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APPEAL PETITION No. P/073/2019
(Present: A.S. Dasappan)
Dated: 29th November 2019

Appellant : The Manager
M/s. Sreekala Oxygen Company,
Mele Chelari,
Mathapuzha Road, Thenhipalam,
Malappuram-673636

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSEBL, Parappanangadi,
Malappuram

ORDER

Background of the case:

The Appellant, Manager, Sreekala Oxygen, Mele Chelari, Thenhipalam is an HT consumer (LCN 21/4274) under Electrical Section, Chelari, having connected load 185.5 kW and contract demand to the extent of 180 kVA. The appellant was being charged extra for the increase in the maximum demand of 180 kVA from 08/2018 to 12/2018. The appellant's grievance is that they were unnecessarily charged fine for excess demand and energy consumption from August 2018 onwards. Aggrieved by this, the appellant approached CGRF (Northern Region) who dismissed the petition of the appellant vide Order in OP No:08/2019-20 dated 29-08-2019. Aggrieved by the decision of CGRF, the appellant has submitted this Appeal petition before this Authority on 20-09-2019.

Arguments of the appellant:

The appellant is an HT consumer, having a constant connected load, the consumption is steady, and the same throughout the year since beginning with a contract demand (CD) of 180 kVA. Since it is intimated from the Electrical Section, Chelari, to enhance the CD, the appellant had forwarded application for the same to Deputy Chief Engineer, Electrical Circle, Tirur, through Assistant Engineer, Electrical Section, Chelari on 29.6.15. But as per Supply Code, 2014, Clause No. 99 (7) the licensee did not issue orders within 30 days of its receipt, that the enhanced CD is sanctioned or not. Instead they had forwarded a letter dtd.03.12.2015 i.e., after elapsing nearly 6 months,

asking appellant to purchase new CT/PT. At that time agreed CD as per clause 99 (8) of Supply Code, 2014 is 190 itself, but the recorded maximum demand (RMD) during these months is less than 190 and during the further months it became lesser and lesser, so the appellant didn't proceed further to procure new metering equipments.

But from the month of August 2018 onwards, again the MD had started going up beyond 190 along with the increased energy consumption. But the appellant is very much sure of the nature of the connected load, and also had not done any additional load into their system. And in the meantime, appellant had performed a thorough check-up of their electrical system including the transformer and found everything satisfactory. But as the demand notice continued to show high RMD and abnormal consumption for the subsequent months as well, the appellant suspected the metering equipment for erroneous operation and requested KSEB to arrange for a testing of the same. And the appellant was charged fine for excess demand and also the appellant had to pay more for increased Energy Consumption. The appellant truly suspects the CT for erroneous operation and requested the licensee to check the metering equipments (CTPT unit and ToD) through a letter to Assistant Engineer, Chelari on 03.08.2018. The licensee had checked only the ToD meter and said that metering equipment is 'OK' and respondent had charged fine for excess Demand and Energy Consumption.

In the order CGRF, in the sub heading "Discussion, Analysis and Findings; the 4th paragraph states that KSEB had directed appellant to enhance the contract demand in 06/2015, since the MD exceeded the agreed CD. Even if KSEBL directed to replace CT on 03.12.2015, it had not been done at that time and lastly appellant had purchased the new CT/PT by 11/2018 only. The fact is that only during one or two months of 2015, the kVA demand had gone higher, which is because of the intermittent changing of feeding arrangement from the Section and due to which voltage variation will be reflected in the RMD and Energy Consumption. That is why appellant had not enhanced the CD or changed the CT at that time.

The 5th paragraph in the sub heading "Discussion, analysis and findings", of the CGRF order, it states that licensee had arranged testing of CTPT unit and ToD meter and found working properly. But the licensee had tested only the ToD meter (since CT and PT cannot be tested at site, suitable arrangements must have been done by the licensee to send them to the laboratory for testing-which was not done) and even the test certificate of ToD meter had not been issued to appellant.

The 6th paragraph of "Discussion, Analysis and Findings", of the CGRF order, it states that, the ratio error between the ToD meter and the check meter is negligible and the instantaneous report shows correct voltage and current in the phases indicating that CT is properly functioning. But the practice of testing the CT for phase angle error is not carried out so far. The appellant truly suspect the CT for phase angle error because once it is replaced in 12/2018, the RMD in the subsequent months shows the normal value.

The RMD for 01/2019 in the demand notice is 199kVA, whereas the list prepared by the Assistant Executive Engineer, Parappanangadi, shows the RMD for 01/2019 as 187 kVA. But CGRF has taken into consideration of 199 and concluded that appellant has increased consumption even after changing the CTPT and ToD, which cannot be admitted.

As per the letter from the KSEBL officials, appellant had purchased a new set of CT, PT, ToD meter and forwarded a letter to Assistant Engineer, Electrical Section, Chelari, requesting to arrange to test the same from TMR Shornur on 21.11.2018. After paying necessary fees, appellant had got it tested, and forwarded a letter to Assistant Engineer, Electrical Section, Chelari, with the test report; requesting them to arrange the TMR Shornur team to connect the same to the system on 29.11.2018 and again a letter had been forwarded to them stating that the connection of new CT, PT, ToD set, seem to rectify the problem, else, the appellant is ready to apply for enhancement of CD, Finally they effected the connection only on 12.12.2018.

And in the demand notice from January 2019 onwards it is clear from the bill (except for 01/2019, which is a disputed entry), that the RMD and the energy consumption are very much similar to the previous pattern of consumption.

From the above, it is very much clear that, the excess Demand and the higher consumption pattern are not because of the increased consumption, since the total connected load in kVA is 212 and during the month November 2018, the Recorded Maximum Demand was 214kVA, which cannot be possible in any manner. Despite request to test and change the metering equipments, in August 2018, KSEB had effected connection of new CT, PT and ToD meter only on 12.12.2018, and the appellant was unnecessarily charged fine for excess Demand and more Energy Consumption from August 2018 onwards.

So, it is prayed that Electricity Ombudsman may consider the above facts and findings while disposing the petition.

Arguments of the respondent:

In 2014, the office of Executive Engineer, T.M.R. Division, Shornur informed Electrical Section, Chelari, that CTPT unit installed in the premises of the appellant declared as faulty, since 08-01-2014. The CTPT unit repaired and tested OK on 12-02-2014 and thereafter continuing with same CT PT unit till 12-12-2018.

CT: Ratio – 10/5A, 15 VA, CL:0.5, Sl. Nos. 9710457, 9710458, Make: Indus
PT: Ratio -11 KV/110 V.100 VA, CL: 0.5, Sl. Nos :9710229, Make: Indus

After this event, from 03/2014, the Recorded Maximum Demand (RMD) exceeded the contract demand and therefore, the Deputy Chief Engineer, Electrical Circle, Tirur directed the appellant to enhance the contract demand on two occasions on 10-06-2015 and 12-07-2018.

The appellant submitted the application to enhance contract demand to 190 kVA along with the required papers on 29-06-2015 and after scrutiny, Electrical Section, Chelari, submitted this to Deputy Chief Engineer, Electrical Circle, Tirur on 15-10-2015. The Deputy Chief Engineer, Electrical Circle, Tirur, found that the existing 10/5 A - CT is not suitable to the enhanced demand of 190 KVA. The suitable CT ratio is 15/5 A. Hence it was directed the appellant on 03-12- 2015 to replace the CT with suitable capacity. But the appellant had not taken any steps in this regard till 21-11-2018. On 21-11-2018, they produced new CT unit of required capacity for testing.

The appellant requested to check the accuracy of existing CT / PT unit on 03-08-2018 and hence the accuracy was tested by the Meter Testing Laboratory, T.M.R Shornur by using parallel meter to the existing meter on 17- 09-2018. The Meter Testing Laboratory, T.M.R Shornur informed on 24-09-2018 that the CT / PT unit and ToD meter is functioning normally and hence the appellant has not sustained any loss due to inaccuracy of the meter. The appellant did not raise any objections regarding to this report.

The argument of the appellant that he is having a constant connected load and steady consumption is totally incorrect. There are very much differences in consumption pattern throughout the period since their inception. There is not any voltage variation in this appellant's premises as the 110 KV Substation Chelari is situated at a nearby place to the said premises.

The load details collected from the premises are given below.

1. Air Compressor - 180 HP
2. Engine Motor – 10 HP
3. Pump – 3 HP
4. L.N. Pump - 3 HP
5. Cooling Tower Pump - 3 HP
6. Water pump - 7.5 HP
7. Heater 1 -15 kW
8. Heater 2- 9 kW.
9. Drilling Machine - 1 Hp
10. Chiller - 0.5 Hp
11. Oil pumping Motor - 1 Hp.
12. Light load – 9.09 kW.
13. AC- office -1.5 ton

Total 191.31 kW

Equivalent to 212.57 kVA.

From these details it is quite evident that the RMD can raise up to 214 kVA without any additions on the appellant's connected load (212.57 X 1.005). It can also happen if they had used any small machineries like Electric drilling machine, Welding Machine, Cutting Machine etc. at a time, when the factory was functioning at full swing.

All the necessary tests for ensuring the accuracy of the meter were successfully completed here. The argument of phase angle error is totally irrelevant that, if it happens so, it will measure only less consumption and demand, which will in turn become less reading in the meter.

The RMD and consumption indicated in the C.G.R.F. order is as per the bill issued by the licensee and registers. List prepared by Assistant Executive Engineer, Parappanangadi was based only on a report from Electrical Section Chelari.

The appellant informed Electrical Section Chelari on 21-11-2018 that they had purchased a new CT / PT and ToD meter unit with suitable capacity of 15/ 5A. As per their request the unit was tested from T.M.R Shornur and the unit installed in their premises on 12-12-2018. Less demand and consumption from January 2019 cannot be admitted as an argument for same pattern of previous demand and consumption, since the consumer possess a connected load which is higher than contract demand. From this scenario it is evident that the recorded maximum demand throughout the time is within the range of connected load and there is no need of a suspicion about the accuracy of meter at any juncture.

Considering all the facts mentioned above, it is clear that maximum demand and consumption recorded by the CT/ PT and ToD meter unit is correct at all times and hence the arguments raised by the appellant is not at all considerable.

Hence, requests to dismiss the petition.

Analysis and Findings: -

The Hearing of the case was conducted on 05-11-2019, in my chamber at Edappally. Sri. Kalyanakrishnan, appellant appeared for the hearing and Sri. Jayachandran R, Assistant Executive Engineer, Electrical Sub Division, Parappanangadi and Sri Raju V.P., Assistant Executive Engineer, Electrical Sub Division, Tirurangadi represented the respondent's side. On perusing the Appeal Petition, the counter of the Respondent, the documents submitted, arguments during the hearing and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions there of.

The connected load of the appellant was 185.5 kW and the Contract Demand 180 kVA. The CT/PT unit in the premises was declared faulty since 08-01-2014 by the Executive Engineer, TMR Division, Shornur. The new CT/PT unit with CT ratio 10/5 and PT ratio 11000 Volts/110 Volts were tested and commissioned by TMR on 12-02-2014.

On 10-06-2015, the Deputy Chief Engineer, Electrical Circle, Tirur had directed the appellant to submit an application for the enhancement of Contract Demand within 30 days as the demand exceeded in 3/2014, 4/2014 and 5/2014 to 190 kVA, 185 kVA and 182 kVA respectively while reviewing up the Contract Demand for the financial year 2014-15. The appellant forwarded application for the enhancement of Contract Demand from 180 kVA

to 190 kVA on 29-06-2015 to the respondent, but no orders received within 30 days as per Regulation 99(7) of Supply Code, 2014 and hence the Contract Demand was deemed to have been granted as per Regulation 99(8) of the Supply Code, 2014.

Regulations 99 and 101 have application to the facts of the case which are read as follows:

99. *Enhancement of connected load or contract demand.- (1) Consumer shall apply to the licensee for enhancement of contract demand in case of consumers under demand based tariff and of connected load in the case of others, in the form specified in Annexure - 11 to the Code and the licensee shall process the application form in accordance with the relevant provisions of the Code.*

(2) For site inspection as well as issuance and payment of demand note for the estimated cost of work if any, both the licensee and the applicant shall follow, mutatis mutandis the procedure and timelines as laid down in regulations 77 to 83 of the Code.

(3) The licensee shall give a written intimation along with the demand note to the consumer which shall include the following:-

(a) whether the additional power can be supplied at the existing supply voltage or at a higher voltage;

(b) addition or alteration, if any, required to be made to the distribution system and the expenditure to be borne by the consumer, on that account;

(c) amount of additional security deposit and expenditure for alteration of service line and apparatus, if any, to be deposited in advance by the consumer;

(d) change in classification of the consumer and applicability of tariff, if required; and

(e) any other information relevant to the issue.

(4) The application for enhancement of load shall not be considered if the consumer is in arrears of payment of the dues payable to the licensee.

(5) If the enhancement of load is feasible, the consumer shall:-

(a) pay additional security deposit, expenditure for alteration of service line and apparatus, if any, required to be made, and the cost to be borne by the consumer for modification for distribution system if any, within fifteen days of receipt of the demand note; and

(b) execute a supplementary agreement;

(6) If the consumer pays the required charges and executes a supplementary agreement, the licensee shall execute the work of modification of the distribution system, service line or meter and other apparatus within the time line specified under regulation 85, mutatis mutandis, and sanction the additional contract demand or connected load.

(7) The licensee shall issue order on the application for the enhancement of load within thirty days from the date of its receipt and intimate the applicant whether or not the enhancement of load is sanctioned.

(8) If the licensee does not intimate its decision on the application for the enhancement of load within the above period, sanction for enhancement of load or contract demand, as the case may be, shall be deemed to have been granted with effect from the thirty first day of the date of submission of the application by the consumer.

101. Annual review of contract demand.- (1) In the case of HT and EHT connections, if the maximum demand recorded exceeds the contract demand in three billing periods during the previous financial year, the licensee shall issue a notice of thirty days to the consumer directing him to submit within the notice period, an application for enhancement of contract demand.

(2) If there is no response from the consumer by the end of the notice period, the licensee shall enhance the contract demand of the consumer to the average of the top three readings of maximum demand shown by the maximum demand indicator (MDI) meter of the consumer during the previous financial year, if the additional load can be sanctioned without augmentation or upgradation or uprating of the distribution system.

(3) In the case of LT consumers under demand based tariff, similar review and consequential process shall be carried out.

(4) Consequent to enhancing the contract demand, applicable charges shall be collected from the consumer and the consumer shall be directed to execute supplementary agreement if required.

(5) If the distribution system is not adequate to meet the excess demand of the consumer, he shall be directed by the licensee to restrict his demand to the permissible limit, till necessary augmentation or upgradation or uprating works are done as per the provisions of this Code: Provided that the service may be disconnected after sufficient notice as per the Code if the consumer does not comply with such direction.

(6) For enhancing the contract demand, the licensee and applicant shall follow the procedure and timelines with respect to acceptance of application form, site inspection, issuance of demand note and payment of the estimated expenditure for works in accordance with regulation 99 of the Code.

(7) The consumer may approach the Consumer Grievance Redressal Forum if he is not satisfied with the decision of the licensee.

On 03-12-2015, the appellant was asked to purchase a CT with higher ratio of 15/5 A by the respondent. The appellant had not purchased the CT unit with higher ratio as the Contract Demand became lesser and lesser in further months. They purchased the required CT unit on 21-11-2018 only and put into service on 12-12-2018 after the testing by the TMR Unit. The respondent had not taken any action in continuation to their letter on 03-12-2015 for the replacement of CT unit till 21-11-2018. At the same time, the appellant had either to procure the new CT with higher capacity or to clarify with KSEBL whether existing CT to be replaced with higher capacity CT on the ground of decreasing Maximum Demand.

In the meantime, the appellant suspected the metering equipment for erroneous operation and requested KSEB to arrange for a testing of the same because the demand notice continued to show high RMD and abnormal consumption. The meter was tested by TMR on 17-09-2018. Remarks of the TMR is "as difference in consumption is negligible and small difference is due to the taking of readings. Hence no issue seen in present meter". The methodology adopted for this testing is high resolution method. The error analysis of the meter is not seen done. The contention of the appellant is that only ToD meter was tested and satisfied with that. But the CT/PT unit was

not tested by them in accordance with the CEA Regulations Clause 19(2). The respondent has not prepared a site mahazar.

The load details collected from the premises were produced by the respondent. Total connected load is 191.31 kW which is equivalent to 212.57 kVA taking the power factor as 0.9. The Power Factor in the monthly bills varies from 0.98 to 1 and the appellant is getting incentives. As per respondent, 13 Nos. equipments with different capacity are connected in the premises as load, of which the air compressor having capacity of 180 HP (134.28 kW) is the highest. Considering the nature of load and the high power factor the Recorded Maximum Demand in the tune of 200 to 214 kVA seems to have no logic.

Here the respondent's contention for charging the CT capacity to a higher value is for enhancing the Contract Demand, but the appellant's contention is the RMD for 8/18 to 12/18 is the default of the CT/PT unit. The respondent had to check the correctness of the CT/PT unit before replacing it with a new unit on 12-12-2018.

After installing the CT with 15/5 on 12-12-2018 the RMD for 1/19 (190 kVA), 2/19 (184 kVA) 3/19 (181 kVA) which weighs the argument of the appellant that the RMD for 8/18 to 12/18 is due to the default of the CT/PT unit. The term ' Meter' is defined in Regulation No 2 (57) of the Kerala Electricity Supply Code, 2014. The said definition is extracted hereunder for ready reference "METER means a device suitable for measuring, indicating and recording consumption of electricity or any other quantity related with electrical system and shall include wherever applicable other equipment such as Current Transformer (CT). Voltage Transformer (VT), or Capacitance Voltage Transformer (CVT) necessary for such purpose."

The meter is not a recording or display unit only but as defined above all the components above including lead wires include a meter. Moreover, this is not a whole current meter but a CT operated meter, where external CT is connected with metering unit using lead wires and phase voltage from all three phases are tapped from the source of supply and then connected with the same metering unit. Thereby wiring is also there for this metering system. This coordinates for computing energy is lead to the processing unit of the meter unit from different components of the meter then various electrical quantities are processed then recorded cumulative or otherwise and displayed in the display unit. Any defect in any part or component of meter is defect in meter. Under the regulation 113, sub clause (7) of Supply Code 2014 requires the licensee to test the CT, PT and the wiring connections, where ever applicable while testing the meter. According to the respondent, the accuracy was tested by the Meter Testing Laboratory, T.M.R Shornur by using parallel meter to the existing meter on 17- 09-2018 and the Meter Testing Laboratory, T.M.R Shornur informed on 24-09-2018 that the CT / PT unit and ToD meter is functioning normally.

The zone wise consumption details and Recorded Maximum Demand of the appellant for the period from 07/2017 to 10/2019 are furnished below.

Consumption Month	Zone kWh			Total Consumption	RMD In kVA
	1	2	3		
10-19	55572	20154	38865	114591	184
09-19	49101	17934	33510	100545	185
08-19	48591	19575	38256	106422	201
07-19	55728	20217	40434	116379	184
06-19	52860	18261	38040	109161	184
05-19	54975	19911	37416	112302	182
04-19	47619	18819	35520	101958	182
03-19	54000	19308	39558	112866	181
02-19	45333	16644	35361	97338	184
01-19	53010	20385	38850	112245	190
12-18	51924	19825	38149	109898	199
11-18	55912	20292	38630	114834	209
10-18	60832	21938	45382	128152	214
09-18	58726	19772	42216	120714	210
08-18	55196	20336	42196	117728	202
07-18	49570	19176	39426	108172	197
06-18	49684	18780	36564	105028	185
05-18	51882	18374	37508	107764	186
04-18	47528	18286	36290	102104	183
03-18	52528	19976	38958	111462	191
02-18	46104	16084	32934	95122	183
01-18	45900	17314	38052	101266	181
12-17	47392	15764	36990	100146	184
11-17	45216	15854	34820	95890	189
10-17	45858	13944	33024	92826	187
09-17	47078	15832	34538	97448	180
08-17	50692	18250	37944	106886	180
07-17	49674	18756	39518	107948	182

If the contract demand deemed to have been granted with effect from the thirty first day of the date of submission of the application by the appellant (date of application was 29-06-2015) as 190 kVA, the excess demand occurred from 8/18 to 12/18 was 84 kW (9+19+24+20+12). But the appellant's contention is that the default of the CT/PT unit which caused high RMD and abnormal consumption. While reviewing the RMD for 28 months from 07/2017 to 10/2019, the RMD never exceeded 190 kVA except 03/2018, from 07/18 to 12/18 and 08/2019. The recorded RMD for the previous year from 07/2017 to 12/2017 is in between 180 kVA to 189 kVA. While reviewing the RMD from 07/2019 to 10/2019, the RMD is 184 kVA, 201 kVA, 185kVA, and 184 kVA. Considering the above facts and the date of application of enhancement of the contract demand and in pursuant to Regulation 99 (8) of Supply Code 2014, the contract demand of the appellant is fixed as 190kVA.

The respondent is allowed to collect the demand charges at the normal rate for the disputed period from 08/18 to 12/18 and the excess demand charge above 190 kVA is quashed.

The average consumption in each zone for three billing months prior to the installation of new ToD meter and CT with ratio 15/5 on 12-12-2018, after the installation of new ToD meter and CT and average consumption for the disputed period from 08/18 to 12/18 are furnished below.

Zone	Average of the consumption for 5/2018, 6/2018 & 7/2018 (prior to the meter & CT change)	Average of the consumption from 8/2018 - 12/2018 (disputed period)	Average of the consumption for 1/2019, 2/2019 & 3/2019 (after the meter & CT change)
1	50379 kWh	56087 kWh	50781 kWh
2	18777 kWh	20266 kWh	18779 kWh
3	37832 kWh	40900 kWh	37923 kWh
Total	106988 kWh	117253 kWh	107483 kWh

Since the CT/PT unit was not tested in accordance with the CEA Regulations Clause 19(2), not ascertained whether the metering system is defective or not and considering the reasons analyzed above, the billing done during the disputed period is considered as not sustainable before law.

Decision

From the findings and conclusions arrived at as detailed above, the respondent is directed to revise the bills for the consumption period of 08/2018 to 12/2018 by fixing the contract demand as 190 kVA at normal rate and the excess demand charge above 190 kVA is quashed and shall be refunded as stated above. The respondent shall also reassess the consumption for the disputed period from 08/2018 to 12/2018 by taking the average of the zone wise consumption for 01/2019, 02/2019 and 03/2019. The excess amount collected shall be refunded by adjusting it in appellant's future bills. Applicable interest, for the excess amount so collected, shall also be refunded to the appellant.

The respondent shall also take steps to review the demand charges for 2 years from 08/2016 to 07/2018 to be realised from the appellant by taking 190 kVA as contract demand on the basis of the RMD.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant is found having some merits and is allowed to the extent ordered. The order of CGRF, Northern Range, Kozhikode

in Petition No. OP/8/2018-19/dated 29-08-2019 is set aside. No order on costs.

ELECTRICITY OMBUDSMAN

P/073/2019/ _____ /Dated: _____

Delivered to:

1. The Manager, M/s. Sreekala Oxygen Company, Mele Chelari, Mathapuzha Road, Thenhipalam, Malappuram-673636
2. The Assistant Executive Engineer, Electrical Sub Division, KSEBL, Parappanangadi, Malappuram

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, Consumer Grievance Redressal Forum, Vydhyuthi Bhavanam, KSE Board Ltd, Gandhi Road, Kozhikode