

## THE STATE ELECTRICITY OMBUDSMAN

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### Appeal Petition No.171/2010.

(Present Sri.T.P.Vivekanandan)

Appellant	: M.Sanakarasubramanian. T.C.No:37/1884 (W.S.R.A.71), "Gowri-Sankaram", West Fort Street, Fort, Thiruvananthapuram-695 023
Respondent	: The Assistant Executive Engineer Electrical Sub Division, KSEBoard, Fort, Thiruvananthapuram.

### **ORDER.**

#### Background of the Case: -

The Appellant is having a 3 phase electric service connection for domestic purpose, under Electrical Section, Fort, Thiruvananthapuram, with consumer no: 11392, since 2/2003. While being so he made a written complaint to the Assistant Engineer, Fort section on 16.12.2008 against the working of energy meter as he feared it as recording abnormal consumption and requested to test the meter. The meter was tested by arranging with a standard meter and found that the existing meter is recording more than the actual consumption and accordingly his meter was replaced with a new one on 06.05.2009. The energy usage in subsequent bimonths, after 5/2009 also showed that the true average consumption of the consumer is below 300 units bimonthly. The consumer's previous recorded consumption from the date of availing supply in 2/2003 also showed an energy usage of the same nature. The CGRF (south), before whom the petition was filed by the consumer to get his bills revised from 2/2006 onwards, has ordered to revise the bimonthly bills as per the true average consumption obtained after changing the meter on 06.05.2009, with effect from 16.12.2008, onwards. The consumer is challenging the decision of the CGRF on the period of revision of bills as he is of the opinion that it should be done from 2/2006 onwards up to 4/2009 instead of from the application date. This appeal petition is filed as the petitioner is aggrieved by the order dated 4<sup>th</sup> day of September 2010 in OP No: 545/2010 of CGRF (south), Kottarakkara on the issue stated above among other things. His prayer is to refund of adjust in his future bills the excess electricity charges remitted by him during the meter period of 2/2006 to 4/2009, as the meter was found recording higher than the actual usage during this time.

#### **Argument of the Appellant.**

(1). The argument of the respondent that the average energy consumption during the previous bimonths of 2/2005, 4/2005 and 6/2005 was 450 units (when the meter was supposed to be in good condition) and the same average was 462 units during the bimonths of 8/2007, 10/2007 and 8/2008 (when the meter was supposed to be in faulty condition), and " hence the meter cannot be said to be as faulty from 2/2006 onwards" is not correct. This averment of AEE (Respondent) is strange because there was a deliberate attempt from the respondent's side, to hide the facts of low energy consumption of around 200 units during the 12 bimonths of 4/2003 to 12/2005 (except for 12/2003, 10/2004, 2/2005, 4/2005 and 6/2005) when the meter was working property and the abnormally high consumption of approximately around 500 to 730 units during

the 14 bimonths of 2/2006 to 10/2008 (except for 10/2007 and 8/2008) when the meter was in faulty condition. In this case, in the statement of facts submitted by the Respondent, the bimonths were selected conveniently by the respondent to suit their arguments and really it was not so and this statement was seen accepted by the CGRF, south and order issued accordingly. Hence the findings of CGRF are not in order. It has to be noted that the minimum and maximum energy consumption of the 34 months from 2/2003 to 12/2005 was 211 units and 470 units respectively when the meter was in good condition. Similarly, for the 34 months from 2/2006 to 10/2008, it was 418 units and 730 units respectively, when the meter was in faulty condition.

(2). After changing the meter on 06.05.2009, the consumption recorded in the subsequent 9 bimonths, range from 180 to 376 units. This establishes that the meter was faulty from 2/2006 onwards. Hence it is requested to refund the excess charges remitted for the periods of 2/2006 to 10/2008 and from 11/2008 to 4/2009.

(3). The CGRF has assessed the excess consumption correctly for the 141 days from 16.12.2008 to 05.05.2009. This method can be adopted for other periods as well.

(4). Since I have lodged the written complaint only on 16.12.2008, I am not eligible for the refund of charges for excess energy paid by me prior to that date is the decision arrived at, by the CGRF. I have given earlier (verbally) my complaint to the Assistant Engineer and he has advised me to test my home equipments like, Mixi, Fridge, Grinder, Washing Machine, TV, Electric Iron, Hater etc. I have arranged testing of all these home appliances and after finding no fault with them, I put in my written complaint on 16.12.2008. Hence the decision of the CGRF is legally not correct and tantamount to injustice.

(5). It is not correct to deal the issue in the dispute as per clause 33 (2) and Regulation 42 (3) of the KSEBoard Terms and Condition of Supply, 2005. These rules are not known to a common consumer like me.

(6). The CGRF has ordered while disposing the petition No.OP 545/2010 to refund the excess amount collected from him for the period 16.12.2008 to 05.05.2009 and KSEBoard has taken steps to refund Rs.3409/= being the excess collected from me for the same period. But the fees collected the meter testing i.e. Rs.220/= has not been refunded. This has to be ordered.

(7). It is noted in the CGRF order that the Chief Engineer, KSEBoard shall take disciplinary action against erring officials of KSEBoard. It may be noted that my complaint dated 16.12.2008 addressed to AE was found not traceable even today.

**Relief Sought by the Appellant:-**

(1). The 3 times the amount remitted during the period 2/2006 to 10/2008 (34 months) due to meter recording faulty readings, which comes to almost 3 times the actual consumption, may be adjusted in my future bills or may be refunded.

(2). Similarly the excess amount remitted as above for the period 11/2008 to 4/2009 (six months) may be refunded or adjusted against future bills.

(3). Disciplinary action may be initiated for the delay caused to test the meter by almost 5 months from the date of application and remittance of fees on 16.12.2008 to test it.

**Argument of the Respondent:-**

The appellant has obtained a 3 phase Electric connection on 05.02.2003 with consumer No.11392. He lodged written complaint on 16.12.2008 about the accuracy of the energy meter. On testing with a check meter, it was found that the old meter was showing excess reading than the actual consumption. Hence the old meter was replaced with a new one on 06.05.2009. The check meter was installed for testing only on 21.04.2009 and a delay has occurred in arranging the testing. The meter was also tested at TMR Division, Thirumala, and they have also reported the meter as faulty. After replacing with a good meter, the subsequent average bimonthly consumption was found to be between 180 to 375 units and before the meter change it was above 500 units

before the change it was above 500 units. The energy consumption pattern of the from the date of inspection to 6/2009 is as shown below.

04/2003 to 12/2004	Average consumption	= 289 units/Bimonth
1/2005 to 8/2005	Average consumption	= 421 units/Bimonth
9/2005 to 12/2005	Average consumption	= 255 units/Bimonth
2/2006 to 4/2009	Average consumption	= more than 500 units
6/2009 to 6/2010	Average consumption	= 276 units

From the above it is seen that the consumer's claim that he is paying excess amount from 2/2006 is not correct. The consumption from 1/2005 to 8/2005 is more than 400 units. Similarly the consumption during the bimonths of 8/2007, 10/2007 & 8/2008 are around 400 units. The delay to provide the check meter was due to the communication error in our office and was not a willful action from our side.

The Hon'ble CGRF has ordered to revise the bills of Meter faulty period of 16.12.2008 to 05.05.2009 and accordingly we have revised it. This amount of Rs.3409/- shall be adjusted against further bills. The testing fee will also be refunded.

**Analysis and Findings:-**

The hearing of the case was done on 1.05.2011 at KSEBoard Guest House, Thiruvananthapuram, and all parties were represented. On a perusal of the Appeal Petition of the Appellant, the statements of facts submitted by the Respondent and the averments of both parties in the hearing, I come to the following conclusions and decisions thereof.

The consumer has a 3 phase electric connection for domestic purpose and the bimonthly energy consumption pattern from 4/2003 to 12/2005 is approximately around 275 units except for the period from 2/2005 to 8/2005 (i.e. for 4 bimonthly bills) when the consumption was seen recorded around 420

Units. The next two bimonth's energy recordings show an average of 255 units only. The consumer himself has stated that he has almost all modern home appliances like Mixi, Fridge, Grinder, Washing Machine, TV, Electric Iron, Heater etc in his house. I am sure that a consumer who put to use such home appliances in a normal way will have bimonthly consumption pattern of more than 400 units and those who use their electrical appliances sparingly and with utmost care to conserve the energy can only limit the consumption to such a low level of 255 units (bimonthly). Any way, it has been established that the Energy meter was faulty when put to test in 4/2009. Then the question to be decided is from which date

The meter was faulty when put to test in 4/2009. Then the question to be decided is from which date the meter was faulty since it is required to revise the bills as the meter was found recording excess than the actual during the test. The consumer argues that it should be done with effect from 2/2006 onwards and the Respondent is of the view that it should be from 12/2008 only as per clause 33 (2), when the consumer raised the complaint. The CGRF has upheld this argument of the respondent.

On a perusal of the energy consumption pattern of the consumer, during the periods of (a) prior to 2/2006 and (b) after changing the faulty meter in 4/2009, I find that the bimonthly average consumption during most of this period is below 300 units, with exceptions in a few bi-months having recorded higher energy consumption. The party has remitted those few months bill of higher energy consumption than the average which means that he has consumed more energy in those months. Actually, there is no regular pattern of energy consumption, in this case under dispute. A consumer having such variety of electrical home appliances will have energy consumption as per his needs and hence can vary substantially as per his usage in some months. However, the consumer has lodged complaint against the working of Energy Meter as recording higher consumption, which stands proved. Hence I am inclined to accept the argument of the consumer and conclude

that the consumer is eligible to get the bimonthly bills revised from 2/2006 onwards, when the recorded consumption has gone above 500 units up to 4/2009, till the meter was replaced. The argument of the respondent that the period should be decided as per clause 33 (2), does not seem to me as correct as the clause is not relevant here and instead has to be decided as per clause 42 (1) & (3) of the KSEBoard Terms and Conditions of Electricity Supply 2005.

The next question to be answered is what is the true average consumption of the appellant during the meter faulty period of 2/2006 to 4/2009? The clause 42 (3) reads; "if the existing meter after having found faulty is replaced with a new one, the consumption recorded during the period in which the meter was faulty shall be reassessed based on the average consumption for the previous six months prior to replacement of the meter ".That is to say, the true average energy consumption is to be decided based on the previous 3 bimonthly energy consumption prior to 2/2006 corresponds to;

8/2005	-----	330units
10/2005	-----	250 units
12/2005	-----	260 units

Total = 840 units for 3 spells. Therefore the true average consumption is =  $840/3 = 280$  units / Bimonth.

**DECISION:-**

From the above noted analysis, findings and the conclusions arrived at, I decide as follows. The consumer's bill may be revised taking the true average consumption as 280 units per bi-month for the entire meter faulty period of 2/2009 (both months inclusive) and the excess amount collected earlier for the same period may be adjusted in his future bills. The meter testing fee collected from the consumer may also be refunded along with it. The intimation of the total refund amount (both electricity charges and test fee) shall be issued to the consumer with in one month from the date of receipt of this order and this excess amount shall be adjusted against his future bills beginning from the next bill issued, after one month of the date of this order, failing which interest at twice the bank rate shall be payable by KSEBoard to the consumer for the late period of adjustment.

There is lapse on the part of the local Electrical Section officials to take action on the meter faulty complaint received from the appellant in time, even after collecting the application fee for testing the meter. But the disciplinary action against erring officers of KSEBoard does not come under the purview of this Forum. Hence the CGRF's order in the related petition filed by the Appellant and forwarded to CE (HRM) of KSEBoard (Disciplinary Authority) by it, for taking suitable action, shall prevail and the Board may decide it as per Law. Having concluded and decided as above, the Appeal Petition No. P/171/2010, filed before this Authority stands disposed of accordingly. No order on costs. Dated the 26<sup>th</sup> of August, 2011.

**ELECTRICITY OMBUDSMAN.**

**No.P/171/2010/ 953/Dated 26.08.2011.**

**Forwarded:** (1). Sri.M.Sankarasubramaniam. T/C No.37/1884 (WSRA 71), Gouri Sankaram, West Fort Street, Thiruvananthapuram.

(2). The Assistant Executive Engineer, KSEBoard, Fort, Thiruvananthapuram.

**Copy:-** (1). The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-695 010.

(2). The Secretary, KSEBoard, Vydyuthibhavanam, Pattom, Thiruvananthapuram-695 004.

(3). The Chairperson, Consumer Grievance Redressal Forum, KSEBoard, Vydyuthibhavanam, Kottarakkara.