

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
3rd Member

Petitioner

Sri. M.B. Sidharth V. Desai,
 Managing Partner,
 M/s. Desai Homes, 40/7669 C-40,
 1st Floor, Vastramahala,
 Market Road, Ernakulam,
 Kochi – 682 011.

Respondent

The Deputy Chief Engineer,
 Kerala State Electricity Board Ltd,
 Electrical Circle, Ernakulam
 (Electrical Section, Thrikkakara)

=====

No.CGRF-CR/OP No.42/2023-24

Date:07-11-2023

ORDER

Background of the case:

The petitioner is the Managing Partner of a partnership firm involved in the business of building construction. The petitioner applied for supply of power to one of their construction site, a residential apartment complex, 'DD Golden Gate' at Kakkanad, Ernakulam, within the jurisdiction of Electrical Section, Thrikkakara. The petitioner paid the estimated cost for the associated works, which were then undertaken by the licensee. Upon the completion of the work on 25/07/2010, the licensee intimated the same to the petitioner and instructed them to obtain power supply within 90 days, failing which will attract Un-Connected Minimum (UCM) charges. Since the petitioner failed to avail the supply in time, the respondent demanded Rs.15,45,640/- as UCM charges on 07/07/2012 for the period from 25/09/2010 to 25/07/2012. In response, the petitioner approached the respondent to revise the UCM charges according to the period starting from 90 days' of notice

period i.e. from 25/10/2010 to 12/04/2012 which is the date of availing HT supply. However, the respondent did not revise the amount. Hence the petitioner was compelled to remit a portion of this amount, under protest, in order to obtain Low Tension (LT) domestic electric connections. The petitioner sought relief from the Hon'ble High Court of Kerala and in Judgment dated July 6, 2023, the petitioner was directed to address their concerns through this Forum. Consequently, the petitioner has approached this Forum with the request to waive off the UCM charges.

Version of the Petitioner:-

The petitioner's partnership firm is involved in the construction of various buildings including residential apartments. On completion of construction of one of the petitioner firm's projects, they applied for 360 nos. of three phase and 136 nos. of single-phase connections. Thus, the licensee undertook the work for providing service connection to the petitioner firm's project and informed the same to the petitioner and also directed to avail connection in stipulated time period. Later the respondent demanded the petitioner vide letter No.AE3/DD Golden Gates/2014/07-07-2012 dated 07/07/2012 to pay an amount of Rs.15,45,640/- as Un-Connected Minimum (UCM) charges on or before 25/07/2012 as the petitioner's firm failed to avail connection in the stipulated time period. Against this, the petitioner addressed the respondent questioning the legality of this demand, thereby requesting to withdraw the same, vide letters dated 08/06/2012. But the respondent denied the same. When the applications for individual LT domestic connections were not accepted by the respondent as the petitioner did not remit the UCM charges, the petitioner was forced to remit a portion of the demand i.e. an amount of Rs.800,000/- on 23/07/2012. The petitioner again made payments totaling to the amount of Rs.7,45,640/- on 16/06/2012, 11/10/2012, 04/01/2013 and 16/12/2013 for obtaining electricity connections, under protest. The petitioner made part-payments of the UCM amount under protest and filed a writ petition before the Hon'ble High Court of Kerala vide WP © No.24174/2012 and the same was disposed vide Judgment dated 06/07/2023, directing the petitioner to approach this Forum.

The petitioner argues that the demand of UCM is illegal, arbitrary and contrary to Electricity Act 2003, the rules and regulations framed under it. The petitioner further argues the KSEB terms and Kerala Electricity Supply Code 2005 is applicable to the licensee which does not empower the respondent to demand or collect any amount as unconnected minimum charges (UCM). The respondent cannot demand or collect any amount in excess with the Terms and Conditions of Supply 2005. The Supply Code 2005 is applicable to Distribution Licenses and not to consumer. KSERC has not approved UCM in KSEB Terms and Conditions of Supply 2005. There is no concept of Power allocation under the present statutory scheme. Also there was no concept of Power Allocation for LT consumers at any time. The petitioner further states 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 meter etc. were met by the petitioner. Therefore, the demand for UCM charges is wrong, illegal and arbitrary. Thus, the petitioner requests this Forum to waive off the UCM charges and to refund the UCM amount already paid by them.

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

Version of the Respondent:-

The respondent states that the High Tension (HT) electric connection bearing consumer number LCN 29/6059 is under HT V domestic tariff registered in the name of M/s Desai Homes, Ernakulam. The sanctioned load of the consumer is 11 kW with a contract demand of 75 kVA, under Electrical Section, Thrikkakkara. The petitioner applied for Supply Of Power (SOP) to their apartments at DD Golden Gate at Kakkanadu, Ernakulam, for 360 numbers of three phase connections and 136 numbers of single phase connections. The quantum of work involved in giving power to Desai Homes was construction of 600 meter 11kV OH line and DP structure, under the scope of the licensee and 300 meters UG cable laying, installation of one 250 kVA transformer for HT connection, two 1000 kVA transformer for LT connection and other allied works, under the scope of the

petitioner. The work under the scope of the licensee was completed on 25/07/2010 and notice regarding the same was issued to the petitioner as per Regulation 10 of Supply Code 2005, stating that the work under the scope of KSEBL has been completed and also requested to avail power within three months, failing which UCM will be charged.

The respondent admitted that the petitioner had raised his apprehension regarding the UCM charges which was charged to the consumer as per Clause 10 of Supply Code 2005; the Regulation of KSERC which clearly entitles the licensee to charge fixed/ minimum charges for the unused energy for the completed months. Since there were no fixed charges for domestic consumers, the minimum charge was levied for the LT connections. Hence, the petitioner's grievance could not be addressed by the officials of KSEBL. When the petitioner applied for electric connections to the premises, the same was not processed from the Section Office as there were arrears in the premises. Thus the petitioner remitted Rs.8,00,000/- towards UCM for LT portion on 23/07/2012 and assured that they will pay the balance amount within one month. As such, a few Low Tension (LT) connections were effected. But the petitioner failed to remit the balance within the time period specified. Hence, the UCM charges were issued to the consumer.

The respondent states that the Board Order dated 24/02/2010 is the guidelines for effecting service connection by KSEBL. The petitioner states that in the Order itself, the formality of power allocation is not envisaged in Supply Code and KSEB terms and conditions of supply. There is no contradiction in the guidelines specified in this Order to the KSEBL Terms and Conditions of supply. The respondent argues that the UCM was charged in accordance with the Regulation 10 of the Kerala Electricity Supply Code, 2005.

The respondent states that the place – Thrikkakkara is a fast growing area and a lot of applications for providing supply of energy under LE-OYEC are receiving from this area. 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 when another consumers in that area approached KSEBL for power, KSEBL was forced to construct further infrastructure to give the power, whereas the infrastructure and the power earmarked for the petitioner remained unutilised. Hence, it is legitimate to charge the UCM charges for LT connections from the petitioner. Thus the respondent requests this Forum to dismiss the complaint with costs.

In the additional statement of facts, the respondent informed that it has been already intimated to the petitioner on 25/07/2010 that the work from the side of KSEBL is completed and directed to avail supply within 3 months, otherwise the Unconnected Minimum (UCM) charges will be levied. Thus KSEBL is entitled to recover the UCM charges from the petitioner after the elapse of 60 days after the completion of work as per Regulation 10 of the Kerala Electricity Supply Code, 2005.

The respondent further stated that, in this case, the petitioner applied for 360 numbers of three phase connections and 136 numbers of single phase connections in LT category. Hence UCM charges were demanded for a period from 25-09-2010 (60 days after the notice date 25-07-2010) to 25-07-2012. The first electric connection to the complainant's premises was availed on 26-11-2012 as per the available records of Electrical Section, Thrikkakkara. Thus the respondent requests this Forum to dismiss the complaint with costs.

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 11-10-2023 and 31-10-2023. Both the nominee of the petitioner and the respondent were present for both hearings. 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.

In this case, the petitioner's firm is involved in the business of building construction. The petitioner applied for supply of power to one of their construction site, 'DD Golden Gate' at Ernakulam. For the same, the licensee had to construct 600 meter 11kV OH line and DP structure, whereas the petitioner agreed to execute the construction of 300 meters UG cable laying, installation of one 250 kVA transformer for HT connection, two 1000kVA transformer for LT connection and other allied works. When the work from the part of the licensee got completed on 25/07/2010, the same was intimated to the petitioner and directed the petitioner to avail supply within 90 days, failing which will result in the charging of Un-connected Minimum (UCM) charges according to Regulation 10 of the Kerala Electricity Supply Code, 2005. The Regulation 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.

Since the petitioner failed to avail supply within the stipulated time period as per Regulation 10, the respondent issued UCM charges to the petitioner on 07/07/2012 for an amount of Rs.15,45,640/-, covering the period from 25/09/2010 to 25/07/2012 (22 months).

During the course of hearing, the petitioner challenged Regulation 10 of the 2005 Kerala Electricity Supply Code, which authorized the licensee to levy Un-Connected Minimum (UCM) charges. The petitioner argued that the Electricity Act, 2003 does not include any provision for collecting UCM charges from consumers. The petitioner further argued that the work from the part of the licensee

was completed on 25/07/2010 and the petitioner had availed HT supply on 12/04/2012 and hence the UCM charges can be levied only from 25/10/2010 (i.e. after 90 days of issual of notice dated 25/07/2010 by the licensee) upto 12/04/2012 (the date of availing HT supply by the petitioner).

In reply, the respondent asserted that they have acted in accordance with Regulation 10 as per the Kerala Electricity Supply Code, 2005 which require the petitioner to pay UCM charges if they do not avail supply within the specified timeframe. Since the petitioner did not avail the Low Tension (LT) supply within the stipulated time frame, they are entitled to demand UCM charges after 60 days of notice period upto the date of 25/07/2012 and hence the UCM charges demanded by the licensee amounting to Rs.1545640/-, covering the period from 25/09/2010 to 25/07/2012 (22 months) is liable to pay by the petitioner. The respondent further reported that the petitioner has availed HT (High Tension) supply on 12/04/2012.

This Forum evaluates that the work from the part of the licensee got completed on 25/07/2010 and the first service connection availed by the petitioner is a HT connection on 12/04/2012. As per Regulation 10 of Kerala Electricity Supply Code, 2005, the licensee can charge UCM only after three months from the date of notice / intimation to the petitioner, in case of High Tension (HT) consumers. But here, the licensee has demanded UCM from 25/09/2010 to 25/07/2012, which was after two months of completion of work by KSEBL and continued even after availing HT supply in the premises, which is not permissible according to Regulation 10 of the Kerala Electricity Supply Code, 2005. The licensee can collect UCM charges only from 25/10/2010, i.e. after the completion of three months from the date of completion of work by the licensee, up to 25/03/2012, (completed months) for the supply availed (here, the first availed supply is HT supply on 12/04/2012) by the petitioner in the premises.

DECISION:

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

1) The licensee is permitted to demand UCM charges for the period from 25/10/2010 to 25/03/2012. Hence, the respondent shall revise the UCM charges accordingly.

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 7th day of November, 2023

Sd/
Sri.Biju Varghese
3rd Member
CGRF, Ernakulam

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

Endt. On CGRF-CR/OP No.42/2023-24 Dated
Delivered to

Sri. M.B. Sidharth. V. Desai,
Managing Partner,
M/s. Desai Homes, 40/7669 C-40,
Ist Floor, Vastramahal,
Market Road, Ernakulam,
Kochi – 682 011

Sd/-

CHAIRPERSON
(DEPUTY CHIEF ENGINEER)
CGRF-CR, KALAMASSERRY

Copy submitted to: 1)The Secretary, KSEBL, VydhyuthiBhavanam, 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 Assistant Engineer, Electrical Section, KSEBL,Thrikkakkara,