

HARYANA ELECTRICITY REGULATORY COMMISSION
SCO 180, SECTOR 5, PANCHKULA - 134 109, HARYANA

CASE NO. HERC/PRO – 8 OF 2003

Date of Hearing: 02.09.2004

Date of Order: 18.10.2004

In the matter of petition filed by M/s Agrawal Metal Works Pvt. Ltd., Jhajjar Road, Rewari in respect of unreasonable and illegal surcharge and service connection charges levied by Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL); a subsidiary of Haryana Vidyut Prasaran Nigam Limited (HVPNL) – the Licensee for Distribution & Retail Supply Business of electricity in Haryana

Present: -

1. Lt. Col. (Retd.) Raghbir Singh, Chairman, HERC
2. Sh. S.C. Katyal, Member, HERC,
3. Sh. T.R. Dhaka, Member, HERC

On behalf of the Petitioner: -

1. Sh. Vidu Goyal

On behalf of the Respondents:-

1. Sh. V.K. Goel, SE/RAU & Tariff, HVPNL, Panchkula
2. Sh. K.S. Behl, SE/RA & SO, DHBVNL, Hisar

ORDER

This petition has been filed by M/s Agrawal Metal Works Pvt. Ltd., Jhajjar Road, Rewari in respect of unreasonable and illegal surcharge and service connection charges levied by Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL); a subsidiary of Haryana Vidyut Prasaran Nigam Limited (HVPNL) – the Licensee for Distribution & Retail Supply Business of electricity in Haryana.

1. The petitioner has stated that: -

1.1 They filed an application for extension of load from 2600 KW to 3400 KW & Contract Demand from 2400 KVA to 3400 KVA vide letter no. AMW: SSB: SS: 736 dated 11.09.1999. They deposited Rs. 5, 52,200, as Advance Consumption Deposit (ACD), vide receipt No. 122 dated 27.9.1999.

1.2 Chief Engineer 'Op', DHBVNL, Delhi, vide his office memo No. 52/WO/DRG-237/L/NNL dated 12.7.2001, sanctioned the extension of load from 2600 KW to 3400 KW with revision in Contract Demand from 2400 KVA to 3400 KVA subject to the following conditions: -

(a) Erection of new 11 KV independent feeder at petitioner's cost from 220 KV Sub - Station, Rewari.

(b) Replacement of existing 11 KV underground cable and CT's of suitable size & capacity matching with the load at petitioner's premises at their own cost.

1.3 While the approval for increase in Contract Demand from 2400 KVA to 3400 KVA was under process (even after 20 months of depositing the application and ACD), on 22.6.2001 Maximum Demand Indicator (MDI) of the trivector meter recorded 2625 KVA against the sanctioned Contract Demand of 2400 KVA due to occurrence of some fault/short circuit in the factory. They approached the concerned SDO (Op) for resetting the MDI so as to limit the surcharge for consumption upto 22.6.2001 but no action was taken to reset the MDI until next date of reading (11.07.2001) resulting in to levy of penalty @ 25% of the energy bill for the complete month, amounting to Rs.8, 09,410.

- 1.4** In accordance with para 1.2 (a), Chief Engineer 'Op', DHBVNL, Delhi, vide his office memo No. 2/WO/E/62-NNL dated 11.10.2001, sanctioned deposit estimate amounting to Rs.19,70,287 on a/c of erection of new 11 KV independent feeder.
- 1.5** In view of their request dated 15.10.2001, Chief Engineer 'Op', DHBVNL, Delhi, vide his office memo 4/WO/E-62/NNL/2001-02 dated 22.10.2001, granted permission to erect 11 KV independent feeder & get allied works executed through an approved Contractor at their cost with the condition that they will bear the cost of terminal equipment & deposit Rs.30, 000 on a/c of inspection charges i.e. @ 1.5% of the estimated cost. They deposited Rs. 30, 000, on account of inspection charges vide receipt No. 8675 dated 2.11.2002.
- 1.6** In view of the delay in getting clearance from Northern Railway for laying cable under the track, they requested for the extension of Contract Demand in part (from 2400 KVA to 2600 KVA) from the existing feeder vide their letter dated 22.07.02, addressed to the Chairman, DHBVNL, Panchkula. Necessary sanction was conveyed by the Chief Engineer/Commercial DHBVNL Hisar, vide his office memo NO. 2/SE/Comm. 564 dated 29.7.02.
- 1.7** In pursuance of para 1.6, DHBVNL demanded, vide Demand Notice No. 620 dated 2.8.2002, Rs.1, 50,000 on account of service connection charges to cater to enhanced Contract Demand i.e. @ Rs. 750 per KVA. They deposited the amount with DHBVN vide receipt No.000428 dated 7.8.2002.
- 1.8** Vide Demand Notice No. 857/CC dated 29.10.2002, DHBVNL demanded Rs.6, 00,000 on a/c of Service Connection Charges for releasing the balance Contract Demand of 800 KVA.
- 1.9** Vide letters dated 30.12.2002 & AMW: VG: SS: 1956 dated 7.3.2003, they requested DHBVNL to withdraw the demand, raised vide Demand Notice No. 857/CC dated 29.10.2002, as the cost of the 11 KV independent feeder

had been borne by them but AEE 'Op', Rewari, vide his office Memo No. 243 dated 26.5.03, intimated that Service Connection Charges were levied in view of Sales Circular No. 36/96 & hence could not be waived. They, ultimately, deposited the sum of Rs. 6,00,000 with DHBVNL vide receipt No. 007729 dated 24.6.2003 "**Under Protest.**"

1.10 They requested for the refund of Rs.8, 09,410, levied in July 2001 on a/c of penalty for exceeding the Contract Demand & interest @ 18 % per annum on Rs. 5, 52,200 (ACD amount) from 11.09.1999 to July 2003 due to the following reasons: -

1.10.1 Application, seeking extension of load from 2600 KW to 3400 KW & Contract Demand from 2400 KVA to 3400 KVA, submitted on 11.09.1999.

1.10.2 Deposited Rs.5, 52,200, vide receipt No. 122 dated 27.9.1999, on a/c of ACD.

1.10.3 It is normally expected that either the application will be accepted or rejected within a reasonable period of say a month or two.

1.10.4 It is reasonable to expect that DHBVNL should have got the ACD deposited only when it was ready to release the enhanced demand if the departmental procedures take such a long time.

1.10.5 For one reason or the other, the enhanced demand was affected in July 2003.

1.10.6 After accepting the ACD on 27.9.1999, DHBVN should have not levied any penalty for exceeding the Contract Demand so long as the existing system was able to take the additional burden. Since the increase in maximum demand was by a mere 10% of the sanctioned load at that time and that too transient, no undue burden was imposed on the system.

1.10.7 Collecting ACD towards increase in load/Contract Demand and levying penalty for increasing the load even by a small margin amounted to having the cake and eating it too. This is a clear case of the monopolistic exploitation of hapless consumers.

1.11 They requested for the refund of Rs.7, 50,000, demanded by DHBVN on a/c of Service Connection Charges and deposited on 07.08.2002 (Rs. 1,50,000) & 24.06.2003 (Rs. 6,00,000) along with interest @ 18 % per annum due to the following reasons:

1.11.1 As per Electricity Act 2003 “**Service Line**” means any electric supply - line through which electricity is, or is intended to be, supplied: -

I to a single consumer either from a distributing main or immediately from the Distribution Licensee’s premises;
or

II from a distributing main to a group of consumers on the same premises or on contiguous premises supplied from the same point of the distributing main”.

III “**Distributing main**” means the portion of any main with which a service line is, or is intended to be immediately connected.

It is clear from the above, that any part of the system, that is not exclusive to a specific consumer, cannot be said to constitute ‘Service Line’ for that consumer.

1.11.2 The matter regarding recovery of the actual cost of independent feeder over & above the fixed Service Connection Charges (@ Rs. 750 per KVA) was clarified in Sales Circular No. 16/97 which stated interalia that in case a connection is released on 11 KV independent feeder, the actual cost involved for releasing the connection be worked

out and the amount recoverable from consumer be higher of the following: -

- I Actual cost in case the independent feeder is laid by the Board and, if the same is erected by the consumer himself, the cost of material only.
- II Fixed Service Connection Charges as per Sales Circular No. 39/93, as amended from time to time.

The cost of terminal equipment i.e. OCB and Control Cables etc shall continue to be recovered as provided in Sales Circular No. 7/94 dated 28.2.2004 over & above the amount to be recovered in case of consumers fed through 11 KV independent feeders.

The above instructions further stated that Sales Circulars issued prior to 16/97 that included 36/96 would stand amended to the above extent.

- 1.11.3** In the present case, actual expenditure incurred by them, on laying the feeder excluding the cost of terminal equipment, was more than 2.5 times the amount calculated @ Rs. 750/KVA (on a/c of Service Connection Charges). It is absolutely unreasonable and exploitative on the part of DHBVNL to recover a huge amount of Rs. 6 Lacs (on a/c of Service Connection Charges) after they had laid the 11 KV independent feeder at their cost.

2 The respondent stated that: -

2.1 Admitted para 1.1 above but the case remained pending till July 2001 for want of compliance by the petitioner of the observations raised by the various offices from time to time. The main issue was shifting of metering room to the main entrance gate of the premises. The issue was sorted out after protracted correspondence.

2.2 Admitted para 1.2 above.

- 2.3** Admitted para 1.3 above to the extent that MDI recorded 2625 KVA against the sanctioned Contract Demand of 2400 KVA during June – July 2001 billing cycle. In accordance with Sales Circular No. D – 28/2001, the penalty @ 25% of Sale of Power (SOP) was rightly charged as the petitioner's Demand was in excess of 5% of the sanctioned Contract Demand & there is no provision of taking the reading between the reading dates (i.e. during the billing cycle) if MDI exceeds. The Contract Demand is recorded with effect from the actual date of release of connection/extension of load and not with effect from the date of submission of application by the consumer. Thus the request for refund of penalty due to increase in CD is unjustified & not maintainable.
- 2.4** Admitted para 1.4 above
- 2.5** Admitted para 1.5 above
- 2.6** Admitted para 1.6 above
- 2.7** Admitted para 1.7 above. The demand was raised in accordance with Sales Circular No.19/95 and 16/97 & the petitioner deposited Rs. 1,50,000 on 07.08.2002.
- 2.8** Admitted para 1.8 above.
- 2.9** Admitted para 1.9 above to the extent that the petitioner represented, vide letter no. AMW: VG: SS: 1956 dated 7.3.2003, against the demand raised, vide Demand Notice No. 857/CC dated 29.10.2002. Vide memo No. Ch-24/SE/Comml./762 dated 4.5.2004, petitioner's request was accepted & Rs. 6.00 Lacs deposited, vide receipt No. 007729 dated 24.6.2003, was credited to petitioner's account during 6/2004.
- 2.10** The petitioner's request for refund of Rs.7, 50,000/- is not justified as Rs.1.50 Lacs had been charged for extension of Contract Demand from 2400 KVA to 2600 KVA from existing feeder & Rs.6.00 Lacs has already been credited to petitioner's account during 6/2004.

3 Commission's view and Order

After going through the record and after hearing the petitioner as well as the respondents on 02.09.2004, the Commission observes as under: -

- 3.1** Respondents have rightly charged Rs. 8,09,410/- as a penalty @ 25% of SOP for having exceeded the demand beyond the permissible 5% limit of the Contract Demand on 22.06.2001 (Recorded demand of 2625 KVA as against the sanctioned Contract Demand of 2400 KVA) in accordance with Sales Circular No. D – 28/2001.
- 3.2** Respondents have rightly charged Rs. 1,50,000 on account of Service Connection Charges to cater to enhanced Contract Demand of 2600 KVA.
- 3.3** Respondents have already credited Rs. 6.00 Lacs to the petitioner's account during 6/2004.
- 3.4** Keeping in view the narration of the case, presented before the Commission by the petitioner and the respondents, it is observed that there was large scope of improvement in processing of case by the respondents and execution of work by the petitioner. The Commission, therefore, directs the respondents to streamline its system and thus help release the new connection/additional load expeditiously in future.
- 3.5** The Commission further directs that the respondents should not charge any amount which is not approved by the Commission and refund the same immediately if charged against the order of the Commission.

Having considered the above, the petition is hereby disposed off.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 18.10.2004.

Dated: 18.10.2004

Place: Panchkula

T. R. Dhaka
Member

S. C. Katyal
Member

Lt. Col. (Retd.) Raghbir Singh
Chairman