

THE STATE ELECTRICITY OMBUDSMAN  
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APPEAL PETITION NO. P/072/2018  
(Present: A.S. Dasappan)  
Dated: 31<sup>st</sup> October 2018

Appellant : Sri. Manmathan Nair S  
Kannel Aaramom,  
Puthupally P.O., Kayamkulam,  
Alappuzha

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Ltd, Kayamkulam,  
Alappuzha

### **ORDER**

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

The appellant, Sri Manmathan Nair S. is having electricity service connection with consumer number 1145686013938 under Electrical Section, Krishnapuram. The service connection was effected on 25/08/1997 in single phase for domestic purpose with connected load 150 watts. According to the appellant, his average bimonthly consumption was around 190 units only. Being so, he was served with an exorbitant bill for an amount of Rs. 1596.00 alleging that the average bimonthly consumption is 350 units. The appellant approached the CGRF, Ernakulam with a complaint to refund the excess amount collected from him. But the CGRF has quashed the impugned bill and directed the respondent to revise the bill during the month of 12/2017 based on the average of 285 units, vide order No. CGRF-CR/Comp.07/2018-19 dated 31-07-2018. Still aggrieved by the decision of CGRF, the appellant has submitted this appeal petition before this Authority.

#### **Arguments of the appellant:**

The appellant has submitted the following contentions in his appeal petition.

1. The appellant is a domestic consumer (LT-1A tariff) having Consumer No. 1145686013938 under the jurisdiction of the Electrical Section, Krishnapuram, Kayamkulam from 1997 onwards.

2. The appellant's bi-monthly consumption is below 190 units.
3. After installing the electronic meter, electricity reading shows high without increasing consumption like a magic.
4. The Assistant Engineer of the Electrical Section didn't accept the appellant's complaint about the impugned meter reading.
5. In their version the opposite party agreed that the concerned meter was faulty. But the Court doesn't consider it properly.
6. As per their version it is crystal clear that the concerned meter was fully faulty and irregular.
7. The CGRF doesn't consider the opposite parties' service negligence and irresponsible billing activities.
8. The CGRF doesn't consider the appellant's prayers such as mental strain, expense of the complaints and the interest of the excess amount paid.

The appellant requests refund of the excess amount paid with interest, compensation for mental strain and cost of the complaint.

**Arguments of the respondent:**

As per the reading register in oruma net the bi-monthly consumption for the year 2015-2016 is in the range of 300 - 350 units, thereafter the consumption of the consumer for the year 2016-2017 is seen steadily increased and reached in the range of 350-400 units and the average unit from 4/2017 to 10/2017 is 319 units .

Then the meter reading (digit) was seen improper, it shows 28 when the meter reader was taking reading on 8/12/2017. The energy meter in the premises of the consumer was seen faulty. So the spot biller issued a bill for 350 units (Rs. 1,596) based on the average of prior three bimonthly consumption, i.e. reading taken from 4/17 to 8/17.

Meter Reading	4/17	-	419 unit
Meter Reading	6/17	-	415 unit
Meter Reading	8/17	-	220units
Total		=	1054
Average	=	1054/3	= 351.33 (rounded to 350)

As the energy meter is seen ceased working after the reading on 6/8/2017, the consumption for the period from 4/17 to 8/17 is taken for calculating average consumption. Average unit calculation made in the bill dtd 8/12/17 is correct.

Consumer is liable to pay the said bill. Hence the average bill was issued according to existing rules and regulation of electricity. The faulty meter was changed the next day on 09/12/17 with initial reading 'zero'. Thereafter the bills were issued on the basis of the actual reading seen in the meter. The next bill was issued after meter changing on 06/02/18 in 192 units and bill for 4/2018 is 188 units.

Moreover, the appellant never filed any complaint against any bill in offices of KSEB Ltd, till the date. All the bills issued were genuine and legal. The appellant is not entitled to refund of the remitted bills amount. This office has not committed any deficiency of service against the consumer.

As per Regulation 125 of Kerala Electricity Supply Code 2014, 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. 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. In this case the previous reading was available and faulty meter replaced in 12/2017 itself.

Considering the above facts and circumstances of the case the Forum ordered to quash the impugned bill. The respondent is directed to revise the bill during the month of 12/2017 based on the average of 285 units. No cost ordered.

The consumer was not satisfied with the decision of CGRF and hence filed an appeal before the State Electricity Ombudsman.

### **Analysis and findings**

The hearing of the case was conducted on 11-10-2018 in the Court Hall of CGRF, Kottarakkara and Sri S. Manmathan Nair appeared for the appellant's side and Sri. Harikumar C, Assistant Executive Engineer, Electrical Sub Division, Kayamkulam appeared for the respondent's side. 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.

The respondent argued that the meter was found defective on 08-12-2017 and the consumption pattern confirmed this. So, average energy consumption was arrived and issued demand as contemplated in Regulations.

On going through the records it can be seen that the respondent has issued monthly bills based on the recorded consumption and the appellant remitted the same without any fail. It is to be noted that the respondent has detected that the meter was faulty in 12/2017 and a lesser consumption was recorded during that period and average 350 units charged. It is pertinent to note that even without

conducting any testing the appellant's meter, the respondent declared the meter as faulty. 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".*

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 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. The appellant's contention is that the meter recorded excess consumption after 2015 since the electronic meter installed and the newly installed meter was defective. The basis of his argument is that during the period from 1997 to 2015, his bimonthly consumption was around 190 units only.

In this case, the respondent assumed that the meter is faulty when the meter reads 28 and changed the meter on 09-12-2017. The registered connected load of the appellant is 150 watts, but the respondent is not aware of the present load and not prepared a mahazar as per rules. The respondent is not aware of the date from which the meter became faulty/recorded excess consumption than the actual consumption. 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. But the appellant argued that the meter showed excess reading than the actual consumption during earlier periods. Though the appellant claims that he had submitted complaints to the Assistant Engineer, there is no evidence to prove this. 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. It is the liability of the respondent that to prove the faultiness of meter and the appellant consumed the energy as claimed by the respondent during the disputed period by substantiating with evidences. The appellant is bound to pay the electricity charges for his actual consumption.

It is noted that the disputed energy meter of the appellant was not tested, at the consumer's premises, by installing a good energy meter (Check meter) in tandem with the existing meter; so that both meters differs in the reading, consumed by the party. The test being done on the consumer's premises and in his presence is more convincing than any other documentary evidence and would help the appellant to clear his doubts on the existing meter. When the test is

undertaken by KSEB on the consumer's meter, it is the best practice to prepare a mahazar, in the presence of the petitioner or his representative, recording the facts of, Check meter installed, the details of both meters with their seals, recording their initial reading etc on the first day and got it witnessed and then leave both meters in service for one weeks time, for joint working. Similarly, after informing the consumer, a final recording of meter readings in his presence, would have cleared the doubts and the said mahazar so prepared will surely be a valid document before any Legal Forum. There is no material to show that the respondent has conducted any detailed checking of the appellant's meter. As per statement of the appellant, the load connected in the premises is more than 150 watts. Further, the appellant could not produce any evidence to show that there was variation in the consumption pattern in their premises.

**Decision:**

From the analysis done above and the conclusions arrived at, I take the following decision.

In view of the factual position I don't find any reason to interfere with the findings and decision taken by the CGRF, Ernakulam in this case and hence the order of CGRF No. CGRF-CR/Comp.07/2018-19 dated 31-07-2018 is upheld. The appeal is found devoid of any merits and hence dismissed. Having concluded and decided as above, it is ordered accordingly. No order on costs.

**ELECTRICITY OMBUDSMAN**

P/072/2018/ \_\_\_\_\_ /Dated: \_\_\_\_\_

Delivered to:

1. Sri. Manmathan Nair S, Kannel Aaramom, Puthupally P.O., Kayamkulam, Alappuzha
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Kayamkulam, Alappuzha

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, CGRF-CR, 220 kV, KSE Board Limited, Substation Compound, HMT Colony P.O., Kalamassery, PIN: 683 503.