

THE STATE ELECTRICITY OMBUDSMAN

D.H. Road & Foreshore Road Junction, Near Gandhi Square,
Ernakulam, Kerala-682 016

Ph: 0484 2346488, Mob: 8714356488

www.keralaeo.org Email: ombudsman.electricity@gmail.com

APPEAL PETITION No. P/032/2022

(Present: A. Chandrakumaran Nair)

Dated: 23rd August, 2022

Appellant : Sri. Shymon Anto,
Kochery House,
Koovappady,
Elambakappally. P.O.,
Ernakulam Dist. 683544

Respondent : Assistant Executive Engineer,
Electrical Sub Division, KSEB Ltd.,
Kothamangalam, Ernakulam Dist.

ORDER

Background of the case:

The appellant, Sri. Shyam Anto, is an industrial consumer of Electrical Section, KSEB Ltd., Keerampara with consumer number 1157138014747, three-phase connected load of 80.971 kW and maximum demand of 100 kW. The appellant is running a metal crusher unit and was not functioning due to the shortage of granite because of the ban on the quarries of that area. Because of this reason, the electricity usage was also not there. On 14-10-2020, the APTS conducted an inspection and found that the meter was defective and actual consumption was higher than the consumption recorded by the meter. On 23-10-2020, the Assistant Engineer, Keerampara Electrical Section issued a notice to remit an amount of Rs.94,242/-. The appellant's view is that the KSEBL is not entitled to penalize for the mistake occurred from their side. The defects in the meter are a manufacturing defect and Licensee must take action against the manufacturer of the meter. No unauthorized consumption was there. The energy charges are regularly paid by the appellant as per the bills raised by the Licensee. On the inspection of APTS, it was found that the voltage in R&B phase was very low and R-phase current was zero. When measured through the standard

test meters, the voltage and current was normal. This shows that the quantities recorded by the meter was very much lower than that of actual. The CTs which are connected to the meter was in the ration 100/5. It is also noticed that one phase was missing from 10-09-2019 to 27-05-2020 and tow phases were missing from 28-05-2020 to 14-10-2020.

The appellant approached the Consumer Grievance Redressal Forum (Central Region) and CGRF-CR issued order dated 27-04-2021 that the bill has to be recalculated by taking into the fraction of actual consumption with recorded consumption, which is 2.788 detected during the inspection. The short assessment amount as per the CGRF-CR order comes to Rs.5,63,289/- and the amount calculated as per the conventional method is Rs.2,88,137/-.

The respondent filed a review petition to CGRF-CR and the Forum issued order dated 21-01-2022 stating that the bill to be recalculated by taking the fraction of actual consumption with recorded consumption (2.78) detected during the site inspection for a period from 25-05-2020 to 14-10-2020 and consider the factor 1.5 to the recorded consumption for the period from 17-05-2019 to 24-05-2020. As per the order, the amount of short assessment was recalculated as Rs.2,63,876/- and asked the appellant to pay within 30 days.

Aggrieved by the decision of the Forum, the appellant filed the appeal petition before this Authority.

The appeal to this Authority was filed on 18-04-2022, which is after the period of 80 days. The appellant requested to accept the appeal as he was out of station for two months and condone the delay. This has been accepted by the Authority.

Arguments of the appellant:

The firm of the appellant was not working during the period 2019-2020 due to shortage of granite stones and there was no usage of electricity also. An inspection was conducted in the premises of consumer No. 1157138014747 by the APTS, Emakulam Regional Unit along with the officials of Electrical Section, Keerampara on 14.10.2020. The premises of the appellant was an industry in LT IV A tariff with connected load of 8097 watts under Electrical Section, Keerampara

of Electrical Sub Division, Kothamangalam. The power supply to the premises was given through the CT meter with 100/5A CTs.

During the inspection on 14.10.2020, the Anti-Power Theft squad found that the meter installed by the K.S.E Board is defective and the actual consumption is higher than the consumption recording in the meter.

However, without considering the facts the Assistant Engineer, Electrical Section, KSEB Limited, Keerampara passed final order.

The appellant emphasized that no unauthorized consumption of electrical energy was committed in this case. The charges for energy consumed were being regularly remitted by the appellant and there are no dues remaining unpaid.

Subsequently, the appellant has filed petition before CGRF as O.P No.86/2020-2021 and a hearing was conducted on 30.03.2021. During the hearing, the Forum directed to test the CT meter. Thereafter, this Forum was pleased to direct the KSEB to recalculate the bill.

Thereafter the respondent filed a review petition as R.P No.1/2021-2022. After hearing the matter, the order in O.P No.86/2020-2021 was modified.

Thereafter the respondent has issued a revised short assessment bill to the appellant. The appellant was directed to pay Rs.2,63,876/-. The appellant is challenging the revised short assessment bill dated 23.03.2022.

The CT meter was not tested by the respondents. The CT meter is not removed from the premises. The respondents made a false statement in this regard.

According to the appellant the meter is not defective. The firm of the appellant was not working due to shortage of granite stones and there was no usage of electricity also.

Nature of relief sought

This Authority may be pleased to quash/set aside/revise the notice No. BB/CGRF-Short bill/2021-2022 dated 23.03.2022 of the Assistant Engineer, Electrical Section, KSEB Limited, Keerampara and all further proceedings pending against the appellant in connection with the above assessment/case.

Arguments of the respondent:

During the inspection .it was found that the parameters of R phase voltage, B phase voltage and R phase current are seen missing in the CT meter installed in the premises. After this, the APTS unit compared the recorded consumption in the CT meter installed in the premises by using a Zera make standard reference meter. On comparison, it was found that while recording 2206.17 watts in the standard reference Meter, only 800 watts was recorded in the CT meter installed in the premises. In this context, the meter history was down loaded by the APTS unit for getting the Tamper Data report of the metering equipment.

As per the Tamper Data report received from APTS unit, it was found that R phase current was seen missing from 17.09.2019 and B phase Voltage & R phase current seen missing from 27.05.2020. In light of the above findings a short assessment bill of Rs. 94,242/- was served to the appellant on 23.10.2020 as per the section 134 of Kerala Electricity Supply code -2014

On Dissatisfaction by this, the appellant filed appeal before the Assistant Engineer, Electrical Section, Keerampara on 15.12.2020, and to Assistant Engineer, Electrical Section, Keerampara and disposed the petition by confirming the short assessment bill,

The mode of calculation adopted by the Assistant Engineer while preparing the short assessment was not in scientific method, i.e., the 1/3 factor taken instead of $\frac{1}{2}$ and $\frac{2}{3}$ taken instead of 2 for arriving the unrecorded consumption for the period of one phase missing & two phase missing respectively.

Aggrieved by the Short Assessment, the appellant filed a complaint before the CGRF (CR), Ernakulam and a hearing was conducted on 30.03.2021.

During the hearing, the Forum directed to test the CT meter at TMR, Angamaly and this opposite party submitted the downloaded data report from TMR Angamaly before the Forum.

Hence, the factor arrived by checking consumption using the standard reference meter can be applied only for the period from 25.05.2020 to 14.10.2020 i.e., two phases missing period. Further the CGRF observed that, during the period

from 17.09.2019 to 24.05.2020 when only R-Phase current was missing .as verification of actual consumption is not possible, the lost energy can be taken as 1/3rd of the actual consumption as one phase is not recording. Hence, the fraction of actual consumption (x) with recorded consumption (2/3x) become 1.5.

Finally, the Forum decided to modify the order vide OP No.86/2020-21 dated 27.04.2021 and ordered to recalculate vide review petition order CGRF-CR/RP No.1/21-22/335 dated 21.01.2022

a) By taking the fraction of actual consumption with recorded consumption (2.758) factor detected during the site inspection conducted on 14.10.2020 using the Standard Zera Meter for the period from 25/05/2020 to 14/10/2020 when R-Phase current and B-Phase voltage were missing.

b) By taking the fraction of actual consumption with recorded consumption as 1.5 factor for the period from 17.09.2019 to 24.05.2020 when R-Phase current was missing.

Thereby issued the modified short assessment bill of Rs.2,63,876/- dated 23.03.2022 which is now challenging by the appellant.

The argument of the petitioner that the CT meter was not tested is baseless. It submits that the same has been tested in TMR, Angamaly on 22.04.2021 vide file No. TMR/AGY/52/21-22/30. In the test result of CT meter, it has clearly reported that "the meter not conforms to the standard".

The respondent has issued the bill strictly in accordance with the regulation 134 of KESC-2014. The petition is filed without any bona fides and is filed only an experimental basis with an intention for escaping and delaying the payment to the Kerala State Electricity Board Limited. As such, the respondent requested to dismiss the appeal petition of the appellant

Analysis and findings:

The hearing was fixed on 20-07-2022, as the respondent could not attend because of attending a training, the hearing postponed as per the request and held on 08-08-2022 in the office of the State Electricity Ombudsman, Near Gandhi Square/BTH, Ernakulam South. The appellant Sri. Shymon Anto was attended

the hearing and Sri. Gopi. N.K., Assistant Executive Engineer, Electrical Sub Division, Kothamangalam was attended the hearing from the respondent's side. On examining the appeal petition, the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision thereof.

The appellant was the owner of the metal crusher unit. During the inspection of APTS on 14-10-2020, it has been found that the meter is recording the consumption much less than the actual due to the defect in the metering system. As per the respondent, the downloaded data of meter shows that the R-phase current was zero from 17-09-2019 to 24-05-2020 and the voltage in B-phase & R-phase current were zero. From 25-05-2020 to 14-10-2020 and this is to be considered.

According to the appellant, the meter was recording less consumption as the crusher unit was not working during this time because of ban on quarries. The appellant is not able to prove this with records, and hence, the same cannot be considered. Then, this is to be inferred that the meter was defective and the same has been established by the test report of the meter produced by the respondent.

It is very clear that the electric load and thus, the consumption is highly fluctuating depends on the demand of the product and the season.

In the case in hand, the Licensee is supplying the power through the CT connected metering system and the same has been provided by the Licensee as per the Section 104 of the Kerala Electricity Supply Code 2014.

Regarding reading of meters, Regulation 110 of Kerala Electricity Supply Code 2014 says,

- 110 (1) The meter shall regularly be read once in every billing cycle and on special reading occasions.
- 110 (3) The meter shall be read only by an employee of the licensee or by the person duly authorized by the licensee for this purpose.

The above Section clearly states how the meter reading is to be recorded.

Regarding testing of meters, Regulation 113 of Kerala Electricity Supply Code 2014 says,

- 113 (2) The licensee shall also conduct periodical inspection or testing or both and calibration of the meters, as specified in the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, as amended from time to time.
- 113 (3) The periodical testing of consumer meters shall normally be done at site.

This Section states about the periodical testing of the meter to ensure the accuracy of the meter.

Here, in this case, the meter was faulty since 09/2019 onwards, which has not been noticed by the meter reading officials. This is to be viewed seriously to avoid revenue leakage of the Licensee.

125. Procedure for billing in the case of defective or damaged meter:-

125 (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.

The procedure of billing in the case of defective meter is explained here. As the electrical load is totally varying from time to time and depend on seasons, the third option only could be considered, of which any evidence given by the consumer about conditions of working and occupancy of the concerned premises during the said period shall also be considered. Hence, the method adopted by the respondent is to be accepted.

The Section 134 (1) of Kerala Electricity Supply Code-2014 state, "Under charged bills and over charged bills":- "If the licensee establishes either by review or otherwise, that it has undercharged the consumer, the licensee may recover the amount so undercharged from the consumer by issuing a bill and in such cases at least thirty days shall be given to the consumer for making payment of the bill."

This Section states the authenticity of Licensee to charge the undercharged bills, if any, and accordingly the respondent issued the short assessment bill.

Considering the above facts, the short assessment bill issued by the respondent is sustainable.

Decision: -

From the analysis of the arguments and the hearing, following decisions are hereby taken:

- (1) The appellant is liable to pay the short assessment bill calculated as per the order of Consumer Grievance Redressal Forum (Central Region) vide order dated 21-01-2022.
- (2) The respondent shall allow 24 monthly instalments to the appellant for remitting the payment.

Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/032/2022/_____ dated _____.

Delivered to:

1. Sri. Shymon Anto, Kochery House, Koovappady, Elambakappally. P.O., Ernakulam Dist. 683544
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Kothamangalam, Ernakulam Dist.

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.