

THE STATE ELECTRICITY OMBUDSMAN

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Ernakulam, Kerala-682 016

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**Appeal Petition No. P/01/2025
(Present A. Chandrakumaran Nair)
Dated: 11-03-2025**

Appellant : Sri. Denny Simon,
Thekkath House,
Varandarappilly. P.O,
Thrissur (dt) - 680303

Respondent : The Assistant Executive Engineer,
Electrical Sub Division, KSE Board Ltd,
Kodakara, Thrissur (dt)

ORDER

Background of the case

The appellant Shri. Denny Simon is a domestic consumer with Consumer no.1156565001346 and with connected load 8.426 KW. The appellant had applied for solar connection on 02/03/2024 and the solar plant was commissioned on 12/04/2024. When the solar plant was connected the billing pattern has been changed to the monthly billing from the previous bimonthly billing. The date of last reading was 04/04/2024 which was before solar panel connection. The period from 04/04/2024 to 12/04/2024 was the non solar period consumption. The next bill issued on 02/05/2024 in which 04/04/2024 to 12/04/2024 is the non solar period and for the period from 12/04/2024 to 02/05/2024 was the solar period. The bill so issued amounts to Rs. 550.70/- for solar period at Rs. 207.28 for the solar period totaling to Rs.758/-. The reading for a period from 04/04/2024 to 12/04/2024 was 68 units. 68 units were consumed for 8 days then the monthly consumption was arrived and this exceeds 250 units and accordingly the flat rate tariff @ Rs. 6.4/- per unit was applied. The appellant challenged this method of calculation. His argument is the total consumption was only 68 units and the tariff applied should be telescopic tariff applicable to 68 units. The appellant filed the petition to CGRF and

CGRF issued order on 03/12/2024. Aggrieved with the order of the CGRF, the appellant had filed this appeal petition to this Authority.

Arguments of the Appellant

My solar installation was completed, and net meter was installed by KSEBL on 12.4.2024. My previous bimonthly meter reading was on 04.04.2024. As per the monthly bill no. 5656240502131, issued to me on 02.05.2024 consumption for the period from 04-04-24 to 12-04-24 is noted as 68 units. As per the bill dtd. 02.05.2024 energy charges of Rs. 435.20/-, duty Rs. 43.52/-, fuel surcharge Rs.6.12/- and auto recovery Rs.6.80/- totalling to Rs.491.64/- is levied for the consumption of 68 units which was very much on higher side as per tariff order prevailed on the day. I made a complaint to the section office Varantharapally on 18/09/2024. Unfortunately, there was an inadvertent error in the points raised by me in my complaint letter mentioned above. My erroneous argument was to consider the entire consumption during the period from 04-04-2024 to 02-05-24 as per provisions in KSERC RE & Net-metering regulation, 2020. I received reply dtd 7.10.24 from the section office where it was mentioned that 68 units are charged @ Rs.6.40/- which is was not satisfactory to me. I took up the matter with CGRF Ernakulam on 08/10/24. Unfortunately, I repeated my erroneous points of arguments before CGRF.

In the meantime, I received the copy of "statement of facts" submitted by the Section Office to CGRF. At this point only I could realize the error occurred in my arguments put up before CGRF as well as in my original complaint dtd. 19/9/24. I was called for a hearing on 14/11/2024 at CGRF Office Ernakulam. Therefore, I sent an amended complaint immediately to CGRF on 11/11/2024. It has been confirmed by CGRF by email on 11/11/2024. As directed by CGRF I appeared for hearing on 14/11/2024. Before the CGRF I requested that further proceedings shall be on the basis of my amended complaint and not on my contents of my original complaint. They had agreed to it and asked me to present any new argument note, if any. I have presented my new argument note wherein I have emphasized that the billing was not in tune with the spirit of section 55 of the Electricity Act, Central Electricity Authority's Metering regulations and chapter 6 of Kerala Electricity Supply code 2014.

I received the order dtd 03/12/2024 from CGRF Ernakulam dismissing my complaint stating that my original claim was to consider entire consumption during the billing period from 04-04-2024 to 02-05-2024 as per the provisions of KSERC RE & Net metering regulation. To my surprise it is noted that CGRF arrived in to the conclusion based on the my original complaint. I have been informed on the day of hearing that all the further proceedings would be made on my amended complaint and the argument note presented on that day. As per finding made by CGRF my amended of

complaint is considered as a continuation of earlier one. On page no. 4 para 3 of CGRF order dtd 3/12/2024 it is mentioned that "petitioner and respondent repeated their argument and firmly stood on their stand. No additional or new arguments were raised from both sides." The above statement is contrary to the matter of fact because I had made amendments to my original complaint dtd. 18/9/24 and amended complaint was duly conveyed to CGRF and respondent well before I attended hearing scheduled on 14/11/24. Contentions vide my argument letter given to CGRF on 14/11/24 was entirely new and different and no way correlated to the points of argument in my original complaint. As the petitioner I have not repeated the argument and instead I presented the new argument in tune with my amended complaint already submitted to them. Finding made by CGRF that no new or additional argument were raised from my side is absolutely false. However it may please be noted that the respondent had not presented any new arguments on 14/11/24 and stood on their stand they took on my original complaint and without considering my new complaint and new arguments.

My contention was that meter reading for the period 04/04/2024 to 12/04/24 should have been done in tune with Section 55 of Kerala State Electricity Act read with metering regulation of Central Electricity authority and Chapter 6 of Kerala Electric Supply code 2014. Accordingly, only 68 units recorded in the correct meter need be taken as chargeable consumption and may be billed as per the tariff order prevailing on 02/05/2024. To levy 435.20 as energy charges for a monthly consumption of 68 units in a month based on some pro rata calculation is violation of Section 55 of Electricity Act, Metering regulation issued by CEA and chapter 6 of Kerala Electric Supply Code 2014. **There is no law in the electricity sector or a specific direction from KSERC or from any other authority that permits a licensee to bill a consumer or prosumer based on consumption arrived in pro-rata basis when the consumption is available in a correct meter installed in the premise of the consumer or prosumer.**

It may be noted here that I have challenged the pro- rata calculation adopted for billing of 68 units which is baseless and did not have any support of the provisions of Kerala Electricity supply code or prevailing tariff order of KSERC. It is mentioned in the CGRF order dtd 03/12/2024 that the discreet quantity of units cannot be fixed without considering monthly consumption. As my consumption was continuously monitored through "correct meters" from 04/04/2024 to 12/04/204 and from 12/04/24 to 02/05/2024 the units consumed by the first meter cannot be termed as discreet quantity. Here my consumption is continuous throughout the billing period from 04/04/2024 to 02/05/2024 and by virtue of net metering rules the consumption from 12/04/24 to 02/05/24 is separately considered. The method of calculation adopted does not have any support of the present tariff order. Nowhere it is mentioned in any of the rules or the

tariff prevailed that part of the monthly consumption monitored by a "correct meter" need be considered as discreet quantity and therefore need to be averaged by the method shown in letter dtd 3/12/24. Respondent too have failed to indicate any regulation or provisions in Kerala State Electricity supply code 2014 or in the Electricity Act, 2003, in support of calculation on pro rata basis when consumption of the period is recorded in correct meters installed in the premise. As specified in Section 55 of EA which says, "No licensee shall supply electricity, except through installation of a correct meter in accordance with the regulations to be made in this behalf by the Authority" and correct meter as defined in regulation 2 (k) of CEA Metering regulation 2006 was installed in the premise from 04/4/24 to 12/4/25 (8 days) and then till 02/05/24 (21days). As such, the billing of the premise need to be based on the actual consumption registered in the "correct meters" according to the appropriate tariff specified by KSERC.

As per CEA metering regulation 15(2) averaging or pro-rata calculation of the consumption is envisaged only in cases where the consumer reports to the licensee about consumer meter readings not commensurate with his consumption of electricity, stoppage of meter, damage to the seal, burning or damage of the meter etc. In such cases the licensee shall take necessary steps as per the procedures given in the Electricity Supply Code of the Appropriate Commission read with the notified conditions of supply of electricity. Regulation 110, 111 & 124 of SC-2014 deals with the cases where meter data is not available as meter is not read. In this case, provisional bill based on the previous average is issued to the consumer pending revision based on the actual data from correct meter. Regulation 115 & 116 of SC-2014 deals with cases where Accuracy of the Meter is doubted or disputed and, in this case, the provisional bill is revised based on the test report of the meter.

Regulation 125 of SC-2014 deals with the consumption through the defective or damaged meter. Accordingly, 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.

As such, the consumer must be billed based on the actual consumption recorded in a correct meter and no averaging or estimation is envisaged when there is actual data available from the correct meter. In this case, the actual consumption of the premise is available from the "correct meters" installed in the premise and need to be billed according to the appropriate tariff specified by KSERC.

Therefore, my following prayers may be heard orders may be issued accordingly.

1. the bill No.5656240502131dtd 02/05/24 issued based on the pro-rate basis may be cancelled

2. KSEB may be directed to issue new bill based on the actual consumption recorded in the correct meter installed in my premise
3. Excess amount collected without KSERC authorisation maybe refunded with interest.
4. Cost may be allowed towards the expense of the petition and the human hours spent.
5. Action may be recommended against the licensee officials who are responsible for harassment by the unreasonable excessive electricity bills.

Arguments of the Respondent

The complainant Sri. Denny Simon is a Bi monthly consumer having Consumer No.1156565001346 under Electrical section Varantharappilly. The connected load of the consumer as per record is 8426 Watts. It is submitted that the consumer has put an application for solar connection on 02- 03-2024. As per the prevailing rules steps have been taken by this licensee and a feasibility report was given to the complainant with the necessary directions for further course of actions for availing solar connection. The consumer paid the registration fee on 11-04-2024. wide Rt.No, 56560240411101123 There after the completion report was submitted to this office on 12-04-2024.

As per completion report the site was inspected and the solar connection approved on 12-04-2024. Hence it is submitted that this respondent acted well with in the due dates prescribed in rules. Being a bimonthly consumer the billing bimonthly bill were issued to the consumer during the first week of the even months. The last bimonthly bill as pointed out by the consumer was issued on 04-04-2024, before the solar installation. The solar installation was effected on 12-04-2024. Hence it is a fact that the consumer was under bimonthly billing status till 12-04-2024.

It is submitted that as the status of the consumer got changed from bimonthly to monthly on account of solar installation. Hence the consumer was issued a bill having bimonthly billing amount for the period from 04-04-2024 (date of last bimonthly bill) to 12-04-2024 (solar approved date) and from 12-04-2024 to 02-05-2024. (bill issue date) having solar billing pattern. The bill so issued amounts to Rs.550.70 for non solar period and Rs. 207.28 for solar period, totally Rs. 758/-. A detailed calculation statement was given to the complainant in this regard. Consumer raised a complaint about this bill and approached CGRF, Central Region. CGRF found the calculation of the bill date 02/05/2024 was in order, and dismissed the complaint vide order no CGRF - CR/OP No .83/ 2024-25/ 426 dated 03.12.2024 Consumer is not satisfied with the above order and has approached Hon'ble Ombudsman now.

The "Analysis and findings" of the order dated 03.12.2024 of CGRF, Central Region is very correct and descriptive. It has stressed the point that the rate applicable for the 68 units consumption for the period starting from 04/04/2024 to 12/04/2024 is Rs 6.40 per unit. The rates of the energy charge for domestic consumers are to be specified by the monthly consumption slab as per the tariff order No; 427/D(T)/2023/KSERC Dated Thiruvananthapuram 31.10.2023 of Hon'ble KSERC. The table of rates also indicates that the rates are to be fixed based on the '**monthly consumption**'.

It is submitted that the actual monthly consumptions (import from KSEBL) of the Consumer is 68 units & 201 units for the periods of 4/04/2024 and 12/04/2024, and 12/04/2024 to 02/05/2024 respectively Total monthly consumption is 68+201 = 269 units for which the applicable rate is Rs 6.40 per unit. It is clear that the bill is issued based on the **correct meters** installed in the consumer premises. There is no mistakes seen in the bill issued. The complaint lacks merit and is liable to be dismissed by the Honourable Ombudsman.

It is further prayed that the Hon'ble Ombudsman may be pleased to accept the contentions and dismiss the petition on that score.

Counter Argument of the Appellant

Instead of billing my consumption of 68 units from 04.04.2024 to 12.04.2024 as per the then prevailing tariff rules respondent had resorted to average the consumption and applying a hypothetical tariff which is higher than the eligible rates eligible to me as per the then prevailing tariff. This act of the respondent does not have support of any tariff rules or Kerala Electricity Supply code 2014 or any other acts prevailing in this country. Instead, they have applied a hypothetical tariff with intention to apply a higher rate than what I am eligible for. Respondents in their arguments under para 4 and 5 of the above referred submission has given undue importance to the word 'monthly' in order to justify themselves for their act of averaging the consumption of 68 units. It is mentioned under para 5 that the consumer was issued bimonthly billing for the consumption for the period from 04/04/2024 to 12/4/2024 and from 12/04/24 to 02/05/24 having solar billing pattern. The statement is not correct since the bill for the period from 04/04/24 to 12/04 /24 has been issued on completion of one month after the previous bill date.

Respondent has stated that my status as a consumer was changed from bimonthly to monthly which has no relevance in this case because by changing the status of a customer from bimonthly to monthly does not have any effect as far as billing tariff rates are concerned. It may kindly be noted in this connection that the respondent's system of bimonthly billing is for the convenience of the respondent. Had I been given me an option to avail prepaid energy as being done by discoms in other states where prepaid

smart meter had been implemented billing would have been charged exactly for my 68units as per the tariff rules and the energy charges would have been Rs 235.74 only. Vide paragraph 8 the respondent is creating more confusion by clubbing the consumption of two periods (68+201) which are exclusively under different metering rules and by projecting an imaginary applicable tariff rate as Rs6.80 for it. It is another exercise done by the respondent to justify their mistake of averaging my consumption of 68 units. Consumption of 201Units from 12/4/24 to 02/5/24 is under net metering are subjected to net metering rules and therefore interpreting and considering the gross consumption without deducting exported energy during the net-metering period to arrive such a higher applicable rate has no support in prevailing tariff rules or any the prevailing rules.

This act of respondent is out of their negligence of discharging duties as per prevailing tariff rules and resorting to apply a hypothetical value to energy charges for the consumption of 68 units. In this connection I would like to bring your kind attention to the decision of Hon. Ombudsman in the case of Appeal Petition No. P/081/2024. 21.01.2025 in favour of the petitioner Sri K Sreekumar warrior. In that case the actual consumption till the date of solar installation was 211 units where respondent have have applied a higher tariff for hypothetical value of consumption of 253 units. Here Hon. Ombudsman has observed that respondent had failed to produce any document justifying the method of calculation they adopted for billing for 253 units for the actual consumption of 211 units.It may please be noted that in my case too the respondent has failed to produce any document supporting their method of calculation adopted for billing 68 units. Therefore, I request that arguments made by the respondent may kindly be ignored and my request to consider 68 units as my consumption and its energy charges as Rs 235.74 may be granted.

30.03.2024 ൽ സോളാർ കണക്ഷൻ ലഭിക്കാൻ വേണ്ടി KSEB യുടെ സെക്ഷൻ ഓഫീസിൽ ചെന്നപ്പോൾ പറഞ്ഞത് ശ്രീ ഫേസ് മീറ്റർ ഇവിടെ സ്റ്റോക്കില്ല എന്നും, മീറ്റർ സ്റ്റോക്ക് വരുമ്പോൾ മാത്രമേ സോളാർ കണക്ഷൻ തരുവാൻ സാധിക്കുള്ളൂ എന്നും, ചിലപ്പോൾ രണ്ടു മൂന്ന് മാസം കഴിഞ്ഞ് മാത്രമേ കിട്ടുകയുള്ളൂ എന്നും, ഇതിന് സമ്മതമാണെങ്കിൽ മാത്രമേ അപ്ലിക്കേഷൻ സ്വീകരിക്കാൻ കഴിയൂ എന്നും, ഈ പറഞ്ഞ കാര്യങ്ങൾ രേഖാമൂലം എഴുതിക്കൊടുക്കുവാൻ ആവശ്യപ്പെടുകയും അത് പ്രകാരം എഴുതി കൊടുക്കുകയും ചെയ്തു.

അല്ലെങ്കിൽ സ്വന്തം മീറ്റർ ആയി വന്നാൽ കണക്ഷൻ തരാമെന്നും പറഞ്ഞു. സോളാർ വെച്ചത് തന്നെ വലിയ ബാധ്യതയായിരിക്കെ മീറ്ററും സ്വന്തം നിലയിൽ വാങ്ങാൻ പറഞ്ഞപ്പോൾ വലിയ വിഷമമായി. അതിനുശേഷം സ്വന്തം ഉത്തരവാദിത്വത്തിൽ KSEB യുടെ Store ൽ അന്വേഷിച്ചപ്പോൾ മീറ്റർ റിലീസ് ചെയ്യാമെന്നും സ്റ്റോർ ഇൻ ചാർജ്ജ് പറയുകയും ചെയ്തു.

അപ്രകാരം AE യുമായി സംസാരിച്ച റിക്വസ്റ്റ് സ്റ്റോർ ഇൻ ചാർജിനു കൊടുത്തു. മീറ്റർ സ്വന്തം ഉത്തരവാദിത്വത്തിൽ ഡെലിവറി എടുത്തു. KSEB യുടെ സെക്ഷൻ ഓഫീസിൽ കൊടുത്തു. അതിന്റെ രേഖകൾ ഇതോടൊപ്പം വെക്കുന്നു.

ഏകദേശം 35 KM അകലെയാണ് KSEB യുടെ ഈ സ്റ്റോർ. ടാക്സി ചാർജ്ജ് ഇനത്തിൽ എനിക്കെ നഷ്ടമായത് 1900/- രൂപയാണ്. അതോടൊപ്പം ഒരു ദിവസത്തെ എന്റെ അധ്വാനവും. റിന്യൂവൽ എൻജിയെ പ്രോത്സാഹിപ്പിക്കുന്നതിന് പകരം നിരുത്സാഹപ്പെടുത്തുന്നതായി ആണ് എനിക്ക് ഈ പ്രവർത്തിയിലൂടെ മനസ്സിലായത്. ആയതിനാൽ ഈ പരാതി പരിഗണിക്കുമ്പോൾ എനിക്കുണ്ടായ സാമ്പത്തിക നഷ്ടത്തിനും മെന്റൽ സ്ട്രെസ്സിനും കൂടി സഹായം അഭ്യർത്ഥിക്കുന്നു.

എനിക്കുണ്ടായ ചെലവുകൾ :-

ഫോൺ വിളികൾ, ഇന്റർനെറ്റ്, Bus fare, അപേക്ഷ തയ്യാറാക്കുന്നതിന് CGRF ലേക്കുള്ള യാത്ര (തൃശ്ശൂർ മുതൽ കളമശ്ശേരി) ഓട്ടോ ചാർജ്ജ്. എനിക്ക് ഉണ്ടായ ജോലി നഷ്ടം, ഫോട്ടോ കോപ്പി ചാർജ്ജ്, എറണാകുളം യാത്ര, ജോലി നഷ്ടം, മറ്റ് ചെലവുകൾ.

Analysis and findings

The hearing of the appeal petition was conducted on 14/02/2025 at 11:00 am in the office of the State Electricity Ombudsman, DH Road & Foreshore Road Junction, near Gandhi Square, Ernakulam south. The hearing was attended by the appellant Sri. Denny Simon Thekkath and the respondent Sri..Paul J Puthur, Asst. Executive Engineer, Electrical Sub Division, KSE Board Ltd., Kodakara, Thrissur (DT).

The appellant Shri. Denny Simon is a domestic consumer and had installed solar plant of capacity 3.2 KWP. The application for solar connection was submitted on 02/03/2024 and as per his claim the solar panel installation was completed on 30/03/2024. The section office of the Licensee had informed on enquiry that the three phase meter is not available on stock and have to wait for 2 to 3 months, Otherwise the consumer has to procure the meter. Then the appellant had enquired with the store of the Licensee and found that the meter were available. On the insistence of the appellant, the AE has send the request to the store and the meter was collected by the appellant from the store on 08/04/2024 on behalf of AE, Varantharappally and handed over to the section on 08/04/2024. Even then the section office has allowed him to pay the registration fee only on 11/04/2024, and the completion report have submitted only on 12/04/2024 and the agreement was signed on 11/04/2024. There is no record submitted by the appellant

to justify his claim that the work had completed on 30/03/2024. The request submitted to AE to energize the solar panel only on 06/04/2024. Though the meter was arrived at the section on 08/04/2024, the connection was affected only on 12/04/2024. The appellants' claim is that he had travelled 35 kms and paid taxi charges to collect the meter which would have done by the Licensee. When the records are examined the connection was effected in time.

In this case, the main contention raised by the appellant is the method of calculations of energy charge for the non solar period which is from 04/04/2024 to 12/04/2024. The energy consumption recorded by the meter was 68 units. They have calculated the pro rata consumption of a month which crosses 250 units, then the flat rate tariff have been applied and not he telescopic rate. Whether this calculation is correct? Is there any regulatory support to justify this method of calculation ? The respondent had totally failed to submit any document to support this method of calculation. The days they have calculated was 8 days from 04/04/2024 to 12/04/2024. If the reading would have been taken on 04/04/2024 at Forenoon and the solar would have connected on 12/04/2024, Evening the days would be more than 8 which would be around 8.5 days. If the period of this reading is considered as 8.5 and then the total consumption would have been 240 units then the telescopic tariff only will be applicable. As per the respondent, the completion report have been submitted on 12/04/2024 and energisation happened on 12/04/2024, then this would have been in the Afternoon.

The Section 55 of the Electricity Act 2003 states as

55. (1) *No licensee shall supply electricity, after the expiry of two years from the appointed date, except through installation of a correct meter in accordance with regulations to be made in this behalf by the Authority: Provided that the licensee may require the consumer to give him security for the price of a meter and enter into an agreement for the hire thereof, unless the consumer elects to purchase a meter: Provided further that the State Commission may, by notification extend the said period of two years for a class or classes of persons or for such area as may be specified in that notification.*

(2) *For proper accounting and audit in the generation, transmission and distribution or trading of electricity, the Authority may direct the installation of meters by a generating company or licensee at such stages of generation, transmission or distribution or trading of electricity and at such locations of generation, transmission or distribution or trading , as it may deem necessary.*

(3) *If a person makes default in complying with the provisions contained in this section or regulations made under sub-section (1), the Appropriate Commission may make such order as it thinks fit for requiring the default to be made good by the generating company or licensee or by any officers of a company or other association or any other person who is responsible for its default.*

This section describes that the energy charges are to billed as per the reading recorded by the meter. The deriving of the reading on pro rata is no

where mentioned in the regulations. Hypothetically arriving the total consumption from the reading of 8 days is not justifiable to decide the rate applicable. He would have the option to limit his consumption during the balance days so that this would be within 250 units. The duration of the reading itself is questionable and could be 8.5 days.

Here in this case the appellant had taken special interest to get the meter so that the solar panel could be energized at the earliest. The one day delay in connection of solar panel result to the loss of 13 units. It is the responsibility of the officials of Licensee to ensure the connection of solar panels without any delays. Considering these aspects, charging the consumer on using hypothetical values and charging of flat rate tariff is not correct.

Decision

On verifying the documents submitted and hearing both the petitioner and respondent and also from the analysis as mentioned above, the following decision are hereby taken.

1. The bill raised by the Licensee on 02/05/2024 is quashed herewith.
2. The Licensee shall raise the bill applying telescopic tariff for the units consumed within non solar period.
3. This decision shall be executed within one month of the date of receipt of this order.
4. No other costs ordered.

ELECTRICITY OMBUDSMAN

No. P/01/2025/ dated: 11/03/2025.

Delivered to:

1. Sri. Denny Simon, Thekkath House, Varandarappilly. P.O, Thrissur (dt) - 680303
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Kodakara, Thrissur (dt)

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, 220 kV Substation Compound, HMT Colony P.O., Kalamassery, Pin- 683503.