

THE STATE ELECTRICITY OMBUDSMAN

Pallikkavil Building, Mamangalam-Anchumana Temple Road
Opp: Kochi Corporation Regional Office, Edappally, Kochi-682 024
www.keralaeo.org Ph: 0484 2346488, Mob: 91 9567414885
Email:ombudsman.electricity@gmail.com

APPEAL PETITION NO: P/309/2012.

(Present: T. P. Vivekanandan)

Appellant : Sri. Afsal K.I,
M/S.Velakode Rubber & Reclaims (P) Ltd,
Velakode, Mundoor, THRISSUR- 680 545.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division, KSEBoard,
Kechery, Thrissur Dt. Pin- 680 501

ORDER.

Background of the Case: -

The Petitioner Mr. Afsal K I is an HT industrial consumer (Code 17/5674) under Electrical section, Mundur. Earlier the appellant had applied for power allocation of 500 KVA load to start a new industry and the same was sanctioned by the Deputy Chief Engineer, Electrical Circle, Thrissur on 13.01.2009. The appellant remitted Rs.44200/- as OYEC charges, on 28.5.2009, for getting the electric supply. The power allocation was extended subsequently for six months each from 12/7/2009. The electric line works on the part of the respondent were said to be completed earlier i.e. in 12/2009 itself but KSEB waited for the party to apply and sent the papers to the Electrical Inspector lately in 11/2010 only. The sanction for energisation of the Line and the Transformer was obtained from the Electrical Inspector on 8/2/2011.

The KSEB demanded unconnected minimum charges (UCM) amounting to Rs.297000/- for a contract demand of 100 KVA and also asked to produce an undertaking in a stamp paper worth Rs.100/- regarding the remittance of additional amount, in case the contract demand is increased after granting power connection. Later, on party's request the respondent exempted the appellant from the undertaking in stamp paper and the appellant remitted the UCM charge of Rs.297000/- on 15.3.2011 as demanded by KSEB. Being aggrieved by the demand, the party approached the CGRF, Ernakulum by filing petition on 28.2.2011 with request to consider the date of completion of work as the date of energisation approval from the Electrical Inspector and to refund the sum of Rs.297000/- with interest. The CGRF had taken the following decision on this.

"The minimum demand charge shall be collected only for the months of 12/2010 and 1/2011 and the assessment revised accordingly. The excess amount remitted shall either be reimbursed within two months or else adjusted in petitioner's subsequent bill. Petition disposed as above."

In complying with the orders of CGRF, the Dy. Chief Engineer, cancelled the disputed bill amounting to Rs.297000/- and issued a fresh demand for the period of two months taking the consumer's actual sanctioned contract demand of 500 KVA. The revised UCM charges thus come to Rs.270000/-. Aggrieved by this order of Dy. Chief Engineer, the appellant again approached the CGRF with a request to issue for calculation of the UCM based as 100 KVA contract demand and to refund the excess UCM charges as well as security deposit remitted and to release the bank guarantee deposited in lieu of CD. This petition of the appellant was disposed of by the CGRF, making clear that the Petitioners UCM for the month of 12/2010 and 1/2011 is to be reassessed based on the demand of 375 KVA and the excess amount remitted thereof, to be adjusted in his subsequent bills. The excess security deposit is also ordered to be adjusted or reimbursed to petitioner with interest applicable to CD. Still not satisfied by the decision, the appellant has submitted this appeal petition.

Arguments of the Appellant: -

- 1). The work was not completed on 30.11.2010 as claimed by the respondent, instead it was completed on a later date, which is evident from the date of energisation sanction letter of Electrical Inspector. The correct date of energisation sanction issued by Electrical Inspector is 08.02.2011.
- 2). As per clause 10 (1) of Electricity Supply code, the petitioner has to be served with a notice to take supply within 90 days after completion of work. Such a notice was not received by the petitioner. If such a notice was issued while considering the date of completion of work as 30.11.2010, the petitioner would have the benefit of 90 days with effect from 30.11.2010 for taking supply. The petitioner had submitted application for power connection on 07.02. 2011. This leads to the fact that the petitioner will not have to pay any UCM charges.
- 3). Taking into consideration the date of intimation of completion of Line works by the respondent to the Electrical Inspector and the date of energisation sanction, and also the fact that there is no notice after the date of completion of work as per clause 10 (1) of Supply code, it is prayed to exempt the petitioner from payment of UCM demand charge as decided by the Hon CGRF in its order dated 05.09.2012 and to refund the remitted amount under this head with interest as applicable in the case of security deposit.

Argument of the Respondent: -

- (1). The petitioner had applied for power allocation for 500 KVA to start a new industry, named Asian Polymers (P) limited, in District Industrial plot, Velakode, Mundoor, Thrissur on 28.03.2008 and the same was sanctioned by the Dy. Chief Engineer, Electrical Circle, Thrissur on 13.1.2009. The sanction for the estimate of the works to provide the supply, amounting to Rs.44200/- was accorded by the Executive Engineer, Kunnankulam and the amount was remitted by the party on 28.5.2009.
- (2). The period of power allocation was extended for six months w.e.f 12.07.2009 by the Executive Engineer on the petitioner's request.

(3). The name of the industry was changed by the Deputy Chief Engineer on 31.12.2009 on his request. The period of power allocation was again extended for three months w.e.f 12.01.2010 by the Deputy Chief Engineer on the petitioner's request dated 02.01.2010.

(4). After completing the electric line works from KSEB's side, the matter was informed to the petitioner on 03.12.2009 (marked as Ex-1). The Petitioner didn't contact the KSE Board's office to avail supply. As the period of power allocation has expired, the petitioner approached KSEB on 22.06.2010 for renewal of power requirement of 500 KVA. As per the direction of Deputy Chief Engineer letter dated 16.7.2010 (Ex-2), it was informed the petitioner to submit HT application with connected documents. It was also mentioned in it, about the notice issued regarding the minimum charges payable by the consumer for not availing supply in time, as per the existing rule .

(5). Then the petitioner submitted the HT service connection application for 100 KVA contact demand only on 07.02.2011.

(6). The Assistant Engineer, Mundoor, had already informed the petitioner, about the work completion on 03.12.2009. It is not the duty of the applicant to know whether the energisation approval has obtained or not. If the petitioner was ready to avail power, he has to submit the application for service connection. Since the applicant was not ready, request for energisation to Electrical Inspector was submitted only on 30.11.2010 and got the sanction on 08.02.2011.

(7). The Un Connected Minimum(UCM) charges for 100 KVA load for the period from 3/2011 only was demanded from the petitioner as per the Kerala Electricity Supply Code 2005, clause 10 (1&2). That is, (Rs.270/KVA×11 months = 297000/-). The appellant was also instructed to file an undertaking in a stamp paper worth Rs.100/- as said in the petition.

(8). The petitioner submitted application on 05.03.2011 for exemption from payment of UCM and from executing the undertaking. The petitioner was exempted from executing the undertaking and the UCM amount of Rs.297000/- was remitted by the party.

(9). The petitioner then filed petition before the CGRF for refund of UCM of Rs.297000/-.The CGRF ordered to collect UCM for two months of 12/2010 & 01/2011.

(10). It is to be noted that the original power allocation sanctioned to the petitioner was for 500 KVA load and the party requested to execute agreement for a contract demand of 100kVA initially, instead of 500 KVA. The HT agreement was executed on 01.04.2011 for 100 kVA load demand. Subsequently, the petitioner requested additional power of 400 KVA on 29.06. 2011 and the HT agreement for 500 KVA was executed on 26.08.2011. It is evident from the above that, the petitioner approached KSEB for power demand of 500 KVA. Later on knowing the amount of UCM to be paid, he has given wrong information to KSEB in an attempt to get lower the UCM demand charges and then executed an HT agreement for 100 KVA. Within a period of three months from the start of availing power, he requested for additional power of 400 KVA and executed agreements for 500 KVA. The point to be noted is that the petitioner has given false information that he has no plan of going to 500 KVA. Also the installation to where the power allocation was sought has not been changed with in this period. This means that the consumer's actual demand was 500 KVA. In a deliberate attempt to get reduce the minimum

charges, the party has altered his contract demand by giving wrong information. Hence, there was a loss to KSEBoard by way of short assessment of UCM.

(11). The Deputy Chief Engineer has complied the judgment of the Hon CGRF and hence the old bill disputed by the consumer was cancelled and a fresh demand for a period of 2 months taking the consumer's actual sanctioned demand as 500 KVA and accordingly demanding Rs.270000/- and the balance has been refunded by Deputy Chief Engineer.

(12). The petitioner again approached the Hon CGRF against the order of the Deputy Chief Engineer and in its order dated 5th September 2012, had decided that the UCM for the month of 12/2010 and 01/2011 to be reassessed based on the demand of 375KVA and to adjust the excess amount remitted in subsequent bills. In compliance to the order of Hon CGRF, the Deputy Chief Engineer has revised the UCM demand and refunds are admitted accordingly.

(13). The consumer has not challenged this order before and the KSEBoard has not collected any excess or double security deposit or Caution deposit (CD).

The amount of security Deposits were collected as follows;

(A). For executing agreement for 100 KVA CD: -

The probable one month's electricity charges will be;

$(100\text{kva} \times \text{Rs. } 270) + (100\text{kva} \times 0.9 \times 24 \times 0.5 \times 365 \text{ days} / 12 \text{ months} \times \text{Rs. } 3) = \text{Rs. } 125560/-$

Caution Deposit is two month's charges i.e. $\text{Rs. } 125560 \times 2 = \text{Rs. } 251120/-$, which was collected as, vide DD No: 15638/9-1-2009 and DD No: 402203/30-3-2011 for Rs.125560/- each.

(B). Again when the consumer increased his demand from 100 kVA to 500 kVA, the CD was to be collected proportional to the load demand. Hence, at the time of execution of agreement for 500 KVA load demand, the CD collected was;

$(500 \text{ kVA} \times \text{Rs. } 270) + (500 \times 0.9 \times 24 \times 0.5 \times 65 / 12 \times 3) = 627804/-$

Caution Deposit = $\text{Rs. } 627804 \times 2 = \text{Rs. } 1255608/-$

Bank guarantee on 22.08.2011 for Rs.627804/-

DD for Rs (627804 - 251120) = 376684/- (DD No: 801643/23-08-2011)

Total CD = $\text{Rs. } 251120 + 376684 = \text{Rs. } 627804/-$

ANALYSIS AND FINDINGS: -

The Hearing of the Case was conducted on 03.04.2013 in my chamber at Edappally, Kochi and Sri. Ibrahim and Sri. Shaji Sebastian, the representative of the appellant appeared for the appellant's side and Sri. K N Rajan, AEE, ESD, Kechery, the respondent appeared for opposite side. On examining the Petition and the argument notes 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 decisions.

The main dispute to be settled in this case is whether the appellant is liable to pay UCM charges and if so whether the UCM can be calculated based on the sanctioned contract demand of 500 KVA or based on the contract demand of 100 KVA availed while taking the connection or executing the agreement. During the hearing the appellant has submitted an argument note relying on Clause 10(1) of the Supply Code which reads:

(1). Where the Licensee has completed the work required for providing supply of electricity to an applicant but the installation of the applicant is not ready to receive supply, the Licensee shall serve a notice on the applicant to take supply within sixty days of service of the notice in the case of LT consumers and 90 days in the case of HT& EHT consumers.

(2) If after service of notice the applicant fails to take supply of electricity, the Licensee may charge fixed/minimum charges as per the tariff in force for completed months after expiry of notice till the applicant avail supply."

The respondent has produced a copy of the letter dated 3.12.2009, issued to the consumer, as per the Rule quoted above as evidence. But the appellant complains that such a notice was not received by him. It is undisputed that the KSEB has written to the Electrical Inspector only on 30.11.2010, requesting to accord sanction to energise the new Electric Line. Hence, the party argues that, had a notice was issued while considering the date of completion of work as 30.11.2010, the petitioner would have the benefit of 90 days' time w.e.f. 30.11.2010, for taking electric supply. The petitioner has submitted application for the electric supply on 7.2.2011 which is prior to the expiry of notice time. As such the petitioner is not liable to pay any amount as UCM charge, contents the petitioner.

But according to the respondent, the work of KSEB was completed and informed the party on 3.12.2009. Here the appellant complains that such a notice was not received by him. The respondent has produced copy of the letter (notice) dated 3.12.2009 as document. To support the KSEB's claim, they have produced copy of the Dy. Chief Engineer's letter dated 16.7.2010, having reference to the said notice. Similarly the letter dated 26.11.2010 of Asst. Engineer, Mundur, addressed to the consumer and acknowledged by the Manager of the Company, also mention clearly about the said notice issued to him. All these documents suggest that a notice was issued to the consumer during 12/2009. But the respondent failed to initiate steps in time to get the approval of the Electrical Inspector to charge the HT Line and T'rfr, in 12/2009 or subsequently i.e. till 11/2010. Without the approval, the Licensee cannot charge the Line and

T'rfr so as to provide supply to the consumer. Even though the notice was given, it is proved that the KSEB was not ready with the sanction from the EI to charge the Line. Hence the notice issue date of '3.12. 2009' has lost its sanctity and can have the effect only from 8.2.2011, when the energisation approval was obtained from the Electrical Inspector.

The request for energisation of the Line and Transformer was submitted to the Electrical Inspector only on 30.11.2010 by the respondent and the sanction obtained on 8.2.2011. The respondent has demanded UCM charges for 100 KVA Contract Demand (CD), from the party amounting to Rs. 297000/- (Rs.270/KVA x 100KVA x11 months), for the period from 3/2010 to 01/2011. But after getting the orders from the CGRF, the respondent has limited the UCM charges to two months (from 11 months) but increased the CD to 375 KVA. The appellant's contention is that the party had executed agreement for 100 KVA only, for the first phase of machinery installed. Subsequently power demand was enhanced to his original CD of 500kVA. Therefore, 75% of CD i.e. 375 kVA is the minimum charge payable by a HT consumer having a CD of 500 kVA. The respondent challenges this argument of the petitioner and according to them, the original power allocation sanctioned to the applicant was for a CD of 500 KVA is true. But the party has requested to execute agreement for a contract demand of 100 KVA only initially instead of 500 KVA which was allowed. The respondent alleges that this action of the applicant was an attempt to get lower the UCM demand charges and cite it is evident, when the consumer made request for additional power of 400 KVA and executed agreement for the total CD of 500 KVA, within a period of three months itself from the actual start of availing the electric power.

DECISION: -

The respondent does not dispute the fact that the request to the Electrical Inspector, for the approval of the new Lines and Transformer constructed for energisation, was sent only on 30. 11.2010. In normal case, after completion of the Line works, the notice to the applicant for Power asking to submit papers for releasing the new electric service connection, as well as request to the Electrical Inspector to accord energisation approval of the newly constructed Line/or Transformer, is sent immediately. In this case, even if the Line works were over by 12/2009 as argued by the respondent, they failed to get the energisation approval from the Electrical Inspector in time. The respondent need not wait till the party is ready with his Electric installation works to go for the energisation approval from the Electrical Inspector.

Here, the energisation approval was obtained only on 8.02.2011 and as such there is no merit in the claim for the UCM charges prior to 02/2011. Hence the disputed Bill claiming the UCM charges is set aside.

But the Regulation 10 (2) of Electricity Supply Code says that, if the applicant for electricity fails to take the electric load demanded and for which the KSEB has incurred expenses to construct the Lines and T'rfr, in anticipation of Revenue from the same, the fixed charges for the load demanded, known as UCM (un connected minimum) charges can be levied on the defaulted consumers. The clause reads as follows;

(2) If after service of notice the applicant fails to take supply of electricity, the Licensee may charge fixed/minimum charges as per the tariff in force for completed months after expiry of notice till the applicant avail supply."

In this case, the Contract demand of the appellant was 500 kVA and if the party fails to take the electric power after completion of the work by KSEB, he can be charged for 75 % of the Load demanded i.e. $75\% \times 500 = 375$ kVA load. Similarly, if the party opts for a reduced load demand initially, say going for 100 kVA instead of 500 kVA, the respondent is eligible to demand the UCM charges for the balance load, till it is enhanced to full Contract Demand or get it approved by KSEB. Here the consumer was granted 100 kVA in 4/2011 and the party made request for enhancement to full CD of 500 kVA in 6/2011. Hence KSEB can demand UCM charges for two months of April and May of 2011, for $(375 \text{ kVA} - 100 \text{ kVA})$, 275 kVA load only. Once the application for additional load is made, the respondent cannot demand for any UCM charges further. Also it is made clear that UCM charges is payable for 'completed months' of delay only and not for any part of a month and as such, is not eligible for a claim for 6/2011. Moreover, the KSEB has allowed the consumer to reduce his CD later, on an application from him, which means that the KSEB has approved the reduction in load demand. Hence the party is not liable to pay any UCM charges further.

The respondent is directed to revise the bill accordingly and to refund the excess amount collected from the consumer by way of UCM charges, with double the interest of 'bank rate' (as defined in the Electricity Supply Code), within 90 days of this order.

The security deposit of a Consumer, having issued monthly bills, is equivalent to probable two months electricity charges only. In normal case, the security deposit has to be reviewed every year and during tariff revisions. As such the respondent may calculate the average

monthly electricity charges of the consumer for the last 12 months of the previous financial year and determine the Security Deposit (Caution Deposit) needed from the consumer. If any additional amount is required it may be demanded by issuing a notice or if any excess amount is collected and is lying with KSEB's accounts, it may be refunded with applicable interest for the Security deposits.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the consumer is found having merits and is allowed to the extent it is ordered and stands disposed of.

No order on costs. Dated the 28th of June, 2013,

Electricity Ombudsman.

Ref. No. P/309/2012/ 1820 /Dated 28.06.2013.

- Forwarded to
- 1). Sri. Afsal K.I,
M/S.Velakode Rubber & Reclaims (P) Ltd,
Velakode, Mundoor,Thrissur- 680 545.
 - 2). The Assistant Executive Engineer.
Electrical Sub Division, KSEBoard,
Kechery,Thrissur-680 501.
- Copy to: -
- 1). The Secretary, Kerala State Electricity Regulatory Commission,
KPFCBhavanam, Vellayambalam, Thiruvananthapuram-10.
 - 2). The Secretary, KSEB,
Vydyuthibhavanam, Pattom, Thiruvananthapuram-4.
 - 3). The Chairperson, Consumer Grievance Redressal Forum, KESB,
Power House Building, Ernakulam- 682018.