

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 9539913269
Email: ombudsman.electricity@gmail.com

APPEAL PETITION No. P/002/2020
(Present: A.S. Dasappan)
Dated: 18th March 2020

Appellant : Sri. C. Yohannan
Proprietor, Carmel Cashew Factory,
Arukalickal West, Parakode P.O.,
Adoor, Pathanamthitta

Respondent : The Assistant Executive Engineer
Electrical Sub Division, KSEBL,
Ezhamkulam,
Pathanamthitta

ORDER

Background of the Case:

The appellant is a consumer of Electrical Section, Ezhamkulam having consumer no 1488 and a connected load of 89544 watts under LT 1VA tariff with a contract demand of 99.0 kVA. The electric supply had been given to the consumer as a three phases supply. On 15-03-2019, the Anti Power Theft Squad, Thiruvalla unit of KSEBL along with the officials of the Electrical Section Ezhamkulam had conducted an inspection at the premises of the appellant. During the inspection it was detected that the voltage connection and current CT connections of each phases are not connected properly in the meter causing wrong phase association. So as to compensate revenue loss to the Board for the unrecorded portion of energy, the Assistant Engineer, Electrical Section, Ezhamkulam issued a provisional short assessment bill. Then the appellant had challenged before the CGRF, the demand notice dated 22-6-2019 issued by the respondent to pay an amount of Rs. 6,27,688/- as short assessment charges for the period from 04/2017 to 03/2019. The Forum disposed of the petition vide order No. OP 101/2019 dated 03-12-2019 by ordering that the short assessment bill issued is legal and sustainable. Aggrieved against this, the appellant has submitted this appeal petition before this Authority on 06-01-2020.

Arguments of the appellant:

The appellant is a regular customer and there is no default or corruption reported against him with regard to the usage of electricity. Appellant clearly stated in the petition there is no damage for the meter and

he can't be held liable for the KSEB official, who has done a faulty connection. The appellant also stated in petition that the inspection was done by the APTS, Thiruvalla without informing him and without his presence of any expert deputed by the appellant.

The KSEB has filed their version and have clearly stated that the decline in the electricity has happened due to the anomaly in the meter connection and not due to any fault in metering equipment. It is averred that from the version of KSEB it is clear that the decline in the usage of electricity was not due to the intervention of the appellant but due to the faulty connection done by the officers of the respondents. It is further averred that the reading of the meter after rectification is below 30000/- and expressed his willingness to pay the penalty for the declined period on the basis of the average of bills after the rectification period, instead of the arbitrary penalty imposed by the KSEB. The inspection done in the absence of the appellant or any expert duly appointed by him is illegal.

There is no fault in the meter and the decline in reading was due to the faulty connection by the KSEB officials, for which the appellant is not liable. The appellant can't be held liable for loss which has happened due to the irresponsible duty performance of the staffs of the respondent. The appellant is willing to pay the penalty for the declined period as a loyal customer, who doesn't have any back history of manipulating electricity. The decision of the KSEB is against the natural justice.

Reliefs sought for.

1. To reconsider the order in O.P No. 101/2019
2. To allow the appellants willingness to compensate the KSEB for loss suffered on the basis of the average of bills after 15/03/2019, the date of correction of anomaly.

Arguments of the respondent:

A joint inspection was conducted by the Anti-Power Theft Squad, Thiruvalla along with the officials of Electrical Section, Ezhamkulam at the premises of the said consumer on 15.03.2019. During the inspection of the current transformer operated metering system, it was found that the R phase of the meter is wrongly connected with R phase voltage and B phase current instead of R phase voltage and R phase current. Similarly, the B phase of the meter is also wrongly connected with B phase voltage and R phase current instead of B phase voltage and B phase current.

The Y phase of the meter is correctly connected with Y phase voltage and Y phase current. During testing of the metering system at the time of inspection using a calibrated standard reference meter, it was found that the energy meter was not recording 46% of actual consumption. Thus, it was established that the energy meter is recording only 54% of actual consumption. As submitted supra, the said short assessment of energy consumption was confirmed using the standard reference meter and the standard reference meter used was a calibrated and certified meter by NABL

accredited lab. The decline in consumption was not due to any fault in the metering equipment but due to anomaly in meter connection. The meter in the consumer premises was not faulty. The anomaly in the metering circuit was rectified at the time of inspection and tested the metering circuit with the same calibrated standard reference meter.

A supply licensee is empowered under Regulation 152 of the Kerala Electricity Supply Code, 2014 to make good, the charges from a consumer if it is established that those are short collected due to inaccuracies in metering. The anomaly persisted for more than 24 months. Accordingly, for the unrecorded portion of energy for the period 04/2017 to 03/2019, a short assessment bill for Rs. 6,27,688.00 (Rupees Six lakh twenty-seven thousand six hundred and eighty-eight only) was issued as per the notice No. BB/APTS/2019-20/34 dated 25.06.2019 of Assistant Engineer, Electrical Section, Ezhamkulam.

It was established to the satisfaction of the consumer during the inspection and his signature in token of the acceptance of the facts recorded in the site mahazar. The actual facts being so, Regulation 115(9) of the Kerala Electricity Supply Code, 2014 is not applicable in the above case as the meter was not a faulty one. Though the said anomaly persisted for a considerable long period for the purpose of short assessment bill, the period was limited to 24 months as per Regulation 152(3) of the Kerala Electricity Supply Code, 2014.

The anomaly found during the inspection, the result of testing carried out in the metering circuit due to this anomaly, the correction carried out to rectify the anomaly, the result of testing carried out after correcting the anomaly and all other details of inspection were recorded in the mahazar prepared by Sri. Sudheesh. U, Sub Engineer, Electrical Section. Ezhamkulam at the time of inspection itself and the consumer's representative signed the mahazar as a token of acceptance of facts recorded in the said mahazar. The consumer's representative received one copy of the site mahazar with his acknowledgement in the original.

The short assessment is calculated for the energy actually consumed by the consumer but not recorded in the energy meter due to inaccuracy in the metering was due to wrong connection of wires to the meter which persisted from the date of installation of the CT meter on 31.01.2017 to the date of detection and its correction on 15.03.2019. The assessment is not based on any average calculation. It is purely based on the energy recorded in the meter which is only a portion of consumed energy. Portion of energy escaped from the metering due to the anomaly in the metering system was calculated for each month based on the test result obtained at the time or inspection. This unrecorded portion of energy was added to the energy recorded by the meter in the corresponding month to obtain the energy actually consumed. The total monthly charges for actual consumption was calculated and the amount already remitted for the recorded portion of energy was deducted from this to arrive the short-collected amount. The short-collected amount for the unrecorded portion of energy for each month is separately calculated and the detailed calculation was served to the

consumer. The error due to the anomaly obtained during the testing with the calibrated standard reference meter was -46% (minus 46%). This means the meter at the consumer premises is not recording 46% of the consumed energy and the energy recorded by the meter is only 54% of the actual energy consumed. Hence the energy actually consumed is energy recorded by the meter $\times 100/54$ which is 1.85 times the energy recorded by the meter.

The anomaly found during the inspection is not detectable during the time of taking monthly readings and require thorough inspection and testing of metering system. No such comprehensive inspections were earned out in the metering circuit of the consumer before the inspection carried out on 15.03.2019.

Reading history shows that the monthly energy consumption pattern of the consumer's factory is of varying pattern and hence the consumer's claim about the consumption pattern and to take average of bills after 15.03.2019 i.e. after the anomaly rectification is not maintainable. The demand issued is not for any unauthorized use by the appellant and no penalty is imposed on the consumer. It is only the changes of energy actually consumed by him but escaped from metering due to inaccuracy in metering.

To the objection filed by the consumer on 23.07.2019 before the Assistant Engineer, Electrical Section, Ezhamkulam, the Assistant Engineer furnished a detailed reply to the appellant as per letter no. DB/AE/Ezhamkulam/2019-20/43 dated 09.08.2019. On hesitation of direct receipt of the letter by the representative of the consumer in the consumer premises, the same was sent on 13.08.2019 by speed post as per EL0854038551N. The action of these respondents is perfectly in tune with Regulations 152 & 155 of the Kerala Electricity Supply Code, 2014 and as such the appellant consumer is bound to honour the demand,

Analysis and Findings:

The hearing of the case was conducted on 24-02-2020 in Vydhyuthi Bhavanam, Alappuzha and Sri. Yohannan, Sri. Sunil Kumar R, and Sri. Balakrishna Pillai represented the appellant's side and Sri. Omanakuttan S, Assistant Executive Engineer, Electrical Sub Division, Ezhamkulam represented the respondent's side. On examining the petition, the counter statement of the respondent, perusing the documents attached and the arguments in the hearing and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

The APTS has inspected the consumer's premises on 15-03-2019 and detected that the CTs for metering was wrongly connected, thus resulting in the recording of a lower consumption than what is actually consumed. A site mahazar was prepared on 15-03-2019 and meter data was downloaded. The CGRF, Kottarakkara has observed that the short assessment bill issued by the respondent is genuine and sustainable and hence the consumer is liable to pay the amount.

The appellant's main arguments in the appeal petition are on the following lines.

The meter and the security seals everything are perfectly in order and the meter was functioning normal and there was no tampering of any kind in any manner or any theft committed by anyone. There is a mistake committed in the connection which is obviously by the respondent. The issues of wrong connection of the CT terminals are necessarily to be brought under the terminology "inaccuracies in metering" under regulation 152 (1) of the Supply Code, 2014. In the instant case the admitted aspect is that the anomaly is wrong connection of CT terminals which is a mistake not attributable to the consumer but to the licensee. The appellant expressed his willingness to pay the penalty for the declined period on the basis of the average of bills after the rectification period, instead of the arbitrary penalty imposed by the KSEB and also stated that the inspection done in the absence of the appellant or any expert duly appointed by him is illegal.

The respondent has furnished a counter statement and according to him there is wrong connection of CT terminals to the meter and due to the interchanged connection 46% of the actual consumption went unrecorded by way of the wrong phase association and the licensee is entitled to recover the undercharged amount.

The issue to be decided in this appeal is whether the period assessed and the quantum of energy loss computed are in order and the appellant is liable for the payment of short assessment for Rs. 6,27,688/- as per Regulation 152 of Supply Code, 2014, as claimed by the respondent.

The Licensee was bound to periodically maintain correct meter as per Section 55 of the Electricity Act 2003 read with Regulation 113 of the Electricity Supply Code. The lethargy on the part of the Board in periodically checking and finding faults in the meter are matters for the Board to deal with their erring staff. This Authority is of the opinion that whenever a three-phase connection is given with or without external CTs, the appropriate authority has to inspect the premises and check the metering system and certify its correctness so as to avoid loss or undue gain of revenue to either parties. In this case the appellant is not responsible for the defect in the metering system from the date from 31-01-2017 that is when the connected load changed from 38855 watts to 89554 watts. No inspection is seen conducted by the Assistant Executive Engineer, the agreement authority, to ascertain the correctness of the metering system on 31-01-2017 and hence grave lapses and dereliction of duty occurred on his part. After giving a new CT connection, give three phase load on the meter and check the anomalies before leaving the consumer premises, is the prime responsibility of the officer. A wrong meter connection provided by the respondent cannot be treated as a defect occurred in the metering system which is in service.

As per Regulations 34, 113 and 116 of the Kerala Electricity Supply Code, 2014 the Board shall provide the meter to the consumer and also conduct the periodical inspection or testing and calibration of the meter, as

specified in the Central Electricity Authority (Installation and Operation of Meters) Regulations 2006. Section 55 (1) of the Electricity Act, 2003 mandates that no licensee shall supply electricity after the expiry of 2 years from the appointed date, except through installation of a correct meter in accordance with the Regulations to be made in this behalf by the authority. Regulation No 104 (1) of the Kerala Electricity Supply Code, 2014 also in categorical terms stipulates that the licensee shall not supply electricity except through a correct meter installed in accordance with the provisions of the Central Electricity Authority (installation and operation of meters) Regulations, 2006. Regulation 109 (20) of the Supply Code, 2014 declares that it shall be the responsibility of the licensee to maintain the meter and keep it in good working condition at all times. A consumer cannot be saddled with the liability for breach of statutory duty.

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 the 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.

The respondent prepared the short assessment bill, for 2 years from 4/2017, for 85% of the recorded consumption. If 185% of the RMD exceeds 75% of the Contract Demand, that portion was also billed. The above mode of billing was made by the respondent, on the strength of the test conducted in the metering system, for computing 46% of the unrecorded portion of energy as detected.

On verification of the meter reading history from 2/2016 to 11/2018, the following observations can be found out.

	Variation of recorded energy consumption and RMD from 2/2016 to 1/2017 prior to the CT meter	Variation of recorded energy consumption and RMD from 2/2017 to 2/2018 in the disputed period of CT connection
kWh	1484 kWh to 7684 kWh. Average 5058 kWh	180 kWh to 8910 kWh. Average 5080 kWh
RMD	19 kVA to 47 kVA	2 kVA to 44 kVA

From the above it can be observed that the monthly consumption is not in a uniform pattern and the enhancement of connected load / Contract Demand is not reflected in the disputed period. At the same time, the Contract Demand is seen reached to 57 kVA in 6/2019, highest in the history of consumption and exceeds 50 kVA in 4/2019, 5/2019 and 7/2019.

As stated in the site mahazar and test report of the meter, if wrong phase association in meter connection occurred, the finding of -46% error is not a convincing one. While going through the tamper data report, various tamper type reports are seen like low power factor, potential missing in phases, voltage unbalance, low voltage, Y phase CT polarity reversal, B phase CT polarity reversal, current unbalance occurrences and its restorations.

In the case of the appellant having a load of three phase nature, if wrong phase association in one phase to other, the error of the metering system will be -33.33% with a slight variation to the higher or lower level.

In the disputed period the RMD is always less than the billing demand of 75 kVA. The respondent applied the loss calculation rate 46% in the RMD also and found some short realisation in 11 months for Rs. 4,278/-. The method of calculation is not correct as per rules and not sustainable.

The premises is connected with a three phase load and hence it is more proper to take a decision based on the recorded consumption in the disputed period. Also it is reported that the factory is not working since 11/2019.

Here in this case, the respondent confirmed the non recording of actual consumption on the basis of the inspection conducted in the premises and load survey/tamper report down loaded and argued that the defect occurred from the date of the CT meter installation on 31-01-2017. The premises meter was tested with standard meter of the APTS. While testing 46% deviation of energy consumption is seen in the premises. The load enhancement was done on 31-01-2017, the date on which the metering was changed to CT connection. The appellant is a consumer with three phase load and in under balanced load condition, the error will vary to a great extent depending on nature of load and Power Factor. The downloaded data not confirmed the error -46% w.e.f. 31-01-2017, but the test report shows the error as -46% during the testing time. Since this is a case of anomaly attributed to the licensee and decrease of consumption from 02/2017, the realisation of the electricity short collected shall be limited for a maximum period of twenty four months, as per regulation 152 (3) of Supply Code 2014.

In this case an inordinate delay was occurred in identifying and rectifying the defects and hence the appellant has to get justice.

Decision

From the findings and conclusions arrived at as detailed above, I decide to set aside the short assessment bill amounting to Rs. 6,27,688/- issued to the appellant. The respondent is directed to revise the bill by taking 50% of the recorded consumption for 2 years from 3/2017 to 2/2019 as stated above within a period of 15 days. The demand charge in excess over 75 kVA shall not be billed or realised.

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, Kottarakkara in Petition No. OP/101/2019 dated 03-12-2019 is set aside. No order on costs.

ELECTRICITY OMBUDSMAN

P/002/2020/_____ /Dated: _____

Delivered to:

1. Sri. C. Yohannan. Proprietor, Carmel Cashew Factory, Arukalickal West, Parakode P.O., Adoor, Pathanamthitta
2. The Assistant Executive Engineer, Electrical Sub Division, KSEBL, Ezhankulam, Pathanamthitta

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, Kottarakkara - 691 506.