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Office of Electricity Ombudsman
(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act, 2003)
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(Phone No.: 39506011 Fax No.26141205)

Appeal No: Electricity Ombudsman/2005/50

Appeal against Order dated 25.8.2005 passed by CGRF – BRPL on Case No.: CG/337-2004/2005/f1/1285.

In the matter of: M/s Haldiram Manufacturing Co. Pvt. Ltd. - Appellant

Versus

M/s BRPL - Respondent

Present:-

Appellant Shri A.K.Tyagi, General Manager (Works) and
Shri O.P. Ahuja, authorized representative of the appellant

Respondent Shri Sanjay Kumar, Manager Commercial (KCC) of BRPL

Date of Hearing : 28.12.2005
Date of Order : 27.01.2006

ORDER NO. OMBUDSMAN/2006/50

The appellant filed a representation against the CGRF-BRPL order dated 25.8.2005. After scrutiny of records called from CGRF, appeal and comment/clarifications sought from the appellant and the respondent, the case was fixed for hearing on 28.12.2005.

Shri A.K.Tyagi, General Manager (Works) and Shri O.P.Ahuja, authorized representatives of the appellant, attended the hearing, in person.

Shri Sanjay Kumar, Manager (Commercial)- KCC of BSES- BRPL attended the hearing.

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The Appellant had applied for HT connection against each of the two Nos. existing LT connections as detailed below :

- i) B-1/H-8, Mohan Cooperative Industrial Estate (MCIE)
Existing sanctioned load 95 KW under NDLT (commercial) use. Additional load applied 328 KW on 30.12.2003 under the name of Haldiram Marketing Pvt Ltd.
- ii) B-1/F-12, Mohan Cooperative Industrial Estate (MCIE)
Existing sanctioned load 98 KW under SIP Industrial use. Additional load applied 322 KW on 15.11.2003.

For loads more than 100 KW, electric supply is given at 11 KV and Licensee has to establish 11 KV sub station with RMU + metering cubicle. For this, the Appellant has to provide the required sub station space within his premises. Appellant has also to provide a sub station space where he will install his 11/0.4 KV transformer with LT panels.

DERC has laid down following guidelines for providing electric connections by the Licensee :

- a) On receipt of application for HT connection, Licensee shall intimate the applicant within 30 days whether the connection is technically feasible or not.
- b) In case, existing HT net work needs strengthening, the Licensee shall inform the applicant approximate time frame by which load can be sanctioned but not later than 180 days.

(For these HT connections, HT network needed strengthening of laying new 11 KV cable from Mathura Road Grid to Sub station No. 5 MCIE.)

The Licensee, however, shall not be held responsible for delay in providing the connection if the same is on account of reasons over which Licensee has no reasonable control provided the reasons for expected delay are communicated to the applicant within the period specified for energization.

Perusal of the contents of the appeal, submissions made by the Appellant and Respondent, and CGRF-BRPL record reveals that :

- a) Licensee has failed to act in accordance with the above guidelines of the DERC.
- b) As HT connections were not provided within reasonable period, applicant filed a complaint with DERC which was forwarded to CGRF-BRPL vide Dy Director (DERC) letter dated 8.10.2004. Despite persuasion/reminders from CGRF-BRPL, respondent failed to send appropriate reply and first hearing was held by CGRF on 9.5.2005 (after 7 months) when a

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statement was made by Manager (KCC). Orders were passed by CGRF which were neither specific nor time bound for energizing the HT connection.

Applicant made another representation on 26.5.2005 before CGRF informing that the commitments made by Respondent during 9.5.2005 hearing had not been adhered to. Appellant informed in his complaint that they have deposited Rs. 72.68 lakhs with the Respondent for getting HT connection and have invested huge amount in arranging additional machinery in anticipation of release of connection within the time frame. The delay in energizing the connection is causing delay in utilizing the invested funds plus charging of higher tariff on existing connections.

Applicant also requested for following reliefs :

- a) To charge the tariff of LIP (HT) on the consumption w.e.f. 11.12.2004 instead of LIP (LT) till such time connection is energized.
- b) Either to pay interest @ 18% per annum on the deposited amount w.e.f. 11.12.2004 or to pay penalties of Rs. 1000.00 for each day of default, till such time connection is energized.

Additional Vice President (KCC) of Respondent was requested to immediately offer necessary comments on the above reliefs sought by the applicant vide CGRF's letter dt. 7.6.2005. No response was given by AVP (KCC)

On 17.6.2005 applicant sent a reminder to CGRF for early decision of the issue.

CGRF held the hearing on 10.8.2005 and also inspected the site alongwith representatives of applicant and respondent on 17.8.2005. In its orders dated 26.8.2005, CGRF observed that (i) road cutting permission was accorded by National Highways Authority of India (NHAI) on 18.3.2005 and that the work pertaining to laying of the cable could not be taken in hand without formal road cutting permission (ii) the date of energisation could be deemed as 28.6.2005 (i.e. 100 days after 18.3.2005) in accordance with Regulation 5 (v) of DERC Regulations pertaining to (Performance Standards – Metering & Billing) Regulations 2002 notified on 19th August 2002 (iii) This could however, be made applicable, in case the responsibility for energisation of the installation after execution of the job pertaining to package type sub station, rested with BRPL.

CGRF has erred in its above judgment as (i) the Respondent has framed the scheme for package type sub station (ii) it is the respondent who has prepared the estimates, received the full payment from Appellant, procured and installed the package type sub station equipment, therefore, necessarily it is the responsibility of the Respondent to get the package type sub station energized satisfactorily.

Shri Sanjay Kumar, Manager (Commercial) KCC, who was present on behalf of BRPL, was asked by the CGRF to intimate as to why the change of tariff on LIP/HT should not be allowed in this case keeping in view the abnormal delay

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caused by the BRPL. No reply was given by him in this regard. However, he stated that they were planning to remove deficiencies/execute the work as advised by Electrical Inspector (Delhi Administration) after deposit of necessary charges by the complainant so that the installation is energized at the earliest.

Keeping in view the totality of the situation, the Forum directed that this work should now be completed within 21 days after deposit of necessary charges by the complainant. Permission for energisation of the equipments may also be obtained from Electrical Inspector, Delhi Administration with the joint efforts of the complainant and BRPL within the stipulated period. The Demand Note for supply/erection of RMU may also be issued by BRPL within 7 days of the issuance of these orders, if not issued so far.

The CGRF was of the opinion that non granting of permission by Electrical Inspector, Delhi Administration had given rise to issuance of fresh demand for erection of a separate ring main unit within the premise against which a period of 21 days is considered adequate.

The CGRF also ordered that LIP Tariff on HT will be levied in this case w.e.f. the date of energization or on expiry of 21 days from the date of deposit of charges as demanded by BRPL for provision and erection of the new ring main unit, whichever is earlier.

Not satisfied with the orders of CGRF dt. 26.8.2005 appellant filed the present appeal.

Based on the outcome of deliberations held during the hearing with the appellant and Manager (KCC) Shri Sanjay representative of BRPL and material on record, the following observations are made :

- i) Payment against initial estimates for laying 11 KV cable +RMU were deposited by the applicant on 1.5.2004 .
- ii) For starting 11 KV cable laying work, Manager (KCC) sent a request for obtaining road cut permission to DGM(Civil), BSES on 16.6.2004
- iii) Manager (KCC) sent a reminder dt. 2.8.2004, thereafter DGM(Civil) sent a request for road cut permission to NHAI on 3.8.2004 (**delay of 3 months**).
- iv) However, a letter from General Manager(Tech.), NHAI dated 18.3.2005 reveals that the road cut permission is being granted in reference to DGM's letter No. D/DGM/NM/04-05/R-51/1958 dated 16.11.2004.(This means that the letter for road cut permission was written on 16.11.2004 i.e. delay of 6 months)

For giving HT connection total time available as per DERC guidelines is 180 days. On receipt of application for HT connection from Appellant in December 2003, Respondent took considerable time in finalizing the cable laying + RMU estimates which were revised several times and were finally intimated to the appellant on 19.4.2004. Full payment was made on 1.5.12004 by the appellant.

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Instead of immediately applying for road cut permission, Manager (KCC) sent a request to DGM(Civil) on 16.6.2004 and a reminder on 2.8.2004. The request for road cut permission was moved by DGM(Civil) on 3.8.2004/16.11.2004 (**causing a delay of 3/6 months**).

The Respondent acted in a very casual manner because before finalizing the estimates and receiving huge payment from the appellant on 1.5.2004 it was not ascertained whether the sub station space of required size is available with the applicant or not for housing Respondent's as well as appellant's sub station equipment.

As the required sub-station space was not available, it was mutually agreed that respondent will provide a compact type package sub station for which additional estimates were framed and appellant made the additional payment on 13.9.2004.

Licensee thereafter neither informed the appellant the likely date of completion of work nor reasons for delay beyond 180 days period.

Record reveals that the process of obtaining road cut permission was accelerated only when the complaint was filed with CGRF in October, 2004. Manager (KCC) also made frantic efforts with the supplier and REL for getting package type sub station installed on priority basis vide his correspondence dated 9th May 2005.

When CGRF requested Respondent to give a likely date by which the package type sub station unit would be installed at Haldiram premises, Additional Manager (Customer care) informed vide communication dt. 13.5.2005 that orders have been placed and it would take approximately 45 days to energize the supply.

Strangely after receiving payment for package type sub station on 13.9.2004, action for procuring package type sub station equipment was not initiated simultaneously as is evident from above communication of Additional Manager (Customer Care) dated 13.5.2005. Despite 9 months delay in procuring package type sub station equipment after taking the huge amount of Rs. 72 lakhs from the Appellant, Respondent still contended that no delay can be attributed to BSES as informed by Vice President Shri Ramesh Narayanan vide his letter dated 18.1.2006.

After completion of works in August, 2005 certain discrepancies were pointed out by Electrical Inspector NCT of Delhi whose approval is mandatory before energising the new sub station. Ultimately connections were energized in October 2005 after removal of discrepancies and approval of Electrical Inspector.

In view of above facts, it is observed that for delay in energizing the HT connections, appellant was also partially responsible by not providing adequate sub station space due to which installation of PSS was agreed to be set up which further caused delay as brought out above. **On receipt of all payments on 13.9.2004, all works pertaining to HT connections were expected to be completed within 180 days thereafter i.e. by 13.3.2005. It took another 2 months for removal of**

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discrepancies pointed out by Electrical Inspector in newly installed package type sub station as these were not anticipated by the Respondent.

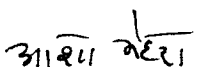
1. Considering the fact that adequate space for sub station was not provided by the Appellant initially thereby need for package type sub station caused some delay.
2. Delay was also caused by BSES personnel in initiating action for road cutting permission and for procuring package type sub station equipment.
3. Also some delay was caused for reasons not within the control of BSES.
4. The above shows that BSES (Respondent) was not wholly responsible for delay caused in energizing the HT connection. **However to meet the ends of justice, it is directed that HT connection is deemed to have been energized in May, 2005 for the purpose of levy of LIP/ML HT tariff which be made applicable w.e.f. May 2005 billing cycle. Excess payments made by the appellant be credited in his future bills from next billing cycle.**

Compliance of the above directions to be intimated within 30 days of this order.

As regards, the 2nd prayer of the appellant vis-à-vis 18% interest/ levy of penalty for delay in energizing the connection, it is stated that no such penalty is leviable as the entire delay is not attributable to the Respondent but to the Respondent and the Appellant as mentioned above and also to some extent for reasons beyond the control of Respondent.

Respondent is directed to deal with such cases in a more professional manner and ensure that avoidable delay is not caused to the consumer and DERC guidelines are followed scrupulously.

The CGRF order dated 26.8.2005 is set aside.


(Asha Mehra)
Ombudsman

Dated: 27th January, 2006