

**ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
PLOT NO.-4, CHUNUKOLI, SHAILASHREE VIHAR
BHUBANESWAR - 751 021

**Present: Shri U. N. Behera, Chairperson
 Shri S. K. Parhi, Member**

Case No. 44/2019

M/s. Odisha Merchandise (P) Ltd.	Petitioner
Vrs.		
The E.E (Elect.), JED, NESCO Utility & Others	Respondents

In the matter of: **Application under Section 142 of the Electricity Act, 2003 for violation of Regulations 11(ii), 12(I) (b) & 14(1), (2) of the OERC (Conditions of Supply) Code, 2004 along with Ss. 43, 57 of the Electricity Act, 2003.**

For Petitioner: Nobody was present

For Respondent: Shri Manoranjan Jena, EE (Elect.), Joda and Shri Sukant Kumar Jena, Jr. Manager (Legal), NESCO Utility

ORDER

Date of hearing: 24.09.2019

Date of order:01.11.2019

The present Petitioner M/s. Odisha Merchandise (P) Ltd. has filed this petition for violation of Section 43 of the Electricity Act, 2003 and other relevant provisions in OERC Supply Code, 2004 by NESCO Utility regarding power supply to the premises of the Petitioner. The Petitioner has applied for new power supply connection having CD of 278 KVA at HT to the Executive Engineer, JED, Joda, Keonjhar on 16.09.2014. Responding to the application of the Petitioner, the Chief Operating Officer of NESCO Utility in his letter dated 07.09.2015 granted permission for such supply and intimated an estimate amounting to Rs.22,53,061/- for carrying out the service extension work. Since the 33 KV service line was passing over the private land as per the said estimate, the Petitioner requested the Respondent utility vide its letter dated 24.09.2015 to serve a revised estimate by which the line can be drawn over Government land which could be 50 to 60 meter in length. But after lapse of two years NESCO authority i.e. SE, Electrical, Keonjhar vide his Letter No. 1770, dated 13.07.2017 served a revised estimate on the Petitioner without any remunerative calculation under Regulation 13 of OERC Supply Code, 2004.

2. The Petitioner points out various provision in the Electricity Act, 2003 and OERC Supply Code, 2004 regarding time frame for supply of electricity to the consumer which are as follows:

“As per Section 43 (1) of the Act Every distribution licensee, shall on an application by the owner or the occupier of any premises, give supply of electricity to such premises within one month after receipt of the application requiring such supply:

Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission.

Regulation 11(ii) of OERC Supply Code, 2004 provides that *the licensee shall respond to the application for supply at HT within 21 days whether the connection is feasible or not. If feasible the licensee shall intimate voltage at which supply will be given and point of connection of supply.*

Regulation 12 (1) (b) of OERC Supply Code, 2004 provides that *if the supply is requested at HT or EHT licensee shall intimate the applicant the estimated charges and time required for providing new connection within 60 working days of notifying feasibility of supply as provided in Regulation 11 above.”*

3. In view of the above provisions in Act and Regulation the Respondent has violated them by providing first permission letter nearly after one year and second revised permission letter nearly after three years. Therefore, the licensee is liable for penalty under Section 43 (3) of the Electricity Act, 2003 which may extend to one thousand rupees for each day of default. In addition to that the licensee is also required to pay compensation under Section 57 (2) of the Act.
4. The Respondent Executive Engineer, Joda Electrical Division (JED) has submitted that the application dated 16.09.2014 for new connection in the name of Maa Tarini Sheetal Bhandar for cold storage activity with contract demand of 250 KW through 315 KVA, 33/0.4 KV transformer under general purpose tariff in incomplete shape was received by at his level on 09.10.2014. After receipt of all necessary documents like willingness of the Licensed Electrical Contractor for execution of work under 6% supervision scheme, single line diagram for cubicle installation the application was sent to DGM, Keonjhar Electrical Division vide Letter No. 251, dated 05.02.2015. Then after submission of further necessary documents to the higher authority the proposal was sent to AO, NESCO Utility vide letter No. 498 dated 18.03.2015 and Letter No. 1139 dated 09.06.2015. After receipt of letter from higher authority a letter was communicated to the Petitioner vide Letter No. 1189 dated 17.07.2015 for submission of documents. After receipt of documents the same was submitted to higher authority vide Letter No. 1136 dated 21.08.2015. Hence after compliance of all statutory documents permission was issued in favour of the Petitioner for

power supply of 278 KVA load through 315 KVA, 33/0.4 KV transformer in 33 KV voltage under Allied Agro-Industrial Activities category. After receipt of the permission the Petitioner had requested the Respondent on 18.11.2015 regarding “Right of Way Problem” and intended to shift the metering system to the backside of the unit which would have led to pilferage of energy. The matter was also intimated by Executive Engineer to AO, NESCO Utility vide Letter No. 4491 dated 08.12.2015.

5. After lots of correspondence from the Respondent’s end through e-mail and also vide Letter No. 1189 dated 17.07.2015, the Petitioner submitted all the documents which were submitted to the higher authority vide letter No. 1336(2) dated 21.08.2015. Subsequently, the permission was issued in favour of the Petitioner for 278 KVA power supply at 33 KV on 07.09.2015 with an estimate of Rs.22,53,061/- on 6% supervision charge basis which comes to around Rs.1,27,532/-. It was also learnt from field verification that there was no Right of Way Problem and it was technically feasible to extend supply but the Petitioner intended to install the metering system at the backside of his premises to obstruct the MRT personnel for taking meter reading and put hindrance to NESCO authority for surprise check.
6. The Respondent submitted that the Petitioner has failed to comply the Right of Way Problem for construction of proposed lines as per approved SLD. He is responsible for late deposition of 6% supervision amount, delay in inspection from the Electrical Inspector, submission of work completion report not in consonance with sanctioned estimate, delay in execution of agreement etc. There is fault from the Petitioner’s end though the Respondent is willing to provide supply in due time subject to completion of work as per the approved revised estimate supplied to the Petitioner and the Petitioner is to comply all other formalities as specified in Regulation 13 (6) of the Supply Code, 2004. Hence for all the above reasons the petitioner is solely responsible. Therefore, Respondent requested the Commission to excuse the Respondent and not to take action under Section 143 read with sub-Section (3) of Section 43 and sub-Section (2) of Section 57 of the Electricity Act.
7. We heard the parties in detail and perused the records. From the submission of the Petitioner and the counter submission of the Respondent it is clear that there is lack of co-ordination between the parties. OERC Supply Code, 2004 Regulation 13 (6) states as follows:

“The Distribution Licensee shall not be responsible for the delay, if any, in extending the supply, if the same is on account of problems relating to statutory clearances, right of way, acquisition of land, or the delay in consumer’s obligation to obtain approval of Chief Electrical Inspector for his High Tension or Extra High Tension installation, or for any delay in compliance with requirements by the applicant or delay or for any other similar reasons beyond the reasonable control of the Distribution Licensee.”

8. From the submission of Respondent it is understood that much time have been spent in compliance of various requirements for granting permission. Therefore, delay cannot be solely attributed to DISCOM. In view of this, provision under Section 143, 43 (3) and Section 57 (2) cannot be attracted here for levy of penalty on the licensee and payment of compensation to the consumer. However, the licensee should be careful in future so that this type of event will not recur.
9. With this observation, the case is disposed of.

Sd/-
(S. K. Parhi)
Member

Sd/-
(U. N. Behera)
Chairperson