

Before the

Bihar Electricity Regulatory Commission

Ground Floor, Vidyut Bhawan-II, Bailey Road, Patna-21

Suo Motu Case No. – 1/2006

Bihar State Electricity Board (Through the Chairman)

In the matter of

Strategy to bridge the gap between demand and supply, etc.

Dated: 17th April, 2007

ORDER

In this proceeding which has been initiated by the Commission for redressal of significant issues which affect the consumer's interest, the learned counsel appearing for Bihar State Electricity Board, and also Bihar Industries Association and also some representatives of the consumer's groups were heard on 3rd November, 2006. Due to paucity of time and also the Commission being preoccupied with other official business could not issue order earlier.

Though a number of issues were taken up by the Commission during initiation of suo motu proceeding, some of them including those relating to meter system, and reduction of transmission and distribution losses were taken up by the Commission in the Directives contained in the Tariff Order 2006 – 2007. Since these two issues are being monitored by the Commission through a different channel we do not find good excuses for pursuing these issues in this proceeding and two issues are dropped from this proceeding.

Though the learned counsel appearing for the Board has impressed about a number of significant measures having been taken by the Board to augment the revenue collection of the Board including regular checking of the work of the Meter Readers by a superior officer, 100% billing of the energy recorded by the meter and adopting a phased wise development of frenchise system for activities of electricity

distribution particularly in rural areas, we feel that the impact of these measures on revenue of the Board has not been highlighted as desired. Though it would appear from Annexure – IX attached to the reply of the Board dated 14.09.2006 that there has been steep rise in the revenue collection of the Board, this shows a descending trend too, as while the revenue collection in the month of March had been 112.06 crores and 162.16 crores in June, 2006, which we find, may be fall out of OTS scheme which is not a regular feature, the revenue dropped to Rs.90.50 crores in succeeding month of August, 2006 and that apart as have been urged by Shri A. Lal the learned counsel appearing for Bihar Industries Association that the figure of revenue collection during September, 2005 to August, 2006 were not audited data, hence cannot be taken as actual collection. Be that as it may, the Board will apprise the Commission up-to-date statistics about the impact of the measures on the revenue of the Board. As it is shown with the aid of the tariff proposal filed by the Board that even though the quantum of power purchased from CPSGS Stations during the year 2003 – 2004 increased by 40% during the year 2006 – 2007, there had not been corresponding increase in the revenue as was desired. Efforts should also be made to get the accounts audited so that correct assessment be made by the Board also.

The learned counsel for the Board would argue that in order to curbe pilferage of electricity, the Board has set up a separate wing of Anti Power Theft for carrying out raids by the field officers regularly. We notice from the statistics made available to the Commission that from the year 2003 – 2004 the realization of penalty from the persons booked for pilferage of energy has dropped in succeeding years of 2004 – 2005, and 2005 – 2006. The update statistics about the case launched against wrong doers involved in power theft, criminal proceeding launched against them and also the quantum of penalty realized if any has not been placed before the Commission, which we expect shall be done on the next day of hearing to which the proceeding shall be adjourned. The Board shall chalk out a plan to check pilferage of power in

the rural and urban areas which should be placed before the Commission on the next day of hearing.

We wanted to know during initiation of proceeding as to whether the Board has laid a time schedule for providing electricity connection against applications by new consumers as well as repair/ replacement of defective transformers and to work out a mechanism to ensure adherence to such time schedule. In Annexure – VI attached to affidavit of the Board dated 15.05.2006 update statistics about provision of electric service connection to the prospective consumers, were worked out which shows that the total applications received during nine months from April, 2005 to December, 2005, were 102588, out of which only 72727 number of applicants were provided with service connection as per time schedule and the rest 29861 number of applicants were yet to get service connection. The statistics further shows that about 7659 no. of applications were pending for more than a year for provision of service connection. Though we do not question in absence of any other reliable statistics, the correctness of these figures and even if these be true, the statistics made available to the Commission shows a horrible picture. Similar was the case about number of defective transformers which remained out of service for more than a year. In the back-drop of such scenario we wish the Board to place on the record update statistics in the proforma as that of Annexure – VI. We need not reiterate that the failure of the Licensee to make provision of service connection to an applicant within one month of receipt of application shall be in violation of the mandate of Section 43 of the Electricity Act.

Though the Board in its affidavit has endeavoured to blame the consumers for not achieving the desired object for collection of revenue causing hardship to the Board in making clearance of the amounts of the NTPC/ PGCIL to get assured supply of energy and effectiveness its revenue collection, it is simply the shifting of liability on others for which the Board itself has to develop mechanism to ensure collection of revenue even by resorting to stringent measures sanctioned under the

Act. If there is back log of arrears with the consumers and the Government offices, the Board is not helpless in taking steps to achieve the desired result. It is high time that the Board itself should tighten up its mechanism right from the lowest level, fixing proportionate responsibility on them in case they do not contribute to achieve target.

Similarly, assertion made by the Board in its affidavit that theft of energy befitting the consumers is always committed by them either by them directly or a league with the officials and employees of the Board speaks a volume about mismanagement of the Board to tackle the issue. If its employees and officers are involved in the racket, who is to nab them. The very concept of enacting laws in the system and supervisory authority in hierarchy of every organization acknowledges the chances and possibility of error, omission and violation of the established rules or practice. Instead of sermon giving to the wrong doers by a samritan, it is always better to resort to measures to penalize them to bring about improvement in the system. If it is in the knowledge of the Board as is being asserted that substantial theft of energy was being committed by well established industrial consumers, the Board itself should make a retrospection for its failure to book them.

Faced with existing power scenario in the State which characterises prolonged power cuts and shut down, the Commission issued a number directions to the Board in the Suo motto proceeding to the licensee to explore new avenue to ensure equitable distribution of power to all and to avoid possibility of frequent load shading. Referring to National Electricity Policy which stipulates significant potential of energy saving through Demand Side Management (DSM) measures, it was stressed in the proceeding that energy conservation and demand side management be accorded high priority. Stress was also laid about periodic energy audit to be made for power intensive industries under the Energy Conservation Act. A number of measures were suggested to the licensee at page no.10 of the order in the proceeding to introduce load regulation measures. The direction of the Electricity Regulatory Commission to issue such directives for introduction of load regulation

measures need not be reiterated, validity of which has been upheld by the Hon'ble Supreme Court Adoni Cotton Mills Ltd. vs A.P.Electricity Board reported in 1976 (4) ACC 68 in which the contention raised by the Board about the Board having right to stagger to curtail supply of electricity to any consumer according to operational and other exigencies was found to be in order. It was also held therein that it can also impose sanction which can take any reasonable form for either disconnection in case of gross and persistent defaults or the lesser sanction of enhanced tariff.

Hon'ble Supreme Court held thus "the recognition of the fact that the Board can introduce rationing by making a regulation under Section 79 (1) of the 1948 Act necessarily involved a concession that the Board has the power to enforce rationing and to enunciate the principle for determining the scheme of such rationing". It further held "that the Board can, therefore, release supply or block the same area wise and has no means of enforcing the quota except through sanction. Such sanction can take in reasonable form either disconnection in case of gross and persistent defaults or lesser sanction of enhanced tariff". If the Board did not cope with the demand of supply of energy in view of its meager supply, it did not have other option but to make limited supply of electricity to its consumers, and it must be held to have in the circumstances right to stagger or curtail supply of electricity. We are deeply distressed to find that the Board has not taken pains to introduce these measures for which directive was issued by the Commission as if it is satisfied that the system did not require any improvement. We accordingly direct that since the Board is equipped with powers following directives of the Commission it shall punctually adhere to them we are of the view that if one does not have adequate resources to cater to the requirement of the vast mass, rationing is the only option in a welfare state where every one has equal right for use of a scarce commodity.

Since some of the issues are being monitored through directives contained in the tariff order, we confine ourselves to these issues only which we have just mentioned. We are forwarding herewith a road map for carrying out energy audit,

directives for which have also been issued in the tariff order. The status report to all these issues stated above should be placed before the Commission after three months on 17th July, 2007 to which the proceeding is adjourned.

Sd/-
(S.K.Jayaswal)
Member

Sd/-
(B.K.Halder)
Member

Sd/-
(Justice B.N.P.Singh)
Chairman