



ASSAM ELECTRICITY REGULATORY COMMISSION

FILE NO. AERC. 640/2017

Misc Petition

ORDER SHEET

09.02.2018

Before the Assam Electricity Regulatory Commission
ASEB Campus, Dwarandhar,
G. S. Road, Sixth Mile, Guwahati – 781 022

CORAM

Shri Subhash Chandra Das, Member
Shri Dipak Chakravarty, Member

Military Engineering Service (MES) _____ Petitioner
Assam Power Distribution Company Ltd. (APDCL) _____ Respondent

Date of Hearing: 09.02.2018

Representative for Petitioner:

Lt Col VP Shajil, GE (Airforce)
Mr. Ritu Kachin, AEEIM
SUB MAJ Manoj Kumar

Representative for Respondent:

Mr. P K Bhuyan, CGM (Com)
Mr. I Tahbaldar, DM (Com)

In the matter of

Misc Petition filed by Military Engineering Service (MES) for grant of Deemed License status to MES or grant a separate tariff structure for MES.

ORDER

1. MES filed a Misc. Petition for grant of Deemed License status to MES or grant a separate tariff structure for MES. In the Interim Order dated 02.01.2018, the Commission intimated that, MES is already a Deemed Licensee and therefore can act as Deemed License subject to compliance of provisions of Electricity Act'2003.
2. As scheduled, on 09.02.2018, a Hearing on the matter was held. During the Hearing, MES representative submitted that, MES has decided not to start functioning as Deemed Licensee.

The MES representative further submitted that, considering Defense being a special service, the Commission may create Special Category for MES with a concessional Tariff.

3. During the Hearing, MES also submitted a copy of written submission. The salient submissions are:
 - a. Separate tariff category may be granted to MES. In this regard copies of

- orders pertaining to West-Bengal and Uttarakhand are enclosed.
- b. Installation wise total connected load details submitted for the state of Assam
 - c. MES also prayed for sanction of rationalized tariff structure for MES and exempt Defence from over-drawl/under-drawl penalty for drawing less than/more than 70%/105% of contracted maximum demand respectively.
4. The Commission has scrutinized the submissions made by the Petitioner and found that, the submissions are not relevant to the present case.

The Petitioner is a deemed licensee under section 14 of the Electricity Act'2003, the effect of which is that the Petitioner can transmit and distribute electricity and can also undertake trading of electricity. The third proviso to section 14 does not point out anything beyond, what is found in the letter and the spirit of the section and the proviso connected therewith. It only speaks of no requirement of any licence. It does not dilute the position in this way that when an "appropriate government" becomes a deemed licensee in so far as the activities of distribution is concerned would be different from a distribution licensee, who requires a license under the Act for distribution of electrical energy. The section does not deal with any situation as to what will follow when such an appropriate government purchases power like other bulk consumers from a distributor for the purpose of distribution of electricity in turn to its military officers and military installations. It does not deal with the question whether a deemed licensee is entitled to be treated differently from other bulk consumers when it itself purchases its power for the purpose of distribution from a distribution company, which in this case is a commercial entity. In short, there is no provision in the Electricity Act'2003 or in the National Tariff Policy for a special category of deemed licensees.

In this regard, the Judgment dated 11/01/2012 passed by the Hon'ble APTEL in Appeal No. 1 of 2008 may be referred. The said Judgment has clearly established that, there is no provision in the Electricity Act'2003 to allow special concessional tariff to MES.

5. The Commission after hearing the submissions of Petitioner and Respondent has ordered the following:
- a. It is an established fact that MES is a Deemed Licensee and it can start operating as a Distribution Licensee, subject to compliance of Rules & Regulations laid down as per the provisions of the Electricity Act'2003.
 - b. As regards to creation of separate category for MES, as elaborated above, there is no provision in the Electricity Act'2003 or Tariff Policy for creation of separate category for MES. Therefore, the Commission deems it fit not to create any separate category of Tariff for MES for the present.

With the above observations and findings, the Misc Petition filed by Military Engineering Service (MES) for grant of Deemed License status to MES or grant a separate tariff structure for MES is hereby disposed of.

Sd/-
(Subhash Chandra Das)
Member
AERC

Sd/-
(Dipak Chakravarty)
Member
AERC