

**Before the Appellate Tribunal for Electricity  
(Appellate Jurisdiction)**

**I.A. No. 209 of 2012 in  
DFR No. 1030 of 2012**

**Dated: 16th July , 2012**

**Present: Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson  
Hon'ble Mr. Rakesh Nath, Technical Member**

**In the matter of:**

The Kerala State Electricity Board,  
Represented by its Secretary,  
Vydyuthi Bhavanam, Pattom,  
Thiruvananthapuram-695004,  
Kerala State.

....Applicant

Vs.

1. The Kerala State Electricity Regulatory Commission,  
K.P.F.C. Bhavanam,  
C.V. Rasman Pillai Road,  
Vellayambalam, Thiruvananthapuram  
Kerala State-695010.

2. KINESCO Power & Utilities (P) Ltd.,  
Room Nos. 302-306, 2<sup>nd</sup> Floor,  
CFC Building, KINFRA Park Office,  
Kusumagiri P.O., Kochi-682030,  
Kerala State.

... Respondents

Counsel for the Applicant(s) : Mr. M.T. George  
Mr. Johns George

**ORDER**

I.A. no. 209 of 2012 in DFR No. 1030 of 2012 has been filed by Kerala State Electricity Board for condonation of delay in filing the Appeal against the interim order dated 29.03.2012

passed by the Kerala State Electricity Regulatory Commission. The Respondents no. 1 & 2 are the State Commission and KINESCO Power & Utilities (P) Ltd., a distribution licensee in some areas in the State respectively. While there is no difficulty in condoning the delay of 10 days due to sufficient reasons pointed out in the IA, we deemed it fit to go into the merits of the case for admission in view of the fact that the Appeal is being filed against the interim order of the State Commission. Accordingly, we heard the learned counsel for the Applicant.

2. We notice that the impugned interim order has been passed directing the Applicant to supply power to the extent of 500 KVA to the Respondent no.2 at Palakkad at 11 kV voltage level for a period of six months from the date of receipt of the order at the Bulk Supply Tariff at which it is being supplied at Kakkanad at 110 kV voltage to the Respondent no. 2, as an interim arrangement, based on an indemnity bond to be executed by the Respondent no. 2 for making payments for the

power supplied and of additional charges, if any, allowed in the final orders of the State Commission subsequently.

3. We notice that as against the interim order, the State Commission filed a Writ Petition before the High Court of Kerala. The High Court by its order dated 29.05.2012 directed the Applicant to approach the Appellate Tribunal. The Applicant also filed this Appeal before the Tribunal on 29.05.2012.

4. The Applicant has basically challenged the jurisdiction of the State Commission in giving directions to the Electricity Board to supply power to the Respondent no.2 as well as the tariff to be charged by the Applicant for supply at Palakkad at 11 kV at the same tariff as applicable to power supply to the Respondent no. 2 at Kakkanad at 110 kV, resulting in financial loss to the Applicant.

5. We notice that the State Commission in the impugned interim order has given directions to the Applicant to supply at the Bulk Supply Tariff to the Respondent 2 in order 'to solve

the difficulty of the consumers', pending an enquiry into the matter of power allocation by the Applicant to other licensees in the State after obtaining the views of the Government, State Advisory Committee, etc., and following the required procedure. Accordingly, the State Commission has decided to initiate suo-motu proceedings separately on the issue of power allocation by the State Electricity Board to other licensees in the State of Kerala. There is nothing wrong in this interim order by invoking *suo motu* powers which has been passed in the interest of the consumers.

6. Hence, we do not want to interfere with the interim order of the State Commission in as far as supply of 500 KVA to the Respondent no. 2 is concerned in view of the difficulties of the prospective consumers of the area and also considering the fact that the quantum of power is very small (500 kVA) and that there is a provision in the retail supply tariff of the Applicant for Bulk Supply Tariff.

7. However, there is a point in the submissions of the Applicant that they have been asked to supply power at 11 KV at the rates applicable to 110 kV Bulk Supply Tariff at Kakkanad resulting in financial loss to them. The Applicant has submitted that the rate of Bulk Supply Tariff at 110 kV is Rs. 3.16 per unit against which the Respondent no. 2 is paying only Rs. 2.75 per unit for supply at 110 KV at Kakkanad and on the other hand, the Bulk Supply Tariff at 11 kV is Rs. 3.28 per unit as per the Tariff Order of the State Commission.

8. We, therefore, direct the State Commission to consider the submissions of the Applicant with respect to amendment of the interim order for the rate to be charged from the Respondent no. 2 for supply at 11 kV at Palakkad keeping in view the Bulk Supply Tariff applicable for 11 kV voltage as approved in the Tariff Order of the State Commission for the relevant period, so that there is no financial loss to the Applicant. This may be decided after hearing the other party.

9. We also direct the State Commission to expedite final disposal of the matter.

10. We would like to record our displeasure on the conduct of the Applicant in approaching the High Court against the impugned order and obtaining some interim relief and at the same time filing the Appeal before this Tribunal. The Applicant, being a state authority is not expected to adopt this practice which is not fair.

11. With this observation, the Application of the Applicant is disposed of with the above directions to the State Commission.

***The Appeal is also disposed of in view of the above order. \****

12. Pronounced in the open court on this

**16th day of July, 2012.**

**( Rakesh Nath)  
Technical Member**

**(Justice M. Karpaga Vinayagam)  
Chairperson**

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**REPORTABLE/NON-REPORTABLE**

Vs

\* **The words shown in italics and bold above are as per orders of the Hon'ble Tribunal.**