

ORISSA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
UNIT-VIII, BHUBANESWAR - 751 012

Present : Shri S. P. Nanda, Chairperson
Shri K.C. Badu, Member
Shri B.K. Misra, Member

Case No.80/2011

M/s. Jain Steel & Power Ltd. **Petitioner**
Vrs.
WESCO **Respondent**

In the matter of: **Petition under Section 142 of the Electricity Act, 2003 for levy of penalty on the Respondent for non-compliance of the Order dtd. 11.07.2011 of the Commissioning passed in Case No.159 of 2010.**

For the Petitioner: Shri R P Mohapatra authorized representatives.

For the Respondent: Shri P. K. Sahu, S.E (R & T) and Sarbeswar Nanda A.M.(Legal), Burla WESCO.

ORDER

Date of Hearing: 15.11.2011

Date of Order: 30.11.2011

1. M/s Jain Steel and Power Ltd. the petitioner in this case is a consumer of WESCO and has filed a petition against WESCO for non compliance to the directives of the Commission in order dated 11.07.2011 passed in Case No 159 of 2010.
2. The hearing was conducted on 15.11.2011 with M/s. JSPL as the petitioner and WESCO as the respondent. The respondent WESCO in this case had filed a petition vide Case No. 34/2010 for purchase of power from small CGPs connected with distribution network at 33 KV and below against which the Commission has allowed to do such transaction within the ceiling price fixed by the Commission for the respective licensee which was Rs.1.50 paise at that time that is for FY 2009-10. Subsequent to the revision of BSP to Rs.1.90 for FY 2010-11 the petitioner had approached the licensee to receive payment at the revised BSP and after failing to get it from the licensee it approached the Commission vide Case No. 159/2010 to receive the payment at the revised price.
3. The representative of the petitioner submitted that the Commission had directed the licensee WESCO to pay the energy cost at the revised BSP Rs.1.90 in its order dtd. 11.07.2011 in Case No. 159/2011. The relevant extract of the para 5, order of the Commission dtd. 11.07.2011 is reproduced below:

“Going by the same logic, the purchase of surplus power from the petitioner CGP or any other CGP should be proportionately increased keeping the upper limit of the ceiling price of 194 paise/unit and 262 paise/unit i.e. say 189 paise/unit and 255 paise/unit for the FY 2010-11 and 2011-12 respectively.”

4. The petitioner further submitted that M/s JSPL has submitted the supplementary bills in pursuant to the directives of the Commission vide para five of the Case No.159/2010 dtd. 11.07.2011 to the Chief Executive Officer of the respondent for the energy supplied during the period October, 2010 to March, 2011 @ Rs.1.89 per unit. In reply to the revised bill of the petitioner the respondent WESCO in its Lr. dtd. 30.07.2011 intimated that the billing is in line with the PPA between the parties for the period from October, 2010 to March, 2011 and there is no need to revise the bill. That on the advice of the Burla office of the licensee the petitioner has approached the CSO office of the licensee at Bhubaneswar with a copy of the order of the Commission dated 11.07.2011 and the refusal letter of WESCO. But till today no reply has been received sofar.
5. In view of the delaying attitude of the licensee to comply with the directives of the Commission as well as to the request of the petitioner, the representative of M/s JSPL prayed for immediate payment of differential energy charges along with Delayed Payment Surcharge and penalty under Section 142 by the licensee for non compliance to the directives of the Commission.
6. The respondent in its reply submitted that it has sincerely agreed to comply with the order of the Commission but under financial constraints it is failing to carry out the Order. After passing of the aforesaid Order of the Commission the change in the management of the WESCO took place which has caused delay in negotiating with the petitioner for fixation of rate for payment of energy charges in accordance with the Order of the Commission dtd. 11.07.2011. However, after receiving the supplementary bill of the petitioner WESCO has communicated to the petitioner vide letter No. WESCO/RA/397/dtd. 09.11.11 to negotiate for fixation of revised price within the BSP for FY 2010-11 and allow sometime to pay the differential amount due to financial stringency.
7. The respondent submitted that there is no intentional violation of the Order of the Commission dtd. 11.07.2011 and prayed before the Commission to allow for more time for payment of the energy charges due to financial stringency.
8. Heard the parties at length. In view of the submission by the Respondents and considering that the principal grievance of the petitioner of enhancement of rate of surplus power CGP for the FY 2010-11 and FY 2011-12 from the rate agreed to in PPA for the power supplied in FY 2009-10, has been resolved, we are inclined to drop the proceedings u/S.142 of the Act. However, we are of the view that the financial stringency is not sufficient reason for delay in payment of the CGP, whose rate is anyway lower than that BSP rate payable by the DISCOM to GRIDCO for the power purchased by them from the State Grid. We direct DISCOM to clear all the arrear bills of CGP in six monthly installments along with current bill if any. Regarding DPS, the parties may negotiate themselves as per the terms & conditions of their PPA amicably. In case of any difference of opinion parties may approach the Commission at appropriate time.
9. The matter is accordingly disposed of.

Sd/-

(B.K. Misra)
Member

Sd/-

(K.C. Badu)
Member

Sd/-

(S. P. Nanda)
Chairperson