



**Before the Electricity Ombudsman
9/2, 6th Floor, Mahalakshmi Chambers, M.G.Road,
Bangalore**

Present: B.R.Jayaramaraje Urs, IAS (Retd.)

Electricity Ombudsman

Case No.OMB/H/G-156/2013/293

Dated 25.09.2013

Smt.Alka Jain,
(Installation No.TL-6176)
C/o T.M.Baddi,
Near S.B.I.,
Keshavapura,
HUBLI

**(Represented by Sri Tushar M.Baddi,
Authorised Representative)**

.. Appellant

Vs

1. Assistant Executive Engineer(EI),
O&M City Sub-Division-1,
HESCOM,
Shivaganga Layout, Kusugal Road,
HUBLI

2. Consumer Grievances Redressal Forum (C.G.R.F)
HESCOM
Keshavapura, Shivaganga Layout,
Bijapur Road,
HUBLI-25

.. Respondents

1. This is an appeal under Clause 21.02 of KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2004 against the order passed by the Consumer Grievance Redressal Forum, HESCOM, Hubli (herein after referred to as the 2nd Respondent) vide No. ಹುಬ್ಬಲಿ/ಗ್ರಾ.ವ.ಕುಂಕೊನಿವೇ/138/CYS/13-14 dated 25.05.2013 in respect of Appellant's grievance relating to delay in refund of Advance Estimated Power Consumption Charge and rejection of compensation claims by the Assistant Executive Engineer(EI), O & M CSD-1, HESCOM, Hubli (hereinafter referred to as the 1st Respondent). The 2nd Respondent has declined to interfere in the order passed by the 1st Respondent and aggrieved by the 2nd Respondent's order, the Appellant has submitted his case as under:

2. The Appellant is an Electricity Consumer of HESCOM bearing R.R No TL 6176. The installation was serviced on 11.10.2006 with a sanctioned load of 10 kW. Subsequently, the installation was sanctioned 7 kW power on 14.11.07. The Appellant applied for temporary supply of power with HESCOM on 11.10.2006. The HESCOM sanctioned 10 kW power on 11.10.2006. The Appellant paid Advance Estimated Power Consumption Charges of Rs.22,000/- bearing receipt No 911780 on 11.10.2006 and, subsequently, paid Rs.17,600/- bearing receipt No 916948 on 14.11.2007 and further paid Rs.3820/- towards Meter Security Deposit bearing Receipt No 911782 dated 11.10.2006. Totally, the Appellant had paid Rs.43,420/-.

3. On 15.12.2010, the Appellant submitted refund bill along with original receipt to the 1st Respondent. Since there was no response from the 1st Respondent, the Appellant sent reminders on the following dates:

10.03.2011

19.05.2011

17.08.2011

4. Finally HESCOM refunded Rs.19,864/- to the Appellant on 15.02.2012, after a lapse of 14 months without providing calculation sheet. As per

Regulation 29.08 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka, HESCOM is liable to pay interest for 12 Months (excluding 2 months grace period) for Rs.43,420/- @ 2% interest per month. Further, as per serial No 14 of Schedule-I of the KERC (Licensees' Standards of Performance) Regulations, 2004, HESCOM has to pay compensation to the Appellant for failing to achieve the standards of performance @ Rs.50/- per day for 12 months. The Appellant has filed Form No A claiming compensation, but the 1st Respondent has not taken any action on Form A and, hence, approached the 2nd Respondent for justice. However, the 2nd Respondent has declined to interfere in the order passed by the 1st Respondent and aggrieved by the impugned order; the Appellant has filed this appeal before this Authority.

5. The 1st Respondent's comments were called vide letter No OMB/H/G-156/2013/221/ dated 25.06.2013. In his comments vide letter No. ಹು/ಉ.ವಿ.ಸಂ.1/ಸಕಾನಿ/ಸಲೆಅ/ಹಿಸ/1/13-14/2034-38 dated 03.07.2013 submitted that the Appellant had sought refund of Advance Estimated Consumption charges on 09.12. 2010 and, from the verification of the ledgers, it had been found that the Appellant had dues of Rs.23,560/- to HESCOM and verification had taken time. Further, the proposal had been sent to the Division office on 18.11.2011 for approval and the Appellant had been refunded Rs.19,864/ after adjusting the amounts due to HESCOM. The delay had been caused in refunding the advance amount as the staff had been engaged in tackling severe power shortage and also due to the staff engaged in revenue collection. There had been no malafides. Hence, prayed this Authority to confirm the order passed by the 2nd Respondent.

6. The case was taken up for hearing on 23.09.2013. On behalf of the Appellant; his Authorised Representative, Shri T.M. Baddi, argued the case. On behalf of the 1st Respondent, Shri D.S.Langoti Assistant Executive Engineer(EI)

C.S.D-I, HESCOM, Hubli appeared and argued the case. Argument from both sides got over on the same day.

7. During the hearing, both the Appellant and the 1st Respondent reiterated the submission made in the appeal memo and the statement of objections respectively.

8. Both parties were informed vide letter No.OMB/H/G-156/2013/278 dated 04.09.2013 regarding availability of Sub-Regulation 1 of Regulation 20 of KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2004 which provides for settlement by agreement through conciliation and mediation. However, both parties have not availed this opportunity. Hence, I am proceeding to pass an order in this matter.

9. Having regard to the contending positions of the parties, the issues that emerge for our consideration are:

a) Whether there is any delay on the part of the Licensee in refunding Advance Estimated Power consumption charges to the Appellant and, if so, whether the Licensee is right in rejecting the claims of the Appellant for payment of interest?

b) Whether the Appellant has brought to the notice of the Licensee regarding violation of KERC (Licensees' Standards of Performance) Regulations, 2004 and whether the Appellant has preferred his claims for compensation in Form No A. If the reply is positive, whether the 1st Respondent is right in not taking any decision in the matter within 90 days?

c) Whether the 1st Respondent has achieved the standards of performance under KERC (Licensees' Standards of Performance)

Regulations, 2004 and if not, whether the Licensee is right in not awarding compensation to the Appellant?

10. The 1st Respondent has admitted delay in refund of Advance Estimated Power Consumption Charges and submitted that the delay had been on account of the staff engaged in electricity distribution and revenue collection. These reasons are not worthy of consideration as the 1st Respondent has not taken any decision on the amount of claim of the Appellant. The 1st Respondent as per Regulation 7.2 of KERC (Licensees' Standards of Performance) Regulations, 2004 ought to have taken decision on the claims made by the Appellant. Regulation 7.2 states that ***"the Licensee shall take a decision on the amount of claim of the consumer and if found liable shall pay the amount to the consumer within 90 days from the date of receipt of application"***. The Appellant has produced copy of Form No A submitted to the 1st Respondent which is found to have been duly acknowledged by the 1st Respondent. In spite of the claims, the 1st Respondent is found to have not taken any decision on the claims made by the Appellant within 90 days. Further, the 1st Respondent is found to have not refunded Advance Estimated Consumption Charges paid by the Appellant for 14 months and also found to have refused to pay interest for the delayed period. As per Clause 12.01(c) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka ***"If the amount due to the consumer is not refunded within two months of receipt of valid refund bill, the Licensee shall pay interest @ 1% per month on actual days of delay on the amount due for refund."*** In the present case, the Appellant is found to have filed refund bill on 15.12.2010 and this is not disputed by the 1st Respondent, but yet the 1st Respondent has failed to refund the Advance Estimated Consumption Charges within 60 days and is found to have refunded the amount on 15.02.2012, that is, after a lapse of 14 months. This clearly shows that the 1st Respondent has not only failed to refund the Advance Estimated Consumption Charges to the Appellant for 12 months (Excluding 2

months of grace period), but has also failed to achieve the standards of performance as per KERC (Licensees' Standards of Performance) Regulations, 2004. Hence, the 1st Respondent is considered liable to pay interest for the delayed period for Rs.19,860/- for 12 months @ 1% per month and further the Licensee is considered liable to pay amount @ Rs.50/- per day for 12 months.

11. In the light of the above, the following order is passed:

ORDER

12. For the foregoing reasons, the 1st Respondent is directed to pay interest to the Appellant @ 1% per month for Rs.19,860/- for a period of 12 months as per Clause 12.01(c) of the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka.

13. The 1st Respondent is also directed to pay compensation amount to the Appellant @ Rs.50/- per day for 12 months for failing to achieve the standards of performance as per KERC (Licensees' Standards of Performance) Regulations, 2004.

.15. In the result, ***the appeal succeeds.***


(B.R. Jayaramaraje Urs)
Electricity Ombudsman

1. Smt. Alka Jain (TL 6176), C/o T.M. Baddi, Near S.B.I., Keshavapura, Hubli.
2. Assistant Executive Engineer (EI), O & M City Sub-Division-1, HESCOM, Shivaganga Layout, Kusugal Road, Hubli
3. Consumer Grievance Redressal Forum, HESCOM, Keshavapura, Shivaganga Layout, Bijapur Road, Hubli-25
4. Managing Directors of all ESCOMs.
5. PS to Hon. Chairman, KERC

6. PS to Hon. Member (H), KERC

7. PS to Hon. Member (S), KERC

8. PS to Secretary, KERC