

**KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM**

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

July 20, 2006

Petition DP No.25	Dy.No. 00620	Technopark, Thiruvananthapuram.	Petitioner
	dated 24-05-06	Kerala State Electricity Board, Vaidyuthi Bhavanam, Thiruvananthapuram	Respondent

ORDER

1. Background

1. The petitioner, *viz Technopark, Thiruvananthapuram* (hereinafter called Technopark) in its petition dated 22nd May 2006 stated as follows.

1.1 Kerala State Electricity Regulatory Commission vide order dated 12-01-05 has introduced the provision of incentive for High Power Factor to all consumers. Kerala State Electricity Board (hereinafter called Board) decided to withdraw the incentive of Rs 1,33,134/- given for the power factor improvement to Technopark stating that Technopark is a Licensee.

1.2 Board vide letter No.HTB.2/256 dated 08.12.2005 stated that Technopark is not eligible for this incentive because "The Board order does not allow the application of power factor to the licensees under Grid Tariff". Even though Technopark is a licensee for power distribution, it is a consumer for Board and its improved PF is helping Board's network. So, Technopark should be considered for the power factor incentive as per the above order of Kerala State Electricity Regulatory Commission.

1.3 Board increased the Grid tariff from Rs.1.25 to Rs.2.40 per unit, with retrospective effect and charged for 6 months in April 2003. The average monthly power bill from Board was Rs 16-17 lakh only during this period and Board asked

to pay the entire bill amount of Rs 88,14,821. Technopark found it difficult to pay this bill amount and hence, requested Board, to sanction instalments for making payment. Accordingly Board sanctioned for 10 equal instalments vide letter No. HT.B2/256/2003-04 dated 07-06-2003.

Surprisingly, Board penalized Technopark by charging an interest of 24% ie. Rs 3,30,298/- on the instalments. This huge bill was resulted only because of Board's delay in implementing the grid tariff revision and for which it was not justifiable to penalize the consumer. The matter was taken up with Board and requested them to waive the interest. However Board rejected the request.

The Commission in its meeting held on 25th May 2006 examined the petition filed by Technopark and decided to admit it as DP 25.

2. Hearing of the matter

Commission decided to conduct a hearing so that Board and Technopark can present their case in detail. Accordingly both the parties were informed vide letter dated 27th May 2006 that a hearing on the subject will be held on 27th June 2006 in the Office of the Commission. This was postponed to 5th July 2006 at the request of the petitioner. The hearing proposed for 5th July 2006 was further postponed to 12th July 2006.

In the hearing held on 12th July 2006, Technopark presented their case first. The points presented are as follows:

1. Technopark was given incentive for power factor improvement for more than two years. The same was withdrawn all on a sudden by Board even though Technopark is also a consumer. There is no incentive for power factor improvement as far as Technopark is concerned. As Technopark is giving incentive for power factor improvement to the consumers in their area of distribution, the incentive given by Board to the Technopark earlier should be restored.

2. In the case of Grid Tariff, the revision was given with retrospective effect. As no advance intimation was given to them, Technopark could not provide any allocation in the budget. This had adversely affected cash flow management. Board, while allowing instalment facility for remitting the arrear amount, had stated that if any of the instalment amount is not paid on or before the due date, interest on belated payment will be charged at 24%. But Board had included interest charges also in the invoices though the instalments were paid within the due dates prescribed. This was against the order giving instalment facility. Also, Technopark would not have availed the instalment facility if the Board order dated 07-06-03 had insisted penal interest even if payment was made within due dates.

Board while presenting their case have stated as follows.

1. Board order dated 13-04-05 on incentive for power factor improvement, was issued based on the order passed by the Commission to implement incentive/penalty for power factor improvement/deterioration in respect of HT/EHT consumers from April 2005 onwards. The said order does not contemplate on the implementation of incentive/penalty for power factor improvement/deterioration to the *'licensees under grid tariff'*. For want of clarification on applicability of PF based incentive/penalty system, the consumers under grid tariff were also charged with incentive/penalty for the period from April 2005 and the matter was referred to the Commission for clarification. The split-up of the incentive given to Technopark from April 2005 to September 2005 is as shown below:

Month	PF	Incentive-Rs	Remarks
April-05	0.95	29,714.13	Rs 1,33,134/- the total incentive given in these invoices recovered from the licensee Technopark.
May-05	0.94	26,871.39	
June-05	0.93	18,811.23	
July-05	0.93	18,393.06	
Aug-05	0.93	20,309.39	
Sep-05	0.93	19,035.00	
Total		1,33,134.00	

Subsequently, as confirmed by the Commission vide letter No. KSERC / Technopark / 2005/ 1396 dated 21-12-05, incentive system has been dispensed with for Licensees from October 2005 onwards and therefore demand notice was served to recover the incentive already given to M/s. Technopark. The incentive given earlier was Rs 1,33,134/-.

The contention of Technopark, now submitted before the Commission does not sustain because the existing tariff itself has been framed considering such factors and is much lesser than the tariff for many other consumers. Over and above the said considerations, they are also enjoying a further benefit of rebate of 20 paise per unit from the prevailing tariff fixed for other licensees. Also, it is seen that improvement in power factor of the consumers in Technopark will give rise to loss reduction which is a direct benefit to them.

2. It is a fact that the revision of grid tariff was delayed due to official reasons and however the revised tariff came into force from 1st October 2002 and was later notified vide gazette notification No 606 dated 09-04-03. So the revision of invoices in respect of Technopark was necessitated for the period from 10/2002 up to 2/2003 and the arrear amount of Rs 56,19,161/- was also included in the invoice for the month of April 2003 due for payment on 22-05-03. But they have short remitted the arrear of Rs 56,19,161/- and then requested for 10 monthly instalments which was sanctioned by the Board later.

While sanctioning the instalments, Technopark was informed that interest @24% per annum will be charged for delayed payments. The matter of penal interest is as per clause 32(e) of the Conditions of Supply of Electrical Energy, 1990 prevailed at the time of raising the demand and was duly agreed as per clause 8(a) of the agreement No.36/2000-01 dated 12-06-2000 between the Board and Technopark.

3. Commission's Findings

The main issues raised by Technopark are

1.The applicability of incentives to HT/EHT consumers on power factor improvement vide Commission's Order dated January 14,2005 to Technopark.

2. Waiver of Interest of 24% ie Rs.3,30,298/- on the instalments granted to Technopark.

The HT and EHT Industrial Electricity Consumers' Association had been expressing their concern on non-implementation of incentive scheme and this had been a matter of discussion in all the State Advisory Committee meetings of the Commission.

Higher Load - end power factor results in the reduction of reactive power generation at the source and reactive power flow in the network. This, in turn reduces the ampere loading of power network components such as transformers, switchgears and transmission lines which effectively release system capacity, enabling better utilization of power generators and transmission network in a given power system.

In the above context, the Commission was of the view that incentives shall be provided to HT/EHT Consumers, with due consideration to the resulting benefits to the licensee by way of improvement in technical performance of the power system and reduction of line losses. On the basis of the discussion in the Advisory Committee meeting held on 6.5.04, the Kerala High Tension and Extra High Tension Industrial Consumers' Association filed their suggestions on incentives for Power Factor improvement to Board with a copy to the Commission vide their letter dated 21.5.04.

The Commission sought the comments of Board on the above suggestions made by the Kerala High Tension and Extra High Tension Industrial Consumers' Association *vide* letter dated 24.5.04.

The Board submitted their proposal vide letter dated 1.11.04. The Commission subsequently examined the proposal submitted by Board and the load flow study and the computation of expected reduction in loss due to power factor improvement attached to the proposal.

Having considered all the facts and merits, exercising the powers under Section 61 (c) 61 (d) and Subsection (3) of Section 62 of the Electricity Act, 2003, the Commission issued orders on Incentives and penalty applicable to HT & EHT consumers for power factor improvement and reduction in power factor.

It has been very clearly indicated that the incentives and penalty ordered vide order dated January 14, 2005 of the Commission shall be applicable to HT & EHT consumers.

Technopark being a licensee is not eligible for incentives and is not liable for penalty as ordered above.

Vide Commission's letter No. KSERC/incentive/18/1/2005/1396 dated 21.12.05 it has been further confirmed that the Commission's order dated 14.1.05 is applicable to consumers only.

The contention of Technopark that they are not given incentives for power factor improvement, whereas the consumers in the distribution area of Technopark are eligible for incentive on power factor improvement is not correct because as per the order of the Commission Technopark need allow incentive for power factor improvement above 0.9. Once the power factor of the consumers are improved the power drawn by Technopark from KSEB grid is got reduced and the payment to KSEB is also got reduced. In that way Technopark is benefited.

The second issue is regarding invoice No.2/256/APR/2003 dated 7.5.03 issued by KSEB for an amount of Rs. 88,14,821/- which included Rs.56,19,161/- being arrear amount due to revision of invoices for the period 10/02 to 2/03. The grid tariff revision notified vide gazette No. 606 dated 9.4.03 was having

retrospective effect from 1st October 2002. Technopark vide letter dated 19th May 2003 intimated the Special Officer (Revenue), KSEB their inability to remit the huge arrear amount in a very short time. Subsequently instalment facility was granted to Technopark to remit the arrear amount of Rs.56,19,161/- in ten monthly instalments starting from June, 2003. The first instalment was fixed at Rs.5,61,917/- and balance in nine equal monthly instalment of Rs. 5,61,916/- each.

In the case of levy of penal interest for payment of arrears, the letter No. HTB/2/256/2003-04 dated 07-06-03 from Special Officer Revenue of Board, clearly stated that if any of the instalment due is not paid on or before the due date, interest at 24% per annum will be levied. In letter No. HTB 2/256 dated 02-11-05 from Special Officer Revenue of Board, it is stated that levy of penal interest could have been avoided had the amount been remitted on or before the due date specified in the original invoice. Thus it is clear that Board did not have an intention to penalize the Licensee for the delay in issuing the tariff notification. As the arrears had arisen due to delay on the part of Board and as the Licensee is not responsible for the delay, there is no justification in the levy of penal interest for payment in instalments also. The argument by Technopark that as no advance intimation was given regarding the arrears and the sudden imposition of huge arrears affect the cash flow was reasonable. Also, as per the letter dated 07-06-03 issued by Board, penalty was to be paid for the instalments only if the payment of instalment was delayed. But in the letter dated 02-11-05, Board has taken a different stand which is not acceptable.

4. Commission's Order

1. Commission's order dated January 14,2005 in the matter of incentives to HT /EHT consumers on power factor improvement and TOD pricing is applicable in respect of consumers only. Technopark being a licensee receiving power from KSEB grid is therefore not eligible for incentive on power factor improvement. The incentive given to Technopark on improvement of power factor is to be withdrawn.

2. As the arrear invoice amounting to Rs. 56,19,161/- was issued by KSEB on no fault of Technopark and since they have remitted instalments to KSEB within the stipulated dates, the interest charged @ 24% per annum by KSEB is not in order. The interest amount collected is to be adjusted in the next invoice to Technopark.

Sd/-
M.P.Aiyappan
Member(F)

Sd/-
C.Abdulla
Member(E)

Sd/-
C.Balakrishnan
Chairman

Authenticated copy for issue

Sd/-
Secretary