



HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTHAL COMPLEX, KHALINI, SHIMLA-171002

In the matter of:

Case No. 56 of 2018

M/s Shivom Cotspin Ltd, Trilokpur Road, Kheri, Kala Amb, Distt. Sirmour (H.P.) through its authorised representative Sh. Rakesh Bansal & Rahul Mahajan, Advotates.

Applicant/Representationist

Versus

- 1 The Executive Director (Personnel), HPSEB Ltd, Vidyut Bhawan, Shimla-171004
- 2 The Asstt Engineer, Electrical Sub-Division, HPSEBL, Kala Amb
- 3 The Sr. Executive Engineer, Electrical Division, HPSEBL, Nahan.
- 4 The Sr. Executive Engineer, Electrical System Division, HPSEBL, Nahan.

Respondents/Applicants

And

In the matter of:

Representation under Regulation Nos. 16, 17 and 18 of the HPERC Consumers Grievances Redressal (Consumer Grievances Redressal forum and Ombudsman) Regulation against the Order dated 11.04.2018 passed by the Consumer Grievances Redressal Forum of HPSEBL, Shimla-9 (H.P.) in Complaint No. 1515/3/17/053 titled as M/s Shivom Cotspin Ltd, Trilokpur Road, Kheri, Kala Amb, Distt. Sirmour (H.P.) through its authorised representative Sh. Rakesh Bansal & Rahul Mahajan, Advotates.

13.06.2018

Present for:

Applicant : Sh. Rakesh Bansal, Advocate

Respondents : Sh. Bhagwan Chand, Counsel

Sh. Wakib Hussain, Sr. Asstt. ESD, Kala Amb.

ORDER

(Last Heard on 13.06.2018)

Heard. Taking into consideration, the arguments exchanged by representatives of both the parties during the course of hearing and the Application/Petition and Additional submission in support of Review petition/application filed by the Applicant/Respondent Board in context of the Order dated 11.04.2018 passed by Consumer Grievances Redressal Forum of HPSEBL, Shimla-9 (H.P.) in Complaint No. 1515/3/17/053 titled as M/s Shivom Cotspin Ltd, Trilokpur road, Kheri, Kala amb distt. Sirmour (H.P.) through its authorised representative Sh. Rakesh Bansal & Rahul Mahajan, Advotates Versus HPSEB Ltd. and others.

Complainant's Contention:

1. The complainant applied for PAC for 7000 kW of in the year 2004 and a demand notice dated 17.12.2004 was raised for Rs. 21.00 Lacs, which includes Rs. 7.00 Lac on account of non-refundable security deposit and Rs. 14.00 Lacs towards infrastructure development charges. The complainant deposited the amount demanded vide R No. 1947200 dated 21.12.2004. At that time the IDC Regulations, 2005 were not in force and there was no condition or any undertaking that any additional IDC will have to be paid by the complainant besides the sum already paid @ Rs 200 per KW. The complainant surrendered the part of the power committed to him vide earlier PAC granted for 1500 kW of load vide PAC dated 17.07.2004 at 11 kV. The amount of Rs. 21.00 lacs deposited for 7000 kW was adjusted against the revised PAC.
2. The complainant company applied for increase in load from 1500 kW to 1950 kW/1950 kVA and was granted PAC dated 28.9.2010 vide which the complainant was asked to deposit Rs. 4,50,000/- towards advance cost share towards IDC @ Rs. 1000 per KW, which was deposited by the complainant.
3. The complainant company applied for increase in contract demand from 1950 kVA to 2050 kVA at 11 kV supply voltage and was granted vide sanction letter dated 7.8.2012 when the revised regulations specifying the normative rates of IDC was already in place. As a result, the complainant was asked to deposit IDC on additional load of 100 kVA @ of Rs. 2500 per kVA and the complainant company deposited the sum demanded towards IDC.
4. The respondent No 2 issued two notices for recover of arrears of IDC to the complainant. The respondent served a notice for Rs. 17,72,494/- on account of arrears of IDC. The rate of Rs. 1883.33 has been applied on the basis of per kVA chart prepared by HPSEBL for 34 sub-stations in the State, in which the sub-station supplying to the complainant is listed at serial no.1 as Augmentation of 132/11 kV, 25/31.5 MVA capacity at Kala Amb at a cost of Rs 5.9325 Crores commissioned on 30.07.2006.

5. The augmentation scheme of 132/11 kV, 25/31.5 MVA transformers at Kala Amb sub-station had been sanctioned and the work was sanctioned on 11.08.2005 and the order for the transformer was placed on 07.02.2006. The work for replacement of transformer started on 21.07.2006 and the transformer was energized on 30.07.2006. The complainant's PAC was never issued from the scheme of new addition of transformer, but was issued from the spare capacity that was available in the first transformer, which existed even before the IDC Regulations came into force in April, 2005.
6. That the respondents have themselves mentioned in the notice that against the scheme cost of Rs. 5.2289 Crores, the expenditure of Rs. 5.9325 Crores was carried out which is 13.45% higher than the estimated cost. Regulation 6 of the IDC Regulations, 2005, provide for only 3% variation from the estimated amount. The balance cost incurred in excess has to be borne by the licensee. The cost of planning was much less than the cost being recovered from the consumers. The respondents have no right to recover extra expenditure incurred by them because of delays and inefficiencies.

Respondents Contention:

1. That the notice was issued to the appellant in which the demand of Rs. 21,00,000/- was raised out of which Rs. 7,00,000/- on account of refundable security deposit and Rs. 14,00,000/- towards IDC charges. The electrical connection to the consumer was released on 22.02.2007 hence the consumer is covered under IDC Regulations, 2005.
2. That the replying respondent passed to the appellant to deposit Rs. 4,50,000/- towards IDC @ 1000/- per kW which was deposited by the appellant with the replying respondent accordingly.
3. That the replying respondent demanded IDC charges from the complainant @ 2500/- per kVA.
4. That the replying respondent issued recovery of arrears of IDC to the appellant for Rs. 17,72,494/-. It is submitted here that the replying respondents charged IDC on the basis of cost sharing on kVA basis @ 1883.33/- on the basis of expenditure incurred in installation of 132/33/11 kV, 25/31.5 MVA capacity at Kala Amb from which the supply has been given to

the appellant. The replying respondents charged IDC from the appellant on the basis of cost feeding sub-station proportionately on kVA rate basis.

5. The appellant firm filed complaint before the Forum below against the demand raised by the replying respondents on account of IDC charges. It is submitted here that it was not earlier decided to charge the consumer for IDC @ 1883.33/- Per kVA. Now in compliance to order of HPERC dated 05 10 2016 passed by the Regulatory Commission in its own motion and as per the supply code it has been made clear that as per the cost of sub-station incurred, the appellant is liable to pay the IDC on the basis of proportionately cost. In the present case the appellant was charged @ 1833.33/- since the amount has been proportionately adhere in the account of appellant on account of augmentation of 132/11 kV sub-station. The provision as referred by the appellant are not applicable in the present case. The reply respondents charged the IDC as per the direction issued by the HPERC and the replying respondents are legally bound to follow the decision of the HPERC dated 05 10 2016.

Forum's Order:

The complainant filed a complaint that Respondent Board has demanded Rs. 18,22,494/- as IDC charges through demand notice dated 09 08, 2017 is not correct, bad in law, should be quashed and set-a-side.

The respondent board has replied that this demand notice has been issued for recovery of IDC charges @ of Rs 1883.33 per kVA on the basis of expenditure incurred for installation of 132/33/11 kV, 25/31.5 MVA sub-station at Kala Amb. This has been demanded in compliance to HPERC order dated 5 10 2016 in suo-moto petition no. 25/16.

Forum observed that IDC charges as demanded keeping in view of HPERC order dated 05 10 2016 are correct and payable. The respondent Board is directed that the detail account of expenditure incurred for installation of 132/33/11 KV, 25/31.5 KVA sub-station at Kala Amb be provided to the complainant to justify IDC charges @ 1883.33 per kVA within 2 months from the date of issuance of order. Normative rate demanded @ Rs 2500 per kVA on account of IDC for additional contract demand may be corrected as per final normative rate decided by the Hon'ble Commission.

The case decided partially in the favour of complaint partially in favour of Respondent Board.

Electricity Ombudsman findings and Order:

In view of the above facts, contentions of the parties and examining the documents like replies/rejoinders and arguments, it comes out that appellant has represented against the CGRF order dated 11.04.2018 passed in complaint No 1515/3/17/053. The complainant submitted and argued that DEMAND OF Rs 18,22,494/- vide notice dated 9.8.2017 on account of IDC by the respondent Board is not recoverable from the appellant because the PAC was issued earlier to the augmentation of 132/11 kV, 25/31.5 MVA Sub-station, Kala Amb. The Respondent Board, however, argued that the appellant submitted an affidavit/undertaking duly solemnized before Class-I Executive Magistrate stating "that we shall pay the Infrastructure Development Charges as per decision of the HPERC and HPSEB as and when required to do so." However, respondent Board did not furnish the complete break-up of expenditure occurred for creation of Infrastructure for giving power to appellant. The Respondent Board is directed to render the applicant/complainant the complete break-up of expenditure on account of IDC amount and the methodology to arrive at a figure of 1883.33/ kVA alongwith any additional information required by the complainant within a month and overhaul the account of complainant accordingly as per mechanism final order issued by HPERC for suo moto case no 25 of 2016 on dated 05-10-2016 and further endorsed by Chief Engineer commercial HPSEBL order No. HPSEBL/CE(Comm)/APTEL/VOL-1/2016-10021-10135 dated 1-11-2016. The appellant/complaint is also directed to take up the matter with the Respondent Board to have complete records of expenditure occurred and IDC by respondent for creation of Infrastructure.

The compliance be reported within a month from the issue of this order

Dated, 25.6.2018



K. Anand
Electricity Ombudsman