

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/013/2020
(Present: A.S. Dasappan)
Dated: 25th May 2020

Appellant : Sri. B. Soman,
Meenakshi Bhavan,
Trimoorthy Bhavan, Kamaleswaram,
Thiruvananthapuram

Respondent : The Assistant Executive Engineer
Electrical Sub Division, KSEBL,
Fort, Thiruvananthapuram

ORDER

Background of the Case:

The appellant is a domestic 3 phase service consumer bearing consumer No. 14170 under Electrical Section. Poonthura. Average bills were issued to the appellant from 10/2016 for 318 units as the meter was found faulty. The appellant was aggrieved by the bills issued for the average consumption recorded as 318 units bimonthly. Aggrieved by this, the appellant had approached the CGRF, Kottarakkara by filing a petition in OP No. 113/2019. The Forum disposed of the case in favour of KSEBL as the bills were issued based on the previous average of three billing cycles and that the appellant is liable to pay the bill, vide order dated 11-12-2019. Against the decision, the appellant has submitted this appeal petition before this Authority on 17-02-2020.

Arguments of the appellant:

The appellant is a consumer of Electrical Section, Poonthura. The appellant was given an electricity bill for 318 units based on the average of the previous consumption following the information of the meter reader in 10/2016 that the meter was faulty. While the remittance is being made for 318 units from 10/2016 onwards, the appellant's daughter and her family shifted from the house and hence the appellant requested the respondent either to replace the faulty meter or to reduce the consumption for average billing from 318 units to 150 units. But no action was taken by the respondent. The appellant approached Regulatory Commission and accordingly the meter was changed on 08-12-2018. The bimonthly consumption after the replacement of faulty meter is below 150 units. The

appellant approached Consumer Grievance Redressal Forum for the refund of excess amount remitted, but the Forum denied the request.

As per the appellant he was not heard by the Forum and issued order. The Regulation 125(1) of Kerala Electricity Supply Code, 2014 states "Provided further that any evidence given by consumer about conditions of working and occupancy of the concerned premises during the said period (Meter faulty period) which might have had a bearing on energy consumption shall also be considered by the licensee for computing the average". The Forum has not considered the grievance of the appellant as above. It is unjustified to issue an order in favour of the appellant in the subject of refund of excess amount, in a circumstance of the faulty meter was not replaced within the period of 26 months. The Regulation 134 (2) of Kerala Electricity Supply Code, 2014 states "If, after payment of any bill, it is established that the licensee has overcharged the consumer, the excess amount shall be refunded to the consumer with interest at bank rate as on the date of remittance of such excess amount".

The request of the appellant is to refund the excess amount remitted as per the provisions contained in Regulation 134 (2) of the Kerala Electricity Supply Code, 2014

Arguments of the respondent:

The appellant has a domestic 3 phase service connection bearing consumer No. 14170 under Electrical Section. Poonthura.

From 10/2016 onwards the 3ph meter installed at this consumer premises becomes faulty and average bill was issued to consumer from 12/2016 for 318 units. (Bill issued as per clause 125 (1) of KESC 2014 considering the average consumption of the past three billing cycles preceding the date of the meter being found or reported defective)

Due to the shortage of 3PH meter, the said faulty meter was replaced only on 24/12/2018 and actual consumption recorded was taken for issuing further bills from 2/2019

Month	Consumption	Billed amount	Remarks
06-2016	354	1617	
08-2016	326	1438	
10-2016	384	1808	
12-2016	318	1387	Meter faulty average consumption
02-2017	318	1387	"
04-2017	318	1355	"
06-2017	297	1348	"
08-2017	313	1466	"

10-2017	318	1499	"
12-2017	318	1499	"
02-2018	318	1499	"
04-2018	318	1499	"
06-2018	318	1499	"
08-2018	318	1505	"
10-2018	218	900	"
12-2018	318	1552	Meter faulty average consumption
02-2019	200	792	
04-2019	136	588	
05-2019	171	679	
07-2019	230	1075	
09-2019	148	696	
11-2019	198	875	

Average bills were issued during the faulty period as per Clause 125(1) of Kerala Electricity Supply Code, 2014. Due to shortage of 3 phase meter during that period the faulty meter was not replaced on time. Also, consumer was intimated the provision for purchasing meter from outside store as there exists shortage of 3ph meter at KSEB. But this facility was not availed by consumer. The case was filed before CGRF Kottarakkara and the Forum disposed the petition on 11th December 2019 as the bills issued for the period from 4/2017 to 12/2018 based on the previous average of the three billing cycles is legal and sustainable.

Analysis and Findings:

The hearing of the case was conducted on 13-03-2020 in the CGRF Court Hall, Kottarakkara and Sri. S. Ajaya Kumar, Assistant Executive Engineer, Electrical Sub Division, Fort represented the respondent's side. The appellant was absent. On examining the petition, the counter statement of the respondent, perusing the documents attached and the arguments in the hearing and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

The three phase meter of the appellant was faulty from 10/2016 to 24-12-2018. The average fixed for the faulty period based on the previous average of three billing cycles was 318 units. The appellant has requested on 08-04-2017, either to reduce the consumption average from 318 kWh to 150 kWh or to replace the meter. The fact in this case is that the meter changed on 24-12-2018 only after the appellant approached Regulatory Commission with grievance. The respondent's version is that due to shortage of 3 phase meter during that period the faulty meter was not replaced on time.

Regulation 125 of the supply Code 2014 reads as follows:

*“125. Procedure for billing in the case of defective or damaged meter.-
 (1) In the case of defective or damaged meter, the consumer shall be billed on the basis of average consumption of the past three billing cycles immediately preceding the date of the meter being found or reported defective:*

Provided that, the average shall be computed from the three billing cycles after the meter is replaced if required details pertaining to previous billing cycles are not available:

Provided further that any evidence given by consumer about conditions of working and occupancy of the concerned premises during the said period, which might have had a bearing on energy consumption, shall also be considered by the licensee for computing the average.

(2) Charges based on the average consumption as computed above shall be levied only for a maximum period of two billing cycles during which time the licensee shall replace the defective or damaged meter with a correct meter.

(3) In case, the maximum demand indicator (MDI) of the meter at the installation of the consumer is found to be faulty or not recording at all, the demand charges shall be calculated based on maximum demand during corresponding months or billing cycle of the previous year, when the meter was functional and recording correctly.

(4) In case, the recorded maximum demand (MD) of corresponding month or billing cycle of past year is also not available, the average maximum demand as available for lesser period shall be considered: Provided that the above sub regulations shall not be applicable in the case of a tampered meter for which appropriate action under the provisions of the Act shall be initiated by the licensee.

As per the above provision of regulation 125 (2) the average consumption shall be levied only for a maximum period of two billing cycles during which time the licensee shall replace the defective or damaged meter with a correct meter. As reported by the respondent, the non availability of the meter is not the fault of the consumer. Further the respondent had not issued any notice to the appellant to purchase the meter from outside store by the appellant himself. The appellant has a reason by requesting the respondent either to replace the faulty meter or to reduce the computation for average billing for 318 units to 150 units because the appellant's daughter and family shifted from the house and consumption reduced accordingly. Further the appellant has requested on 08-04-2017, either to reduce the consumption average or to replace the faulty meter, but no action taken by the respondent. As per the regulation any evidence given by consumer about conditions of working and occupancy of the concerned premises during the said period, which might have had a bearing on energy consumption, shall also be considered by the licensee for computing the average. The appellant's actual bimonthly consumption after replacement of the faulty meter is as follows:

07-01-2019 to 07-02-2019	=	115 units
07-02-2019 to 08-04-2019	=	136 units
08-04-2019 to 28-05-2019	=	171 units
28-05-2019 to 24-07-2019	=	230 units

The three phase energy meter was faulty for 26 months from 13-10-2016 showing reading as 10341 till the replacement on 24-12-2018. The total consumption recorded in the new meter for 6½ months from 07-01-2019 to 24-12-2018 is 652 kwh and bimonthly consumption can be arrived at as 200 units.

Decision:

From the analysis done above and the conclusions arrived at, this Authority takes the following decisions.

Under the provisions of Regulation 134 (2) of Kerala Electricity Supply Code, 2014, I am fully convinced that the request of the appellant is reasonable and justifiable. Hence this Authority decide that the order of the CGRF stands quashed. The respondent shall revise the bills issued from 04/2017 to 12/2018 for the average consumption as 200 units. The excess amount collected from the appellant for the period from 04/2017 to 12/2018 shall be refunded by the respondent. The refund shall be made within 30 days of receipt of this order with applicable interest. The amount of refund so calculated may also be communicated to the appellant with details.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant is found having merits and is allowed to this extent. The order of CGRF, Kottarakkara in Petition No. OP 113/2019 dated 11-12-2019 is set aside. No order on costs.

ELECTRICITY OMBUDSMAN

P/013/2020/ _____ /Dated: _____

Delivered to:

1. Sri. B. Soman, Meenakshi Bhavan, Trimoorthy Bhavan, Kamaleswaram, Thiruvananthapuram
2. The Assistant Executive Engineer, Electrical Sub Division, KSEBL, Fort, Thiruvananthapuram

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, Consumer Grievance Redressal Forum, Vydhyuthi Bhavanam, KSE Board Ltd, Kottarakkara - 691 506.