

8. During the hearing on 21.06.2011, the representative of the Petitioner informed that the Respondent has not adjusted the excess amount for the months of June, 2010 to October, 2010. However, after October, 2010 the Respondent has followed the load factor incentive formula as per Order dated 07.10.2010.

9. During the hearing, the representative of the Respondent submitted that an appeal is filed before Appellate Tribunal for Electricity (APTEL) and case is listed for hearing on 06.07.2011. The Commission asked the representative of the Respondent whether any stay on Commission's Order dated 07.10.2010 has been granted by APTEL. The representative submitted that the matter is subjudice and requested to adjourn the case till next date of hearing in APTEL i.e. after 06.07.2011.

10. The Commission observed that mere filing of an appeal does not allow the Respondent to pick and choose and comply with the order of the Commission for certain period and not for other. The Commission therefore directed the Respondent to either produce a stay order on the Commission's Order dated 07.10.2010 or report compliance of the Commission's order dated 07.10.2010 by the next date of hearing.

11. The next date of hearing was fixed on 12.07.2011 which was rescheduled on 26.07.2011 on the Respondent's request.

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12. During the hearing on 26.07.2011, the representative of the Respondent sought an adjournment as their senior lawyer was unwell. However, the representative of the Petitioner produced a communication from Respondent dated 25.07.2011 that due credit shall be allowed to them in ensuing bill. The Petitioner further submitted that he would be satisfied if this was done.

13. In view of the compliance of Commission's Order dated 07.10.2010 the Commission decided to drop proceedings under Section 142 of the Act. The Petition No. 29/2011 also stands disposed of.

Ordered accordingly,

sd/-

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

sd/-

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

sd/-

(Rakesh Sahni)
Chairman