

**ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN,
UNIT – VIII, BHUBANESWAR – 751 012**

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**Present : Shri S.P Nanda, Chairperson
Shri B.K. Misra, Member
Shri S.P.Swain, Member**

Case No.14 of 2012

M/s Adhunik Metaliks. Ltd.,

..... Petitioner

Vrs.

WESCO & another

----- Respondents

In the matter of: An application under Section 142 of the Electricity Act, 2003 for levy of penalty on the Western Electricity Supply Company of Odisha Limited (WESCO) for contravention of Regulation 70 of the OERC Distribution (Conditions of supply) Code, 2004.

For the Petitioner: Shri R.P.Mohapatra, the authorised representative of M/s Adhunik Metaliks. Ltd.

For the Respondents: Shri. P.K.Mohanty, Advocate

Date of hearing: 16.04.2012

Date of Order:16.05.2012

ORDER

Shri. R.P.Mohapatra, the authorised representative of M/s Adhunik Metaliks Ltd. Stated that the petitioner is a consumer of WESCO under the RED, Rajgangpur Electrical Division bearing Consumer No. RRKL/3-0149 having Contract Demand of 55556 KVA supply at 132 KV with effect from 01.10.2010. On 04.05.2011, the petitioner has filed an application before the authorities of WESCO for reduction of its Contract Demand (CD) from 55556 KVA to 33000 KVA with effect from 01.06.2011. The said application of the

petitioner was not accepted by the licensee on the ground that the average drawal for the previous three months is about 44560 KVA.

2. The petitioner again applied for reduction of Contract Demand on 10.08.2011 vide its Letter No. AML/RKL/AK/186/2011 from 55,556 KVA to 43,330 KVA based on the maximum demand recorded in the months of May, June & July, 2011. As the respondents have not taken any steps, the petitioner again sent a reminder letter to the Respondent No.2 on 08.11.2011 bringing to his notice that as per Regulation, 70 of the OERC Distribution (Conditions of Supply) Code, 2004, for consideration of the said application for reduction of CD within 90 days, which has expired on 08.11.2011. Further, the petitioner had also requested the Respondent No.2 to adjust the excess demand charge as claimed by him for the months of September & October, 2011 as the effective date of reduction of Contract Demand should be reckoned from 01.09.2011.
3. The respondent, WESCO intimated the petitioner vide letter dtd.01.02.2012 that the reduction of Contract Demand (CD) cannot be considered unless the petitioner deposits the final assessed amount of Rs.42,46,644 due to unauthorized extension of power supply to M/s.Vedvyas Ispat Ltd.. The said assessment order was passed on 01.08.2011 under S.126(1) & (2) of the Electricity Act, 2003. This assessment order was passed almost one month earlier to the second application of the petitioner asking for reduction of CD which was filed on 10.08.2011.
4. The petitioner has contended that outstanding arrears cannot be ground for rejection of the application for reduction of CD. According to the petitioner, there is no difficulty on the part of WESCO to recover Rs.42.47 lakh as there is a huge security deposit of Rs.15 cr. available with them. The petitioner during the course of hearing and also in their written submission reiterated their demand that WESCO should be penalized under S.142 of the Electricity Act, 2003 for contravention of Regulation 70 of the OERC Distribution (Conditions of Supply) Code, 2004. They also argued that WESCO is not justified in rejecting their original application on the ground that the average drawal for the previous

3 months is about 44560 KVA which is much higher than the load which the applicant is now asking for.

5. WESCO has submitted that the contention of the petitioner is too simplistic and cannot be viewed in isolation from the overall conduct of this consumer. After receiving the application for reduction of CD on 04.05.2011 WESCO conducted an inspection on 29.06.2011 and detected that the petitioner had given unauthorized power supply to M/s.Vedvyas Ispat Ltd. for which final assessment order was passed on 01.08.2011 raising a demand of Rs.42,46,644/-

Against the assessment order the petitioner filed a writ petition before the Hon'ble High Court of Odisha which was disposed of by the Hon'ble High Court on 14.03.2011 with the observation that in view of alternative remedy available to the petitioner the writ is not maintainable. Accordingly, the petitioner filed an appeal before the Appellate Authority-cum-Chief Electrical Inspector. The appeal is pending. After dismissal of the writ petition, WESCO has already issued demand-cum-disconnection notice to the petitioner company.

Since it was contended by the petitioner that M/s.Vedvyas Ltd. has been amalgamated with the petitioner, it is to be considered as a part or unit of the petitioner. It was contended by WESCO that the combined load of the petitioner and erstwhile Vedvyas Ispat etc. will be much more than what has been prayed for in the original application for reduction of CD.

The petitioner has earlier intimated that as they will utilize power from their CPP the CD is likely to fall. WESCO has pointed out that while considering the said CPP the petitioner has not intimated the respondent about the CPP nor has it applied or been sanctioned additional power for construction of the CPP. DISCOM has also not been informed about the commercial commissioning date nor the metering details of said CPP. Considering the points mentioned above the respondent submitted that it was justified in not accepting to the petitioner's request for reduction of CD.

6. Having gone through the written submission and oral arguments of the petitioner and the respondent we order as follows:

The application for reduction of CD cannot be accepted by the respondent without any inquiry and simply on the basis of unilateral request from the consumer. Going through the actual consumption for the last 3 months is definitely a correct indicator to find out if the requirement and consumption of the consumer have actually gone down. Moreover, request for reduction of CD cannot be delinked from the overall conduct of the consumer. While making inspection of the unit after receiving application for reduction of CD, the respondent discovered huge unauthorized supply of power to an adjacent unit by the consumer for which demand-cum-disconnection notice was sent. The Hon'ble High Court of Odisha also declined to interfere in this matter. What is shocking is that the petitioner has constructed and also availed power from CPP without the knowledge of the respondent. It is evident that the petitioner has not come to the Commission with a clean hand. Its record as a consumer is tainted with irregularity and therefore its prayer under S.142 of the Electricity Act, 2003 is rejected.

Sd/-
(S.P.Swain)
Member

Sd/-
(B.K.Misra)
Member

Sd/-
(S.P.Nanda)
Chairperson