



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

In the matter of:

Case No. 53 of 2018

M/s Twilight Mercantiles Pvt Ltd, Village Dhan-Bagbania, Tehsil Nalgarh, Distt Solan (HP)
 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 No2, HPSEBL, Nalagarh.
3. The Sr Executive Engineer, Electrical Divisionh, HPSEBL, Nalagarh
4. The Sr Executive Engineer, Electrical System Division, HPSEBL, Nalagarh.

Respondents/Applicants

And

In the matter of:

Representation under Regulation Nos 16 17 and 18 of the HPERC Consumers Grievances Redresal (Consumer Grievances Redressal forum and Ombudsman) Regulation against the Order dated 08 03 2018 passed by the Consumer Grievances Redressal Forum of HPSEBL, Shimla-9 (H.P.) in Complaint No 1432/2/17/033 titled as M/s Twilight Mercantiles Pvt Ltd, Village Dhan-Bagbania, Tehsil Nalgarh, Distt Solan (HP) 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

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 08 03 2018 passed by Consumer Grievances Redressal Forum of HPSEBL, Shimla-9 (H.P.) in Complaint No 1432/2/17/033 dated 08.03.2018 titled as M/s Twilight Mercantiles Pvt Ltd, Village Dhan-Bagbania, Tehsil Nalgarh, Distt Solan through its authorised representative Sh. Rakesh Bansal & Rahul Mahajan, Advotates Versus HPSEB Ltd. and others

Complainant's Contention:

1. The complainant was granted power availability certificate (PAC) on 21.06.2007 for 498 kW of power at 11 kV. As per demand notice the complainant paid an amount of Rs.99,600 towards infrastructure development charges. There was no condition in the PAC that any further sum shall be charged on account of sub-station transformer
2. A demand notice dated 03.03.2017 was served by the respondents vide which the respondents demanded infrastructure development charges of Rs. 12,93,750/- on account of addition of 66/11 kV 2x20 MVA Transformer at Nalagarh Sub-Station. The respondents adjusted a sum of Rs.99,600/- paid at the time of application for PAC filed by the complainant.
3. The HPERC (Recovery of Expenditure for Supply of Electricity) came into force w.e.f. April 2005. The augmentation scheme of 66/22 kV 2x20 MVA transformers at Nalagarh Sub-Station had been sanctioned and the work has been started before the regulations came into force. The funding of the scheme had also been decided before the regulations came into force. The augmentation was carried out as a part of general ongoing and continuous system up-gradation for which the licensee was required to make investments.
4. That the recovery of Infrastructure Development Charges from the consumers in addition to the recovery of the same cost through Annual Revenue Requirement (ARR) also, would lead to double recovery of such cost and will be unfair to the consumers. If this is allowed the consumers are burdened with double cost and respondents would get illegitimate revenue to their account.
5. That the account as required has not been provided to the complainant before raising the demand. Even if the demand of the respondents was maintainable, the respondents can only claim the same if they provide the detail of how they arrived at a figure of 2875/ kVA for the relevant sub-station.
6. The respondents have themselves mentioned in the notice that against the scheme cost of Rs.9.78 Crores, the expenditure of Rs. 11.5 Crores was carried out. Regulation 6 of the IDC Regulations 2005 provide for only 3%

No.1068474 dated 01.05.2007 on account of IDC @ Rs.200/-KW. The appellant reduced the contact demands 498KVA to 450KVA on 23-08-2007. As per the provision of IDC regulations 2005, the IDC charges have to be recovered from the consumer taking electricity connection after 04-04-2005 vide Chief Engineer Commercial, HPSEBL Shimla letter dated 07.12.2012 in which the rate of Nalagarh Sub-Station has been approved @ Rs 2875/- only per KVA. It is further made clear that the entire amount of Rs 12,93,750/- is justified as there was not sufficient capacity when the appellant had applied PAC. The respondent submit that the department has augmented the capacity of Sub-Station from 2x10MVA to 2x20 MVA and thus started the works and therefore the rate of Rs.2875 per KVA was charged by the replying respondents is fully legal and justified. The appellant is legally bound to pay these charges as augmentation of Sub-Station from 2x10MVA to 2x20MVA was to be started for the benefit of the consumer. The provision of supply code as alleged by the appellant in this para are not applicable in the present case. Whatever the action taken by the answering respondents for augmentation of Sub-Station for the benefit of the consumer is not the inefficiency on the part of the respondents. There was no capacity available to the consumer from old system and as such the answering respondent started to augmentation of sub-Station for the benefit of all the consumers including the appellant as such the action of the replying respondent is fully legal and justified.

3. It is pertinent to mention here that the answering responding have well in time informed to the appellant and other consumers that there was no capacity in the system and therefore the augmentation of 2 x10MVA to 2x0MVA will be in the benefit of the consumers as well as the appellant.

Forum's Order:

M/s Twilight Mercantiles Pvt.Lts., Village Dhana –Bagbania, P.O. Manpura, Nalagarh Distt. Solan (H.P) has field a complaint that respondent board has served a demand notice for recovery of Rs 11,94,150/- (Rupees eleven lac Ninety Four Thousand One Hundred Fifty only)after adjusting RS 99,600/- (Ninety Nine Thousand Six Hundred only). The demand as raised including Rs.99,600/-(Ninety Thousand Six Hundred only) is unjustified and is not liable to be recovered. Forum observed that at the time of sanction of

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.

- 7. The condition in the sanctioned letter for release of load to the complainant did not imply that the complainant would have to bear any additional cost. The cost is entirely governed by the applicable Regulations notified under the Electricity Act, 2003.

Respondents Contention:

- 1. That as per the order passed by the Forum on 08.03.2018 it has been specifically made clear that the demand as raised by the replying respondents including Rs 99,600/- is justified and is not liable to be recovered. The order of the Forum is speaking one. It is important to mention here that the Forum had followed the provisions of HPERC while passing the order dated 08.03.2018. It is very much made clear here that the replying respondents have specifically made clear in its reply given in the forum that the recovery of IDC from the complainant/appellant has been approved by the HPERC but their demand notice for the recovery of Rs. 11,94,150/- only on account of balance IDC was served on the basis of Chief engineer (commercial) Shimla vide his office letter dated 07.12.2012 in which the rates of IDC were approved by the High Power Committee for each sub-station. The appellant Firm has submitted an affidavit/undertaking duly solemnized affidavit before Class-1 Executive Magistrate in order to deposit the amount of IDC as per decision which has now been conveyed by HPERC vide its order dated 27.11.2012. In view of the affidavit filed by the appellant, the appellant firm is liable to pay the IDC as per the order given by the HPERC. In view of the order dated 27.11.2012 passed by HPERC the Forum has rightly and legally passed its order dated 08.03.2018 after given observation on all the points in controversy between the parties.
- 2. That the PAC was sanctioned by the Superintending Engineer Operation Circle Solan vide letter No.5207-11, dated 21.06.2007 for 498 kW with contract demand of 498 kVA and deposited a sum of Rs.99600/- vide receipt

(62)

the load vide office order No HC-II/CS-e-8985-88 dated 23-08-2007. It was clearly mentioned that load will be released only after augmentation of Nalagarh Sub-Station and commissioned of 66/11 KV Sub-Station Akanwali. Keeping in view the condition of load sanctioned office order complainant is liable to pay IDC charges. Respondent board is directed to overhaul the account of the complainant 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. And the case be overhauled within two months. The Case is decided in favour of respondent board and against the complainant.


Electricity Ombudsman findings and Order:

The appellant has represented against the CGRF order dated 08.03.2018 passed in complaint No.1432/2/17/033. The complainant argued that the demand of Rs. 11,94,150/- on account of IDC by respondent is not recoverable from the appellant because the PAC issued was earlier to the augmentation of 66/11 kV sub-Station and there was no mention of IDC charges to be taken from the appellant afterward. The respondent, however, submitted that at the time of sanction of load it was clearly mentioned that load will be released only after augmentation of 66/11 kV Nalagarh Sub-station and commissioning of 66/11 kV Sub-Station Akanwali. The appellant also submitted an affidavit/undertaking duly solemnized affidavit 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." In view of the above facts, contentions of the parties and examining the documents like replies/rejoinders and arguments, it comes out that the appellant is liable to pay the IDC charges as demanded by the respondent Board vide notice dated 31.3.2018 issued by the respondent Board in pursuance to CGRF order dated 08.03.2018.

Further, the Respondent Board is directed to render the applicant/complainant the complete break-up of expenditure and the methodology to arrive at figure of 2875/ 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 in suo moto case No. 25 of 2016. The appellant/complaint can also take up the matter with the Respondent Board to have records of expenditure. The compliance be reported within a month from the issue of this order

Dated: 25.06.2018




Electricity Ombudsman