

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/043/2020

(Present: A.S. Dasappan)

Dated: 18th February 2021

Appellant	:	Sri. Mohammed Afzal Pottekattil House, Kunnatheri Junction, Thaikattukara PO, Aluva, Ernakulam Dist. – 683 106
Respondent	:	Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Aluva Town, Ernakulam Dist.

ORDER

Background of the case:

The appellant is a consumer of Electrical Section, Aluva Town with consumer number 1155687010158. The premises is being used for domestic purpose and the connected load is 4080 watts. The appellant had complaint in the electricity bill received on 16-05-2020 and hence, registered a complaint before the Customer Care Services of KSEB Ltd. on 18-05-2020 and reply was received on 19-05-2020 that the reported complaint was rectified. In order to avoid disconnection of supply, the appellant remitted the amount mentioned in the bill on 16-05-2020. The next bimonthly bill was received on 16-07-2020, which had been prepared based on the average of the previous three bi-month since meter reading could not be taken due to the declaration as containment zone in the area. The appellant approached Consumer Grievance Redressal Forum, Central Region and filed a petition vide OP No.24/2020-21, seeking review of electricity bills and for the replacement of defective meter. The Consumer Grievance Redressal Forum dismissed the petition vide its order dated 17-11-2020 observing 'lack of merit'. Aggrieved by the decision of the Forum the appellant filed this appeal petition before this Authority on 15-12-2020.

Arguments of the appellant:

The observations made by the Consumer Grievance Redressal Forum in the analysis and findings in their order “the petitioner had remitted the bill of May

2020 without making any complaint and immediately after the payment, a complaint was filed” is factually incorrect because the first complaint was made on 18-05-2020 via KSEB portal citing, excess billing and it was on 02-06-2020 that the appellant made the bill payment via KSEB portal. The only reason why the appellant made the payment was for avoiding power disconnection/penalty just in case the disposition of the complaint gets delayed. It is beyond any doubt that the electricity in the appellant’s home would have got disconnected had the appellant waited for the Licensee to address or at least respond to the complaints which the appellant made through KSEB portal because even in the “statement of facts” filed by the licensee says the appellant had no objection to this bill issued on 16-05-2020. It was on 03-11-2020 at the hearing of Consumer Grievance Redressal Forum, when the appellant submitted his argument note with the date and complaint numbers through the appellant’s representative, the respondent finally admitted to have received the complaint. However, no action was taken on the one filed vide No. 13112325580 dated 12-07-2020 on the same grievance.

The complaints were not looked into or addressed by the Licensee but went ahead with issuing average consumption bill by considering the same bill in question. It is now understood from the Consumer Grievance Redressal Forum’s analysis that as per Regulation 115 and 116, there is a provision for testing of meter but the appellant was not aware of it and neither did the above mentioned complaints elicit any response from the Licensee. The complaints were not only left unresolved by the Licensee but brazenly kept denying to have received any complaint till presented them with the complaint numbers and the date on which they were filed. Had there been any notification from the Licensee, the appellant would have definitely taken adequate measures as per the regulations. The finding of Consumer Grievance Redressal Forum that the occupant failed in informing Licensee of any intention to vacate the house is irrelevant since the appellant clearly mentioned in the background of the case, he was living intermittently in the home. The appellant totally understands the regulations which says average consumption can be calculated and bill issued if meter is not accessible but it does not say previous disputed bill can also be considered to calculate average consumption. Neither does it say the complaints filed via KSEB portal will not be accepted as complaints.

It is proved here that the Licensee failed in discharging its duty but the appellant is asked to pay the price for it. Nevertheless, as depicted in the background of the case, the appellant requested only to revise the bill assigned on 16-07-2020. Since the previous challenged bill has a direct bearing on the bill issued here, the request to revise July 2020 bill is established to be fair and reasonable.

Arguments of the respondent:

The appellant approached the CGRF against the issuance of the regular bill

dated 16.7.2020 amounting to Rs.3,82S/- for period of two months from 16.05.2020 to 16.07.2020 for 648 units which was based on the average consumption of the past three billing cycles. The grievance is that the bill which might have been prepared based on the previous bills is inflated and misappropriate as the actual energy consumption during this period was comparatively less because only himself was living in the house intermittently during that period. Also, the energy meter was not operational for some time and the same was reported to KSEBL on 12.07.2020; but the energy meter was not replaced till 06.08.2020. He requested to revise the bill and to replace the faulty meter.

The appellant had registered an online complaint through CCC-ET (Centralized Customer Care Service Portal) on 12.7.2020 regarding his energy meter complaint. Due to the onset of the pandemic Covid-19, several restrictions were imposed on the daily works of the KSEBL office and moreover the area of Electrical Section, Aluva North which comes under Aluva Municipality -Ward No:10 was declared as *containment zone* from 09.7.2020 to 03.8.2020 by the District Collector. During this period, being in the Containment Zone, as per relevant Board orders, the Electrical Section, Aluva North office had functioned only partially with limited staff for attending the "urgent breakdown maintenance works" only. The appellant's complaint dated 12.07.2020 could not be attended in time due to the restrictions. Also, meter reading could not be taken before issuing electricity bill to the appellant as the billing wing and cash courier was not operational fully during that time. So, the 'procedure for billing when meter not accessible' (Regulation 124) was accepted (Door lock) and the electricity bill dated 16.07.2020 was issued as per regulation 124(1) of the Kerala Electricity Supply Code 2014 which says that "if the *licensee is not able to access the meter for reading, a provisional bill may be issued on the basis of average consumption of the previous three billing cycles*". So, the appellant was charged in accordance with the Reg.124 (1) of Kerala Electricity Supply Code,2014 by taking average consumption of the previous three billing cycles. The consumption for the previous three months were 582,485 and 877 units respectively and hence the average of the three i.e. 648 units was taken as the consumption for the said period and bill was issued accordingly on 16.7. 2020.

The appellant had given a complaint earlier i.e. on 18.05.2020 (through CCC-ET, Centralized Customer Care Service Portal, Complaint No. 13112293813) and that was on excess bill (for the bill dated 16.05.2020) and it was replied as *lock down period consumption* (i.e., increased bill due to probable increase in consumption during the lock down period). The appellant seemed satisfied with the reply as no further complaint was registered for the same bill. Kindly see that the complainant had complained about the last bill only (bill dated 16.07.2020) before the CGRF and before the Electrical Section, Aluva North office later and there was no mention about the previous bill. So, it can be presumed that the

disputed bill is the one dated 16.07.2020.

The lock down was withdrawn by 04.08.2020 and the appellant submitted a written complaint to KSEBL on the next day i.e., on 05.8.2020 and requested to revise the said electricity bill dated 16.7.2020 and also to replace the faulty meter. On the very next day itself i.e on 06.08.2020 the defective meter (having no display) was replaced with a new one by KSEBL. The appellant was informed over phone about the replacement of the faulty meter and procedure for calculating the bill as per the relevant rules.

The appellant in the complaint dated 05.08.2020 before the Electrical Section office (and later before the CGRF), has stated that owing to his wife's delivery they were not staying in that house from mid of April to last week of July but him intermittently during that period; hence stated that the consumption was less and requested a revised bill. Since that statement cannot be treated as an evidence for decrease in consumption of electricity and moreover since the consumption of the previous bill dated 16.05.2020 (wherein the period of his intermittent stay at the house included) is comparatively high (the period was from 13.03.2020 to 16.05.2020 and the consumption was 877 units); KSEBL could not assume that the consumption will be reduced in the succeeding months. So, the *system generated* average billing was given to the consumer as per rule, as per regulation 124(1). This is also in accordance with regulation 125(1) also. The appellant was also given Rs. 958/- as the Govt. subsidy due to Covid-19 along with the bill dated 16.07.2020. In the complaint dated 05.08.2020, the appellant had complained about the last bill only i.e. on the bill dated 16.07.2020. The energy consumption of the consumer for the previous year for the month of May 2019 to July 2019 was 693 units.

When the Energy meter becomes damaged or defective, KSEB follows the procedure for billing according to the prescribed rule stipulated in Regulation 125(I) of Kerala Electricity *Supply Code 2014*. Here the actual case was meter faulty.

In this case, Meter was changed on 06.8.2020 before the second billing cycle (tentative date comes on 16.9.2020) as per regulation 125(2) of Kerala Electricity Supply Code 2014. The officials of KSEBL took action in time before the second billing cycle.

So, the average billing given to the consumer was in order. Since the previous readings were available and not disputed, the system generated average bill based on the previous readings was issued to the appellant. The regulation 124(3) could not be implemented in this case as the exact meter reading of the meter existed could not be taken as meter found faulty (display not working) later. And regulation 125(1) was implemented in that case due to defective meter.

After replacing the faulty meter from the appellant's premises, the Assistant Engineer, Electrical Section, Aluva North had contacted the officials of TMR for

checking the faulty meter and retrieve the details; but it was replied that the portal of the L&T meter was of old type and so not able to retrieve the data from it. The appellant had not remitted any testing fee for getting the meter tested; but KSEBL ha4 initiated to get that checked.

The CGRF dismissed the complaint on merit and held that KSEBL's actions were in order as per Regulations 124 and 125 (1). Since the consumption prior to 3 billing cycles are available in this case, Regulation 125 (1) first proviso which states a situation that the details pertaining to previous billing cycles are not available" is not applicable.

Hence it is strongly averred that the bill issued to the appellant on 16.7.2020 appears to be in order.

Analysis and findings:

An online hearing was conducted at 11-30 AM on 11-02-2021 with prior intimation to both the appellant and the respondent. Sri. Mohammed Afzal, the appellant and Smt. A.A. Ruksana, Assistant Executive Engineer, Electrical Sub Division, Aluva Town from the respondent's side attended the hearing. On examining the petition, the counter statement of the respondent, the documents attached and the arguments made during the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision thereof.

The argument of the appellant is that a complaint had been registered by him pertains to the billing/meter on 18-05-2020, immediately after receiving the electricity bill prepared for the bimonthly consumption from 13-03-2020 to 16-05-2020. The consumption for the said bi-month was 877 units. The appellant remitted the bill amount for avoiding disconnection of supply, if any. The appellant filed the complaint suspecting the correctness of the meter. The next bimonthly bill for the period from 16-05-2020 to 16-07-2020 for 648 units was received in 07/2020, the dispute of which led to the petition in Consumer Grievance Redressal Forum and this appeal petition. The main contention of the appellant is that the bill received in 07/2020 was not prepared based on the recorded consumption, but by taking average of the past three bimonthly consumption including the consumption billed in 5/2020, which is also under dispute.

The argument of the respondent is that the complaint in the subject matter was in the period of "Lockdown" and amidst the restriction imposed by the District Administration in view to control the spread of Corona Virus. There was minimum staff in the office and hence priority was given for maintaining electric supply to the consumers. The respondent admitted that a complaint had been registered by the appellant in 5/2020 and as a usual procedure the next bimonthly bill issued taking the average of the past three bimonthly consumption.

As per appellant, the premises was not fully occupied from mid April 2020 to last week of July 2020. The appellant sought clarity in the bimonthly consumption from 13-03-2020 to 16-05-23020 for 877 units and for 648 units in the next bill. Though two bimonthly consumption prior to 13-03-2020 are 485 units and 582 units, the appellant had not expressed any doubt in the accuracy of the meter. On verifying the meter reading details for 4 years from 11/2015 to 11/2019, the bimonthly consumption is in between 155 units and 461 units except for one bi-month, which is 693 units from 14-05-2019 to 16-07-2019. The reading of the meter on 06-08-2020, the date on which the meter was changed is the same as that of 16.5.2020, 25836 which means there was no reading available from 13-03-2020 onwards. Hence, the respondent issued the bill for 648 units in 07/2020 taking the average of past three bimonthly consumption recorded 582 units, 485 units & 877 units. Hence, the appellant argued that 877 units taken for arriving at the average consumption is not a correct method since the appellant had registered or complaint in the bill issued in 05/2020 for 877 units. Another point noted in the above analysis is that the meter became defective at any time after 13-03-2020.

Kerala Electricity Supply Code 2014, Regulation 124 says about the procedure for billing when meter not accessible.

124. Procedure for billing when meter not accessible: -

- (1) If the licensee is not able to access the meter for reading, a provisional bill may be issued on the basis of the average consumption of the previous three billing cycles.
- (2) The licensee shall ensure that such provisional billing does not extend to more than two billing cycles at a stretch, and there are not more than two provisional bills generated for a consumer during one financial year.
- (3) The provisional bills shall be adjusted on the basis of the subsequent actual meter reading.

Here respondent acted in accordance with Regulation 124(1) of the Kerala Electricity Supply Code 2014. But they could not act in accordance with Regulation 124(3) since the meter became defective on 13-03-2020 or later. The defect of the meter was “no display” and hence, the accuracy of the meter could not be tested by the respondent. The respondent could not retrieve the data of the defective meter to ascertain whether meter had errors beyond the limit in addition to the “no display” defect.

The meter was replaced on 06-08-2020 and the consumption up to 19-01-2021 is available. The consumption recorded for 166 days (5 ½ months) from 06-08-2020 to 19-01-2021 is 875 units, arriving at a bimonthly consumption of 316 units.

KSERC Regulation 125 says about the procedure for billing in the case of defective or damaged meter.

125. Procedure for billing in the case of defective or damaged meter.-

- (1) 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: 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:

Provided further that any evidence given by consumer about conditions of working and occupancy of the concerned premises during the said period, which might have had a bearing on energy consumption, shall also be considered by the licensee for computing the average.

- (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.

Definitely the respondent had limitations in the period of 'Lockdown' and 'containment zone' to ascertain whether the meter was recording actual consumption or not. The respondent changed the meter soon after the 'Lockdown' period. The bill generated by the computer system based on the usual procedure was served on the appellant.

The appellant had no dispute in the two bimonthly bills in 01/2020 and 3/2020.

On perusing the facts and figures, it is found that due to "Lockdown and Containment Zone" the respondent could not test the meter in 05/2020. The bimonthly consumption in the bill is the highest in the history of the premises for 4 years. The appellant also stated that the premises was not occupied as usual in the billing period. The actual date of defectiveness noted by the respondent "Display failure" is not known to them. The respondent could not retrieve data of the meter in the disputed period. The appellant had no dispute in the comparatively higher consumption prior to 03/2020. As such, billing for 877 units in 05/2020 without ascertaining the correctness of meter as per the complaint of the appellant is not in order and hence unsustainable. The bimonthly bill generated in 07/2020 by the system as per the data available is also not correct on the above finding. The consumption pattern in the premises might have variation prior and after August 2020. Hence, it is more proper to reassess the bi-monthly consumption taken in the bills issued in 05/2020 and 07/2020 based on the previous consumption.

Decision: -

From the conclusions arrived at as detailed above, I hereby quashed the bi-monthly bills issued for 877 units in 05/2020 and 648 units in 07/2020. The respondent shall revise the above bills as below: -

$$\begin{array}{l} \text{Bimonthly consumption for 3 bi-months } \} \\ \text{from 18-09-2019 to 13-03-2020 } \} \end{array} \quad (209+582+485) \text{ units} = 1276 \text{ units}$$

$$\text{Bimonthly average} = \frac{1276}{3} = 426 \text{ units}$$

The respondent shall revise the bimonthly bills issued in 05/2020 and 07/2020 for 426 units in each bi-month and issue within 15 days of this order. The appellant shall remit the bill amounts within the due date mentioned in the bill so revised. No surcharge or interest shall be collected from the appellant in the petition period before CGRF and the appeal petition period. The order of CGRF, Central Region in OP No. 24/2020-21 dated 17-11-2020 is set aside.

Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/043/2020/_____ dated _____.

Delivered to:

1. Sri. Mohammed Afzal, Potttekattil House, Kunnatheri Junction, Thaikattukara PO, Aluva, Ernakulam Dist. – 683 106
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Aluva Town, Ernakulam Dist.

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