

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case Nos. 157, 166 of 2016 and Case No 18 of 2017

Date: 16 March 2017

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

CASE No. 157 of 2016

Petition of Windmill Owners Welfare Association of India under Section 86 (1) (f) of The Electricity Act, 2003 pertaining to adjudication of disputes between Windmill Owners Welfare Association of India and Maharashtra State Electricity Distribution Company Limited

M/s. Windmill Owners Welfare Association of India (WOWAI) Petitioner
Maharashtra State Electricity Distribution Company Limited(MSEDCL)..... Respondent

Appearance

For the Petitioner : Ms. Dipali Sheth, Adv.
For the Respondent : Shri. Ashish Singh, Adv.

CASE No.166 of 2016

Petition of Rajlakshmi Minerals for amounts due and payable by MSEDCL to Rajlakshmi Minerals for electricity supplied under the Wind Energy Purchase Agreement (WEPA) dated 20.08.2014.

Rajlakshmi Minerals (RM) Petitioner
Maharashtra State Electricity Distribution Company Limited (MSEDCL)Respondent

Appearance

For the Petitioner :Shri Viraj Parikh, Adv.
For the Respondent :Shri. Ashish Singh, Adv.

CASE No. 18 of 2017

Petition of M/s. Dhanji Developers under Section 86(1) (f) of the EA, 2003 pertaining to adjudication of disputes between M/s. Dhanji Developers and MSEDCL.

M/s. Dhanji Developers (DD) Petitioner
Maharashtra State Electricity Distribution Company Limited (MSEDCL)Respondent

Appearance

For the Petitioner :Ms. Dipali Sheth, Adv.
For the Respondent :Shri. Ashish Singh, Adv.

For Authorized Consumer Representative : Dr. Ashok Pendse, TBIA

DAILY ORDER

Heard the Advocates/Representatives of the Petitioners, Respondents and Consumer Representative.

The Commission observed that, since similar issues have been raised in these Cases by Wind Energy Generators, they would be heard together, and the Commission would also consider a common Order. The Parties agreed.

Case No. 157 of 2016

1. Windmill Owners Welfare Association of India (WOWAI) stated that:

- i) It has 36 members engaged in generation of wind energy and have entered into various EPAs with MSEDCL for the sale of power generated by its projects. The term of the EPAs is 13 years from the date of the commercial operations of the power plants. All such EPAs of the Specified Members are valid and subsisting.
- ii) As per the EPAs credit period of 45 days for the Group A and 60 days for the Group B Projects, upon the receipt of the invoices is available to MSEDCL for releasing payments. Late payment surcharge/ Delayed Payment Charges(DPC) at the rate of 2% per annum above the State Bank of India short term lending rates for Group A Projects and 1.25% per month for Group B Projects is attracted in the event of delay beyond the stipulated period.
- iii) MSEDCL has paid principal sums against invoices raised but has failed to pay DPC. MSEDCL requested some of the members of the Petitioner not to claim DPC or, in case any DPC was already claimed, then the same be waived. However, at the same time MSEDCL is not offering set-off of the dues payable to some of the members of WOWAI who are also consumers of MSEDCL.
- iv) Enough opportunities have been given to MSEDCL to perform its obligations under the EPAs, with which MSEDCL has failed to comply. MSEDCL is adopting a discriminatory approach by paying dues to other Generators and not to the Wind Generators.
- v) MSEDCL is pleading the same financial constraints/reasons for delay in making payments which were earlier submitted by them to the Commission. Hence, a specific time frame may be given by MSEDCL for making the payments

Case No.166 of 2016

2. Rajlakshmi Minerals (RM) stated that:

- i) It is a partnership concern engaged in the generation of electricity from wind power plants and owns a 3.40 MW (04 nos. X 850 KW each) wind power facility in Pusrali and Altur villages, Shahuwadi Taluka, in Kolhapur District, Maharashtra.
- ii) As per the EPA, a credit period of 60 days upon the receipt of the invoices is available to MSEDCL for releasing payments. A late payment surcharge/DPC at the rate of 1.25% per month is attracted in the event of delay beyond a period of 60 days.

- iii) MSEDCL has paid principal sums against invoices till October, 2015, but has failed to make payments towards sales invoices thereafter.
- iv) It had availed a term loan facility of Rs.15 Crores for setting up the Wind Power Plants and is under obligation to make payments towards the discharge of its debt. It is also under obligation to make payments amounting to approximately Rs. 30 lakh per annum towards the operation, maintenance and upkeep of the wind turbines.

Case No.18 of 2016

3. Dhanji Developers (DD) stated that:

- i It has entered into EPA dated 4 April,2009 with MSEDCL. The term of the EPA is 13 years from the date of the commercial operations for the sale of power generated by its 7.5 MW Project.
- ii. As per the EPA, credit period of 45 days upon the receipt of the invoices is available to MSEDCL for releasing payments. A late payment surcharge/DPC at the rate of 2% per annum above the State Bank of India short term lending rate is attracted in the event of delay beyond 45 days.
- iii. MSEDCL has paid principal sums against invoices till the month of May, 2015 but not thereafter.

4. The Advocate of MSEDCL stated that in the light of the submissions of MSEDCL covered in the Order dated 10 August, 2016 in the Hindustan Zinc Ltd. (HZL) matter, MSEDCL has preferred an Appeal before the Appellate Tribunal for Electricity (ATE) on 3 November, 2016 (DFR No. 3623/2016). However, there is no stay on the Commission's Order as of now. MSEDCL is making a general argument/submission in all these Cases for the Commission's consideration. He further stated that MSEDCL has made payments of about Rs. 400 Crore till December 2016 to several Wind Generators, and would submit the details of outstanding payments.

5. The Commission observed that WOWAI had offered the option of setting off the dues of MSEDCL against their consumer bills, which MSEDCL did not accept. MSEDCL submitted that the proposals are being forwarded to its competent authority for consideration, by way of which some dues may get settled. The Commission observed that exercising this option earlier, which is a standard practice in many cases where there are dues on both sides, might have been prudent and beneficial to both MSEDCL and the Petitioners.

6. The Commission directs MSEDCL to submit the details of outstanding payments with a copy to the concerned Petitioners, who may file their Rejoinders within a week thereafter.

The Cases are reserved for Orders.

**Sd/-
(Deepak Lad)
Member**

**Sd/-
(Azeez M. Khan)
Member**