

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 9447576208
Email:ombudsman.electricity@gmail.com

APPEAL PETITION NO. P/063/2016
(Present: V.V. Sathyarajan)
Dated: 30th November 2016

Appellant : Sri. Simon K. Mathew
Kochalum Palackal
Arattupuzha P.O.,
Pathanamthitta

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd, Kozhencherry,
Pathanamthitta

ORDER

Background of the case:

The appellant is a commercial consumer (LT VII A), under Electrical Section, Aranmula, having consumer No. 12108. This service connection was effected on 22-01-2013 with a connected load of 1350 Watts. The appellant enhanced the connected load to 5980 Watts with effect from 18-06-2013 and the service connection was converted from single phase to three phase. On 16-02-2016, the meter reader noticed an abnormal reading in the meter and on detailed checking it is revealed that the consumption recorded for the previous period was only for Zone 1 against the cumulative consumption of 3 Zones.

The backup data stored in the memory of energy meter was downloaded and noted that there was a short billing of 18216 units in the regular bimonthly bills already issued. Hence a short assessment bill amounting to Rs. 1,85,606.00 was served on the appellant in order to recover the charges towards the unrecorded consumption. Against this, the appellant had filed a complaint before the CGRF, Kottarakkara, which was disposed of by upholding the short assessment was in order. The Forum also allowed installment facilities for remitting the amount if the appellant requested for. Aggrieved by this order, the appellant preferred this appeal before this Authority.

Arguments of the appellant:

The appellant has stated that the LT service connection under LT VII A tariff with a connected load 5980 Watts was availed by him and was paying the electricity bill promptly as per ToD billing. On 02-05-2016 there was an APTS inspection and it was detected from the MRI data that the billing has been done only for zone 1 till 17-12-2015. After that the billing was for three zones. Meanwhile KSEB Limited has given a short assessment bill from 17-02-2014 to 17-12-2015. The appellant approached CGRF and after hearing the CGRF have given the order to remit the impugned bill with a direction to allow instalment facilities.

The appellant has paid promptly all electricity bills without delay. As a commercial appellant who is operating on the margin of sale of goods, he cannot recover the additional expenditure which is going to incur due to the negligence and ignorance of the KSEBL. This action of KSEBL is not fair and just. Since the limitation period for collection of electricity charge as per Electricity Act 2003, Section 56(2) the limitation for collecting any due is two years. Since the date of inspection is 02-05-2016, the KSEB Limited can work out the actual dues for previous two years i.e. from 02-05-2014. Hence the claim for the month of January, February, March, and April of 2014 is not correct and Rs. 74,446.5.00 is to be reduced from the total claim of Rs.1,85,606.00.

The KSEB Limited has claimed Rs. 11,350.00 as interest in their claim letter dated 25-08-2016. The claiming of interest while the complaint was pending before CGRF or Ombudsman is not fair and just, and hence it may be cancelled. Similarly the appellant may be allowed to have an instalment facility without interest for a period of 36months because of the financial crunch.

Relief Sought for:-

1. Direction may be given to the KSEB Limited to cancel the impugned bill.
2. The assessment may be limited for a period of two years from the date inspection by APTS [02-05-2016)
3. Instalment facility may be granted for 36 months without interest.
4. The Hon'ble Ombudsman may give any other order with which the appellant will be relived from the present crisis.

Arguments of the respondent:

The appellant with consumer No. 1155355012108 is a commercial (LT VII A tariff), coming under the Electrical Section, Aranmula. The registered consumer of this service is Sri Simon Mathew K, Kochalumplakkal, Aranmula. This single phase connection was effected on 22-01-2013 with connected load 1350 Watts. Later on 18-06-2013 connected load was revised to 5980 Watts and converted to three phase supply and new three phase meter Sl. No. 58904699 Emco make (year of manufacture 2012) was installed on 18-06-2013

with initial reading as 'zero'. The purpose for the electrical energy is being used for ice-cream storage in freezers.

On 16-02-2016 the meter reader while taking the reading for issuing regular bimonthly bill he noticed and reported that the final reading is 38991. But the previous reading on 17-12-2015 was only 18205. Due to this abnormal meter reading, again meter reader checked on 23-02-2016 and confirmed the genuineness of consumption recorded in the meter. Also checked the premises and equipment connected, no earth leakage or any other abnormalities was found in the premises. Further on detailed inspection of reading recorded in the memory of meter it is found that reading taken by meter readers was only for Zone -1 reading and not the cumulative reading of 3 Zones. Detailed reading of different Zones for the last few months taken from the memory of energy meter are as follows.

Meter reading recorded in meter from 31-08-2015 to 31-01-2016 and the consumption is as follows.

Date	Zone-1 (6.00 am to 6.00 pm)	Zone-2 (6.00 pm to 10.00 pm)	Zone-3 (10.00 pm to 6.00 am)	Total consumption in units	Units (calculated)
31-01-2016	19196.8	6458.4	12690.7	38345.9	1336.8
31-12-2015	18532.9	6227.4	12248.8	37009.1	1259.7
30-11-2015	17907.6	6011.1	11830.7	35749.4	1304
31-10-2015	17254.2	5793.6	11397.6	34445.4	1239.9
30-09-2015	16637.5	5583.3	10984.7	33205.5	1273.1
31-08-2015	16002.4	5362.4	10567.6	31932.4	

Meter reading taken by meter readers and bimonthly consumption details

Meter reading Taken Date	Meter reading recorded	Bimonthly Units		
18-06-2013	0		Meter reading taken only Zone	
20-08-2013	664	664		
18-10-2013	2017	1353		
17-02-2014	4575	1403		
16-04-2014	5786	1211		
18-08-2014	0	D/L		
20-10-2014	9136	2184		
18-02-2015	11758	1372		
18-04-2015	13051	1293		
17-08-2015	15601	1254		
15-10-2015	16917	1316		
17-12-2015	18205/36421	1288		Corrected
16-02-2016	38991	2570		After finding
18-04-2016	41283	2292	mistake	

On 02-05-2016, the respondent inspected the premises of the appellant (Consumer No-12108) and backup data stored in the memory of energy meter Sl. No. 58904699 was downloaded to CMRI with the help of APTS team Thiruvalla. Site mahazar was prepared at the time of downloading the data, and appellant Sri Simon. K. Mathew was present. Computer print of downloaded data taken by TMR Division, Pallom is attached. Previous twelve months data is available in this record.

From these records of meter reading it is clear that the meter reader taken only Zone -1 reading and cumulative reading is different. Meter reading as on 16-02-2016 is 38991 (taken by meter reader for regular bimonthly bill during February). Meter reading taken on 17-12-2015 was 18205 (taken by meter reader for regular bimonthly bill during December 2015). Now after finding these anomalies in reading taken, old reading on 17-12-2015 is corrected to 36421). Hence regular bill for current period from 17-12-2015 to 16-2-2016 (38991-36421 = 2570 units) was issued for Rs. 27,710.00. Now the total consumption and meter reading up to 17-12-2015 was 36421 units. But total billed units up to 17-12-2015 were only 18205 units. Hence there was a shortfall for a consumption of 18216 units for billing. Accordingly a short assessment invoice was issued for Rs. 1,85,606.00.00 to appellant for realizing the balance amount from appellant.

The Regulation 134 (1) of the Kerala Electricity Supply Code, 2014 says, **"If the licensee establishes either by review or otherwise, that it has undercharged the appellant, the licensee may recover the amount so undercharged from the appellant by issuing a bill and in such cases at least thirty days shall be given to the appellant for making payment of the bill."** Accordingly a short assessment invoice for Rs.1,85,606.00 (Rupees One Lakh Eighty five Thousand six hundred and six Only) is served to the appellant. This energy is actually recorded on meter and it was used by appellant. Meter is working properly. Appellant is not disputed regarding the correctness of meter or reading. Appellant is allowed 30 days for remitting the bill. No interest was included in the bill. Also the appellant was informed regarding the facility of instalment as per Rule 152(4).

Appellant was alleged that there was an APTS inspection on 02-05-2016. Actual case was not like this. During regular visit of new meter reader for taking normal bi monthly reading, he noticed an abnormal reading and reported for detailed inspection. Accordingly find out the mistake in reading and short assessment bill is issued on 15-03-2016. The sequence of incidents is as follows.

1. On 16-02-2016 meter reader visited the premises for regular bimonthly billing
2. On 23-02-2016 again Sub Engineer inspected premises and checked reading of parallel meter installed and correctness of meter confirmed once again
3. On 05-03-2016 regular bimonthly bill issued to appellant for Rs. 27,710.00

4. On 15-03-2016 Short assessment bill issued for Rs. 1,85,606 .00
5. On 19-04-2016 appellant filed petition before Hon'ble CGRF Kottarakkara.
6. On 22-04-2016 Hon'ble CGRF issued interim order not to disconnect electricity
7. On 02-05-2016 Assistant Executive Engineer filed statement of facts before Hon'ble CGRF, Kottarakkara
8. On 02-05-2016 data stored in the meter downloaded with help of APTS team, Thiruvalla. From above dates mentioned incidents it is clear that the short assessment bill is not as per APTS inspection on 02-05-2016.

This energy is actually recorded in the meter and it was used by appellant. Short assessment bill issued as per prevailing rules and regulations.

It is totally denied the allegation that bill was as per inspection on 02-05-2016. Short assessment bill period was from 18-06-2013 to 17-12-2015. Electricity charges for consumption from 17-12-2015 onwards are collecting by issuing regular bimonthly bills. Also it is noticed from reading recorded in meter, that Zone-1 consumption is approximately proportional and also equal with sum of Zone 2 and Zone 3 consumptions (Zone-1 consumption = Zone-2 consumption + Zone-3 consumption). From date of connection to 18-06 2013 the appellant's premises was under construction. From 18-06-2013 actual usage is started. Comparatively average consumption seen during initial period from 18-06-2013 is very less as compared with consumption latter during 2014 and 2015 years. Hence short billed energy is consumed within the billed period. The Regulation 134(1) of the Kerala Electricity Supply Code, 2014 says "**the licensee may recover the amount so undercharged from the appellant by issuing a bill**"

It is already informed appellant that instalment facility is available as per the Regulation 152(4) of the Kerala Electricity Supply Code, 2014. Here in this case, the respondent had issued the short assessment invoice based on the prevailing rules and regulations. From the facts above there was no deficiency in service and the appellant has liability to pay the short assessment invoice.

Analysis and findings

Hearing of the appeal petition was conducted on 11-11-2016 in my chamber at Edappally, Kochi. Sri. Simon K. Mathew and Sri Shaji Sebastine represented the appellant's side and Sri. Vijayakumar, Assistant Executive Engineer, Electrical Sub Division, Kozhencherry, and Sri Sajeesh K.S. Sub Engineer-in-Charge, Electrical Section, Aranmula represented the respondent's side. On examining the petition, the statement of facts filed by the respondent, considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

The appellant's contention is that he is a commercial consumer, operating on the margin of sale of goods, who cannot meet any additional expenditure that may incur only because of the negligence and ignorance on the part of staff of the respondent. According to the respondent, the consumer is bound to pay the

charges for the electricity he has consumed. As per Regulation 134(1) of Electricity Supply Code, 2014, if the licensee establishes that it has undercharged the consumer, by review or otherwise, it is open to the licensee to recover the amount so undercharged from the consumer by issuing a bill. Further, Regulation 152 of the Supply Code, 2014 deals with anomalies attributable to the licensee which are detected at the premises of the consumer and hence the appellant is liable to remit the short assessment issued to him.

The relevant facts giving rise to the instant appeal is failure on the part of respondent in recording the actual consumption of the appellant and issuance of appropriate timely invoices. On scrutiny of the details produced before this Authority, it came to light that there were lapses on the part of staff of the respondent for recording the actual consumption of the appellant. Even if there is an omission or mistake in the billing of the appellant herein, it needs to be set it right, if the same comes to light and is bonafide.

Regulation 152 of the Supply Code, 2014 deals with anomalies attributable to the licensee which are detected at the premises of the consumer which reads thus:

“(1) Anomalies attributable to the licensee which are detected on inspection of the premises of the consumer such as wrong application of multiplication factor, incorrect application of tariff by the licensee even while there is no change in the purpose of use of electricity by the consumer and inaccuracies in metering shall not attract provisions of section 126 of the Act or of Section 135 of the Act.

(2) In such cases, the amount of electricity charges short collected by the licensee, if any, shall only be realized from the consumer under normal tariff applicable to the period during such anomalies persisted.

(3) The amount of electricity charges short collected for the entire period during which such anomalies persisted, may be realized by the licensee without any interest: Provided that, if the period of such short collection due to the anomalies is not known or cannot be reliably assessed, the period of assessment of such short collection of electricity charges shall be limited to twelve months.”

Provided also that realization of electricity charges short collected shall be limited for a maximum period of twenty four months, even if the period during which such anomaly persisted is found to be more than twenty four months.

In the instant case the appellant has not disputed the downloaded data and also agree with the reading taken on 16-02-2016 as 38991. Further, the appellant has not challenged the total units billed up to 17-12-2015 as 18205. Though it was a failure on the part of the respondent, it cannot be ignored since the appellant has actually consumed the energy and he is liable to pay for it. As

per Regulation 134(1) of Supply Code, 2014 says **“if the licensee establishes that it has undercharged the consumer, by review or otherwise, it is open to the licensee to recover the amount so undercharged from the consumer by issuing a bill and in such cases at least 30 days shall be given to the consumer for making payment of the bill”**.

During the hearing of the case, the appellant expressed his willingness to remit the short assessment in 24 installments, but requested interest free installment facilities. At the same time the respondent was agreeable to allow installments with interest only. As per Regulation 152(2) and (3) of the Supply Code, 2014, the amount of electricity short collected by the licensee, if any, can be realized from the consumer under normal tariff applicable to the period during which such anomalies persisted without any interest. Provided also that realization of electricity charges short collected shall be limited for a maximum period of 24 months even if the period during which such anomaly persisted is found to be more than 24 months.

On a perusal of records it can be seen that the respondent issued the short assessment bill for the period from 18-06-2013 to 17-12-2015. The request of the appellant is to allow 24 installments without interest. Accordingly the respondent is hereby directed to revise the short assessment limiting the period for 24 months as per Regulation cited above. ***As per Regulation 152(4) of the Kerala Electricity Supply Code, 2014, the consumer may be given instalment facility by the licensee for a maximum period of 12 months for the remittance of such amount of short collection with interest at the bank rate as on the date of remittance of the amount of the instalment.***

As per Regulation 152(2) and (3) of the Supply Code, 2014, the amount of electricity short collected by the licensee, if any, can be realized from the consumer under normal tariff applicable to the period during which such anomalies persisted without any interest. Accordingly the appellant is allowed to remit the short assessed amount for a period of 24 months without any interest. Installment, if any, requested by the appellant shall be granted according to Regulation 152 (4) of Supply Code, 2014.

Decision

In view of the above discussions, the respondent is hereby directed to issue fresh bill for a period of 24 months allowing 30 days for the remittance. It is also made clear that no interest or surcharge shall be levied for the appeal pending period. Installment, if any, requested by the appellant shall be granted according to Regulation 152 (4) of Supply Code, 2014. The order of CGRF is hereby quashed. No order as to costs.

ELECTRICITY OMBUDSMAN

P/063/2016/_____ /Dated:_____

Delivered to:

1. Sri. Simon K. Mathew, Kochalum Palackal, Arattupuzha P.O., Pathanamthitta
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Kozhencherry, Pathanamthitta

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.