

**KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM**

PRESENT : Shri. C.Abdulla, Member
Shri.M.P.Aiyappan, Member

June 19, 2009

In the matter of
Amendments to the clauses in the PPA which relates to penalty for low power
factor and payment of additional security deposit

Petition No OP 9 dated 23-01-09	M/s Thrissur Corporation Vs Kerala State Electricity Board	Petitioner Respondent
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Counsel for petitioners: Shri. B.Vasudevan Nair
Shri.Shanmukhan.C
Prof. A.M.Krishnan

Counsel for respondents: Shri.V.RameshBabu
Shri.Radhakrishnakumar
Shri.Prasad.S
Shri.Thankachan.V.J

ORDER

Thrissur Corporation is a deemed distribution licensee for distribution of electricity in the area of the erstwhile Trissur Municipality of Thrissur Corporation. The Corporation has been availing power from Kerala State Electricity Board (KSEB) at 110 kV. The Licensee has disputed the claim of penal charges for low power factor and the claim for additional security deposit on the score that they cannot be treated at par with other consumers of KSEB because they are a licensee.

Background

On analysis of the petition filed by Thrissur Corporation, two points emerge for the consideration of the Commission. They are as follows.

1. KSEB had claimed penalty for low power factor for the period from April 2005 to November 2005. This was discontinued for the period from December 2005 to December 2007. This was again claimed thereafter. Thrissur Corporation the petitioner abstained from remitting any amount towards power factor penalty on the score that they are not an ordinary consumer but a licensee supplying power to general public and street lights. The Respondent has issued a bill for Rs 99,95,570/- on 19-06-2008

towards power factor penalty. This issue was taken up by the petitioner with the Govt. of Kerala (GOK). In the meeting held on 5-5-2008 in the chamber of Secretary for Power, GOK, it was resolved that the issue should be taken up by KSEB with KSERC. But KSEB did not take any action on this direction. Instead respondent issued a demand for Rs.1,31,70,830/- towards penalty for low power factor.

2. A draft PPA for availing power at 66 kV was forwarded by respondent to the petitioner. As per clause 3 of the draft PPA, the petitioner has to maintain at all times a security deposit to the extent of two months electricity charges based on the average monthly consumption. Petitioner has stated that respondent has demanded to pay an amount of Rs 3,25,95,300/ for power supply at 110 kV and an additional security of Rs 4,56,74,670/- for consumer No. 21/1029. Petitioner has disputed the demand on the score that clause 2 of the Terms and Conditions of Supply excludes Licensees.

Hearing of the matter by the Commission

The petition was heard on 19th March 2009 by the Commission. The Petitioner while presenting the case argued that they cannot be treated as a consumer of KSEB because their status is that of a Licensee distributing power to various class of consumers and for street lighting. The Petitioner claimed that being a licensee the clauses on penalty for low power factor and the clause on security deposit as given in the Terms and Conditions of supply cannot be imposed on them. The Petitioner further stated that they have taken steps to install capacitors at EHT. Till the same is completed there should not be any claim on penalty for low power factor.

The Respondent while replying to the points stated that the draft PPA forwarded to the Petitioner is the same as that approved by KSERC for supply of power to CSEZ. Respondent stated that petitioner has not furnished their approval or any comments on the draft PPA to them but have filed a petition before KSERC. The Respondent argued that if the petitioner and its consumers do not maintain the required power factor, the excess reactive component from low power factor will be automatically passed on to KSEB and thus KSEB will become the victim for no fault of theirs. Therefore it is the primary responsibility of every licensee to maintain their system power factor to the desired level of 0.9 as fixed by KSERC. When power factor is low, there is proportional capacity erosion and the scarce resources spent on Generation, Transmission and Distribution system would face severe loss due to inefficient utilization. So a compensation provision prohibiting the biggest evil of low power factor is inevitable. Respondent argued that Commission has vide order dated 15-01-05 has allowed to penalize/incentivise the consumers. It is implied in these orders that every consumer as well as licensee is bound to accept the same. If the licensees are not penalized for low power factor, the penalty they recover from

their consumers will become an extra income when KSEB bears the burden of low power factor.

The Respondent argued that in the case of M/s Tata Tea Ltd the agreement in force has the Security Deposit clause. Hence exempting petitioner from furnishing Security Deposit will create problems and protest from other Licensees. Respondent pointed out that petitioner is collecting Security Deposit from its consumers. Also Security Deposit collected from consumers and Licensees partially compensates for the payment liabilities towards the weekly payment for energy import from Central Generating Stations.

Commission after hearing both parties expressed that one more sitting was required and that the next sitting was fixed for 24th April 2009. In reply to the clarifications sought for by the Commission, petitioner clarified in writing that all LT industrial consumers are liable to install capacitors. Penalty is also imposed where capacitors are not installed. Petitioner also clarified that they have not installed capacitors at the distribution transformer points. Also petitioner confirmed that they collect Security Deposit from consumers.

During the deliberations on the second sitting both parties repeated their previous arguments.

Analysis by the Commission

The only point put forward by petitioner for seeking exemption from penalty for low pf and from furnishing Security Deposit is that they are not a consumer. Commission finds that such an argument does not hold any ground because as far as supply of power is concerned, seller can impose conditions safeguarding his interests. Further if the power factor of the Licensee is low, the supplier of power has to install capacitors to minimize losses. For such investment other consumers of the supplier has to take the burden. This cannot be allowed.

Respondent has stated that the agreement now in force is the one executed with the Maharaja of Cochin and that the same is not traceable. Respondent has not imposed penalty for low power factor right from the time of execution of agreement. Imposing penalty suddenly without any supporting clause from PPA or order of Regulatory Commission is not acceptable. Even in the Tariff order issued by the Regulatory Commission, there is no mention of power factor penalty. Respondent has to withdraw the penalty imposed. Power factor penalty can be inflicted right from the date specified in this order prospectively only.

Coming to Security Deposit, the argument by petitioner is not acceptable. The Respondent who supplies power to petitioner has to meet cash flow without going in for short term loan for working capital. Thus the stand taken by the Respondent is reasonable. Petitioner is collecting Security Deposit from consumers. Further if any relief is given to the petitioner, the same may invite requests for similar relief from other Licensees. Commission has also noted that petitioner has sufficient liquidity to furnish security deposit fully in cash. Furnishing half of security deposit in cash and the other half as BG will not be a problem for the petitioner. Commission does not find any reason for any relief for the petitioner in this regard.

Order of the Commission

1. The petitioner shall execute power purchase agreement with Kerala State Electricity Board with immediate effect after approval of draft PPA by Kerala State Electricity Regulatory Commission.
2. If the power factor of power drawn by M/s Thrissur Corporation from KSEB is less than 0.9 lag, then penalty has to be paid at 1% of the energy charge for every reduction of 0.01 from 0.90.
3. The penalty on low power factor already imposed shall be withdrawn.
4. Penalty on low power factor shall be imposed from 1st September 2009. Petitioner shall install capacitors to improve power factor before this date.
5. Thrissur Corporation shall furnish security deposit equal to two times monthly current charges. Half of the amount may be in cash and other half as Bank Guarantee.

Sd/-
Member (Finance)

Sd/-
Member (Engg)

Approved for issue

Sd/-
Secretary (in Charge)

