

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO. P/114/2015

(Present: V.V. Sathyarajan)

Dated: 23rd September 2015

Appellant : Smt. Meenakshi Nair
Flat No. 2A-1, Touchstone Manor,
Mathrubhumi Road, Vanchiyoor,
Thiruvananthapuram

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
Vizhinjam, KSE Board Ltd,
Thiruvananthapuram

ORDER**Background of the case:**

The appellant is a 3 phase consumer having a connected load of 26952 Watts with consumer number 24305 under Electrical Section, Vizhinjam. The respondent issued bill for average consumption of 1895 units for the month of April 2014 amounting to Rs. 22,239/- and for 965 units amounting to Rs. 12,820/- for the month of May 2014. Aggrieved by this, the appellant approached the CGRF, Kottarakkara with a petition in OP No. 1324/2014 which was dismissed due to lack of merits. Against the above Order of the Forum, the appellant filed this appeal.

Arguments of the appellant:

The appellant stated that the premises was in regular use by the tenants up to 10-02-2014 and the meter was also working during that period. The bills before February 2014 comes more than Rs. 20,000/-. The building is vacant from 15th February 2014 and the same is evident from the actual consumption. When the respondent issued bill for Rs. 22,239/-, then only the appellant came to understand that the meter is faulty. The appellant remitted the amount under protest so as to avoid disconnection.

The appellant complained that the meter abruptly stopped due to natural calamities. The dispute is based on the method of calculation from the date of meter stopped working to the date of meter got replaced. As per KSEB computer procedure, the computer took past 6 months average and

computed for the meter not working period. The following pleadings of the appellant are not considered by the Forum.

1. The appellant came to know that the meter is not working when they got the bill only. There was a delay in taking the meter reading and issue of the bill.

2. The appellant has agreed to the Forum that there was heavy consumption in the past as her tenant subleased the building to another person and he was using the building continuously from May 2013 to Feb 2014 and there was continuous heavy consumption. In this context the appellant agreed with the finding of the Forum that the appellant was not a seasonal consumer. But the Forum would have examined the consumption beyond June 2013 and after February 2014, the Forum would have seen that the consumption was seasonal as varying tourists have stayed for varying days and occupancy was peak during December to mid February and it is lean during other periods. The building was on lease for the period 2008 to 2013 February and the tenant was subleasing to the tourists. Hence the appellant do not have any occupancy details except the lease rent deed. But naturally the occupancy will be proportional to the power consumption and KSEB will have all the details from 2008 onwards. Here the Forum only has given attention to the consumption peak period of June 2013 to Jan 2014. Moreover the appellant has submitted that the heavy consumption tenant have vacated in middle February and thereafter the building was in her possession and was lying vacant for maintenance and can be seen from the consumption rate. The old meter itself and before getting damaged has shown actual reading of 302 units for February 2014 in bill dated 04-04-14. (Here appellant repeat the words of Kerala State Electricity Board that the meter was damaged due to natural calamity and so it stopped abruptly).

The old meter recorded consumption of 302 units for March and the new meter recorded consumptions from June 2014 and till January 2015 and the average comes to 267.6 units only

3. When the meter read 70 units in May 2014 for 15 days appellant had to pay for 955 units based on adding the past average for 15 days.

- a. When appellant's consumption was low in March (302 units) she has to pay for 1895 units for April as the reading was zero as the meter was damaged and KSEB has taken the heavy past average. Here appellant humbly pointed out the handicap of the software that it takes past average only without considering the circumstances. Appellant's appeal is against this handicap as the meter reading just before old meter stopped working and the reading of the new meter till date proves low consumption. The appellant has submitted the monthly consumption details of the old meter and new meter from 05-03-14 to 08-01-15, which the Forum has not considered.
- b. If KSEB takes only past average then they can consider the period from 2008 onwards or a few months prior to May 2013 where KESB can find varying consumption.

- c. Appellant's prayer to KSEB Vizhinjam was to consider the 6 months' future average which was actually her consumption. But they told that the computer was programmed only for the past 6 months' average which was not her consumption. The Forum was also holding the view of Kerala State Electricity Board, Vizhinjam. Here appellant was penalized for somebody's consumption. The appellant repeat that the old meter before stopping has recorded the consumption (which is only 302 units) and the new meter was recording actual consumption for last one year continuously (Average is only 267.6 units) and so appellant prays to the Honourable Ombudsman to consider the 6 months or one year average consumption of the new meter.

Arguments of the respondent:

The respondent stated that the building Indeevaram, consists of 6 Apartments, owned by the appellant. Monthly billing is carried out for this consumer. Consumption pattern of this consumer since May 2013 is furnished as follows.

1. The meter was identified as faulty on 05-05-2014. The cause of fault was identified as natural calamity. Hence on 20-05-2014 old meter bearing serial no: 022128696 of M/s ABB make was replaced with a new meter bearing serial no: KSB57548 of M/s SECURE make.

Billing Month	FR date	FR	Consumption	Bill amount
May-13	01-06-2013	96900	689	Rs. 10,160.00
Jun-13	01-07-2013	98994	2094	Rs. 24,221.00
Jul-13	01-08-2013	101145	2151	Rs. 24,792.00
Aug-13	02-09-2013	103364	2219	Rs. 24,473.00
Sep-13	01-10-2013	105696	2332	Rs. 26,604.00
Oct-13	01-11-2013	108199	2503	Rs. 28,316.00
Nov-13	02-12-2013	110905	2706	Rs. 30,348.00
Dec-13	01-01-2014	113300	2395	Rs. 27,234.00
Jan-14	01-02-2014	115584	2284	Rs. 26,123.00
Feb-14	01-03-2014	116768	1184	Rs. 15,112.00
Mar-14	01-04-2014	117070	302	Rs. 5,852.00
Apr-14	05-05-2014	117070	0 (meter faulty) New meter installed- Average - 1895	Rs. 22,239.00
	20-05-2014	0		
May-14	06-06-2014	70	Average 895+70=965	Rs. 12,820.00
Jun-14	01-07-2014	215	1454	Rs. 4,297.00
Jul-14	01-08-2014	355	140	Rs. 4,261.00
Aug-14	16-09-2014	538	183 (implementation of Orumanet - delay in billing)	Rs. 6,209.00

2. Billing for the Month of April 2014 has been carried out based on the system generated previous six months average of 1895 units and the bill amount is Rs 22,239/- vide bill no : 734750 dated 09-05-2014
3. Billing for the Month of May 2014 has been carried out based on an average of 965 units (895 units + 70 units). 895 units is the average consumption for the period from 1-05-2014 to 19-05-2014 and 70 units is the actual reading obtained from the new meter for the balance of the billing period w.e.f. 20-05-2014. The bill amount is Rs 12,820/- vide bill no: 743746 dated 06-06-2014.
4. Billing has been done as per provisions contained in Kerala Electricity Supply Code prevailing from time to time. The relevant section 125 of Kerala Electricity Supply Code 2014 is reproduced below as:

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 three billing cycles immediately preceding the date 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 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 licensee shall replace the defective or damaged meter with a correct meter"

The appellant does not have occupancy details (item 2 of application of the appellant dated 11-05 -2015). Billing procedure adopted conforms to the above mentioned regulations. Hence it may be concluded that normal billing as per existing norms has been done. Hence there is no discrepancy. It is humbly prayed that the appeal petition may be dismissed with cost.

Analysis and findings

The Hearing of the case was conducted on 15-07-2015, at KSEB Inspection Bungalow, Paruthippara, Thiruvananthapuram and Sri. Raj Chandran Nair represented for the appellant. Sri Joykutty T.K., Assistant Executive Engineer, Electrical Sub Division, Vizhinjam represented the respondent's side. On examining the petition, the argument note filed by the appellant, the statement of facts of the respondent, perusing all the documents and considering all the facts and circumstances of the case, this Authority comes to the following conclusions and findings leading to the decisions thereof.

The contention of the appellant is against the method of billing during the meter faulty period which occurred due to natural calamity. On going through the records it can be seen that the meter was found faulty on 05/05/2014 and the same was replaced on 20-05-2014 with a new meter. The bill for the month of April 2014 was prepared based on the average consumption of previous six months and the bill for May 2014 was also issued based on the average consumption for the period from 01-05-2014 to 19-05-2014 (895 units) and the actual consumption from 20-05-2014.

According to the appellant, there was continuous heavy consumption during the period from May 2013 to February 2014, but the tenant has vacated in the middle of February and the building was lying vacant for maintenance. Due to non occupancy the consumption has reduced to 302 units for February 2014. The appellant has produced a copy of the lease deed in support of her argument. Against this contention, the respondent has furnished the details of consumption from May 2013 to August 2014. During the period from June 2014 to February 2014, the consumption was very high and the appellant has also not disputed this fact. But after the replacement of the faulty meter, the consumption was seen reduced to 200 units per month.

The contention of the appellant that the building was lying vacant for maintenance from middle of February 2014, which leads to the reduction in consumption, is without any documentary evidence. The Regulation 125 of Kerala Electricity Supply Code, 2014 deals with the procedure for billing in the case of defective or damaged meter. In the case of defective or damaged meter, the consumer shall be billed on the basis of average consumption of the past 3 billing cycles immediately preceding the date of the meter being found or reported defective.

Provided that the average shall be computed from the 3 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 the consumer about conditions of working and occupancy of the concerned premises during such period, which might have had a bearing on energy consumption, shall also be considered by the licensee for computing the average.

Here in this case the appellant's meter was found faulty on 05-05-2014 and the monthly bill for April 2014 was issued based on the previous 6 months average consumption for 1895 units which is found in order. The respondent replaced the meter on 20-05-2014 and issued monthly bill for 965 units for May 2014. The respondent has taken 895 units if the average consumption for the period from 01-05-2014 to 19-05-2014 and the actual consumption of 70 units for the balance period for that month which is found not in order. There is no provision in anywhere in the Supply Code for issuing such a bill after replacing faulty meter. Hence it is decided to

revise the bill for the month of May 2014 by watching the consumption pattern after replacing the meter.

According to the reading taken on 06-06-2014 it can be seen that the consumption recorded is 70 units i.e. for the period from 20-05-2014 to 06-06-2014 for 18 days. That means per day consumption of the appellant is around 3.9 units and the proportionate consumption for 30 days will come to 117 units only. But the respondent has charged 965 units for that month which is not found genuine. Hence the respondent is directed to revise the bill for May 2014 based on the above method.

Decision

In view of the above discussions it is decided to revise the bill for May 2014 as per the procedure furnished above at any rate within 30 days from the date of receipt of this order. Excess amount already charged from the appellant shall be refunded along with the interest or adjusted against his future bills. The appeal is disposed of with the above direction. The CGRF order in OP No. 1324/2014 dated: 18-04-2015 is set aside. No order as to costs.

ELECTRICITY OMBUDSMAN

P/114/2015/ _____ Dated: _____

Forwarded to:

1. Smt. Meenakshi Nair, Flat No. 2A-1, Touchstone Manor, Mathrubhumi Road, Vanchiyoor, Thiruvananthapuram
2. The Assistant Executive Engineer, Electrical Sub Division, Vizhinjam, KSE Board Ltd, Thiruvananthapuram

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Kottarakkara - 691 506.