

CONSUMER GRIEVANCE REDRESSAL FORUM

CENTRAL REGION

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

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CUG No. 9496008719

Present	(1) Smt. Sheeba. P (2) Sri. Biju Varghese	Chairperson 3rd Member
Petitioner	Mr. Ranjan, Vice President (Projects), M/s Popular Vehicles & Services Ltd, Kuttukkaran Centre, Mamangalam, Ernakulam Pin – 682 025	
Respondent	The Deputy Chief Engineer, Kerala State Electricity Board Ltd., Electrical Circle, Ernakulam.	

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No.CGRF-CR/OP No.47/2023-24

Date:31-10-2023

ORDER

Background of the case:

The petitioner is the Vice President (Projects) of M/s. Popular Vehicles and Services Ltd. having a High Tension (HT) industrial connection bearing consumer code 18/6498. The petitioner made a request to the licensee for 100 kVA power supply for operating their automobile repair center located at Chakkaraparambu, Ernakulam. Subsequently, the petitioner submitted an application for this power connection both to the Deputy Chief Engineer, Electrical Circle, Ernakulam and to the Assistant Engineer, Electrical Section, Palarivattom. The petitioner expressed dissatisfaction with the notification requesting payment of "Un-Connected Minimum" (UCM) charges, in which the respondent alleged that there had been an unwarranted delay on the part of the petitioner in connecting to the power supply. In response, the petitioner filed WP(C) 25548/2012 before the Hon'ble High Court of Kerala, challenging the demand dated 17/09/2012, which amounted to

Rs.3,67,500/- for UCM charges covering the period from 26/07/2011 to 17/09/2012 and also against the Regulation 10 of the Kerala Electricity Supply Code, 2005. The Hon'ble High Courtvide Judgement dated 06/07/2023, directed the petitioner to address this Forum for further resolution in this matter.

Version of the Petitioner:-

The petitioner herein got aggrieved towards the intimation for remittance of “unconnected minimum charges”, where the respondent alleges that there was an undue delay on the part of the petitioner to avail the power supply. Hence the respondent denied providing the electric supply unless the petitioner remits the entire amount. The petitioner states that they were in need of a High Tension electricity connection under industrial category for the purpose of running an automobile repair center at Chakkaraparambu, Ernakulam. Therefore, the petitioner submitted an application for the same before the Deputy Chief Engineer, Electrical Circle, Ernakulam and to the Assistant Engineer, Electrical Section, Palarivattom. In response to this, the Deputy Chief Engineer, Electrical Circle, Ernakulam issued a communication bearing No.AE1/HT SOP/Popular/2010-11/2127 in which the petitioner was directed to remit an amount of Rs.1,75,408/- towards the cost of work as well as for its supervision charges. The petitioner states that the proposed works included the installation of a Ring Main Unit (RMU) and also laying of 80 meters of 3 X 300 Square millimeter underground cables. On 14-06-2010, the petitioner remitted the amount and also took urgent steps to carry out the works.

The petitioner states that on 26/07/2011, the petitioner received another communication dated 07/04/2011 from the Assistant Engineer, Electrical Section Palarivattom stating that the work from the part of KSEBL that provides power to extent 100 KVA to the premises had been completed and thereby directed the petitioner to avail power supply within three months from the date of receipt of the letter; failing which will result in the levying of “unconnected minimum charges” from the petitioner. The petitioner states that throughout the period, the petitioner was making all efforts to complete the work, but due to some reasons which were

beyond their control, the petitioner could not avail the power supply within the stipulated time period. Thus on 28/05/2012, the petitioner was served with another notice by the Assistant Engineer, Electrical Section, Palarivattom intimating to pay an amount of Rs.1,83,750/- towards unconnected minimum charges for the period from 26/07/2011 to 26/05/2012. Thus the petitioner contacted the Assistant Engineer, Electrical Section, Palarivattom and appraised about the facts. In spite of this, the petitioner received another communication dated 17/07/2012 directing the petitioner to remit the amount; failing which the application of the petitioner shall be treated as withdrawn as per Regulation 9 (2) of the Supply Code. In response, on 30/07/2012 and 10/08/2012, the petitioner submitted their objections highlighting the grievances to the Deputy Chief Engineer, Electrical Circle, Ernakulam and to the Assistant Engineer, Electrical Section, Palarivattom respectively. Against this, the Deputy Chief Engineer, Electrical Circle, Ernakulam issued an Order vide No.AE1/SOP/Popular/2011-12/2860 dated 14/09/2012 rejecting all the objections made by the petitioner, without conducting any hearing in this regard. Again the petitioner received another notice vide No.DB5-SOP/12-13/AE/PVTM/148 dated 17/09/2012 from the Assistant Engineer, Electrical Section, Palrivattom for an amount of Rs.3,67,500/- towards the unconnected minimum charges for the period from 26/07/2011 to 17/09/2012. Thus the petitioner was forced to file a complaint before the Hon'ble High Court of Kerala vide WPC 25548/2012 and as per its Judgement dated 06/07/2023, the petitioner approached this Forum to get this UCM amount waived off.

The petitioner argues that the unconnected minimum charges are not the charges for energy supplied to the consumers and also not the charges for the actual expenditure reasonably incurred by the licensee in providing any electric line or electrical plant used for the purpose of giving that supply. The petitioner also argues that since the petitioner was not provided with the power supply so far, the UCM charges are not recoverable and an amount of Rs.1,75,408/- had already been collected from the petitioner as per the charges under Section 46.

The petitioner argues that a perusal of the Terms and Conditions of Supply, 2005 would reveal that, even though the KSEBL had included all the other charges specified in the Electricity Act, 2003, the unconnected minimum charges are not included therein. The petitioner further argues that they are not having any contractual obligation to pay the unconnected minimum charges as the petitioner had not availed any benefits from the KSEBL, so as to warrant consideration towards the KSEBL. Even though the KSEBL had incurred expenditure for providing extension of line and installation of other equipments, the said expenses were recovered from the petitioner. The petitioner stated that even if Regulation 10 of the Supply Code was an enforceable provision, no demand can be made by the KSEBL in the absence of any enabling provision in this regard in the Terms and Conditions of Supply Code, 2005. The petitioner states that the notice as contemplated under Regulation 10(1) had been served to the petitioner only on 26/07/2011 and the said provision contemplates charges only on expiry of three months from the date of service of notice to the petitioner in the case of a High Tension (HT) connection. Therefore, there is no justification for demanding the UCM charges with effect from 26/07/2011.

Subsequently, statement of facts was called for and the same was submitted by the respondent on 16/10/2023.

Version of the respondent

The respondent reports that the petitioner had applied for a new power connection under High Tension (HT) industrial category for the purpose of running an automobile repair center at Chakkaraparambu, Ernakulam. As per the requirement from the petitioner, after conducting a site inspection, an estimate was prepared and the Deputy Chief Engineer, Ernakulam accorded Administrative Sanction to an amount of Rs.11,27,665/- vide AS No.28/10-11/05-06-2010 and demanded Rs.1,75,408/- towards supervision charges for the works of Supply Of Power (SOP) to petitioner's premises. This amount was demanded for the construction of one number of Double Pole (DP) structure, installing one number

of Ring Main Unit (RMU) and laying 80m of 3X300 sq.mm Under-Ground (UG) cable under Own Your Electric Connection (OYEC) scheme.

The respondent states that Regulation 8(9) of the Electricity Supply Code 2005 entitles the consumer to provide the electric line/ substation, which states that ***“Where the applicant does not require the licensee to provide electric line or electric plant, but choose to provide them himself, he shall pay 10% of the expenses as supervision charges to the licensee for providing such services and get the work executed by a licensed contractor. The licensee shall supervise the work of the applicant and provide guidance in technical matters and matters relating to safety.”*** Here the petitioner opted to execute the works by themselves and hence only the supervision charges amounting Rs.1,75,408/- was requested to be remitted by them.

The respondent states that after the remittance of the amount by the petitioner, the works from the part of the KSEBL for providing power to the extent of 100 KVA to the premises had been completed. After that, the Assistant Engineer, Electrical Section, Palarivattom served an intimation dated 07/04/2011 to the petitioner in which it was informed about the completion of the work and thereby requested the petitioner to avail power supply within three months from the date of receipt of the letter; failing which will result in the levying of unconnected minimum charges. But the petitioner failed to avail power supply within the stipulated time and hence another notice dated 28/05/2012 was issued by the Assistant Engineer, Electrical Section, Palarivattom intimating to pay an amount of Rs.183750/- towards the Unconnected Minimum Charges for the period from 26/07/2011 to 26/05/2012 vide letter dated 25/05/2012. Also, vide another letter dated 17/07/2012 by the Deputy Chief Engineer, Electrical Circle, Ernakulam, the petitioner was informed that their application shall be treated as withdrawn by invoking Regulation 9 (2) of the Supply Code. Hence the petitioner raised some objection before the Deputy Chief Engineer, Electrical Circle, Ernakulam stating their difficulty in obtaining space for installing RMU, delay in placing the purchase order and about the theft of copper strip. The respondent argues that if the petitioner

had completed the work within the time limit, the approval from Electrical Inspectorate would have received. The respondent further argues that the reasons for delay in completing the work were well within the control of the petitioner. Neither the petitioner informed the above matters to the licensee, nor obtained any time extension for completing the work. Hence the Deputy Chief Engineer affirmed the UCM demand. The respondent discloses that, since there occurred a mistake in the calculation of UCM charges as per the letter dated 28/05/2012, it was corrected and the petitioner was served with a fresh demand by the Assistant Engineer for an amount of Rs.3,67,500/- towards the Unconnected Minimum Charges for the period from 26/07/2011 to 17/09/2012. Also, the calculation regarding the UCM amount was shown in the letter itself. But the petitioner was not willing to remit the amount; instead, they approached the Hon'ble High Court of Kerala and got directed to approach Forum.

The respondent argues that the UCM charges were demanded according to existing law at that time of application and hence fully legal. The respondent further argues that the charges contemplated under Regulation 10 of Supply Code, 2005 authorize the licensee to demand the unconnected minimum charges. Thus the respondent prays this Forum to dismiss the complaint with cost.

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 18/10/2023. Both the representatives 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.

This Forum evaluates that in this case, the petitioner has made a request to the licensee for a 100 kVA power supply under the High Tension Industrial category for operating an automobile repair center at Chakkaraparambu, Ernakulam. To provide this power supply, the works including construction of a

Double Pole (DP) structure, installation of a Ring Main Unit (RMU) and laying 80 meters of 3X300 sq.mm underground (UG) cable had to be carried out. The petitioner chose to carry out the works by themselves, which were related to providing the electric line, excluding the construction of the DP structure and paid the licensee the cost of the work of DP structure and supervision charges for the balance works as per Regulation 7(1) and Regulation 8(9) of the Kerala Electricity Supply Code, 2005. The Regulations state as follows:-

Regulation 7. Power to recover expenditure.-

“(1) Subject to the conditions under clause 8, the Commission authorizes the Licensee under Section 46 of the Act, to recover from the owner or occupier of any premises requiring supply the expenses reasonably incurred by the Licensee for providing any electric line or electrical plant required specifically for the purpose of giving such supply.”

Regulation 8. (9) Supply where electric line/substation is provided by the applicant:

“Where the applicant does not require the licensee to provide electric line or electric plant, but choose to provide them himself, he shall pay 10% of the expenses as supervision charges to the licensee for providing such services and get the work executed by a licensed contractor. The licensee shall supervise the work of the applicant and provide guidance in technical matters and matters relating to safety.”

After the licensee completed the necessary work, they issued a notice to the petitioner on 07/04/2011, stating that the work was finished and requested the petitioner to avail the power supply within three months; failure to do so would result in levying Unconnected Minimum (UCM) charges. As the petitioner did not comply, the licensee issued a demand notice on 28/05/2012 for an amount of Rs.1,83,750/- as UCM charges for the period from 26/07/2011 to 26/05/2012. Subsequent communications were exchanged between the petitioner and the licensee.

The petitioner contends that the charges that the distribution licensee can recover from them for retail supply are addressed in Sections 45 and 46 of the

Electricity Act, 2003. According to the petitioner, Section 45 deals with charges for the actual energy supplied by the licensee, which includes both usage-based charges and fixed charges. On the other hand, Section 46 pertains to the recovery of expenses reasonably incurred by the licensee in the installation of electrical lines and equipment to provide supply to a specific consumer. According to the petitioner, none of these provisions allow the licensee to demand charges in the form of Unconnected Minimum Charges (UCM). The petitioner further argues that UCM charges neither fall under the category of charges for the energy actually supplied by the licensee, nor do they represent the expenses incurred by the licensee for installing electrical infrastructure and hence, these UCM charges are not covered by the provisions of Sections 45 and 46 of the Electricity Act, 2003. Hence petitioner asserts that they are not legally obligated to pay the Unconnected Minimum (UCM) Charges that have been demanded by the respondent.

The respondent mentioned that they followed Regulation 10 of the Kerala Electricity Supply Code, 2005, by serving a notice to the petitioner on 07/04/2011, informing them of the work's completion and requesting them to connect to the power supply within three months. The notice also mentioned that failing to do so would result in levying of UCM charges. As the petitioner did not availed power supply within the specified time frame, the licensee issued a final demand for UCM charges on 17/09/2012, totalling Rs.3,67,500 /- for the period from 26/07/2011 to 17/09/2012.

This Forum assess that, as per Regulation 10(2) of the Kerala Electricity Supply Code, 2005, the licensee has the authority to levy UCM charges on an applicant after the notice issued under Regulation 10(1) has expired, till the applicant avails the supply of power. Regulation 10 (1) is stated below:-

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.”

In this context, the licensee issued a notice on 07/04/2011 to inform the petitioner about the completion of the work from their side, in accordance with Regulation 10(1). According to the terms of this notice, the petitioner was required to connect to the power supply within 90 days from the date of the notice. Failure to do so would grant the licensee the authority to demand Unconnected Minimum Charges (UCM) as per Regulation 10(2) for the completed months following the expiration of the notice. The licensee's demand for UCM charges on 17/09/2012 for the period from 26/07/2011 to 17/09/2012 is thus considered as valid and in compliance with the Regulations.

DECISION:

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

- 1. The petitioner is liable to remit the UCM charges demanded by the licensee.**
- 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 31st day of October,2023

Sd/-
Biju Varghese
3rd Member
CGRF, Ernakulam

Sd/-
Sheeba. P
(CHAIRPERSON)
CGRF-CR, Ernakulam

Endt. On CGRF-CR/OP No.47/2023-24 Dated
Delivered to

Mr. Ranjan,
Vice President (Projects)
M/s. Popular Vehicles and Services Ltd.,
Kuttukkaran Centre,
Mamangalam, Pin – 682 025

Sd/-

CHAIRPERSON
(DEPUTY CHIEF ENGINEER)
CGRF-CR, KALAMASSERRY

Copy submitted to: 1)The Secretary, KSEBL, Vydyuthi 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, Kerala State Electricity
Board Ltd., Electrical Circle, Ernakulam.

2)The Special Officer (Revenue), Kerala State Electricity Board Ltd.,
Vydyuthi Bhavanam,Thiruvananthapuram.