

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

**Present: S.D.Ukkali
Ombudsman**

**Case No.OMB/B/G-74/10/8378
Dated 07.06.2010**

Smt.Sajida Banu,
No.32, Ezical Industries Estate,
K.G.Halli,
Bangalore-560045
(Represented by Sri M.A.Dalvi,
Legal Counsel)

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Complainant

Vs

1. Bangalore Electricity Supply Company (BESCOM)
Represented by its
Asst.Executive Engineer(Ele)
C-5 Sub Division,
BESCOM
Kavalbyrasandra,
BANGALORE-560032

2. 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 22.12.2009 passed by the 2nd Respondent in its file No.CGRF/18/2009/556-561.

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

1. The Complainant availed an electrical connection bearing RR No.N6P1435. It was provided with a ETV meter with a sanctioned load of 40 HP.
2. On 14.11.2002, the staff of Anti-Theft Law (ATL) of the BESCOM inspected the installation and stated to have found that the installation was connected with 125.5 HP as against sanctioned load of 40 HP.
3. Based on the ATL report, the 1st Respondent back billed the installation for Rs.39,219/- by issuing a notice on 19.11.2002.
4. Aggrieved by this demand, the Complainant filed an appeal before the Executive Engineer, Additional Central Division, BESCOM, Bangalore by depositing Rs.9805/-.
5. The appeal was heard on 28.04.2003 and the Appellate Authority ordered for inspection and mahazar by Assistant Engineer, O & M 14 of C5 Sub Division of BESCOM, Bangalore and he inspected the installation on 5.8.2003. He found that 54 HP plus 8.44 KW was connected and used. Based on this report, the Appellate Authority passed order on 23.9.2003, after nearly 9 months of filing the appeal.
6. **With continuous visits and enquiry, the 1st Respondent issued a notice of revised back bill for Rs.21,395/- (Rupees Twenty One Thousand Three hundred and ninety five) only on 28.6.2005 after a lapse of nearly 1 year 9 months after passing of the order by Appellate Authority.**
7. **It was observed that there was a mistake in calculating the back billing charges. The Complainant approached the Corporate office of the BESCOM, Bangalore to intervene and restore service.**
8. The BESCOM Corporate office **found that the back billing was calculated for the entire load instead of on the excess load only.** BESCOM issued clarification on 13.10.2006 to back bill for the **excess load only** after a lapse of considerable time.

9. **The 1st Respondent took another one year to revise the bill and communicated** the same to the Complainant on 26.10.2007 informing the Complainant to pay a balance of Rs.2,195/- (Rupees Two Thousand One Hundred and Ninety Five) only towards the back billing and Rs.31,163/- (Rupees Thirty One Thousand One Hundred and Sixty Three) only towards the arrears. It was also informed that a deposit of Rs.16,090/- (Rupees Sixteen Thousand and Ninety) only was adjusted against the arrears.

10. **The power supply to her installation was not restored. She was advised only to apply for power supply as a new consumer. The Complainant left with no alternative approached the sub division office for restoring the supply as a fresh consumer. Only after this application, the meter provided earlier to the installation was de-commissioned and removed.** It was directed that the following amounts ought to be paid:

SC	:	Rs. 150/-
2 MMD	:	Rs.13,860/-
DC	:	Rs.57,550/-
MSD	:	Rs.12,090/-

After payment of these amounts on 17.07.08, the restoration of power supply was denied on the frivolous ground that the power sanction was feasible only after installation of additional transformer and power supply would be arranged only after installation of 100 KVA transformer proposed under Service Connections.

11. The higher authorities were approached in the matter and the Superintending Engineer, North Circle, by a letter dated 8.8.2008 directed the sub division to **service the installation on the existing 250 KVA transformer as the applicant was an old customer.** Thereafter, it was continuous rantling. The electricity was not supplied.

12. **Finally to put an end to all this, the Complainant approached the CGRF, BESCOM, Bangalore. The Forum after a detailed hearing passed a considered order on 22.12.2009 directing the Respondent to arrange immediate servicing of the installation without causing any further delay. Although in the application/complaint made before the CGRF, the Complainant had pleaded for grant of suitable compensation, it was not considered.**

13. Even after the CGRF directions, the Complainant was not successful in getting the power supply. **She requested by a letter on 19.1.2010 to service the installation. But there was no response from the 1st Respondent.**

Aggrieved that electricity was not serviced and that the compensation was not granted by the 2nd Respondent, she filed this complaint praying for the following:

III.

PRAYER

1. Grant compensation of Rs.7,20,000/- (Rupees Seven lakhs Twenty Thousand only) by way of loss sustained due to enforced closure by way of loss of rents of the premises.
2. To order payment of compensation at the rate of Rs.1,000/- (Rupees One Thousand) only per day from the date of receipt of orders of the Hon'ble CGRF to the Complainant.
3. To order refund of Rs.57,550/- (Rupees Fifty Seven Thousand Five Hundred and Fifty) only incorrectly collected by way of development charges.
4. Grant such other relief/reliefs as deemed justified under the circumstances of this complaint 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-74/2010/7829 dated 18.02.2010. The 1st Respondent, Sri K.Ravindra and the representative for the Complainant, Sri M.A.Dalvi appeared and they were heard on 25.03.2010. 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 1st Respondent's contentions are as detailed below:

1. The Complainant's request to the Appellate Authority to quash the back billing charges is not acceptable.
2. The Appellate Authority, should have considered the issue only on merits of original spot mahazar of ATL dated 14.11.2002.
3. He agrees that there was a mistake in calculating back billing charges based on 2nd inspection.
4. However, after the Corporate office directed the EE, Additional Central Division, BESCOM, Bangalore to revise the back billing as per Clause 42.01(iii) of Conditions of Supply of Electricity of Licensees in the State of Karnataka, the back bill was revised to Rs.12000/- (Rupees Twelve Thousand) only for excess load of 25 HP.

As an amount of Rs.9,805/- (Rupees Nine Thousand Eight Hundred and five) only was paid on 30.1.2003, a balance of Rs.2195/- (Rupees Two Thousand One hundred and ninety five) only was to be paid against the back billing charges. Apart from this back billing, the consumer was to pay an arrears 31,163/- as a regular bill

which was outstanding after adjusting a deposit of Rs.16090/- (Rupees Sixteen Thousand and Ninety) only which was in the name of the consumer. **The consumer was asked to pay this amount within 30 days and to apply for fresh power supply if necessary. The consumer paid the arrears as follows:**

- a) Rs.2195/- (BBC) on 06.12.2007
- b) A letter was issued to the consumer vide letter AEE/C-5/MF&C/3047 Dated 29.1.2008 to clear the arrears of Rs.31163/- (Rupees Thirty One Thousand One hundred and sixty three) only and apply for fresh Power supply. The Consumer has then paid the arrears of Rs.31163/-(Rupees Thirty One Thousand One hundred and sixty three) (Energy arrears)on 15.02.2008

5. This installation was never disconnected on account of non-payment of back billing charges. The installation was only disconnected on 28.09.2003 for non-payment of regular monthly bill. The installation was said to be under door-lock at the time of disconnection and continued to be under disconnection for non-payment of energy charges.

6. On the directions from the Internal Audit of BESCO, the agreement termination notice was issued vide letter **25.01.2004** and the installation was dismantled. Since the premises was always door locked, the meter was removed on **28.5.2008**.

7. Subsequently, the consumer applied for fresh power supply to an extent of 40 HP on 26.6.2008 and was sanctioned on 28.6.2008 after payment of the required deposits infrastructure charges etc. as per the Conditions of Power Supply applicable to new power connection **with a condition that the power supply is feasible after installing additional transformer proposed under service connection.**

8. The statement of the complainant that a condition was imposed after payment of all the deposits mentioned in the power sanction letter is false. It was mentioned in the power sanction letter dated 28.6.2008 itself.

9. The complainant has represented to the higher officers for re-connection of old installation N6P1435 on 21.07.2008.

10. But on appraisal of all the facts vide letter No.AEE/C5/305 dated 30.07.2008 (copies enclosed), the higher officers have informed the representatives of the consumer to apply for fresh power supply.

11. Further, the applicant has approached the SE, Bangalore Circle North for relaxation of the Condition of providing transformer to arrange power supply as the Complainant was old consumer and SE, BCN, has instructed to relax the condition of providing transformer and service the installation on existing transformer.

12. Subsequently, the applicant/her representative has submitted blank CR, wiring diagram and agreements required to process the work order. When AET pointed out that the CR was blank, the representative has replied that the wiring and machineries will be installed before service.

13. To allow flexibility, the work order was issued. The representative was informed by AET of C-5 Sub Division to comply with all the requirements.

14. The applicant has not complied with the requirements. The requirements were:

- i) Complete the internal wiring of the premises as required under regulations and submit details of the wiring, insulation resistances etc. as required in the Completion report as envisaged in regulation 47 of IE Rules 1956, but instead the applicant has not at all carried out the internal wiring of the premises and has submitted Blank Completion report which is meaningless and not valid.

- ii) The applicant has signed the agreement in a different name than specified in the application but had taken an excuse to get it corrected before servicing of the installation.
- iii) Submit correspondence address of the applicant as the correspondences sent to the applied address were returned by the postal dept. as vacant and locked. It is alleged that no correspondence address was provided since the inception of old installation N6P1435 till date and all the correspondences made to the address of the premises for which power supply is availed is returned since from the beginning and the applicant / her counsel has wrongly and misleadingly claimed that the Company has not provided any communication either for termination of installation or any correspondence till date. **Instead they have indulged in blame game and are in the habit of making false allegations against officials.**
- iv) LEC's valid license is not yet submitted even after repeated insistence.
- v) The Architect plan submitted by them specifies the usage of the premises for a Godown inviting regulation 9 of KERC regulations. **But power sanction was issued based on the requirement of power as Industrial in the application form.**

However, PC test was also carried out but the service was withheld as the applicant has not complied with the requirements. Aggrieved by this, the complainant has approached the CGRF in June 2009. After hearing both the sides, the CGRF has passed an order on 22.12.2009 to arrange for service immediately. **In obedience to the orders received by him, it is stated that the installation was serviced on 2.1.2010 with an RR No.C5P653. But the Complainant has filed this appeal when even after a request was made by the Complainant through a letter dated 19.1.2010.**

15. a) The Complainant has demanded for the compensation for non-availability of power supply for a very long time and also for the delay in giving this new connection after the receipt of the order of the CGRF. They have also asked for refund of development charges of Rs.57,550/- (Rupees Fifty Seven Thousand Five Hundred and Fifty) only which was paid for taking the new connection. The installation was disconnected for non-payment of regular monthly bills and not for the non-payment of back billing charges. Since the regular bill was not paid for a very long time, the

procedure as per the rules of termination of agreement and permanent dismantling of the installation was followed.

b) Had the consumer paid the regular arrears, this termination and dismantling would not have occurred and the power supply would have continued.

c) Thus, the consumer himself is responsible for this state-of-affairs by not paying the regular arrears. The BESCO is in no way responsible for payment of compensation as demanded by the complainant.

d) There was no delay in servicing the new connection after receipt of order of the CGRF. The installation was immediately serviced on 2.1.2010. So there was no question of payment of Rs.1000/- per day as demanded.

e) As the earlier installation was totally terminated and dismantled and the applicant had applied for fresh power supply, she is liable to pay the infrastructure charges as prescribed in the Regulations.

He further urged that this statement be read along with the parawise comments submitted vide letter No.AEE/C5/AAO/6493 dated 3.2.2010.

f) He requested to reject the Complainant's prayer on the grounds mentioned above.

B Per contra, the Counsel for the Complainant states as follows:

1. The Complainant was a victim of arbitrary back billing. As a matter of provisions of KERC Code 2000-01, **the installation having a trivector meter was not to be back billed on physical inventory.**

2. If excess load is shown in the meter, the installation has to be back billed only for that particular month. In spite of this, the installation was singled out for a back billing for a period of six months.

3. The installation, as per the ledger extract dated 22.11.04, was up to date in payments, upto August 2003. On that day, the installation was not having any arrears except the back billing.

4 Because of the issue of back billing, the tenant who had occupied the premises got scared and made a representation to the sub division to inspect and sought for disconnection vide letter dated 5.8.2003.

5. Accordingly, the JE, O&M unit 14, visited the spot and has reported that the meter on the date of his inspection was reading 43349. As per the monthly regular bill issued subsequent to this inspection and disconnection on 1.9.2003, the meter was reading 43350. This proves that the installation was effectively disconnected and was not in use during August 2003 itself, the exact date being 28.8.2003.

6. In the ledger extract dated 22.11.04, the office has issued the extract in the name of Smt.Shajeeda Begum. After continuous personal approach to the sub division office to provide the Complainant with a revised bill in accordance with the directions of the Appellate Authority passed on 23.09.2003, the office issued a revised bill for Rs.21,395/- (Rupees Twenty One Thousand Three Hundred and Ninety Five) only on 28.6.2005 i.e. after a lapse of almost 2 years. In this bill also, the office failed to include any arrears outstanding against this installation.

7. She was the victim of first arbitrary billing and thereafter continued harassment with regard to revision of the back bill. She has suffered huge losses by way of deprivation of the rents she might have got.

8. It is relevant to mention that even the revised bill which the Sub Division sent in response to the directions from the Corporate Office was incorrect for a load of 40 HP.

The back bill works out to only Rs.8,640/- i.e. 24 HP x Rs.30x 2 x 6 months = Rs.8,640/-(Rupees Eight Thousand Six Hundred and Forty) only. Since a sum of Rs.9,805 (Rupees Nine Thousand Eight Hundred and Five) only was already deposited by the Complainant, it was to be a credit balance of Rs.1,165/- (Rupees One Thousand One Hundred and Sixty Five) only and this is the amount excess claimed by the efficient sub division.

9. For the reasons stated in her deposition and the original appeal complaint, this Authority be pleased to grant the prayer made.

VI. Findings

A) The Back Billing Charges:

1. The installation was inspected by ATL of BESCO on 14.11.2002 and found a connected load of 125.5 HP as against 40 HP of sanctioned load.

2(a) The Complainant appealed to the Appellate Authority of BESCO. This Appellate Authority not satisfied with ATL report ordered for re-inspection and the excess load was found to be 54 HP + 8.44 KWs only and passed an order to back bill the installation on this excess load..

2(b) A lot of time was wasted during the process.

3. The 1st Respondent based on Appellate Authority's order claimed erroneous back billing charges for entire load instead of excess load.

4. The Complainant was forced to approach the Corporate office which clarified that the back billing charges had to be claimed on excess load only.

5. The 1st Respondent revised the bill after lapse of considerable time.

6. **The Complainant settled the bill.**
7. **In the meanwhile, the 1st Respondent based on directions from the internal audit of BESCO arranged to issue notices and to dismantle the installation.**
8. From the day from 14.11.2002 till the day the order was passed by CGRF on 22.12.2009 to restore power supply, 7 years and 38 days of precious time of the consumer has been wasted and she was put to a great loss. The BESCO Licensee is entirely responsible as detailed below:
 - a) ATL report is proved wrong by the Appellate Authority deciding to get the installation re-inspected.
 - b) After the Appellate Authority passed an order, **the Respondent Licensee claimed erroneous back billing for the entire load instead of excess load.** This was probably done deliberately and also lapsed lot of time in doing so.
 - c) The Corporate office of BESCO issued directions to claim back billing on excess .load only
 - d) The 1st Respondent again lapsed a lot of time in intimating the back billing charges.
 - e) The Consumer paid the back billing charges claimed.
 - f) In the meanwhile, for no fault of the consumer, the 1st Respondent issued A, B Notices and terminated the agreement. **He should not have done this till the appeal case was decided.** His plea that the A.B. Notices were issued and agreement was terminated for regular arrears is not correct. **The Consumer**

was kept under constant threat of some unwanted action etc. from 14.11.2002 and unless the appeal was decided the 1st Respondent should not have terminated the Agreement.

B. New Connection

After the consumer paid the back billing charges, she was forced to avail new connection for which the Consumer was subjected to further harassment.

1. Power sanction was communicated subject to installation of a transformer of 100 KVA under Service Connection.
2. This was relaxed by the concerned Superintending Engineer, BESCO on the plea that the consumer was an old consumer.
3. But there were further queries by the 1st Respondent such as blank CRS, non-production of License copy of the Licensed Electrical Contractor.
4. Though the Superintending Engineer ordered for arranging power supply, the 1st Respondent did not arrange power supply on some frivolous grounds.
5. Even after the 2nd Respondent ordered for arranging power supply, it was not arranged. The 1st Respondent claimed that the power supply was arranged on 2.1.2010, but during the hearing on 25.3.2010, the Complainant's Counsel argued that the power supply was not extended.
6. This Authority directed the 1st Respondent to go to the premises along with the representative and arrange power supply if it was not arranged already.
7. Later it was brought to the notice of this Authority by the Complainant's Counsel by letter dated 29.3.2010 that the power supply was arranged on 25.3.2010 only

and not earlier and that the 1st Respondent was blaming the Junior Engineer for not arranging power supply.

8. The prayer of the Complainant to grant a compensation of Rs.7,20,000/- (Rupees Seven Lakhs and Twenty Thousand) only towards loss of rent to premises sustained due to enforced closure does not fall under the purview of this Authority. The Complainant is free to seek legal remedy before the appropriate Authority.

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

VII. ORDER

1. The development charges of Rs.57,550/- (Rupees Fifty Seven Thousand Five Hundred and Fifty) only collected by the 1st Respondent be refunded within 60 days of receipt of this Order.
2. From 22.12.2009 the day of passing of the Order by the 2nd Respondent till the actual power connection was given 92 days have elapsed. The Respondent Licensee shall pay an amount of Rs.200/- (Rupees Two Hundred) only per day of default in terms of Sl.No.7 of Schedule-1 to KERC (Licensees Standards of Performance) Regulations 2004 which works out to Rs.18,400/- (Rupees Eighteen Thousand Four Hundred) only by way of adjustment in future electricity bills of the Complainant.

(S.D.Ukkali)
Ombudsman

1. Smt.Sajida Banu, No.32, Ezical Industreis Estate, K.G.Halli, Bangalore-560045.
2. The Consumer Grievance Redressal Forum, BESCO, Central Stores Premises, near ESI Hospital, Rajajinagar, Bangalore-560010

3. The Asst.Executive Engineer (Ele), C-5 Sub Division, BESCOM, Kavalbyrasandra, Bangalore-560032
4. The Managing Director, BESCOM 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.

