

THE STATE ELECTRICITY OMBUDSMAN
Charangattu Bhavan, Building No.34/895, Mamangalam-Anchumana Road,
Edappally, Kochi-682 024
www.keralaeo.org Ph: 0484 2346488, Mob: 91 9539913269
Email:ombudsman.electricity@gmail.com

APPEAL PETITION No. P/056/2017
(Present: A.S. Dasappan)
Dated: 14th August 2017

Appellant : Smt. C. Manka,
Prem Nivas,
Mampallikunnam,
Chathanuur, Kollam

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd,
Chathannur,
Kollam

ORDER

Background of the case:

The electric service connection, consumer No.9670, under Chathannoor Electrical Section, stands in the name of Smt. Manka. The service connection is under LT IA domestic tariff and the connected load is 380 watts. A short assessment bill for Rs. 4,193/- was issued to the appellant, for the meter faulty period of 11/2012 to 03/2015 on the basis of the audit report of the Audit wing of KSEB. Aggrieved against the impugned bill, the appellant filed a complaint before the CGRF, Kottarakkara on 03-01-2017. The Forum quashed the short assessment bill for Rs. 4,193/- and directed the respondent to revise the bill for a period of two billing cycles. Not satisfied with the decision of CGRF, vide OP No. 337/2017 dated 22-04-2017, the appellant has submitted the Appeal petition before this Authority.

Arguments of the appellant:

The appellant was issued with a short assessment bill for Rs. 4,193/- alleging meter faultiness for the period from 11/2012 to 03/2015. The faulty meter was changed in 04/2015 only. The electricity bills received after replacement of the meter were remitted regularly without fail. As a consumer, the appellant has not committed any false. It was the lapse and negligence on

the part of the respondent caused for the issuance of such a short assessment bill after a long period. The appellant belongs to below poverty line and scheduled caste. She is aged 70 years and handicapped person. The appellant expresses her inability to remit the short assessed amount issued to her without issuing a notice and without hearing her. During the meter faulty period the appellant had remitted bimonthly electricity charges billed by the respondent on the basis of previous average consumption. Hence a further revision of the bills on the basis of succeeding bimonthly consumption is not justifiable and hence not sustainable before law. The appellant prays to cancel the impugned bill.

Arguments of the respondent:

The appellant is a consumer of Electricity bearing consumer number 9670 under LT I A, Domestic Tariff. The meter installed in the appellant's premises is found faulty during November 2012 and an average of 100 units during 11/2012 -11/2014 and 126 units from 1/2015 - 3/2015 has been charged. Faulty meter has been changed on 09-04-2015 and the consumption pattern of the consumer is as follows

7/2015	-	424 units
9/2015	-	365 units
11/2015	-	389 units

That is an average of 393 units has been used after the meter change. From the above figures it is evident that the consumer is benefited during the meter faulty period. The Audit wing of KSEB found the above irregularity and instructed to rectify the same by issuing short assessment bill. Hence an amount to Rs. 4,193/- has been issued to the consumer in compliance of regulation 125 of the Kerala Electricity supply code 2014. Filing of this petition by challenging the issuance of the short assessment bill has no legal basis, since Board reserves the right to issue short assessment bill for the meter faulty period. The above right of Board has upheld by The Hon'ble High Court of Kerala in various judicial pronouncements.

The above short assessment bill is issued in compliance of Regulation 125 of Kerala Electricity supply code 2014, in exercise of powers conferred by section 50 read with section 181 of the Electricity Act 2003. Therefore the bill issued is in order and the appellant is liable to pay it. The reliefs sought for in the petition have no legal sanctity.

In the circumstances stated above it is humbly prayed that this Hon'ble forum may dismiss the complaint with cost to the opposite party and also with a direction to pay the bill due to Board without further delay.

Analysis & Findings:

The hearing of the case was conducted on 27-07-2017 in the Court Hall of CGRF, Kottarakkara. The appellant was represented by her son, Sri. Premalal R. and the opposite side by Sri. Ajilal A, the Assistant Executive Engineer, representing the respondent. On a perusal of the appeal petition filed, the counter statement submitted by the respondent, the averments raised in the hearing by both sides and analyzing all the facts and circumstances of the case, I come to the following findings and conclusions leading to the decisions thereof.

There is no denial of the fact from either side that the existing meter was faulty during the period of 11/2012 to 03/2015.

Hence the point for decision is what was the true average bimonthly energy consumption of the consumer during the meter faulty period and the short assessment amount issued is in order?

Prior to the meter became faulty, the consumption details of energy by the consumer was not furnished by either parties. As per KSEB, after the replacement with a good meter, the reading for subsequent three bi-months of 07/2015, 09/2015 and 11/2015 were 424, 365 and 389 units respectively and the average energy consumption was 393 units per bi-month. The KSEB has reassessed the consumer, during meter faulty period, as per the provision of Regulation 125 of the Kerala Electricity Supply Code, 2014, by issuing a provisional assessment bill dated 02-02-2016, with the last date of remittance and disconnection shown as 31-12-2016. Regulation 125 of Supply Code, 2014 stipulates the procedure for billing in the case of defective or damaged meter. *“In the case of defective or damaged meter, the consumer shall be billed on the basis of average consumption of the past 3 billing cycles immediately preceding the date of meter being found or reported defective.*

Provided that the average shall be computed from the 3 billing cycles after the meter is replaced if required details pertaining to previous billing cycles are not available”.

As per regulation 125 (2), charges based on the average consumption shall be levied to only for a maximum period of two billing cycles and during which the time the licensee shall be replaced the defective or damaged meter with a correct meter. In the present case, the short assessment was done for the period of 11/2012 to 03/2015 by declaring the meter was faulty. Here, the faulty meter was not replaced for 28 months from 11/2012. The faulty meter was replaced only on 09-04-2015. It seems that the Board has not taken proper action in time. The Board has miserably failed in replacing the faulty meter in a reasonable time and penalizing the consumer after 4 years is not

fair. The appellant has argued that the high consumption after replacement of the meter was due to defect of the fridge which was replaced later. The appellant's bi-monthly consumption during the bi-months of 3/2017, 5/2017 and 7/2017 were 206 units, 240 units and 236 units respectively.

The licensee can recover from the consumer, the amount undercharged by the Licensee, if it is proved, by reassessing the consumer. The short assessment became due only after the detection or realization of an apparent error or mistake and the bill raised for the same (undercharged) from the consumer and it is not depended on the date of electricity consumed. Amounts of impugned bill were demanded earlier on the basis of average consumption and paid by the appellant. For the meter faulty period of 11/2012 to 11/2014 the consumer was assessed at the rate of 100 units per bi-month and for 12/2014 to 03/2015, he was charged for 126 units each. Here in the first instance, the faulty meter was not replaced for 28 months after the meter became faulty in 11/2012. Moreover, the respondent failed to reassess the consumer as per the true average energy consumption obtained, even after getting the subsequent meter readings on replacing the faulty meter. The reassessment was done only in 12/2016, and that too based on an audit report. The Board is duty bound to watch the discrepancies in the meter readings obtained and take appropriate action in time, including the replacement of faulty meters. The respondent took no action to replace the appellant's faulty Meter in time. There is total laxity or lapses on the part of respondent in this regard.

The installation of a good meter (Check meter), in tandem to existing (disputed) meter to verify the accuracy of the meter is justifiable as per regulations. When the test is undertaken by KSEB on the consumer's meter, it is the best practice to prepare a mahazar, in the presence of the appellant or his representative, recording the facts of, Check meter installed, the details of both meters with their seals, recording their initial reading etc on the first day and got it witnessed and then leave both meters in service for one weeks time, for joint working. Similarly, after informing the consumer, a final recording of meter readings in his presence, would have cleared the doubts and the said mahazar so prepared will surely be a valid document before any legal Forum. But the respondent failed to do so and the consumer has raised the allegation that the testing was not done and the matter remains unsettled.

There is no material to show that the respondent has conducted any detailed checking of the appellant's meter. In this background, the issuance of short assessment bill on the appellant merely on the basis of presumption and succeeding consumption pattern cannot be justified before law and liable to be quashed.

Decision

From the above noted analysis, findings and the conclusions arrived at I decided to allow the petition by quashing the short assessment bills issued to the appellant and also set aside the order of CGRF, Kottarakkara revising the bill for Rs. 4,193/- for a period of two billing cycles. It is found that the average fixed during the faulty period based on the consumption of previous period is again reassessed by the respondent.

ELECTRICITY OMBUDSMAN

P/056/2017/ _____ /Dated: _____

Delivered to:

1. Smt. C. Manka, Prem Nivas, Mampallikunnam, Chathanuur, Kollam
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Chathannur, Kollam

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Kottarakkara - 691 506.