

Before the Electricity Ombudsman
9/2, 6th Floor, Mahalakshmi Chambers, M.G.Road,
Bangalore
Present: B.R.Jayaramaraje Urs, IAS
Electricity Ombudsman
Case No.OMB/B/G-99/2011/10546
Dated 14.07.2011

Between

Shri Keshawdas Gurumukdas,
No.109, S.S.I Area,
Dr Rajkumar Road 5th Block,
Rajajinagar,
Bangalore -560010

.. **Complainant**

Vs

1) Asst. Executive Engineer
N1 Sub –Division,
BESCOM
Near E.S.I Hospital Road,
Rajajinagar,
Bangalore-560010

2) The Consumer Grievance Redressal Forum (CGRF),
BESCOM,
Central Stores Premises, Near E,S.I Hospital,
Rajajinagar,
Bangalore-560010

.. **Respondents**

This is an Appeal under the provisions of KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2004 against the orders passed by the 2nd Respondent vide No CGRF 7/2010/1052-56 dated 18.09.2010 (hereinafter referred to as "Forum") in respect of the Appellant's grievance relating to levying of Service Line charges of Rs.1,01,000/- by BESCOM. The Forum declined to issue directions to BESCOM

(Bangalore Electricity Supply Company - hereinafter referred to as the 1st Respondent) to refund Rs.87,000/-. Being aggrieved by the Forum's order (the impugned order), the Appellant has submitted his case as under:

The Appellant built his house during the year 1979-1980 consisting of basement and ground floor. The house was connected with 5 kW power. He paid the Service Line charges for the supply of power at the prevailing rate. This installation was given R.R No N1 EH 3506 and was serviced on 04.02.1978.

The Appellant constructed 1st and 2nd floors in the year 2003-2004 and applied for additional power of 23 kW consisting of 3 kW household and 6 connections for 20 kW commercial. Based on the building plan, Asst. Executive Engineer, N-1 Sub-Division, BESCO sanctioned 3 kW for domestic purposes and 20 kW for commercial purposes and advised the Appellant to pay Rs.1,01,000/- as Service Line Charges. The Appellant paid Rs.1,01,000/- on 19.09.2003 vide Receipt No RI 5159 under protest. Later, the Appellant wrote a letter to BESCO complaining that it had collected excess amount of Rs.87,000/- towards 13.7 kW excess assessment of load i.e. (a) 3.71 kW for basement, (b) 6.11 kW for ground floor, (c) 3.25 kW for third floor. Hence, 13.7 kW excess assessment of load should be deducted out of the total assessed load of 35.5 kW and, proportionately, excess amount of Rs.87,000/- collected on this basis should be refunded.

BESCO, in turn, replied defending levying of Service Line charges. Aggrieved by this reply, the Appellant approached the Forum seeking direction to BESCO to refund excess amount of Rs.87,000/- The Forum passed the impugned orders declining to meddle with the decision of BESCO.

The Appellant before the Forum contended that (a) area of floor means the area within walls and not plinth area. If plinth area is included, 40% allowance has to be made and assessment of the load has to be done for 60% of the plinth area (b) when additional power is sanctioned for additional floors, load charges has to be collected only for the additional floors excluding basement and old ground floor, (c) if building is already connected with power, the additional cost of Rs.1,000/- as Corporation Charges should not be collected, (d) Service Line Charges should not be collected from the consumer if he has executed Service Line work at his cost, (e) water tank area & chajja projection area shall not be considered for calculation of assessed load and (f) Requisitioned load in the present case is 23 kW and, as per KERC Regulations, Appellant is required to pay Service

Line Charges at Rs.6,000/- up to 15 kW and above 15 kW and up to 23 kW Rs.1,000/- per kW and, totally, liable to pay only Rs.14,000/- and, hence, BESCO is liable to refund Rs.87,000/- excess collected.

In his appeal memo, the Appellant has reiterated the contentions made before the Forum which are detailed above.

The 1st Respondent furnished Parawise replies on 7th February 2011 to the points raised by the Appellant. He submitted that (a) plinth area of the building was measured as per Clause 9.02 of KERC (ES&D) Code 2000-01, (b) assessment of the load for the basement, ground and third floor is done as per Clause 9.02 of the KERC (ES&D) Code 2000-01 and (c) the amount of Rs.1,000/- is collected as per Clause 30.06 of KERC (ES&D) Code 2000-01. The amount collected towards Service Line Charges is in order and, hence, BESCO is not liable to refund Rs.87,000/-.

The matter was heard on 27th May 2011, 2nd June 2011, 21st June.2011 and on 27th June 2011.

On behalf of the Appellant, Shri Raghavendra, Advocate, appeared and advanced his arguments. On behalf of the Respondents, (a) Shri Krishna Prasad, Asst. Executive Engineer, N1 Sub Division, BESCO (b) Shri Hanumantarayappa, A.G.M (Technical Audit & Quality Control) BESCO and (c) Shri G.N.Satish, Asst. Engineer, N1 Sub-Division, BESCO appeared and put forth their arguments.

Shri Raghavendra, Advocate for the Appellant, reiterated Appellant's submission made in the appeal memo and further argued that under Clause 3.1.1 of KERC (Recovery of Expenditure for Supply of Electricity) Regulations 2004 "Service Line Charges shall not be collected, if the applicant provides and executes the Service Line work at his cost as per the Licensee's estimation" and, in the present case, the Appellant had incurred expenditure towards laying cable and fixing of the equipment as per the specifications of the Licensee and this was evident from the vouchers furnished by the Appellant. During the process of application for supply of power, Distribution Licensee prepared two feasibility reports. In one report, the area was shown as 5707 Sq ft and, in another it was shown as 6437 Sq ft. In both reports, load was assessed at 35.5 kW. On account of this discrepancy, CGRF, Bangalore directed the 1st Respondent to inspect the premises and file a detailed report

regarding exact plinth area of the building. The 1st Respondent visited the building on 21st July 2010 but left the place without conducting inspection and, again, came to the premises next day along with Asst. Executive Engineer (TA & QC) and filed a concocted report stating that plinth area of the building measured 55,167 Sq metres and building required total load of 38 kW power supply. Further, the person who visited is not qualified civil engineer nor architect. This report was filed on 24th July, 2010. There was no hearing and, without giving opportunity to the Appellant to file objection, CGRF passed the impugned orders. It was submitted to the CGRF that the inspection had not been done by the competent authorities and the said report included staircase, chajja, water tank area which should not have been included for load measurement. It was contended by the Appellant before CGRF that the assessed load ought to have been 24 kW as per KERC (ES&D) Code 2000-01 and load should be 6 kW for the old building and 18 kW for the new construction.

Sri Hanumantarayappa, A.G.M. (Technical Audit & Quality control), BESCO submitted that "as per KERC (ES&D) Code 2000-01 under Clause 9.08, the Distribution Licensee may supply power either from the existing net work or by augmenting the existing net work or by providing new net work.

In the case of the Appellant, power is supplied from the existing net work which was felt feasible by the Distribution Licensee. The Appellant's contention that he has drawn the cable at his cost and, hence, he need not pay Services Line charges cannot be accepted because the Appellant is referring to the Service Main Cable which is drawn from terminal pole to the metering point. But the responsibility lies on the Distribution Licensee to provide power from the existing Transformer for which the Licensee would have invested on Transformer and associated equipments.

Distribution licensee has taken into account the total plinth area of the constructed building of the entire premises and, as per Clause 9.02 of KERC (ES&D) Code 2000-01, assessed the load and arrived at specified load. In the present case, the Appellant has furnished Registered Certified Architect's Plan duly signed by the consumer, wherein he himself declared that built up area of the entire premises as 530.42 sq metres for which the assessed load works out to 35.5 kW. Hence, there is no dispute between the Appellant and BESCO as for as plinth area is concerned. Besides, CGRF, during the hearing of the case, deputed an officer to conduct inspection of the building and give a report regarding plinth area dispute raised by the Appellant. The report discloses that the building has a plinth area of 55,167 sq metres and total assessed load of the entire building is 37.8 kW. Hence, the

building has a plinth area of 551.67 sq meters is an admitted fact. BESCO has collected Service Line charges as per KERC (ES&D) Code 2000-01 under Clause 9.08 (b) (3) which is in order.

Further as per KERC (ES&D) Code 2000-01 under Clause 9.08 (b) (3), the applicant has to fulfil the following conditions for availing additional power supply.

In case of building serviced prior to 6th October 1995 with additional built-up area and if the specified load is 25 kW or more, cost towards Service Line shall be calculated on the basis of the following alternatives and lesser of the two charges shall be payable by the consumer.

- 1) The cost towards Service Line shall be computed as per clause 30.07 of the KERC (ES&D) Code 2000-01 for the serviced load of the entire building treating it as a new building.
- 2) The cost towards Service Line shall be computed for the specified load of the additional built-up area at Rs.5000/- per kW in Bangalore area.

The Distribution Licensee in the present case has applied condition No.1 and collected Service Line cost of Rs.1,01,000/- which is less than specified under condition No. 2.

As per clause 30.07 of KERC (ES&D) Code 2000-01 Service Line charges are calculated as below:

In the present case, consumer comes under Slab 1V and, hence, he is required to pay (a) Rs.16,000/- (above 3 kW upto 25 kW), (b) Above 25 kW at Rs.5,000/- per kW for 10.5 kW, amount comes to Rs.52,500/- and (c) since area falls under BBMP area, above 3 kW upto 35.5 kW at Rs.1,000/- per kW, amount comes to Rs.32,500/-. Total Service Line Charges to be paid is (a) + (b) + (c) i.e. Rs.16,000/- + Rs.52,500/- + Rs.32,500/- = Rs.1,01,000/- which is in order.

BESCOM has calculated Service Line cost as existed during the relevant period under clause 9.08 (b) (3) (ii) of KERC (ES&D) Code 2000-01.

As per this Clause, Service Line cost works out to Rs.1.35 lakhs because, under this Clause, Rs.5000/- per kW has to be levied for the additional built-up area as declared by the Appellant, which comes to 354.5 sq metres. At 0.75 kW per sq metre, for 354.5 sq metres, load comes to 265.8 kW, which is rounded off to 27 kW (b) for 27 kW at Rs.5,000/- per kW amount payable is Rs.1.35 lakhs.

BESCOM has advised the consumer to pay Rs.1,01,000/- towards Service Line charges as per the KERC Regulations prevailing at that time which is less than condition No 2."

Both parties were informed vide letter No.OMB/B/G-99//2011/10162 dated 12.05.2011 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.

Having heard the arguments of the Advocate for the Appellant and the Respondents and having regard to the contentions urged by the parties, the issues that emerge for our consideration in this appeal are :

- a) Whether measurement of the plinth area of the building in question by BESCOM is in order?
- b) Whether the assessment of the load for the building is in order?
- c) Whether levying of Rs.1,01,000/- as Service Line charges by BESCOM is justified?
- d) Whether the Appellant's claim for refund of Rs.87,000/- is tenable?

The Appellant argued before the Forum and before this authority that the assessed load ought to have been 24 kW as per KERC (ES&D) Code viz., 6 kW for the old building and 18 kW for the new construction and that the Forum had not appreciated these facts while giving the decision.

On perusal of the records, it can be seen that 5 kW power was sanctioned to the Appellant when he constructed the basement and ground floor in the year 1979-80. Subsequently, the Appellant constructed 3 floors during 2003-04 and made a requisition for 23 kW of power. BESCO advised the Appellant to pay Rs.1,01,000/- as Service Line charges. The Appellant deposited the amount before the installation was serviced. Later, he realised that BESCO had collected excess Service Line charges and, hence, approached the Forum seeking directions to BESCO to refund excess amount paid. The Forum, during the hearing of the case, deputed an official from BESCO for conducting spot inspection and to give a report on the total plinth area of the building and the load factor. Though BESCO conducted inspection of the premises, Appellant argued that inspection had been conducted in his absence. But Forum held that the Appellant did not cooperate and was not present during the inspection. However, the inspection team assessed the plinth area of the building @ 551.67 sq metres and total load at 38 kW. The Appellant did not accept the assessment of the load and measurement of the plinth area as done by BESCO with regard to the building in question.

Concerning plinth area of the building, Shri Hanumantarayappa, appearing for the Respondents, argued that the Distribution Licensee had taken into account the total plinth area of the constructed building based on the plan produced by the Appellant which was prepared by a Registered Certified Architect and duly signed by the Appellant where in he himself had declared built-up area of the building as 530.42 sq mts and BESCO had relied on architect's plan duly signed by the Appellant. Copy of the Plan is produced before this authority wherein plinth area of the building is shown as 530.42 sq metres. This is not controverted by the Appellant and, hence, Architect's plan becomes an incontrovertible evidence and argument of BESCO that they have taken into account the plinth area of the building as shown in the architect's plan has to be accepted.

As for as assessment of the load is concerned, the Appellant argued that BESCO ought to have taken 23 kW as the assessed load. But considering the Architect's plan and inspection report submitted by the BESCO Engineers to the Forum, it becomes clear that BESCO has done assessment of the load based on the Architect's plan and also on physical inspection of the building. Hence, the contention of the Appellant that BESCO ought to have taken 24 kW as the assessed load is without basis and cannot be accepted.

Issue No. 3 relates to the levying of Rs.1,01,000/- as Service Line charges and whether such levying of Service Line charges is justified? Clause 30.07 of KERC (ES&D) Code 00-01 which says that "Service charges shall not be collected, if the applicant provides and the service line work is executed at his cost as per the Licensee' estimate." The Advocate for the Appellant argued that in the present case the Appellant had incurred expenditure for drawing cable from the existing terminal pole and this is as per the approved estimates of BESCO and, as per the KERC (ES&D) Code 2000-01, BESCO should not levy Service Line charges on the Appellant because he had incurred expenditure on the execution of the Service Line work.

On recovery of Service Line cost, Shri Hanumantarayappa, arguing for BESCO, maintained that "as per Clause 9.08, the Licensee may supply power either from the existing net work or by augmenting the existing net work or by providing a new net work.

In the case of the Appellant, power is supplied from the existing network which was felt feasible by the Distribution Licensee. The Appellant's contention that he has drawn cable at his cost and, hence, he need not pay Service Line charges cannot be accepted because the Appellant is referring to the Service Main cable which is drawn from the terminal pole to the metering point. But the responsibility lies on the Distribution Licensee to provide power supply to the consumer from the existing Transformer for which the Distribution Licensee would have invested on Transformer and associated equipments"

Foregoing argument clarifies that it is the responsibility of Distribution Licensee to provide power supply to the consumer from the existing Transformer for which the Distribution Licensee would have invested on Transformer and associated equipments, providing power from the existing net work is in the domain of BESCO and, hence, Appellant's claim that he has drawn cable at his cost should be construed that the Appellant is referring to the Service Main cable which is drawn from the terminal pole to the metering point. Levying of Service Line charges is in conformity with the KERC Regulations. Hence, the contention of the Appellant that Service Line charges of Rs.1,01,000/- cannot be levied is untenable.

Issue No.4 relates to claims for refund of Rs.87,000/-.

In the light of the above, the Appellant's contention that he is not liable to pay Service Line charges cannot be accepted and, hence, his claims for refund of Rs.87,000/-

becomes untenable because Service Line is provided by the BESCO and BESCO has incurred expenditure on this count and not the Appellant.

For the foregoing reasons, it can be concluded that (a) plinth area assessment is in order as it is based on the plan prepared by the Appellant's Architect, (b) assessment of the load for the building in question is in order, (c) levying of Service Line charges is in order because BESCO has provided power to the Appellant from the Service Line for which investment is made by the BESCO and (d) Appellant's claim for refund of Rs.87,000/- is not allowed as it is untenable.

ORDER

For the foregoing reasons, **the appeal is disallowed.** In the result, the impugned orders of CGRF, BESCO, Bangalore vide No CGRF/7/2010/1052-56 dated 18.09.2010 is upheld.

(B.R.Jayaramaraje Urs)
Electricity Ombudsman

1. Sri Keshawdas Gurumukdas, No.109, SSI Area, Dr.Rajkumar Road, 5th Block Rajajinagar, Bangalore-560010
2. Assistant Executive Engineer, N-1 Sub-Division, BESCO, Near ESI Hospital Road, Rajajinagar, Bangalore-560010
3. Consumer Grievance Redressal Forum, BESCO Corporate Office, K.R.Circle, Bangalore-560001
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
9. OCA

