

# STATE ELECTRICITY OMBUDSMAN

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## REPRESENTATION No: P 149/10

Appellant : M/s Airtravel Enterprises India Ltd ,  
Corporation Building, LMS Junction,  
Thiruvananthapuram

Respondent: Kerala State Electricity Board  
*Represented by*  
The Assistant Executive Engineer  
Electrical Sub Division, Puthenchantha,  
Thiruvananthapuram 1

## ORDER

M/s Airtravel Enterprises India Ltd ,Thiruvananthapuram  
submitted a representation on 28.6.2010 seeking the following relief :

*To declare that the Demand and Disconnection Notice (dated 26.8.2009) issued on  
Consumer Number 5931 is illegitimate and set the bill and the successive bills aside.*

Counter statements of the Respondent was obtained and hearing conducted on 16.9.2010  
The Appellant submitted an argument note on 6.10.2010.

M/s Air Travell Enterprises Ltd, functioning in the Corporation building near LMS  
junction Thiruvananthapuram has two LT connection with Consumer no 4865 and 5931.  
The connections are in the name of the Corporation.

KSEB issued a demand cum disconnection notice on 26/08/2009 for Rs 4,12,999/-  
towards short collection due to 'non assessing of unauthorized additional load (UAL) of  
16 KW' from 1/06 to 06/09 on consumer number 5931 .KSEB claimed that UAL to the  
extent of 16 KW was detected in the premises of consumer No 5931 during January  
2006 and a penal bill for Rs 14400/- up to December 2005 was issued to the consumer on  
02/01/2006. The demand was issued under Sec 126 of the Electricity Act 2003. KSEB  
also claimed that the final bill was issued to the consumer on 12/01/2006 after hearing  
objections of the Consumer. But the Consumer has denied that hearing was conducted

during the period as claimed by KSEB. However the amounts demanded towards penal charges were paid by the Consumer on 20/01/2006.

But the additional load was not penalized after January 2006 due to 'forgetting', 'omission' or for other reasons best known to the officials of the Respondent . This fact was discovered in July 2009 by an audit party. Consequently Respondent issued short assessment bill for non assessing of UAL from 11/2006 to 06/2009 amounting to Rs 4,12,999/- which has been disputed by the Consumer.

The Consumer has not categorically stated anywhere that the unauthorized load had been *removed* by him during the period nor that the load *do not exist* at present. Instead the Consumer has argued that the Respondent had stopped penalization of the additional load after January 2006 due to the 'satisfied reasons'. In other words, the Consumer has relied his arguments against the penalization, mainly on the plank that the penalization had been discontinued by the Respondent since they were satisfied that penalization was not necessary or relevant.

It has been pointed out during hearing that the premises where the connections are provided belongs to Corporation of Trivandrum . Due to technical and other reasons, installation of transformer etc without the cooperation of the corporation is difficult. This had been pointed out to be the actual reason for non regularization of the additional loads in the premises.

The Respondent has argued that since the Consumer has not claimed that the additional load has either been removed or regularized it has to be assumed that the additional load detected in January 2006 still exists and KSEB is entitled to recover penal charges. Hence they claim that they are entitled to recover penal charges for the unauthorized load under the statutes since the consumer had been using the UAL during this long period.

This is a case involving the Unauthorized Additional Load (UAL) and the assessment has been made under Sec 126 of the Electricity Act 2003. The Kerala State Electricity Regulatory Commission has clarified on 15.6.2010 that the Commission views that 'the Unauthorized Additional Load is coming under Section 126' of the Electricity Act 2003. Hence I do not intend to enter into the details of the of the case or to pass awards on the matter, since the Ombudsman is not expected to entertain the grievances related to Section 126 of the Electricity Act 2003.

However in the interest of justice, the following directions are issued to the parties concerned.

1. It has to be pointed out that, demanding penal charges in 2009, from January 2006 onwards, assuming that the additional load was still existing, without conducting inspection, is not proper. The Respondent should have inspected the premises in August 2009 itself, before issuing the invoice for short collection due to non assessing of UAL . Hence the Respondent is directed to inspect the premises of Consumer No 5931 Air Travel Enterprises under Cantonment Section along with the Assessing Officer concerned, and record the total load existing at present. If the total load is found to be approximately equal to the load detected in

- January 2006, the Respondent shall be entitled to provisionally assess the penal charges from January 2006. If there are variations in the load at present, the provisional assessment shall be modified accordingly.
2. The Assessing Officer shall issue a consolidated detailed provisional demand statement for the total assessment up to date , including the assessment dated 2.01.2006 , and call for objections as per statutes.
  3. The Consumer shall be allowed to submit objections against the provisional assessment afresh and the course of action specified in Sec 126 and 127 of the Electricity Act 2003 and other statutes are to be followed strictly.
  4. The Appellant is advised to pursue the remedy prescribed under the statutes mentioned above.

Orders:

Under the circum stances explained above and after carefully examining all the evidences, arguments and points furnished by the Appellant and Respondent on the matter, the representation is disposed off with the following orders:

1. *The arguments/claims/points raised by the Appellant in support of the reliefs sought for are devoid of merit and hence the reliefs are not allowed and the representation is dismissed.*
2. *The assessment shall be revised by the Assessing Officer as directed above.*
3. *No order on costs.*

Dated this the 29th day of October 2010 ,

P.PARAMESWARAN  
Electricity Ombudsman

No P 149 /2010/ 696/ dated 30.10.2010

Forwarded to: 1. M/s Airtravel Enterprises India Ltd ,  
Corporation Building, LMS Junction,  
Thiruvananthapuram  
2. The Assistant Executive Engineer  
Electrical Sub Division, Puthenchantha,  
Thiruvananthapuram 1

Copy to :

1. The Secretary,  
Kerala State Electricity Regulatory Commission

- KPFC Bhavanam, Vellayambalam, Thiruvananthapuram 695010
2. The Secretary ,KSE Board,  
VaidyuthiBhavanam ,Thiruvananthapuram 695004
  3. The Chairman , CGRF,KSE Board , Kottarakkara

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