



Chhattisgarh State Electricity Regulatory Commission

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Petition No.01 of 2008(M)

In the matter of review of tariff order for the year 2007-08 for CSEB, in respect of provision for tariff applicable to temporary connections

Abhijit Infrastructure Ltd, Raipur : Applicant

V/s

Chhattisgarh State Electricity Board, Raipur. : Respondent

Present : S.K.Misra, Chairman
B.K.Sharma, Member

ORDER

(Passed on 05/05/2008)

M/s Abhijit Infrastructure Ltd., has submitted an application for review of this Commission's tariff order for the year 2007-08, passed on 22.10.2007 in petition No.19 of 2007 (T), in respect of the provision for tariff applicable to temporary connections. The review petition has been filed on the ground that the provision with regard to tariff for temporary connections in the above order is not in keeping with the provisions in the Chhattisgarh State Electricity Supply Code, 2005 (Supply Code, for short) and thus suffers from an error apparent on the face of the record.

2. The facts of the case are that M/s Abhijit Infrastructure Ltd (hereinafter 'the petitioner') applied for a temporary connection for a requisitioned demand of 1660 KVA, to the Chhattisgarh State Electricity Board ('CSEB' or 'the Board', for short) and the latter sanctioned it vide order dated 4.1.2007, for a period of six months. This period was subsequently extended, on the request of the applicant, by another six months, upto 30.12.2007. Against the requisitioned and sanctioned demand of 1660 KVA the petitioner's actual demand varied from 960 KVA RMD in Feb. 2007 to 3960 KVA in Aug. 2007. The respondent Board, therefore, charged the petitioner for the highest recorded maximum demand (RMD) from the date of the temporary connection, as per the provision of para 6.5 of the Commission's tariff order dated 22.10.2007. The petitioner approached the Consumer Grievance Redressal Forum, Raipur against the bills raised by the Board on the ground that demand charges could not have been charged on enhanced demand for the past months also, when the RMD was less than 1660 KVA. (There was also the issue of tariff minimum charges the petitioner had taken up with the Forum which is not relevant to this case). The Forum held that while enhanced demand charges should be recovered from the petitioner in the future months i.e. the period of temporary connection beyond the date on which the RMD was more than the requisitioned and sanctioned demand, it could not be recovered for past months. The CSEB has approached the Hon'ble High Court of

Chhattisgarh against the decision of the Forum through a writ petition. The petitioner has approached this Commission for review of para 6.5 of the Commission's tariff order aforementioned in compliance of which the bills have been raised by the CSEB. Para 6.5 of the tariff order aforementioned deals with temporary connection at EHV and HV. The applicable tariff for temporary connection is one-and-half times the normal tariff (tariff for permanent connection) for that category of consumers, to include both demand and energy charges. This part of the order also provides for the billing as under:

“The billing demand shall be the contract demand requisitioned by the consumer or the highest recorded maximum demand, whichever is higher during the period of supply, commencing from the month of connection ending with billing month. In case the recorded maximum demand is more than the contract demand, the billing shall be done on the basis of enhanced recorded maximum demand from the date of connection and this billing shall be continued till the period of sanction.”

Thus the billing provision for temporary connection at EHV and HV is quite clear that in case the RMD is more than the sanctioned contract demand, for the purposes of billing, RMD shall be assumed to be the maximum demand throughout the period of temporary connection. The petitioner has pleaded that this provision is illogical as this amounts to periodic billing whereas the Supply Code provides for billing to be done on monthly basis. There should be no distinction made between permanent connection and a temporary connection in the matter of billing. The petitioner has hence pleaded that there has been an apparent error in the order of this Commission, the review of which has been sought in this petition. The plea of the petitioner is that billing for temporary connection should also be done as per the provisions for billing in the Supply Code and demand of a particular month should be reckoned for the purposes of billing. Recorded maximum demand should not be the basis for billing for the entire period of temporary connection but the basis for billing of that particular month only.

3. We have heard the petitioner and the respondent Board. This case has apparently arisen out of the nature of a temporary connection. A temporary connection, whether HT or LT, is provided to a needy consumer when there is scope for the temporary load to be adjusted in the CSEB's system at any particular location. Unlike a permanent connection, in which the requisitioned capacity is reserved for the consumer, in case of temporary connection there is no such reservation. Such a connection is provided for a temporary purpose and to utilize a temporary availability of capacity at a particular location. Generally the Board does not enter into any agreement with a consumer availing a temporary supply and there is no reservation of capacity. Since there is no reservation of capacity, enhancement of demand beyond the contract demand by such a consumer is likely to create disturbances in supply to permanent connection consumers in the area. Because of this there is provision for penalty in cases where a temporary connection exceeds its requisitioned demand. While in case of a permanent connection also enhancement in demand beyond the contracted capacity attracts a penalty, but only during the month in which the contract demand has been exceeded. In case of a temporary connection the provision is to bill the consumer on the basis of enhanced recorded demand for the entire period of the temporary connection, by way of penalty. This provision has apparently been there since a long time. The petitioner has contended that there was some confusion on this matter in the tariff order of the Commission for the year 2006-07. Para 5.15.4 of the tariff order of the Commission for the year 2006-07 reads as follows:

“The billing demand shall be the demand requisitioned by the consumer or the highest monthly maximum demand during the period of supply commencing from the month of connection ending with the billing month, whichever is higher”.

The provision in the impugned tariff order for the year 2007-08 has only further clarified this provision. There is no difference in the substance of both the orders. Billing on the basis of RMD for the entire period of temporary connection was envisaged in the tariff order for the year 2006-07 as is also the position in the tariff order for the year 2007-08. It is of course true that the petitioner had raised this issue during public hearing of the tariff petition for the year 2007-08 and had pleaded that billing should be on monthly basis. But, as has already been mentioned, the Board has submitted that this has been the position since a long time. The petitioner himself has quoted the tariff order of Madhya Pradesh Electricity Board, which was applicable to the consumers in Chhattisgarh, for the years 1985 onwards. The issue now raised is the reasonability of such a provision in the face of the provision regarding billing in the Supply Code. The Supply Code is a new development which has taken place and while a practice may have been followed since a long time, it has to now fall in line with the provisions of this Code. Thus though strictly speaking there is no apparent error in the impugned order, it can be said that there has been an error in that the provision does not follow the Supply Code.

4. A billing month has been defined in the Supply Code as under:

“Billing month means a period about 30 days or between the two consecutive meter readings for the purpose of billing” [clause 2.1(f) of the Supply Code].

Generally the maximum demand of the month should be the basis for billing while there can be a penalty for the consumer exceeding the contract demand. The billing has to necessarily relate to consumption during the billing month and the consumer's load during the month. The billing month concept should not be extended to the whole period of a temporary connection. The Board has contended that unauthorised demand/load is not permissible for any electricity consumer, whether permanent or temporary. Unless consumers confine themselves to electricity consumption within the pre-decided and contracted limit, the stability of the system would be disturbed. Therefore there has always been a penal provision attached to unauthorised enhancement of demand. However, it is also recognized that many times the unauthorised enhancement of demand of load may be unintentional, the reason why the impugned provisions have been made for such contingencies. It has been further stated that difference between a permanent and temporary consumer is that, to cater to the contracted demand of a permanent consumer, the licensee has to create permanent infrastructure. But for a temporary consumer mostly surplus capacity in the existing infrastructure is utilized to cater for his requisitioned demand. Therefore, the consequence of unauthorised excess of demand/load in case of a temporary connection is seriously viewed. Moreover, a temporary consumer does not enter into any agreement with the licensee and hence his requisitioned demand is accepted as the contracted demand. If he exceeds this contract demand it may cause harm to the existing permanent consumers. A temporary connection is therefore always expected to restrict the demand to the extent requisitioned and sanctioned when the connection was availed. The petitioner, on the other hand, argued that this does not appear to be logical as any penalty in billing should relate to the month in which the maximum demand has been exceeded. Excess demand should not be the basis for billing for the entire period of temporary connection.

5. On consideration of all aspects of the matter, we are of the view that while a temporary connection exceeding its requisitioned demand has serious repercussions for permanent consumers in view of the nature of the connection, penal provision for billing as it is presently, does not appear to be prima facie justified. We, therefore, directed the CSEB to come up with a new procedure for billing which would be in keeping with the monthly billing procedure as mandated under the Supply Code while imposing a penalty on a temporary consumer for

exceeding the requisitioned demand which is deterrent, and would discourage such a consumer from exceeding his sanctioned demand. Secondly, we also have to consider that since the provision for billing of temporary LT connection are also on similar lines, any modification in the billing system has to cover temporary LT connections also. The Board has come up with the following formulation:

“In the event of a consumer, availing temporary power supply has increased unauthorisedly his actual demand in case of HT supply and connected load in case of LT supply, except demand based LT tariff category, during a billing month as compared to permitted quantum by CSEB, the penal billing similar to the consumers availing permanent supply connection from CSEB may be undertaken with two times of applicable tariff, which itself is one-and-half times of tariff applicable to the permanent consumer of that category. The penal billing so undertaken will be without prejudice to the other rights of CSEB available to exercise as per provisions of effective Supply Code”.

The Board has submitted that the Commission may examine the reasonability of the proposed provision and modify the provision in the tariff order. In his rejoinder the petitioner pleaded that the proposal for two times of applicable tariff for temporary connection will be very harsh. This should therefore only be two times of the normal tariff i.e. an increase of tariff by less than 50% on the normal temporary supply tariff since the tariff for temporary supply is one-and-half times then normal.

6. We have considered both the view points and feel that because of the nature of a temporary connection exceeding the requisitioned demand has to be viewed seriously and the penal provision has to be deterrent. The modification we may make in the tariff order has to be applied to both HT and LT temporary connections although the present petition is only regarding an HT connection. Considering all these factors we decide to review the provisions of the tariff order for the year 2007-08 in so far as it relate to treatment of excess demand in billing of temporary connection i.e. para 6.1.7 in case of LT temporary supply and 6.5 in case of HT temporary supply at EHV and HV. The present stipulations in the order will substituted by the following:

(1) For LT temporary supply note (viii) of Notes to clause 2 of para 6.1.7 of the order shall be substituted by the following:

viii. The billing demand/load shall be the demand/load sanctioned for the consumer or the recorded maximum demand/ total actual connected load found (as the case may be), whichever is higher during the month of billing. In case, the recorded maximum demand or actual connected load is found more than the sanctioned demand or the sanctioned load (as the case may be) in any billing month, the foregoing tariff shall be applicable only to the extent of sanctioned demand / sanctioned load and corresponding units of energy. The billing of excess demand/ excess connected load and the corresponding units of energy shall be treated as power supplied and availed separately for billing purposes during that month. The excess supply so availed, in any month, shall be charged at the rate of **two times** of tariff applicable to the temporary connection consumer and while doing so, other

terms and conditions (viz. tariff minimum charges, low power factor charge, etc) of tariff shall also be applicable on the said excess supply.

For the purpose of billing of excess supply, the billing demand and the units of energy for the billing month shall be determined as under:

- i) The demand in excess of the sanctioned demand or sanctioned load in any month shall be the billing demand/load for the excess supply.
- ii) The units of energy corresponding to KWs/HPs of the portion of the demand/connected load in excess of the sanctioned demand or sanctioned load shall be worked out as under:

$$EU = TU \left[1 - \frac{CD}{MD} \right]$$

Where,

EU – denotes excess units;

TU – denotes total units supplied during the month;

CD – denotes sanctioned demand/ sanctioned load in KW/HP; and

MD – denotes actual maximum demand/ actual connected load in KW/HP.

The excess supply availed in any month shall be charged along with the monthly bill and shall be payable by the consumer therewith.

The provision of sanctioned demand shall be applicable to those temporary connections availing demand based tariff (LV-5.3) and the sanctioned load shall be applicable to all other LT temporary connection consumers except for domestic purpose and demand based tariff.

Other terms and conditions of the relevant category of tariff including tariff minimum charges, low power factor charges, etc shall also be applicable.

The above excess billing at **two times** the tariff shall be applicable to consumers without prejudice to the Board's right to discontinue the supply in accordance with the provisions contained in the Chhattisgarh State Electricity Supply Code.

- (2) For HV and EHV temporary connection, note (b) of clause 2 of para 6.5 of the order shall be substituted by the following:
 - b) The billing demand shall be the demand sanctioned for the consumer or the highest recorded demand, whichever is higher during the month of billing. In case the recorded maximum demand in any month exceeds the sanctioned contract demand, the foregoing tariff shall apply only to the extent of the sanctioned demand and corresponding units of energy. The demand in excess of the sanctioned demand and corresponding units of energy shall be treated as power supplied and availed separately for billing purposes during that

month. The excess supply so availed, if any, in any month shall be charged at **two times** of the tariff applicable to the consumer for temporary supply and while doing so, other provisions of electricity tariff (such as tariff minimum charge, low power factor charges etc.) will also be applicable on aforesaid excess supply, unless otherwise provided specially for any category.

For the purpose of billing of excess supply, the billing demand and the units of energy for the billing month shall be determined as under:-

- i) The demand in excess of the sanctioned demand in any month shall be the billing demand for the excess supply.
- ii) The units of energy corresponding to KVAs of the portion of the demand in excess of the sanctioned demand shall be worked out as under:

$$EU = TU \left(1 - \frac{CD}{MD} \right)$$

Where,

EU - denotes excess units;

TU - denotes total units supplied during the month;

CD - denotes sanctioned demand; and

MD - denotes actual maximum demand.

The excess supply availed in any month shall be charged alongwith the monthly bill and shall be payable by the consumer.

The billing of excess supply at **two times** the tariff applicable to consumer is without prejudice to the Board's right to discontinue the supply in accordance with the provisions contained in the Chhattisgarh State Electricity Supply Code.

No rebates/incentive is payable on such excess supply.

7. Since the above changes are being made by way of review of the tariff order for 2007-08 these will be applicable from the day the order was applicable i.e. with effect from 1.11.2007.

**Sd/-
Member**

**Sd/-
Chairman**