

**Before the Karnataka Electricity Regulatory Commission, Bangalore**

**Dated this the 19<sup>th</sup> day of August 2004**

**Present**

- |                                  |          |                 |
|----------------------------------|----------|-----------------|
| <b>1. Sri. Philipose Matthai</b> | <b>-</b> | <b>Chairman</b> |
| <b>2. Sri. H.S. Subramanya</b>   | <b>-</b> | <b>Member</b>   |
| <b>3. Sri. S.D.Ukkali</b>        | <b>-</b> | <b>Member</b>   |

**Case No: OP - 06/2004**

**Between**

Sri A.N.Srinivasa Murthy,  
c/o Sri Venkatesh Murthy,  
SBM Building,  
Kunigal - 572 130

**Petitioner**

**and**

1. The Managing Director,  
BESCOM  
K.R.Circle,  
Bangalore - 560 001
2. Superintending Engineer,  
BESCOM  
Tumkur Circle,  
Tumkur - 572 101
3. Asst. Exe. Engineer, (Elec),  
BESCOM  
Kunigal - 572 130

**Respondents**

(By Sri. Sriranga, Adv.)

This petition is filed under Regulation 44.10 of the KER C (ES & D) Code 2000-2001, seeking intervention of the Commission in the matter of levying service charges for Petitioner's installations by the Respondents.

2. The facts of this case in a nutshell are as follows. -

The Petitioner is a registered consumer of the respondents having two installations bearing RR Nos. KGL 12599 and 12601 for his commercial building situated in BM Road at Kunigal. The installations were serviced on 24.6.1996. The Respondents sent a demand notice on 21.12.1999 to the Petitioner asking him to pay Rs. 1,95,000/- towards service charges. The Petitioner filed objections to this demand. He also approached the First Appellate Authority paying 25% of the demand. The said Appellate Authority passed an order on 8.4.2002 and held that the charges should be calculated as per provisions of ES & D Code of 2000-2001. However it held that the assessed load of the Petitioner's installations as 39 kW. Since the Second Appellate Authorities are not functioning, the Petitioner has approached the Commission for intervention. The only point the Petitioner is urging is that the Respondents are assessing the load at the rate of 75 watts per square meter instead of 40 watts applicable to him, as the schedule property is situated in Kunigal, which is a Taluk headquarter.

3. The Respondents have put in appearance and have filed the statement of objections. It is contended by them that the Regulation 9.03 of the Supply Regulations was amended on 6.10.1995 and that they have charged at the rate of 75 watts per square meter as prescribed in the said amendment. It is also pointed out by them that the State Bank of Mysore, which is the tenant of the Petitioner, has already obtained the additional power required by them and therefore the petition is infructuous.

4. We have heard the Petitioner and the learned Counsel for the Respondents. They have reiterated the points urged by them in their written memoranda.

5. We have carefully considered the various points urged by the Petitioner and the learned Counsel for the Respondents. We have also considered the various documents produced by the Petitioner. It is seen from the records that

the First Appellate Authority has passed an order directing the Respondents to calculate the service charges according to the provisions of KERC (ES & D) Code 2000-2001. It is also seen that the Respondents have acted upon this direction and reduced the service charges to Rs.86, 000/-. However, the Respondents have not considered the rates applicable to places like Taluk Headquarters. The building was serviced on 24.12.1996, and the service charges payable according to then existing Supply Code ought to have been recovered from the Petitioner at the time of servicing. However the Respondents have woken up only in 1999 and demanded the service charges from the Petitioner through their notice-dated 21.12.1999. The First Appellate Authority has ordered that the service charges be calculated as per the provisions of KER C (ES & D) Code, 2000-2001. They have not spelt out the reasons for this decision in their order. Regulation 49.0 of the KER C (ES & D) Code 2000-2001 provides as follows. -

**" ..... However, the provisions of the KEB/KPTCL Electricity Supply Regulations, 1988 (Seventh Edition) with all its amendments issued thereon shall apply in respect of period prior to the date of coming into force of the Karnataka Electricity Regulatory Commission (Electricity Supply and Distribution) Code, 2000-2001."**

This clearly shows that KERC (ES & D) Code 2000-2001 is not applicable to the case on hand and the provisions of the Supply Code of 1988 as amended are only relevant and applicable. Therefore there is no merit in the contention of the Petitioner that his assessed load should be calculated at the rate of 40 watts per square meter, as provided in the ES & D Code of 2000-2001. There is no need for Respondents to act according to the orders of the First Appellate Authority, as the said order is not sustainable in accordance with law.

6. In view of the above, we exercise the *suo motu* powers conferred under Regulation 44.10 of the ES & D Code 2000-2001, and reject the petition before us, and hold that the order of the First Appellate Authority dated 8.4.2002 is not sustainable under the law.

7. The Petition is **rejected**. It is so ordered.

Sd/-  
**(Philipose Matthai)**

Sd/-  
**(H.S.Subramanya)**

Sd/-  
**(S.D.Ukkali)**