

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/041/2016

(Present: V.V. Sathyarajan)

Dated: 30th September 2016

Appellant : Smt. Sumakumari S.
T.C.13/798(2),
North Elankaman,
Vanchiyoor,
Thiruvananthapuram.

Respondent : The Assistant Executive Engineer,
KSE Board Limited,
Electrical Sub Division,
Beach,
Thiruvananthapuram.

ORDER**Background of the case:**

The appellant is an LT three phase domestic consumer with consumer No. 12636 having connected load of 5940 Watts under Electrical Section, Pettah, who is aggrieved against the exorbitant electricity bills issued. The appellant approached the Assistant Engineer on 04-04-2015, with a complaint regarding the accuracy of the meter. Based on the request, the Assistant Engineer installed a check meter in the premises from 06-06-2015 to 09-06-2015 to verify the accuracy of the meter. The test result shows that there is variation in the existing meter and hence declared as faulty. Subsequently, the meter was replaced on 17-06-2015 and three bills prior to the date of change of meter were revised with the average consumption of the appellant during the healthy period as per Regulation 115(9) of Electricity Supply Code, 2014.

Again the appellant had filed a petition before the Assistant Engineer on 21-12-2015 requesting to refund the excess amount so far collected at higher rate from 2007 to 2015. But the respondent has not taken any action on this petition. Being aggrieved, the appellant filed petition before the CGRF, Kottarakkara and not satisfied by the decision of Forum in order no. OP No. 36/2016 dated 09-05-2016, the appellant has filed the appeal petition before this Authority.

Arguments of the appellant:

The appellant is a consumer under Electrical Section, Pettah bearing No.1145148012636 for the last so many years. The meter (ELMA-655056) installed in 1993 began to run abnormally in great speed from 2007 onwards. When the appellant had repeatedly complained to the Section, electricians came and examined the meter after switch off all the points and then switch on. Then they said that the meter was running O.K. This practice was repeated for many times. Again exorbitant bills continuously issued and the appellant was forced to pay additional deposits according to the increase of bill amounts, and also additional duty charged with every bill.

On 30-03-2015 when a bill for Rs. 3,445.00 was issued, the appellant submitted a written complaint to the Assistant Engineer of the above said Section, but no action had been taken. Further on 29-05-2015, when another bill for Rs. 4,515.00 was issued, the appellant again approached to the Assistant Engineer and submitted an urgent reminder for necessary action. It is only at this time he considered to test the alleged faulty meter, a test-meter was installed. Then it was revealed that the original meter was running abnormally in great speed. Consequently, the faulty meter was replaced with a new meter, and the last bill for Rs. 4,515.00 was revised as per the test meter reading, but no other bills were revised. Now, the units of electric consumption of subsequent bills are considerably reduced. So, it can be seen that the appellant had been paying excess amount for the last eight years. The appellant should not be punished for the fault of the Board.

The appellant is entitled to get the excess amount remitted, additional deposits made and also additional duty charged with interest rates according to the principles of natural justice. So, a petition sent to the Assistant Engineer, Pettah Section on 21-12-2015 bearing receipt No. 5/15-16. But no action was taken so far or reply sent. Therefore, this complaint is filed before the Grievance Redressal Forum for appropriate remedy.

The appellant has filed a petition filed before the Assistant Engineer, Pettah Section with a statement of the readings of the faulty meter (ELMA-655056) from 2007 to 2015, and the test meter and the faulty meter and also the readings of the latest four bills (new meter installed). Hence it is requested that the Assistant Engineer, Pettah Section be directed to repay the excess amount received from the appellant from 2007 to 2015, and also additional deposits made/additional duty charged with every huge bill amount with interest rates on the basis of the readings of the test meter and the new meter installed, finding that the complaint is a genuine one (detailed statement of bills issued before hike (2006) and after hike (from 2007 to 2015) is separately attached along with copies of documents produced before CGRF.

Revising the Order of the Consumer Grievance Redressal Forum, Kottarakkara, dated 10th May, 2016 by directing the respondents/opposite parties to revise the bills from March 2007 to May 2015 by taking into average of bills issued before hike (attached copies of bills issued during 2006), test meter reading and also 4 bills issued immediately after replacing the faulty meter with new meter, and refund the excess amount received from the petitioner with simple interest charges, and also direct them to refund the additional deposits and additional duty charged with every huge bill amount based on the faulty meter reading.

Arguments of the respondent:

The respondent argued that the petition is not maintainable either in law or on facts and the same is barred by the limitation prescribed in Regulation 21(2) of the Kerala State Electricity Regulatory Commission (Consumers Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2005 since the order of OP No. 36/2016 was passed on 09-05-2016 and the appellant has not filed any petition to condone the delay in filing the petition. Thus the order has become final and hence the petition is not prima facie maintainable.

The appellant is an LT three phase domestic consumer registered as consumer No. 1145148012636 with connected load of 5940W under Electrical Section, Pettah. The appellant has challenged the correctness of the energy meter installed in her premises vide complaint dated 04-04-2015. As per the request of the appellant, a parallel meter was installed to check the correctness of the existing meter and the test shows some difference in the reading of both meters as shown below.

Date	Reading of the Existing Meter	Reading of the testing meter
08-06-2015	30126	11116.9
09-06-2015	30157	11134.8
Consumption	31	17.9

Hence it is confirmed that the existing meter is faulty. Accordingly the meter was replaced with new one on 17-06-2015. The three bills prior to the meter change were revised with the average consumption of the consumer during the healthy period of the meter as shown below as per Regulation 115(9) of Electricity Supply Code, 2014.

Bill Date	Billed unit	Billed amount	Revised unit	Revised Amount
Jan-15	588	3730	560	3230
Mar-15	599	3445	560	3230
May-15	696	4515	560	3230

As per the details of meter reading of the appellant from January 2007 to November 2015, there were no drastic changes between consecutive bimonthly consumption of the premises from 2007 to 2014. Since it cannot be proved that the meter was faulty from 2007 onwards and the appellant has to remit the current charges as per the consumption, no amount is liable to be refunded.

But the Hon'ble CGRF (South), Kottarakkara passed an order in OP No. 36/2016 on 09-05-2016 to revise the bills from 5/2014 based on the average consumption after the replacement of the new meter. Hon'ble CGRF has also directed the petitioner to prefer appeal before the Electricity Ombudsman within 30 days from the date of receipt of the order if it is not satisfied with the order. The Kerala State Electricity Board Ltd. has decided to comply the order of Hon'ble CRRF vide B.OD(D&S)No.1786/2016(LF.II/4109/2016) dated 17-06-2016 after 30 days of the receipt of the order. Hence the Hon'ble Electricity Ombudsman may be pleased to dismiss the petition.

Analysis and Findings:

The hearing of the case was conducted on 27-09-2016 in the chamber of Electricity Ombudsman at Edappally, Kochi. Sri Somasekharan Nair has represented for the appellant and Sri. Ajith Kumar K, Assistant Executive Engineer, Electrical Sub Division, Beach, Thiruvananthapuram, has appeared for the respondent's side. On examining the petition, the counter statement of the respondent, the documents attached and the arguments made during the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions thereof.

The point to be decided is as to "Whether the meter of the appellant was faulty from 2007 onwards and whether the appellant is eligible for refund of any excess energy charges paid to KSEB for the period from 2007 to 04-04-2015?"

On going through the records, it can be seen that the appellant submitted a written complaint on 30-03-2015 when she was issued a bill for an amount of Rs. 3,445.00. It is alleged that the respondent has not taken any action on this petition. The appellant again approached the Assistant Engineer when she was issued with a bill for Rs. 4,515.00 on 29-05-2015. As per the

request of the appellant the Assistant Engineer checked the accuracy of the existing meter after installing a check meter in the premises. The test result shows that the appellant's meter was recording excess consumption than the actual and hence declared as faulty. Subsequently, the faulty meter was replaced on 17-06-2015 and the respondent revised the three bimonthly bills prior to the date of change of meter based on the average consumption as per Regulation 115(9) of Supply Code, 2014.

The contention of the appellant herein is that though she submitted several complaints regarding the accuracy of the meter from 2007 onwards, no action has been taken by the respondent is without any documentary evidence. On a perusal of the bills produced by the appellant, it can be seen that the energy consumption pattern was not consistent from 2007 onwards. A consistent increase in the consumption pattern was shown only from 27-03-2014 till the replacement of the meter. According to the CGRF, the average consumption of the appellant after the meter change is of the order of 400 to 500 units. Further, it is noted that the respondent has taken timely action to check the accuracy of the meter, on getting the complaint.

Regulation 115 (9) of the Supply Code 2014 permits the licensee "***In case the meter is found to be faulty, revision of bill on the basis of the test report shall be done for a maximum period of six months or from the date of last testing, whichever is shorter and the excess or deficit charges on account of such revision shall be adjusted in the two subsequent bills.***"

The procedure for billing in the case of defective or damaged meter is detailed in Regulation 125 of the Supply Code, 2014 which reads as follows:

"In the case of defective or damaged meter, the consumer shall be billed on the basis of the 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 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 have had a bearing on energy consumption, shall also be considered by the licensee for computing the average."

I have meticulously gone through the consumption pattern of the appellant from 17-01-2007 to 17-06-2015 and noted that the consumption pattern is not consistent. Further, it is also noted that there was no drastic

change in the bimonthly consumption in the appellant's premises for the period from 2007 to 2014. The appellant failed to produce any documentary evidence to prove her claim that the meter was faulty during the period from 2007 onwards. In the absence of any relevant documents, her argument that the meter was recording abnormal consumption from 2007 onwards cannot be accepted.

Decision:

In view of the above there is no reason for revising the bill for the period from 2007 to 2015. However, the respondent is directed to take the average consumption based on the readings of three billing cycles after the meter is replaced. The revised bill based on the average consumption shall be issued for the period from 05/2014 to 05/2015 at any rate within 30 days from the date of receipt of this order.

The excess amount, if any, due to the appellant, shall be adjusted against her future bills. The order of CGRF is upheld. No order as to costs.

ELECTRICITY OMBUDSMAN

P/041/2016/_____/Dated:_____

Delivered to:

1. Smt. Sumakumari S., T.C.13/798(2), North Elankaman, Vanchiyoor, Thiruvananthapuram.
2. The Assistant Executive Engineer, KSE Board Limited, Electrical Sub Division, Beach, 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.