

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

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

Case No. 81/2012

M/s Facor Power Ltd.Petitioner
Vrs.
Manager (Electrical), BED,NESCORespondent

In the matter of: An application under Section 142 & 146 of the Electricity Act, 2003 for non-compliance of the RST Order dated. 23.03.2012 of the OERC for FY 2012-13 and contravention of S.45(2) of the said Act,03 along with Regulation 57 of the OERC (Conduct of Business) Regulations,2004.

For the Petitioner: Shri P.K.Mohanty, DGM (Elect.)
Shri Bibhu Charan Swain Authorized representative.
Shri Satyjeet Pattnaik.

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

Date of Hearing: 02.11.2012

Date of Order: 06.11.2012

ORDER

The case is taken up today for hearing on question of admission.

2. Heard the parties at length. This matter deals with the methodology of billing to the consumer by the respondent NESCO. To a query that whether his unit consists of generating unit(s)/ availing power only on emergency or it is an industry having a captive generating plant, the petitioner claims that his unit is a consumer of NESCO and belongs to emergency supply to the CGP category. The petitioner further claims that the licensee has deviated from the methodology of billing as directed by the Commission in its Tariff Order for FY 2012-13. In nutshell it is a dispute between the consumer and the licensee. The Commission's jurisdiction is excluded to settle the type of dispute as there is a elaborate grievance redressal mechanism under Section 42 (5) of the Electricity Act, 2003(herein after referred as ' the Act') the distribution

licensee have established grievance redressal fora under the respective licensee area for redressal of grievances of the consumers in accordance with the guidelines specified by the Commission.

The Hon'ble Supreme Court in Civil Appeal No. 3551/2006 vide Order dated 14.08.2007 observed as follows:-

“xxxxxxxx It has been held in these decisions that the Forum and Ombudsman have power to grant interim orders. Thus complete machinery has been provided in Section. 42 (5) & 42 (6) for redressal of grievances of individual consumer. Hence wherever a Forum/Ombudsman have been created the consumers can only resort to these bodies for redressal of their grievances. Therefore, not much is required to be discussed on this issue. .xxxxxxxx”.

3. As it is a billing dispute between the consumer and the licensee, the Commission is not inclined to admit this case and decides to remit the matter to the proper forum created under Section. 42 (5) of the Electricity Act, 2003 to decide the grievance of the petitioner herein in accordance with law. However, as an interim measure, the Commission stay the operation of the disconnection notice issued by the licensee-respondent and direct the licensee not to take any coercive action against the petitioner-consumer till the matter is disposed of by the concerned GRF.
4. With the above observation, we remand the matter to the GRF, Balasore, NESCO for disposal of the matter within the stipulated time giving liberty to the parties to take part in the hearing.
5. Accordingly, the above case is disposed of.

Sd/-
(S.P. Swain)
Member

Sd/-
(B.K. Misra)
Member

Sd/-
(S. P. Nanda)
Chairperson