

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

**Present: S.D.Ukkali  
Ombudsman  
Case No.OMB/B/G-84/10/8398  
Dated 09.06.2010**

Shri V.C.Damodaran,  
No.5, Richmond Road,  
**Bangalore-560025**  
(Represented by Sri M.A.Dalvi,  
Advocate)

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**Complainant**

**Vs**

1. Bangalore Electricity Supply Company (BESCOM)  
Represented by its  
Asst.Executive Engineer(E)  
E-3 Sub Division, BESCOM "B" Station,  
M.G.Road,  
**Bangalore-560001**

2. The General Manager(Ele)  
Power Procurement,  
BESCOM Corporate Office,  
K.R.Circle,  
**Bangalore-560001**

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

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**Respondents**

**I.** This is a representation filed by the above named Complainant under the provisions of KERC (Consumer Grievance Redressal Forum and Ombudsman)

Regulations, 2004 directed against the Order dated 25.03.2010 passed by the 3<sup>rd</sup> Respondent in its file No.CGRF/39/2009/742-747.

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

1. The Complainant is a consumer of electricity having installation bearing RR Nos.3EAEH 31971 and 31972 situated at No.5, Richmond Road, Bangalore-560025. The installation is part of a housing complex with 38 number of apartments serviced in the names of the individual occupants. The total sanctioned load is 240 KW + 40 HP and is catered from two transformers, one with a capacity of 500 KVA and another with 250 KVA. It is contended by the Complainant that these transformers were erected on self-execution basis and that they have the capacity to cater to more than the present load. Each installation is serviced in the individual name and some of the installations are treated as guest houses and for that reason, they have been classified under LT-3 category.

2. The Complainant has contended that when he made an application for an additional load of 10 KW each with the existing sanctioned load of 5 KW each for installations bearing RR Nos. 3EAEH 31971 and 31972 on 29.08.2008, the Respondent Licensee, although was vested with required power to sanction and service the same as they were within his competency, he referred the matter to the General Manager(E), Power Procurement. The GM(PP) quoting the provision of Note C to Regulation 3.1.1 of Chapter iii dated 12.1.2006 of KERC (Recovery of Expenditure for Supply of Electricity) Regulations 2004 rejected the application for sanction of additional load.

3. Aggrieved by this, the Complainant filed a complaint before the 3<sup>rd</sup> Respondent on 16.11.2009. It is alleged that although the 3<sup>rd</sup> Respondent admitted the case, the complaint was not heard and same was disposed off by order dated 25.3.2010 based on the incorrect endorsement issued by GM(PP).

4. Aggrieved by this order, the Complainant has filed the present appeal complaint on the following grounds:

1. The Complainant had made a request for sanction of additional load of 10 KW each to his domestic installations bearing RR No.3EAEH 31971 and 31972. The Respondent sub division had wrongly forwarded the same to higher authorities by misreading a provision which does not attract or can be made applicable to the subject installations which were serviced earlier to the amended version which came into effect on 12.1.2006.

2. It is further submitted that to cater to the need of the individual consumers two transformers each of 500 KVA and 250 KVA have been provided on which the load happen to be not even 50% of its capacity. **Even assuming that the note (c) to the said provision can be made applicable to the instance case the capacity of the transformers negatives this contention.**

3. The installations were serviced in the name of individual consumers and hence it will be impracticable to avail H.T. service exclusively for the subject installations.

4. **The Respondent ought to have applied the versions of the provision applicable for the subject installations considering their service date and not Regulation 3.1.1 which were all meant for new installations coming up for service on or after 12.1.2006.**

The Complainant has stated that the 3<sup>rd</sup> Respondent has failed to consider the following aspects while passing its order:

i) The provision was applicable to new installations coming up for service on or after 12.1.2006.

ii) That the two transformers each of 500 KVA and 250 KVA have not been put up on which the total load happen to be not even 50% of its capacity.

- iii. The reason for this denial is arbitrary and discriminatory.
- iv. The instant case comes under a different provision as the installations for which the additional load of 10 KW each was requisitioned were serviced prior to the year 2005 and hence do not come under the purview of Regulation 3.1.1 of chapter iii. Amended version dated 12.1.2006 (although in the order portion the same has been wrongly quoted).

The Complainant has come before this Authority with the following prayer:

### **III.**

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

1. Call for records from the concerned.
2. Allow this appeal by directing the Respondent to sanction and service the additional load as requested in respect of the subject installations in the interest of justice.

### **IV. Settlement By Agreement**

Both the parties were informed to explore the possibilities of settlement by conciliation and mediation by this office letter No.OMB/B/G-84/2010/8233 dated 07.05.2010. The 1<sup>st</sup> Respondent, Sri C.K.Sreenath and Advocate for the Complainant, Sri M.A.Dalvi appeared and they were heard on 31.05.2010. In addition, S.M.Jayaprakash, General Manager (Power Procurement) BESCO was also heard on 31.05.2010. During the hearing also, efforts were made to reach an agreement by conciliation and mediation. However, no accord could be reached and, therefore, it was decided to pass an award after hearing.

### **V. Discussion and Analysis**

#### **A. The 1<sup>st</sup> Respondent contends as follows:**

1) In his deposition, the 1<sup>st</sup> Respondent has stated that there is a building called "Richie" situated near Baldwin Girls School, Richmond Road, Bangalore where there are 38 number of installations serviced on individual consumer's name. Initially, all the installations were serviced in the name of the Complainant and later some of the flats were purchased by individuals and got the name changed from Sri V.C.Damodaran to their names. Some of the flats are still continuing in the name of Sri V.C.Damodaran.

2) The total connected load is 240 KW plus 40 HP. Out of these 38 installations, there are 20 installations on a domestic basis (LT-2(a)) with a connected load of 100 KW. The other 18 installations are service under LT-3 and the connected load of these installations is 140 KW plus 40 HP. The commercial load in the building is more than 25% of the total connected load (60.69%)

3) He has contended that the Complainant registered application on 29.8.2008 for additional 10 KW load each for LT-2(a) installations bearing registration No.3EAEH 31971 and 31972. He has further contended that since this came under Rule No.9 and that he was not empowered to sanction power connection, he sent a report to the EE Division Office on 12.9.2008 for further action after getting field report of feasibility etc. Subsequently, it appears that the EE East Division sent it to the Corporate Office as an endorsement was given to the Complainant vide letter No.1974 dated 30.7.2009 marking a copy of the SE, South Circle, BESCOM, Bangalore. Subsequently this copy was received by him. He has further alleged that when the representative of the Complainant sought for details, it was clarified to him that since a letter is already written to the Complainant, he should act on the directions contained therein.

4) Since the Complainant's request was not considered, he filed a complaint with the 2<sup>nd</sup> Respondent. It passed an order upholding the endorsement issued by the Corporate office and directed the Complainant to follow the procedure of conditions of power Supply of KERC. Not satisfied with this order, the Complainant has filed the present complaint before this Authority.

**5) The 1<sup>st</sup> Respondent informed that in a latest case, 15 KW each of additional load to commercial installations bearing RR No.3EAEH 31947 and 31948 has been serviced in the name of M/s.Gopalan Enterprises and he has further stated that as per the records available in the sub division, the above connections were given as per directions vide letter No.21052-54 dated 17.1.2007 from the Superintending Engineer, Bangalore South Circle, Bangalore.**

6) The 1<sup>st</sup> Respondent has contended that the endorsement given by the Corporate office dated 30.7.2009 in the instant case is correct and since the commercial load is more than 25%, they have to avail HT connection only. He has urged this Authority to reject the request of the Complainant.

**B. Argument putforth by the General Manager(Power Procurement), BESCO, Bangalore, the 2<sup>nd</sup> Respondent.**

1. There was a requisition for additional power supply for 2 installations out of 38 installations of the building bearing name "Richie" located at Richmond Road.

2. The power supply details pertaining to this building were obtained and an investigation report was put up in the Corporate office stating that there are about 38 installations in the building with total connected load of 240 KWs plus 40 HP. Out of these 38 installations, 20 were domestic installations and 18 were commercial installations. Out of these 20 installations, additional load was requested for 2 installations with a request to convert the existing AEH to commercial installations.

3. The request was denied on the grounds that the percentage of total commercial load of the entire building was ore than25% of the sanctioned load of the entire building as per the provisions 3.1.1(c).

4. This matter was referred to GM (RTA) who, in turn, referred the same to BESCO advocates for clarifications. The GM (RTA) finally opined and endorsed the view of the undersigned.

5. Accordingly, an endorsement was issued to the Complainant on 30.07.2009 to avail HT supply. Later, not satisfied with this endorsement, it seems that the Complainant has approached the 3<sup>rd</sup> Respondent wherein also the endorsement issued by this office has been upheld.

He argued that the consumer has to avail HT supply in order to avail additional 10 KW each for 2 installations.

**C. Per Contra, the Advocate for the Complainant argues as under:**

1) The 2 installations bearing Nos.3EAEH 31971 and 31972 were serviced and although as a part of a housing complex comprising of 38 Nos of individual tenements under self-execution scheme having 2 transformers, one of 500 KVA and another of 250 KVA. The 38 tenements stand in the names of individual owners.

2) Subsequently, due to re-classification, certain numbers of LT-2(a) installations which were being used to accommodate paying guests were treated as coming under LT-3 which were about 18 in Nos. and 20 Nos of installations were under LT-2(a).

3) The respective loads being 150 Kilowatt under LT-3 and 100 kilowatt under LT-2(a). A load of 40 HP was for purposes of lifting water and common facilities. These installations were serviced during 2001. The load on the transformer is less than 50% of their optimum capacity. In the situation described above since the installations have been transferred in the individual names, each tenement becomes a separate unit and should be treated as such.

**4) It is relevant to mention that during 9.1.2007, the Corporate office sanctioned additional power of 15 kilowatt each to 2 installations belonging to another consumer of RR Nos.3EAEH 31947 and 3EAEH 31949 and converted them from LT-2(a) to LT-3. This additional service was given on 26.5.2007.**

5) An application for sanction of additional load to RR Nos.3EAEH 31971 and 3EAEH 31972 was filed before the Respondent sub division on 29.8.2008 and although the sub division had the competency to sanction and service the additional load, but for reasons not known forwarded the application to the higher authorities. At each level of official set up, the Complainant had to follow and pursue the onward advance of the file sustaining great loss and inconvenience. The file was finally considered that the GM(T) Corporate offices BESCO who by an endorsement dated 11.11.2008 turned down the request pointing to the provision contained in Note "C" to clause 3.1.1. of Chapter 3.

6) Aggrieved by the incorrect interpretation of the provision under which the plea for sanction of additional load was turned down, another plea was made pointing to the incorrect application of a provision which does not attract the instant request for additional load. This time another officer the GM(Procurement) issued another endorsement dated 30.7.2009 in No.GM(PP)/BC-47/F3221/1974-75. This endorsement proceeds to state "the total sanction load for your premises under LT-3 category exceeds 25% of the total sanction of the building. Hence, you are requested to avail power supply on HT basis as per KERC norms.

7) By this endorsement, the Respondents have clearly discriminated this Complainant compared to the earlier sanction given on 26.5.2007 to another consumer as stated above. The above endorsement too suffers with misreading and misinterpretation of an otherwise a simple provision which was meant for application to new installations coming up for a sanction and service on or after 12.1.2006 it reads as follows:

8) Aggrieved by this off-hand disposal of the plea for sanction of additional load, a complaint was filed before the 3<sup>rd</sup> on 16.11.2009.

9) The Forum failed to distinguish between the version of the provision 3.1.1 which was effective from 12.1.2006 and hence not applicable for existing consumers installations serviced prior to 25.8.2005 seeking additional load. For such cases wherein additional load is required, the correct provision was 3.1.7 amended version dated 12.1.2006 has been provided in the KERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2004. It is a clear case of non-application of mind resulting in great loss, harassment and inconvenience. The Respondents have failed in their basic duty of addressing to the additional need of power as enjoined upon them by the terms of license granted to them and also violated the mandatory duty as enjoined upon them by the provisions of Section 43 of the Electricity Act 2003.

10) The Respondents have failed to maintain the standards of performance as expected of them and thereby liable to pay to this Complainant at Rs.200/- for each day of default in sanctioning and servicing of the additional load requested on 29.8.2008 which was incorrectly turned down by pointing to a provision not applicable to the instant case.

11) The Respondent may be directed to sanction and service the additional load in terms of provision 3.1.7 without further loss of time and grant the amount as quantified for the default and failure on the part of the Respondent.

12) The entire provision 3.1.7 of amended version dated 12.1.2006 is meant for arranging power supply to the additional loads.



13) It is prayed that this Authority be pleased to direct the Respondent to sanction and service additional load as prayed for and further grant the monetary losses sustained by this consumer in terms of the standards of performance regulations 2004.

## **VI) Findings**

1. The installations in this premises on LT basis were serviced in the year 2001.
2. There are presently 38 tenements having individual electrical connections.
3. There are 18 installations under commercial tariff with total load of 150 KWs and 20 installations under domestic tariff with load of 100 KWs. A load of 40 HP is for common purposes.
4. These loads are fed from two distribution transformers of 500 KVA and 250 KVA and the load on the transformers is less than 50% of capacity. There is no constraint to cater additional loads on these transformers.
5. On 9.1.2007, the BESCO Corporate Office sanctioned additional power of 15 KWs, each for two installations in the same premises bearing RR Nos. 3EAEH 31947 and 3EAEH 31949 and converted them from LT-2(a) to LT-3 and additional loads were serviced on LT basis on 26.5.2007.
6. When things stood thus, and when the Complainant filed applications for additional load to RR Nos. EAEH 31971 and 3EAEH 31792 before the 1<sup>ST</sup> Respondent on 29.8.2008, his request was turned down on the plea that the provisions of 3.1.1 of KERC (Recovery of Expenditure for Supply of Electricity) Regulation 2004 are applicable as per which if the sanctioned load for particular premises under LT-3 exceeds 25% of the total sanctioned load, one has to avail power supply on HT basis.

Unfortunately, this provision was not applied to the RR Nos. mentioned at para 5 above while servicing additional load. But now for the Complainant, the provision is applied. It shows the discriminatory attitude of the Respondent Licensee.

- 7) A perusal of the provisions of KERC (Recovery of Expenditure for Supply of Electricity) Regulations 2004, indicates that for this premises the provisions of 3.1.7, amended version dated 12.1.2006, are applicable for the existing consumers serviced prior to 25.8.2005. These installations under question were serviced prior to 25.8.2005.
- 8) The consumer was made to suffer for more than 9 months for arranging mere additional loads.
- 9) **It is observed that a lot of cases of misuse of electricity by utilizing LT-3 than the power sanctioned under LT-2(a) are booked on one hand and on the other hand, the legitimate request of the consumers to convert from LT-2(a) to LT-3 are denied and harassed.**
- 10) The 3<sup>rd</sup> Respondent by its Order has erred in denying justice to the Complainant and the Order needs to be set aside.

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

## **VII.**

## **ORDER**

1. The Order No.CGRF/39/2009/742-747 dated 25.03.2010 passed by the 3<sup>rd</sup> Respondent is set aside.

2. The additional loads to the extent of 10 KW each to RR Nos. EAEH 31971 and 3EAEH 31792 be sanctioned and serviced within 15 days from the date of this Order.

(S.D.Ukkali)  
Ombudsman

1. Sri V.C.Damodaran, No.5, Richmond Road, Bangalore-560025.
2. The Consumer Grievance Redressal Forum, BESCO, Central Stores Premises, near ESI Hospital, Rajajinagar, Bangalore-560010
3. The Asst.Executive Engineer (Ele), E-3 Sub Division, BESCO "B" Station, M.G.Road, Bangalore-560001
4. The Managing Director, BESCO Corporate Office, K.R.Circle, Bangalore-560001.
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. O.C.A.





