

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION,
BENGALURU**

Dated : 21st January, 2016

Present:

Sri M.K. Shankaralinge Gowda	Chairman
Sri H.D. Arun Kumar	Member
Sri D.B. Manival Raju	Member

OP No. 43 / 2015

BETWEEN:

- 1) Indian Machine Tools Manufacturers Association,
Bangalore International Exhibition Centre,
10th Mile, Tumkur Road, Madavara Post,
Bengaluru – 562 123
- 2) Indian Electrical and Electronics Manufacturers Association,
No.501, Kakad Chambers,
132 Dr.Annie Basant Road, Worli,
Mumbai - 400 018

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PETITIONERS

*[Petitioners represented by Sri Shridhar Prabhu, Advocate,
Navayana Law Offices]*

AND:

Bangalore Electricity Supply Company Limited,
K.R. Circle,
Bengaluru - 560 001

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RESPONDENT

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ORDERS

- 1) The Petitioners in the above Petition, have sought the following reliefs:
 - (a) Determine and approve a distinct tariff for the 1st Petitioner, by carving out a separate tariff category as sought for in terms of ANNEXURE P-1;
Or, in the alternative
Carve out a distinct tariff category for the unique power requirements of the 1st Petitioner and determine the tariff thereby under single part tariff;
 - (b) Permit the 1st Petitioner to execute Special Agreement/s from time to time as per the Conditions of Supply of the Distribution Licensees in the State of Karnataka, for supply of power to its end use Exhibition Organizers at a special tariff, to be mutually acceptable to the Respondent.
 - (c) Grant the leave to espouse consumer and related grievances with the Respondent before appropriate forums as per law;
 - (d) Pass such other order/s to meet the ends of justice and equity.
- 2) The material facts stated by the Petitioners in support of their above reliefs may be stated as follows:
 - (a) The 1st Petitioner is an umbrella organization of the Machine Tools Manufactures in India which owns and operates Bangalore International Exhibition Centre known as "BIEC". The 1st Petitioner has established the BIEC primarily to organize

exhibition of Machine tools and manufacturing solutions. It has also been providing its exhibition facilities to the other Exhibition Organizations, Government Departments, Trade Bodies with similar objectives such as the 2nd petitioner. The BIEC project has been approved and supported by the Government of Karnataka as per its Industrial Policy. It has also received financial support from the Government of India, Ministry of Commerce and Industry- Department of Industrial Policy promotion as an infrastructure project. The overall project is supported by the Industrial Infrastructure Upgradation Scheme (IIUS) of the Central Government. Further, the 1st Petitioner has a Productivity Institute and a Design Institute within its premises.

- (b) The 2nd Petitioner is a national level Industry Association representing companies, covering a wide range of electrical, professional electronics and allied products encompassing raw materials, parts, components, products, systems and services. Its membership base ranges from public sector enterprises, multinational companies to small medium and large companies. It also provides interactive forums like, seminars, conferences, workshops and training programs for knowledge sharing, adoption of best practices and networking opportunities for manufactures, utilities, professionals, international experts and organizations. The 2nd Petitioner uses the premises of the 1st Petitioner to organize exhibitions.

- (c) The 1st Petitioner availed power supply for the BIEC from the Respondent in 2007. Initially the installation was categorized under HT-2A, but thereafter under HT-2B tariff category as a Commercial Establishment, purportedly based on an Audit Report. Under the present tariff structure, approved by this Commission, the Exhibition Centres have not been grouped under any particular category. Therefore, the Respondent, being unsure as to the category of the 1st Petitioner, has been changing the tariff structure of the 1st Petitioner from time to time without being able to ascertain with precision, as to the correct tariff category applicable to the 1st Petitioner.
- (d) The activity carried out in the 1st Petitioner's premises at the BIEC cannot be categorized as either Commercial or Industrial. The 1st Petitioner only lends its exhibition infrastructure facility. Therefore, the 1st Petitioner was earlier availing temporary power in addition to the permanent connection whenever some large events were held. Even prior to the constitution of this Commission, the temporary power was granted under LT-7 category and no fixed charges were levied for the contracted load. Only in the year 2013, this Commission, for the very first time, introduced a new category viz. HT-5, being the tariff applicable to 67 HP and above hoardings and advertisement Boards and construction power of industries. The 1st Petitioner does not fall under this category. Further, the temporary power supply under LT installation, namely, LT-7 (a) or (b) is also not applicable to the petitioner.

- (e) The power requirement at the premises varies drastically from exhibition to exhibition. It is not possible to foresee the precise quantum of power requirement given the diverse load profiles of the exhibitions. Therefore, in addition to the permanent power supply, the 1st Petitioner had availed temporary power supply to its premises. Each time an Industrial Event is organized, the 1st Petitioner avails temporary power supply which carries a two part tariff (fixed and energy charges) to cater to specific power requirement of the specific event based on a prudent estimation in advance. Most of the times, the estimations are off the mark and the consumption exceeds the estimated power requirement. The 1st Petitioner also faces difficulties in getting the power sanctioned and surrendering it after the event. Further, the multiple users of the exhibition facilities use electricity as per their needs, quantifying which is difficult. It is also difficult to apportion the demand quantum to each of the users in proportion of their respective usages, thereby the 1st Petitioner is unable to apportion and recover the fixed charges after the events. Therefore, the 1st Petitioner has surrendered its temporary power supply in May, 2015 and since then it is depending the Diesel Generating sets. The use of Diesel Generating sets is causing environmental pollution apart from revenue loss to the Petitioners and the Respondent.
- (f) In February, 2016, the 2nd Petitioner is availing the exhibition facilities of the 1st Petitioner for an International Exhibition known as "ELECRAMA" which will bring huge investment and revenue to the country and the State of Karnataka–

directly and indirectly. The 1st Petitioner with its existing electrical infrastructure and tariff structure cannot satisfactorily cater to the requirements of the 2nd Petitioner. Therefore, there is an urgent need to evolve a specified tariff category and tariff approval for the 1st Petitioner.

- (g) The 1st Petitioner is prepared to pay the component of fixed charges of the tariff as part of higher energy charges as there are practical difficulties in payment of fixed charges as a separate component, per month on an annualized basis. In ANNEXURE P-1, the 1st Petitioner offers that it could be equal to HT 2(a) Tariff and in addition 20% of the base energy charges in lieu of fixed charges. This Commission in the past has approved single part tariff for temporary supply with relatively higher rate of energy charges. Determination of such a special single part tariff in the 1st Petitioner's case by recognizing it as industrial consumer would benefit all the parties.
- (h) The Conditions of Supply (COS) of Distribution Licensee in the State of Karnataka permits the consumers of the Respondent to enter into Special Agreement in the case of 1st Petitioner, given its unique nature of industrial activity.
- 3) We do not feel it necessary to deal with the prayer of the Petitioner for grant of leave to espouse consumer and related grievances with the Respondent before appropriate forums, as the Petitioner's right to do so is not subject to our grant of leave.

- 4) Upon notice, the Respondent has filed its Statement of Objections. It contends mainly as follows:
- (a) The 1st Petitioner's installation is permanent in nature and the Respondent needs to provide permanent supply. As per the prevailing Tariff Order dated 02.03.2015, Commercial tariff is applicable to Kalyan Mantaps / Choultry which are analogous to exhibition centres. Hence, the applicable tariff under HT2-b(ii)-Commercial (Applicable to areas other than BBMP and Municipal Corporations) is being applied to the Petitioner.
- (b) When the 1st Petitioner seeks additional power, in addition to the permanent load for large events, the Respondent is extending temporary supply for the additional load requested on need basis. This is as per the clause-8 of the General terms and Conditions of Tariff Order 2016, applicable to both HT and LT.
- (c) Clause 3.05 of the Conditions of Supply of Electricity of the Distribution Licensees in the State of Karnataka, regarding fixing of special tariff by entering into special agreement, is not applicable to the petitioners, since the Respondent has fixed the appropriate tariff, having regard to the nature of supply and purpose for which supply is required.

- 5) We have heard the learned counsel for the Petitioners and the representative of the Respondent in the matter. The following issues arise for our consideration:
- (1) Whether the Petitioner's installation can be treated as industrial Installation to be billed under industrial tariff as prayed for in Annexure-P1?
 - (2) Whether the provisions of the Conditions of Supply to enter into a Special Agreement for supply of power, are applicable to the 1st Petitioner?
 - (3) Whether the prayer to provide a separate tariff is justified and on the lines suggested?
 - (4) What Order?
- 6) After considering the submissions made by the parties and perusing the pleadings and documents placed on record in the case, our findings on the above issues are as follows:
- 7) **ISSUE No. (1)** : *Whether the Petitioner's installation can be treated as industrial Installation to be billed under industrial tariff as prayed for in Annexure-P1?*
- (a) The 1st Petitioner's installation has a contract demand of 1999 KVA and is being billed at HT2 (b)(ii) – HT commercial tariff. The power is being utilized for food court, training centre, convention centres, halls, with associated Airconditioning loads (in the permanent establishment), water pumps etc. Whenever big exhibitions are conducted, the extra load required is being availed under

temporary power supply basis, which varies from event to event. Thus, going by the nature of use of electricity in the premises, we find that the usage of electricity is not for any industrial purpose but for commercial activity. Thus, we are unable to accept the request of the Petitioner to treat the installation as industry.

(b) Therefore, the billing of the installation having sanctioned load of 1999 KVA under HT-2(b), which is being used for commercial activities, is in order. For availing extra loads under HT Temporary connection to organize trade fairs/ exhibitions, as and when required, application of temporary tariff under HT5 is also in order.

(c) We therefore, answer Issue No.(1), in the negative.

8) **ISSUE No. (2)** : *Whether the provisions of the Conditions of Supply to enter into a Special Agreement for supply of power, are applicable to the 1st Petitioner?*

a) The provisions of clause 3.05 of the CoS are as follows:

*"3.05 **Consumers under special agreement** - the licensee may, having regard to the nature of supply and purpose for which supply is required, may fix special tariff and conditions of supply for the consumers not covered by the classification enumerated in these conditions. For such purposes, licensee may enter into special agreement with the approval of the Commission with suitable modification in the standard agreement form. The tariff in such cases shall be separately approved by the Commission."*

- b) As per the above provisions, the Respondent may in respect of unclassified consumers can fix a special tariff by entering into special agreements and submit them to the Commission for approval. Since the Respondents have neither proposed any special tariff nor entered into any special agreement and have not agreed to the request of the 1st petitioner to enter into a special agreement, the question of permitting the Petitioner to enter into a special agreement will not arise.
- c) We therefore, answer Issue No.(2), in the negative.
- 9) **ISSUE No. (3)** : *Whether the prayer to provide a separate tariff is justified and on the lines suggested?*
- (a) Currently, the 1st Petitioner is availing supply to meet the power requirement of permanent infrastructure of the BIEC under HT2 (b)(ii) tariff category. The 1st Petitioner has requested the Commission to bill the installation under a single part tariff by considering the prevailing rate of energy charges and fixed charges, on the basis of the energy consumed, as against the existing two part tariff (fixed cost and energy charges).
- (b) It is submitted by the Petitioner that, temporary power supply is being availed, whenever the load requirement exceeds the contracted demand and the temporary tariff being charged is at the newly created tariff category under

HT5, as against the single part tariff under LT-7 which had a single part tariff with weekly minimum.

- (c) We note that, in the existing billing under HT-5 tariff in which bills are issued on a monthly basis with demand charges on load basis and energy charges on consumption, the 1st Petitioner is unable to collect the full charges from the industries/exhibitors participating in exhibitions being ordinarily held for less than a week's duration. We also note that the load requirement of participants cannot be correctly estimated at the time of availing temporary power supply and when the recorded load for an event exceeds the contract demand and results in payment of higher demand charges, the 1st Petitioner is unable to recover it from the participants. We recognise extra time and efforts involved in availing temporary supply frequently from the Respondent. The 1st Petitioner's contention that the current unfavourable tariff structure and procedural issues have forced it to surrender its temporary connection availed from the Respondent to provide power to its exhibition related activities and alternately supply power using Diesel Generating sets has not been denied by the Respondent. We also recognize the reasonable expectation of the 2nd Petitioner and other similar exhibitors and participants for supply of power from a reliable and regulated source as that of the Respondent than through less efficient and less economical alternate arrangement, and also the direct and indirect benefits in the form of investments and increased economic activities that would accrue to the State from the exhibitions held at the 1st Petitioner's premises. We cannot also ignore the adverse revenue

implication on the Respondent and the more serious environmental damage as a result of this alternate arrangement of power supply made by the 1st Petitioner.

- (d) As held above the present billing of the permanent installation of the 1st Petitioner under HT2(b) (ii) cannot be interfered with. It is only the power requirement of the Petitioner exceeding the Contract demand required to be availed under a separate temporary connection that calls for our immediate intervention in view of the proposed International Exhibition being organized by the 2nd Petitioner in February, 2016. There could be other similar events in the current financial year.
- (e) Keeping in view the facts and circumstances of the case, we deem it proper to provide for a separate HT category in the existing tariff structure approved in the case of the Respondent in the event of the 1st Petitioner opting to avail temporary supply during industrial exhibitions and trade fairs, with a single part tariff. We have taken into account the tariff category suggested by the 1st Petitioner with the tariff that is currently applicable to relatable consumers and feel that we need to fix a new single part tariff. While doing so, we are aware of the need to balance the interest of all the parties concerned.
- (f) We therefore, answer Issue No.(3), partly in the affirmative.

10) **ISSUE No.(4) :**

For the foregoing reasons, we pass the following:

ORDER

- (i) The HT temporary power, if any, availed by the 1st Petitioner for conducting of industrial exhibitions and trade fairs at the BIEC shall attract charges at the rate of Rs.10 (Rupees Ten) per unit subject to a weekly minimum of Rs.200 (Rupee Two Hundred) per HP.
- (ii) The above tariff fixed shall be effective till the next revision of the current retail supply tariff in the case of the Respondent by the Commission.

Sd/-

(M.K. SHANKARALINGE GOWDA)
CHAIRMAN

Sd/-

(H.D. ARUN KUMAR)
MEMBER

Sd/-

(D.B. MANIVAL RAJU)
MEMBER