

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present : Sri. T. M. Manoharan, Chairman
Sri. K.Vikraman Nair, Member
Sri. S. Venugopal, Member

O.P. No. 22 of 2015

(File No. 1073/C.Engg./Railways/2015)

In the matter of amending Clause 15(b) of the EHT Agreement No.116/2009-10 entered into between the D.R.M.(Traction), Southern Railway, Thiruvananthapuram and K.S.E.B.Ltd. and similar agreements in respect of five other Traction Sub Stations and other reliefs.

Petitioner : The Divisional Railway Manager (Traction),
Southern Railway, Thycaud,
Thiruvananthapuram- 695 014.

Respondent : KSEB Ltd. ,
Vydyuthi Bhavanam,
Thiruvananthapuram 695 004.

Order dated 11.11.2015

The Divisional Railway Manager (Traction), Southern Railway, Thiruvananthapuram (DRM) has filed a petition before the Commission on 03-06-2015, seeking directions to be given to K.S.E.B. Ltd for amending clause 15(b) of the EHT Agreement entered into between him and the Chief Engineers (Transmission) of the respective regions, K.S.E.B. Ltd. The petition has been admitted as O.P.No. 22 of 2015.

2. It is submitted that in Kerala, majority of the train services are passenger oriented commuter trains, most of which are hauled by electric locos. Railways avail EHT supply (110 kV) from K.S.E.B.Ltd. for the Traction substations (TSS) owned by Railways, for stepping it down to 25 kV for feeding the electrified lines. The

Divisional Railway Manager (Traction) had executed EHT agreement with K.S.E.B.Ltd. for providing electricity for Railway Traction at their various Traction substations at 110 kV with different contract demand as detailed below.

| Sl.No. | EHT Agreement No. | Date of agreement | Signed with | For | Contract Demand |
|--------|-------------------|-------------------|----------------|------------------|-----------------|
| 1 | 116/09-10 | 30-12-2009 | CE (Tr.S), TVM | TSS, Perinad | 9000 kVA |
| 2 | 2/14-15 | 14-07-2014 | CE (Tr.N), KKD | TSS, Chalakudy | 9500 kVA |
| 3 | 50/08-09 | 23-08-2008 | CE (Tr.S), TVM | TSS, Ernakulam | 8000 kVA |
| 4 | 43/13-14 | 31-08-2013 | CE (Tr.S), TVM | TSS, Chingavanam | 7000 kVA |
| 5 | 122/08-09 | 25-10-2008 | CE (Tr.S), TVM | TSS, Punnapra | 5000 kVA |
| 6 | 129/09-10 | 29-01-2010 | CE (Tr.S), TVM | TSS, Kazhakuttom | 8500 kVA |

CE(Tr. S) TVM = Chief Engineer, Transmission (South) Thiruvananthapuram

CE (Tr. N), KKD = Chief Engineer, Transmission (North) Kozhikode.

3. As per the agreement, Railways shall take supply from three phases and convert it into single phase at its cost and shall utilise the supply from all the three phases in each traction substations in such a manner that the power supply from all the three phases are utilised by the three traction substations in one rotation. The Billing demand shall be the recorded maximum demand for the month in kVA or 75% of the contract demand in kVA, whichever is higher.
4. It is admitted that for periodical maintenance of the equipment, K.S.E.B.Ltd. has to avail shutdown of the EHT feeders. During the shutdown period or at times of 110kV supply failure, Railway is permitted to avail supply from the nearest healthy traction sub station to the 'unhealthy' side to keep the system operational. During this period, while availing supply from adjacent traction substation, the recorded maximum demand (RMD) may increase and on most of the occasions, it may exceed the contract demand. In such a situation, such excess RMD is taken for billing purposes by K.S.E.B.Ltd. The petitioner has submitted that it was not fair to force the consumer to pay the higher demand charges resulting from the lapses on the part of the distribution licensee namely, K.S.E.B. Ltd.
5. The petitioner has submitted that K.S.E.B.Ltd. is exploiting the benefits of Clause 15 (b) of the Agreement, which reads as,

"...when 110 kV power supply of the Board to the traction substation fails due to force majeure condition or the Board takes shut down on the 110 KV line, the Railway shall be permitted to avail 110 KV supply from the adjacent traction substation. During such periods if the actual maximum demand exceeds the contracted demand, such excess demand will be charged at the normal 110KV traction tariff..."

6. It is further submitted by the railways that the practice of the shutdown of incoming supply to the traction substations is being adopted by K.S.E.B.Ltd. unilaterally forcing the Railways to avail additional traction supply from the adjacent traction substations enabling the K.S.E.B.Ltd. to realise huge amount of money for increased maximum demand' beyond 'contracted demand'. It has become a practice of creating at least one shutdown on 110 kV line in every three months. Thus K.S.E.B.Ltd. is benefited for their negligence, deficiency of service and for the *mala fide* intention of resorting to the unfair trade practice. Due to this, Railways had to make excess payment to the tune of Rs. 1,07,82,165/- during the period from May 2004 to April 2015.
7. It is submitted that the Railways are forced to enter into the agreement containing arbitrary clauses in favour of K.S.E.B.Ltd.. The petitioner approached K.S.E.B.Ltd. at different levels to sort out the issue, but without any positive result. On 12-09-2014, a petition was filed before the Member Secretary of the Electricity Supply Code Review Panel wherein it was advised to file a petition before the Commission and hence this petition.

Prayers in the Petition:

8. The petitioner has sought the following relief:
 - i. *KSEB Ltd. may be instructed to pay back the money collected from Railways by invoking the clause 15 (b) of EHT Agreement due to the reasons created and happened at the part of KSEB.*
 - ii. *Whenever the Maximum Demand raised due to the 25 kV supply extension done by Railways due to the reasons created/happened at the part of KSEB, the Maximum Demand raised beyond the Maximum Demand which is recorded prior to the supply extension should not be accounted for billing.*
 - iii. *The Maximum Demand raised due to the extension of 25 kV supply from adjacent Traction Sub Station should not be accounted for billing purpose.*
 - iv. *Clause 15(b) of the EHT agreements in respect of all of the six Traction Sub Stations are liable to be "amended as" "Exceeded Maximum Demand Value during shut down availed by the supplier/110 kV incoming supply failure period has to be waived of from billing even if the actual demand exceeds the Recorded Maximum Demand prior to 110 kV shutdown/failure in case of availing extended supply from adjacent Traction Sub Station to the unhealthy Traction Sub Station where shut down on 110 kV line has been effected by KSEB and supply failure in such cases".*

Hearing

9. Hearing was conducted in the court room of the Commission at Thiruvananthapuram on 30-06-2015.

Version of the Respondent

10. Sri. B.Pradeep, Executive Engineer, K.S.E.B.Ltd. presented the views of the respondent on the issues related to the case. He submitted that the grievance presented by the petitioner needs a resolution and K.S.E.B.Ltd. was willing to look into this. But the petition should not be admitted as a consumer cannot approach the Commission for redressal of grievances. K.S.E.B.Ltd is following various Regulations including Standards of Performances and has not contravened any Regulations. K.S.E.B.Ltd has given due consideration to the Railways, being a public utility. K.S.E.B.Ltd. is ready for a resolution of the issue in a reasonable time by amending the clause in the agreement relating to penal provisions for exceeding contract demand.

Interim directions

11. The grievances presented by the petitioner are on a clause in a concluded agreement executed between Railways and K.S.E.B.Ltd. The parties to the agreement have to negotiate and arrive at a solution. Commission vide interim order dated 06-07-2015, directed both the parties to discuss and arrive at a consensus in the matter. It was also directed to intimate the outcome of discussions to the Commission within 2 months.

Reply of the Petitioner

12. The Divisional Railway Manager (Traction), Southern Railway vide his letter no. V/TRD/252/KSEB dated 30-09-2015 has submitted that both the parties have arrived on an agreeable modification of the Clause 15 (b) of the EHT agreement and the draft of the agreement would be submitted to the Commission shortly. But they could not reach an agreement on the repayment of the amount already levied by K.S.E.B.Ltd on earlier occasions.

Reply from the Respondent

13. K.S.E.B.Ltd. vide letter no. CE (TS)/EE1/AEE2/Traction/15-16 dated 08-10-2015 has confirmed the above and that the modified proposal duly initialled by both Railways and K.S.E.B.Ltd. is placed before the Board of Directors of K.S.E.B.Ltd for approval. A copy of the draft proposal was also submitted to the Commission for perusal.

Analysis and decision of the Commission

14. The Commission has observed that there is a concluded agreement between the two parties namely, Railways and K.S.E.B. Ltd. Any dispute in respect of any of the clauses of such an agreement has to be settled between the parties through discussions and by arriving at a consensus. The modifications proposed in the

clause have been arrived at on a consensus between the parties to the agreement. The payment made by the Railways to K.S.E.B.Ltd. had been as per the conditions in the then existed concluded agreement between them. A decision on the grievance of Railways relating to the impugned excess demand charges levied from them by K.S.E.B. Ltd, can be taken only after examining the individual cases of payment of such excess demand charges and deciding as to whether the recorded maximum demand (RMD) in excess of the contract demand, resulting in realization of excess demand charges if any, was due to the lapses on the part of K.S.E.B.Ltd. The Commission places on record its appreciation on the positive approach taken by K.S.E.B. Ltd to resolve the genuine grievance of Railways which is the largest public utility in the country under Central Government. If K.S.E.B. Ltd. and Railways examine the reasons leading to realization of excess demand charges on a case to case basis with the same spirit as shown in amending the clause relating to realization of demand charges, the Commission is sure that an amicable solution can be worked out. If no settlement could be reached, the only option available to Railways is to approach the Consumer Grievances Redressal Forum having jurisdiction over the area where the traction sub-stations are situated or the Electricity Ombudsman.

Order

15. (1) Clause 15 (b) of the agreement for the supply of electricity at EHT level between the Railways and KSEB Ltd may be amended as agreed to by both the parties.
- (2) Regarding the claim of Railways for refund of the impugned excess demand charges, both KSEB Ltd and Railways are directed to examine the issue on a case to case basis and to arrive at an amicable solution.

Sd/-
K. Vikraman Nair
Member

Sd/-
S.Venugopal
Member

Sd/-
T.M.Manoharan
Chairman

Approved for issue

Sd/-
Santhosh Kumar K.B.
Secretary