

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/M/G-98/2011/10410
Dated 23.06.2011

Between

The Managing Director,
Neria Estates Private Limited,
Neria Village,
Belthangady Taluk
Dakshina Kannada District
(represented by Sri Sujay Nagendra Adoor)

.. **Complainant**

Vs

1. Asst Executive Engineer,
O & M Sub-Division,
Belthangady,
Dakshina Kannada District

2. Consumer Grievance Redressal Forum,
MESCOM Corporate Office,
Paradigm Plaza
A.B Shetty circle
Mangalore-575001

.. **Respondents**

This is an appeal under the provisions of K.E.R.C (Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2004 against the orders passed by the 2nd Respondent vide No. **PA/UA/PA.PE.α.α/20/09-10** dated **11.06.2010**.

The appeal arises out of the orders passed by the Consumer Grievance Redressal Forum (in short Forum - 2nd Respondent) Mangalore dated 11.06.2010 in respect of the Appellant's grievance relating to illegal collection of line minimum charges by MESCOM and refund of Rs.1,58,116/-. The Forum declined to issue direction to MESCOM (Mangalore Electricity Company - hereinafter referred to as 1st Respondent) to refund Line Minimum Charges of Rs.1,58,116/- collected from the Appellant by the 1st Respondent

In the present case, Sri Raghava Hebbar, Managing Director, Neria Estates Private Limited, Neria, Belthangady Taluk, is an electricity consumer and electric installation bearing No U.P.59 stands in his name. The installation is situated in the limits of Belthangady O & M Sub-Division.

This appeal is registered at No OMB/M/G-98/2011 dated 16.07.2010 in the office of the Ombudsman. A letter was sent to Asst Executive Engineer, O & M Sub-Division Belthangady, Dakshina Kannada District to offer his comments on the points raised by the Appellant. The AEE, vide his letter dated 25.01.2011, has furnished his views on the points raised by the Appellant.

After several adjournments, case was taken up for hearing on 13.05.2011. Both parties appeared and put forth their arguments. Again, case was adjourned to 03.06.2011 and hearing was concluded on 03.06.2011.

Shri Sujaya Nagendra Adoor (Representative) arguing for the Appellant submitted that Appellant Sri Raghava Hebbar applied for power supply under L.T. 5(b) category in the year 2006. After establishing the installation, MESCOM supplied 5 HP power in the year 2007. The Appellant applied for power supply on 04.05.2006 and installation was serviced on 24.06.2007.

Further, he maintained that, as per the earlier KERC Regulations, Consumer was required to bear the expenditure of extension of electric line and expenditure towards the work was to be met by the Utility initially and such amounts to be recovered from the Consumer over a period of time. In the present case, the Distributor Licensee, on the request of the Appellant, drew 3 KM electric line and drawing extra line resulted in an

expenditure of Rs.6,55,855/-. This amount was to be recovered over a period of 7 years on a monthly instalment of Rs.7,144/-. The Appellant paid the Line Minimum Charges for nearly 22 months from the date of servicing.

The Appellant, after paying 22 monthly instalments, came to know that K.E.R.C. had issued Amendments to its regulation dispensing consumers from paying Line Minimum Charges. This Regulation came into effect from 02.06.2006. But they were not in possession of Amendments nor had they seen the Notification. Tracing the developments of the case, he further submitted that MESCOM approved the estimates for drawing electric line on 09.08.2006 and issued work order on 10.08.2006. Before issue of work order, K.E.R.C. Regulation Amendments had been in force. By virtue of these Amendments, the Appellant was not supposed to pay any Line Minimum Charges. Since the Appellant had no knowledge about these Amendments, he agreed to pay the Line Minimum Charges.

Immediately after the Appellant came to know of the Amendments, he approached MESCOM for refund of Rs.1,58,116/- paid by way of Line Minimum Charges. However, MESCOM informed the Appellant that there were no such Amendments issued by KERC dispensing collection of Line Minimum Charges and, hence, he had to pay Line Minimum Charges. When the Appellant brought to the notice of MESCOM of their waiving Line Minimum Charges in respect of installation of one Sri Harish Hebbar, S/o Venkatakrishna Hebbar, Neria village bearing RR No. U.L.2244, MESCOM maintained that they considered Hebbar's case because he had paid the Service Line Charges and, in the case of Appellant, such Service Line Charges had not been paid and, hence, they were not waiving Line Minimum Charges.

The Representative for the Appellant further contended that it was the responsibility of the MESCOM to collect Service Line Charges from the consumer before sanction of power and, for the fault of MESCOM, the Consumer cannot be penalised and deprive of Amendment benefit. He clarified that the Appellant would have paid Service Line Charges, if demanded by MESCOM. However, MESCOM deliberately made this an excuse to deprive the Appellant from getting the benefit. He further added that in case of Sri Harish Hebbar, though agreement stipulated that he had to pay monthly Line Minimum Charges of Rs.401.49, MESCOM waived Line Minimum Charges. Similarly, in case of installations Nos. K.L. 58506 and K.L.58507, MESCOM had drawn extra lines at its cost, but waived Line Minimum Charges later.

He further submitted that, as per K.E.R.C Regulations, ESCOMs had stopped collecting Line Minimum Charges from the consumers from 17.02.2006 and, only in case of Appellant, MESCOM insisted on payment of Line Minimum Charges. He clarified that in spite of Appellant not paying the monthly instalment of Line Minimum Charges, MESCOM has not disconnected power supplies. He pointed out that, at one point of time, convinced about Appellant not liable to pay the Line Minimum Charges, the Asst Executive Engineer had even prepared refund vouchers and submitted to the Executive Engineer for approval and even the Executive Engineer had recommended for refund of Line Minimum Charges but only the Superintending Engineer turned down the proposal on the ground that Services Line Charges had not been paid by the Appellant.

Concluding the argument, the representative for the Appellant prayed for setting aside the impugned orders of C.G.R.F, MESCOM, Mangalore and to direct MESCOM not to collect Line Minimum Charges and to refund Rs.1,58,116/- already collected.

Sri Shivashankar, Asst. Executive Engineer, Belthangady Sub-Division argued that when Appellant gave application for supply of power, old Regulation was in vogue and as per those Regulations, Consumer, if extra line was required to be drawn, then Consumer had to pay Line Minimum Charges to ESCOM or he himself could draw the line by engaging the services of certified contractors. In case of the Appellant, intimation was issued to pay (a) initial Security Deposit of Rs.21,432 /- and (b) Service Line Charges of Rs.1,300/- but the Appellant paid only the initial Security Charges and did not pay the Service Line Charges. After completing the formalities, proposal was sent to Superintending Engineer for approval. On the proposal, the Superintending Engineer observed that the work involved drawing of electrical line for 3.5 Kms, setting up of 25 K.V.A Distribution Transformer Centre, extension of L.T line of 0.05 Km, and it was desirable that the Applicant himself executed the work under Self Execution Scheme. This decision was conveyed to the Appellant on 06.07.2006 orally. The Appellant, in response to this, expressed difficulties to execute such huge work himself and felt that MESCOM should execute the work. He gave a letter to this effect on 27.07.2006 to MESCOM.

Sri Shiva Shankar, Asst. Executive Engineer added that, after 17.06.2006, MESCOM, in case of Government institutions like schools, colleges, Hospitals and industries, has been absorbing the cost of drawing extra line. In case of Appellant also, MESCOM has to bear the cost of drawing extra line. In the case of the Appellant, the .Asst Executive Engineer

Belthangady had sent a flawed proposal for sanction of power without collecting Service Line Charges from the Appellant and for the fault of the A.E.E, Appellant cannot be penalised.

During the hearing, both the parties were informed 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.

From the above contentions, the issue that emerges for our consideration is:

Whether the impugned order upholding collection of Line Minimum Charges from the Appellant by MESCOM is in conformity with the KERC Regulations? and whether the Appellant is liable to pay Line Minimum Charges?

To answer this question, we have to first examine KERC Notification No.Y/01/4 dated 12th November 2004 issued under KERC (Recovery of Expenditure For Supply of Electricity) Regulations 2004, gazette dated 16.12.2004. Amendment Clause 3.1.1 details about amount to be recovered (A) "For loads less than 25 kW in respect of domestic and commercial installations:

Sl.No	Requisition Load	Recoverable amount
i	Up to and inclusive of 3 kW	Nil
ii	Above 3 kW up to and inclusive of 15 KW	Rs. 650/- per kW for loads above 3 KW
iii	Above 15 kW and less than 25 kW	Rs.7,800/- plus Rs.1,300 per kW for loads above 15 kW

From the KERC Notification dated 12th November 2004, gazetted on 16.12.2004, it is clear that for the requisitioned load above 3 kW upto and inclusive of 15 KW, the recoverable amount is Rs.650/-per kW. In case of the Appellant, the requisitioned load is 5 H.P plus 275 watts and when it is converted into kW, it comes to 4.005 kW. For

requisitioned load up to 3 KW, the recoverable amount is NIL and above 3 kW upto and inclusive of 15 kW, amount per kW is Rs.650/-. MESCOM is entitled to recover at the rate of Rs.650/- per kW. Instead, MESCOM has levied Rs.6,55,855/- as Line Minimum Charges which is not in conformity with the KERC amendments. In fact, when MESCOM sanctioned power to the Appellant in the year 2006, KERC by amendment had dispensed collecting Line Minimum Charges and replaced Line Minimum Charges with Service Line Charges. Unfortunately, MESCOM officials failed to up date their knowledge about KERC (Regulations) Amendments which resulted in collection of Line Minimum Charges wrongly in the case of the Appellant and, in some cases, waiving Line Minimum Charges indiscriminately. Even when the Appellant brought to the notice of MESCOM of their extending such benefits in case of Sri Harish Hebbar S/o Sri Venkatakrishna Hebbar, Neria village bearing installation No U.L.2244 and in other cases bearing installations Viz., KL 58506 & KL.58507, MESCOM conveyed that on the grounds of non-payment of Service Line Charges, they rejected the claims of the Appellant.

From the Regulations, it may be seen that it is the responsibility of the Asst. Executive Engineer concerned to collect Service Line Charges before sanction of power. It is a mystery as to how MESCOM sanctioned power when the Appellant had not paid the Service Line Charges. In the present case, the Asst Executive Engineer, prima facie, appears to have erred in not collecting the Service Line Charges from the Appellant before sanction of power supply. MESCOM suddenly seems to have woken up and realised about non-recovery of Service Line Charges when the Appellant sought refund of Line Minimum Charges and Superintending Engineer turns down the proposal for refund of Line Minimum Charges on this ground of non-payment of Service Line Charges. As already discussed, it is the responsibility of MESCOM to collect the Service Line Charges before sanctioning power supplies or for non-payment of Service Line Charges, power sanction could have been withheld till paid and, for the mistake of MESCOM, the Appellant cannot be penalised and deprived of Amendment benefit.

From the above, it is clear that MESCOM has, without any basis, collected Line Minimum Charges from the Appellant and, hence, it will be appropriate if directions are issued to MESCOM to refund the Line Minimum Charges of Rs.1,58,116/- already collected and to recover only the applicable expenditure towards the cost of electric line as laid down under Clause 3.1.1 of KERC (Recovery of Expenditure for Supply of Electricity) Regulations 2004.

ORDER

For the foregoing reasons, the impugned orders of CGRF, MESCOM, Mangalore vide No. 11A/20/09-10 dated 11.06.2010 is set aside. MESCOM is directed to refund Rs.1,58,116/- to the Appellant collected by way of Line Minimum Charges and to recover the applicable expenditure towards cost of electric line as laid down under Clause 3.1.1 of KERC (Recovery Of Expenditure For Supply of Electricity) Regulations 2004. **Consequently, the appeal is allowed.**

The above order has to be implemented by the 1st Respondent within 30 days from the date of its receipt.

(B.R.Jayaramaraje Urs)
Electricity Ombudsman

1. Managing Director, Neria Estates Private Limited, Neria Village, Belthangadi Taluk, Dakshina Kannada District
2. Assistant Executive Engineer, O & M Sub Division, MESCOM, Belthangadi, D.K.District.
3. Consumer Grievance Redressal Forum, MESCOM Corporate Office, Paradigm Plaza, A.B.Shetty Circle, Mangalore.
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

