

**KERALA STATE ELECTRICITY REGULATORY COMMISSION  
THIRUVANANTHAPURAM**

**Present : Adv. A.J Wilson, Member (Law)**

**OP No 62/2022**

In the matter of : Petition seeking amendment or incorporation of a percentage variation/exemption in Regulation 9 and 11 of the Kerala Electricity Supply Code, 2014 to get an exemption from the Low Voltage Supply Surcharge in case there is only a small variation in excess than the sanctioned load in respect of LT IV tariff consumers.

Petitioners : 1. M/s Falcon Ice Company, Goshree Junction, Azeekal P.O, Vypin.  
2. M/s Polar Ice Plant, Near Cruz Milgris church, Ochanthuruth, Ernakulam

Respondents : Kerala State Electricity Board Ltd (KSEB Ltd)

Petitioners represented by : Adv. Hassan Ahamed, Council for the petitioners.  
Shri K.P. Hashim, M/s Falcon Ice Plant.  
Shri. K.L. John Lawrence, M/s Polar Ice Plant.

KSEB Ltd represented by : Shri. M.P. Rajan, DY CE TRAC, KSEB Ltd.  
Shri. Edward Boniface, AEE TRAC, KSEB Ltd

Date of hearing : 25.11.2022, 11:00 AM  
Venue : e-hearing through video conferencing

**Order dated 16.12.2022**

1. The petitioners M/s Falcon Ice, Goshree Junction, Azeekal P.O, Vypin and M/s Polar Ice Plant, Near Cruz Milgris Church, Ochanthuruth, Ernakulam filed a petition dated 12-7-2022 before the Commission with the following prayers to *“amend or add or incorporate a percentage variation/exemption in Regulation 9 and 11 to get an exemption from the Low Voltage Supply Surcharge in case the there is only a small variation in excess than the sanctioned load. Otherwise, the petitioners will be put to irreparable injury and heavy hardships and loss”*.
2. The summary of the petition filed by the petitioners is given below.
  - (1) The first petitioner M/s Falcon Ice, is running an ice plant at Kalamukku, Goshree Junction, Azeekal P.O, Vypin. On 13.01.2022, the petitioner received a notice from KSEB Ltd to pay an additional

amount of Rs 4,76,680/- as per Regulation 9 and 101(3) of the Supply Code, 2014, as loss occurred to KSEB Ltd for the period from 4/2018 and 11/2021 due to exceeding the RMD. Against the notice, the petitioner filed a complaint before the CGRF Ernakulam, and the CGRF vide its Order dated 23.03.2022, ordered to revise the bill by demanding Low Voltage Supply Surcharge only for the billing month in which recorded maximum demand exceeded 100kVA.

- (2) The second petitioner M/s Polar Ice Plant at Ochanthuruth, Ernakulam is running an ice plant under electrical section Vypin. The petitioner received a notice on 13.01.2022 to pay Rs 6,79,878 /- as short assessment bill for exceeding the contract demand above 100kV. The petitioner filed a complaint before the CGRF Ernakulam and the CGRF vide the Order dated 30.03.2022 ordered to revise the bill by charging Low Voltage Surcharge only for the billing month in which recorded maximum demand was exceeded 100kVA.
- (3) Since the Orders issued by CGRF is as per the Regulations in the Kerala Electricity Supply Code, 2014, and the valid points raised by the petitioner, they have decided **not to prefer appeal against the Orders of the CGRF** before legal forums.

But the petitioners being a MSME, they are very much aggrieved by the charging of low voltage surcharge for exceeding the Contract Demand above 100kVA even if for a slight variation.

- (4) The Regulation 9 and 11 of the Supply Code, 2014 is extracted below.

*“9. Low voltage supply surcharge. - Consumers availing supply at voltage lower than the one specified in regulation 8 for the respective limits of connected load or contract demand shall pay the low voltage supply surcharge to the licensee at the rates as approved by the Commission from time to time in the tariff order”.*

The Regulation 11 of Supply Code 2014 is as extracted below:

*“11. Limits of connected loads and contract demand for new LT connections. - (1) The maximum connected load permissible for low tension three phase category shall be limited to 100kVA 1[except in the case of consumers billed on the basis of contract demand]:*

*[Provided that a low-tension consumer who, as on the date of implementation of the Kerala Electricity Supply Code, 2005, had a contracted connected load exceeding the limit of 100kVA, may be permitted, subject to realisation of low voltage supply surcharge, to operate with the same contracted connected load at the same voltage level of supply until an upward revision of connected load is sought for by the consumer].*

*(2) The maximum contract demands permissible for low tension consumer who avails power under demand-based metering shall be 100kVA, irrespective of his connected load. 3[Provided that the consumers who existed on the date of implementation of Kerala Electricity Supply Code, 2005, and who were permitted to operate at low tension upto a connected load of 150kVA in accordance with clause (b) of sub Regulation(5) of Regulation 4 of the Kerala Electricity Supply Code, (Fourth Amendment) Regulations 2008 and subsequently opted for contract demand based billing shall be allowed to operate at the same voltage level and contract demand as on the date of implementation of the Code, subject to realization of low voltage surcharge until an upward revision of contract demand is granted on application submitted by the consumer or becomes otherwise necessary.*

*Provided further that the contract demand for an Industrial consumer in Industrial parks / industrial estate notified by notified by Government of Kerala and/or by Government of India except in multi storied buildings shall be limited to 150kVA in low tension subject to payment of low voltage surcharge in which their LT metering point shall be at the transformer point].”*

The petitioner further submitted that, as per the above Regulations of the Kerala Electricity Supply Code, 2014, an LT consumer when exceeded the sanctioned load shall pay low voltage supply surcharge. But the consumers have no way to check the RMD to find out whether it has exceeded the sanctioned load or not. The consumers will come to know about the excess usage only after getting the bill issued from the concerned department. The consumers are bound to pay low voltage surcharge when the RMD exceeds for a short duration even without having consumption. After the Covid-19 pandemic, this type of additional burden will destroy the industries who are slowly progressing. It is therefore necessary to make urgent changes/amendments on applicable Regulations of Supply Code to obtain an exemption from payment of Low Voltage Supply Surcharge. The petitioners further submitted that they are not seeking for a complete exemption but instead requested to set a limit or to set a percentage variation for the increased consumption so that the petitioners can claim exemption from Low Voltage Supply Surcharge when the consumption increase only marginally.

3. KSEB Ltd vide the submission dated 24.11.2022 submitted the following;
  - (1) The audit wing of the KSEB Ltd found that the petitioners had drawn supply at a demand more than the contracted demand. Hence as per the Regulations 9 and 101(3) of the Supply Code, 2014, a short assessment bill of Rs 4,76,680/- was issued to 1<sup>st</sup> petitioner and Rs 6,79,878/- was issued to the 2<sup>nd</sup> petitioner. The short assessment bills were issued at the rate of low voltage surcharge rate specified in the Tariff Order.
  - (2) Aggrieved by the short assessment bill, the petitioner had approached the CGRF, Central Region and the Forum vide the Order dated 23.03.2022 has ordered to revise the bill by charging the low voltage

supply surcharge only for the billing in which the RMD has exceeded 100 kVA. In compliance of the Orders of the CGRF, the bill amount was reduced to Rs 3,24,600/- and Rs 1,50,270/- respectively. The contravention of the first petitioner was 18 times during the period from 04/2018 to 05/2022 and that of the 2<sup>nd</sup> petitioner was 9 times with in the period of 02/2019 to 05/2022. These consumers have continuously breached the agreement conditions and drew power over and above the maximum limit of 100kVA for LT consumers as per Regulation 8 of the Supply Code, 2014. In the year 2022 also, the petitioners consumed power over and above the limit specified in the Code. Hence the Commission may direct the petitioners to avail HT supply at the earliest.

- (3) The Commission has specified the contract load limit in each voltage level under Regulation 8 of the Supply Code, 2014. The Regulation-9 of the Supply Code, 2014, specifies the low voltage surcharge and its implementation.
- (4) Regulation 170 of the “Kerala Electricity Supply Code, 2014” specifies the procedure to review the Code and the same is extracted below.

*“170. Procedure for review of the Code. - (1) Any licensee, consumer or other stakeholders proposing any change in this Code shall send the proposal in writing to the Member Secretary of the Electricity Supply Code Review Panel in one soft copy, accompanied by seven hard copies specifying the reasons for such proposed change and setting out the attendant circumstances and anticipated benefits.”*

Considering the above facts and reasons, KSEB Ltd requested to dismiss the petition and direct the petitioners to approach the Electricity Supply Code Review Panel. KSEB Ltd has also requested to direct petitioners to avail HT connection as per Regulation 101 of the Supply Code 2014 and to remit the short assessment bills issued as per the CGRF Order dated 23.03.2022 for the 1<sup>st</sup> petitioner and the short assessment bill as per the CGRF Order dated 30.03.2022 for the 2<sup>nd</sup> petitioner.

4. The Commission admitted the petition as OP 62/2022. Sri. Adv. Hassan Ahamed, council for the petitioners presented the matter before the Commission. Sri MP Rajan, Deputy Chief Engineer, TRAC presented the counter arguments on behalf of the respondent KSEB Ltd. The summary of the deliberations during the hearing is given below.

- (1) The petitioners submitted that, due to repair and maintenance, the ice plant of the 1<sup>st</sup> petitioner was closed during the period from June 2018 to August 2020. However, the 1st petitioner has remitted the minimum fixed charges as per the bill issued from the KSEB Ltd without any failure. It was further submitted that a notice was issued from the office of the Assistant Engineer, Electrical section, Vypin informing that the unit of the 1<sup>st</sup> petitioner has taken energy more than that of the connected load of 89 KW and contract demand of 100KVA. Hence as

per regulation 9 and 101(3) of the Kerala electricity Supply Code 2014, the petitioner has to pay an amount of Rs. 4, 76,680/- as low voltage surcharge within 15 days for the loss suffered by KSEB Ltd for the period from 4/2018 to 11/2021 due to exceeding RMD.

The 2nd petitioner also received a short assessment bill amounting to Rs. 6, 79,878/- for exceeding the contract demand above 100 kVA for the period from 05/2008 to 11/2021.

The petitioner submitted that; the dispute is only with regard to the penalty imposed. Hence, both the petitioners filed complaints before the Consumer Grievance Redressal Forum at Ernakulam. The CGRF, in both the cases has ordered to revise the bill by charging Low Voltage Supply Surcharge only for the billing month in which recorded maximum demand has exceeded 100 kVA.

The petitioners further submitted that, since the Orders issued by CGRF is as per the Regulations in the Kerala Electricity Supply Code, 2014, the petitioner decided not to prefer appeal against the Orders of the CGRF before legal forums. But the petitioners being a MSME, they are very much aggrieved by charging of low voltage surcharge when Contract Demand exceeded above 100kVA even for a small duration.

The petitioners have submitted that as per Regulation 9 and 11 of the Kerala electricity Supply Code 2014, a low-tension consumer who had exceeded the sanctioned load shall pay low voltage supply surcharge but it was pointed out that the consumers had no way to check the RMD to find out whether it has exceeded the sanctioned load or not. The consumers usually come to know about the excess usage only after receiving the bill issued from the concerned department.

After the Covid-19 pandemic, this type of additional burden will destroy the industries who are slowly progressing. It is therefore necessary to make urgent changes/amendments to applicable Regulations of Supply Code to obtain an exemption from payment of Low Voltage Supply Surcharge.

- (2) Shri.M.P. Rajan, DY CE, TRAC, KSEB Ltd submitted the following counter arguments:

The petitioners are LT consumers, being billed under LT IV (A) Industrial Tariff. The contract demand and connected load of the first petitioner is 100 kVA and 89.254 kW respectively and that of the second petitioner is 99 kVA and 89.254 kW respectively.

KSEB Ltd further submitted that during an audit by the Regional Audit of the KSEB Ltd., it was found out that the petitioners had drawn supply at a demand more than the contract demand. Hence, Short assessment bills were issued as per regulation 9 and 101 (3) of the Kerala Electricity Supply Code 2014.

Aggrieved by the short assessment bills, the petitioners had approached the CGRF, Central Region and the Forum vide order dated 23.03.2022 had ordered to revise the bills by charging the low voltage supply surcharge only for the billing month in which recorded maximum demand has exceeded 100 kVA citing that distribution loss has occurred when the licensee supplied the high demand at low voltage.

In compliance to the orders of the CGRF, M/s KSEB Ltd has issued revised bills to the petitioners, and reduced it to Rs 3,24,600/- and Rs. 1,50,270/respectively. KSEB Ltd further submitted that M/s Polar Ice Plant had remitted the full amount of short assessment bill towards KSEB Ltd.

The violation of the 1<sup>st</sup> petitioner (usage over and above the maximum contract demand for LT supply- 100 kVA) was 18 times during the period from 04/2018 to 05/2022 and that of 2<sup>nd</sup> petitioner was 9 times during the period from 02/2019 to 05/2022. The petitioners had continuously breached the agreement conditions and drew power over and above maximum limit of 100 kVA for LT consumers as specified in the Regulation 8 of the Kerala Electricity Supply Code, 2014.

KSEB Ltd further submitted that, during the last five months of the year 2022, the petitioners had consumed power over and above the limit specified in the Code.

KSEB Ltd also submitted that, as per the Regulation 170 of the ' Kerala Electricity Supply Code, 2014 specifies the procedure to review the Code'. As per the Regulation 170 of the Supply Code, 2014, if the petitioners propose any change in the Supply Code, 2014 shall send the proposal in writing to the Member Secretary of the Electricity Supply Code Review panel. The Code Review Panel may as per the procedures laid down in the Supply Code, 2014 place such proposal before the Commission with their comments for further course of action..

#### **Analysis and Decision of the Commission:**

5. The Commission has examined in detail the petitions filed by M/s Falcon Ice and M/s Polar Ice Plant for seeking amendment or incorporation of a percentage variation/exemption in Regulation 9 and 11 of the Kerala Electricity Supply Code, 2014, as per the provisions of the Electricity Act,2003 and Kerala Electricity Supply Code 2014, and decides as follows:
6. The only prayer in the common petition filed by the petitioner M/s Falcon Ice and M/s Polar Ice Plant is to 'amend/modify the Regulations 9 and 11 of the Kerala Electricity Supply Code, 2014, so as to get an exemption from the payment of Low Voltage Surcharge when there is a small excess variation in recorded maximum demand than the sanctioned load of the petitioners.

7. The Commission examined the prayer and other issues raised in the common petition and noted the following;

- (1) As per the Regulation 8 of the Kerala Electricity Supply Code, 2014, the maximum load that can be connected at LT is 100kW for connected load-based billing consumers and 100kVA for demand-based billing consumers.
- (2) The Regulation 9 of the Supply Code, 2014 specifies that, the consumers availing supply at voltage lower than the one specified in Regulation 8 of the Supply Code, 2014 shall pay low voltage surcharge to the licensee at the rates approved by the Commission in the tariff order from time to time. The relevant Regulation is extracted below.

*“9. Low voltage supply surcharge. - Consumers availing supply at voltage lower than the one specified in regulation 8 for the respective limits of connected load or contract demand shall pay the low voltage supply surcharge to the licensee at the rates as approved by the Commission from time to time in the tariff order.”*

- (3) The Regulation 11 of Supply Code 2014 specifies the limits of connected loads and contract demand for new LT connections. The relevant portion is extracted below;

*“11. Limits of connected loads and contract demand for new LT connections. - (1) The maximum connected load permissible for low tension three phase category shall be limited to 100kVA 1[except in the case of consumers billed on the basis of contract demand]:*

*[Provided that a low-tension consumer who, as on the date of implementation of the Kerala Electricity Supply Code, 2005, had a contracted connected load exceeding the limit of 100kVA, may be permitted, subject to realisation of low voltage supply surcharge, to operate with the same contracted connected load at the same voltage level of supply until an upward revision of connected load is sought for by the consumer].*

*(2) The maximum contract demand permissible for low tension consumer who avails power under demand-based metering shall be 100kVA, irrespective of his connected load. 3[Provided that the consumers who existed on the date of implementation of Kerala Electricity Supply Code, 2005, and who were permitted to operate at low tension upto a connected load of 150kVA in accordance with clause (b) of sub Regulation(5) of Regulation 4 of the Kerala Electricity Supply Code, (Fourth Amendment) Regulations 2008 and subsequently opted for contract demand based billing shall be allowed to operate at the same voltage level and contract demand as on the date of implementation of the Code, subject to realization of low voltage surcharge until an upward revision of contract demand is*

*granted on application submitted by the consumer or becomes otherwise necessary.*

*Provided further that the contract demand for an Industrial consumer in Industrial parks / industrial estate notified by notified by Government of Kerala and/or by Government of India except in multi storied buildings shall be limited to 150kVA in low tension subject to payment of low voltage surcharge in which their LT metering point shall be at the transformer point].”*

- (4) The petitioners, M/s Falcon Ice Plant and M/s Polar Ice Plant are industrial consumers of KSEB Ltd. The connected load and contract demand of the M/s Falcon Ice is 89kW and 100kVA respectively. The connected load and contract demand of M/s Polar Ice Plant is 89.2 kW and 99 kVA respectively. Since both the petitioners are LT industrial consumers and hence they are demand based billing consumers. Accordingly, in the case of the petitioners, the maximum load that can be connected at LT is limited to 100 kVA only.
  - (5) As per the details submitted by the petitioners and the respondent KSEB Ltd, in few months during the period from April-2018 till November 2021, the recorded maximum demand of both the petitioners had exceeded the permissible limit of 100kVA. Hence, KSEB Ltd demand Low Voltage Surcharge for the entire period.
  - (6) However, based on the complaints filed by the petitioners, the Consumer Grievance Redressal Forum (CGRF), Central Region, Ernakulam vide its orders dated 23.03.2022 and 30.03.2022 ordered to charge Low Voltage Supply Surcharge only for the billing months in which recorded maximum demand has exceeded 100 kVA.
  - (7) In compliance of the Orders of the CGRF, KSEB Ltd issued the revised bills. The petitioners also have no grievances regarding the Order of the CGRF.
  - (8) However, in this petition, the petitioners have requested before the Commission to amend/modify the Regulation 9 and 11 of the Kerala Electricity Supply Code, 2014, so as to get an exemption from the payment of Low Voltage Surcharge when there is a small excess variation in recorded maximum demand than the sanctioned load.
8. The Commission, in exercise of the powers conferred on it by Section 50 read with Section 181 of the EA-2003, notified the Kerala Electricity Supply Code, 2014 (herein after referred as Supply Code, 2014) on 31.01.2014. The Commission has notified the said Regulation duly complying the procedures laid out in the Electricity Act, 2003 including pre-publication, stake holder consultation including public hearings. As already discussed in the preceding paragraphs, among other things, the Regulation 8 of the Supply Code,2014 specifies the supply voltages for different connected loads or contract demand. Regulation 9 specifies that ‘consumers availing supply at voltage lower than the



one specified in Regulation 8 of the respective connected load or contract demand shall pay the 'Low Voltage Supply Surcharge' to the licensee at the rate specified by the Commission. The Regulation 11 of the Supply Code,2014 specifies the 'limits of connected loads and contract demand for new LT connection.

The petitioners in the petitions proposed to amend the Regulations 9 and 11 of the Supply Code,2014, so as to get an exemption from the payment of 'Low Voltage Surcharge' when the actual recorded maximum demand of the petitioners exceeds the sanctioned load.

9. The Commission noted that, the Regulations 170 and 171 of the Supply Code, 2014 specifies the procedure for review and amendment to the Supply Code, 2014. The relevant Regulations is extracted below.

*"170. Procedure for review of the Code. - (1) Any licensee, consumer or other stakeholders proposing any change in this Code shall send the proposal in writing to the Member Secretary of the Electricity Supply Code Review Panel in one soft copy, accompanied by seven hard copies specifying the reasons for such proposed change and setting out the attendant circumstances and anticipated benefits.*

*(2) The Member Secretary of the Electricity Supply Code Review Panel shall prepare comments and place them before the Members and the Chairperson of the panel at least seven days prior to the date of its meeting.*

*(3) The Member Secretary of the Electricity Supply Code Review Panel shall record the comments of the members during the meeting.*

*(4) The Member Secretary may, with the approval of the Chairperson of Electricity Supply Code Review Panel, invite the person who had submitted the proposal for amendment to the Code, for presentation of his views before the Panel.*

*(5) The Panel may set up sub-committees, if necessary, to study the proposed amendments and the issues related to them.*

*(6) The Panel shall, after finalizing its views on the proposals for amendments to the Code, submit its recommendations to the Commission.*

*(7) The Commission may approve the proposed amendments with or without modification as it may deem fit and follow the procedure as per regulation 171 for the amendment of the Code.*

*171. Procedure for amendment to the Code. - (1) The Commission shall publish the proposed amendments to the Code in the manner specified in sub regulation (2) below and obtain the views of the stakeholders on them before any amendment is made to the Code.*

*(2) The proposal for amendment to the Code shall be placed on the websites of the licensees and of the Commission and information relating to that shall be published by the licensees in at least two newspapers having wide circulation in their area of supply apart from exhibiting the copies of the proposed amendments in all their local offices.*

*(3) The amendment to this Code if any made by the Commission after following the above procedure shall be published in the official gazette and the amendment shall come into force from such date of publication in official gazette.*

10. As extracted above, since the Regulations 170 and 171 clearly specifies the procedure to review and amend the provisions of the Supply Code, 2014, the Commission cannot review and make amendment to the Supply Code, 2014

based on petition filed by the stake holders before the Commission. If the petitioners propose to review and make amendment to the Supply Code, 2014, they shall send the proposal in writing to the Member Secretary of the Electricity Supply Code Review Panel as per the Regulation 170 of the Supply Code, 2014 for placing the same before the Commission. Meanwhile, the Commission also decided to refer the issues raised in the petition to the Electricity Supply Code Review Panel for placing before the Commission along with their comments. With the above observation, the Commission rejects the petition.

### **Order of the Commission**

11. The Commission after examining the petition filed by M/s Falcon Ice and M/s Polar Ice Plant for seeking amendment or incorporation of a percentage variation/exemption in Regulation 9 and 11 of the Kerala Electricity Supply Code, as per the provisions of the Electricity Act,2003 and Kerala Electricity Supply Code 2014, hereby orders the following;
- (1) Reject the petition OP No. 62/2022 due to the reasons cited under paragraphs 9 and 10 above.
  - (2) The petitioners may take up the issues raised in the Petition before the Electricity Supply Code Review Panel as per Regulation 170 of the Supply Code, 2014 for review and amendment.
  - (3) To refer the issues raised in the petition to the Electricity Supply Code Review Panel for placing the same before the Commission along with their comments

The petition is disposed of. Ordered accordingly.

**Sd/-**  
**Adv. A J Wilson**  
**Member (Law)**

Approved for issue

Sd/-  
C R Satheeshchandran  
Secretary