



ASSAM ELECTRICITY REGULATORY COMMISSION

ORDER SHEET

FILE NO. AERC 697/2018

PETITION NO: 13/2018

CORAM: HON'BLE SHRI S.C. DAS, CHAIRPERSON
HON'BLE SHRI DIPAK CHAKRAVARTY, MEMBER

In the matter of

Petition No. 13 of 2018 filed by Synpack Finance Pvt. Ltd. in the matter of wrong interpretation of clause 2.2.3 and enforcement of penalty on the Petitioner by help of clause 7.4.2 of AERC (Electricity Supply code) Regulations 2017

In the matter of

Synpack Finance Pvt. Ltd.

---- Petitioner

Present:

Petitioner:

Shri Subodh Sharma

APDCL:

Shri Dipak Kumar Sarmah, GM (Com-Rev), APDCL
Shri Bibhu Medhi, AGM (Com-Rev), APDCL
Shri S Bose, AGM (Com-Rev), APDCL

ORDER
08.10.2018

1. Synpack Finance Pvt. Ltd. filed a Miscellaneous Petition on 24.09.2018 before this Hon'ble Commission and the same has been registered as Petition 13 of 2018.
2. The Petitioner filed this Miscellaneous Petition citing wrong interpretation of clause 2.2.3 and enforcement of penalty on the Petitioner by invoking clause 7.4.2 of AERC (Electricity Supply code) Regulations 2017.
3. In the Petition, the Petitioner stated that they are bonafied HT electricity consumer of APDCL having its own 2 x 1600 KVA 33/0.433 substation. APDCL sanctioned a load of 2500 KW to the Petitioner and the Petitioner entered into an agreement dated 08.02.2017 with APDCL for supply/ drawal 700 KW (824 KVA) contract demand. The Petitioner on 11.06.2018 received a penalty bill of Rs.19, 96, 854.91 from APDCL on the basis of the clause 7.4.2 of AERC (Electricity Supply code) Regulations 2017.

According to the Petitioner, the penalty bill was made under clause 7.4.2 of AERC (Electricity Supply code) Regulations 2017, which is not applicable on the HT consumers as explicitly told by clause 2.2.3 of the AERC (Electricity Supply code) Regulations 2017. The Petitioner stated that there is no material evidence to substantiate that they have ever drawn from APDCL over the contract load to create excess strain in its power system as shown in their bill.

The Petitioner stated that the penalty for unauthorized load doesnot arise at all as the Petitioner is drawing less power than the contract demand, on a regular basis.

The Petitioner in its petition stated that both the clause 2.2.3 and 7.4.2 of AERC (Electricity Supply code) Regulations 2017 are creating confusion between contract demand

and connected load for HT category consumers having Maximum Demand Meter in its premises.

The petitioner through this petition prayed before this Hon'ble Commission to clarify that their connection is under clause 2.2.3 of AERC (Electricity Supply code) Regulations 2017 and not under 7.4.2 of AERC (Electricity Supply code) Regulations 2017.

4. Views of APDCL were sought and APDCL submitted that the bill in question was raised as per provision of AERC (Electricity Supply Code) Regulations 2017 and Electricity Act 2003. They further submitted that the Petitioner has the alternate route to go for appeal before the Appellate Authority as per the provisions of Section 127 of Electricity Act 2003. But they were silent about the issue raised by the Petitioner regarding clauses 2.2.3 and 7.4.2 of AERC (Electricity Supply Code) Regulations 2017.
5. Both the Petitioner as well as APDCL was heard on 08.10.2018.
6. Shri Subodh Sharma, the authorized representative of Synpack Finance Pvt. Ltd. reiterated the submission made in the Petition. He prayed before the Commission to clarify the ambiguity in implementation of the provisions as raised in the petition.
7. The representative of APDCL submitted that they are not in a position to give any clarifications on the views raised by the Petitioner instantly.
8. Having gone through the Petition, oral submission of the Petitioner and views of APDCL and their submissions during the hearing, the Commission noted the following:

A. Clause 2.2.3 of AERC (Electricity Supply Code) Regulation 2017 deals with connected load/ contract demand and billing demand which is reproduced below-

a) Contract Demand

The Contract Demand of a consumer shall be-

(i) LT consumers without Maximum Demand (MD) based tariff: The Contract Demand for LT consumers without MD based tariff will be the connected load of the premises as per the agreement entered into between the consumer and the licensee.

(ii) LT consumers with MD based tariff and all HT and EHT consumers:

a) The Contract Demand shall be as per the agreement entered into between the consumer and the licensee and having regard to the requirement of the consumer's installation and will be independent of connected load.

b) The contract demand of a consumer may be revised once in a year. However, in case of seasonal industries, such as Tea, Coffee, Rubber etc, the consumer may declare maximum of two seasonal contract demands in a year, one for season and for off season period.

The declaration shall have to be made to the licensee by 30th September of the preceding year.

b) Billing Demand

Billing demand is the demand on which demand charge shall be made as specified in clause 6.3.4 of AERC (Electricity Supply code) Regulations 2017.

B. Clause 6.3.4 of AERC (Electricity Supply code) Regulations 2017 states that billing demand-

- Billing demand is the demand on which demand charge shall be made. The billing demand shall be 100% of Contract Demand or Recorded demand whichever is higher.

C. Clause 7.4.2 of AERC (Electricity Supply code) Regulations 2017 deals with methodology of assessment in case of unauthorised use of electricity. The first para of the said provision is as under-

- If the Assessing Officer suspects that the unauthorized use of electricity has taken place, he shall make provisional Assessment and serve the assessment order to the Consumer.

9. On reading the above provisions of the Regulations the Commission observed the following:

- (a) The fixed charge component of the tariff is to be recovered from the Consumer on the basis of contracted demand of the consumer.
- (b) The consumer has the option to declare their contract demand as per their requirement which is independent of the connected load. In case of non declaration, the connected load shall be treated as the contract demand.
- (c) Where in case of consumer equipped with MD meter the licensee shall compare the MD reading with contract demand, and if load exceeds the contracted demand, then the penalty at three times the normal tariff shall be levied as per provision of schedule of tariff.
- (d) Clause 7.4.2 of AERC (Electricity Supply code) Regulations 2017 will be applicable when unauthorized use of electricity is detected by assessing officer. Excess connected load cannot be termed as unauthorized use, if the maximum demand record shows otherwise. Thus, this provision 7.4.2 under AERC (Electricity Supply code) Regulations 2017 will be applicable only when there is no record of maximum demand measured through a MDI meter. In such cases, connected load will be the contracted demand as per clause 2.2.3 (a) (i).

10. With the above observations and discussions the following clarifications are given:

- (i) The contract demand of the consumer is independent of connected load.
- (ii) In absence of agreement for contract demand, connected load will be the contract demand.
- (iii) It is implied in clause 2.2.3 of AERC (Electricity Supply code) Regulations 2017 that the Assessment on the basis of detected connected load under clause 7.4.2 of AERC (Electricity Supply code) Regulations 2017 will not be applicable when the actual demand can be determined from the record of MDI meter.

(iv) If the consumer is not equipped with MDI meter, then provision of clause 7.4.2 of AERC (Electricity Supply code) Regulations 2017 shall apply.

11. The Commission will not interfere with the assessment bill raised against Synpack Finance Pvt. Ltd. This shall be dealt with, in accordance with relevant provisions of Electricity Act 2003.
12. With the above discussions, clarifications and decisions the Petition No. 13 of 2018 has been disposed off.

Sd/-
(Dipak Chakravarty)
Member, AERC

Sd/-
(S.C.Das)
Chairperson, AERC