

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

**Present: S.D.Ukkali  
Ombudsman  
Case No.OMB/B/G-64/09/7791  
Dated 11-02-2010**

M/s. Bhuwalaka Steel Industries Limited,  
10<sup>th</sup> Mile, old Madras Road,  
Avalahalli, Virgonagar Post,  
**BANGALORE-560049**

.. **Complainant**

**Vs**

M/s. Bangalore Electricity Supply Company (BESCOM)  
represented by its

1. The Asst. Executive Engineer (Ele)  
BESCOM, Hoskote Sub Division  
**HOSKOTE**

2. The Consumer Grievance Redressal Forum (CGRF)  
BESCOM  
Central Stores Premises, Near ESI Hospital,  
Rajajinagar,  
**BANGALORE-560010**

.. **Respondents**

**I.** This is a representation filed by the above named Complainant through his Advocate, Sri Shridhar Prabhu, under the provisions of KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2004 directed against the Order dated 29.06.2009 passed by the 2<sup>nd</sup> Respondent in its file No.CGRF/60/2008/275-280.

**II. The brief facts of the case are as follows:**

**1)** The Complainant has availed electrical connection with contract demand of 1500 KVA, bearing RR No.HKHT-18 situated in Hosakote Area and was covered under the Special Incentive Scheme for the HT Industrial Consumers introduced by the

- then Karnataka Electricity Board from 08<sup>th</sup> January, 1999, encouraging the HT industries to draw more power from the grid at a special rate of Rs.3.25 per unit.
- 2)** While filing the tariff revision in the year 2000, the KPTCL proposed the continuation of Rs.3.25 per unit scheme after the tariff revision.
  - 3)** However, during the ERC filings for the year 2002, there was no specific mention in the tariff filing whether KPTCL desired to continue the Rs.3.25 per unit scheme. Therefore, the Hon'ble KERC specifically queried the KPTCL whether it desired to continue Rs.3.25 per unit scheme in FY 03 also and, if so, what was the impact on the revenue. In the reply dated 26<sup>th</sup> March 2002, KPTCL stated that a separate proposal for continuation of Rs.3.25 scheme would be submitted to the Commission in June 2002.
  - 4)** Accordingly, KPTCL submitted a proposal before the Hon'ble KERC for revision of the special scheme to IT industrial consumers raising the then existing Rs.3.25 per unit to Rs.3.50 per unit vide letter No: KPTCL : B36:4525: F: 2001-02: 780-85 dated 12<sup>th</sup> June 2002. Hon'ble KERC pending further examination approved the proposal of KPTCL for continuation of the special scheme for a period of four months from 01.07.2002 with unit rate at Rs.3.50 as per the proposal of KPTCL, provided the financial condition of KPTCL/ESCOMS was not affected adversely by its order dated 27.06.2002.
  - 5)** BESCO submitted a proposal vide No.BESCO/bc-22/f701/02-03/1938 dated 19<sup>TH</sup> September, 2002 for continuation of the scheme for a further period of six months from 1<sup>st</sup> November, 2002 or till next tariff revision whichever was earlier under the existing terms and conditions and by limiting the allotment under this scheme to 100% of the base consumption. Similar proposals were submitted by all other licensees.
  - 6)** The Hon'ble KERC passed an order No.B/04/02 dated 25<sup>th</sup> October, 2002 ordering for the continuation of the special scheme under the present status till

next tariff revision with the same terms and conditions. It further directed that the allotment under the scheme need not be restricted to 100% of the base level consumption as has been done by BESCO. It was argued that such restriction was not in the interest of the objective of the scheme. Hon'ble KERC ruled that this has been done in order to avoid any changes in the structure of the tariff mid way in the year. The Hon'ble KERC also directed the ESCOMS to submit a comprehensive proposal in respect of the special scheme after detailed analysis considering the various factors along with next tariff revision proposal.

- 7)** The ESCOMS violated the order of the Hon'ble KERC by discontinuing the Scheme in November, 2002. Against this violation, the Hon'ble KERC initiated suo motu proceedings and passed an order on 24.1.2003, after providing an opportunity of hearing the Licensee.
- 8)** The Licensee raised the bill against RR No.HKHT-18 for the month of February 2003 and March 2003 in variance of the approved scheme.
- 9)** The Complainant challenged the illegal demands of the licensee before the Hon'ble High Court of Karnataka in Writ Petition No.18713 of 2003. The Hon'ble High Court disposed off the matter vide its order dated 13<sup>th</sup> November, 2008.
- 10)** The Complainant made a representation to the licensee vide No: 01 / BESCO/WP/Reptn/2008 dated 11<sup>th</sup> December, 2008 in terms of the above order. The General Manager(Tech) of BESCO Licensee after considering the request of the Complainant issued a letter No. BESCO/BC/23/F-1252/08-09/106-96 dated 16.2.2009, informing the Complainant that his request could not be considered on account of the interim order No.B/04/02 by the Hon'ble High Court of Karnataka, staying the operation of the order of KERC dated 24.1.2003 in case of MFA NO.1557/2003.
- 11)** Further to this letter, the 1<sup>st</sup> Respondent issued a letter No: AEEE/HKT/AAO/SA/REV/HT/08-09/3486-88 dated 28.02.2009 demanding to pay a sum of Rs.13,83,552/- within 30 days.

- 12)** Aggrieved by this demand, the Complainant filed the complaint before the 2<sup>nd</sup> Respondent. The complaint was disposed off on 29.6.2009 in case No.CGRF/60/2009/275-280 without passing any specific order.
- 13)** Pursuant to this Order, the first respondent has issued a letter No: AEEE/ HKT/ AAO/SA/HT/09-10/1565-67 dated 13.07.2009 demanding a sum of Rs.14,18,141/- (Rupees Fourteen Lakh Eighteen Thousand One Hundred Forty One Only) which included the previous demand as also the interest at 1% for the alleged dues from March, 2009 to July, 2009.
- 14)** Due to Non-redressal of the grievance by the 2<sup>nd</sup> Respondent, the Complainant has preferred this representation praying for the following:

### **III.**

### **P R A Y E R**

#### **To:**

- 1) Set aside the Order No. CGRF/60/2009/275-280 dated 29.06.2009 of the 2<sup>nd</sup> Respondent.
- 2) Set aside the demand letter No. AEEE/HKT/AAO/SA/HT/09-10/1565-67 dated 13.07.2009 of the 1<sup>st</sup> Respondent.
- 3) Grant Cost.
- 4) Pass any other order/s in the interest of justice.

### **IV. Settlement by Agreement**

Vide this office letter No.OMB/B/G-64/09/7181 dated 05.10.2009, both the parties were informed of the provision of Sub-Regulation-1 of Regulation 20 which provides an opportunity for settlement by agreement through conciliation and mediation. Further, during the hearing on 26.11.2009, an attempt was made to arrive at an agreement. But both the parties were not agreeable for a solution through settlement and the 1<sup>st</sup> Respondent, in his statement, has averred that he has no powers

to take independent decision in the matter as an AEE. Hence, the parties were heard and it was decided to pass an award:

#### **V. Analysis and Findings:**

The 2<sup>nd</sup> Respondent has taken a view at para 9 of its order which reads thus

***"The Forum is of the view that the MFA appeal filed by the BESCO before the Hon. High Court of Karnataka MFA No.1557/2003 is still pending before the Hon. Court. This Forum cannot give any decision."***

and the following unanimous order was passed

***"The Miscellaneous first appeal filed by the BESCO with regard to this case is still pending before the Hon. Court of Karnataka. This Forum does not find it necessary at present to pass any specified orders. The Complaint is disposed."***

Upon analysis of the legal position of the case, the following fact emerges:

1. The Complainant approached the Hon. High Court by filing a Writ Petition No.18713/2003 (GM-KEB) and the Hon. High Court passed an order on 13.11.2008, para 4 of which is reproduced hereunder:

***"In the circumstances, this petition is disposed of granting liberty for the petitioner to file objections within 4 weeks from today Before R-1 and if such objections are filed the same shall be considered by R-1 in accordance with law within 8 weeks from the date of receipt of such representation and any payment made by the petitioner would be subject to the outcome of the decision to be taken by R-1."***

It is clear that any payment made by the Petitioner would be subject to the outcome of the decision to be taken by R1(BESCO). R1 has taken a decision that since "BESCO has filed Miscellaneous First Appeal before the Hon. High Court of Karnataka in MFA No.1557/2003 and the Hon. High Court after hearing the arguments has passed an interim order staying the operation of the order of KERC dated 24.01.2003 passed in Case No.B/04/02 and the same interim order is in force." and further takes the decision that in view of these facts, the Complainant's request for sanction of additional units under Special Scheme could not be considered and

requested the Complainant to pay the bills claimed by the 1<sup>st</sup> Respondent. **This decision taken is binding on both parties and, hence, the 2<sup>nd</sup> Respondent has rightly not interfered in the matter at this stage.**

Having regard to the facts of the case, the following order is passed:

## **VI. ORDER**

**The order passed by the 2<sup>nd</sup> Respondent is upheld and the representation filed by the Complainant is dismissed.**

(S.D.Ukkali)  
Ombudsman

1. M/s.Bhuwalaka Steel Industries Limited, 10<sup>th</sup> Mile, Old Madras Road, Avalahalli, Virgonagar Post, Bangalore-560049.
2. The Chairman, CGRF, BESCOM, Central Stores Premises, near ESI Hospital, Rajajinagar, Bangalore-560010
3. The Asst. Executive Engineer, S-4 Sub Division, BDA Complex, Koramangala, Bangalore.
4. The Managing Director, BESCOM, K.R.Circle, Bangalore
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
9. Director(Tariff)
10. Deputy Director(Legal)
- 11, OCA













