

THE STATE ELECTRICITY OMBUDSMAN

Charangattu Bhavan, Building No.34/895, Mamangalam-Anchumana Road,
Edappally, Kochi-682 024

www.keralaeo.org Ph: 0484 2346488, Mob: 91 9447576208

Email:ombudsman.electricity@gmail.com

APPEAL PETITION NO.P/058/2014

(Present: Sri. V.V. Sathyarajan)

Dated: 23rd April 2015

Appellant : Sri. Thomas Varghese,
Oorakkad,
Malayidomthuruthu P.O.,
Ernakulam - 683 561

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

ORDER**Background of the case**

The appellant is a consumer under Electrical Section, Kizhakkambalam bearing two LT industrial connections, 10388 and 22387. He requested for converting the said LT connections to a single HT connection and remitted the amount of Rs. 2,97,684/- on 04-12-2010 as directed by the respondent for executing the work. On 06-01-2014 the respondent directed the appellant to remit an amount of Rs. 12,40,215/- towards Unconnected Minimum Charges. The appellant approached the CGRF on 31-03-2014 seeking to cancel the UCM charges and to effect HT connection immediately. The Forum accorded an opportunity to both parties to hear the matter. After examining the petition and the statement of facts and considering all the facts and circumstances of the case, the Forum was of the opinion that the respondent had issued notice to the appellant after completing the work on their side. The Forum held that the demand notice dated: 06-01-2014 for Rs. 12,40,215/- was in order and that the respondents are eligible for UCM charges till the appellant avail supply. Aggrieved against the said order, this appeal petition was filed.

Appellant's arguments

The appellant is having two connections of 61.6 kVA and 92.6 kVA. The appellant submitted application for converting the said two connections to single HT

connection of 230 kVA. Accordingly he remitted an amount of Rs. 2,97,684/- as directed by the KSEB in their letter AS No. 31/10-11/3669 dated: 03-12-2010. There was delay on the part of the KSEB for arranging their work and hence the work has not been completed yet. On 06-01-2014, a letter demanding to remit an amount of Rs. 12,40,215/- towards UCM charges was issued by the KSEB. As per clause 10 of Supply Code 2005, the Licensee shall serve a notice on the applicant to take supply within sixty days of the service of the notice in the case of LT consumers and ninety days in the case of HT & EHT consumers, 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. After completing the Licensee's work, no notice has been served here and the Licensee can give notice only after completing the work on their part and getting approval from Electrical Inspectorate. The energisation clearance of their portion is not yet obtained by the KSEB. They haven't given the completion report to the Electrical Inspectorate. Getting energisation clearance from the Electrical Inspectorate is necessary to treat an 11 kV work as completed. Moreover, the appellant's requirement is in fact a conversion from LT to HT. Hence the respondent cannot claim that they are having losses because they kept in readiness the kVA required for the consumer.

Respondent's arguments

The appellant applied for merging the two LT connections with a total connected load of 154.2 kVA and converting the same to one HT connection with a contract demand of 230 kVA on 28-08-2010. The appellant remitted the estimated amount of Rs. 2,97,684/- on 04-12-2010 for drawing 160 metre 11 kV OH line and erecting one number DP structure from KSEB side and providing CT-PT unit on existing DP structure and metering cubicle from appellant's side under department supervision. The line work was completed during 03/2011. The work for providing HT supply comprises two parts - one part to be carried out by KSEB and the other part to be done by the appellant. The consumer opted for providing outdoor CT-PT unit and metering cubicle by himself and hence only supervision charges for the same were included in the estimated amount. The portion of work to be carried by KSEB was completed after getting necessary PTCC approval. Thereafter a written intimation was served to the appellant for availing power vide letter dated: 04-04-2011. But the appellant neither completed the portion of work on his part nor submitted completion report for availing service connection. Till now, the appellant has not procured and tested CT-PT units. The letter directing to remit Rs. 12,40,215/- as UCM charges was issued for not availing power supply after obtaining power feasibility and completing the work on the side of KSEB. It is not true that no notice was issued to the consumer after completion of work. To get the energisation approval from the Electrical Inspectorate the work has to be completed in full. The delay in getting energisation approval from Electrical Inspectorate is due to the appellant's default in completing the work on his part. Since there is enhancement of contract demand in merging the two LT connections of 154.2 kVA to HT connection with contract demand of 230 kVA, the KSEB has to keep in readiness the additional kVA requirement for this consumer.

Analysis and findings

Hearing of the case was conducted on 13-03-2015 in my chamber at Edappally, Kochi. The appellant himself appeared for the hearing. Sri K.S. Aliyar, Assistant Executive Engineer represented the respondent. Hearing the arguments of both parties, perusing the petition, statement of facts and other documents and considering the facts and circumstances of the case, this Authority comes to the following conclusions.

It is seen that the dispute in this case arose when the respondent demanded UCM charges of Rs. 12,40,215/- from the appellant. It is true that UCM charges can be demanded from a consumer concerned, 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 herein played his part earnestly. Only if the respondents complete 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 question of resolving the said dispute is intertwined with the issue whether the appellant is liable to pay the UCM charges demanded by the respondent. The appellant submitted that the respondent issued a letter dated 06-01-2014, directing to remit an amount of Rs. 12,40,215/- towards the UCM charges. In this connection Clause 10 of Supply Code, 2005 reads as follows:-

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.

This shows that the Licensee should serve a notice clearly indicating a period of 90 days for completing the consumer's side work for availing supply. Appellant's contention is that after completing Licensee's work no notice has been given and the Licensee can give the notice only after completing the work and getting approval from Electrical Inspector. The appellant further clarified that the energisation portion of the work to be arranged by the respondent i.e. Licensee had not been done and the formalities in this regard had also not been completed by the respondent. On the other hand, the respondent argued that they had completed the drawal of 160 metre of line and erection of D.P. structure during 03/2011. Moreover, they intimated the above facts to the appellant vide letter dated: 04-04-2011 and the same was acknowledged by the appellant.

On going through the records of the case, it can be seen that neither the appellant nor the respondent has taken any effort in culminating the work for a long period of 3 years. Even after completion of the HT line, the respondent failed to initiate further steps in time to charge the line so as to provide supply to the appellant. Even though it is admitted that a notice was issued to the appellant as per Clause 10 (1) of the Supply Code, 2005 it is proved that the respondent was not ready for energising the line. Hence the above notice has no sanctity on that date i.e.

04-11-2011 and can have the effect only from the actual date of energisation approval to be given by the Electrical Inspectorate. Here, even if the line works were over by 03/2011 as argued by the respondent, they failed to charge the line after getting energisation approval from the Electrical Inspectorate. For that, the respondent need not wait for the completion of work on the part of appellant's side. Hence it appears that there is no merit in the claim of UCM charges demanded by the respondent.

Decision

In view of the above discussion it is held that the respondents are not eligible for UCM charges demanded as per notice dated: 06-01-2014. The demand notice dated: 06-01-2014 for Rs. 12,40,215/- is quashed. The order of the CGRF is set aside. The appeal petition is allowed. No order as to costs.

ELECTRICITY OMBUDSMAN

No.P/058/2014/ /Dated:

Forwarded to:

1. Sri. Thomas Varghese, Oorakkad, Malayidomthuruthu P. O., Ernakulam - 683 561
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Kizhakkambalam, 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