

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present : **Shri. Preman Dinaraj, Chairman**
Shri. S. Venugopal, Member
Shri. K.Vikraman Nair, Member

Petition OP No. 51/2019

In the matter of : Amending the Supply Code so as to restrict the supervision charges to 2.5% of the total approved estimate cost in the case of utility shifting for National Highways Authority of India (NHAI) projects under Bharatmala Pariyojana in the State.

Petitioner : Secretary, Power Department, Government of Kerala

Respondent : Kerala State Electricity Board Limited, represented by
1. Sri. Sasankan Nair, Dy.CE
2. Sri. K.G.P Nampoothiri, Executive Engineer
3. Sri. Edward P.B, Asst: Executive Engineer

Order dated 04. 09 .2019

1. The Secretary, Power Department, Govt of Kerala vide the letter dated 12.06.2019 has requested the Commission to “amend the Supply code so as to restrict the supervision charges to 2.5% of the approved estimate in the case of utility shifting for National Highways authority of India projects in the State”. The summary of the issues raised by the Secretary Government of Kerala, is given below:
 - (i) National Highways authority of India (NHAI), under Bharatmala Pariyojana project, will be investing Rs. 40,000 Crore in the State for building ‘two / four line roads’. NHAI requested Govt of Kerala to issue appropriate instructions to the utility owning agencies such as KWA and KSEBL to cap the supervision charges to 2.5% of the approved estimate for utility shifting in connection with ‘Bharatmala Pariyojana’
 - (ii) In view of the request of NHAI, the State Government has in principle decided to cap the supervision charges to 2.5% of the estimate cost for KWA and KSEBL on condition that NHAI would pay for the utility shifting.
 - (iii) As per the Kerala Electricity Supply Code 2014, the supervision charges claimed shall be 10% of the total of labour and transportation charges.

Labour charge in case of normal estimates comes about 40% of the total estimate and the supervision charges therefore is around 4% of the total estimate in most cases. Capping the supervision charges to 2.5% would cause a considerable loss to KSEBL and the same would have to be passed on to the consumers. Since KSEBL is bound by the Supply Code 2014, they have to charge 4% of the total estimate as supervision charges. In order to consider the request of NHAI, the appropriate clauses of Supply Code has to be amended. Hence the Secretary, Power Depart, on behalf of the State Government has requested to consider amending the supply code so as to restrict the supervision charges at 2.5% of the approved estimate in case of utility shifting by KSEBL for NHAI projects in the State.

2. The Commission examined in detail the request of the State Government in public interest, as per the provisions of the Electricity Act, 2003, and noted the following.

- (i) The Commission, in exercise of the powers conferred on it under Section 181 of the Electricity Act-2003 read along with the Section 50 of the Electricity Act, 2003 notified the Kerala Electricity Supply Code, 2014 (herein after referred as Supply Code 2014) vide the notification dated 31.01.2014.
- (ii) The Commission, as per the Regulation 33 of the Supply Code, has been approving the cost data of the rate of materials and works at which the expenditure as per Section 46 of the Electricity Act is to be recovered by the licensee.
- (iii) The Schedule 2 of the Supply Code read along with its amendment dated 24.01.2017, provides the Model Estimated Rates for Distribution works. Further, at the end of the Schedule-2, under the note, as items I&II, the Commission has specified the procedures for estimating the cost of works in the distribution sector for which specific rates are not approved as per the Regulation 33 of the Supply Code. The said procedures are extracted below.

“Cost of works in the distribution sector for which specific rates are not given shall be arrived at as follows:

- I. (a) Cost of materials as per cost data.
 (b) Centage charge 16% of (a).
 (c) Transportation charge, if any.
 (d) Labour charges.
Total cost of work is [(a)+(b)+(c)+(d)]

II. *Administrative Overhead Charges at the rate of 10% of I (c) and of I (d)*

Grand Total is (I + II)”

- (iv) The procedure specified as above under Schedule 2 of the Supply Code has been following by KSEB Ltd for distribution works including deposit works, line shifting etc, for which specific rates are not approved. Hence, for such works, KSEB Ltd has been charging 10% of the transportation

charges and labour charges as 'administrative overhead charges/ 'supervision charges'.

- (v) The Commission has examined the request of the State Government to cap the supervision charges @ 2.5% of the total approved estimate instead of charging the same @10% of the labour charges and transportation charges. The Regulation 179 of the Supply Code, empower the Commission to relax any of the provisions in the Supply Code, after hearing the parties. The relevant Regulations is extracted below for ready reference.

“179. Power of relaxation and power to remove difficulties.- (1)The Commission may, in public interest and for reasons to be recorded in writing, relax any of the provisions of this Code.

(2) If any difficulty arises in giving effect to any of the provisions of this Code or there is a dispute regarding interpretation of any provision, the matter shall be expeditiously referred to the Commission.

(3) The Commission shall pass necessary orders after hearing the parties concerned.”

3. As per the Regulation 179(3) of the Kerala Electricity Supply Code 2014, the Commission can relax any of the provisions of the Kerala Electricity Supply Code 2014 only after hearing the parties. The Commission admitted the request from the Secretary, Government of Kerala dated 12.06.2019 as petition OP No. 51 of 2019, and heard the matter on 20.08.2019. During the hearing, KSEB Ltd submitted that, 'as Bharatmala Pariyojana is a centrally- sponsored project of Government of India, it has decided to accept the proposal of the Government to consider the request to restrict supervision charges to NHAI projects at 2.50% of the estimate cost. In order to have uniform approach in the matter of supervision charges (administrative charges as per amendment to Supply Code 2014) in respect of infrastructure projects undertaken by Government agencies, KSEB Ltd suggested the following amendment in the Schedule 2 of Supply Code 2014.

“ Provided that in respect of estimate for utility shifting for infrastructure projects undertaken by State or Central Governments or its agencies, the administrative overhead charges shall be 2.5 % of I”

The Commission examined the proposal of KSEB Ltd. The amendment to the Kerala Electricity Supply Code, 2014 can be done only as per the procedures specified under Regulations 165 to 171 of the Supply Code, 2014. That include placing the proposal for amendment before the Electricity Supply Code Review Panel (ESCRP), placing the proposal of the ESCRP before the Commission, pre-publication and public hearing on the draft amendment approved by the Commission with and/or modifications of the recommendations of the ESCRP, and finally approval of the Commission duly considering the written and oral suggestions of the stakeholders. This procedure for amendment may take

considerable time. For amending the existing provisions in the Supply Code,2014, KSEB Ltd has to submit necessary proposals to the ESCRP as specified under as per Regulation 170 of the Supply Code, 2014.

4. In the letter dated 12.06.2019, the State Government has requested to restrict the supervision charges to 2.50% of the approved estimate cost in the case of utility shifting for NHAI projects in the State. The Regulation 179 of the Supply Code, 2014, empowers the Commission to relax any of the provisions of the Supply Code, 2014 in public interest.

The Commission has noted that, the National Highways Authority of India (NHAI) under Bharatmala Pariyona is investing about Rs 40,000/- crore for building two/four line road infrastructure in the State with public funds. As requested by the NHAI, the State Government has in principle decided to cap the supervision charges for utility shifting at 2.5% of the estimated cost.

Considering the request of the State Government in public interest, the Commission, in exercise of the powers conferred on it under Regulation 179 of the Kerala Electricity Supply Code, 2014, orders to relax the item I & II at the end of the Schdule-2 of the Kerala Electricity Supply Code, 2014 to the effect that, in the case of shifting of installation of K S E B Ltd. for NHAI projects in the State under Bharatmala Pariyojana project, the supervision charges is capped at 2.5% of the total approved estimated cost of the project.

Order of the Commission

The Commission, on the basis of the request of the State Government vide the letter dated 12.06.2019, and also as per the provisions of the Electricity Act 2003 and in exercise of the powers conferred on it under Regulation 179 of the Kerala Electricity Supply Code, 2014, hereby orders to relax the item I & II at the end of the Schedule-2 of the Kerala Electricity Supply Code, 2014 to the effect that, in the case of shifting of installation of K S E B Ltd. for NHAI projects in the State under Bharatmala Pariyojana project, the supervision charges is capped at 2.5% of the total approved estimated cost of the project.

Ordered accordingly.

Sd/-
K.Vikraman Nair
Member

Sd/-
S.Venugopal
Member

Sd/-
Preman Dinaraj
Chairman

Approved for issue

G Jyothichudan
Secretary