

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005
Tel. 022 22163964/65/69 Fax 22163976
Email: mercindia@merc.gov.in
Website: www.mercindia.org.in / www.merc.gov.in

Case No.150 of 2015

Date: 8 March, 2016

CORAM: Shri. Azeez M. Khan, Member
Shri. Deepak Lad, Member

In the matter of Petition of M/s. Hindustan Zinc Limited under Section 86 (1) (f) of the Electricity Act, 2003 for adjudication of dispute on the issue of payment of interest on delayed payment by the Respondent.

M/s. Hindustan Zinc Limited Petitioner

The Chief Engineer (Commercial),
Maharashtra State Electricity Distribution Co. Ltd Respondent

Present During the hearing

For the Petitioner : Ms. Dipali Sheth (Adv)

For the Respondents (MSEDCL) : Shri Sumedh S. Koltey, Dy.L.O.

For Consumer Representative : Dr. Ashok Pendse (TBIA)

Daily Order

Heard the Representatives/ Advocates of the Petitioner, Respondent and Consumer Representative.

The Petitioner requested the Commission to hear it and stated that:-

1. The Petitioner is a Generating Company as defined in Section 2(28) of the Electricity Act, 2003, having established and operating 25.5 MW (17 x 1.5 MW) Wind Generating units at Villages Akhatwade, Vasdare, Gangapur, Mandal and Thanepada in Taluka & District Nandurbar in the State of Maharashtra. The Petitioner is a company incorporated under the Companies Act, 1956 having its registered office at Yashad Bhawan, Udaipur.
2. The present Petition is filed before the Commission for adjudication of disputes between Petitioner and MSEDCL for payment of interest on the delayed payment of power purchase cost on the electricity supplied by the Petitioner to MSEDCL. Petitioner's Generating Stations supply electricity to MSEDCL and the Petitioner and MSEDCL have entered into a Power Purchase Agreement (PPA) dated 7 October, 2011 providing for the terms and conditions for supply of electricity. The Tariff for such supply is as determined by the Commission.

3. Despite that the Petition having been served upon to MSEDCL on 9 February, 2016, MSEDCL's Reply has not yet been received. Mentioning Clause 11.04 of the PPA (between Petitioner and MSEDCL), Petitioner has submitted that the PPA provides for the terms on which the invoices are to be raised, the applicable tariff, the period within which the invoices are to be cleared and the consequences of delay in payment by MSEDCL. The payments were required to be made by MSEDCL within 60 days from receipt of the Seller's monthly energy bills, failing which MSEDCL was required to pay late payment surcharge at the rate of 1.25% per month.
4. Bills were raised by the Petitioner for the electricity supplied at the tariff rate as provided for in the PPA. However, there have been substantial delays in the payments to be made by MSEDCL on the invoices raised by the Petitioner. The delay is upto 75 days beyond the due date for payment.
5. To a query from the Commission as to why the Petitioner has agitated the issue now when the bills for almost every month since Sept 2011 were belatedly paid, the Petitioner replied that it has been continuously following up with MSEDCL regarding the amounts due and payable. However there has been no response from MSEDCL to its communications dated 21 October, 2013, 21 February, 2014, 8 March, 2014, 7 April, 2014, 27 May, 2014, 8 November, 2014, 11 February, 2015 and 21 May, 2015. Further, there was also a joint meeting held on 9 May, 2014 between the Petitioner and MSEDCL to attempt to settle the disputes with regard to the non-payment of the interest and also to reconcile the accounts on the amounts due and payable. Petitioner submitted that there is a substantial amount of interest on account of delayed payment due and payable by MSEDCL, which is Rs. 1,00,53,970 as on 31 October, 2015.
6. The Commission asked the Petitioner about the payment default provisions under PPA. In reply Petitioner referred to clause 12.01 of PPA, and submitted that there are no specific provisions about default on Delayed Payments by the purchaser.
7. The Commission expressed its strong displeasure on the casual approach of MSEDCL for its failure to submit Reply to the Petition. MSEDCL should have at least responded to the letters from the Petitioner. The Commission also asked MSEDCL as to whether its field office initiated any proposal to its Head Office on the Petitioners letter dated 21 October, 2013, which is a part of the Petition.
8. The Commission further asked MSEDCL about the status of latest invoice raised by the Petitioner and release of payment thereof post 31 October, 2015. The Commission directed MSEDCL to submit its Reply within ten days.

The Case is reserved for Orders.

Sd/-
(Deepak Lad)
Member

Sd/-
(Azeez M. Khan)
Member