



BEFORE THE ELECTRICITY OMBUDSMAN, HARYANA

Haryana Electricity Regulatory Commission

Bays No. 33 - 36, Sector – 4, Panchkula-134109

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(Registered Post)

Appeal No. : 7/2017
Received on : 23.02.2017
Registered on : 27.02.2017
Date of final hearing : 08.05.2017
Date of order : 08.05.2017

In the matter of:-

Appeal against the order dated 29.11.2016 of CGRF, DHBVNL, Hisar in case no.1388 of 2016.

The Close North Apartment Owners Association, Nirvana Country, Sector 50, Gurgaon -122018 through its authorized representative Ms. Anjana Bali, President.

Appellant

Versus

DHBVNL

Respondents

Before:

Er. R.C.Mahajan, Electricity Ombudsman

Present on behalf of Appellant:

1. Sh. Shekhar Verma, Advocate
2. Sh. Ashish Goel, Advocate

Present on behalf of Respondents:

None

ORDER

The Close North Apartment Owners Association, Nirvana Country, Sector 50, Gurgaon, having account no.1066760000, through its authorized representative Ms. Anjana Bali, President, has filed an appeal against the impugned order of the CGRF, Hisar dated 29.11.2016, passed in case no. 1388 of 2016.

The Applicant had applied for an electricity connection of 5000 KVA load in the name of the Close North Apartment Owners Association. The bulk domestic power supply connection of load 5407.520 KW with CD 5000 KVA was sanctioned by the Respondent vide letter dated 25.07.2008. As the sanctioned load was not made available till 25.09.2014, a partial load of 1500 KW at 11 KV voltage level through an independent

feeder from 66 KV S/Stn, Sector 52, Gurgaon was released at the cost of the firm as a stop gap arrangement till the commissioning/energisation of the proposed 66 KV S/Stn, Sector-47, vide the Respondent memo dated 30.11.2010 and the same was energized on 24.12.2010. The full load of 5000 KVA was released on 25.09.2014.

The Applicant submitted that an appeal was filed with the CGRF, Hisar, which was partially accepted vide impugned order dated 29.11.2016. The dispute in the present case is that the Respondent DHBVN had charged for BS (NDS) tariff instead of BS/DS tariff. The Appellant stated that the Respondent erroneously levied non-domestic charges considering the connected loads of lift, fire fighting equipment and water supply pump etc. During the course of proceedings before the Forum, the Respondent has agreed to charge domestic supply charges for the period 25.09.2014 onwards but the dispute for the period 25.12.2010 to 24.09.2014 is still pending.

Giving the references of the HERC Regulations and the Sales Instructions of the Respondent Department, the Appellant has prayed for the following relief:

1. Single point 11 KV Bulk Supply Domestic tariff be made applicable w.e.f. 25.12.2010 to 25.09.2014 as per HERC tariff notification dated 13.09.2010 and as per Sales Circular D-7/2010 issued by the Respondent DHBVN.
2. According to Regulation HERC/27 dated 9.1.2013 which provides for slab based BS (DS) tariff based on average consumption/ flat/residential unit for that month. The Respondent be made comply with this Regulation by considering 660 flats in the North Close complex built by Unitech.
3. On the basis of same Regulation mentioned above, the Respondent be made to comply by giving rebate of 4 % admissible on total consumption for the month and made applicable on uniformly on Energy charges, FSA charges, Electricity Duty and Municipal tax.
4. The Respondent be asked to provide details of interest accrued on ACD deposit w.e.f. 25.12.2010 till date.
5. Interest on refundable amount.
6. To fix a time frame by which all dues payable are communicated to Applicant – Apartment Owners Association by the Respondent.
7. Amount due to Applicant- Apartment Owners Association be adjusted against monthly electricity bills.
8. Any other relief as this Hon'ble Court may deem fit in the facts and circumstances of the present case.

The complaint was received on 23.02.2017 and the same was registered as appeal no. 7 of 2017. Notice of motion was issued on 27.2.2017 and the date of hearing was fixed for 21.03.2017. The respondent SDO was directed to submit the reply within 15 days.

Proceedings held on 27.02.2017

The hearing was held as scheduled. The Secretary, RWA along with the Ld. Counsel were present on behalf of the Appellant. No one was present on behalf of the Respondent. The Respondent SDO informed telephonically regarding his inability to attend the hearing due to illness and requested for a fresh date of hearing.

The Ld. Counsel for the Appellant, during the hearing, submitted the additional documents regarding the certificate issued by the Colonizer - Unitech Limited dated 29.09.2016 and the percentage of common load calculation.

The Appellant further stated that the copies of the aforesaid documents shall be provided to the SDO, Sohna Road, DHBVN, Gurgaon within 2 days positively.

The case was adjourned to 06.04.2017. Since no reply was filed by the Respondent, the Respondent SDO was directed to furnish the reply to the appeal and the additional documents, as submitted above by the Appellant before 31st March, 2017, with an advance copy to the Appellant. It was directed that in case the Respondent SDO was not able to attend the hearing on 06.04.2017, some other officer, conversant with the case, be deputed to attend the hearing.

Proceedings held on 06.04.2017

The hearing was held as scheduled. Both the parties were present. The Respondent SDO confirmed the receipt of the additional documents given by the Appellant. After the deliberations, the Appellant submitted that the following issues need to be resolved:-

1. The single point bulk supply domestic tariff be charged from 25.12.2010 to 25.9.2014 instead of bulk supply NDS tariff.
2. The orders of CGRF dated 29.11.2016 be implemented and the amount be refunded/adjusted.

On this, the Respondent SDO submitted that the CGRF orders had already been implemented. Moreover, DHBVN was in the process of hiring an advocate through the Legal Remembrance, Haryana Power Utilities and requested to allow a minimum 10 days time for the submission of a detailed reply. He further assured that an advance copy of the reply would be handed over to the Appellant by 17.4.2017.

Acceding to the request of the Respondent SDO, the case was adjourned to 20.04.2017. The Respondent SDO was directed to ensure the submission of the reply by 17.4.2017, with a copy to the Appellant.

The hearing was rescheduled for 24.4.2017 instead of 20.04.2017.

The reply submitted by the Respondent SDO through mail dated 19.4.2017, was taken on record. A Copy of the reply had also been sent to the Appellant i.e Smt. Anjana Bali by the Respondent SDO.

Proceedings held on 24.04.2017

The hearing was held, as scheduled. During the hearing, the Appellant confirmed the receipt of the reply sent by the Respondent SDO and submitted a rejoinder. A copy of the rejoinder was handed over to the Respondent SDO and taken on record. The Respondent SDO made a submission to allow sometime to file a reply to the rejoinder and requested for a fresh date of hearing. To this, the Appellant requested that the reply of the Respondent SDO be submitted by 27.04.2017, so that the same could be gone through properly before the next date of hearing.

Acceding to the request of the Respondent SDO, the case was adjourned to 2.5.2017. The Respondent SDO was directed to ensure that the reply to the rejoinder was submitted by 27.04.2017 with a copy to the Appellant. On request of both the parties, the hearing was rescheduled for 08.05.2017.

The hearing was held on 8.5.2017 as scheduled. Sh. Shekhar Verma, Ld. Counsel alongwith Ashish Goel, Advocate appeared on behalf of the Appellant. Nobody appeared on behalf of the Respondent Department. During the hearing, the Ld. Counsel submitted written submissions on behalf of the Appellant and the same was taken on record. The Ld. Counsel submitted that the Resident Welfare Association (RWA) has taken over the responsibility of the society from the Developer on 1.10.2015 and the unsigned test report prepared by the contractor engaged by the Developer cannot be made the basis to non-suit the applicant (RWA). As such the Appellant is seeking correction of category and the claim has been accepted albeit from a later date.

It is observed that as per the Sales Circular No. D-7/2010 dated 1.10.2010, the Bulk Domestic Supply is available for the Colony / Group Housing Society having minimum 70 KW load out of which residential/domestic load should be at least 85 % and the balance 15 % load shall be for common facilities and no industrial activity will be permitted. Further, it has been clarified in the Circular that the domestic load shall include

the connected load of lifts, water supply pumps and fire fighting water pumps and shall form part of 85 % of the total connected load.

Against the sanctioned load of 5000 KVA, partial load of 1500 KW was released by the Respondent. On the test report, the then XEN/ OP had remarked to charge BS (NDS) tariff as common load was more than 15 %. The XEN had verified the test report as per the details of the load offered. Accordingly, as per the test report verified by the Respondent, the Appellant had been paying the Bulk Supply NDS Tariff. On query, whether the matter had ever been taken up with the Respondent during the disputed period, the Ld. Counsel admitted that the load verified by the XEN, as per the test report, was never challenged by them during the disputed period. He stated that the RWA took up the matter with the Forum after taking over the affairs and responsibility of the society from the Developer on 1.10.2015.

The Forum, in its order dated 29.11.2016, had also mentioned that the consumer had himself provided the occupation of 116 flats. The statement by the Appellant that the load verified by the officer of the Respondent Department as per the Test Report is not correct, cannot be relied upon at this belated stage as the Appellant had been paying the electricity bill regularly at Bulk Supply NDS tariff, as per the test report verified by the XEN on 20.12.2010. It is also observed that the remarks dt. 20.12.2010, on the proforma – schedule of energy consuming operators to be connected “Detail enclosed, load –1500 KW with CD 1500 KVA and T.R verified as per the details of the load attached” have been acknowledged by the electrical contractor. Moreover, the matter was never taken up with the Respondent by the Appellant during the disputed period. It has also been observed that on the Service Connection Order dated 20.12.2010, remarks have been given that the T.R has been verified by the XEN with a note that BS/NDS tariff should be charged and the same has also been acknowledged by the consumer.

Keeping in view the above, material on record and written/oral submissions made by both parties, I am of the view that the decision of the Forum “that BS-NDS category tariff is applicable in the present case from the date of connection (DOC) to 8/01/2013. From 9/1/2013 to the date of release of balance load i.e. 25.09.2014, the billing of the consumer requires to be done as per Annexure-4 of the HERC notification dated 9.1.2013 duly adopted by DHBVN vide sales circular No. D-4/2013. The applicable category for billing for the period from 25.09.2014 onwards is bulk supply domestic (BS-DS)” is in order and upheld.

As stated by the Appellant in the written submissions that the SDO ‘Op’ has adjusted the amount of Rs. 59,88,491/- vide SC & AR No. 379/10R dated 12.04.2017, appears to be incorrect. In case the Appellant is not satisfied with the implementation of the Forum’s orders regarding refund/adjustment of the amount by the respondent, the

Appellant is at the liberty to take up the matter with the appropriate authority as per the provisions of the Regulations HERC Regulation no.37/2016.

File may be consigned to the record.

Given under my hand on this day of 8th May, 2017.

Dated: 8th May, 2017

**sd/-
(R.C.Mahajan)
Electricity Ombudsman, Haryana**

Endst. No. HERC/EO/Appeal No.7/2017/288-295

Dated: 11.05.2017

A copy of the above is forwarded to the following:

- 1. The Managing Director, DHBVNL, Vidyut Sadan, Vidyut Nagar, Hisar.**
- 2. The Chief Engineer, 'Op.' Circle, DHBVNL, PO Power House, Punjabi Bagh, New Delhi-110035.**
- 3. The Legal Remembrancer, HVPNL, Shakti Bhawan, Sector-6, Panchkula.**
- 4. The General Manager, SE, 'Op' Circle, DHBVNL, Mehrauli-Gurgaon Road, Opposite Dev Cinema, Near Petrol Pump, Gurugram-122001.**
- 5. The Executive Engineer, Operation Sub Urban Division, DHBVNL, Sector-31 Market, Gurugram.**
- 6. The SDO/Operation, Sohna Road, Sub Division, DHBVNL, Sector-49, Gurugram.**
- 7. Ms. Anjana Bali, President, The Close North Apartment Owners Association, Nirvana Country, Sector 50, Gurugram-122018.**
- 8. The Chairperson, Forum for Redressal of Consumer Grievances, DHBVNL, Room No. 149-150, D-Block, Ground Floor, Vidyut Sadan, Vidyut Nagar, Hisar along with the office file received vide their memo no.Ch-18/Forum-1388/HSR dated 10.03.2017.**