

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/021/2016
(Present: V.V. Sathyarajan)
Dated: 30th June 2016

Appellant : Smt. Leelamma Steephen,
Edasseril, Ranni P.O.,
Pathanamthitta

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd,
Ranni,
Pathanamthitta

ORDER

Background of the case:

The appellant is running a bakery named 'Ebanazar Sweets' having consumer No. 78 under Electrical Section, Ranni (South) with a connected load of 9 kW. The connected load of the appellant has been enhanced from 3000 Watts to 9000 Watts and also changed the tariff from LT IV to LT VII A with effect from 10-12-2014. The respondent has issued a bimonthly invoice amounting to Rs. 22,000.00 for the period from 21-09-2015 to 19-11-2015 on the basis of actual recorded consumption of 1956 units. Aggrieved against the exorbitant bill the appellant filed a petition before CGRF, Kottarakkara which was dismissed vide order No. 1650/2015 dated 05-03-2016. Still not satisfied with the decision of the CGRF, the appellant submitted this appeal petition before this Authority.

Arguments of the appellant:

The appellant is the proprietor of a bakery, Ebenezer Sweets having consumer No. 78 under Electrical Section, Ranni (South). The appellant started this bakery during December 2014. Previously an industrial unit with a connected load of 3000 Watts was functioning in the premises. The appellant enhanced the connected load to 9000 Watts and got tariff changed to LT VII A with effect from 10-12-2014. The following bimonthly invoices received till 30-9-2015 have been remitted.

1. Invoice dated 12-01-2015 for Rs. 4,104.00 for 372 units- FR 853.
2. Invoice dated 19-03-2015 for Rs. 8,991.00 for 931 units- FR 1784.
3. Invoice dated 19-05-2015 for Rs. 12,882.00 for 1046 units- FR 2830.
4. Invoice dated 20-07-2015 for Rs. 7,631.00 (after adjusting advance of Rs. 2,743.00) for 930 units - FR 3760
5. Invoice dated 30-09-2015 for Rs. 10,726.00 for 970 units- FR 3760.

Another invoice dated 12-10-2015 was served to the appellant for Rs. 59,539.00 being 'short assessment bill for under charged units'. In the invoice it has been indicated that the FR on 19-09-2015 was 10550. The appellant had filed a complaint against the short assessment bill to the licensee. As the grievance of the appellant was not considered satisfactorily, a petition in OP No. 1621/2015 filed before the Hon'ble CGRF, Kottarakkara. The Hon'ble Forum has issued interim orders not to disconnect the service connection till the OP is disposed of.

The next regular invoice dated 19-11-2015 for Rs. 22,200.00 was issued for 1956 units (IR 10550 and FR 12506). As the short assessment with FR 10550 was under dispute, the appellant filed another petition in OP. No. 1650/2015 before the Hon'ble CGRF, Kottarakkara.

On 26-11-2015, the meter has been taken for testing after providing another meter with IR 3. The meter has been tested on 28-11-2015 at TMR unit, Pallom and the meter has been reinstalled on 08-12-2015. The FR of the interim meter was 100 and the consumption for 12 days was 97 units.

As directed by the Hon'ble CGRF, the meter in the premises has been changed with a new one with IR 0 on 25-01-2016. The OP No.1650/2015 was disposed of vide order dated 08-03-2016, which received only on 26-03-2016 by post. The Assistant Engineer, Electrical Section, Ranni (South) has issued a notice dated 18-03-2015 to remit Rs. 23,383.00 (22200+1183 as interest) before 04-04-2016.

The Hon'ble Forum has issued the following directions, Vide OP No.1621/2015 dated 18-03-2016

1. The impugned bill is quashed.
2. The respondent shall revise the bill based on the average of 3 consecutive bills after replacement of the meter.

Nature of relief sought from the Ombudsman

As the Hon'ble CGRF has issued, direction in OP No. 1621/2015 to reassess the invoice dated 12-10-2015 with average consumption, the Hon'ble

Ombudsman may issue an interim order not to disconnect the service connection till the disposal of this appeal petition for not remitting the amount as per notice dated 18-03-2016.

It is also requested that the Hon'ble Ombudsman may quash the demand dated 19-11-2015 and direct the licensee to reassess all the demand raised on the consumer from 01-01-2015 to 25-01-2016 (date on which the meter has been changed) after watching average consumption as ordered by the Hon'ble CGRF, Kottarakkara.

Arguments of the respondent:

The 3 phase service connection bearing consumer No 78, was effected from Electrical Section, Ranni (South), under LT VII A (commercial tariff), currently having a connected load to the tune of 9 kW belongs to the appellant. The appellant has filed OP No: 1621/2015 and OP No: 1650/2015 consecutively before the Honourable Consumer Grievance Redressal Forum (South), Kottarakkara impugning regular bimonthly assessments for the billing cycles ended on 21-09-2015 and 19-11-2015 respectively. Of which the second petition i.e. OP No.1650/2015 was dismissed on 08-03-2016, clearly endorsing correctness of the energy meter as well as calculation for the respective period. Whereas, the former one i.e., OP No.1621/2015 was decided and disposed afterwards on 18-03-2016 by the Honourable Consumer Grievance Redressal Forum, inconsistently directing this respondent to revise the invoice based on the average of 3 consecutive bills after replacement of the meter. This respondent is of the strong apprehension that the decisions of the Honourable Consumer Grievance Redressal Forum (South) in OP No: 1621/2015 is incompatible with its own decision in the later one i.e., in OP No 1650/2015, as the Forum acknowledged the correctness of the energy meter existed at the premises and hence there is no reason to negate the recorded reading in the same energy meter during the immediately preceding period and the assessments thereof.

Precisely this respondent is of the version that there is no valid reason for the Forum to pronounce a conflicting order in OP No: 1621/2015, when accuracy of the very same energy meter during the immediately succeeding period as explicitly upheld in the subsequent Order of the CGRF(South) in OP No: 1650/2015. It is against the legal ethics and codes to discard the consumption recorded in the very same energy meter during the immediately preceding period, when the accuracy of the same energy meter covering the subsequent period and the calculation thereof on the basis of such reading was clearly admitted and upheld by the same Forum (in OP No: 1650/2015). It is paradoxical and unresponsive on the part of the Forum to arrive at conflicting decisions, when there is no disturbance to the circumstance and parameters,

Earlier the respective 3 phase service connection (bearing consumer No. 78 effected from Electrical Section, Ranni (South), under LT VII A (commercial

tariff) was under LT IV tariff with connected load of 3 kW. On request from the consumer, the tariff of this service connection was changed to LT VII A with effect from 10-12-2014. Connected Load at the premises was enhanced to 9 kW subsequently on 17-03-2015. Presently, the consumer is under bimonthly billing scheme. Bimonthly consumption of the respective consumer (as recorded in the Meter Reading Register), for the preceding billing cycle are replicated hereunder

Date	Recorded Reading	Consumption in units
01-01-2015	853	372
17-03-2015	1784	931
19-05-2015	2830	1046
20-07-2015	3760	970

While so, when subsequent meter reading taken during the next billing cycle ended on 21-09-2015, considerable hike in consumption at the premises was witnessed, as the recorded reading then was 10550, thereby the resultant bimonthly consumption at the premises during the period arrived at, as 6790 units. Constrained by this given situation suo moto it was resorted to assess the consumer provisionally on the basis of the preceding average consumption at the premises and thereon to issue final invoice after ascertaining the accuracy of the energy meter at the premises.

Thereon after verification, having inferred 'that the energy meter at the premises is intact and there is nothing wrong with the meter reading taken on 21-09-2015, as well as the actual recorded consumption for the period reckoned to be 6790 units, a supplementary invoice towards realisation of undercharged/unbilled portion of energy for the respective billing cycle amounting to Rs. 59,539.00 (Rupees Fifty Nine Thousand Five Hundred and Thirty Nine Only) was served on the consumer/ appellant.

The consumer/ appellant had never disputed the accuracy of the energy meter at the premises. This licensee was of the inference that the energy meter at the premises is intact and nothing wrong with the cumulative reading taken on 21-09-2015, or on the assessment on actual consumption at the premises during the period in question. Thus the Regulation 134 of the Kerala Electricity Supply Code, 2014 on 'Under Charged Bills and Over Charged Bills', which clearly provides this licensee for the realization of the amount actually undercharged for the period from the consumer, is strictly applicable to this instant case also. No other question of law is involved in this case.

While so, for no reason the petitioner impugned the subsequent regular bimonthly invoice also amounting to Rs. 22,200.00 (Rupees Twenty Two Thousand and Two Hundred only) served on her, on the basis of the actual recorded consumption during the period from 21-09-2015 to 19-11-2015 at the

premises. An extract from the Meter Reading Register for the period is replicated hereunder.

Date	Recorded Reading	Consumption in units
20-07-2015	3760	970
21-09-2015	10550	6790
19-11-2015	12506	1956

It is evident that the actual recorded consumption at premises for the billing cycle ended on 19-11-2015 was accurately 1956 units. The details and mode of assessment were reviewed and found to be at par with the tariff and rates prevailing. This fact was properly acknowledged and unequivocally upheld by the CGRF (South) in OP No: 1650/2015. There is no point to the petitioner to dispute the accuracy of the energy meter at the premises, as the correctness of the respective meter was properly tested and found intact. Hence it is humbly prayed before the Honourable Ombudsman to direct the appellant to remit amount as per the invoice in question and thereby pave the way for this respondent to realise the legitimate amount against actual consumption made by the appellant during the period in question.

1) The invoices in question was served on the consumer/appellant were regular one, towards realization of the energy charges against actual recorded consumption at the premises during the respective billing cycles. No penalty or interest was levied therein.

2) There was no dispute over the accuracy of the energy meter at the premises. The energy meter at the premises was duly tested subsequently, at the behest of the Honourable Consumer Grievance Redressal Forum (South) and where, proved its accuracy. Hence there is no reason to discard the actual consumption recorded in the respective energy meter over the preceding period.

3) The assessment was subject to the Regulation 31, on 'Recovery of Charges for the Supply of Electricity', of the Supply Code, 2014.

4) The Consumer is legally bound to remit the bill for his actual consumption of electricity.

Analysis and findings

The hearing of the case was conducted on 08-06-2016 in my Chamber at Edappally and the appellant's side was represented by Sri. Abey Stephan, and the respondent's side by Sri Surendran C.G., Assistant Executive Engineer, Electrical Sub Division, Ranni and they have argued the case, mainly on the lines as stated above. On examining the petition filed by the appellant, the statement of facts of the respondent, perusing 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 issue referred in this appeal is with respect to the correctness of the bill dated 12-10-2015 and 19-11-2015 amounting to Rs. 59,539.00 and Rs. 22,000.00 respectively. After hearing the submissions made by the appellant and the respondent and on perusal of the records produced, it is *prima facie* evident that the consumer No. 78 is originally connected with a load of 3 kW under LT IV tariff and later changed to LT VII A with a connected load of 9 kW on 10-12-2014. The consumption pattern of the appellant from 01-01-2015 to 30-09-2015 is detailed below.

Date	Initial Reading	Final Reading	Consumption in units
01-01-2015	481	853	372
17-03-2015	853	1784	931
19-05-2015	1784	2830	1046
20-07-2015	2830	3760	930
30-09-2015	3760	3760	970

It is seen from the above that in the bill dated 30-09-2015 the respondent charged 970 units by way of average consumption. The Final Reading (FR) shown in the bill dated 20-07-2015 is 3760 and the FR shown in the bill dated 30-09-2015 is also 3760 and hence an average of 970 units is charged. No reason is stated for taking the average consumption in the bill dated 30-09-2015. If at all the meter is faulty it is for the licensee to take urgent steps to check the meter. But here instead of checking the correctness of the meter the licensee issued a short assessment bill dated 12-10-2015 for an amount of Rs. 59,539.00. Here also no reason is stated for issuing such a short assessment bill for the appellant whose previous current charges were not more than Rs. 10,000.00 and he had remitted the bills periodically issued to him.

In this case, the records prove that the appellant raised the complaint against the bill dated 12-10-2015. But without resorting to any effective measures to redress the grievance of the appellant the respondent issued another bill dated 19-11-2015 for Rs. 22,000.00. From the records produced by the respondent, a letter dated 16-06-2016 seen addressed to the respondent (Assistant Executive Engineer, Electrical Sub Division, Ranni (South)) from the Senior Superintendent, Electrical Section, Ranni (South), it is stated that the short assessment is made because of the existence of ToD meter in the premises. Whereas on the last paragraph of the letter it is stated that "there was no indication in the records to infer that the ToD meter existing at the premises". It is also seen from the letter that there is no explanation for taking

average 970 units in the bill dated 30-09-2015 or there is any explanation for the issuance of short assessment bill dated 12-10-2015 for Rs. 59,539.00.

The appellant approached the CGRF (South) Kottarakkara against the bill dated 12-10-2015 and the CGRF by its order in OP No. 1621/2015 dated 17-03-2016 quashed the impugned bill and directed the respondent to revise the bill based on the average of 3 consecutive bills after the replacement of the meter. In this case, the appellant challenges the decision of CGRF in OP No. 1650/2015 dated 05-03-2016 and also the correctness of the bill dated 19-11-2015 for Rs. 22,000.00. The meter in the premises has been found changed with a new one on 25-01-2016. On an overall view of the facts and evidences produced by both sides I am of the view that the bills dated 12-10-2015 and 19-11-2015 are not sustainable. But at the same time the appellant is liable to pay the charges for the actual amount of energy consumed by him for the above period.

Decision

In view of the above discussions it can be seen that the respondent issued the bill dated 19-11-2015 for Rs. 22,000.00 without furnishing any reasons or explanations or even without checking the accuracy of the meter. Hence the above bill is not sustainable and hereby quashed. However, the respondent is directed to reassess the appellant on the basis of average consumption of 3 consecutive bills after the replacement of the meter for the disputed period from 20-07-2015 to 30-09-2015 as per Regulation 125 of Supply Code, 2014. This shall be done at any rate within a period 30 days from the date of receipt of this order.

The appeal petition is disposed of accordingly. The order of CGRF in OP No. 1650/2015 dated 05-03-2016 is set aside. No order as to costs.

ELECTRICITY OMBUDSMAN

P/021/2016/_____ /Dated:_____

Delivered to:

1. Smt. Leelamma Steephen, Edasseril, Ranni P.O., Pathanamthitta

2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Ranni, Pathanamthitta

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.