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REPRESENTATION No: P 48/09 & P 57/09

Appellant : 1.M/s L&T Tech Park,
Tejomaya,Kusumagiri,Kakkanad

2. M/s US Technology International Pvt Ltd,
Vismaya, Kusumagiri,Kakkanad

Respondent : M/s KINFRA Export Promotion Industrial Parks Ltd
Represented by
The Administrator,Kusumagiri,Kakkanad

ORDER

M/s L&T Tech Park, Tejomaya,Kusumagiri,Kakkanad
submitted a representation on 30.1.2009 seeking the following relief :

To direct the Licensee KEPIP to refix the quota @250 units per KVA of Contract Demand and to refund the excess amounts paid.

M/s US Technology International Pvt Ltd, Vismaya, Kusumagiri, Kakkanad submitted a representation 24.2.2009 seeking the following relief:

Request the licensee to revisit the modality for fixing the quota .

Since the grievance raised by both the Appellant are of similar nature a joint hearing was arranged after obtaining counter statements for the Respondent.

M/s L&T Tech Park had obtained their HT connection from the Licensee KEPIP on 23.1.2008 with Contract Demand 2900KVA. M/s US Technology International Pvt Ltd had obtained the HT connection in December 2007 with contract demand 120KVA. M/s KINFRA Export Promotion Industrial Parks Ltd (KEPIP) reported that they are following the directives of the KSE Board in implementing the power restrictions commenced in July 2008.The general guidelines for fixing quota have been issued by

KSEB vide Order No 1817/2008(Plg.Com.4649/2008/08-09) 312 dated 24.7.2008. The KSERC has approved the guidelines vide the letter dated 7.8.2008.

According to the norms of KSEB both the Appellant are eligible to get quota computed from base average, which in turn is calculated taking *the actual consumption* in 2007-08 after excluding the Nil consumption months and excluding abnormal lows and highs.

The norms fixed by KSEB and approved by ERC is very clear and scientific.

The Appellants report that their consumption is predominantly for IT related activities which in turn is directly proportional to the occupancy of the space in the buildings. It takes months together to attain reasonable level of occupancy and realistic levels of energy consumption. In other words the base average fixed based upon 2 or 3 initial months of 2007-08 are found to be grossly unrealistic.

The quota fixed by KEPIP for M/s L&T Tech Park was 1,55,593 units per month which works out to be around 54 units per KVA Contract Demand. The quota fixed by KEPIP for M/s US Technology International Pvt Ltd was 19007 units which works out to be around 158 units per KVA of Contract Demand.

Both the Appellant report that this quota is grossly inadequate and they are made to pay heavy charges for the excess power over the allotted quota.

The actual consumption of M/s L&T Tech Park has gradually increased from around 2.34 lakh units in June 2008 to around 3.6 Lakh units in March 2009 which is more than 100% over quota. The actual consumption of M/s US Technology International Pvt Ltd is steady at around 28000 units per month which is more than 50 % over quota.

Both of them took up the matter with the CGRF of KEPIP. M/s L&T Tech Park petitioned CGRF on 10.12.2008 and obtained order from CGRF on 05.01.2009. M/s US Technology International Pvt Ltd petitioned CGRF on 7.1.2009 and obtained order from CGRF on 27.1.2009. CGRF dismissed both the petitions.

The representation with the pleas noted above is submitted to the under signed in the above back ground.

The Appellants pointed out that had they been connected up after 1.4.2008 they would be eligible for base average of 250 units per KVA of Contract demand. Only because they got connection two or three months earlier, they are forced to pay heavy penal rates for consumption. This is against the principles of justice. More over the KSERC has made very clear norms in the case of LT consumers vide the order dated 15.1.2009. As per order dated 15.1.2009 the consumers who are connected up in 2007-08 and who have no sufficient consumption to calculate reasonable levels of base average shall be eligible for the normative figure of 105 units for calculation of base average. This principle should be applied in the case of Appellants also.

The Respondent informed that the base average was calculated as per the norms fixed by KSEB and they are remitting what ever penal charges they are collecting to KSEB.

In the absence of any standing instructions /regulations/rules regarding the management of power restrictions during periods of shortage the only course available is judicial application of the orders/directives/views of the KSERC and the time-tested practices of the largest licensee KSEB.

In the letter of approval (dated 7.8.2008) of the proposals of KSEB on the norms of fixing quota then KSERC had directed KSEB to fix the quota adopting appropriate formula ensuring that the consumer is allocated his *eligible quota* based on his average consumption. Every consumer has a right for his eligible quota. KSERC has expressed the view that while imposing restrictions *discrimination shall not be made* among the consumers as the shortage situation existing in the state is to be shared by all consumers. In the order dated 15.1.2009 on the revised quota for LT Consumers the KSERC observed that:

In the absence of history of consumption for the new units, for introduction of power restrictions, fixation of quota is the only feasible option.----.---there would be wide variations in the consumption among the consumers as new units may not have achieved full-fledged consumption during the preceding months. Some units may not have even one month consumption and fixation of quota would be insufficient for many consumers. Thus considering the practical difficulties in considering the past consumption for new consumers, the only alternative left for the Commission is to decide norm/quota based on reasonable assumptions.

The Commission has also ordered (in the case of LT Consumers) that :

Existing consumers (prior to 1-4-2008) who did not have adequate consumption or nil consumption in any period during 2007-08, the base average shall be worked out similar to the method followed for HT-EHT consumers. However, if such average is below 105 units/kW, the norm of 105 units/kW shall be applied and quota fixed accordingly.

It is seen that the Commission has specified that the norm for fixing the quota for LT Consumers and HT Consumers who have no adequate consumption in 2007-08 have to be the same . KSEB has already given the norms. But the Commission also specifies that in the case of LT Consumers if such base average is below the revised normative figure of 105 units/KW *the norm of 105 units per KW* shall be applied.

The power restrictions to consumers have to be managed without discrimination as far as possible. The Commission has already expressed its view ‘that while imposing restrictions discrimination shall not be made among the consumers as the shortage situation existing in the State is to be shared by all consumers’.

Hence I feel that principle explained above in the case of LT consumers shall be made applicable to HT consumers also. That is, if the base average worked out based upon KSEB norms applicable to HT consumers for the year 2007-08 is below the normative figure of 250 units, *the norm of 250 units* should be applied and quota fixed accordingly as ordered by KSERC in the case of LT consumers.

The billing demand (for Fixed Charges) for the LT consumers is the Connected Load in KW where as the Billing demand for HT consumers is 75% of the Contract Demand in KVA. Hence it would be fair if the normative figure of 250 units is applied on *the Billing Demand* only.

It is also noted that the Appellant M/s L&T Tech Park had submitted such a demand (to fix quota based upon 75% of Contract Demand with the normative figure 250units per KVA) before the Chairman KSEB and the CGRF originally.

The order cited revising the base-average-calculation norms of LT consumers had been made effective by the KSERC from 1.2.2009. Hence the revision of base average of the Appellants shall also be held effective from 1.2.2009 only.

Orders:

Under the circum stances explained above and after carefully examining all the evidences, arguments and points furnished by the Appellants and Respondent on the matter, the representation is disposed off with the following orders:

1. *The monthly quota for both the Appellants shall be computed and fixed taking 250 units per KVA of the Billing Demand (75% of the Contract Demand) as the base average with effect from 01.02.2009.*
2. *No order on costs.*

Dated this the 30th day of April 2009,

P.PARAMESWARAN
Electricity Ombudsman

No P 48-57/09 / 223 / dated 30.4.2009

- Forwarded to:
1. M/s L&T Tech Park Ltd, Info Park SEZ,
I Floor, 'Tejomaya' ,
Kusumagiri (Po) Kakkanad KOCHI 682030
 2. M/s US Technology International Pvt Ltd ,
Info Park SEZ, I Floor, 'Vismaya' ,
Kusumagiri (Po) Kakkanad KOCHI 682030
 3. The Administrator,
Kinfra Export promotion Industrial Parks Ltd,
IX/159A, Kusumagiri (Po) , Kakkanad ,
KOCHI 682030

Copy to :

The Secretary,
Kerala State Electricity Regulatory Commission
KPFC Bhavanam, Vellayambalam,
Thiruvananthapuram 695010

