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.18 of 2012

M/s Rathi Steel & Power. Ltd.,	 Petitioner

Vrs.

WESCO & Another Respondents

In the matter of: An application under Section 86 (1) (f) and under Section 142 of

the Electricity Act, 2003 regarding re-classification of the consumer category of the steel and power plant & willful contravention of the provisions of the OERC (Conditions of

Supply) Code,2004.

For the Petitioner: Shri R. P. Mohapatra, authorized representative

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

Shri K. C. Nanda, AGM(Fin.), WESCO

Date of hearing: 11.06.2012 Date of Order: 24.09.2012

ORDER

Brief fact of the case is that the petitioner M/s. Rathi Steel and Power Ltd. is a consumer of WESCO and has availed power supply with a contract demand of 4950 KVA on 28.08.2007 under the category 'Mini Steel Plant' basing on the agreement dated 13.03.2006 with the licensee WESCO. The said Agreement was amended on 27.08.2007. Subsequently, the petitioner synchronised its own CGP to GRID of the STU on 23.03.2009 in the presence of the representative of OPTCL, Electrical Inspector and WESCO. Soon after synchronisation of its CGP, the petitioner started supplying surplus power after its own consumption to the grid from the month of April, 2009. After energisation of CGP of the Petitioner there is no need of industrial power. Therefore, the petitioner requested the respondents to reclassify the category of consumer from 'Mini Steel Plant' category to 'Emergency Power Supply' to industries owning CGPs. However, the respondent did not change the category of

consumer on the ground that initial period of agreement for five years has not expired. Hence, the petitioner is liable to make the payment pertaining to the remaining period of agreement before effecting the power supply under 'Emergency Power Supply' category. The respondent WESCO also cited cases of Mahavir Ferro Alloys Ltd. and SMC Power Generation Ltd. where Emergency Power Supply was given after expiry of five years from the initial power supply period on the orders of GRF.

- 2. After perusal of case record and hearing the oral submission we find that this is a case of dispute between a consumer and the Licensee. Section 86 (1) (f) of the Act provides for adjudication of dispute between the Licensee and the generating company and refer any dispute for arbitration by the Commission. In the instant case the petitioner is not a generating company but an industry having its own CGP. Even under Electricity Act, 2003 a Generating Company and Industry owning Captive Generating Plant are two distinct legal entities. The respondent WESCO has brought before us a ruling of Apex Court in the case of Maharashtra State Electricity Distribution Company Ltd. vrs. Lioyds Steels Industries Ltd., AIR SC 1042 that, the complaints of the individual consumers for adjudication is beyond/outside the jurisdiction of the State Commission, since separate forum for redressal of individual costumers/ consumers grievance has been created under Section 42 of the Act. Even the petitioner in its rejoinder himself has admitted that dispute of similar nature in case of M/s. Mahavir Ferro Alloys etc. have been adjudicated upon by Grievance Redressal Forum. By any means of legal stretching a generating plant can't be equated with industry having Captive Generative Plant.
- 3. Therefore, we are not inclined to admit the case in its present form and direct the petitioner to move Grievance Redressal Forum (GRF) of its area if it desires so.
- 4. Accordingly, the matter is disposed of.

Sd/-(B. K. Misra) Member Sd/-(S. P. Nanda) Chairperson