



D-586

BEFORE THE ELECTRICITY OMBUDSMAN

9/2, 6th Floor, Mahalakshmi chambers, M.G Road, Bangalore – 560 001

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

Case No OMB/H/G-224/2015

Dated the 28th September 2015

Between

Smt R.R.Kurdekar
C/o Tushar M.Baddi
Near SBI,Keshwapura,
Hubli

.... Appellant

(By Sri Tushar M.Baddi, Authorised Representative)

V/S

1) The Assistant Executive Engineer(EI),
O & M, City Sub-Division-1, HESCOM,
Kusogol Road, Hubli.

(By Sri Anil Kumar, AAO, HESCOM)

2) The Chairperson,
CGRF, Dharwar District
HESCOM, Office of the
Superintending Engineer, O&M Circle
HESCOM, Tabibland,

1. This is an appeal under clause 22.02 of KERC(CGRF & Ombudsman) Regulations,2004 against the orders passed by CFRF, Dharwar District, Hubli HQ vide order No AE(EI) DCA/HISA-1/CGRF/File-171/4390-93 dated 29.07.2015 with regard to appellant's complaint regarding levy and collection of power Factor Surcharge by HESCOM for failure to maintain power factor to not less than 0.90.
2. The 1st Respondent's comments were called vide letter No OMB/H/G-224/2015/D-555 dated 20.08.2015.The 1st Respondent furnished his comments vide letter dated 13.09.2015.
3. Both parties were informed vide this office letter No OMB/H/G-224/2015/D-568 dated 07.09.2015 regarding availability of Sub-Regulation 20(1) of KERC, 2004, which both parties have not availed. Hence, this authority proceeds to pass orders on merits of the case.
4. In the present case, HESCOM has levied power Factor surcharge on the appellant for keeping the power factor lag less than 0.90. The Appellant, after coming to know of HESCOM levying power Factor surcharge, sought details of Surcharge levied and collected and also the period for which it was collected etc from the AEE(EI) on 17.05.2013. According to the appellant, the AEE(EI) has furnished incomplete information covering period from April 2011 to May 2013 only and skipping surcharge collected from 2000. The appellant, in her appeal memo has averred that as per Regulation 22.02(b) of Conditions of Supply of Electricity of Distribution Licensees in the State of

Karnataka, whenever the Licensee finds the power factor of the installation is less than 0.90 lag, the concerned consumer shall install additional power Factor correction apparatus as may be necessary to bring the power factor to not less than 0.90 lag within three months from the date of intimation and inform the same, in writing, to the office of issue, failing which power factor surcharge shall be leviable as specified under tariff schedule from time to time, from the billing month following the date of expiry of the said three months, till the PF is brought up to 0.90. Contrary to the said regulation, the AEE(EI) without giving intimation to the appellant regarding power factor lag and without giving three months time to improve the power factor lag, has levied and collected PF surcharge in the monthly energy bills from 2000 which according to her is against to Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka and hence liable to be set aside.

5. The 1st Respondent, in his statement of objections, stated that when subject installation had been rated on 25.06.2009 in connection with sanction of additional power (80 KVA), the installation recorded power factor of 0.933 and later after changing 5/5 amps with 10/5 CTs, the installation recorded power factor of 0.885. This power factor lag had been intimated to the appellant and also she had been advised to improve the power factor. Again HT Rating Division conducted rating on 01.07.2009 and observed power factor less than 0.90 and installation recording a PF of 0.829 which also had been intimated to the appellant for taking action in the matter. In addition, HESCOM had issued notice as per Regulation 22.02(b) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka to the appellant to bring the power factor to not less than 0.90 lag. Besides, it was also the responsibility of the appellant to maintain power factor to not

less than 0.90 lag. However, the appellant had not taken any steps to bring the power factor to not less than 0.90 lag though there had been power factor lag less than 0.90 from July 2009 and up to 01.06.2013. There had also been power factor lag from July 2009 and hence notices had been issued on 05.07.2009 and 03.08.2009 to the appellant to improve the power factor and simultaneously steps had been taken to collect such surcharges by including it in the monthly energy bill. Therefore, the appellant's objection that HESCOM had levied PF surcharge after a lapse of 4 years is without basis and if the appellant had any objection regarding levy of PF surcharge, she could have objected to such levy during the months when such surcharge had been levied. The appellant had not objected to collection of PF surcharge and hence she could not question levy of surcharge now. Therefore collection of PF surcharge is in order and hence HESCOM is not liable to refund the PF Surcharge collected from the appellant.

6. Case was taken up for hearing on 23.09.2015. On behalf of the appellant, her Authorised Representative Shri T.M Baddi appeared and concluded his arguments and on behalf of the 1st Respondent, Shri Anil Kumar, Assistant Accounts Officer, CSD-1 Hubli appeared and concluded his arguments.

7. Both parties, during the hearing, reiterated the submissions made in the appeal memo and statement of objections respectively.

8. From the rival contentions, the issue that emerges for our consideration is *“Whether the Licensee is right in collecting power factor surcharge right away from the month in which PF is detected without giving three months time to the consumer to improve the power factor lag”?*

9. In order to answer this question, we will have to refer to regulation 22.02(b) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka which states *"If during any monthly reading or periodical or other testing/rating by the Licensee, the power factor of the installation is found to be less than 0.90 lag, the consumer shall install additional power factor correctional apparatus as may be necessary to bring the power factor to not less than 0.90 lag within three months from the date of intimation and inform the same, in writing, to the office of issue, failing which power factor surcharge shall be leviable as specified under tariff schedule from time to time, from the billing months following the date of expiry of the said three months, till the PF is brought up to 0.90"*. In other words, the Licensee whenever it detects power factor lag, it has to intimate the consumer about power factor lag and also the time frame in which the power factor has to be improved failing which power factor will be levied. In the present case, though the AEE (EI) claims that there had been power factor lag less than 0.90 from 2000, he appears to have not given three months time to the appellant to improve power factor and appears to have collected such PF surcharge by including it in the monthly energy bill since 2000 and further seen to have issued two notices successively on 05.07.2009 and on 03.08.2009 pointing out PF lag but simultaneously collecting PF surcharge without giving three months time to the appellant to improve Power Factor is violative of Regulation 22.02 (b) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka.

10. This action of HESCOM amounts to short circuiting of the procedure laid down under clause 22.02(b) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. The regulation states that

the Licensee whenever it detects power factor lag has to first inform the concerned consumer about the power factor lag and the time frame in which the consumer has to bring the power factor to not less than 0.90 and failing which the power factor would be levied and collected by including such charges in the monthly energy bills after the expiry of said three months till the PF is brought up to 0.90. In the instant case, the Licensee appears to have levied power factor surcharge without giving three months time to the consumer to improve the power factor and also seem to have to come to a premature conclusion before the expiry of the three months that the consumer had failed to comply with the direction issued by it and hence it was necessary to include such surcharge in the monthly energy bills and realise the amount, amounts to violation of regulation 22.02 (b) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka and hence liable to be set aside.

11. Hence, the arguments of the 1st respondent is rejected as devoid of merit. Therefore, the following orders:

ORDER

For the foregoing reasons, (a) collection of Power Factor surcharge is set aside (b) the impugned orders of CGRF upholding levy and collection of Power Factor surcharge is set aside, (c) the 1st Respondent is directed to adjust the PF surcharge collected from 2000 against the future energy bills of the appellant within 2 months from the date of issue of this order.



(B.R Jayaramaraje Urs)
Electricity Ombudsman

To :

1. Tushar M.Baddi, Near SBI, Keshwapura, Hubli
2. The Assistant Executive Engineer(EI), O & M, City Sub-Division-1, HESCOM, Kusogol Road, Hubli.
3. The Chairperson, CGRF, Dharwar District, HESCOM, Office of the Superintending Engineer, O&M Circle, HESCOM, Tabibland, Hubli-580020
4. Managing Directors of ESCOMs.
5. PS to Hon. Chairman, KERC
6. PS to Hon'ble Member (A), KERC
7. PS to Hon'ble Member (M), KERC
8. Secretary, KERC
