

**KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM**

O.P. No. 41/2013

**In the matter of recovery of capital cost for augmenting power distribution
system at Vallarpadam.**

Petitioner : M/s Cochin Port Trust
Respondent : M/s India Gateway Terminal Pvt. Ltd.

Present : Shri. T.M. Manoharan, Chairman
Shri. P. Parameswaran, Member

Daily Order dated 25.03.2014

Heard M/s Cochin Port Trust (Petitioner) and M/s India Gateway Terminal Pvt. Ltd., (Respondent) at 11 AM on 24.03.2014 at the Conference Hall, Cochin Port Trust. The petitioner made a brief presentation about the works to be executed and the indicative cost for supplying electricity as per the request of the respondent. The petitioner submitted that the above works have to be done exclusively for giving supply to the respondent and therefore the respondent is liable to pay such costs to the petitioner. It was also submitted by the petitioner that M/s Kerala State Electricity Board Ltd., has instructed the petitioner to share the cost of laying 110 KV underground cable from 110 KV Kaloor substation to Ernakulam North substation for augmenting supply of electricity to M/s Cochin Port Trust to enable it to provide the proposed enhancement of supply of electricity to the respondent.

In reply the respondent consumer emphasized on the following points;

1. As per the provisions of Section 42 of the Electricity Act, 2003, the petitioner, as distribution licensee is duty bound to develop and maintain an efficient coordinated and economical distribution system in the area of supply.
2. As per Section 46 of the Act, the petitioner can recover only the expenditure reasonably incurred for providing any electric line or electrical plant used for the purpose of giving electricity to the respondent. In fact the petitioner has not incurred any expenditure so far.

3. There are other consumers also at Vallarpadam and the benefits of the proposed works for supplying electricity would be available to such other consumers as well.
4. As per the terms and conditions of the lease agreement between the petitioner and respondent in respect of the land, the petitioner is bound to provide electricity to the respondent.

The Commission made the following prima facie observations. Strictly speaking the respondent consumer has not submitted proper application to the petitioner licensee, as specified in the Supply Code, for the enhancement of power supply to the respondent. Going strictly in accordance with the regulations in the Supply Code, the distribution licensee has to take action only after receipt of proper application and completion of other formalities such as installation of electrical plants in the premises of the respondent as well as inspection and certification by the competent statutory authorities regarding the compliance to the specifications relating to standards and safety. The licensee need inspect the premises and installations only based on such application, prepare estimates for the works and issue demand notice for the recovery of expenditure incurred for construction of electric lines and installation of electrical plants under section 46 of the Electricity Act, 2003. The Commission also explained to the petitioner as well as the respondent the probable difficulties and delays in laying UG cable or constructing electric lines along the public roads and across the railway lines after obtaining clearances or no objection certificate or permissions from statutory authorities such as National Highway Authority, Railways, Municipal Corporation, Police Authorities and District Administration in thickly populated urban area like Kochi. Therefore it would be in the interest of both the parties to take advance action jointly so that the huge project of International Container Terminal is completed and operated without delay. It was also indicated by the Commission that the huge investment in the container terminal would remain unproductive if power supply of required quality and quantity is delayed. Further the transmission and the distribution system has to be developed efficiently and economically in advance now itself so as to meet the final demand of the consumers in Vallarpadam area in view of the difficulties for upgrading transmission and distribution systems frequently. Therefore a solution based on cooperation would be more suitable rather than conflicts.

The Chairman of M/s Cochin Port Trust pointed out that they have availed a financial assistance of Rs.15 crores from Government of India for this purpose. If the work is not completed within the time frame stipulated by Government of India, the financial assistance will have to be refunded. In such an eventuality, the cost will increase by Rs.15 crores and the beneficiaries will stand to lose to that extent. The Cochin Port Trust will require around two years for completing and energizing the 110 KV cables and 110 KV / 11KV substation.

The representatives of respondent informed the Commission that they would be able to apprise their management only during the next meeting of the Board of Directors which is likely to be held only during June 2014 or thereafter.

The Commission, after hearing, issued the following directions;

1. The representative of the respondent shall apprise their management and competent authorities about the various facts which were presented in the hearing and about the views expressed by the Commission and submit their response on or before 31.07.2014.
2. The other consumers of M/s Cochin Port Trust and M/s Kerala State Electricity Board Ltd., shall be given notice for next hearing.
3. A team of experts can be designated to scrutinize the indicative costs and estimates submitted by the petitioner after the respondent conveys their further remarks after appraisal of the entire facts and consequences.

Sd/-
P.Parameswaran
Member (Engineering)

Sd/-
T.M. Manoharan
Chairman

Approved for issue

SECRETARY