

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/059/2021**(Present: A.S. Dasappan)****Dated: 16th December, 2021**

Appellant : Sri. Noufal. A.,
Proprietor, Namazsco Pet Industries,
Pachapoika, Kuthuparamba,
Kannur Dist. 670643

Respondent : Assistant Executive Engineer,
Electrical Sub Division, KSEB Ltd.,
Pinarayi, Kannur Dist.

ORDER**Background of the case:**

The appellant is running an industry by name “Namazco Pet Industries” under the electricity distribution area of Electrical Section, KSEB Ltd., Vengad, Kannur with consumer number 1166784009426. The tariff category allotted to the premises is LT IVA with a connected load of 114655 watts and Contract Demand is 85000 VA. The appellant remitted “power factor disincentive” under the head “Other charges” for two years prior to November 2020. After the replacement of defective capacitors, the appellant requested for refund of the excess amount remitted under “Other Charges” to the Licensee. Since no action was taken by the Officers of KSEB Ltd., the appellant filed petition in Consumer Grievance Redressal Forum (CGRF), Northern Region, Kozhikode vide OP No. 149/2020-21 and the Forum in its order dated 25-08-2021 rejected the request of the appellant. Not satisfied with the decision of the Forum, the appellant filed this appeal petition before this Authority.

Arguments of the appellant:

The industry started functioning in the year 2004, but the defectiveness of the capacitors installed in the premises was unknown to the appellant till the work of connecting additional load to the premises. The KSEB Ltd. has been collecting excess amount under the head “Other Charges” from the appellant for the last two years. The defective capacitors were replaced by the appellant as advised by the present contractor and afterwards, which was reflected in the electricity bill.

KSEB Ltd. had not issued any notice or even orally informed the appellant about the defectiveness of the capacitor or lower power failure. In the bill there is no entry of “power failure penalty”, but “Other Charges”.

The General Conditions in the Tariff Order dated 08-07-2019 issued by KSERC, read as below.

3. For LT Industrial and Agricultural consumers who have not installed capacitors with ISI certification of specified value, the fixed charge and energy charge shall be higher by 20% of the tariff applicable to the respective categories.
4. For the consumers using welding sets without installing capacitors with ISI certification of specified value, the fixed charge and energy charge shall be higher by 30% of the tariff applicable to the respective categories.
5. The officer of the licensee who is authorized to take meter reading shall inspect the static capacitor and ensure that it is functioning properly. If such officer notices that the static capacitor has become faulty or unserviceable, he shall forthwith intimate the matter to the officer in charge of the Electrical Section/Subdivision of Kerala State Electricity Board Limited or to the concerned officer in the case of other distribution licensees, who shall issue notice to the consumer directing him to replace such faulty or unserviceable capacitor within one month or within such other time limit as stipulated by the concerned officer of the licensee. The consumer shall replace such faulty/unserviceable capacitors within the time limit as directed by the officers of the licensee.
6. If the capacitor is not replaced or put back into service duly repaired, to the satisfaction of the concerned officer of Kerala State Electricity Board Limited or of other distribution licensees, as the case may be, within one month or such other time limit as stipulated by the concerned officer of the licensee, enhanced charges as per clause 3 or

clause 4 above shall be payable for the whole period during which the capacitor remains faulty or unserviceable.

It is clearly stated in Section 5 of the Tariff order that the Licensee has to intimate the defectiveness of the capacitor and its replacement. The appellant received such a notice on 11-02-2021, after filing petition in Consumer Grievance Redressal Forum on 04-01-2021. The respondent is reluctant in issuing notices to the consumers for rectification of defects or deficiencies in the premises, but only penalizing the consumers.

On 23-11-2020, the appellant had given requests to the Assistant Engineer, Assistant Executive Engineer, Executive Engineer and Deputy Chief Engineer for the refund of excess amount paid. But no action was taken by the officials. As such, it is requested to refund the excess amount remitted by the appellant from 01-11-2018 to 01-11-2020 towards "Other Charges".

Arguments of the respondent:

Due to low power factor existing within the appellant's premises power factor disincentive was imposed on the electricity bill and was as per the tariff order of the Hon'ble Kerala State Electricity Regulatory Commission. The amount collected from the appellant was as per the prevailing tariff order and nothing has been done in violation of the tariff order.

Another point raised by the appellant is that it is not clearly mentioned in the electricity bill about low power factor disincentive/penalty, but it may be noted that normally spot bill is issued to the consumer by the Sub Engineer using portable billing machine and the print out from the billing machine software shows the power factor penalty as other charges. The bill issued by the Sub Engineer is only a spot bill and normally demand cum disconnection notice is issued from the section office through e-mail, the bill issued by the Section Office clearly shows the power factor disincentive/penalty and the point raised by the appellant that he is unaware of the power factor disincentive is not acceptable. Being a well-established industrial unit, it is having an accounting unit within the company itself and may have verified the bill regularly.

Even after the issue of notice to the appellant, if the capacitor is not replaced or repaired, the fixed charge and energy charge can be collected 20% higher than the applicable tariff. Here, the technical reasons are to be taken into account, due to the low power factor in the appellant's premises, the system voltage will be low and the transmission losses be more and it will be an additional burden to the Licensee. All the above general conditions are included in the tariff order to improve the power factor in the grid and there is no merit in the argument of the appellant regarding the refund of power factor disincentive.

Considering all the facts pointed out above, the respondent requested to dismiss the appeal.

Analysis and findings:

An online hearing of the case was conducted at 11-15 AM on 30-11-2021 with prior intimation to both the appellant and the respondent. Sri. P.K. Purushothaman attended the hearing for the appellant and Sri. K.P. Sunilkumar, Assistant Executive Engineer, Electrical Subdivision, KSEB Ltd., Pinarayi from the respondent's side attended the hearing. On examining the appeal petition, the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision thereof.

The appellant argued that the appellant could not identify the "other charges" noted in the bills issued by the respondent, whether which was "power factor penalty" or any others. The defective capacitors were replaced as advised by the contractor, who was carrying out additional works in the industrial unit and the Licensee had not issued any notice to the appellant as per the provisions in the tariff order dated 08-07-2019 of KSEERC. As such, the appellant wants to get the amount realized by the Licensee under "other charges" for two years.

The respondent stated that though low power factor penalty was being included under the head "other charges" while issuing bills in the spot, detailed

bills were issued stating the “other charge” as “power factor penalty”. The appellant is liable to remit the amount and hence, there is no provision to refund the amount.

At this point, it is to be decided whether the appellant is eligible to get the refund of “low power factor penalty” or “power factor disincentive” for the period of two years from 01-11-2018 to 01-11-2020.

The industry started functioning in the year 2004 and the appellant requested the refund of “power factor disincentive” remitted by the appellant under the head “other charges” as per appellant or “power factor penalty” as per the respondent. As per Clause (3) of General Conditions in Part A – Low Tension (LT) Tariff of the Schedule of Tariff and Terms and Conditions for retail supply of electricity by Kerala State Electricity Board Ltd. and all other Licensees with effect from 18-04-2017, the fixed charge and energy charge shall be higher by 20% of the tariff applicable to the respective categories if LT industrial and agricultural consumers, who have not installed capacitors with ISI Certification of specific value. Similarly, as per Clause (4) of the same tariff order, 30% will be the higher rate if consumers are using welding sets without installing capacitors of specific value. In this case, no such argument is seen furnished by the respondent.

On perusing the statement showing the “power factor disincentive” and “power factor disincentive” for 24 months from November 2018, the appellant had remitted more than Rupees two lakhs forty thousand towards “power factor disincentive”.

As per Schedule of Tariff and Terms and Conditions for Retail Supply of Electricity by KSEB Ltd. and all other Licensees with effect from 18-04-2017, consumers who maintain power factor in between 0.9 and 1.0 are eligible for power factor “incentive” and power factor ‘disincentive’ goes to the consumers having power factor below 0.9. But in the Tariff order dated 08-07-2019, consumers who maintain ‘power factor, in between 0.95 and 1.0 are eligible for power factor ‘incentive’ and power factor “disincentive” goes to the consumers having power factor below 0.95.

It is important to note that the incentive of introducing “power factor incentive” and “power factor non-incentive” is for improving the power factor in the electrical network by installing static capacitors with rated kVAR to the induction motors and welding transformers as mentioned in the tariff order. It is also important to maintain the kVAR rating by proper and periodical checking of the capacitors. The power factor incentive or ‘disincentive’ computed on monthly basis and varies and the variation depends on the functioning of capacitors and energy consumption in the premises.

On analyzing the power factor in the premises from the period 11/2018 to 12/2020, it varies from 0.75 to 0.9. In most of the months, the power factor varies between 0.75 and 0.8. For the period from 01/2020 to 04/2021, the power is seen improved, which proves that the appellant had replaced the defective capacitor without any notice from the respondent.

The argument of the respondent that the amount collected from the appellant was as per the prevailing tariff order and nothing has been done in violation of the tariff order, which is not an acceptable and sustainable argument. In the same tariff order, clause (5) of General Conditions pertaining to Low Tension (LT) tariff says, the responsibility of the Officers of the Licensee in ensuring the proper functioning of the capacitors. The respondent had not taken any action in accordance with the above clause and silent in their statement furnished before this Authority. This Authority is of the view that the Officers entrusted by the Licensee is to be more responsible than the consumers to maintain good power factor in the electricity supply system. “Power Factor” is not a factor for the financial benefit to the Licensee or to the consumers. Consumers are also responsible to ascertain the correctness of the amount furnished in the electricity bills which are to be paid by them, and if any doubt, which has to be clarified with the Licensee or other competent authority.

In this case, there are lapses on both sides in taking timely action for maintaining the rated values of capacitors.

Decision: -

From the analysis done and the findings and conclusions arrived at, which are detailed above, this Authority take the following decision:-

There are lapses on the part of appellant in maintaining the rated values of capacitors to avoid power factor disincentives and lapses on the part of respondent to intimate the subject of low power factor to the appellant as per rules. As such, it is decided to refund the power factor penalty realized from the appellant for 12 months from 11/2019 to 10/2020, by limiting the period of refund requested by the appellant. The respondent shall refund the amount realized under “other charges” or “power factor penalty” from the appellant from 11/2019 to 10/2020 within 45 days from the date of order or adjust in the future bills.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant is allowed to this extent and the petition stands disposed of accordingly. The order of CGRF, Northern Region, Kozhikode vide OP No. 149/2020-21 dated 25-08-2021 is set aside. No order on costs.

ELECTRICITY OMBUDSMAN

P/059/2021/_____ dated _____.

Delivered to:

1. Sri. Noufal. A., Proprietor, Namazco Pet Industries, Pachapoika, Kuthuparamba, Kannur Dist. 670643
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Pinarayi, Kannur Dist.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthi Bhavanam, KSE Board Ltd, Gandhi Road, Kozhikode.