

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM 695 003

PRESENT: **Shri M.K.G. Pillai, Chairman**
Shri C. Balakrishnan, Member

August 12, 2003

Petition No. DP-2	Dy.No. 00098 dt 03-06- 2003	Mata Amritanandamayi Math, Amritapuri, Kollam Kerala State Electricity Board Thiruvananthapuram	Petitioner Respondent
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ORDER

1. Background:

1.1 The petitioner which is a charitable Trust registered under the Travancore Cochin Religious and charitable Societies Act is running the Mata Amrita Institute of Medical Sciences and Research Centreat Elamakkara, Kochi, hereinafter called AIMS or Institute. When the construction activities for the Institute started in December, 1994, the Kerala State Electricity Board hereinafter called KSEB or Board provided an electricity connection (HT connection) to it for a contract demand of 138 kVA. The contract demand was enhanced to 538 kVA when the Institute started functioning during 1998. During December 2000, the contract demand was further enhanced to 1000 kVA.

At the time of original sanction of the connection in 1994, the KSEB had classified the supply under Tariff category HT-II. According to the petitioner, in August 1999, the tariff classification of the supply was unilaterally changed to HT-IV-Commercial by the KSEB on the premise that the AIMS for which the electricity supply was given and which was managed by the petitioner was a private hospital. The petitioner stated that this re-classification of the tariff category by the KSEB without hearing or giving notice to the petitioner was wrong since the consumer was a charitable organization. The petitioner further stated that the AIMS got the approval of the Medical Council of India and the Government of India to start a Medical College at the Institute and the Medical College started functioning at the Institute from July, 2002. Further, the University Grants Commission accorded Deemed University status to the Amrita Vishwa Vidyapeetam, comprising five educational institutions, one of which is the Amrita Institute of Medical Sciences and Research Centre, Kochi, with effect from January, 2003.

As per latest tariff revision notification of the Kerala State Electricity Board issued *vide* B.O. (FM) No. 1462/02/TRAC/TO-1/2002 dated 24th October, 2002, technical and educational institutions and hostels run by or affiliated to universities supplied with energy at HT shall be classified under High Tension-II (HT-II) Non-Industrial/Non-commercial. The

petitioner has therefore argued that the AIMS, being an educational institution forming part of a Deemed University, should be classified under tariff category HT-II and charged accordingly by the KSEB.

1.2. The petitioner has further stated that in view of the anticipated additional electricity Requirement of the AIMS, the petitioner, at the request of the KSEB, provided 80 cents of land for construction of a 110/11kV Substation at Edapally near the Institute on a nominal rent of Re 1/- for a term of 99 years. The substation was commissioned in February 2002. As per the lease deed agreement executed between the parties, the KSEB agreed to provide adequate power supply at 11 kV to the AIMS through 2 nos. 11kV outlets.

As the petitioner's electricity demand at the Institute grew gradually and exceeded the originally sanctioned contract demand of 1000 kVA, the petitioner requested the Board to raise the contract demand to 2000 kVA. In order to enhance the demand to 2000 kVA, the Board, apart from stipulating other conditions, demanded the petitioner to remit Rs 31,03,605/= (Rs Thirty one lakhs three thousand six hundred five only) towards service connection charges calculated on the basis of a connected load of 8114 kVA which is the sum total of the capacities of all the energy consuming devices at the low tension side in the consumer's (Institute's) premises. The petitioner has contented that as per definitions for connected load, 11kV/415V transformer capacity connected at the supply point should be taken as the connected load since the load connected on LT side cannot exceed the capacity of the transformers. The petitioner has pointed out that the actual load so far recorded has never exceed 1771 kVA. According to the petitioner, the connected load should therefore be taken as 2250 kVA (3 x 750 kVA transformers) as against 8114 kVA insisted for by the KSEB.

1.3 The petition was notified to the Kerala State Electricity Board, the respondent on 4.6.2003. The reply from the Board was received *vide* letter No KSEB/TRAC/ SERC/ AIMS/284 dated 18th July, 2003. The Board contented that originally the electricity connection to AIMS was effected for the purpose of construction, which as per the tariff that existed then came under HT-II category. Subsequently, the tariff was revised in 1997, 1999 and 2001. As per tariff order dated 7-8-2001, the tariff applicable to Government hospitals and private hospitals were segregated. The tariff applicable to private hospitals came under category HT-IV Commercial, and the change from HT-II to HT-IV was based on appropriate Gazette notifications. The Board further stated that the private medical colleges and hospitals attached thereto are institutions working on commercial basis with charges/rates fixed by the management for giving medical education as well as for giving medical services. Hence the electricity tariff applicable to Government medical colleges and hospitals cannot be extended to private medical colleges and hospitals attached thereto. The Board further stated that separate tariff of HT-II for medical college and HT-IV Tariff for hospital can be considered if the consumer availed separate service connections for the stated purposes.

1.4 As regards the issue regarding service connection charges, the Board stated that as per the definition for connected load, it is calculated not on the basis of transformer capacity or capacity of any energy transforming device used at the supply point, but based on the capacities of all equipment connected at the consumers' premises. Further, the

transformer which is an energy transforming device can be overloaded to the permissible limit and therefore the capacity of the transformer is not indicative of the total connected load in the premises of the consumer. It was further contented that the connected load has to be computed as defined in the Conditions of Supply for Electrical Energy which formed part and parcel of the agreement.

The Board has therefore pleaded that the request of the consumer should be rejected as there was no merit in the same.

1.5 The reply of the KSEB was notified to the petitioner on 19.7.2003. The response to the reply of KSEB was received from the petitioner on 30.7.2003. The petitioner has reiterated that the connection to AIMS was effected in December 1994 at HT-II. The tariff was changed to HT-IV during August, 1999 without notice to the petitioner. The tariff applicable to Government hospitals and private hospitals were segregated by the Board as per tariff order dated 7.8.2001, and in the case of AIMS the change was made much earlier to the notification of this change. The petitioner stated that they were not informed about the change nor was it explained to them as was claimed in the letter of KSEB. The petitioner has argued that the Board had no legal right to change the tariff order before the notification of 7.8.2001. The petitioner has further stated that as per the Letter of Permission (LOP) issued by the Government of India (under inspection and advice of IMC), AIMS is categorized as a Medical College, consisting of the college as such and all associated facilities such as hospital, hostels, Nursing College, Pharmacy college, *etc.* The petitioner has argued that there can not be a medical college without a medical college hospital attached to it as an integral part of it. The 'hospital' is not and can not be a separate entity. Further, AIMS is one of the educational institutions forming part of the deemed university, viz: Amrita Viswa Vidyapeetham, Coimbatore with effect from 24.1.2003. The petitioner has therefore pleaded for categorizing the Institute under HT-II-Non-Industrial/Non-commercial, for tariff purposes, as it is a part of an Educational Institution affiliated to a University and not a mere hospital, much less a private hospital.

1.5 As regards the issue of service connection charges, the petitioner has further contented that the supply to AIMS has been effected at HT, on the basis of a legal lease deed, and the KSEB had agreed to give adequate power through two dedicated 11 kV feeders from the 110 kV substation at Edapally. As per the conditions of supply of the KSEB, the connected load has been defined as the sum total of the capacities of energy consuming devices which can be operated simultaneously. The LT load connected to the secondary side of the transformer will never exceed the transformer rating and hence the connected load for a HT consumer is the transformer rating or the power allocated to the consumer, whichever is higher. The petitioner has therefore argued that the service connection charges should be levied only on the basis of the total transformer capacity or the power allocated to the consumer, whichever is higher.

2. Hearing of the matter :-

2.1 In the proceedings of the Commission held on 4.8.2003, the parties to the petitions were heard.

2.2 The representative of the petitioner reiterated the argument made in the petition and subsequent response to the reply of the respondent. To sum up the argument, the petitioner stated that the change of its tariff category from HT-II to HT-IV in August 1999 was illegal as it was without notice, especially since the change was notified by the Board only in August 2001. Technical and educational institutions and hostels run by or affiliated to Universities are covered under Tariff Category HT-II-Non Industrial/Non-Commercial, as per Board's Notification. AIMS is presently an educational institution and therefore it should be classified under this tariff category. As regards service connection charges, as the sum total of the capacities of all energy consuming devices which can be operated simultaneously shall not exceed the rating of the transformers under any circumstances, the capacity of the transformers *i.e.* 2250 kVA should be taken for the purpose of calculating the service connection charges.

2.3 The representatives of the KSEB argued that the AIMS was a private hospital and the tariff applicable to private hospitals came under category HT-IV and therefore it should be charged only under Tariff category HT-IV. As regards the allegation of change of category from HT-II to HT-IV without notice, the Board stated that the tariff category change was communicated through a circular issued in August 1999. The Commission directed the Board to furnish a copy of this circular to the Commission latest by 7th August 2003.

The Board restated the argument that private hospitals are commercial organizations and even if a separate tariff of HT-II for medical college is to be allowed, this can be done only if the consumer avails separate service connections for the medical college and the hospital.

2.4 As regards service connection charges, the Board contented that the service connection charges is to be decided on the basis of the connected load. As per the definition in Board's Conditions of Supply, connected load means the sum total of the installed capacities of all energy consuming devices on the consumer's premises connected to the system which can be operated simultaneously. The Board argued that since the petitioner has admitted that the sum total of all the energy consuming devices is 8114 kVA, it should be taken as the connected load and the service connection charges should be worked out on this basis. On a query from the Commission as to whether the power supply system to AIMS has the capability of operating a load of 8114 kVA simultaneously, as per the definition of the connected load, the Board's representative replied in the negative.

2.5 After hearing the arguments of both sides, the Commission felt that in order to arrive at a fair decision in the matter, the details regarding the pattern of consumption in the past both in terms of energy and demand by the AIMS should be obtained. The petitioner and the KSEB were therefore asked to furnish these details latest by 7.8.2003. The Commission also

asked the petitioner to furnish the diagram containing the details of the power supply arrangement in the AIMS.

2.6 Both the petitioner and the KSEB have furnished information as directed by the Commission by 7.8.2003.

3.Commission's Findings:

3.1 The dispute involves two issues, *viz*, categorization of the petitioner (consumer) for tariff purposes and the basis for working out service connection charges.

3.2 As for tariff category, the supply to the petitioner at the AIMS was effected at HT-II in December 1994 for construction purposes. The supply was continued under the same category since HT supply for all hospitals, charitable institutions, *etc.*, came under this category as per Board's Notification B.O. No. 1006/99 (Plg. Com. 3540/98) dated the 14th May 1999. However, the Board without issuing notice to the consumer changed the tariff category of the petitioner from HT-II to HT-IV, in August 1999. During the hearing, the representatives of the Board argued that this was as per a circular issued by the Board in August 1999. However, in response to the direction of the Commission to furnish a copy of this circular, the Board has forwarded a copy of its circular dated 17.2.2003 which changed the tariff category of private hospitals to HT-IV-Commercial even if they are registered under Charitable Societies Act and exempted from payment of income tax. This circular was addressed to the concerned officers of the Board and not to any consumer. Therefore, the Commission is of the opinion that the tariff category change effected for the petitioner in August 1999 without notice to the consumer is not legally sustainable as the tariff category change was notified by the Board only in August 2001.

3.3 The Commission recognises the right of the KSEB in revising the tariff or its categorization in accordance with the provision of Section 49, 59 and 79 of the Electricity (Supply) Act, 1948, which has been in force during the period pertaining to the dispute. The Commission is, however of the view that once the change in tariff or categorization is notified, it should be strictly followed and adhered to. The Amrita Institute of Medical Sciences and Research Centre became an educational institution in July 2002 when the first batch of medical students were admitted, as revealed during the hearing. It became a full fledged medical educational institution in January, 2003 when it became part of a deemed University. The Commission believes that it is quite natural for a speciality hospital to become a medical educational institution. The Commission accepts the argument of the petitioner that the medical college can not function without a hospital and the hospital can not be separated from the medical college. At the same time, the Commission finds substance in the argument of the Board that the Institute has been functioning as a private hospital.

Therefore there is a commercial element in the clinical activities of the Institute. Since the hospital and medical colleges are functioning as an integral unit, the commercial component cannot be physically separated. For this reason, the suggestion of the Board for

segregating the power supply is not feasible. An examination of the diagram containing the details of the power supply arrangement at the Institute has further confirmed this.

3.4 In a bid to assess the electricity consumption separately for educational component and commercial component, the Commission examined the details of past consumption and demand furnished by the petitioner and the Board. As there is slight variation between the data furnished by the petitioner and the Board, the commission decided to go by the information furnished by the Board. As per this information, the average energy consumption of the Institute has grown from 4 lakh units in March 1999 to about 6.5 lakh units in March 2003. The growth of average demand during the same period was from 1000 kVA to 1500kVA.

3.5 After examining the above growth pattern and the details of consumption and demand before and after the medical college started functioning and the possible growth due to further expansion of the educational units in the complex, the Commission has come to the conclusion that 80% of the energy consumption and demand could be attributed to clinical activities and the remaining 20% to colleges, hostels *etc.* As the medical educational institutions cannot function without clinical facilities, the Commission is of the view that it would be fair to apportion 50% of the energy consumption and demand of clinical activities to the educational institutions. Thus 60% of the total energy consumption and demand should be accounted towards educational institutions and 40% towards commercial component of the clinical activities. Accordingly, 60% of the energy consumption and demand of the Institute should be classified under Tariff category HT-II - Non-Industrial/Non-Commercial and the balance 40% classified under Tariff category HT-IV-Commercial.

As regards the basis for working out service connection charges, the Commission holds the view that it should be in line with the present practice of the Board to calculate the connection charges on the basis of the connected load. As per supply conditions of the Board the definition of the connected load is the sum total of the installed capacities of all energy consuming devices on the consumer's premises connected to the system *which can be operated simultaneously*. The sum total of the installed capacities of the energy consuming devices is 8114 kVA.. However, the question is whether power system in AIMS has the capability of operating a load of 8114 kVA simultaneously. As already stated, on a query raised by the Commission in this regard during the hearing the representative of the KSEB replied in the negative. Technically, the capacity of the load that can be operated simultaneously is decided by any one of the following, whichever is the lowest.

- a. Capacity based on the current rating of the 11 kV switchgear controlling the 11 kV outlets to the Institute, outlets at the KSEB's 110/11 kV substation at Edapally.
- b. Capacity of the 11kV outlets/cables feeding AIMS from the 110/11 kV substation at Edapally.

- c. Capacity based on the current rating of the primary of the CT of the TOD Meter at the metering point.
- d. Capacity of the 11 kV/415V transformers at the AIMS premises

The Commission has found that the lowest capacity is that of the 11kV/415V transformers i.e. 2250 kVA (3 x 750 kVA) and therefore the capacities of the energy consuming devices that can be operated simultaneously is limited to 2250 kVA. The service connection charges should therefore be worked out on the basis of a connected load of 2250 kVA.

4. Commission's decision:

4.1 The Commission upholds the right of the Kerala State Electricity Board in revising/modifying tariffs or tariff categorization in accordance with the provisions of sections 49,59 & 79 of the Electricity (Supply) Act, 1948, which has been in force during the period of dispute. However such revisions/modifications should be notified to the consumers individually or through appropriate notifications. Once the tariff or tariff categorization has been modified, it should be adhered to in letter and spirit.

4.2 The Commission holds that the Amrita Institute of Sciences and Research Centre is a medical educational institution and the medical college hospital is an integral part of it. However, the Commission accepts the argument of the Board to the extent that there is a commercial component in the clinical activities of the institute. The tariff for electricity consumption should therefore be classified under two categories *viz.*: HT-II-Non Industrial/Non-Commercial and HT IV- Commercial. In view of the findings of the Commission in the foregoing section, the Commission rules that 60% of the total energy consumption charges and demand charges of AIMS should be billed under HT-II category and the remaining 40% billed under HT-IV category. This may be implemented with effect from February, 2003 when the Institute became a full fledged educational Institution.

4.3 The Commission rules that since the load that can be operated simultaneously at the Institute can not exceed the transformer capacity of 2250 kVA (3 x 750 kVA), the service connection charges should be calculated on the basis of a connected load of 2250 kVA.

4.4 The petition dated 2.6.2003 of Amritanadmayi Math, Amritapuri, Kollam is disposed off accordingly.

C. BALAKRISHNAN
Member

M.K.G. PILLAI
Chairman