

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case Nos. 73, 74 and 78 of 2017

Date: 11 July 2017

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

CASE No. 73 of 2017

Petition under Section 86(1) (f) of the EA, 2003 pertaining to adjudication of disputes between Shah Promoters & Developers and Maharashtra State Electricity Distribution Co. Ltd

Shah Promoters and Developers, Pune 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. 74 of 2017

Petition of Kamal Engineering Corporation (A Div of KEC Industries Limited) under Section 86(1)(F) of the Electricity Act, 2003 pertaining to adjudication of disputes between Kamal Engineering Corporation {Div. of Kamal Encon Ind Ltd (Formerly KEC Ind Ltd) and MSEDCL.

Kamal Engineering Corporation, Yamuna Nagar. Petitioner
Maharashtra State Electricity Distribution Company Limited (MSEDCL) Respondent

Appearance

For the Petitioner : Shri Shiv Kumar Gupta, Adv.
For the Respondent : Shri. Ashish Singh, Adv.

CASE No. 78 of 2017

Petition under Section 86(1)(f) of the Electricity Act, 2003 pertaining to adjudication of disputes between MSPL Limited and Maharashtra State Electricity Distribution Company Limited

MSPL Limited, Mumbai. 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. 73 of 2017

1. Shah Promoters and Developers (SPAD), Pune stated that:

- i) It is a partnership concern engaged in the generation of electricity from wind power Plants installed at village Chavaneshwar, District Satara having total capacity of 12 MW (11.2 MW at one location and 0.8 MW at another location).
- ii) It has entered into EPA with MSEDCL and the term of the EPAs is 9 years and 9 years 4 months for the 11.2 MW and 0.8 MW Projects, respectively, from the date of the commercial operation. As per the EPAs, 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 60 days.
- iii) MSEDCL has failed to make payments towards sales invoices from the month of April 2015. EPAs were virtually signed 18 months (in November 2016) after the relevant date, but MSEDCL ought to have effected payments to SPAD from 1 April, 2015 based on the joint meter reading. MSEDCL is also liable to pay DPC for the delay beyond the stipulated period, as per EPA.
- iv) The delay period has been increasing and is causing inconvenience and hardship to it in fulfilling its financial obligations towards the Projects.

Case No. 74 of 2017

2. Kamal Engineering Corporation (KEC), Yamuna Nagar stated that:

- i) It has entered into EPA dated 24 March, 2016 with MSEDCL. The term of the EPA is 13 years from the date of commercial operation for the sale of power generated by its 1.65 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 without DPC against invoices till the month of August 2016 only, and has not made payments towards sales invoices since 1 September, 2016 and not paid DPC either as per EPA.
- iv) MSEDCL has not even released credit notes for the month of February, 2017 and March, 2017, due to which KEC is not able to raise invoices for these months.

Case No. 78 of 2017

3. MSPL Limited, Mumbai stated that:

- i) It has entered into an EPA dated April 29, 2006 with MSEDCL for the sale of power generated by its 20 MW Project at Dhule. The term of the EPA is 13 years from the date of commercial operation of the Project.
 - ii) As per the EPA, upon the receipt of the invoices a credit period of 45 days 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 September, 2016 but failed to make payments towards sales invoices from October, 2016 till date as well as DPC from March 2016.
4. Advocate of MSEDCL stated that, for Group-3 Wind Generators, bills with due date of 27 January, 2017 have now been paid. For Group-4 Wind Generators, bills with due date of 18 November, 2016 have been paid. MSEDCL stated that the delay in making outstanding payments is neither deliberate nor intentional. It is attributable to its financial constraints, and MSEDCL is making all efforts for paying the outstanding dues as and when funds are available. In the Hindustan Zinc Ltd. (HZL) matter, it has preferred an Appeal before the Appellate Tribunal for Electricity on 3 November, 2016 (DFR No. 3623/2016). However, there is no stay on the Commission's Order as of now.
 5. The Commission directed MSEDCL to issue the generation credit notes within the time stipulated to the Wind Generators. The delayed credit notes in the present cases should be issued within 2 weeks and the reasons for delay clarified. MSEDCL may submit its Reply within two weeks, and the concerned Petitioners may file their Rejoinders, if any, within a week thereafter.

The Cases are reserved for Orders subject to the submissions by MSEDCL as directed above.

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

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