

NOTICE

Subject: Petition of OPGS Power Gujarat Private Limited against Maharashtra State Electricity Distribution Co. Ltd (MSEDCL) wrongful imposition of CSS and Additional Surcharge on the captive users of OPGS availing Open Access for the FYs 2015-16 and 2016-17 & Quash the letter issued by MSEDCL dated 28.11.2017.

- **Case No. 180 of 2017**

OPGS Power Gujarat Private Limited has submitted a Petition on 11.12.2017, Section 9(2) 42, 57, 60 and 86(1) (c) (f) & (k) of the EA, 2003 against Maharashtra State Electricity Distribution Co. Ltd (MSEDCL) wrongful imposition of CSS and Additional Surcharge on the captive users of OPGS availing Open Access for the FYs 2015-16 and 2016-17 & Quash the letter issued by MSEDCL dated 28.11.2017.

The main prayers of the Petitioner are as under-

- a) *Quash the letter dated 28.11.2017 (Annexure P-32) issued by the Respondent to the Petitioner wherein Cross Subsidy Surcharge for FY 2015-16 has been imposed on the captive users of the Petitioner;*
- b) *Quash the letter dated 28.11.2017 (Annexure P-32) issued by the Respondent to the Petitioner wherein Cross Subsidy Surcharge and Additional Surcharge for FY 2016-17 has been imposed on the captive users of the Petitioner;*
- c) *Quash the invoices raised by the Respondent for the month of March, 2016, to the extent Cross Subsidy Surcharge was levied upon the captive users of the Petitioner (Annexure P-11);*
- d) *Quash the invoices raised by the Respondent for the month of September, 2016, to the extent Cross Subsidy Surcharge was levied upon the captive users of the Petitioner (Annexure P-15);*
- e) *Quash the invoices raised by the Respondent dated 04.12.2017 upon the captive users of the Petitioner, qua imposition of Cross Subsidy Surcharge and Additional Surcharge, for the FY 2016-17;*
- f) *Quash the invoices raised by the Respondent dated 05.12.2017 upon the captive users of the Petitioner, quo imposition of Cross Subsidy Surcharge, for the FY 2015-16;*
- g) *Quash the invoices raised by the Respondent upon the captive users of the Petitioner for the month of October, 2016 to the extent of the imposition of demand penalty upon the captive users of the Petitioner;*

- h) Quash the invoices raised by the Respondent upon the captive users of the Petitioner for the month of November, 2016 to the extent of the imposition of demand penalty and temporary charges upon the captive users of the Petitioner;*
- i) Direct the Respondent to refund the amount in terms of prayers (c),(d),(g) and(h) herein above;*
- j) Declare that the Respondent has abused its dominant position, in terms stated in the present petition;*
- k) Direct the Respondent to pay compensation to the Petitioner as computed in accordance with Section 57(2) read with Section 60 of the Electricity Act, 2003 on account of abuse of dominant position;*
- l) Direct the Respondent to pay compensation to the Petitioner towards loss of business on account of shut down of power plant in the months of February and March, 2017; and*
- m) Pass such other and further order or orders as this Hon'ble Commission deems fit and proper under the facts and circumstances of the present case.*

The Petitioner through the Interlocutory Application is seeking urgent interim relief as prayed herein:

- a) Stay the operation of the letters dated 28.11.2017 (Annexure P- 32) raised by the Respondent upon the Applicant, till the pendency of the accompanying/main petition;*
- b) Consequently, stay the operation of the invoices dated 04.12.2017 and 05.12.2017 (Annexure P-33 and P-34) raised by the Respondent on the captive users of the Applicant/Petitioner till the pendency of the accompanying / main petition;*
- c) Direct the Respondent not to take any coercive measures, whatsoever, including stoppage/withholding of open access approval for upcoming months in the current financial year and thereafter;*
- d) Pass such other and further order or orders as this Hon'ble Commission deems fit and proper under the facts and circumstances of the present case.*

2. I am directed to communicate that the hearing in the above matter on Interlocutory Application will be held in the presence of the authorized consumer representatives on **Thursday, 14 December, 2017 at 12.30 hrs** in the office of the Commission at 13th floor, Centre No.1, World Trade Centre, Cuffe Parade, Mumbai - 400 005.

3. The Petitioner is directed to immediately serve a copy of its above mentioned Petition (both in soft and hard Copy) to the Respondents and the authorised consumer representatives before the scheduled date of hearing.

4. The Respondents are directed to submit the say on affidavit in 1+6 copies to the Commission with documents, if any, on the above mentioned Petition immediately, with a copy to the Petitioner and authorized Consumer Representatives.

5. The Parties are directed to file their Petition and submissions in MS -Word file and PDF version as far as possible and to file 1+6 copies of all relevant documents/citations produced during the proceedings.

Sd/-
(R. S. Sonawane)
Dy. Director (Legal)

OPGS Power Gujarat Private Limited,
Village Bhadreshwar,
Taluka - Mundra,
District Kutch,
Gujarat - 370 411
Email: - parth.desai@opgpower.com / desai@opgpower.com

Petitioner

Chief Engineer (Commercial),
Maharashtra State Electricity Distribution Co. Ltd
Plot No G-9, 5th Floor, Prakashgad,
Anant Kanekar Marg,
Bandra (East), Mumbai - 400 051
E-mail : - cecomm@mahadiscom.in

Respondent No - 1

Cc:- The Chief Engineer
Maharashtra State Load Dispatch Centre,
Kalwa, Thane - Belapur Road,
Airoli, Navi Mumbai - 400 708
E-mail: cesldc@mahasldc.in

Cc: Institutional Consumer Representatives:-

Prayas (Energy Group)
Unit III A & B, Devgiri,
Joshi Railway Museum lane,
Kothrud Industrial Area,
Kothrud, Pune - 411 038
E-mail: peg@prayaspune.org

The General Secretary,
Thane Belapur Industries Association,
Rabale Village, Post Ghansoli,
Plot P-14, MIDC,
Navi Mumbai - 400 701
E-mail: tbia@vsnl.com

Mumbai Grahak Panchayat,
Grahak Bhavan,
Sant Dynaneshwar Marg,
Behind Cooper Hospital,
Vile Parle (West),
Mumbai - 400 056
E-mail: mgpanchayat@yahoo.com

Maharashtra Chamber of Commerce,
Industry & Agriculture,
Oricon House, 6th floor,
12 K. Dubash Marg,
Fort, Mumbai - 400 001
(Nashik Branch)
E-mail : maccia.nsk@gmail.com

Vidarbha Industries Association,
1st Floor, Udyog Bhavan,
Civil Line,
Nagpur - 440 001
E-mail: rkengg@gmail.com

Chamber of Marathwada Industries & Agriculture
Bajaj Bhavan, P-2, MIDC Industrial Area,
Railway Station Road,
Aurangabad – 431 005
E-mail: info@cmia-aurangabad.com

Cc: Individual Consumer Representatives:-

Shri Hemant Arunchandra Kapadia
25, Shantiniketan Colony,
Near Shani Mandir,
Aurangabad - 431 001
Email - hemantkapadia00@hotmail.com