
**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION,
BENGALURU**

Dated : 8th August, 2017

Present:

Shri M.K. Shankaralinge Gowda	..	Chairman
Shri H.D. Arun Kumar	..	Member
Shri D.B. Manival Raju	..	Member

Complaint No.5 / 2017

BETWEEN:

Bidadi Industries Association (R),
Building No.219, Madanahalli Village,
Byramangala – Harohalli Road,
(Above VRL Office),
Ramanagar District,
Karnataka – 562 109

.. **COMPLAINANT**

[Petitioner is represented by Adlaw Partners, Advocates]

AND:

Bangalore Electricity Supply Company Limited,
K.R. Circle,
Bengaluru – 560 001

.. **RESPONDENT**

[Respondent is represented by Just Law, Advocates]

ORDERS

- 1) The Complainant is an Association of HT/EHT industrial consumers of the Respondent – Bangalore Electricity Supply Company Limited (BESCOM). It has requested for quashing the Circular bearing No.BESCOM/BC-26/BC-22/2411/2009-10/Cys-12 dated 29.5.2017, issued

by the Respondent (BESCOM) and for quashing the bills raised by the Respondent (BESCOM) with effect from March, 2017, levying the temporary tariff on the members of the Complainant-Association for availing open access.

- 2) Pending admission of the Complaint, on the question, whether the dispute is entertainable by this Commission or whether it is entertainable by the Consumer Grievance Redressal Forum (CGRF), being a billing dispute, this Commission, on the request of the Complainant for staying the demand bills, observed that, the Respondent (BESCOM) will not disconnect the power for those open access consumers of the Complainant-Association, who have complied with the provisions of Section 56 of the Electricity Act, 2003.
- 3) After appearance of the Respondent (BESCOM) through its learned counsel, the matter was heard on the maintainability of the Complaint.
- 4) The learned counsel for the Complainant submitted that, the Complaint/Petition is maintainable before this Commission for obtaining the reliefs sought for by the Complainant and that it is not a mere billing dispute attracting the jurisdiction of the CGRF. On the other hand, the learned counsel for the Respondent submitted that the present dispute would squarely fall within the meaning of 'the grievances of the consumers relating to energy billing', which should

be dealt with by the CGRF and thereafter, by the Electricity Ombudsman, if necessary, as provided in Section 42 of the Electricity Act, 2003.

- 5) This Commission has issued two new directives to the Respondent (BESCOM) and other Electricity Supply Companies (ESCOMs) in its Tariff Order dated 11.4.2017. The first directive relates to conducting '*Consumers' Interaction Meetings*'. The second directive relates to ensuring '*preparation of energy bills on monthly basis for considering 15 minutes' time block period in respect of EHT/HT consumers importing power through power exchange under Open Access*', which reads thus:

"The Commission has noticed that, year on year, there has been a substantial increase in the number of EHT and HT consumers of the distribution licensees opting for open access resulting in substantial volume of energy being procured through Power Exchanges, which imposes a burden on the SLDC, in grid management.

Further, in accordance with the stipulations in Clause 6.3(f) of the Karnataka Electricity Grid Code (KEGC), 2015, under the chapter on Operation Planning, in order to facilitate demand estimation for operational purpose, the distribution licensee (ESCOM) is required to provide to the SLDC, on a day ahead basis, at 09.00 hours each day, its estimated demand for each 15-minute block, for the ensuing day. The distribution licensee is also required to provide to the SLDC, the estimates of loads that may be shed, when required, in discrete blocks with the details of arrangements of such load shedding. Consequent to such stipulation the ESCOMs are required to prepare monthly energy bills in respect of EHT/HT consumers importing power through power exchange under Open Access, by considering 15 minute's time block. However, it is observed that except in rare cases, the billing requirement is not being complied with the ESCOMs.

“In view of this, the Commission directs the BESCO to ensure preparation of energy bills on monthly basis by considering the 15 minute's time block period in respect of EHT/HT consumers importing power through power exchange under Open Access. The BESCO shall implement the directive forthwith and the compliance regarding the same shall be submitted monthly from May, 2017 onwards, to the Commission, regularly.”

- 6) Based on the above second directive, the Respondent (BESCO) issued the Circular in question. The Circular, after quoting the second directive contained in the Tariff Order dated 11.4.2017 of this Commission, states further as follows :

“... In this regard, this office has computed the energy drawn by each open access consumers based on 15 minute's time block period from Mar-17 onwards. Workshops were also conducted for AEE's, AAO's and HT case workers wherein the computation of energy based on 15 minutes time block period and the billing of such energy were demonstrated. Sample bill is herewith enclosed as Annexure-I for guidance.

The details of computation of energy drawn from BESCO grid by open access consumers have been revised. Energy bills on monthly basis from Mar-17 onwards needs to be revised based on the computation of energy as per 15 minutes block period immediately in the first instance. Bills for the earlier period shall be revised thereafter as per the provisions of relevant Notification/ Order under reference.

It is directed to implement the above method of billing of open access consumers and submit the zone wise details of supplementary claims (amount) made by the sub-divisions as per the below format:-

Sub Dvn.	R R No.	Already Billed Amount	Revised Bill Amount	Difference Amt.

The above instructions shall strictly be adhered to, failing which personal responsibility will be fixed on erring officials. ..."

Along with the above Circular, a Working Example for raising bills was enclosed as Annexure-I.

- 7) From the submissions of the learned counsel for the Complainant, it appears that, the real grievance was not against the contents of the Circular, but only against the Annexure-I to the Circular, which is a Working Example for raising bills. It is submitted that, as per that Working Example, the energy drawn by the HT and EHT consumers in excess of the drawal schedule furnished under the inter-State Open Access in a particular time block is being charged at the temporary tariff and this method is illegal. It is also observed that, a detailed representation dated 14.6.2017 given to the Respondent (BESCOM), as per ANNEXURE-F, has not been responded to, till date.
- 8) After considering the rival views and the relevant provisions of law in this regard, we are of the considered opinion that, the present dispute between the various members (consumers) of the Complainant-Association and the Respondent (BESCOM) would clearly fall within the meaning of 'Disputes relating to Energy Bills'. However, on the facts of the present case, there is a further question for consideration.

The contention of the Petitioner is that, because of the Working Example as per Annexure-I to the Circular, the concerned Officers of the Respondent (BESCOM) have to follow the same and raise the bills as per the Working Example, which would affect the whole Body of the HT/EHT consumers of the Respondent (BESCOM). Therefore, it is to be seen whether this Commission has a supervisory power over the Distribution Licensees and whether the Commission can go into the validity or otherwise of the Circular or the Working Example issued by the Distribution Licensee for raising the bills in a particular manner. It appears, when the validity or otherwise of the Circular suggesting a particular interpretation or applicability of the Rules and Regulations, is questioned, the Commission can go into that issue, in order to verify the correctness or otherwise of the suggested interpretation or applicability of the Rules and Regulations. Such a step by the Commission would prevent the mistake being committed by the officials of the Distribution Licensees and which, in turn, would ensure that the consumers are not unnecessarily harassed. Exercising of such a power of superintendence by this Commission over the Distribution Licensees is well-supported by the decision of the Hon'ble Supreme Court of India, reported in **(2007) 8 SCC 381**, in the case of *Maharashtra State Electricity Regulatory Commission –Vs- Reliance Energy Limited and others*. Therefore, we are of the considered opinion that, the validity or otherwise of the Circular along with its Annexure-I could be examined by this Commission. This does not

mean that, this Commission is deciding any consumer dispute relating to the correctness or otherwise of a disputed bill.

- 9) For the foregoing reasons, we pass the following :

ORDER

The Complaint is maintainable before this Commission, to the extent noted above. List the matter for further hearing on 22.8.2017.

Sd/-	Sd/-	Sd/-
(M.K. SHANKARALINGE GOWDA)	(H.D. ARUN KUMAR)	(D.B. MANIVAL RAJU)
CHAIRMAN	MEMBER	MEMBER