



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

Case No. 36 of 2017

In the matter of:

M/s Ridhi Packages Pvt.Ltd., Plot No. 219, Industrial Area, Baddi, Distt. Solan (H.P.)-173205, through its authorised representative Sh. Rakesh Bansal.

Applicant/Representationist

Versus

1. The Executive Director (Personnel), HPSEB Ltd., Vidyut Bhawan, Shimla-171004
2. The Asstt. .Executive Engineer, Electrical Sub- Division, HPSEBL, Parwanoo. Distt. Solan..

.....Respondents/Applicants

And

In the matter of:

Representation under Regulation 6 (2) of HPERC (Recovery of Expenditure for supply of Electricity) Regulation, 2005 against the Order dated 08.09.2017 passed by Consumer Grievances Redressal Forum of HPSEBL, Shimla-9 (H.P.) in Complaint No. 1454/1/16/003 titled as M/s Ridhi Packages Pvt.Ltd., Plot No. 219, Industrial Area, Baddi, Distt. Solan (H.P.)-173205, through its authorised representative Sh. Rakesh Bansal Versus HPSEB Ltd. and others.

27.03.2018

Present for:

Applicant : Sh. Rakesh Bansal

Respondents : Sh. Bhagwan Chand, Counsel

ORDER

(Last Heard on 27.03.2018)

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 08.09.2017 passed by Consumer Grievances Redressal Forum of HPSEBL, Shimla-9 (H.P.) in Complaint No. 1454/1/16/003 titled as M/s Ridhi Packages Pvt.Ltd., Plot No. 219, Industrial Area, Baddi, Distt. Solan (H.P.)-173205, through its authorised representative Sh. Rakesh Bansal Versus HPSEB Ltd. and others.

Complainant's Contention:

1. That complainant got power connection from the respondents for 333.90 kw of load with 265 kVA of contract demand on 17/07/2009. In the same premises before the release of connection to the complainant, another company i.e. M/s Jost Polymers Ltd had a supply of 490 kW in the same premises. M/s Jost Polymers Ltd. had a larger supply connected on the same premises than the supply of the complainant. The complainant later extended his load to 585 kW with 580 kVA contract demand released on 18/01/2013.
2. The respondents recovered the following expenditure from the complainant for the supply released to him in two stages besides the security deposit.

R.No.	Date	Amount (Rs.)	Nature
0212387	17/04/2009	67,000	IDC
0420308	10/01/2012	225,110	IDC
0034588	06/08/2012	1232,040	IDC
Sub Total		1524,150	
0293371	17/07/2009	265,145	Line Cost Share/Estimate
	10/06/2011	68,600	Line Cost Share/Estimate
0325338	16/07/2011	226,368	Line Cost Share/Estimate
0130320	21/12/2012	330,405	Line Cost Share/Estimate
Sub Total		890,518	
Grand Total		2414,668	

3. The respondents were not entitled to claim any of the above expenditure under the Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005. The said regulations only provide for the recovery of cost of works which is actually required to be carried out to provide supply to the consumer. These regulations do not provide for the recovery of the infrastructure, which already stands paid for. In this case, the infrastructure already existed and was paid for by M/s Jost Polymers Ltd. Under the provisions of Regulations, the respondents are not allowed to recover the cost of the same infrastructure again and again, which would lead to over recovery of cost and result in undue profit to the respondents. The Regulations only provide for recovery of cost of extension

carried out on the actual cost basis. The respondents have recovered the cost twice, i.e. once from M/s Jost Polymers Ltd. and second time from the complainant.

4. The dedicated portion of the service line used to connect the complainant was the same that was used by the earlier consumer occupying the premises. Not even a single piece of wire or any pole or any structure was constructed/erected by the respondent for providing the supply to complainant. No new terminal equipment was provided. The complainant's case was a case that required no works to be carried out. An estimate is prepared for the works to be carried out. When no work is required to be carried out, the question of demanding an estimate from the consumer does not arise. The complainant has generated a fictitious estimate even when no work was to be carried out.

Respondents Contention:

The replying respondents have charged IDC and line cost share received under Regulations of HPERC. The IDC charged to separate consumer as per regulations and amount of line cost share charged from common HT line after PDCO of earlier existing consumer. The dedicated portion was disconnected after PDCO and during the release of new connection to the consumer re-engineering/re-organization was required accordingly and line cost share/estimate was accordingly charged. So line cost share and IDC was charged as per regulations. No refund of IDC and line cost share is applicable to the consumer.

Forum's Observations:

We have heard the arguments of both the parties and have gone through their claims and counter claims vis-à-vis copies of various details and documents filed with the complaint, reply thereafter. Thus the Forum observes as under:-

We have gone through the documents and listened to the arguments of both parties very carefully. The complainant states that he has paid to the respondents Rs. 15,24,150/- on account of IDC and Rs. 8,90,518/- on account of Line Cost Share/Estimate (total Rs. 24,14,668/-). The complainant also stated that he got power connection for 333.90 KV load 265 kVA contract demand in the same premises where, earlier, another company (M/s Jost Polymer Ltd.) with connected load of 490 KW was having the connection. The complainant later extended his load of 585 KW with 580 KVA contract demand on 18.01.2013. The complainant has prayed for refund of IDC and Line Cost Share on that ground that the infrastructure already existed and the respondents are not allowed to recover the cost of the same infrastructure again and again.

The respondents have pleaded that the amount of Line Cost share has been charged for dedicated spur to the line after premises of the consumer from common H.T. Line after PDCO of earlier existing consumer. The respondents also stated that the dedicated portion was disconnected after PDCO of the earlier consumer and during the release of new connection to the consumer re-engineering/re-organisation was required for which the line cost share and IDC was charged.

We also observe that the claim of the complainant is much more older than the allowed period of two years for filing of the complainant from date of cause of the complaint. The complainant was filed on 07.01.2016 whereas the causes of the complainant were since 17.04.2009 to 21.12.2012. We, thus, feel that the complainant is time barred.

We are also on the opinion that the IDC and line cost share charged from the complainant are in order as the respondents have laid the dedicated portion again after permanent disconnection of the earlier consumer.

The plea of the complainant to refund the IDC and line cost share and service charges is rejected.

The case is decided in favour of respondents.

Electricity Ombudsman findings and Order:

In view of the above facts, contentions of the parties and examining the documents like replies/rejoinders and written arguments, it is observed as that the complainant represented that the IDC were claimed in excess by the Respondent. Initial load 333.90 kW/265 kVA was released in 2009. Further, it was increased to 585 kW with 580 kVA on 18/1/2013. The complainant contention is that when the initial load was sanctioned, no work was executed on the system such as common line, dedicated line etc. because another firm M/s Jost Polymer Ltd already had the higher load than what was released to the complainant. The complainant had only used the capacity that was freed by the early occupant i.e. M/s Jost Polymers in the same premises. As such, the complainant argues that IDC should not have been charged from them on account of sub-station cost or power line cost or estimate for the dedicated service line.

The Respondent HPSEBL contended that re-engineering/re-organization was carried out at the time of releasing power supply initially to M/s Ridhi Packages Pvt. Ltd and therefore IDC were to be recovered accordingly.

From the above, it is observed that :

1. Initial load 333.90 kW/265 sanctioned and released in 2009 at that time HPERC (Recovery of Expenditure for Supply of Electricity) Regulation,2005 were applicable for recovery of expenditure for supply of electricity applicable (till May, 2012). This Regulation clearly states that if any extension of line is required or there is a need to erect new power transformer or augment the capacity of existing power transformer etc., the licensee shall recover such cost from the consumer.

The Respondent have not been able to put forth any document/evidence in proof to the fact that any expenditure was actually incurred for releasing connection to the complainant.

Hence, complainant's contention is upheld initial supply be overhauled as per IDC Regulation of 2005 as per which no expenditure is to be charged, if the same has not been incurred. Further, no detailed account towards the recovery of expenses have been provided to the consumer as per Regulation 6(2). The respondents have failed to provide any such account to the consumer nor the same has been produced before the Electricity Ombudsman during proceedings.

2. The hike in load to 585 kW/580 kVA by the complainant in 2013 was governed by HPERC (Recovery of Expenditure for Supply of Electricity) Regulation,2012 and normative rates applicable was Rs. 2000/- per kVA of the additional load. Besides, only the dedicated infrastructure, if any, that was created/erected for the extension of load to the complainant was recoverable under these regulations. The complainant thus, was liable only for any dedicated expenditure incurred towards service line if the existing service line was insufficient to cater for the increase of load. So, finally it is held that account of IDC for increase of load in the complaint be re-worked in accordance with the HPERC Regulation, 2012. The excess amount charged, if any, be refunded/adjusted accordingly.

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

Dated:31.03.2018

Electricity Ombudsman