



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

Case No. 39 of 2017

In the matter of:

M/s HM Steel Ltd., Trilokpur Road, Kala Amb, Distt. Sirmour (HP), through its authorised representative Sh. Vishal Kashyap, Advotote.

Applicant/Representationist

Versus

1. The Executive Director (Personnel), HPSEB Ltd., Vidyut Bhawan, Shimla-171004
2. The Superintending Engineer (Op) Circle, HPSEBL Nahan, (HP).
3. The Asstt. Engineer, Electrical Sub- Division, HPSEBL, Kala Amb, Distt. Sirmour.

.....Respondents/Applicants

And

In the matter of:

Representation under Regulation 28(1) (b) of HPERC (CGRF & Ombudsman) Regulations, against the Order dated 08.09.2017 passed by Consumer Grievances Redressal Forum of HPSEBL, Shimla-9 (H.P.) in Complaint No. 1515/1/17/019 titled as M/s HM Steel Ltd., Trilokpur Road, Kala Amb, Distt. Sirmour (HP), through its authorised representative Sh. Vishal Kashyap, Advotote Versus HPSEB Ltd. and others.

11.4.2018

Present for:

Applicant : Sh. Vishal Kashyap, Advocate

Respondents : Sh. Bhagwan Chand, Counsel
Sh.Wakib Hussain, Sr. Asstt., Kala Amb.

ORDER

(Last Heard on 11.4.2018)

Heard. Taking into consideration, the arguments exchanged by representatives of both the parties during the course of hearing and the Application/Petition and Additional submissions 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. 1515/1/17/019 titled as M/s HM Steel Ltd., Trilokpur Road, Kala Amb, Distt. Sirmour (HP), through its authorised representative Sh. Vishal Kashyap, Advotote Versus HPSEB Ltd. and others.

Complainant's Contention:

1. That the appellant company registered under Companies Act and is having its corporate office at Kala Amb. The appellant company had set up a Industry at Village Johron, Trilokpur Road, Kala Amb, Distt. Sirmour (HP) and it was set up in the year 2004 and manufacturing M.S. Pipes & Other material.
2. That the appellant company at the time of setting up the Industry had approached the respondent Board to allot connected load of 12000 kW and which was accordingly released vide service connection order dated 17.01.2005. The appellant company was issued account No. HML-2.
3. That during the year 2006 the appellant company requested the respondent department to extend the connected load from 12000 kW to 19500 kW. In pursuance to the request of the appellant company the existing connected load of 12000 kW was extended to 19500 kW by allotting additional extended load of 7500 kW. The contract demand however was kept at 14800 kVA.
4. That during the year 2009 the appellant company requested for temporary revision of contract demand from 14800 to 12200 kVA at 132 kV for billing purpose only in pursuance to the request of the appellant company to revise the contract demand the Superintending engineer, HPSEBL, Nahan vide letter dated 02.01.2009 recommended the Chief Engineer (Op) South being the competent authority accorded the sanction by revising the contract demand from 14800 kVA to 12200 kVA. During the year 2013 the appellant company again requested the respondent Board to revise the contract demand from 12200 kVA to 7400 kVA and in pursuance to the request of the company the contract demand was revised. The perusal of the said letter would go to show that while reducing the contract demand of appellant company to 7400 kVA it was specifically mentioned that this reduction has been restricted to 50% of the sanctioned contract demand of 14800 kVA as per schedule of tariff.
5. That subsequent to the passing of the office order dated 21.10.2013 the appellant company applied for revised contract demand from 7400 kVA to 10500 kVA. In pursuance to the request of the appellant company the Chief Engineer (Op) South vide office order dated 16.01.2014 sanctioned the revised contract demand from 7400 kVA to 10500 kVA. It would be relevant to point out that the revision of the contract demand from 7400 kVA to 10500 kVA was sought within 365 days. The Appellant company thereafter in the month of

September,2014 requested for sanctioning the revised contract demand from 10500 kVA to 9200 kVA and such request of the appellant company was accepted and sanction was accorded by the Asstt. Engineer vide office order 23.09.2014. Thereafter the appellant company again requested for revision of the contract demand from 9200 kVA to 11200 kVA which request was again accepted and the revised contract demand was sanctioned and a sundry job order dated 30.03.2015 was issued in this regard. In the month of July, 2015 the appellant company requested the respondent board to revise the contract demand from 11200 kVA to 13500 kVA. This request of the appellant company was accepted and sundry job order dated 01.07.2015 was issued by the Assistant Engineer. In the month of June,2016 the appellant company against requested the respondent board to revise the contract demand from 13500 kVA to 14800 kVA and this request of the appellant company was accepted and a sundry job dated 14.10.2016 was issued. All the above referred revision of contract were effected within one year thus fulfilling the criteria fixed in the regulations and while getting the contract demand revised the appellant company deposited a sum of Rs. 25/- per kVA on quantum of so reduced and enhanced contract demand.

6. That in the month of January,2017 the appellant company requested the respondent board for issuance of power availability certificate for additional contract demand of 4700 kVA bringing the total demand to 19500 kVA(existing 14800 kVA + additional 4700 kVA) without any change in existing load of 19500 kW at 132 kV supply voltage. In pursuance to the request of the appellant company the respondent board issued a demand notice dated 18.02.2017 whereby the appellant company was asked to deposit a sum of Rs, 47,00,000/- advanced cost share towards infrastructure development charges. In this demand notice it was pointed out that as per the record of the office the last revision of contract demand from 7400 kVA to 10500 kVA with connected load 19500 kW as per the Chief Engineer (Commercial) was sanctioned vide letter dated 08.01.2014 and as such the appellant company was requested to get the contract demand enhanced from 10500 kVA to 14800 kVA.
7. That the action of the respondent in issuing the demand notice to the appellant company directing it to deposit a sum of Rs. 47,00,000/- towards IDC charges is illegal, arbitrary and against the regulations. The action of the respondents

requesting the appellant company to get its contract demand enhanced from 10500 kVA to 14800 kVA is also illegal and contrary to the existing record.

Respondents Contention:

1. The replying respondents submitted that the complainant has not revised the contract demand temporary from 14800 to 12200 kVA, 12200 kVA to 7400 kVA and further enhanced 7400 kVA to 10500 kVA at 132 kV for billing purpose. This demand was permanently revised from 7400 kVA to 10500 kVA at 132 kV supply voltage vide No. CEO/M &C-42(NHN)2013-14-26962-66 dated 16.01.2014 by the Chief Engineer (Op) . There was no provision of temporary reduction of contract demand at that time. In the temporary revision of contract demand the consumer shall not reduce the contract demand to lesser than 50% of the total sanctioned contract demand subject to a further condition that the contract demand as per tariff category (Or any sub-category thereof) applicable to him. Before 1st August, 2014 there was no provision for temporary sanction of contract demand.
2. The complainant company requested the respondent Board for issuance of Power Availability Certificate (PAC) for additional contract demand of 4700 kVA bringing the total contract demand of 19500 kVA. It is further made clear that the replying respondent issued demand notice to the tune of Rs. 47 Lakh before issuing the PAC as per the provisions of supply code. The power availability certificate can only be granted in favour of the complainant in order to fulfill the provision of 3.2.2 of supply code. The replying respondents demanded the 47 Lakh on account of the advance cost share towards infrastructure development charges calculated @ 1000/-per kW/kVA on the load applied for.
3. That the forum has rightly observed that the demand raised by the respondent for deposit of Rs. 47,00,000/- on account of ACS @ Rs. 1000/- per kVA towards IDC for enhancement of contract demand from 14800 kVA to 19500 kVA.
4. The order passed by the Forum to deposit Rs. 47,00,000/- only on account of ACS @ Rs.1000/- only per kVA towards IDC is fully legal and justified and passed as per the provisions of law.

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. We observe that the complainant is having sanctioned connected load of 19500 kW at 132 kV. In the beginning the connected load was 12000 kW. The contract demand of the complainant was 14800 kVA in the year 2006. The complainant company revised its contract demand many times since the year 2006 to 2016. Vide order dated 16.01.2014, the contract demand of the complainant company was revised from 7400 kVA to 10500 kVA at 132 kV by Chief Engineer (Op) South, Shimla. Thereafter the contract demand was reduced from 10500 kVA to 9200 kVA by Assistant Engineer, Kala Amb vide office order dated 23.09.2014. The contract demand was further enhanced from 9200 kVA to 11200 kVA on 23.09.2015 by Assistant Engineer, Kala Amb. Again on 1.07.2015, Assistant Engineer, Kala Amb enhanced the contract demand from 11200 kVA to 13500 kVA. On 14.10.2016, Assistant Engineer, Kala Amb enhanced the contract demand from 13500 kVA to 14800 kVA. All above contract demand revisions were on the request of the complainant and necessary processing fee was deposited for the revision of contract demand.

The complainant applied to the respondents for Power Availability Certificate for additional 4700 kVA making his total contract demand as 19500 kVA (considering his earlier demand as 14800 kVA). The connected load however remained the same i.e. 19500.

Superintending Engineer (Op), Solan vide his letter dated 18.02.2017 demanded Rs. 47.0 Lakh from the complainant on account of advance cost share (ACS) towards infrastructural development charges (IDC). In this letter, Superintending Engineer (Op), Circle Solan requested the complainant to get his contract demand enhanced from 10500 kVA to 14800 kVA as per provision of HPERC Regulations.

We find that the complainant has two main issues to be decided i.e.

- i) Whether ACS of Rs.1000/-per kVA towards IDC on additional demand of 4700 kVA is payable by the complainant or not. Connected load remaining unchanged.
- ii) Whether the complainant is required to again enhance his contract demand from 10500 kVA to 14800 kVA.

- (i) We have seen the regulations regarding enhancement of contract demand and find that the consumer is required to pay ACS of Rs.1000/- per kVA towards IDC in case of increase in contract demand. The Ld. Counsel for the complainants also agreed during arguments that the complainants are ready to deposit ACS for additional demand of 4700 kVA but argued against the directions of the respondents for enhancement of contract demand from 10500 kVA to 14800 kVA. As such we are of the opinion that the complainants have to deposit the ACS @ Rs. 1000/- per kVA towards IDC.
- (ii) From the records we find that the contract demand was changed from 10500 kVA to 9200 kVA, from 9200 kVA to 11200 kVA, from 11200 kVA to 13500 kVA and from 13500 kVA to 14800 kVA by A.E. ESD, Kala Amb, who is part and parcel of the respondent Board. As such we feel that it is not proper for the respondents to get the contract demand enhanced from 10500 kVA to 14800 kVA again as the same has already been enhanced by the representative of the respondent Board. We also feel that in case any financial loss is suffered by AE, ESD, Kala Amb, then the Board is at liberty to recover the loss from concerned A.E., if found guilty.

We thus direct as under:-

- i) The demand by the respondents for deposit of Rs. 47.0 Lakhs on account of ACS @ Rs. 1000/-per kVA towards IDC for enhancement of contract demand from 14800 kVA to 19500 kVA is held right.
- ii) The existing contract demand of the complainant is decided as 14800 kVA instead of 10500 kVA. As such, the complainant need not get for enhancement of contract demand from 10500 kVA to 14800 kVA.

The case is decided partly in favour of the complaints and partly in favour of the 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 that complainant prays that the order dated 08.09.2017 passed by the CGRF in complaint No. 1515/1/17/019 titled as M/s H.M. Steel Ltd., Kala Amb, Distt. Sirmour (H.P.) may kindly be quashed and set aside to the extent whereby the claim of appellant company was disallowed regarding the demand notice for amount of Rs. 47,00,000/- i.e. first part of the order dated 08.09.2017. Going through all the records, CGRF Order and listening to the arguments of both parties i.e. appellant and respondent, the demand raised by respondent to deposit Rs. 47,00,000/- is justified thus the appellant is required to deposit ACS for additional load demand of 4700 kVA @ Rs.1000/- per kVA toward IDC in line with the provision of Supply Code as these charges are recoverable for additional contract demand only.

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

Dated: 19.04.2018

Electricity Ombudsman