

**BEFORE THE KERALA STATE ELECTRICITY
REGULATORY COMMISSION**

Petition No.OP 6-2011

**In the Matter of: Petition in compliance to the Judgement dated
13-07-2010 in Appeal Petition No. 152 of 2009 by the
Hon. Appellate Tribunal for Electricity, New Delhi in the
matter of payment of share of cost of 110 kV Kataribagh
Substation of Rs. 201.5 Lakhs by M/s. Cochin Port Trust**

**Petitioner : Kerala State Electricity Board,
Vydyuthi Bhavanam, Pattom,
Thiruvananthapuram**

**Respondent: M/s. Cochin Port Trust
W.Island, Cochin - 682 003**

AFFIDAVIT VERIFYING THE APPLICATION

I, **Ramesh Babu.V**, son of Late. **Sri.N.Velayudhan Pillai**, aged **54 years**, residing at **D 31, 'Rohini', Venchavode, Sreekariyam.P.O., Thiruvananthapuram** do solemnly affirm and state as follows:

I am the Chief Engineer (Commercial & Tariff) of the Kerala State Electricity Board, Vidyuthi Bhavanam, Pattom, Thiruvananthapuram, and the petitioner in the above matter and I am duly authorized by the Board to make this affidavit on its behalf. I solemnly affirm at Thiruvananthapuram on this the **7th day of February 2011** that

- (i) Contents of the above petition are true to my information, knowledge and belief. I believe that no part of it is false and no material has been concealed there from.
- (ii) That the statements made in paragraphs of the accompanying application now shown to me are true to my knowledge and are derived from the official records made available to me and are based on information and advice received which I believe to be true and correct.

Deponent

Chief Engineer (Commercial & Tariff)
Kerala State Electricity Board,
Vidyuthi Bhavanam, Pattom
Thiruvananthapuram – 695 004

VERIFICATION

I, the above named deponent, solemnly affirm at Thiruvananthapuram on this the **7th day of February 2011** that the contents of the affidavit are true to my information, knowledge and belief, that no part of it is false and that no material has been concealed there from.

Deponent

Chief Engineer (Commercial & Tariff)
Kerala State Electricity Board,
Vidyuthi Bhavanam, Pattom
Thiruvananthapuram – 695 004

Solemnly affirmed and signed before me
Advocate and Notary

BEFORE THE KERALA STATE ELECTRICITY REGULATORY COMMISSION
at its office, KPFC Bhavan, Vellayambalam, Thiruvananthapuram

In the Matter of: Petition in compliance to the Judgement dated 13-07-2010 in Appeal Petition No. 152 of 2009 by the Hon. Appellate Tribunal for Electricity, New Delhi in the matter of payment of share of cost of 110 kV Kataribagh Substation of Rs. 201.5 Lakhs by M/s. Cochin Port Trust.

Petitioner: Kerala State Electricity Board, Vidyuthi Bhavanam, Pattom, Thiruvananthapuram

Respondent: M/s. Cochin Port Trust

THE PETITIONER SUBMITS THE FOLLOWING THAT:

1. K.S.E. Board had filed Appeal Petition No. 152 of 2010 before Hon. Appellate Tribunal for Electricity, New Delhi (ATE) against the order dated 15-07-2009 of Hon. Kerala State Electricity Regulatory Commission (KSERC) in the matter of levy of Service Connection Charge and share of Cost of 110 kV Substation constructed at Kataribagh.
2. Hon. ATE had issued its judgment on 13-07-2010 in Appeal Petition No. 152 of 2010, upholding the order of KSERC on the matter of realizing Service Connection Charges from M/s. Cochin Port Trust (CPT).
3. Hon. ATE has also ordered that KSEB is at liberty to approach KSERC regarding claim for sharing of cost of 110 kV Kataribagh Substation. In the light of the above verdict of the Hon. ATE and also under section 86 of the Electricity Act, 2003, the Board hereby submits as under:

4. The respondent M/s. CPT, is a deemed Licensee purchasing power from the petitioner M/s. Kerala State Electricity Board (KSEB), for distribution of electricity at the specified area of Willington Island, Kochi in the State of Kerala.
5. The supply was fed by KSEB from **Perumannoor Substation at 11 kV** for a **Contract Demand of 3.5 MVA**.
6. During August 1988, CPT enhanced **their Contract Demand with an additional load of 1.5 MVA** and during July 1993, CPT again increased their Contract Demand with another **additional load of 1.5 MVA, totaling their load demand to 6.5 MVA**.
7. During 1993, CPT had requested for a further **additional Load of 6.5 MVA, enhancing total demand to 13 MVA** in 11 kV.
8. During the same period, Cochin Naval Base, another Licensee, also demanded additional 2 MVA Power Allocation.
9. Drawing such a large quantity of power in 11 kV is technically not advisable and will also affect the quality and reliability. Moreover there was no sufficient transmission capacity to meet the additional load demanded by them without affecting other existing consumers. So supply at higher voltage only can be supplied for which the additional cost for setting up / upgrading EHT capacity for their additional demand has to be borne by the procurer.
10. It may be noted that as per clause 50 of Electricity Rules 1956 prevalent at that time, stipulates that above 2500 kVA, supply shall be provided at a

voltage above 11 kV. Further, as per Clause 4 (5) of the Supply Code Regulations 2005 issued by the Hon. Commission on 02-03-2005 after the enactment of Electricity Act, 2003, also re-affirms the above condition and has mandated voltage level higher than 11 kV for loads above 3000 kVA. A voltage level of 33 kV is insisted for loads between 3 MVA and 6 MVA, 66 kV for loads between 6 MVA and 8 MVA and 110 kV for loads between 8 MVA and 20 MVA, which were slightly modified vide amendment issued in 24-10-2008.

11. Accordingly, a 110 kV Substation at Kataribagh was proposed to be constructed by KSEB and agreed by the beneficiaries including M/s. CPT in the meeting held during 1993 by the then Minister for Electricity and Coir through a tri-partite consensus among KSEB, CPT and Naval Base on condition that the total cost of the 110 kV Kataribagh alias Willington Island Substation shall be shared among the three based on their respective additional load requirement. *(Copy of the minutes of the meeting is enclosed as **Annexure – I.**)*
12. Accordingly, the estimate amounting to Rs. 620 Lakhs was prepared and the share of KSEB, Naval Base and CPT were fixed and intimated as Rs. 341 Lakhs, Rs. 77.5 lakhs and Rs. 201.5 Lakhs respectively.
13. Naval Base remitted Rs. 75 Lakhs in cash and also provided land to the tune of 30.8 are' to KSEB for constructing the above substation. *(Copy of the receipt of Rs. 75 Lakhs is appended as **Annexure – II.** Copy of Letter dated 21-03-2001 is appended as **Annexure – III** and Copy of Letter dated 10-04-2001 is appended as **Annexure – IV** (correspondences within KSEB))*

showing that Naval Base had remitted their share of the cost of substation in cash amounting to Rs. 75 Lakhs and the land valuing to the extend of 30.8 are' provided to KSEB.

14. However while progressing the substation construction, on 02-04-2003, M/s. CPT revised their demand to 8.5 MVA from 13 MVA in 110 kV. *(Copy of the request for power allocation is enclosed as **Annexure – V**).*
15. While the share due from them was Rs. 201.5 lakhs when demanded, they did not remit their share and promised to pay while they are ready to avail the power vide their letter dated 15-09-2003. While allocating the enhanced share of power to M/s. CPT, KSEB again raised the claim for proportional cost of the substation. *(Copy of the letter dated 15-09-2003 of KSEB addressed to CPT to remit their share of the cost of substation is appended as **Annexure – VI**).*
16. Instead of remitting the committed Rs. 201.5 lakhs, M/s. CPT demanded to adjust Rs 121.24 Lakhs they had remitted to KSEB for the 11 kV cables drawn previously from Perumanoor Substation to Mattancherry.
17. It may be noted that **CPT had remitted Rs. 121.24 Lakhs towards the expenses incurred by KSEB for the cable length of 4.8 kms of 300 sq.mm XLPE cable laid from Perumannoor Substation to Mattancherry exclusively for meeting the additional load of 1.5 MVA of M/s. CPT.**
18. It is further submitted that **as per clause 16 (a) of the existing Power Purchase Agreement entered between KSEB and CPT, all cost of works for modification / alteration / enhancement of capacity of the existing**

transmission lines / substations owned by the Board necessitated to supply the increased contract demand shall be borne by the Licensee itself (here CPT). *(Copy of the existing PPA is enclosed as **Annexure – VII**).*

It is humbly submitted that M/s. CPT has remitted Rs.121.24 Lakhs towards the works necessitated for drawing 11 kV cable for the enhancement of load before accepting the proposal for constructing the 110 kV Kataribagh Substation, as per clause 16(a) of the PPA, and KSEB has installed the cable as per above agreement also. Therefore, their claim now to adjust the above amount of Rs.121.24 Lakhs in the new Substation expenses is not maintainable & justifiable.

19. Meanwhile, the 110 kV Kataribagh Substation costing Rs. 620 Lakhs was undertaken by KSEB as agreed in the joint meeting on cost sharing basis in anticipation of M/s. CPT honoring the commitments made at the highest level.
20. Even though CPT has not remitted the amount, on completion of the works, KSEB provided supply to M/s CPT at 11 kV through the new system till December 2008 from Kataribagh Substation in good faith.
21. KSEB convened a meeting with CPT on 03-11-2003 to sort out the issues relating to additional power allocation to M/s. CPT. **During the meeting with the Chief Engineer, Transmission – South, CPT further reduced their demand from 8.5 MVA to 6.5 MVA from the said 110 kV Kataribagh Substation, which is same as their existing demand.** *(Copy of the minutes of the meeting held on 03-11-2003 is appended as **Annexure – VIII**).*

22. Further, It was **requested by them during the meeting that since the issues related to land acquisition for 110 kV Substation at their end takes more time, power allocation for 6.5 MVA at 110 kV may be kept pending.** Considering their request KSEB had agreed to the same.
23. M/s. CPT confirmed in the meeting that their share of cost towards the Substation will be taken up with the Board of CPT and will be settled before energisation of the substation.
24. **Again, on 17-12-2003 CPT informed KSEB that the share of Rs.201.5 Lakhs towards 1/3rd cost of substation shall be remitted at the time of energizing the 110 kV supply to CPT. Since the letter is issued in continuation to the meeting on 03-11-2003, it is evident that the same is issued after getting the concurrence of the Cochin Port Trust Board.** *(Copy of letter dated 17-12-2003 from CPT addressed to KSEB is appended as **Annexure –IX**).*
25. On their request, Power allocation for 6.5 MVA at 110 kV level was issued on 09-09-2008 imparting the benefit of the substation setup for this purpose.
26. When KSEB has completed the construction of the 110 kV Kataribagh Substation based on the consent provided and as agreed earlier to share the cost, KSEB demanded CPT once again to pay their share on 25-09-2008. *(Copy of the letter dated 25-09-2008 is appended as **Annexure –X**).*
27. After investing a substantial sum for providing supply to them as per the consensus during 1993 in the presence of the Hon. Minister for Electricity and

Coir, **CPT has made a total reversal from the promise vide their reply on 16-10-2008 that the matter of payment of Rs. 201.5 Lakhs, will be subject to approval of KSERC.** CPT had stated that *“the Port administration has opined that the payment of Rs. 201.5 Lacs shall be remitted subjected to the approval of Hon. KSERC to avoid audit objection in future.”* (Copy of the letter dated 16-10-2008 is appended as **Annexure – XI**).

28. CPT further confirmed vide letter dated 25-10-2008 that *“the issue of payment of 201.5 lakhs shall be taken up separately and settled within reasonable period.”* (Copy of the letter dated 25-10-2008 is appended as **Annexure – XII**).

29. **CPT had issued an undertaking to KSEB on 14-11-2008 that they “shall pay to KSEB the 1/3rd share of Kataribagh substation (Rs. 201.5 lakhs) claimed by KSEB if Hon. KSERC find and order that the said amount is payable to KSEB by CoPT in the petition being filed before KSERC by CoPT regarding the subject dispute between both parties.”** (Copy of the letter dated 14-11-2008 is appended as **Annexure – XIII**). However, M/s. CPT has not so far complied with the above undertaking.

30. Hon. Commission may kindly take note of the fact that the of 110 kV Kataribagh Substation was constructed for the combined use of CPT and Navy and when the Substation became operational and they have started enjoying the benefit out of it and they have now taken a totally negative and unjustified stand with the claim that there is no additional load availed and hence they are not ready to pay their share of 1/3rd cost of Rs. 201 Lakhs that

they have promised before taking up the construction of the 110 kV substation.

31. **The very thought of having the Kataribagh Substation emerged only due to the total demand of 13 MVA from CPT otherwise the investment made by KSEB could have used for the benefit of its own consumers elsewhere.**

32. The present act of withdrawal from their earlier promise of cost sharing and denied later when the investment has actually made by KSEB, after availing supply at 110 kV is a clear breach of promise and totally unfair act from their part and so does not insulate them from sharing the cost of the 110 kV Kataribagh Substation.

33. As agreed by M/s. CPT through the undertaking dated 14-11-2008, they have not so far filed any petition regarding the payment of Rs. 201.5 Lakhs towards their share of the cost of Kataribagh Substation and hence KSEB may file the present petition to issue necessary orders to recover the proportionate cost from them for the investment made for providing power as demanded by them.

34. The legal document governing the matter is the PPA entered between the Board and M/s. CPT. As requested by M/s. CPT for enhancement of load and therefore the voltage level, KSEB has requested CPT to remit Rs.201.5 Lakhs towards their share of cost of 110 kV Kataribagh Substation, as per clause 16(a) of the PPA only. M/s. CPT had repeatedly agreed to pay the same. M/s. CPT had time and again assured payment of the amount at every

stage of construction of the 110 kV Kataribagh Substation. After investing the money and completing the construction of the Substation by KSEB, they had conveniently availed supply in 110 kV level and started enjoying the benefit of reduced tariff payable to KSEB. Thus at one hand they have burdened KSEB and its consumers by not paying the legitimate cost borne by KSEB for them for constructing the substation for them and on the other hand is availing a lower tariff consequent to up-gradation of voltage level at the cost of KSEB. Therefore, the present act of CPT backing out from the committed acceptance and legally bound payment is an unlawful act of CPT, resulting in unwarranted burden to the consumers of KSEB.

35. Hon. Commission may kindly direct CPT to pay Rs. 201.5 Lakhs towards their share of the cost of 110 kV Kataribagh Substation as agreed by CPT vide Annexures appended above.

PRAYER

For these and other grounds to be submitted at the time of hearing, it is prayed that the Commission may be pleased to order that

- (i.) CPT shall pay Rs. 201.5 Lakhs towards their proportionate share of the cost of 110 kV Kataribagh Substation.
- (ii.) The respondent, M/s. Cochin Port Trust may be directed to pay the above share of Rs. 201.5 Lakhs with applicable interest
- (iii.) M/s. Cochin Port Trust may be directed to reimburse to the Board an amount of Rs. 10,100/- towards the cost of filing this petition.

Chief Engineer (C&T)