

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/060/2019
(Present: A.S. Dasappan)
Dated: 26th November 2019

Appellant : Sri. Tanty K.O.
M/s Rub Tech Industries,
Keezhmadu P.O., Erumathala,
Aluva, Ernakulam

Respondents : 1. The Deputy Chief Engineer
Electrical Circle, KSEBL,
Perumbavoor, Ernakulam

2. The Special Officer (Revenue)
Vydhuthi Bhavanam, KSEBL,
Pattom, Thiruvananthapuram

3. The Assistant Executive Engineer,
Electrical Sub Division,
KSEBL, Aluva,
Ernakulam

ORDER

Background of the case:

The appellant in this petition was a consumer of the Kerala State Electricity Board Limited bearing No. Consumer No. LCN 7/4514 under Electrical Section, Aluva Town. The supply was given in High Tension category with a contract demand of 200 kVA. Tariff applicable to the consumer is HT IA. The supply of electricity to the consumer is being used for the purpose of manufacturing of tread rubber, compound and allied products. The appellant availed additional power to the extent of 250 kVA on 17.06.2014 after executing a bond dated: 25-05-2012.

The appellant had given a letter for disconnection and dismantling of electric connection on 27.03.2018. The Deputy Chief Engineer, Perumbavoor has given a letter on 17.04.2018, claiming Rs. 6,05,000/- as transmission development charge and arrear as Rs. 16,47,157/- and security deposit as Rs. 14,78,157/-.

Aggrieved by this, the appellant filed a petition before the CGRF which was disposed vide Order No. 62/2018-19 dated 16-03-2019, ordering that the demand raised by the respondent is correct and the petitioner is bound to pay the same.

Challenging the decision of the CGRF, the appellant approached this Authority by filing this appeal petition.

Arguments of the appellant:

Appellant is having an Industrial electric connection under HT I (A), Industrial Tariff up to 27.03.2018. The appellant has obtained Industrial, HT, electric connection during the year 2006. The Appellant has been paying electricity bill without any objection regularly and there is no due till the date.

The appellant had given a letter for disconnection and dismantling of electric connection on 27.03.2018. On receiving the above letter and accepting the same, instead of disconnecting and dismantling the electric supply, Deputy Chief Engineer, Perumbavoor has given a letter on 17.04.2018, clamming Rs. 6,05,000/- as transmission development charge and stating the arrear as Rs.16,47,157/- and security deposit as Rs.14,78,157/-. Complying with Supply Code Reg.145 (4) the connection was disconnected. But till the date the details of arrears were not submitted.

Appellant has approached the CGRF on 10.10.2018, but no order was received. Subsequently on verifying the website of CGRF appellant came to know that order on No. CGRF - CR/ OP. No. 62/ 2018-19/657 dated 16.03.2019 was published.

The KSEBL have mentioned that Board Order no. B.O.D [D&F) No. 53/2015 (LA III 8347/11, was issued on 09.01.2015 for the collection of transmission development charge. But appellant haven't received any letter or order before 27.03.2018 (Till the submission of disconnection and dismantling application). Appellant did not get an opportunity to object to the KSEBL order.

Appellant has received the demand note for the remittance of transmission development charge on 17.04.2018 that is after disconnection of supply. In the letter Deputy Chief Engineer mentioned that appellant is having Rs.16,47,157/- arrear and Rs. 6,05,000/- transmission development charge. The details are not furnished either with CGRF or to appellant till now.

Since appellant has given a disconnection and dismantling letter, KSEBL have no right to claim the fixed charge from 27.03.2018.

As per CGRF there is no appeal in the WA 900/2013. But there are a lot of cases pending with Hon'ble Supreme Court against the Transmission Development Charge.

In KSEBL argument they refer Section 46 of Electricity Act 2003, which states that "The state commission may, by regulations, authorises a distribution licensee to charge from a person requiring a supply of electricity in pursuance of Section 43 any expense reasonably incurred in providing any electric line or electrical plant used for that purpose of giving that supply". In Sec.43, it is mentioned that "It shall be the duty of every distribution licensee to provide, if required electric plant or electric line for giving electric line to the premises specified in sub section (1).

Provided that no person shall be entitle to demand or to continue to receive, from a licensee a supply of electricity for any premises having separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission". There is no approved rate from Commission for the recovery of transmission development charge. KSEBL cannot show an amount with supplementing documents. They were supposed to produce the work completion details, cost of equipment's, purchase bill of items, labour cost etc....

In this case, KSEBL claim Rs. 6.05 lakhs towards transmission development charge, appellant didn't receive the estimate of the same, and work completion report of KSEBL, and appellant is not aware that the transmission line to the plant is dedicated or not. If it's a dedicated line then only appellant is liable to pay the full amount of transmission charge.

Since appellant has requested KSEBL for disconnection and dismantling the service connection, they can use the same line for other purpose and if some other factory came for new connection, they will also collect the development charge for the same. For the argument sake, if appellant has remitted the development charge for the dedicated line, KSEBL should collect appellant's consent for other connections from this line.

In the letter from Deputy Chief Engineer, Distribution Circle Perumbavoor, it is mentioned that Special Officer (Revenue) has given a letter stating that appellant has a pending arrear amount Rs. 16,47,157/-. But appellant didn't receive the details of the arrear amount.

As per KSEBL records appellant's security deposit is Rs. 14,78,054/- including Bank Guarantee. The same should be reimbursed while disconnection, but KSEBL have never refunded the amount.

Relief Sought

1. The Ombudsman may cancel the impugned amount Rs. 6.05 Lakhs claimed towards transmission development charges.
2. The KSEBL may give the split-up details of Rs. 16,47,157/- claimed towards arrear charge.
3. The Ombudsman may cancel the fixed charge demand from 27.03.2018.

Arguments of the respondent:

The consumer availed additional power to the extent of 250 kVA on 17.06.2014 after executing a bond dated 25-5-2012 based on the judgments in WA Nos. 418,513,514 and 521 of 2012 of Honourable High Court dated 19-3-2012 in which Honourable High Court has directed the Board to give service connection based on bonds or undertakings executed by the applicants on the specific condition that if the demand raised by the KSE Board is upheld by the Single Bench in the Writ Petition, the additional cost will be paid by the appellants within two weeks from the date of pronouncement of the judgment. The Bond given by the appellant clearly makes a commitment to the effect that "I hereby promise to remit proportionate cost on providing transmission lines/plants, incurred by KSEB for effecting/enhancing the Contract Demand of the HT Service connection with contract demand 450 kVA to M/s Rubber Tech Industries on getting intimation from KSEBL based on the pronouncement of the judgment of Honourable High Court or any other order. It is also undertaken that the Board is entitled to collect the said amount with interest applicable if the demand is sustained as per judgment."

Section 46 of The Electricity Act 2003 provides the power to recover expenditure which states that "The State Commission may by regulations, authorize a distribution licensee to charge from a person requiring a supply of electricity in pursuance of Section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply"

Hon'ble Regulatory Commission made regulation 7(1) of The Kerala Electricity Supply Code, 2005 substantiating the above section of the Electricity Act 2003, thus authorising KSEB to recover expenditure incurred for the supply of electricity. Regulation 7 (1) of The Kerala Electricity Supply Code, 2005 further provides that 'Subject to the condition under clause 8, the Commission authorizes the Licensee under Section 46 of the Act, to recover from the owner or occupier of any premises requiring supply, the expenses reasonably incurred by the Licensee for providing any electric line or electric plant required specifically for the purpose of giving such supply'

On 22-11-2012 Single Bench in WPC 18726, 22781, 22098, 20515 and 21491 of 2011 held that levy and collection of transmission side development charges are illegal. Against these judgments KSEB filed writ appeal nos. WA 900, 910, 991, 1040 and 1042 of 2013. On 30-6-2014 Division Bench set aside the Single Bench judgment and held that "we are unable to sustain the conclusion of the learned single Judge that the appellants are not entitled to realize the transmission side development charges." and validated the recovery of transmission side development charges from consumers.

In compliance of the above judgment KSEBL issued orders to Deputy Chief Engineers of respective Transmission/Electrical Circles to take immediate necessary steps to realize the transmission development charges vide B.O. (DF)

No. 2444/2014 (LA/111/8347/2011), Dated Thiruvananthapuram 17-9-2014. KSEBL further clarified the collection of transmission development charges in instalments vide B.O.D (D&S) No. 53/2015 (LAIII/8347/2011). Dated Thiruvananthapuram 09-01-2015.

A Petition O P No. 22/2011 was filed by Kerala State Small Industries Association, Ernakulam District before the Hon'ble Kerala State Electricity Regulatory Commission in which the Hon'ble Commission ordered the following on 22-1-2015:

The individual cases for recovery of expenditure from the consumers under section 46 of Electricity Act 2003, may be settled in accordance with the principles pronounced by the Hon'ble High Court in its judgment dated 30-6-2014 in WA No. 900/2013 and connected cases.

The individual cases which arose on or before 31-3-2014 for recovery of expenditure from the consumers under section 46 of Electricity Act 2003 which are not mentioned in the petition may also be settled in accordance with the principles pronounced by the Hon'ble High Court in its judgment dated 30-6-2014 in WA No.900/2013 and connected cases.

On the basis of the above Board Orders, respondent has issued a notice to the appellant on 28-2-2015 to remit the amount in 4 instalments in which 50% has to be remitted as 1st instalment. The appellant has not made any remittance violating the bond, judgments of Hon'ble High Court and Board orders.

A notice dated 10.04.12 for the remittance of necessary cost of transmission charges for the purpose of giving supply had already been issued to the appellant before effecting the connection. Since this matter was in dispute before the Hon'ble High Court, electric supply was given by executing a bond as stated above.

On 27-3-2018 appellant requested to dismantle the connection. For dismantling, the arrears of charges have to be cleared by the appellant. Regulation 2(11) of Kerala Electricity Supply Code, 2014 defines "arrears of charges" means any charge, along with interest thereon, payable by the consumer to the licensee, in terms of the agreement, which is not paid by consumer even after the due date. Since arrears of charges are available in the O/o the Special Officer (Revenue), KSEBL, Tvm respondent through letter dated 10-4-2018 requested to intimate the total amount due against appellant for the purpose of dismantling. On 17-4-2018, Special Officer (Revenue) furnished the total amount due against the appellant as Rs. 14,78,054/- in addition to the transmission development charges Rs. 6,05,000/-. This was intimated to the appellant vide letter no. ECP/T2/HT/RubTech Industries/2018-19/174 dated 19-4-2018.

As per Regulation 141 of Electricity Supply Code 2014, the consumer is liable to pay the charges if any as approved by the Commission during the period of disconnection also.

Thus, it is very clear that respondent has issued proper notices and hence not barred by Section 56 (2) of the Electricity Act 2003.

Since the collection of transmission development charges was in dispute for a long period in different forums and before Hon'ble High Court, respondent had issued proper notices to the appellant as and when court pronouncements were made and board orders issued. It is appellant who had not made any response to the respondent's notices. The CGRF dismissed the complaint no. 62/2018-19 filed by the appellant due to lack of merit. CGRF observed that "No order of stay against the judgment in WA 900/2013 is produced by the appellant before this Forum."

Analysis and findings

Hearing of the case was conducted in my chamber at Edappally, Ernakulam, on 03-09-2019, 17-10-2019 and 19-11-2019. Sri. Tanty T.O. and Narayanan E were present for the appellant's side and Smt. Shebna M.S., Assistant Executive Engineer, Electrical Circle, Perumbavoor, Smt. Shahanas Begum, Nodal Officer (Litigation) and Sri. Pradeep P., Superintendent O/o the Special Officer (Revenue) represented the respondent's side. Both sides have presented their arguments on the lines as stated above.

On examining the petition of the appellant, the statement of facts filed by the respondent, the arguments in the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

The instant appeal has been filed against the demand issued for Rs. 6,05,000/- as development charges on the transmission works and a sum of Rs. 16,47,157/- as arrear. It is revealed that the appellant has filed a writ petition No. W.P. (C) 21868 of 2019 before the Hon. High Court of Kerala against the Revenue Recovery Notice for Rs. 2086311/-. An interim order was issued staying all action pursuant to notice under the Revenue Recovery Act on 09-08-2019. In judgement dated 20-08-2019 in W.P. (C) 21868 of 2019, the Hon. High Court of Kerala have allowed this Authority to dispose of the appeal petition on its merits. This Authority has inspected premises of the appellant on 18-10-2019.

The appellant is aggrieved to the extent that the respondent has no right to collect the pro-rata development charge or any other similar charge in any other name. The appellant's argument is that in this case, KSEBL claim Rs.6.051akh towards transmission development charge, appellant didn't receive the estimate of the same, and work completion report of KSEBL, and appellant is not aware that the transmission line to the plant is dedicated or not. If it's a dedicated line then only appellant is liable to pay the full amount of transmission charge. Further it is contended by the appellant that there is no approved rate from Commission for the recovery of transmission development charge and KSEBL has not given an amount with supplementing documents. They were supposed to produce the work completion details, cost of equipment's, purchase bill of items, labour cost etc....

Hence the point to be decided in this case is as to whether collection of transmission side development charge on per kVA basis is in accordance with the orders of the Regulatory Commission and the arrear bill issued by the respondent is in order.

In the order dated 30-11-2010 issued by the Commission, it is held that the Licensee is entitled to recover the cost of works on the distribution side as well as transmission side based on the estimated cost of works. The Commission has approved the following methodology for estimating the cost of providing HT/EHT connections and for executing transmission works in favour of other beneficiaries.

Sl. No.	Description	Amount (Provisional)
1	Cost of materials	A
2	Erection & Commissioning	B = 7.5% of A
3	Transportation, Insurance & contingencies	C = 6% of A
4	Civil Works and special works like SCADA etc if any	As per estimation = D
5	Tree cutting compensation if any	As per estimation = E
6	Sub-Total	F = A+B+C+D+E
7	Overhead/Supervision charges	G = 10% of F
8	Total	F+G
9	Taxes & Duties if any extra	

In the order it was also specified that the licensee shall prepare the estimate of costs of the works based on the principles laid down above. A copy of the estimate thus prepared should be handed over to the beneficiary under acknowledgement. On completion of works, the licensee shall prepare an evaluation statement of the work, based on actual quantities, within 3 months of completion/energization of the works and hand over the same to the beneficiary. The beneficiaries shall be bound to remit the excess cost if any, within one month, failing which the Licensee shall be entitled to recover the same, as if it was arrears of current charges under appropriate regulations. Excess remittances if any shall be refunded by the Licensees by adjustment in the monthly current charges/ direct refund within a period of 3 months. The Commission has also ordered that any dispute on the matter, including the rates, quantum of works executed etc. shall be subject to review by CGRF and Ombudsman. Therefore, any individual dispute of the consumer related to the development charges can be brought before such Forum by the respective consumers.

In petition No. OP 22/2011 the Commission had issued an interim order on 07-10-2011. In the said interim order the following directions were given.

- (i) The Kerala State Electricity Board is directed not to proceed with the pro-rata system devised arbitrarily till a decision is taken on the OP 22/2011 filed by KSSIA (Ernakulam)
- (ii) KSEB is further directed to give connection to the consumers listed in Exhibit-1 of the petition OP 22/2011 by executing indemnity bond as commitment for making payments of additional charges if allowed in final orders of the Commission on the above petition.
- (iii) KSEB may proceed with collection of transmission charges as per the order of the Commission dated 23-05-2011 on TP 87/2011.

In view of the above direction issued by the Commission on 07-10-2011, various consumers filed Writ Petitions before the Hon'ble High Court of Kerala challenging the levy of transmission side development charges on per kVA basis by KSEB. The Single Bench of Hon'ble High Court in its common judgment dated 22-11-2012 in WP (C) No. 18726/2011 and connected cases, held that the levy of transmission side development charges and the demand for non-refundable advance impugned in the Writ Petitions was illegal and on that basis the Learned Single Judge had ordered that the amounts realized from the Writ Petitioners should be refunded to them with simple interest @ 6% per annum.

KSE Board filed Writ Appeal no. 900/2013 and connected cases challenging the common judgment rendered by Single Judge in WP (C) 18726/2011 and connected cases. The Division Bench of the Hon'ble High Court in its judgment dated 30-06-2014 in the above Writ Appeals allowed the collection of transmission side development charges by setting aside the judgment of Learned Single Judge in WP (C) 18726/2011 and connected cases.

Meanwhile the Hon'ble KSERC had issued a final order in petition OP No. 22/2011 dated 22-01-2015. The order reads as follows:

(1) KSEB Limited has the right to recover the reasonable expenditure, specifically incurred by its distribution profit centre for providing electric line and electrical plant required for giving supply of electricity to any consumer irrespective of whether such electric line and electrical plant are in the distribution system or the transmission system owned by the distribution profit centre, subject to the following conditions:-

- (i) the expenditure has been incurred by the distribution profit centre;
- (ii) the expenditure is reasonable;
- (iii) the expenditure has been estimated fairly and transparently in accordance with the cost data approved by the Commission;
- (iv) the expenditure is incurred for providing electric line or electrical plant used for the purpose of giving that supply; and
- (v) the expenditure is not included in the ARR & ERC or in any other investment plan approved by the Commission,

(2) The individual cases for recovery of expenditure from the consumers under section 46 of the Electricity Act, 2003, as mentioned in the petition may be settled in accordance with the principles pronounced by the Hon'ble High Court in its Judgment dated 30-06-2014 in Writ Appeal No. 900/2013 and connected cases.

(3) The individual cases which arose on or before 31-03-2014, for recovery of expenditure from the consumers under section 46 of the Electricity Act, 2003, which are not mentioned in the petition, may also be settled in accordance with the principles pronounced by the Hon'ble High Court in its Judgment dated 30-06-2014 in Writ Appeal No. 900/2013 and connected cases.

(4) The recovery of expenditure under Section 46 of the Electricity Act, 2003 in the cases which arose on or after 01.04.2014 shall be regulated in accordance with the provisions in the Kerala Electricity Supply Code, 2014, since the Judgment of the Hon'ble High Court dated 30.06.2014 in Writ Appeal No. 900/2013 and connected cases was issued in view of the provisions in the Supply Code, 2005.

But it may be noted that various consumers filed writ petitions before the Hon. High Court challenging the levy of transmission side development charges on per kVA basis by KSEB. Writ Appeal No. 900/2013 and other connected appeals were filed by KSEB challenging the common judgment by the single judge. In the SLPs filed by the connected parties against the judgment in Writ Appeal No. 900/2013, the Hon'ble Supreme Court have not stayed or annulled the judgment in the Writ Appeal.

In the letter dated 12-03-2012 of Executive Engineer, Transmission Division, Kalamassery addressed to the Deputy Chief Engineer, Electrical Circle, Perumbavoor, it was requested to realize from the consumer the proportionate amount for cost of capacity enhancement of transformer at 110 kV Substation, Aluva "Rs. 2420/ kVA to connect a load to the extent of 250 kVA on 11 kV Keezhmadu feeder. The Assistant Engineer, Electrical Section, Aluva directed the appellant to remit an amount of Rs. 6,05,000/- as the proportionate transmission side development charges vide letter dated 22-11-2014.

The respondent has stated that the consumer availed additional power to the extent of 250 kVA on 17- 06-2014 after executing a bond dated 25-5-2012. The respondent has furnished the actual cost of the work for the erection of a transformer prepared and submitted on 05-07-2016. On a perusal of the revised estimate for enhancing the station capacity by constructing of 1 No. transformer bay of 66/11 kV and by installing a 10 MVA Transformer in 110 kV Sub Station, Aluva for an amount of Rs. 218.16 lakhs prepared by the respondent; it is found that the estimate prepared is not in consonance with Circular No. KSEB/TRAC/S Code/SCC/R2/09/502 dated 13-07-2011 which was issued pursuant to Order dated 23-05-2011 in Petition No. TP 87/2011. The following variation is noted against the methodology for fixing the cost as stipulated by the KSERC in its orders.

1. Added 3% extra for spares in the estimate of materials (Part-1 Materials) which is not allowable as per KSEB circular dated 13-07-2011. Due to this an excess amount of Rs. 4.59 lakhs is charged.
2. Erection & Commissioning (Part-2) was calculated as 10% of part-1 in the estimate instead of 7.5%. (Actual cost is not furnished).
3. Insurance, transportation & contingencies was calculated as 13.75% (10% + 3.75%) of Part I instead of 6%.

In addition to the above discrepancies in the preparation of estimate, the respondent has not seen handed over a copy of the estimate prepared without observing the cost of works based on the latest material cost data. Further, the respondent has not prepared an evaluation statement of the works based on actual quantities within 3 months of completion / energization of the work as stipulated in the Order dated 23-05-2011 in Petition No. TP 87/2011 of Commission.

It is the bounden responsibility on the part of respondent to prepare the estimate fairly and transparently in accordance with the cost data approved by the Commission and on completion of works the licensee has to prepare and hand over an evaluation statement of the work, based on actual quantities, within 3 months of completion/energization of the works. On the basis of this the excess/arrears shall be recovered/ adjusted by the respondent. This was not seen followed in this case which amounts to lapses on the part of respondent.

As per Regulation 8 (3a) of Supply Code, 2005 deals with supply where new sub station is to be commissioned – ***if the licensee finds that supply of electricity to premises applied for requires commissioning of a new sub station which is not covered as part of the investment plan approved by the Commission, the licensee shall inspect the premises of the applicant and prepare the cost estimate for the work and intimate the applicant within one month of receipt of application.***

According to the Commission the judgment of Hon'ble High Court dated 30-06-2014 in Writ Appeal No. 900/2013 and connected cases has to be understood and implemented in view of the Section 46 of Electricity Act, 2003. The licensee may require the applicant to pay the cost estimate worked out under the sub clause (3 a) within a period of one month or such extended period as the licensee may allow at the request of the applicant. Though the respondent had directed the appellant to remit Rs. 6,05,000/- as development charges on 22-11-2014 and 28-02-2015, no follow up action was seen taken. The appellant's allegation is that a demand note for the remittance of transmission development charge was received on 17.04.2018 that is after disconnection of supply.

The cost as per the estimate for the construction of the entire capital work is not levied from a single applicant and instead, the total cost is divided among all the beneficiaries/applicants considering their power requirement. The methodology was implemented in good faith in order to have an equitable

distribution of expenses rather than burdening any one applicant from bearing the entire cost of providing infrastructure, and relieving the others from bearing any cost.

Hence the demand of charges on transmission part is legal and not in violation of existing provisions of the rules. The amount demanded is arrived based on the estimate cost of work for the capacity enhancement necessitated for giving supply to the appellant and the prospective consumers.

The appellant had requested for disconnection and dismantling of his HT electric connection on 27.03.2018, but the firm was physical disconnection w.e.f. 19-02-2018 as the appellant defaulted current charge for the billing months 01/2018 and 02/2018. Regulations 144 and 145 of the Supply Code 2014 reads as follows:

144. Grounds for dismantling of service. –

(1) The service shall be dismantled on the following grounds: -

(a) on the termination of the agreement;

(b) if the grounds on which the supply was disconnected are not removed or rectified within the notice period.

(2) If the agreement is terminated or if the consumer does not remove or rectify the grounds for disconnection, the licensee shall arrange dismantling of the service connection:

145. Dismantling on the request of the consumer. - (1) In case a consumer desires his service to be dismantled and the service connection agreement to be terminated, he shall apply for the same in the format specified in Annexure - 20 to the Code.

(2) The licensee shall give a written acknowledgment of receipt of such request, on the spot.

(3) The licensee shall, within ten days from receipt of the request, carry out a special reading and prepare a final bill including all arrears up to the date of such billing.

(4) The licensee may disconnect the supply of electricity immediately after the special reading is taken.

(5) On payment of all dues by the consumer, the licensee shall issue a No Dues Certificate and a receipt for the payment with the words 'Final Bill' stamped on it.

(6) Thereafter, the licensee shall not have any right to recover any charge for any period prior to the date of final bill.

(7) The licensee shall not raise any bill after dismantling.

The appellant defaults payment of current charges and the connection disconnected on 19-02-2018. The grounds on which the supply was disconnected are not removed or rectified within the notice period. But it is found that the respondent has not issued a notice to the appellant directing to remit the dues of current charge. At the same time, the appellant had submitted a letter for dismantling the connection on 27-03-2018. According to the respondent, for dismantling, the arrears of charges have to be cleared. But the respondent is not followed the procedure specified in the regulation, but dismantled the connection on 15-12-2018, without clearing the arrears by the appellant. As per the regulation, the Licensee shall, within ten days from receipt of the request, carry out a special reading and prepare a final bill including all arrears up to the date of such billing. It is pertinent to note that there was no consumption of energy by the appellant from 19-02-2018 onwards. The respondent has claimed arrear amount for the months from 03/2018 to 09/2018 also and the interest for the same.

The respondent has submitted an evaluation of estimate of works in transmission side based on actual expenditure of the work. As per the statement, it is Rs. 218.16 lakhs. But in the statement, it is found the certain items are not calculated as per the methodology for fixing the cost as stipulated by the KSERC in its orders. Hence a revised cost of expenditure towards the transmission development charges is calculated as shown below.

Part I	-	66 kV side	Rs. 130.49 lakhs
Part II	-	11 kV side	Rs. 22.65 lakhs

Total cost of material			Rs. 153.14 lakhs (Part I & II)
Part III civil works			Rs. 8.76 lakhs

Total			Rs. 161.90 lakhs (Part I, II & III)
			=====

Erection & Commissioning		7.5% of material cost
	=	153.14 x 7.5/100
	=	11.49 lakhs

(Actual cost for erection & commissioning is not available)

Transportation, insurance & contingencies @ 6% of cost of material

	=	153.14 x 6/100
	=	9.19 lakhs

Overhead charges @ 10% on material cost

	=	153.14 x 10/100
	=	15.31 lakhs

Grand Total	=	161.90 + 11.49 + 9.19 +15.31 lakhs
	=	197.89 lakhs
Transmission Development Charges	=	Rs. 6,05,000/- (Calculation with the original estimate of Rs. 242 lakhs)
	=	Rs. 6.05 lakhs x 197.89 lakhs / 242 lakhs
	=	4.95 lakhs =====

The appellant got the benefit of no interest on Transmission Development charges. There is a dispute in Bank Guarantees furnished by the appellant and its validity. It is directed that the appellant and respondent shall settle the issue with the bank pertain to the bank guarantee.

The appellant has defaulted the payment of the current charges for the consumption of the months of 12/2017, 01/2018 and 02/2018 amounting to Rs. 8,94,012/-, Rs.5,35,748/- and Rs. 1,15,997/- respectively. The appellant shall liable to remit these amounts with interest up to the date of remittance.

The fixed charge billed for the months from 04/2018 to 09/2018 shall be excluded from payment, since the appellant had requested for dismantling of the connection on 27/03/2018. The security deposit with interest shall be adjusted against the pending payments of the appellant.

Decision

From the findings and conclusions arrived at as detailed above, I decide as follows:

1. The Transmission Development Charges for Rs. 6,05,000/- issued to the appellant is quashed. The respondent shall issue revised bill for Rs. 4.95 lakhs as calculated above. No interest is payable by the appellant for this amount.
2. The arrear bill for Rs. 16,47,157/- issued to the appellant is also quashed. The respondent shall prepare a revised bill for the pending dues of current charges for the consumption of the months of 12/2017, 01/2018 and 02/2018 with interest till the date of remittance.
3. The respondent shall not collect the fixed charges amounting to Rs 6,08,400/- for the months from 04/2018 to 09/2018 from the appellant.
4. The respondent shall adjust the security deposit with interest against the above-mentioned pending dues of the appellant.
5. The respondent shall issue the revised bills within a period of 30 days from the date of this order and keep pending any Revenue Recovery proceedings during this period.

Having concluded and decided as above, it is ordered accordingly and the Appeal Petition filed by the appellant, stands allowed to the extent ordered. The order of CGRF, Ernakulam in 62/2018-19 dated 16-03-2019 is set aside. No order on costs.

ELECTRICITY OMBUDSMAN

P/060/2019/ _____ /Dated: _____

Delivered to:

1. Sri. Tanty K.O. M/s Rub Tech Industries, Keezhmadu P.O., Erumathala, Aluva, Ernakulam
2. The Deputy Chief Engineer, Electrical Circle, KSEBL, Perumbavoor, Ernakulam
3. The Special Officer (Revenue). Vydhyuthi Bhavanam, KSEBL, Pattom, Thiruvananthapuram
4. The Assistant Executive Engineer, Electrical Sub Division, KSEBL, Aluva, Ernakulam

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, CGRF-CR, 220 kV Substation Compound, KSE Board Limited, HMT Colony P.O., Kalamassery, PIN: 683 503.