

BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION,
KEONTHAL COMMERCIAL COMPLEX, KHALINI, SHIMLA-171002

In the matter of: -

Compliance of direction No. 9.4.19 contained in Tariff Order for HPSEB for FY 2004-05 to review the justification for 400 kV transmission line from Nalagarh to Kunihar and 400 kV Sub-station at Kunihar.

AND

In the matter of:-

1. The H.P. State Electricity Board
Vidyut Bhawan, Shimla-4
2. Sh. S.R. Mehta,
Chief Accounts Officer,
HPSEB, Vidyut Bhawan, Shimla.

(M.A. No. 63/2009
in Compliance Case No. 255 of 2007)

(Order dated 25.5.09)

CORAM:-
YOGESH KHANNA
CHAIRMAN

Present for:-

H.P. State Electricity Board

Sh. R.K. Dhiman
C.E.

The Chief Accounts Officer
HPSEB

Sh. S.R. Mehta
the Chief Accounts Officer
HPSEB

...Respondents

Order

(Last heard on 25.4.2009 and orders reserved)

The brief facts involved in this case are that on the application of the HPSEB (hereinafter referred as “the Board”) for determination of the Annual Revenue Requirement (ARR), Transmission and Bulk Supply Tariff and Distribution and Retail Supply Tariff for the FY 2004-05, the Himachal

Pradesh Electricity Regulatory Commission (hereinafter referred as “the Commission”) issued the Tariff Order on 2nd July, 2004. While issuing the said tariff order, the Commission has given a number of directions-cum-orders to the Board, both at the time of public hearings and in the order issued. The tariff determined by the Commission and the directions given in Section 9 of the said tariff order were quid pro quo and mutually inclusive. In other words the tariff determined was subject to the compliance of the directions to the satisfaction of the Commission and the non-compliance could lead to such amendment, revocation, variation and alteration of the tariff as may be ordered by the Commission.

2. Para 9.4.19 of the tariff order dated 2nd July, 2004, reads as under:-

“9.4.19 400 kV line from Nalagarh to Kunihar and 400 kV Sub-Station at Kunihar.

9.4.19.1 The Commission directs the Board to review the justification for 400 kV transmission line from Nalagarh to Kunihar and 400 kV Sub-Station at Kunihar in view of the fact that the 25% share of power under NJPC together with some proportion of free power shall be exported out of the State and does not belong to the licensee. Besides PGCIL has established 400 kV Sub-Station at Nalagarh which could be used for meeting additional load on the existing 220 kV Sub-Station at Kunihar in future. The Board is entitled to only the State of the Region Share of 2.47%, which does not justify the establishment of a 400 kV Sub-Station at Kunihar. The justification should be got examined in collaboration with the CEA and the Power Grid Corporation of India Ltd; and, submitted to the Commission for its approval by November 30, 2004. In the meantime, there shall be a stay on further actions in regard to tendering award of the work etc. in respect of these works.”

3. The Commission has been regularly reviewing the progress in implementation of the tariff directions and all such directions, which have not been complied with to the satisfaction of the Commission, have been reiterated in subsequent tariff orders and carried forward in the Tariff Order issued on 30th May, 2008 for FY 2009-2011; and the Commission directed that these directions shall be implemented meticulously by the Board, during first control period of the MYT for the FY (2009-2011). While monitoring the implementation of the tariff directions and considering the submissions made in M.A. No. 263/08 the Commission observed on 6.12.2008 as under –

“11.4(j) 400 kV line from Nalagarh to Kunihar & 400 kV Sub-Station at Kuniahr and 220 kV Sub-Station at Nalagarh by HPSEB (Direction No. 9.4.21)

The Commission observes that the funds were sanctioned by REC way back in the month of August, 2007 for this schemes but the progress reported is very slow.

The Commission directs the Board to expedite final decisions on the financial bids (which are stated to have been opened in July,2008) without any further delay.

The Chief Accounts Officer, HPSEB shall also apprise the Commission before the date of next hearing about the time lines in processing the file alongwith the fortnightly developments/ achievements towards finalisation of the award of the work from the date of opening of financial bids and also about the acquisition/ purchase/development of land from the date of release of first loan instalment by the REC for this scheme. The report would serve as a case study w.r.t decision making processes in the Board”.

4. Subsequently on 7.2.2009 had to record as under:-

“11.4(j) 400 kV line from Nalagarh to Kunihar & 400 kV Sub-Station at Kuniahr and 220 kV Sub-station at Nalagarh by HPSEB (Direction No. 9.4.21)

The Chief Accounts Officer, HPSEB informed that due to the fact that the requisite record was in process with the Members of the Board and he was unable to examine the record within the given timeframe. The Commission expresses its concern over the non-serious attitude of the Chief Accounts Officer for not submitting the requisite report within the stipulated time schedule and directs the Officer to report back to the Commission by 13th February,2009 positively, regarding the availability of the requisite record and thereafter submit the report to the Commission before the next date of hearing”.

5. Despite repeated concern expressed by the Commission, the Chief Accounts Officer did not evince any interest and remained non serious. On the next hearing held on 7.3.2009, the Commission had to observe as under:-

“11.4(j) 400 kV line from Nalagarh to Kunihar & 400 kV Sub-Station at Kunihar and 220 kV Sub-Station at Nalagarh by HPSEB (Direction No. 9.4.21)

The Chief Accounts Officer, HPSEB stated that he could not submit before 7th March, 2009 the investigation report as per the directives of the Commission dated 6.12.2008 and 7.2.2009 due to his involvement with State Assembly Business and his duty in connection with discussions in the Planning Commission, New Delhi. The Commission expresses its concern over the non-serious attitude of the Chief Accounts Officer for not complying with the directions of the Commission within the stipulated time schedule. This tendency lingers on the proceedings unnecessarily and the Commission is convinced that the Chief Accounts Officer has willfully contravened the directions of the Commission. The Commission therefore, decides to initiate a proceeding for imposition of personal fine under section 142 of the Electricity Act, 2003 on the said Chief Accounts Officer for non-compliance of the directions of the Commission. Keeping in view the principles of natural justice, the Commission would like to afford an opportunity of being heard in person to the said Chief Accounts Officer, as contemplated under sub-regulation (3) of Regulation 62 of the Conduct of Business Regulations of the Commission”.

6. Sh. S.R. Mehta, the Chief Accounts Officer, received the show cause notice dated 19.3.2009, under section 142 of the Electricity Act, 2003 to explain the reasons for non-compliance of the directions of the Commission dated 6.12.2008 and 7.2.2009 for submission of the report on the time lines in processing the file alongwith fortnightly developments/ achievements towards finalisation of the financial bids and also about the date of release of the first loan instalment by the REC .

7. In reply of the said notice dated 19.3.2009 he has stated that the requisite report was to be prepared after scrutinizing various records available in various wings of the Transmission Wing of the Board. Immediately on the receipt of the Commission’s order dated 6.12.2008 he requested the Chief Engineer (Transmission), Hamirpur for making record available for scrutiny and preparation of the report. The collection of record consumed considerable time, as the records were stated to be with the Scrutiny Committee headed by the Chief Engineer (MM) and thereafter with the WTM for necessary action for award of the work. The record was made available only after the purchase order was issued on 13.3.2009. During the intervening period from 12th Feb., to 4th of March, 2009 he remained busy for preparing the budget proposals for 2009-10, arranging audit certificates on Annual Accounts of the Board for the year 2007-08 and printing thereof for being laid on 27.2.2009, before the

Legislative Assembly, which was in session from 12.2.2009 to 27.2.2009. Thereafter he was directed to be with the Chairman of the Board, w.e.f. 1.3.2009 to 3.3.2009, and returned to headquarters on 4.3.2009 and resumed duties on 5.3.2009. In these circumstances it was very difficult for him to scrutinize the records and submit the requisite report on 7.3.2009. However, he apprised the Commission about these circumstances on 7.3.2009. The record was voluminous and it took seven days for finalization and approval of the report by the competent authorities of the Board. The report could ultimately be submitted to the Commission on 20.3.2009.

8. Sh. Mehta further submits that the delay in submission of the report is neither willful nor intentional nor deliberate, but for the reasons stated in the foregoing para of this order and has prayed that the show cause notice dated 19.3.2009 may be dropped.

9. From the facts available on record it is crystal clear that the review of the justification for 400 kV transmission line from Nalagarh to Kunihar and 400 kV Sub-Station at Kunihar has been figuring in Tariff Order dated 2nd July, 2004 and carried forward in subsequent tariff orders. Despite repeated discussions/deliberations in the proceedings concerning the compliance of the tariff directions/orders and also expressing by the Commission of its deep concern over the matter, having impact on the tariff determination, the Board and its officers have been taking the matter very casually. The Board accorded the administrative approval and expenditure sanction to the scheme for Rs. 6733.810 lacs during March, 2007. The REC authorities agreed on 9.7.2007 to fund the scheme of Rs. 6060.43 lacs. After identification of the assets to be mortgaged to the REC and then completing the contractual formalities, during August, 2007, the REC released on 5.10.2007 the first loan instalment against the said loan. The tender was published on 22.2.2008 and bid documents were to be opened on 29.7.2008. Keeping in view the slow progress in the matter and the Board not pursuing the same with due diligence for which the loan instalment was released on 5.10.2007, the Commission directed, on 6.12.2008, the Board to expedite final decisions on the financial bids and also directed the Chief Accounts Officer of the Board to apprise the Commission, about the time lines in processing the file alongwith the fortnightly developments/achievements towards finalisation of the award of

the work. The Commission again expressed its concern over the matter on 7.2.2009 and 7.3.2009, but it still took more than three months to the Chief Accounts Officer, to submit his report, as required by the Commission's Order dated 6.12.2008. The Commission is not convinced with the reasons put forth by the Chief Accounts Officer for delay or non-submission of the report asked for by the Commission. All-the-more, the delay in submission/report, asked for, has led to delay the issuance of further appropriate directions to the Board for its speedy decisions on the matters concerning public interest as well as the tariff determination. This Commission taking, however, extremely lenient view and considering the nature and extent of non-compliance and relevant factors as per regulation 62(3) of the HPERC (Conduct of Business) Regulations, 2005 and the overall provisions of Section 142 of the Electricity Act, 2003 determines the quantum of fine to be imposed, and imposes on Sh. S.R. Mehta, a fine of Rs. 5000/- only. The penalty be deposited with the Secretary of the Commission within a period of 90 days from to-day.

(Yogesh Khanna)
Chairman.

