

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO.P/071/2014

(Present: Sri. V.V. Sathyarajan)

Dated: 07th May 2015

Appellant : Sri K.V. Francis,
Managing Partner,
M/s Kalpana Agro Mills,
Mattoor, Kalady P.O,
Ernakulam - 683 574

Respondent : The Assistant Executive Engineer
Electrical Sub Division
KSE Board Ltd.,
Kalady,
Ernakulam District

ORDER**Background of the case**

The appellant is the Managing Partner of M/s Kalpana Agro Mills bearing consumer No. 11308 under Electrical Section, Kalady. He applied for additional load enhancement of existing LT connection by converting the same to HT connection on 13-06-2011. According to the appellant, he submitted the agreement on 30-10-2013. But the same was executed only on 11-02-2014 and the HT connection was effected on 12-02-2014. Meanwhile a total amount of Rs. 4,95,000/- was collected from the appellant towards the Unconnected Minimum Charges for the period from 20-01-2013 to 30-10-2013. The appellant approached the CGRF on 15-05-2014 praying to set aside the UCM charges. The Forum, in its order, directed the respondents to revise the UCM charges by limiting the period of assessment for 9 months and to adjust the excess amount paid in future bills. Aggrieved against the said order, this appeal petition was filed.

Appellant's arguments

The consumer No. 11308 was registered in favour of the appellant under LT industrial tariff. The appellant applied for change of connected load (LT to HT) and submitted an application on 13-06-2011 for allocation of power. On 11-01-2012 he was directed to remit an amount of Rs. 96,565/- towards the cost of work from

Distribution side. The appellant remitted the said amount on 17-01-2012. Thereafter, on 20-10-2012 the appellant was informed that the line extension work as per the estimate was completed and he was therefore directed to avail additional load within three months, failing which appellant is liable to pay minimum charges as per Regulation 10 of Kerala Electricity Supply Code, 2005.

So as to charge UCM, the licensee has to complete the work required for providing electricity to the applicant and has to issue a notice as contemplated under Regulation 10 (1) of the Supply Code, 2005. In the present case, the respondent has not completed the work on their part to provide electricity to the appellant. The service connection was in existence during the period for which the UCM was demanded. The appellant herein applied only for the change of connected load in the existing service connection and not for fresh connection. The respondent cannot demand unconnected minimum as the appellant's establishment has already been connected with the power supply. Though agreement was submitted by the appellant on 30-10-2013, the same was executed only on 11-02-2014 and connection was effected in HT tariff with effect from 12-02-2014.

An amount of Rs. 2,90,940/- was illegally demanded from the appellant towards UCM charges commencing from 20-01-2013. Under threat of disconnection, appellant was compelled to remit the said amount. On 02-01-2014 the appellant was directed to remit a further amount of Rs. 2,04,060/- towards UCM. The appellant remitted the said amount also. A total amount of Rs. 4,95,000/- was collected from the appellant towards UCM. No calculation statement has been furnished so far. No notice contemplated under Regulation 10 was issued by the respondents. Hence any demand and subsequent collection of UCM is illegal and arbitrary. The agreement for HT connection as contemplated under Regulation 19 of the Terms & Conditions of Supply Code, 2005 was executed only on 11-02-2014. As per Regulation 19 the premises shall not be connected unless and until the agreement is executed. Therefore the demand and collection of UCM prior to 11-02-2014 is illegal. Only on 11-02-2014 the KSEB completed their work. The additional power applied by the appellant was only for 89 kVA. Hence the demand for UCM for the existing connected load of 131 kVA is unsustainable. He already paid the fixed charges as well as the electricity charges for the existing connected load of 131 kVA for the period from 01/2013 to 10/2013.

Respondent's arguments

The sanctioned connected load was 118 kW under LT category and the service connection has been converted to HT category with connected load of 236.646 kW. The line work was completed by the KSEB and an intimation was issued to the appellant for availing power supply within three months, on 20-10-2012. After receiving the notice, the appellant did not submit the completion report and HT agreement for availing HT power supply till 31-10-2013. The HT agreement was submitted only on 31-10-2013 before the Assistant Engineer, Electrical Section, Kalady after a long period of one year. The HT agreement was forwarded to the Deputy Chief Engineer, Electrical Circle, Perumbavoor for executing the agreement,

on 20-11-2013. The HT agreement was executed on 11-02-2014 after collecting necessary documents. Meanwhile a total amount of Rs. 4,95,000/- was collected from the appellant towards the UCM as per Clause 10 of Kerala Electricity Supply Code, 2005.

Analysis and findings

Hearing of the case was conducted on 27-03-2015 in my chamber at Edappally, Kochi. Advocate Santhosh G. Prabhu represented the appellant. Sri M.Y. George, Assistant Executive Engineer, Electrical Sub Division, Kalady appeared for the respondent. Hearing the arguments of the parties, perusing the documents produced by the parties and considering all the facts and circumstances of the case, this Authority comes to the following conclusions.

The dispute in this case arose when an amount of Rs. 2,90,940/- was demanded from the appellant towards UCM charges. According to the appellant, under threat of disconnection, he was forced to remit the said amount. Again he was directed to pay further amount of Rs. 2,04,060/- towards UCM. He remitted the said amount also. Altogether a sum of Rs. 4,95,000/- was collected from the appellant towards UCM charges. It is true that the UCM charges can be demanded from a consumer for not availing power supply that he sought for, even after completing the work on the part of KSEB for effecting power supply. Now the question to be looked into is as to whether the respondent has performed his part earnestly. Only if the respondent completes the work on their part, they can issue first a notice to the consumer directing to take supply within 90 days of the service of notice in the case of HT/EHT consumers. Whether such a notice was issued in this case is a disputed fact. The correctness of the said claim of issuing notice has direct impact on the question of liability of paying the UCM charges. In this connection Clause 10 of Supply Code, 2005 reads thus:-

10. (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.

The above clause shows that the Licensee shall serve a notice clearly indicating a period of 90 days for completing the work on the consumer's side. Appellant's contention is that no such notice has been given in the present case and that the Licensee can give a proper notice only after completing the work on their part. It is to be noted that the agreement for HT connection was executed only on 11-02-2014. As per Regulation 19 of the Terms & Conditions of Supply Code, 2005 the premises shall not be connected unless and until the agreement is executed. Hence the date of execution of the agreement i.e. 11-02-2014 in the present case is the crucial date on which the respondent was in a position to give HT connection. It seems that the respondent completed his portion of work only on 11-02-2014. The appellant already completed his portion of work well before 11-02-2014. It is also seen that HT connection was effected on the next day i.e. 12-02-2014. In the

circumstances the question of issuing notice as contemplated under the Regulation does not arise.

The appellant is an existing LT consumer who requested for converting into HT on 13-06-2011. It took 7 months for the licensee to complete the process and directed the appellant to remit the cost of work on 11-01-2012. It can be seen from the records that the appellant remitted the amount without any delay i.e. on 17-01-2012. But the notice alleged to have been sent under Regulation 10 (1) of Supply Code, 2005 is on 20-10-2012. So there is a considerable delay on the part of respondent in processing an application for conversion from an existing consumer. It can be seen that the appellant produced the agreement on 13-10-2013 which is seen executed on 11-02-2014. So it is very difficult to arrive at a logical conclusion that the respondent completed the work required for providing supply of electricity to the appellant.

Decision

In view of the above discussion I hold that the respondents are not eligible to demand and collect UCM charges of Rs. 4,95,000/- (Rs. 2,90,940/- and Rs. 2,40,060/-) from the appellant. The respondents are directed to adjust the total amount of Rs. 4,95,000/- remitted by the appellant in future bills. The order of the CGRF is set aside. No order as to costs.

ELECTRICITY OMBUDSMAN

No.P/071/2014/ /Dated: _____

Forwarded to:

1. Sri K.V. Francis, Managing Partner, M/s Kalpana Agro Mills, Mattoor, Kalady P.O, Ernakulam - 683 574.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Kalady, Ernakulam District.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram.
3. The Chairperson, Consumer Grievance Redressal Forum, Power House, Power House Buildings, Cemeterymukku, Ernakulam-682 018