

**THE STATE ELECTRICITY OMBUDSMAN**

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**APPEAL PETITION No. P/070/2021****(Present: A.S. Dasappan)****Dated: 21<sup>st</sup> January, 2022**

Appellant : Sri. Vijayakumaran Nair. R.,  
Sreelakshmi House, SRAV-27,  
Vennala, Janatha Road, Vennala,  
Kochi, Ernakulam Dist. 682 028

Respondent : Assistant Executive Engineer,  
Electrical Sub Division, KSEB Ltd.,  
Palarivattom, Ernakulam Dist.

**ORDER****Background of the case:**

The appellant filed this appeal petition for the consumer number 1157323003154 effected on 01-11-2004 from the Electrical Section, Vennala. The premises was given single phase electrical connection with connected load 1040 watts under LT-1 (A) tariff. The registered owner of the premises is Sri. Manikandan, Kizhkkemadavana, Vennala. As per appellant, the premises is a rental building and there is no continuous occupancy in the building. The faulty meter in the premises was not changed and during the period, the appellant remitted the bill amount issued by the respondent. Later, as per the report of Audit Wing of the Licensee, the bimonthly average consumption of the appellant was revised from 296 units to 546 units and issued the short-assessment bill for Rs.4,222/- for 4 billing cycles from 01/2019 to 07/2019. The appellant filed a petition before the Consumer Grievance Redressal Forum (CGRF), Central Region, Ernakulam for the cancellation of the short-assessment bill of Rs.4,222/- and against the disconnection notice issued by the respondent. The

Forum registered the petition vide OP No. 21/2021-22 and issued order dismissing the petition on 15-09-2021.

Aggrieved by the decision of the Forum, the appellant filed this appeal petition before this Authority.

**Arguments of the appellant:**

A complaint was submitted to CGRF on 28-07-2020 related to a faulty meter installed in the rental house near to the residence of the appellant that the meter was not changed by KSEB Ltd. for about one year despite the repeated requests made to the Licensee through letters and in person. During the said period of one year, nobody was staying in the rented house for 9 months and two tenants were in the house for a maximum period of one to three months at different intervals from 01-12-2018 to 30-11-2019. The bimonthly bills demanded by KSEB Ltd. for the faulty meter period were paying for the house in time. As no persons were staying in the house for a period of 9 months, the actual electricity bill amount payable to KSEB Ltd. was less than the amount paid prior to the meter became faulty and less than its meter rent. This situation would not have happened if they replaced the meter in time without wasting for a period of one year. They have neither replaced the meter nor asked the appellant to purchase a new meter. Contrary to the above and ignoring the fact they have not replaced the meter for a period of one year whereas they have further demanded for Rs.4,222/- after about 3 years. The verdict of CGRF was not favourable to the appellant. The respondent again served a demand and disconnection notice for remitting the said amount before 21-10-2021. As such the appellant filed appeal petition and requested for favourable orders.

**Arguments of the respondent:**

The appellant challenges the demand notice dated 17/3/2021 issued by the respondent under Sec. 45 of the Electricity Act 2003 read with Regulation 134 and 110 (12) of the Kerala State Electricity Supply Code demanding the appellant to pay an amount of Rs.4222/- as short assessment charges towards the actual energy consumed since the meter became faulty on 17/01/2019.

There is no bona fides in the above complaint and the demand raised against the appellant is valid in all aspects. This is a bimonthly consumer and date of meter reading for billing purpose is around 18 or 17 of odd months. The dispute under consideration arises due to wrong application of meter faulty average from 1/2019 to 7/2019 (4 billing cycles). The appellant was billed for a lesser average of 296 units and later it was reviewed by audit wing of KSEBL and directed to recover the under charged amount from the appellant. For recalculating new average, meter reading for the 3 billing cycles just prior to faulty period were taken and arrived as 546 units.

The demand notice is accompanied by the calculation details of the assessment by which the undercharged amount has been arrived. The appellant is liable to remunerate the demand made through the demand notice.

The complaint is filed with the ulterior motive to evade from payment of the short-assessed amount of Rs.4222/-. The following are the facts that led to the issuance of the short assessment bill to the appellant. KSEBL authorities strictly followed Regulation 125 of Supply code 2014 - Procedure for billing in the case of defective or damaged meters (1) in case of defective or damaged meter, the appellant 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 three billing cycles after the meter is replaced if required details pertaining to previous billing cycles are not available.

The meter became faulty on 17/01/21. The consumption prior to meter faulty/ (17/01/2019) period was as follows:

07/2018	-	558 units
09/2018	-	511 units
11/2018	-	569 units

The previous average consumption of the appellant was 546 units, but billed only for 296 unit instead of 546 units for the period 1/19, 3/19, 5/19 & 7/19. The bills were issued without applying the proper previous average consumption. It became necessary to realize the short-collected amount from the appellant for the above four billing cycles. The faulty meter was replaced on

17.09.2019. As a doubt arised in the new average, an explanation sought from section authorities and they reported that, they issued the bills generated by the system and no manual entry were done in this regard. As per the information collected from officers in charge of Orumanet Software (billing software adopted in KSEBL), if disconnection of service connection occurred in between the billing cycles, the system will generate a wrong average and hence not dependable. This drawback has been pointed out from different corners but not rectified yet. In this case, disconnection of service has been effected many times due to nonpayment of electricity charges. Under the above mentioned circumstances, billing revision became necessary to realize the undercharged amount.

The act and law do not permit the appellant to make an unlawful gain without paying for the energy consumed. The appellant is liable to pay the respective charges applicable under the tariff against the energy that is consumed.

Once the licensee establishes either by review or otherwise, that it has undercharged the consumer, the licensee can recover the amounts so undercharged form the appellant by issuing a bill. Accordingly, the KSERC has provided regulation 134 for effectively working out Section 45 of the Electricity Act 2003.

The licensee is bound to abide by the statutes and is bound to recover the un billed portion of the consumption and the same amounts to public money. Immediately after the flood in 2018, majority of line materials and meters were diverted to flood affected area and a delay occurred in replacing the faulty meter due to non-availability of sufficient meters in the departmental store

Considering the above facts, the respondent requests this Authority to accept the contentions raised through this statement of facts and dismiss the above complaint with cost to the respondent.

**Analysis and findings:**

The hearing of the appeal petition was conducted on 16-12-2021 in the office of the State Electricity Ombudsman, Edappally, Kochi. Sri. R. Vijayakumaran Nair, the appellant and Smt. S. Latha, Assistant Executive

Engineer, Electrical Subdivision, KSEB Ltd., Palarivattom from the respondent's side attended the hearing. On examining the appeal petition, the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision thereof.

The appeal petition is referred to the revision of the assessment bill once issued to the appellant for the same period of defectiveness of the energy meter following an observation made by the Audit Wing of the Licensee while auditing the accounts that the average consumption "arrived at" in the defective period of the meter is not sufficient to compensate the revenue loss sustained to the Licensee. The appellant was issued the bill for an average consumption of 276 units/bi-month in the defective period and which was revised to 546 units/bi-month, which led to the additional demand for Rs.4,222/-. The appellant had remitted the bill amount for 296 units/bi-month without any dispute, but the appellant was not satisfied in the delay on the respondent's side for the replacement of the defective meter.

The appellant's contention is that the defective meter in the rent-out building was not replaced within the period of one year even after continuous requests made by the appellant. During the period of defectiveness of the meter, nobody was staying in the house for 9 months. The appellant was ready to purchase a new meter and hand over the respondent for replacing the defective meter, but which was not permitted by the Licensee. As such the appellant wants exemption from remitting the additional bill amount.

According to the respondent, the reassessment of energy consumption in the defective period of the meter was made as per the Audit Report and hence, the appellant has to remit the amount. Firstly, the respondent issued the bill as generated by the system and later, which was prepared manually. As per Regulation 134 of Kerala Electricity Supply Code 2014, the appellant is liable to remit the amount.

On examining the document file containing documents produced by both the appellant and respondent, it is revealed as follows:

The Assistant Engineer issued the reassessment bill dated 'NIL' for Rs.4,222/- giving time line up to 16-08-2021 for remittance along with a notice of disconnection of electric supply if the amount was not remitted on or before 16-08-2021, as per the document produced by the appellant. But in the same document produced by the respondent the notice is seen dated as "13-07-2021". In the regular bimonthly bill issued to the appellant on 18-05-2021, the amount payable is Rs.703/- and in the next bill dated 20-07-2021, Rs.4,222/- is seen furnished as "Arrears". From the above, it is understood that the reassessed amount of Rs.4,222/- was issued to the appellant in between 18-02-2021 and 20-07-2021. But it is pertinent to note that the reassessment was made by the respondent in 07/2021 based on the Audit Report dated 26-02-2020, i.e., after 16 months.

In this case, the officers entrusted by the Licensee had not replaced the defective meter in time, even on continuous requests of the appellant; fixed an average consumption in the period of defectiveness; initiated action on the Audit report around 1½ years from the date of Audit Report were not proper.

This Authority analyzed the bimonthly energy consumption in the premises from 19-11-2015 to 20-07-2021. The energy consumption varies between 252 units and 429 units for the period from 19-11-2015 to 15-03-2018. The bimonthly consumption recorded / assessed from 15-03-2018 is as follows:

Date of Meter Reading	Meter Reading (kwh)	Consumption (kwh)	Remarks
15-03-2018	17847	350	
17-05-2018	18238	391	
17-07-2018	18796	558	
17-09-2018	19306	510	
17-11-2018	19875	569	
17-01-2019	0		Av. 296 units
18-03-2019	0		Av. 296 units
17-05-2019	0		Av. 281 units
19-07-2019	0		Av. 291 units
17-09-2019	0		Av. 267 units

The meter was replaced on 17-09-2019. The consumption recorded in the new meter is as follows:

Date of Meter Reading	Meter Reading (kwh)	Consumption (kwh)	Remarks
17-09-2019	0	-	
16-11-2019	16	16	
18-01-2020	160	144	
18-03-2020	160	0	
18-05-2020	1760	1600	
16-07-2020	2400	640	
18-09-2020	3000	600	
17-11-2021	3348	348	
16-01-2021	3720	372	
17-03-2021	3940	220	
18-05-2021	4130	190	
20-07-2021	4265	135	

From the meter reading details, it can be seen that the consumption in the premises is not consistent, which reveals that the consumption recorded depends on the load requirement of the tenants. The respondent did not disagree with the argument of the appellant that there was no continuous occupancy in the premises. In the period of defectiveness of the meter, the appellant had been given bills for an average consumption of 296 units and later revised to 576 units. Revision of average consumption in a defective period of the meter again and again is not proper and not legally sustainable. After the replacement of the faulty meter, the bimonthly consumption recorded for two bi-months is only 16 units and 144 units. Though the consumption exceeded 600 units thereafter, the consumption again reduced to 348 units, 372 units, 220 units, 190 units and 135 units. Though the respondent was aware of the fact that, the premises was a rent-out building, the respondent had not prepared a site mahazar while changing the meter on 17-09-2019.

**Decision: -**

In view of the analysis and discussions made above, I decide to quash the reassessment bill for Rs.4,222/-. If the amount is remitted by the appellant, the amount shall be adjusted in the future bills. The appeal petition filed by the appellant is having merits and hence, allowed. The order of CGRF, Central Region in OP No.21/2021-22 dated 15-09-2021 is set aside.

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

**ELECTRICITY OMBUDSMAN**

P/070/2021/ \_\_\_\_\_ dated \_\_\_\_\_.

**Delivered to:**

1. Sri. Vijayakumaran Nair, Sreelakshmi House, SRAV-27, Vennala, Janatha Road, Vennala, Kochi, Ernakulam Dist. 682 028
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Palarivattom, 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.