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REPRESENTATION No: P 95/09

Appellant : M/s Carborundum Universal Ltd
PB No 1 , Kalamassery Dev. Plot (Po) , KOCHI 683109

Respondent: Kerala State Electricity Board
Represented by
The Special Officer (Revenue)
KSE Board , Pattom. Thiruvananthapuram 4

ORDER

M/s Carborundum Universal Ltd Kalamassery submitted a representation on 10.9.2009 seeking the following relief :

Corrective steps in the method of Billing for the additional power of 2500 KVA availed from July 2008

The contract demand of the Appellant EHT consumer was 10000 KVA till March 2003 . This was reduced to 7500 KVA effective from 01 April 2003.Later the consumer wanted to restore the demand as 10000 KVA in September 2006 which was granted by KSEB in 7/2008 only. The additional power was granted under Power Intensive category.

A revised EHT agreement was executed on 23rd July 2008.

The Tariff regulations issued by the KSERC on 27.11.2007 provided separate rates for energy consumption by Power Intensive units and Non Power intensive units. The order also provided for realizing 100% extra charges from Power Intensive units for consumption in peak hours.

The Appellant falls under the category of Power Intensive industry by definition. But by virtue of the fact that the existing load of the Appellant was connected up before 17.12.1996, the existing load of 7500 KVA of the Appellant became eligible for lower tariff applicable to Non Power Intensive industries. But higher tariff rates were payable for the newly allotted 2500 KVA 'power intensive' load of the Appellant.

The Consumer pointed out two grievances in connection with the Billing method:

1. The power intensive tariff rates should be applicable only for the recorded demand in excess of 7500KVA

2. While calculating the rates for power intensive energy instead of taking only 100 % extra charge for the peak consumption , an additional element of TOD billing and its 100% extra is included . This is not a fair practice.

The Appellant approached CGRF for redressal of the grievances. But CGRF dismissed the petition upholding the methodology of billing adopted by KSEB. The representation with the pleas noted above is submitted to the under signed in the above back ground. Counter statements of the Respondent was obtained and hearing of both the parties conducted on 18.02.2010 .The Appellant and the Respondent submitted argument notes later.

The two grievances pointed out by the Appellant shall be analyzed separately below.

GRIEVANCE 1

As noted earlier the additional power of 2500 KVA was sanctioned under power intensive category as per the Power Allocation order of July 2008 of Chief Engineer Transmission. But the agreement executed on 23.7.2008 between the parties do not provide any such differentiation for the existing load and the additional load. The existing load of 7500 KVA falls under Non power intensive (NPI) category and the additional load of 2500 KVA falls under Power intensive (PI) category. The rates of energy charges for the two categories are different. But during the hearing it was revealed that no separate metering had been provided for the two loads. The Appellant also informed that segregation of the circuits, systems and loads to the two categories is also virtually impossible.

It is clear that the root of the problems resulting in the grievances lies in the peculiar situation narrated above.

The Respondent segregated the energy consumption between the NPI and PI loads on a pro-rata basis, that is, the energy consumption was segregated in the ratio 7500:2500 for each time zone and billed accordingly. The Appellant claim is that the zone wise energy consumption corresponding to the first 7500 KVA , that is , NPI load should be billed at NPI rates and the balance at PI rates. Surprisingly , both sides were not able to support their claims with any regulatory instructions, orders of the Board or agreement conditions.

The tariff order has provided higher rates of energy charges applicable to Power intensive industries. The method of billing for additional power categorized as 'power intensive' load *allotted to existing NPI industries* has not been mentioned any where. Neither the power allocation order nor the new agreement specifies the method of billing/metering in such unique situations.

In the situation the best option would have been to provide separate metering for the two loads which was also not attempted or found impossible.

The covering letter and the application for power allocation for 'reinstatement of the contract demand to 10000KVA' submitted by the Appellant to KSEB show that the additional power is to be utilized for increasing the production levels and to go back to their 'original production volumes'.

More over the existing load of 7500KVA of the Appellant has been excluded from the categorization under power intensive only because the plant had commenced production before 17.12.1996 . In other words the characteristics of the existing load and the additional load are not substantially different.

It is clear that the additional 'power intensive' load do not energize any new power intensive production lines segregated from the existing plant but contribute to the total production volumes of the plant. It has to be concluded that the total production of the plant is a function of the combined action of the two loads. Consequently both the loads should be contributing to the total energy consumption proportionately.

Under the above circumstances I conclude that, in the prevailing situation, the most judicious and fair methodology for billing would be to compute the pro-rata consumption of both Power intensive and Non Power intensive loads. I am inclined to uphold the methodology adopted by the Respondent on the matter.

GRIEVANCE 2

Part A Clause 5 of the tariff regulations issued by the KSERC on 27.11.2007 reads as follows:

Power Intensive industries which are allocated power on or after 17-12-96 shall be charged 100% extra over the normal rates for the energy consumed during peak time. This will apply to additional power required by the existing Power Intensive industries.

It is clear that the '100% extra over the normal rates for the energy consumed during peak time' applicable to power Intensive industries which are allocated power on or after 17-12-96, will be applicable to the additional power of 2500 KVA allotted to the Appellant.

As per the Tariff order the Appellant shall be billed on differential pricing system as per the formula indicated in the Annexure A to the order. The methodology for computing differential energy charges are given in the above annexure:

Energy Charge = Normal energy charge + Time of use charge - Incentive.

(a) Normal Energy Charge = (Normal Consumption + Peak Consumption+ Off peak consumption) x ruling energy charges/unit.

(b) Time of use charge (Only if the consumption during peak period exceeds 10% of energy consumption during the month) = (Peak consumption - 10% of the energy consumption during the month) X Ruling energy charge/unit X 0.80

(c) Incentive (Only if the consumption during Off-peak period exceeds 27.5% of energy consumption during the month) = (Off peak consumption - 27.5% of the total consumption) x ruling energy charges/Unit x 0.35

From the above it can be seen that in the case of power intensive industries the following energy charges shall be applicable:

1. Energy charges at higher rates @ 340 paise for the whole consumption during the month
2. Additionally, 100 % extra for the whole energy consumption during peak hours
3. Differential rates for the Time of the Day use : including peak hour charges calculated as per the given formula :{(Peak consumption – 10% of the energy consumption during the month) X Ruling energy charge/unit }X 0.80

But in the instant case it is seen that the Respondent had applied the '100% extra' as per the item 2 above for the peak hour differential rates mentioned in item 3 also. This is the point of dispute between the Appellant and Respondent.

The Respondent justifies the action citing Part A Clause 5 and the Annexure A of the tariff regulations issued by the KSERC on 27.11.2007 .As per the Annexure A the peak hour Time of Use charge is to be computed taking the 'ruling energy charge'. According to Respondent the ruling energy charge during peak hours in the case of power intensive industries includes the normal charges plus 100% extra.

The Appellant contention is that 100% extra for the energy consumed during peak time is to be computed on the normal rates as per the same clause. They cite the wordings/heading 'Normal rates' on top of the tariff rates specified for the EHT consumers. Hence the 100% extra has to be computed over the rates specified in the tariff order. KSEB practice of taking an additional element of TOD billing and its 100% extra is not a fair practice.

The copies of the Bills and calculations submitted by both the parties were verified. The peak hour consumption as a whole was seen charged at 100% extra over the normal rates applicable to Power intensive consumers. This is in accordance with the tariff orders. There seems to be no dispute on this.

The charges computed as per the Differential rates for the peak hour consumption was seen taken *twice* for arriving at total amounts payable. Thus the Respondent is charging 100% extra on the Differential rates for the peak hour consumption as alleged by the Appellant. The Appellant is disputing this . The Respondent has done this on the understanding that the 'ruling energy charge' in respect of power intensive units for peak hours is inclusive of the 100% extra charges as per Part A Clause 5.

The single question to be decided in this case is the concept of 'Ruling energy charge' mentioned in the Annexure A above. What is the ruling energy charge in the case of Power intensive consumers ? As per Para 7(b) of Annexure A 'the ruling energy charge is the normal ruling rate applicable to energy'. Now, what is the normal ruling rate for Power intensive consumers? Normal rate for EHT Power intensive consumers has been specified in the Tariff order dated 27.11.2007 in Part A under the heading 'EHT tariff' as 340 paise per unit.

More over in the calculation methodology specified in Annexure A the first part namely (a) Normal Energy Charge for the total consumption (Normal Consumption + Peak Consumption+ Off peak consumption) is computed taking the 'ruling energy charges' as 340 paise . If the ruling energy charges here is 340 paise how can ruling energy charges be 100 % extra in Part (c)?

More over, the Part A Clause 5 itself states that 100% extra shall be *over the normal rates* which implies that the normal rate is 340 paise per unit only. Hence the ruling energy charge for the power intensive consumers for the purpose of computing differential rates for peak hour consumption have to be the normal rates specified above , that is 340 paise per unit. Charging 100% extra for the differential pricing is not correct. The statement of the Respondent that they had obtained approval from KSERC for the principle of computation was not supported by any documents. During the hearing it was also revealed that they had neither sought nor obtained any approval for their 'principle of computation'.

Upon perusing the above petition and the counter affidavit filed by Respondent along with argument notes and all the connected records relating to the case and upon hearing the arguments of both sides I am concluding that the Respondent has to compute differential pricing for peak hour consumption considering the ruling energy charge as

the normal tariff rates specified in the tariff order dated 27.11.2007 , that is, 340 paise per unit .The Appellant is eligible for relief on the grievance 2 cited by them.

Orders:

Under the circum stances explained above and after carefully examining all the evidences, arguments and points furnished by the Appellant and Respondent on the matter, the representation is disposed off with the following orders:

1. *The billing methodology for the Power Intensive load of the Appellant shall be modified by computing Differential rates for the Time of the Day use during peak hours taking the ruling energy charge as the normal tariff rates specified in the tariff order dated 27.11.2007 , that is, 340 paise per unit .*
2. *The excess amounts collected from the Appellant shall be refunded by adjusting the same against future current charges within a period of three months failing which the Respondent shall be liable to pay interest as specified in the Section 24(6) of the Kerala Electricity Supply Code 2005 from the date of this order.*
3. *No order on costs.*

Dated this the 25th day of March 2010 ,

P.PARAMESWARAN
Electricity Ombudsman

No P 95/09 / 527/ dated 30.3.2010

- Forwarded to: 1. M/s Carborundum Universal Ltd
PB No 1 , Kalamassery Dev. Plot (Po) , KOCHI 683109
2. The Special Officer (Revenue)
KSE Board
Pattom. Thiruvananthapuram 4

Copy to :

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2. The Secretary ,KSE Board,
VaidyuthiBhavanam ,Thiruvananthapuram 695004
3. The Chairman , CGRF,KSE Board ,
Power House Ernakulam

