

**JOINT ELECTRICITY REGULATORY COMMISSION
FOR THE STATE OF GOA AND UNION TERRITORIES
GURGAON**

Quorum

Shri M.K. Goel, Chairperson
Smt. Neerja Mathur, Member

**Petition No. 210/2016
Date of Hearing: 26.05.2017
Date of Order: 30.06.2017**

In the matter of:

Petition against the use of dedicated distribution system / feeder by the Electricity Department, Goa, invested and installed by M/s Deccan Fine Chemicals (India) Private Limited (formerly Syngenta India Limited), filed under Section 94 of the Electricity Act, 2003 and Regulation 74 (a) of the JERC (Conduct of Business) Regulations, 2009 and Regulation 11.6 of the JERC (Electricity Supply Code) Regulations, 2010.

And in the matter of:

Deccan Fine Chemicals (India) Private Limited having its Registered Office at 8-2-293/82/A/74A, Road No. 9, Jubilee Hills, Hyderabad – 500 033 and works located at Corlim, Ilhas, Goa – 403 110.

.... **Petitioner**

And in the matter of :

Electricity Department, Goa having its Office at Vidyut Bhavan, Panaji, Goa **Respondent**

Present

For the Petitioner

1. Shri S.R. Pandian, Head Engineering, Deccan Chemicals
2. Shri Neil De Souza, Manager, Utilities
3. Shri Prashant K. Anvekar, Consultant, Deccan Chemicals

For the Respondent

1. Shri Edwin Miranda, Electricity Department, Goa
2. Shri Bhanushali Jitendra, Consultant, Electricity Department

ORDER

The Petitioner has filed this Petition against the proposed use by the Electricity Department, Goa (hereinafter referred to as ED, Goa) of their dedicated distribution system/feeder which has been set up by them to maintain quality and uninterrupted supply of power for safe operation of their Chemical Plant. The Petitioner has prayed for the following:-

- i. To direct and restrain the Electricity Department, Goa from using their dedicated distribution system / feeder to supply power to any other consumer;
- ii. To direct and restrain the Electricity Department, Goa from interconnecting any two sub-stations belonging to the Electricity Department, Goa through the dedicated distribution system/feeder;
- iii. To direct the Electricity Department, Goa to restrain from claiming any ownership rights on the said dedicated distribution system / feeder and order that the Petitioner retains the entire ownership rights of the said dedicated distribution system / feeder.

The Commission had vide its Order dated 10.08.2016, restrained the Electricity Department, Goa from tampering or altering the distribution system / feeder of the Petitioner for connecting supply of power to any other consumer, and to maintain the status quo till the disposal of this Petition.

In its subsequent Order dated 30.08.2016 the Commission directed the Electricity Department, Goa to file information regarding the provision of "dedicated power supply" to any other existing consumer in the State of Goa, or by any other Electricity Utility in any other State to substantiate their contention that 'dedicated power supply' is different from 'dedicated feeder'. ED, Goa was also directed to complete all the requisite procedural formalities for change of name of the Petitioner in their consumer records.

The Petitioner's submissions are as under:-

1. The Petitioner, Deccan Fine Chemicals (India) Private Limited submitted that it is engaged in manufacturing of agrochemicals, active ingredients and fine chemicals at Santa Monica, Goa and was supplied power from the Reliance Power Plant located in Goa through the power distribution network installed, operated and maintained by the Reliance Infrastructure Limited till April, 2014. Thereafter, Electricity Department, Goa (Respondent) started supplying power on a temporary basis using the Reliance Power distribution network. Subsequently the Petitioner had applied to the ED, Goa for supply of power at 33 kV through a dedicated distribution system / feeder.

2. The ED, Goa directed the Petitioner to create the associated infrastructure and lay a dedicated 33 kV Cable from the 220/33kV Amona Substation to avail the power supply. On 21.10.2014, the ED, Goa sanctioned the Petitioner a contract demand of 8 KVA to be supplied at 33 kV from the 220/33kV Amona Substation through a dedicated distribution system / feeder. Accordingly, the Petitioner completed the installation, testing and commissioning of the dedicated distribution system / feeder at a cost of Rs 13.5 crores with 100% cost borne by them.

Following major equipments have been installed by the Petitioner at 220/ 33 kV Amona Substation of Electricity Department, Goa:

Sr. No.	Equipment	Capacity (kVA) & Voltage Level (V)	Nos.
1	Bay at Amona including SCADA modifications at Amona Substations	33 kV	1
2	Laying of 14kms underground cable from Amona substation to SMW	300 sq mm, 33 kV	1
3	Laying of 275m Underwater cable using Horizontal Directional drilling	33 kV	1
4	Installation of RMU	1 Incoming & 2 outgoing	1
5	Installation of metering and Check Metering Cubicles	33 kV	1
6	Installation of SF6 breakers with associated panels	33kV	3

3. During the month of May, 2016, the Respondent charged the system and commenced power supply to the Petitioner through the said dedicated distribution system / feeder.
4. During the process of load release, ED Goa directed the Petitioner to allow use of the said dedicated distribution system/ feeder for connecting other consumers and for interconnecting ED, Goa's Corlim and Amona substation through this dedicated distribution system/ feeder.
5. The Petitioner objected to this and requested ED Goa to avoid such connection since it is a dedicated distribution system/ feeder and would severely impact the quality & reliability of power supply to their agrochemical manufacturing plant which would be detrimental to the safe operation of the Plant. The plant mainly consists of boilers, incinerator, mixers, heat exchangers, refrigeration units, filtering units, motors, pipeline network and various control valves, which are powered electrically. Hence the quality and reliability of the power supply is very critical to the safe operation of the plant. Any change in the power supply parameters has direct impact on the equipment and hence the chemical process and the safety of the plant.

6. For safe operation of the Plant, the Petitioner had invested about Rs 12.5 crores for 100% power back up with auto synchronizing equipment for the DG Sets. The DG Sets are synchronized at both HT (33kV) and LT (415V) voltage level. Following major equipments have been installed at its manufacturing complex:

Sl. No.	Equipment	Capacity (kVA) & Voltage Level (V)	Numbers
1	Transformers	4MVA, 33 kV/415V	3
2	Synchronizing Panel	415V, Capable of connecting 10 DG sets of 1250 kVA	1
3	Power Management System	SCADA system capable of Auto Synchronizing above DG sets within a minute	1
4	UPS & Battery System	2 x 800 kVA, 415V with 15 Minutes Backup	1
5	LT Panel	415 V	1
6	HT Breaker with Panels	33 kV SF6 Breakers	6

7. The 220/ 33 kV Amona substation is being fed from 2 sources i.e. 440 / 220 kV Colvale substation and from 220 kV Kolhapur Tilari line. This substation has an installed capacity of 2 x 50 MVA. Since it is being supplied from two sources, the power supply from Amona substation is stable and reliable compared to Corlim Substation which is nearer to the Petitioners Plant, which is starved of power and lacks reliable power supply. Due to erratic power supply from the Corlim substation, the local industries had opposed release of supply from this substation to the Petitioner.
8. In October, 2014, ED Goa requested the Petitioner to grant permission /NOC for laying of another 33 kV cable by them from Amona Substation to the Petitioner's Substation in the same trench being excavated by the Petitioner for their own dedicated feeder. This cable was proposed to be laid for supplying power to other consumers. The Petitioner agreed to this proposal of the ED Goa and requested them to complete the laying of additional 33 kV cable in the same trench. Subsequently Electricity Department, Goa informed the Petitioner that they were no longer interested in laying the additional cable in the same trench and the trench could be closed and testing and commissioning activities for the Petitioners dedicated feeder be started. Hence the Petitioner closed the cable trench and commissioned the dedicated distribution system/ feeder.
9. Subsequently, ED, Goa requested the Petitioner to permit them to supply power to Syngenta Biosciences Pvt. Ltd. through the RMU installed by the Petitioner and thereafter connect to the Corlim Substation through this dedicated distribution system

to enable them to supply power to other consumers also. The Petitioner objected to this proposal of the ED, Goa because this would result in unsafe operation of the plant and would be detrimental to the safety of the people in the plant and the surrounding area. But, ED, Goa repeatedly asked the Petitioner to allow connection of other consumers on the dedicated distribution system and also permit interconnection of Amona Substation and Corlim Substation through the dedicated distribution system.

10. The Petitioner further contended that Regulation 5.3 of the JERC (Electricity Supply Code) Regulations, 2010 also mandates that in case of dedicated distribution system/feeder, the licensee cannot supply power to any other consumer using the dedicated distribution system. Regulation 5.3 is reproduced below:-

“Consumers desirous of getting power supply from dedicated feeders may make a request for such facility to the licensee. The dedicated feeder shall be extended from the power substation to the consumer’s point of supply. In such cases the consumers shall be liable to pay the cost of Bay and all protection switchgears and its accessories provided at the power substation for this feeder in addition to the cost of the feeder. On receipt of such request, the licensee will check the feasibility, based on merit, of providing a dedicated feeder to the consumer’s premises. If found feasible, the consumer will be provided with a dedicated feeder and the consumer will be liable to pay additional charges such as supervision charges, etc. as approved by the Commission from time to time. The Licensee shall not extend electric supply to any other consumer from the dedicated feeder.”

The Respondent’s responses are as under:-

1. It was argued by the Respondent that the Petitioner was not their consumer and they were supplying power to M/s Syngenta India Limited, therefore this Petition should be dismissed.
2. The Respondent further contended that due to discontinuation of power supply from Reliance Infrastructure, many of the consumers including the Petitioner served by Reliance Infrastructure were transferred to the Respondent as “Declared Consumers. Subsequently, the Respondent requested the Petitioner to provide certain data relating to 33 kV layout, connected load details, HT power supply agreement etc. and in that letter there was no mention about the installation of dedicated distribution system / feeder.
3. The Respondent further submitted that there was a misrepresentation of the fact by the Petitioner whereby it was stated that the Respondent has accorded the approval for 33 KV dedicated power supply and for installing 33 KV dedicated distribution system/feeder. The Respondent contended that nowhere in its letter dated 30.09.2014 the word “dedicated Power supply” and “dedicated distribution

system/feeder" have been mentioned. The said letter merely mentioned approval for execution of laying 33 KV 3 core 300 sq mm XLPE underground cable from 220/33 kV Amona Sub Station to Santa Monica for existing connection and supervision charges were required to be paid separately.

However, the Commission has noted that during the hearing on 30.08.2016, the Respondent had argued that it had provided only "dedicated power supply" and did not accord its approval for the dedicated distribution system/feeder. Thus, it is clear from the above that the Respondent has made contradictory submissions.

4. The Respondent further submitted that the said approval was for execution of work with supervision charges. It has never directed the Petitioner to install the dedicated 33 kV distribution system. The Respondent further submitted that it has never requested the Petitioner to permit it to install additional 33 kV 3C400 sq mm cable from Amona Substation to the plant in the trench excavated by the Petitioner for installing the cable for dedicated distribution system.
5. The Respondent further submitted that though the cable was proposed to be laid in the same trench where the Petitioner had laid the cable, it had to be abandoned in view of the strengthening of 110 kV lines at Kadamba Substation. Therefore there was no need to lay the double circuit line which would result in additional cost to the department whereby the benefit of the same was already available from strengthening of 110 kV lines.

The Commission has noted that the Respondent has again advanced contradictory submissions. First, the Respondent submitted that it has never requested the Petitioner to permit it to install additional 33 kV cable from Amona Substation to the Plant in the same trench excavated by the Petitioner for installing the cable for dedicated distribution system. Subsequently, the Respondent in its submissions has accepted that the cable was proposed to be laid in the same trench but it was abandoned due to the strengthening of 110 kV lines at Kadamba Substation.

6. The Respondent further submitted that M/s Syngenta Biosciences would be supplied power from Corlim Substation. The Respondent requested for interconnection of Amona Substation and Corlim Substation through the Petitioner's dedicated distribution system to supply power to M/s Syngenta Biosciences in case of power failure at Corlim substation.
7. The Respondent further submitted that it has assured the Petitioner that no load would be drawn on the underground 33 kV cable connected to their installation except under severe emergent conditions, but under no circumstances the load drawn would exceed the current carrying capacity of the cable.

8. The Respondent further submitted that it has proposed to tap the cable and installation of 33 kV RMU as it was required in order to provide ring feeding system to improve the reliability and to maintain the Standards of Performance as per the Commission's Regulations.
9. The Respondent further submitted that though the Petitioner has filed this Petition under the JERC (Electricity Supply Code) Regulations, 2009, the present Petition should have been filed under the provisions of the JERC (Establishment of Forum for Redressal of Grievances of Consumers) Regulations, 2009 before the Consumer Grievances Redressal Forum.
10. The Respondent further submitted that 90% of the work of laying the underground cable has been undertaken on the Government land whereby no land acquisition has been made for the cable to be laid in the Government Property and that still is owned by the Government. The approval of reinstatement of roads was applied by the Respondent on the said land or else it might have resulted in delay in the process of getting such approval, if the Respondent was not involved. The amount payable to Public Works Department of Goa to carry out the underground activity was not directly paid by the Petitioner but was paid through the Respondent as payment was not accepted from any utility other than a Government Department. Therefore, intangible benefit or assets have been created by the ED, Goa even though the capital expenditure has been undertaken by the Petitioner.
11. The Respondent further submitted that under the conditions of supply of power notified by the Government of Goa in line with Regulation 3.6 of the JERC (Electricity Supply Code) Regulations, 2010, any equipment connected to the Grid unconditionally becomes the property of the Electricity Department. The relevant clause is specified below:

“(6) The service connection / extension of distribution mains, notwithstanding that it has been paid for by the consumer shall be the property of the Department. The Department shall maintain it at its cost and shall also have the right to use the same service connection / extension for supply of energy to any other person but such extension or service connection should not adversely affect the supply to the consumer who paid for the extension of the distribution supply network.”

The Commission has heard the Petitioner and the Respondent. It has also examined the entire record placed before it along with relevant provisions of the Electricity Act, 2003 and Rules and Regulations made thereunder.

The Commission has noted that the Petitioner has applied for a dedicated distribution system/feeder for supply of uninterrupted quality power to its premises at 33 kV from 220/33 kV Amona Substation to avoid interference or disruption of power from the load of other consumers. Keeping in mind the safe operation of the plant, the Petitioner has invested about Rs 13.5 crore for installation of dedicated distribution system/feeder.

In addition to this, the Petitioner has also invested about Rs 12.5 crores for 100% power back up with auto synchronizing system for the DG Set to maintain reliability of power supply. Further it is noticed that in order to have quality and reliable uninterrupted power, the Petitioner has preferred to obtain the supply from Amona Substation which is about 12 K.m. from the its plant rather than from the Corlim Substation which is only 2-3 k.m. away. From the above, it is clear that the intention of the Petitioner right from the beginning was to have a dedicated distribution system and accordingly the Petitioner invested a huge amount for it.

The Commission has also examined the Regulation 5.3 of the JERC (Electricity Supply Code) Regulations, 2010 which provides that:-

"Consumers desirous of getting power supply from dedicated feeders may make a request for such facility to the licensee. The dedicated feeder shall be extended from the power substation to the consumer's point of supply. In such cases the consumers shall be liable to pay the cost of Bay and all protection switchgears and its accessories provided at the power substation for this feeder in addition to the cost of the feeder. On receipt of such request, the licensee will check the feasibility, based on merit, of providing a dedicated feeder to the consumer's premises. If found feasible, the consumer will be provided with a dedicated feeder and the consumer will be liable to pay additional charges such as supervision charges, etc. as approved by the Commission from time to time. The Licensee shall not extend electric supply to any other consumer from the dedicated feeder."

The Commission is convinced of the contentions of the Petitioner. At the same time, the Commission feels that there is no merit in the arguments advanced by the Respondent. The evidence to support the fact of a "dedicated power supply" being different from a "dedicated feeder" was placed before the Commission in the form of photocopies of two newspaper cuttings with articles headlined 'Odisha Hospitals to have a dedicated power supply' and 'Dedicated power supply for Water Scheme in Coimbatore'. The Commission has examined the said evidence and is of the opinion that it has failed to support the above mentioned contention of the Respondent. Further the said evidence is also not legally admissible and is therefore rejected.

It was further argued by the Respondent that the Petitioner was not their consumer and they were supplying power to M/s Syngenta India Limited therefore this Petition should be dismissed. The Commission has noted that in compliance of its Order dated 30.08.2016 the Respondent has deleted the name of M/s Syngenta India Limited as its consumer and in its place recorded the name of the Petitioner as its consumer. In view of the above, the Commission feels that the above argument advanced by the Respondent for dismissal of the Petition is baseless, unwarranted and legally not sustainable.

It was further argued by the Respondent that this Petition should have been filed before the concerned CGRF because the Petitioner has raised a dispute which falls within the jurisdiction of the CGRF. However, the Hon'ble Supreme Court in the matter of Maharashtra Electricity Regulatory Commission (M.E.R.C.) Vs. Reliance Energy Limited reported at (2007) 8 SCC 381 has decided the following:-

....."only billing disputes are to be decided by the Consumer Forum set up under the Electricity Act 2003 but the State Commission alone has complete jurisdiction to deal with the stipulations where non-compliance of condition, Rules and Regulations by the licensee are reported.."....

In view of the above, JERC Supply Code Regulations the Commission rejects the above mentioned contention of the Respondent.

It was further argued by the Respondent that in the JERC Supply Code Regulations the conditions of supply of electrical energy notified by the Govt. of Goa provide that service connection / extension of distribution mains, notwithstanding that it has been paid by the consumer shall be property of the Department. The Department shall maintain it at its cost and shall also have the right to use the same service connection / extension for supply of energy to any other person.

The Commission is not inclined to accept this contention of the Respondent. The Commission is of the considered view that the conditions of supply of electrical energy notified by the Government of Goa are not applicable in this case.

It was further argued by the Respondent that since the Petitioner has allowed power supply to M/s Syngenta Biosciences Pvt. Ltd. from its dedicated distribution system, the Petitioner can allow extension of power supply to other consumers also.

The Petitioner submitted that they had allowed supply to M/s Syngenta Biosciences Pvt. Ltd., as ED, Goa was not able to supply power from any other source. The same was

allowed as a temporary measure as stated in the NOC, till supply could be given from any other source.

The Commission is of the view that such temporary NOC for extension of supply to one consumer doesn't warrant a permission to ED, Goa for extension to other consumers. The Petitioner only rescued the Respondent in its service obligation to supply electricity as a goodwill and temporary gesture.

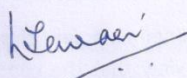
In view of the above, the Commission is of the considered view that the Petitioner has applied for a dedicated distribution system and invested a huge amount for such a dedicated distribution system at its plant. It has completed all the required formalities, obtained all the clearances and paid supervision charges to the ED, Goa for a dedicated distribution system. The Commission finds merit in the Petitioner's case. At the same time the Commission has noted that the arguments advanced by the Respondent are baseless, unwarranted, legally not sustainable and lack merit. Further, at times, the Respondent has made the contradictory submissions. The Commission therefore rejects all the contentions raised by the Electricity Department, Goa and accepts the contention of the Petitioner with a direction to the Electricity Department, Goa to refrain from tampering with or altering the dedicated distribution system owned by the Petitioner for connecting supply of power to any other consumer.

Ordered accordingly.

Sd/-
(NEERJA MATHUR)
MEMBER

Sd/-
(M.K. GOEL)
CHAIRPERSON

CERTIFIED COPY


(KEERTI TEWARI)
SECRETARY