



KERALA STATE ELECTRICITY BOARD LIMITED

(Incorporated under the Indian Companies Act, 1956)

CIN:U40100KL2011SGC027424

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Abstract

Drawal of cables by M/s Asianet Satellite Communications Ltd and other cable TV operators – Dispute settlement mechanism – Orders issued

CORPORATE OFFICE (SBU-D)

B.O.(DB) No.733/2016 (D(D&S)/D5/Asianet-2/2011) Dated, Thiruvananthapuram,03.03.2016

- Read:-
1. B.O. (FB) No.1389/2002 (CP/R&P/Plg.V/Cable TV/2002)/16.10.2002
 2. B.O. (FB) No.1421/2002 (CP/R&P/Plg.V/Cable TV/2002)/18.10.2002
 3. B.O. (FB) No.1213/2006 (LA VI/16736/02)/12.04.2006
 4. B.O. (FB) No.2631/2009 (LA VI/16376/2002)/14.10.2009
 5. B.O. (FB)(Genl) No.443/2012 (DPCII/Asianet-2/2011)/25.02.2012
 6. B.O. (FTD) No.2456/2014 (LAII/Asianet/PLP 6639/13)/19.09.2014
 7. Letter No.LLO/SC/KSEB/WP-Asianet/2015-16/19.01.2016 of the Legal Liaison Officer addressed to the Legal Adviser & Disciplinary Enquiry Officer
 8. Note No.D(D&S)/D5/Asianet-2/2011/11.02.2016 of the Chairman & Managing Director
 9. Proceedings of the meeting of the Board of Directors of Kerala State Electricity Board Ltd held on 15.02.2016. (Agenda Item No. 41-02/2016)

ORDER

M/s. Asianet Satellite communications Limited, a cable TV Network operator entered into an agreement with KSE Board on 20.11.1992 to draw cables through the Board's electric poles for a period of 10 years. The contract period of M/s Asianet and certain other cable operators expired on 31.3.2011. KSEB as per order dated 25.02.2012 revised the pole rent with effect from 01.04.2011 to ₹311/- per pole in urban areas and 50% of the same in rural areas with an annual increase of 5%. Challenging the same, many CTV operators including M/s. Asianet approached the Hon'ble High Court of Kerala and the Hon'ble High Court has directed the Board to consider and dispose of the request of the said petitioners and to collect the pole rent at ₹250/- in urban areas and ₹125/- in rural areas till the disposal of the request. But the Board as per the order dated 10.01.2014 has decided to reject the request of the petitioners. Challenging the same, many CTV operators again approached the Hon'ble High Court of Kerala. In the meantime, M/s. Asianet approached the District Legal Services Authority, Thiruvananthapuram through PLP No. 6639/2013 with a prayer to arrive at an amicable settlement and put an end to the protracted disputes. Later, various CTV operators through their association got impleaded in the said PLP.

Accordingly, the matter was settled and an award was passed by the District Legal Services Authority, Thiruvananthapuram on 08.08.2014 on the basis of the settlement arrived at and the award was accepted by the Full Time Directors as per B.O read as 6th paper above. As per the settlement arrived at between the parties, the annual pole rent was fixed as ₹250/125 in urban/rural areas with 5% annual increase with effect from 01.04.2011. M/s Asianet claims that the entire pole rent up to 31.03.2015 has been cleared off. As per the details collected from the field offices, pole rent arrears is existing against M/s, Asianet, though they have stated that all arrears upto 31.03.2015 have been cleared.

The Legal Liaison Officer, Kochi has informed that WP (C) No 31014/2009 is now pending before the Hon'ble High Court. WP (C) No 27732/2009 was disposed on 20.07.2015. Another WP (C) No 1970/2015 filed by M/s Asianet Satellite Communications Ltd against the order of the Chairman & Managing Director of KSEB Ltd that no exclusivity will be allowed if a network is used by multiple operators is also pending.

Board vide B.O.(CMD) No.3446/2014 (D(D&S)/D5/CTV/4373/2014) dated 31.12.2014 issued orders regarding the implementation of dispute settlement mechanism for the usage of electric poles by Cable TV operators. As per this B.O, Board allowed more than one Cable TV operator to draw cables through the same poles. Initially the cable TV operators were given time upto 28.2.2015 for regularizing the usage. Later time extension upto 31.08.2015 was granted for regularization of usage of poles. Final notices were issued to all cable TV operators during December 2015 to regularize the cable TV lines and tag their respective cable networks. A large number of cases were settled during this regularization process. As per Board order dated 31.12.2014 issued in connection with dispute settlement mechanism for regularization of usage of poles, it has been ordered that the number of poles used by each cable TV operator shall be correctly identified and it shall be presumed that the same number of poles have been used by them since 2011 March onwards. It has also been decided to conduct Adalaths at Circle level by Legal Adviser & Disciplinary enquiry officer for settling arrears prior to 2011-12 as a one time measure. Later as per Board Order dated 28.07.2015, KSEBL decided to allow installments for the arrears for the periods from 2011-12 to 2012-13, if the operators are willing to remit the pole rental for the period for 3 years (for the period 2013-14 to 2015-16).

The matter of drawal of cable through the poles of Kerala State Electricity Board Ltd by M/s Asianet and the rates fixed by Kerala State Electricity Board Ltd was discussed in detail by the Board of Directors in the meeting held on 15.02.2016. The issue was examined stage wise since the execution of agreement on 20.11.1992 by M/s Asianet for drawal of cables. The Director Board have noted the difficulties and sufferings caused by Kerala State Electricity Board Ltd in realizing the pole rentals by the inconclusive litigations by the Cable TV operators including M/s Asianet. The Director Board was fully convinced about the need for a comprehensive settlement in this issue by extending a reasonable and realistic approach in order to avoid further entanglement. The Director Board also felt that the dispute settlement mechanism was properly mooted and timely settlement has been reached in a realistic manner. The Director Board emphasized the need for ascertaining the exact number of poles used by various Cable TV operators to avoid under reporting of poles by the operators and noted that the figures reported to Director Board as under is not 100% correct.

Sl. No.	District	Details of poles used by M/s Asianet Satellite Communication
1	Thiruvananthapuram	90908
2	Kollam	28661
3	Pathanamthitta	28843
4	Kottayam	39873
5	Alappuzha	44770
6	Ernakulam	139872
7	Idukki	-
8	Thrissur	95037
9	Palakkad	34990
10	Malappuram	15354
11	Kozhikode	54024
12	Wayanad	-
13	Kannur	11511
14	Kasaragod	1398
	Total	585241

Details of poles used by cable TV operators other than Asianet				
Sl. No	District	No. of poles used		
		Urban	Rural	Total
1	Thiruvananthapuram	6407	73498	79905
2	Kollam	41790	89961	131751
3	Pathanamthitta	8434	83734	92168
4	Kottayam	4719	53611	58330
5	Alappuzha	6545	37598	44143
6	Ernakulam	33166	60335	93501
7	Idukki	10244	15461	25705
8	Thrissur	11155	83665	94820
9	Palakkad	10076	66433	76509
10	Malappuram	23303	57173	80476
11	Kozhikode	48789	50419	99208
12	Wayanad	1661	18377	20038
13	Kannur	3026	32504	35530
14	Kasaragod	2544	6917	9461
	Total	211859	729686	941545

After analyzing the details, the Board of Directors, in the meeting held on 15.2.2016, resolved to accord sanction for the following:

1. To ratify the action taken by the Full Time Directors in accepting the award dated 08.08.2014 of the Hon'ble Lok Adalath in PLP No 6639/13 and subsequent issuance of B.O.(FTD) No.2456/2014 (LAII/Asianet/PLP 6639/13) dated 19.09.2014 for settling the disputes with Cable TV operators.
2. To constitute a committee with Legal Advisor & Disciplinary Enquiry Officer, Chief Vigilance Officer, Chief Internal auditor and Deputy Chief Engineer of concerned Electrical Circle (Convenor of the Committee) to settle all issues raised by cable TV operators/ Asianet like number of poles, the period from which the poles were being used by assessing the ground reality and after hearing all the affected operators. The committee shall conduct Adalaths at Circle offices from March 2016 to May 2016 to settle the disputes with various cable TV operators with respect to the arrears of pole rent and connected matters.

3. To allow installments for the pole rental arrears from 01.04.2011 to 31.03.2014 as follows to cable TV operators who are willing to remit the arrears for the period for 2 years (for the period 2014-15 & 2015-16) in lumpsum:
 - a) 50% of the amount to be remitted in full
 - b) 12 equal monthly installments for the balance amount
4. To authorize Executive Engineer of concerned Electrical Divisions for granting instalment facility as above on request by cable TV operators.
5. To authorize Secretary (Administration) to execute agreement with M/s Asianet at Corporate level with inputs from Legal Adviser & Disciplinary Enquiry Officer's office.
6. To authorize Full Time Directors to consider any case requiring more installments and apprise the Board in its next meeting.

By Order of the Director Board
Sd/-
R. Rajasekharan Nair
Secretary (Administration)

To

The Chief Engineers (Distribution)
The Chief Vigilance Officer/ Legal Adviser & Disciplinary Enquiry Officer/Chief Internal Auditor
The Deputy Chief Engineers of all Electrical Circles
The Executive Engineer of all Electrical Divisions

Copy to

The Chief Engineer (IT & CR)
The TA to Chairman & Managing Director
The TA to Director (Distribution & Safety/ Corporate Planning & Supply Chain Management/ Transmission & System Operation / Generation & HRM)
The RAO/ECA/RCAO
The Legal Liaison Officer
The PA to Director (Finance) / Senior C.A. to Secretary (Administration)
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Forwarded / By Order

Assistant Executive Engineer