

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 9447576208

Email:ombudsman.electricity@gmail.com

APPEAL PETITION NO. P/120/2015

(Present: V.V. Sathyarajan)

Dated: 14th October 2015

Appellant : Sri Shyju John
Munjanattu House
Nedumudi P.O.,
Kottayam District

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
Karukachal, KSE Board Ltd,
Kottayam

ORDER**Background of the case:**

The appellant is a domestic consumer under Electrical Section, Pathanad with consumer No. 1649 and is a defence personnel serving at Pune and his parents are only residing in his house. As the appellant's energy meter was found faulty a short assessment bill was issued for the period from 05/2011 to 12/2013 by the respondent taking average consumption as 212 units. It is alleged that even after repeated requests for replacing the faulty meter, the meter was replaced only on 04-12-2013. After the replacement of faulty meter, the consumption was found reduced to 166 units. Hence the appellant requested to refund or adjust the excess amount collected from the appellant during the meter faulty period. Since the respondent has not taken any action on the request of the appellant, he approached the CGRF. But the Forum dismissed the petition on the finding that there is no merit in the case. Hence the appellant filed this petition before this Authority.

Arguments of the appellant

The appellant stated that as the electricity meter was found faulty a short assessment bill was issued for the period from 5/2011 to 12/2013 by taking average consumption on 212 units by the KSEB. As the bill on average consumption as 212 units was found excess and amount was very high, the appellant requested KSEB to replace the meter and changed the meter on 04-12-13. After replacement of meter the average energy

consumption was reduced to 166 units. Hence the appellant requested to refund or adjust the excess amount collected in future bills.

The average consumption immediately after the replacement of faulty meter for a period of six months from 01/2014 to 07/2014 was found 166 units. Average consumption for six months from 07/2010 to 11/2010 before the replacement of meter was $(204 + 125 + 124) \div 3 = 151$ units and bills for the period from 01/2011 to 07/2011 was 212 units. The reason to increase average bill in this period was due to hot summer i.e. consumption of electricity in March and April 2011 was 278 units and in all other bills energy consumption was below 200 units.

It is true that the bills for an average consumption of 212 units were issued for the months from 07/2011 to 11/2013 and parents of the appellant remitted the bill amount to avoid disconnection. But the bill amount was found every time very high and excess the appellant requested several times to replace the faulty meter. But the meter was not available with the KSEB, the authorities promised that after the replacement of meter, the average bills for the first 6 months would be taken into consideration and average consumption is less than 212 units, the excess amount collected would be adjusted with future bills. Further informed that in case the average bills issued were not paid on time disconnection of the supply would be resulted. Believing the words of KSEB authorities, the appellant remitted the bills for 31 months from 07/2011 to 11/2013. Moreover, the appellant did not like to be a defaulter. Hence KSEB is bound to return or adjust the excess amount collected 30 months from 07/2011 to 11/2013 and render natural justice.

The appellant was absent for the first hearing on 12-3-15 and second hearing on 25-3-15. The appellant is serving in Defence Department at Pune and the old aged parents staying alone at home. Neither the appellant nor the parents received the notice from the CGRF on time and remained absent at the time of hearing. If the CGRF Forum would have sent the notice by speed post, the appellant / representative would have present at the time of hearing.

The Forum did not consider the merits of the case and denied natural justice to the appellant. It was an ex parte decision and orders issued by the Forum cannot be justified and violates the rules of KSEB. It is absolutely wrong that as per rules excess bill amount was collected. Further, the appellant did not get a chance to explain and justify his grounds.

Hence the appellant sought for the following reliefs.

1. To set aside Order No. passed 1344/2014 dated 23-04-2015 by CGRF.
2. To refund or adjust the excess amount collected on bills for average consumption for 212 units from the appellant for the period from 07/2011 to 11/2013.

3. To grant the cost and other reliefs that are deemed fit and proper.

Arguments of the respondent

The respondent stated that the appeal is not maintainable under Regulation 22 of KSEERC (CGRF & Electricity Ombudsman) Regulations, 2005 because the appeal is already redressed by the Hon'ble CGRF (South) vide OP No. 1344/2015 within the period and the manner specified in the Regulation and the appellant had not raised any objection during the redressal.

The energy consumption of the appellant from May 2010 is as follows:

Month	Consumption
05/2010	213 Units
07/2010	204 Units
09/2010	125 Units
11/2010	124 Units
01/2011	161 Units
03/2011	196 Units
05/2011	278 Units
07/2011 to 11/2013	212 Units (Meter is faulty. So average consumption)

From 07/2011 the meter became faulty so average consumption of the previous six months is calculated as $(278 + 196 + 161) \div 3 = 212$ units and invoices were issued accordingly till the replacement of the faulty meter on 4-12-2013 (i.e. up to 11/2013). The appellant had paid all the invoices without any objection. The energy consumption after the replacement of the faulty meter is as follows:

Month	Consumption
01/2014	195 Units
03/2014	203 Units
05/2014	150 Units

The respondent stated that the bills were issued as per the prevailing Kerala Electricity Supply Code, 2005 and the KSEB Terms & Conditions of Supply, 2005. As per Clause 33(2) of KSEB Terms & Conditions of Supply, 2005 the method for preparing the invoice during faulty meter period is explained as:

“If the Board is unable to raise a bill on meter reading due to its non recording or malfunctioning, the Board shall issue a bill based on the previous 6 months average consumption.” In this case the energy meter become faulty from November 2011 and bills were issued based on the average consumption of previous 6 months prior to the meter became faulty, i.e. average consumption of invoices issued during 03/2011, 05/2011 and 07/2011. The main demand of the appellant is that average consumption during the meter faulty period should be reassessed based on 6 months average consumption after the replacement of faulty meter.

In Clause 33(2) of the KSEB Terms & Conditions of Supply, 2005 it is further mentioned that *“if the average consumption for the previous 6 months cannot be taken due to the meter ceasing to record the consumption or any other reason, the consumption will be determined based on the meter reading in the succeeding 3 months after replacement of meter”*. As per this Clause, consumption during faulty meter period should be calculated only based on the average consumption of previous 6 months prior to the meter faulty period is not available. Also in such cases the average consumption of only 3 months after the replacement of meter could be taken and not for 6 months. In this case, invoices are issued only based on the prevailing rules and regulations and there was no deficiency in service and the appellant has liability to pay the amount. Hence the appellant requested this Authority to dismiss the appeal with costs to the opposite parties.

Analysis and findings

A hearing of the case was conducted in my chamber at Edappally on 16-09-2015. Advocate Johny Sebastian, Manjunattu House, Nedumudi P.O. appeared for the appellant’s side and Sri Biju Prince Abraham, Assistant Executive Engineer, Electrical Sub Division, Karukachal appeared for the respondent’s side. Both sides presented their arguments on the lines as stated above. The brief facts and circumstances of the case that led to filing of the petition before this Authority are narrated above. On examining the petition of the appellant, the statement of facts filed by the respondent, the arguments and 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.

On going through the records it can be seen that the respondent has issued bills for an average consumption of 212 units for the period from 07/2011 to 11/2013. The respondent replaced the appellant’s faulty meter only on 04-12-2013 even after repeated requests. Hence the relevant facts giving rise to the instant appeal is due to the failure on the part of respondent in timely replacing the appellant’s faulty meter. It is pertinent to note that the appellant has never disputed the average consumption for a period of six months as 212 units taken by the respondent.

The contention of the appellant that the average consumption of previous 6 months prior to the replacement of faulty meter is 278 + 105 +

14 ÷ 3 = 132 units and not 212 units. The appellant after analysis of the payment details found that the respondent has collected excess amount during the meter faulty period. But the respondent argued that the bills were issued to the appellant is as per Clause 33(2) of KSEB Terms & Conditions of Supply, 2005 which reads as follows:

If the license is unable to base a bill on meter reading due to its non recording or malfunctioning, the licensee shall issue a bill based on the previous 6 months average consumption. In such cases the meter shall be replaced within one month. If the average consumption for the previous 6 months cannot be taken due to the meter ceasing to record the consumption or any other reason, the consumption will be determined based on the meter reading in succeeding 3 months after replacement of the meter. Hence the respondent issued bills based on the previous 6 months average consumption relying to the first part of Clause 33(2) of KSEB Terms & Conditions.

According to the appellant the meter was not faulty during the period from 07/2011 to 11/2013. The appellant's family members including parents were living in Pune with the appellant and nobody was staying at the appellant's premises except the security person on night duty, which is the reason for the reduced consumption in the succeeding months. The respondent has neither conducted any meter testing nor the occupancy of the premises. The respondent replaced the meter assuming it as faulty.

As per Regulation 19 (2) of Supply Code, 2005 and Clause 33(2) of KSEB Terms & Conditions, 2005 which reads as ***“if the licensee is unable to base a bill on meter reading due to its non recording or malfunctioning, the licensee shall issue a bill based on the previous 6 months average consumption. In such cases meter shall be replaced within one month”***.

Here in this case the respondent had replaced the faulty meter only on 04-12-2013 that too even after repeated requests from the appellant. The respondent is duty bound to replace the faulty meter within one month as per the above Regulations. However, it came to light that due to the failure on the part of respondent to replace the faulty meter timely, the appellant had to remit excess charges during the meter faulty period from 07/2011 to 11/2013. In so far as there is no fault on the part of the appellant, he is not liable to remit any excess amount during the meter faulty period.

Decision

In view of the above discussions it is decided to revise the bills based on the meter reading in the succeeding 3 months after replacement of meter as per Regulation 33(2) of KSEB Terms & Conditions of Supply, 2005 pertaining to the disputed period from 07/2011 to 11/2013. The respondent is directed to revise the bill at any rate within 30 days from the date of receipt of this

order. The excess amount, if any, remitted by the appellant shall be refunded to the appellant or adjusted against the future bills. The appeal petition is admitted. The order of CGRF in OP No.1344 dated 23-4-2015 stands set aside. Having decided as above, it is ordered accordingly. No order as to costs.

ELECTRICITY OMBUDSMAN

P/120/2015/_____ /Dated:_____

Delivered to:

1. Sri Shyju John, Munjanattu House, Nedumudi P.O., Kottayam District
2. The Assistant Executive Engineer, Electrical Sub Division, Karukachal, KSE Board Ltd, Kottayam

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.