

Before the Meghalaya State Electricity Regulatory Commission
Shillong

Case Number 9B /2017 of 2018

In the matter of:

Petition for Separate Tariff Categorisation for Ferro Alloy Industries for FY 2018-19

AND

In the matter of Byrnihat Industries Association

Coram

Shri WMS Pariat, IAS (Retd), Chairman

Date of Order: 21/12/ 2018

ORDER

In compliance to the last order dated 05/12/2018 the Petitioners are present on the 13/12/18 alongwith their Counsel Shri. K. Paul, Advocate. The MePDCL was represented by the Addl CE, Shri R Syiem, SE (RA) Shri P Sahkhar and SE (EM) ShriR.Majaw

It is to be noted that these instant proceedings are in the nature of contempt and had been initiated against MePDCL as well as its officers for deliberate and willful violation of the orders of this Commission dated 10/09/2018 by their action of raising bills for the month of Oct, 2018 in respect of the Industries of the Petitioners at the previous old rates and not as per the new rates for Ferro Alloy Industries as required under the Commission's Tariff Order dated 10/09/2018 and also as directed vide Paragraph 10 of this Commission's order dated 22/11/2018 . Accordingly, on motion being made by the Petitioners, notice was issued to the Respondents vide order dated 05/12/2018 requiring of them to revise the Bills and also remain personally present before this Commission.

Thereafter, a letter was issued by the MePDCL informing the respective Petitioners that the bills for the month of Oct, 2018 had been erroneously raised and revised bills would be issued shortly. No follow up appears to have been taken on this letter immediately as required.

Today, the Advocate appearing for the respective Petitioners Mr. K. Paul has frankly submitted that the Bills have since then, been revised once more by MePDCL and raised as per the new tariff for Ferro Alloy Industries as directed by this Commission vide order dated 05/12/18 and he further submits that the contempt has been purged. It is Mr. Paul's further submission that the Bills for the months of Oct, 2018 and Nov 2018 as per the new tariff for Ferro Alloy Industries have now been received but due to the passage of time caused by the erroneous billing by MePDCL, the same could not be paid by the respective Petitioners and he prays that sometime be granted to the respective Petitioners to clear the same.

The representatives of the MePDCL submitted that a serious lapse had occurred on their part in not complying with the orders of this Commission immediately, as should have been done, and craved the indulgence of this Commission.

It would not be out of place to mention here that this Commission has been entrusted with different functions and responsibilities under the Electricity Act, 2003 and other relevant statutes. It is therefore incumbent upon all concerned, and especially the Public Utilities which come under its purview, to give due weight to the lawful orders passed by the Commission, and to take immediate steps to implement and carry out such orders. This Commission is pained to note that in this instant case, the MePDCL has failed in its duties and responsibilities in implementing its orders on the Separate Tariff for Ferro Alloy Industries, for reasons which cannot be stated. It would also be within reason to assume that the Utility has consciously and deliberately tried to delay the implementation of the said orders.

The MePDCL and its officers have taken a chance with the Commission in this case, and it would have been appropriate for the Commission to have penalised the senior officers of the MECL/ MePDCL as per relevant statutory provisions available to it, which would have resulted in substantial pecuniary loss not only to the Utility but also to the individual officers responsible for the lapses in this case.

Be that as it may, good sense seems to have prevailed on MePDCL and the contempt has since been rectified by them in as much as the bills issued contrary to the orders passed by this Commission has been recalled and fresh bills in compliance of the latest orders of this Commission dated 05/12/18 have been issued. As such these instant proceedings under sections 142 and /or Sec 146 of the

Electricity Act 2003 can be closed. It is however expected that the Utility should take a lesson from the present case and not test the patience of the Commission in the future. Indulgence and consideration by the Commission should never be mistaken as a sign of weakness or inability and unwillingness to enforce the law.

In so far as the submission of Mr. Paul vis-à-vis granting of some time to the respective Petitioners to clear the bills is concerned, this Commission holds that the same merits consideration as the revised Bills have been issued by MePDCL only on the eve of the hearing, and some time therefore ought to be granted to them to pay the same.

Accordingly, the Petitioners are directed to pay the Bills for the month October, 2018 as per the new tariff for Ferro Alloy Industries within the 27.12.2018 while the bills for the month of November, 2018 may be paid within the 7.1.2019. .

Sd/-

WMS Pariat IAS (Retd)

Chairman

Meghalaya State Electricity Regulatory Commission