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APPEAL PETITION No. P/045/2020  
(Present: A.S. Dasappan)  
Dated: 17<sup>th</sup> February 2021

Appellant : Sri. Thulaseedharan  
Thulasi Vihar,  
Kizhuvallam P.O.,  
Mammom, Attingal  
Thiruvananthapuram Dist. – 695 104

Respondent : Asst. Executive Engineer,  
Electrical Sub Division, KSEB Ltd.,  
Attingal.

### **ORDER**

#### **Background of the case:**

The appellant is a three-phase consumer of Electrical Section, Avanavanchery with Consumer number 1145327008926. The tariff allotted is LT IA and connected load in the premises is 5000 watts. On suspecting faultiness of meter, the appellant applied for meter testing on 13-06-2016 to the respondent by remitting Rs.210/- towards testing fee. The respondent had not done anything to test the meter for three years and finally installed a 'test meter' in parallel with the premises meter on 22-08-2019. The 'test meter' was retained in the premises for 39 days and found the premises meter was faulty. As requested by the appellant, the premises meter was again tested at meter testing laboratory at TMR, Tirumala of KSEB Ltd. after remitting Rs.370/- towards testing fee to confirm the defectiveness of the meter. The test result shows the meter was defective and hence, the electricity bill for September 2019 was revised by reassessing the consumption for 271 units. The appellant is not satisfied with the revision of only a single bill and filed a petition before CGRF, Southern Region, Kottarakkara vide OP No.45/2020. The Forum in its order dated 23-10-2020 directed the respondent "to revise the bill on the basis of the test report for a period of six months and the excess or deficit amount on account of such revision shall be adjusted in the subsequent bills". Aggrieved by the decision of CGRF, the appellant filed appeal petition before this Authority on 30-12-2020, seeking refund of excess amount remitted for the last three years.

**Arguments of the appellant:**

On 13-06-2016, the appellant filed a complaint to the Assistant Engineer, Electrical Section, Avanavanchery suspecting the energy meter is faulty and remitted required fee for installing a “test meter”. But a test meter was not provided in the premises even on continuous follow up by the appellant with the Section office. Similarly, the applicant received another bill in 2019 for Rs.6,275/-. In 2016 and 2019 the appellant was not in the premises for a short period, but premises was not closed. Amount was remitted by the appellant. Though testing fee had been remitted on 13-06-2016, the respondent installed the “test meter” only on 22-08-2019. The test meter was retained in the premises for 39 days and found the premises meter was faulty. In order to confirm the faultiness of meter, the appellant remitted further, a testing fee of Rs.370/-. The meter was sent to the laboratory and again found faulty. The appellant was remitting electricity bill based on the recorded consumption in the faulty meter since 13-06-2016. A new meter was installed in the premises and recorded 222 units for two months and hence, the last bill was adjusted by the respondent. After getting order from CGRF, another bill was also adjusted.

The appellant requests refund of excess amount paid for last three years.

**Arguments of the respondent:**

A meter testing process, which was initiated on 13/06/2016, could not be completed in stipulated time. The appellant had paid Rs 10 + Rs 200 vide receipt no 453201606 1102012 and 4532016061102013 respectively for getting the Energy meter tested on 13/06/2016

A calibrated parallel meter had been installed, in the appellant’s premises from 22/08/2019 to 30/09/019 on oral request from the appellant. The results obtained are,

Sl. No.	From date	IR	To Date	FR	Consumption	Details
1	22/08/2019	122	30/09/2019	325	203	TEST Meter
2	22/08/2019	35883	30/09/2019	36239	359	Consumer meter
			Difference		156	For 39 days

The appellant’s meter was declared faulty on 27/09/2019. The old meter was replaced with a new meter on 04/10/2019.

The appellant had requested to send the old meter for test. Hence, a meter testing demand was generated on 04/10/2019 to send the old meter to TMR unit for testing. The appellant remitted Rs 370/- for the testing of old meter on 04/10/2019. The test report dated 19/10/2019 revealed the meter as faulty.

The average bimonthly consumption of the appellant from 26/11/2015 to 27/9/2019 was found to be 564 units (12976/23 bimonthly consumption = 564.17 units). The per day consumption of the appellant was calculated to be 9.4 units. (564/60)

The average bimonthly consumption of the appellant from 04/10/2019 to 24/04/2020 is found to be 1035 units for 203 days. Hence the per day consumption of the appellant was calculated to be 5.09 units. (1035/203).

The energy charges paid by the appellant are as follows: -

Slno	Bill date	Bimonthly units	Bill amount
1	25/05/2016	608	3963/-
2	26/07/2016	460	2372/-
3	29/09/2016	594	3417/-
4	25/11/2016	514	2977/-
5	25/01/2017	532	3021/-
6	25/03/2017	531	3124/-
7	25/05/2017	591	3626/-
8	25/07/2017	556	3561/-
9	28/09/2017	614	4378/-
10	24/11/2017	535	3427/-
11	25/01/2018	471	2620/-
12	26/03/2018	470	2612/-
13	24/05/2018	747	5532/-
14	25/07/2018	538	3451/-
15	27/09/2018	550	3583/-
16	27/11/2018	500	2933/-
17	25/01/2019	502	3233/-
18	27/03/2019	531	3408/-
19	27/05/2019	825 / 311	6276/- (1595)
20	29/07/2019	610 / 321	4475/- (1541)
21	27/09/2019 (Faulty)	656/ 271	5019/- (1362)
	Amount on revision Total		15770/- (4498)
22	04/10/2019 Meter changed	0	
23	20/11/2019	222	1584/-
24	17/12/2019	109	560/-
25	22/02/2020	305	1557/-
26	24/04/2020	399	2255/-
27	20/06/2020	325	1715/-
28	21/08/2020	342	1813/-
29	21/10/2020	328	1715/-
30	22/12/2020	367	2026/-

The bill for the month of September 2019 had been revised from Rs 5019/- to Rs.1365/- on request of the appellant on 27/09/2019. The unit considered for

revision is as follows (109+305+399 = 813), (813/3 bill cycles = 271 units) First Bill revision details as follows: -

Sl No	Original Bill details for <b>656</b> units	Amount		Revised Bill details for <b>271units</b>	Amount
	Fixed charges	220.00		Fixed charges	200.00
	Energy Charges	4330.34		Energy charges	1026.62
	Duty	432.96		Duty	102.58
	Meter rent	30.00		Meter rent	30.00
	Meter rent CGST	2.70		Meter rent CGST	2.70
	Meter rent SGST	2.70		Meter rent SGST	2.70
	Meter rent cess	0.30		Meter rent cess	0.30
	Total	5019.00		Total	1362.00

As per the orders of CGRF, Kottarakkara, two bills were revised. The revision done for 5.1 units per day basis is given below: -

Sl No	Original Bill details for <b>610</b> units	Amount		Revised Bill details for <b>321 units</b>	Amount
	Fixed charges	220.00		Fixed charges	200.00
	Energy Charges	4026.00		Energy Charges	1300.36
	Duty	402.60		Duty	129.94
	Meter rent	30.00		Meter rent	30.00
	Meter rent CGST	2.70		Meter rent CGST	2.70
	Meter rent SGST	2.70		Meter rent SGST	2.70
	Meter rent cess	0.30		Meter rent cess	0.30
	Total	4685.00		Total	1666.00

Revision for 311 units

Sl No	Original Bill details for <b>825</b> units	Amount		Revised Bill details for <b>311 units</b>	Amount
	Fixed charges	260.00		Fixed charges	200.00
	Energy Charges	5857.50		Energy Charges	1235.76
	Duty	587.75		Duty	123.54
	Meter rent	30.00		Meter rent	30.00
	Meter rent CGST	2.70		Meter rent CGST	2.70
	Meter rent SGST	2.70		Meter rent SGST	2.70
	Meter rent cess	0.30		Meter rent cess	0.30
	Total	6739.00		Total	1595.00

### **Analysis and findings:**

An online hearing was conducted at 11 AM on 12-02-2021 in the appeal petition with prior intimation to both the appellant and the respondent. Smt. Ambika, wife of the appellant and Sri. A. Brijendrakumar, Assistant Executive Engineer, Electrical Subdivision, Attingal from the respondent's side appeared for the hearing. On examining the petition, the counterstatement of the respondent,

the documents attached and the arguments made during the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision thereof.

According to the appellant, the energy meter installed in the premises was suspected faulty in the year 2016 itself and remitted Rs.210/- towards the testing for the meter. But the respondent did not arrange testing, even after remitting testing fee, as per rules. The respondent arranged testing of the meter only on 22-08-2019, after more than three years from the date of remittance of the testing fee by installing a "test meter" in parallel with the premises meter. The respondent made serious lapse in conducting the test to check whether the meter is accurate or not. Analyzing on the said accuracy test, it was revealed that the meter was inaccurate. The test meter was retained in the premises for 39 days from 22-08-2019 to 30-09-2019 and found a difference of 156 units between the 'premises meter' and 'test meter'. The test meter recorded 203 units and the premises meter recorded 359 units. The premises meter was replaced with a good meter on 04-10-2019.

In the detailed testing of the 'premises meter' in the meter testing laboratory of KSEB Ltd. at Thirumala, it was found that "errors at various load conditions are beyond the permissible limit and the dial is not OK". Hence, the meter was declared as faulty, stating the error of the meter is above +50% in all load conditions. As such, the appellant argued that since the meter is defective from 06/2016 onwards, the excess amount remitted is refundable from 06/2016 onwards. The test results showed that the meter was over recording.

The respondent admitted the fact that the appellant had remitted fee for the meter testing on 13-06-2016, but could not be done till 22-08-2019. The bimonthly consumption bill for 09/2019 had been revised to Rs.1,362/- for an average consumption of 271 units in the new meter installed on 04-10-2019. Also, as ordered by CGRF, another two bimonthly bills were revised based on the consumption recorded in the new meter.

On going through the consumption recorded in the meter from 25-05-2016 to 27-09-2019, the bimonthly consumption is in between 460 units and 747 units. But in the new meter installed on 04-10-2019, the bimonthly consumption for one year from 17-12-2019 to 22-12-2020 is in between 305 units and 399 units. From the above data, it can be found that the meter was not defective from 27-09-2019, but from years back. The respondent allowed credit for three bi-months, considering the recorded consumption from 26-11-2015 onwards. If the respondent had tested the meter immediately after remitting the testing fee at the first time, it could have been ascertained whether the meter was accurate or not in that period itself. If defective, a good meter could have been provided.

Kerala Electricity Supply Code 2014, Regulation 116 (4) says that "A consumer may request the licensee to inspect and test the meter installed in his

premises if he doubts its accuracy, by applying to the Licensee in the format given in Annex. 15 to the Code, along with the requisite testing fee”. Regulation 116 (5) says that “On receipt of such request, the licensee shall inspect and check the correctness of the meter within 5 working days of receiving the complaint”. Regulation 116 (6) says that “If the meter is found defective, the Licensee and the consumer follow the procedure as detailed in Regulation 115 of Kerala Electricity Supply Code 2014”.

115. Procedure for testing of meter: -

- (1) The meter shall normally be tested in the laboratory of the licensee, approved by the Commission.
- (2) In case the licensee does not have a testing facility approved by the Commission, or if so desired by the consumer, the meter shall be tested at any other laboratory accredited by the National Accreditation Board for Testing and Calibration Laboratories (NABL).
- (6) The testing shall be done within a maximum period of thirty days from the receipt of the application.
- (9) In case the meter is found to be faulty, revision of bill on the basis of the test report shall be done for a maximum period of six months or from the date of last testing, whichever is shorter and the excess or deficit charges on account of such revision shall be adjusted in the two subsequent bills.

In this case, the respondent had to test the meter accuracy within 5 days from 13-06-2016, the date of application for testing and remittance of testing fee. If the meter was found inaccurate in the above test, the testing had to be done as per Regulation 115 of Kerala Electricity Supply Code 2014.

A serious lapse occurred on the part of respondent in testing the meter in time, for which the appellant is not liable.

Regulation 115 (9) of Kerala Electricity Supply Code 2014 is applicable only when the respondent takes action as per Regulation 115 (6) of the Code. The testing for detecting the accuracy of the meter was delayed for years and based on the delayed action adjustment of six months bills cannot be accepted.

Regulation 125 of Kerala Electricity Supply Code 2014 stipulates that :

- “(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.”

Here previous consumption cannot be taken as it is the disputed one. As such, consumption for 3 billing cycles in the new meter is to be taken for computing bimonthly average for the reassessment. The consumption in the new meter is less than the consumption recorded in the faulty meter.

It is pertinent to note that the appellant is eligible to get the refund/adjustment, if excess bill remitted due to the lapse in conducting energy meter test in the prescribed period after remitting the testing fee. On perusing the recorded consumption in the history of meter reading, there is possibility of incorrect recording of energy from 2016 onwards.

The recorded consumption for 3 billing cycles after the replacement of defective meter from 17-12-2019 to 20-06-2020 is 305 units, 399 units and 325 units. The bimonthly average units assessed by the respondent as 271 units is not correct since 813 units is the consumption for 5 months from 20-11-2019 to 24-04-2020.

**Decision: -**

In view of the discussions as above, it is ordered as follows: -

It is decided to reassess the consumption for 24 months (12 bimonthly bills) prior to 04-10-2019, the date of installation of new meter. The consumption for the reassessment shall be the average of the recorded consumption in the new meter from 17-12-2019 to 20-06-2020, 305 units, 399 units and 325 units i.e. 343 units. The respondent shall prepare an adjustment bill for 12 bimonthly spot bills and adjust from the next bimonthly bill onwards.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant is allowed to this extent and stands disposed of as such. The order of CGRF in OP No.45/2020-21 dated 23-10-2020 is modified to this extent. No order on costs.

**ELECTRICITY OMBUDSMAN**

P/045/2020/\_\_\_\_\_ dated \_\_\_\_\_.

Delivered to:

1. Sri. Thulaseedharan, Thulasi Vihar, Kizhuvallam P.O., Mammom, Attingal Thiruvananthapuram Dist. – 695 104
2. Asst. Executive Engineer, Electrical Sub Division, KSEB Ltd., Attingal.

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.