

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/013/2017
(Present: A.S. Dasappan)
Dated: 02nd June 2017

Appellant : Smt. Santhamma P.,
Pochayil House,
Kanjaveli,
Kollam.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd,
Perinad,
Kollam

Background of the case:

The appellant is an LT industrial consumer bearing No. 11155 under Electrical Section, Kanjiramkuzhy. She is running a pitch mill unit with an installed connected load of 8000 watts. While so, on 16-06-2016 the appellant was served with a short assessment bill for Rs. 8696/- stating that the bill raised during the period of 10/2014 to 01/2015 was less than the actual due amount, on the basis of an audit inspection report of KSEB. The consumer was again issued a revised bill dated 12-07-2016 for Rs. 11,865/-. Again the respondent issued another bill dated 09-08-2016 for Rs.11604/- including arrear amount of 8567/-. The consumer filed Petition before the CGRF, Kottarakkara, which was disposed of by order dated 28-12-2016, by quashing the bill dated 09-08-2016 for Rs.3037/- and by upholding the bill dated 16-06-2016. Aggrieved by the decision of CGRF and the bill, the consumer filed this appeal petition before this Authority.

Arguments of the appellant:

The following submissions are made by the appellant in the appeal petition preferred by her.

Under the jurisdiction of Kanjiramkuzhy Section, three pitch mills are functioning other than the appellant's one. In all these pitch mills do not

function for one month following the Onam holidays. The functioning of the mill has been further delayed during the period of additional bill issued, due to some wage disputes. All these facts were informed and convinced by the CGRF. The challenge in the petition submitted before the CGRF was against the bill dated 16-06-2016 for Rs.8696/- issued by the respondent. Now the Forum quashed the bill dated 09-08-2016 for Rs.3037/- and directed to remit Rs.8696/-. According the appellant, the decision of the CGRF is not sustainable and justifiable before law.

Arguments of the respondent:

The respondent's version on this appeal petition is as follows:

The appellant (Registered consumer is Sri. Raghavan Nair, Pachayil house, Kanjaveli, Kollam) own a 3-Phase electric connection having consumer number 11155 for industrial purpose (LT4A- Tariff , with a connected load 8000 Watts) under Electrical Section Kanjiramkuzhy. Her grievance is with regard to the short assessment bill issued from this office on the basis of Regional Audit Office's report, for the period from October 2014 to January 2015.

The energy meter at the consumer's premises became faulty during 10/2014 and it was hence replaced with a new one on 06/02/2015. During The faulty period, the consumer was billed only for the following units.

For	10/2014	-	4 units
For	11/2014	-	Door Locked
For	12/2014	-	0 units
For	01/2015	-	345 units

Clause 125 of the Electricity Supply code 2014- procedure for billing in the case of defective or damaged meter reads as (1) In the case of defective or damaged, the consumer shall be billed on the basis of the average consumption of the past 3 billing cycle 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. Here the average consumption of the previous six months is available.

The respondent replaced the faulty meter on 06/02/2015. The KSEBoard Ltd is bound by law to issue a bill based on the previous three billing cycle's average consumption in the event of the meter becoming faulty. Hence an average consumption was arrived of previous three months viz. 7/2014 for which the recorded consumption was 340 units, 8/2014 for which recorded consumption was 373 units and 9/2014 for which the recorded

consumption was 486 units. The amount arrived so was 400 units and hence the bill was prepared accordingly.

1. The argument, of the appellant that the Honourable Chairperson of The CGRF had admitted the argument of the appellant is false and baseless.
2. The argument "The Mill had remained closed for some more days even after the Onam holidays" is a new argument and was not there in the original complaint.
3. The Bill was issued to him for the period the meter was faulty, on the basis of the average consumption for the period the meter was healthy.
4. The Appellant has already disclosed by his complaint itself that the meter was faulty since 10/2014. For the reasons stated above it is humbly requested that the petition may kindly be dismissed and the appellant may kindly be directed to remit the dues at the earliest.

Analysis and findings:

The hearing of the case was conducted on 15-05-2017 in the CGRF Court Hall, Kottarakkara and Sri. P.R. Hareesh Thampi represented for the appellant's side and Sri Sujith Kumar S, Assistant Executive Engineer, Electrical Sub Division, KSEB Perinad represented for the side of respondent. On examining the petition and 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 conclusions leading to the decision.

On going through the copy of Meter reading obtained from the respondent, I see that the meter was faulty at least from 09/2014 onwards, when the meter reading is decreasing and stuck at the value 18489 continuously, when the meter was replaced. Even after changing the faulty meter and having obtained the energy consumption particulars, the Board did not prefer its due claim. It was the audit party who noticed the discrepancy and suggested the reassessment for meter faulty time.

It is true that the KSEB shall supply electricity only through a correct meter, but the mechanism may get corrupt due to many reasons and may take some time, say 2 or 3 readings when there is gradual decrease in consumption rate, to test and decide the condition of the meter. I see that the consumer has challenged the arrear bills but has neither questioned the accuracy of the meter nor they raised any contention on the average energy assessed during the disputed meter faulty period.

On going through the records it can be seen that the respondent has issued monthly bills for the disputed periods and the appellant remitted the same without any fail. It is to be noted that the respondent has detected the meter was faulty for the period from 09/2014 to 01/2015 and a lesser consumption was recorded during that period. It is pertinent to note that even without conducting any inspection or checking the appellant's meter, the respondent declared the meter as sluggish for the previous period due to the reduction in consumption. Regulation 125 of Supply Code, 2014 stipulates the procedure for billing in the case of defective or damaged meter. **"In the case of defective or damaged meter, the consumer shall be billed on the basis of average consumption of the past 3 billing cycles immediately preceding the date of meter being found or reported defective.**

Provided that the average shall be computed from the 3 billing cycles after the meter is replaced if required details pertaining to previous billing cycles are not available".

(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.

The respondent has not produced any test report in connection with the testing of disputed meter at the laboratories accredited by the NABL. **Regulation 115 (9) says that "in the case the meter is found to be faulty, revision of bill on the basis of test report shall be done for a maximum period of 6 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 two subsequent bills".** Here in this case, the respondent declared the meter as faulty that too even without conducting any testing. There is no justification for issuing such a demand for a previous period as there is no allegation of any willful misuse by the appellant.

According to Clause 18(2) of Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, **"the testing of consumer meters shall be done at site at least once in five years. The licensee may instead of testing the meter at site can remove the meter and replace the same by a meter duly tested in an accredited test laboratory. In addition, meters installed in the circuit shall be tested if study of consumption pattern changes drastically from the similar months or season of previous years or if there is consumers complaint pertaining to a meter. The standard reference meter of better accuracy class than the meter under test shall be used for site testing of the consumer meters up to 650 Volts".** In the instant case, the respondent has not followed the procedures prescribed above before charging the appellant as meter faulty. Further, there is no mechanism for the appellant to know whether the meter is working properly or not.

The assessment made in this case is relying on preceding 3 months' consumption on the basis of an audit report. The respondent's contention is that the meter showed decrease in consumption which might have been a result of meter becoming sluggish. On going through the consumption pattern of the appellant from 01/2012 to 12/2014, it is found that the consumption varies considerably in every month. Hence the period of sluggishness cannot be proved conclusively without conducting testing of the meter. The statutory requirement of testing of the meter in an accredited lab or with a standard reference meter with better accuracy class is not done before declaring the meter as faulty. There is patent illegality in issuing the short assessment bill to the appellant. Without complying with the statutory formalities, the assessment now made in this case is not sustainable before law and liable to be quashed.

As per Regulation 118 of the Supply Code, 2014, ***“If a meter is found damaged either on the complaint of the consumer or upon inspection by the licensee, the meter shall be immediately be replaced by the licensee with a correct meter and if it is not possible the supply shall be restored by the licensee, bypassing the damaged meter, after ensuring that necessary preventive action at site is taken to avoid future damage and obtaining an undertaking from the consumer to make good the loss if any sustained by the licensee.”***

According to the respondent the monthly consumption shows enormous decrease from 10/2014 onwards. In the case of defective or damaged meter the consumer shall be billed on the basis of average consumption of the past 3 billing cycles immediately succeeding the date of meter being found or reported defective. At the same time the billing shall be limited for the maximum two billing cycles. If there is an omission or error on the part of respondent, it has to be set right in time with a notice to the appellant giving him an opportunity for being heard. The appellant is bound to pay the electricity charges for his actual consumption.

The respondent failed to reassess the party after obtaining the true average energy consumption, after changing the faulty meter with a good one on 06-02-2015. The respondent has failed to reassess the consumer as per the true average energy consumption obtained, even after getting the subsequent meter readings on replacing the faulty meter.

Here in this case, though the appellant has argued the non functioning of the mill during the disputed period, but not given any evidence about the conditions of working and occupancy of concerned premises during the said period, the short assessment bill preferred for the period in dispute based on presumption only that the meter was sluggish from 10/2014 onwards and hence is not sustainable. There is no material to show that the respondent has conducted any detailed checking of the appellant's meter. In this background,

the issuance of short assessment bill on the appellant merely on the basis of presumption and succeeding or preceding consumption pattern cannot be justified before law and liable to be quashed.

Decision

From the analysis done above, I take the following decision.

From the meter reading details furnished by the KSEB, I notice that the respondent had recorded the status of meter from 09/2014 to 12/2014 is working and is seen as good. No checking of the meter was conducted by the respondent during that period. It was not confirmed by the licensee whether the meter was faulty/damaged or not. The quantum of energy as the average energy used by the consumer for the disputed period as 400 units was revised by KSEB on a later date. As such, the disputed bill dated 16-06-2016 for Rs.8696/- is hereby quashed.

Having concluded and decided as above, it is ordered accordingly. The appeal petition filed by the consumer is found having merits and is allowed. The related CGRF's order vide, OP No. 158/2016 dated 28-12-2016, of the CGRF, Kottarakkara, is modified to this extent. No order on costs.

ELECTRICITY OMBUDSMAN

P/013/2017/ _____ /Dated: _____

Delivered to:

1. Smt. Santhamma P., Pochayil House, Kanjaveli, Kollam.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Perinad, Kollam.

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.