

CONSUMER GRIEVANCE REDRESSAL FORUM

CENTRAL REGION

(Formed under Section 42(5) of the Electricity Act 2003)

220 kV Substation Compound, HMT Colony P.O. Kalamassery, Pin – 683 503
Phone No. 0484-2556500 Website: cgrf.kseb.in, Email: cgrf.ekm@gmail.com,
CUG No. 9496008719

Present	(1) Smt. Sheeba. P (2) Sri. Biju Varghese	Chairperson 3 rd Member
Petitioner	Sri. Babu C. George, B.C.G. Bungalow Annex Chandrathil, Ambedkar Road, Vennala P.O., Kochi – 682 028	
Respondent	1) The Assistant Executive Engineer, Kerala State Electricity Board Ltd, Electrical Sub Division, Vyttila 2) The Assistant Engineer, Kerala State Electricity Board Ltd, Electrical Section, Thrikkakkara	

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No.CGRF-CR/OP No.39/2023-24

Date: 18-10-2023.

ORDER

Background of the case:

The petitioner resides at the B.C.G. Bungalow Annex at Vennala and has a commercial electricity connection with consumer number 1155574048501 (LT-VII A tariff) under the jurisdiction of Electrical Section, Thrikkakkara. The petitioner was engaged in the business of constructing commercial and residential building named 'M/s BCG Residency Towers' and hence the petitioner, along with three other applicants, submitted an application for the Supply of Power (SOP) to meet a power demand of 900 kVA. The work involves the construction of an 11 kV line for 1.8 kilometres as well as the installation of three transformers with capacities of 630 kVA, 400 kVA and 160 kVA. Among these, the construction of

the 11 kV line, Double Pole (DP) structures and other related tasks are to be undertaken by the licensee. Consequently, the expenses to be paid to the licensee's services are distributed among the four applicants including the petitioner and the petitioner made a contribution of Rs.2,41,935/- on November 10, 2011.

Subsequent to the completion of the work by the licensee, the Assistant Engineer, Electrical Section, Thrikkakkara issued a notice on 28/06/2013 for the petitioner to avail the power supply within 30/06/2013. But the petitioner availed a High Tension (HT) electric connection bearing consumer number 1355570038483 / LCN-6/7389 only on 18/06/2015. Hence, due to the delay on the petitioner's part to avail the supply, the Assistant Engineer levied Rs.4,94,100/- as Un-Connected Minimum (UCM) charges for the period starting from 30/06/2013 to 31/03/2014. Aggrieved by the demand of UCM, the petitioner filed WP(C) 29518 of 2014 before the Hon'ble High Court of Kerala. On July 6, 2023, the Hon'ble Court directed the petitioner to approach this Forum for redressing their grievance. Hence the petitioner has approached this Forum seeking justice.

Version of the Petitioner:-

On 13/01/2011 the petitioner had applied for the grant of power connection to the tune of 900 kVA. For executing this work, a feeder line had to be drawn from the 66kV Substation, Kakkanad for the grant of power connection to the petitioner along with three other applicants. The petitioner states that the respondent suggested to share the cost of the works for granting power connection along with other applicants. The overhead 11 kV Line for 1.8 KM (1.65 new line and 140 meter line duplication) has to be drawn along with the installation of three transformers having capacity to the tune of 630 kVA, 400 kVA and 160kVA and the allied works has to be done. The estimate for the work was sanctioned and the respondent permitted the petitioner to pay the pro rata amount towards the estimate amount. The construction of Over Head Line and DP portion of the estimate was to be carried out by the licensee and other works were to be executed by the applicants with a licensed contractor under the supervision of the officials of the

licensee after obtaining necessary approvals. Accordingly an amount of Rs.241935/- was paid by the petitioner.

The Electrical Inspectorate had accorded approval for the scheme of electrification submitted by the petitioner. As the electrification works were not completed, the petitioner had obtained extension of scheme of approval from the Electrical Inspectorate. Thereafter the Assistant Engineer, Electrical Section, Thrikkakkara started to insist upon the payment of unconnected minimum charges under the OYEC (Own Your Electric Connection) Scheme which has become defunct after the enactment of the Electricity Act, 2003. The Assistant Engineer had issued a communication dated 28/06/2013 demanding unconnected minimum charges and thereafter another communication dated 24/06/2014 demanding unconnected minimum charges was also issued. Being aggrieved by the actions of the licensee, the petitioner approached the Honourable High Court of Kerala by filing W.P. (C) 29518 of 2014 and the Honourable Court by Judgment dated 06/07/2023 directed the petitioner to approach this Forum for redressing the grievances. Hence the petitioner has approached this Forum seeking justice.

The petitioner argues that there is no power allocation contemplated under the Electricity Act, 2003 and hence the licensee cannot devise their own procedures that are contrary to the statutory provisions. The petitioner further argues that the Electricity Act, 2003 does not contemplate any supply of power under OYEC (Own Your Electricity Connection). Under the Electricity Act, there is only one priority list and the date of submission of the Service Connection application, complete in all respects, together with all documents and the application fee and security deposit. The provisions of Regulation 10 of Supply Code 2005 are not applicable in petitioner's case. The Supply Code 2014 does not contemplate the demand of unconnected minimum charges from the consumers. There is no UCM charges contemplated or approved by the Kerala State Electricity Regulatory Commission and hence the demand of the respondent is illegal and arbitrary and without any statutory sanction. The petitioner further argues that the entire cost for the work relating to the drawing of line, the setting up of metering

equipment, all arrangements for metering, including the cost of the meter is being met by the petitioner. There is no cost incurred by the respondent and hence no charge could be levied in the nature of UCM. Also, the communications issued by the respondent do not even state the basis for the UCM charges demanded and the basis for calculating such charges. The petitioner further states that Section 47 of the Electricity Act 2003, dealing with the distribution of electricity does not provide for levying of any charges other than in respect of electricity supplies, cost of providing plant, line, security deposit etc. There is no provision to levy any charge for electricity not supplied. There is also no other statutory provision that enables the respondent to demand UCM.

Subsequently, statement of facts was called for and the same was submitted by the respondent on 27/09/2023.

Version of the Respondent:-

The respondent states that the petitioner applied for Supply of Power (SOP) to their project BCG Residency Tower, Opp. CSEZ, Seaport–Airport Road, Kakkanad. The requirement of the petitioner was power connection for 900 KVA along with three other applicants. The quantum of works involved was the construction of overhead 11 KV line for 1.8 KM (1.65 new line and 140 m line duplication) has to be drawn from 66 KV Substation Kakkanad along with installation of three transformers having capacity of 630 KVA, 400 KVA and 160 KVA. The construction of overhead line and DP Portion had to be carried out by the licensee and other allied works were under the scope of the petitioner. Thus an amount of Rs.2,41,935/- was remitted by the petitioner by Demand Draft dated 10/11/2011.

The respondent states that the licensee completed the works on 30/04/2013 and issued a notice on 28/06/2013 as per Regulation 10(1) of Supply Code 2005, in which it was stated that the work under scope of the licensee has been completed on 30/04/2013 and requested to avail service connections on or before 30/06/2013; otherwise UCM will be levied at the rate of Rs.54,900/- per month from

01/07/2013 onwards. The respondent quotes Regulation 10 (1) of Supply Code 2005 which states that, *“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 and EHT consumers”*.

The respondent further quotes Regulation 10 (2) of Supply Code 2005 which states that, *“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 argues that there was no response from the petitioner for the above and hence the Assistant Engineer, Electrical Section, Thrikkakkara issued UCM demand notice to the petitioner on 24/06/2014 for Rs.4,94,100/- for the period from 30/06/2013 to 31/03/2014 as per Regulation 10(2) of Supply Code, 2005.

The calculation of UCM charged as per the Tariff Order in force during the period is as follows:-

Commercial Tariff	421 KW x 120	=	50520.00
Domestic Tariff	73 (3 Phase)x 120/2	=	4380.00
Total		=	54900.00
For the period for 30/06/2013 to 31/03/2014			
(9 months)	Total	9 x 54900	= 494100/-

The respondent argues that the issue of demand notice to the petitioner under UCM is legal and as per Regulation 10 (1) and (2) of Supply Code 2005. The respondent states that the licensee did not act contrary to the provision of Electricity Act 2005. The provision of Regulation 10 of Supply Code 2005 is applicable in this case. UCM is charged on 24/06/2014 as per Regulation 10(2) of Supply Code 2005. The respondent argues that the communication on 24/06/2014 of respondent to the petitioner had clearly mentioned about the UCM charges

demand and its calculation details. Also as per Regulation 10(2) of Supply Code 2005, the respondent is authorised by statutory provision to demand UCM from the petitioner.

The respondent states that when the petitioner applied for this huge quantum of power, the power was given to them after providing new infrastructure and the requested power was earmarked for them. Subsequently another consumer in that area approached the licensee for power during that time. Hence the licensee was forced to construct further infrastructure to give the power whereas the infrastructure and the power earmarked for the petitioner remained unutilized. Hence it is legitimate to charge the UCM from the petitioner.

Analysis and findings:

Hearing was conducted at the chamber of the Chairperson, Consumer Grievance Redressal Forum, Ernakulam. The Forum afforded an opportunity to hear the Petitioner and the Respondent on 30/09/2023. Both the nominee of the petitioner and the respondent were present for hearing. Having examined the petition in detail and the statement of facts of the respondent, considering all the facts and circumstances in detail and perusing all the documents of both sides, the Forum comes to the following observations, conclusions and decisions thereof.

During the course of the hearing, both the petitioner and the respondent restated their arguments presented in their versions. The petitioner contended that the Electricity Act, 2003 does not envisage any power allocation and as a result, the licensee is not authorized to request Un-Connected Minimum Charges (UCM) from the petitioner. Conversely, the respondent referenced Regulation 10 of the Kerala Electricity Supply Code 2005, which, as outlined below, grants the licensee the right to impose UCM upon the petitioner once the licensee has completed the necessary work for delivering power to the petitioner.

Regulation 10. Delay on the part of applicant to take supply.-

“(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 stated that they had adhered to the Regulation 10 (1) by issuing a notice to the petitioner on 28/06/2013, instructing them to request a service connection on or before 30/06/2013 in order to avoid incurring Un-Connected Minimum Charges (UCM). This advice was issued because the work on the licensee's end had been completed on 30/04/2013. However, the petitioner failed to secure the connection before the specified date, resulting in the imposition of UCM charges from 30/06/2013 to 31/03/2014 according to Regulation 10(2).

This Forum assess that as per Regulation 10 (2), the licensee can levy UCM on an applicant, if the applicant does not avail supply within the time period stipulated as per the notice issued by the respondent in accordance with Regulation 10 (1). In this case, the petitioner has availed the supply only on 18/06/2015 and consequently, the licensee imposed UCM charges upto 31/03/2014; the date on which the Kerala Electricity Supply Code, 2014 was enacted, rendering UCM charges inapplicable.

However, this Forum observes that in order to impose UCM charges on an applicant, the licensee is required to issue a notice to the applicant as per Regulation 10 (1), instructing them to secure the supply within ninety days of receiving the notice, in the case of a High Tension (HT) consumer, following the completion of the necessary work to provide electricity supply. It's worth noting that the petitioner's initial connection to their building was classified as High Tension (consumer number 1355570038483 / LCN-6/7389). In this particular instance, the respondent notified the petitioner regarding their work completion only on 28/06/2013, providing a mere two-days' notice period until 30/06/2013 instead of 90 days' period, which is a clear violation of Regulation 10(1) of the

Kerala Electricity Supply Code, 2005. However, as per the notice issued by the respondent, the petitioner was informed that he is liable to pay UCM charges for the delay in taking connection. As a result, this Forum has determined that the 90 days' notice period should commence only from 28/06/2013 (the date of notice issued) and consequently, the licensee can demand UCM charges only after the expiration of the 90-days' notice period, starting from 28/09/2013, in accordance with Regulation 10 (2) of the Supply Code 2005. Therefore, the UCM charge imposed on the petitioner from 30/06/2013 is deemed to be in violation of the Regulations; instead the petitioner is liable to pay UCM charges w.e.f. 28.09.2013 only.

DECISION:

Considering the above facts and circumstances, the Forum issues the following orders:-

- 1) The petitioner is liable for the payment of the Un-Connected Minimum Charges (UCM) from 28/09/2013 to 31/03/2014. The respondent shall revise the UCM demand to reflect this timeframe.**
- 2) No cost ordered.**

The petitioner is at liberty to file appeal before the State Electricity Ombudsman, D.H. Road, Off shore Road Junction, Near Gandhi Square, Ernakulam, Pin – 682 016 (Ph: 0484 -2346488 , Mobile No. 8714356488) within 30 days of receipt of this order, if not satisfied with this decision.

Dated this 18th day of October 2023

Sd/-

Sri.Biju Varghese
3rd Member
CGRF, Ernakulam

Sd/-

Smt. Sheeba. P
(CHAIRPERSON)
CGRF-CR, Ernakulam

Endt. On CGRF-CR/OP No.39/2023-24 Dated

Delivered to Sri.Babu. C. George,
Residing at B.C.G. Bungalow Annex
Chandrathil, Ambedkar Road,
Vennala P.O., Kochi – 682 028

Sd/-
 CHAIRPERSON
 (DEPUTY CHIEF ENGINEER)
 CGRF-CR, KALAMASSERRY

Copy submitted to: 1) The Secretary, KSEBL, Vydhyuthi Bhavanam, Pattom,
 Thiruvananthapuram.
 “ 2) The Secretary, Kerala State Regulatory Commission,
 KPFC Bhavanam, C.V Raman Pillai Road, Vellayambalam,
 Thiruvananthapuram.

Copy to: - (1) The Deputy Chief Engineer, Electrical Circle, KSEBL,
 Ernakulam
 (2) The Executive Engineer, Electrical Division, KSEBL,
 Thripunithura
 (3) The Assistant Executive Engineer, Electrical Sub Division,
 KSEBL, Vyttila
 (4) The Assistant Engineer, Electrical Section, Thrikkakkara