

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION NO. P/087/2016
(Present: V.V. Sathyarajan)
Dated: 17th January 2017

Appellant : Smt. Ummayya
Hotel Sagar,
Mavoor Road,
Kozhikode

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd, Nadakkavu,
Kozhikode

ORDER

Background of the case:

The appellant, Smt. Ummayya, General Manager, Hotel Sagar, near KSRTC Bus Stand, Mavoor Road, Kozhikode is the registered consumer with consumer No. CB 5575 under the jurisdiction of Electrical Section Central, Kozhikode. On 16-1-2007, the APTS team, Thiruvananthapuram inspected the premises of the appellant and noticed that current recorded in one phase (phase C) was negligibly low during the actual current flow. So, the appellant was issued with a short assessment bill for Rs. 1,09,925.00 towards the charges for the unrecorded portion of energy in the meter for the period from July 2006 to December 2006. Against this bill, a petition was filed before the CGRF, Kozhikode with a request to cancel the short assessment bill. The Forum has ordered to reassess the consumption based on average of consumption from January 2006 to June 2006 and to issue revised bill, vide order No. CGRF/DCE/COMP/DOP(G) /77/2007-08/317 Dated 15-05-2007.

Still aggrieved with the above order, the appellant had filed an appeal petition before the Ombudsman which was disposed of vide order No. 13/2007 dated 11-07-2007. In the above order it was held that the fault had occurred only in the later half of December 2006 and there was no justification for revising the bills for July 2006 to November 2006 and hence directed to revise the bill accordingly. The KSEB Limited has filed Writ Petition No. 5761 of 2008 challenging the said order dated 11-07-2007. The Hon'ble High Court in its judgment in WP (C) No. 5701 of 2008 dated 13-10-2016 directed this Authority to

pass fresh orders after conducting a hearing with the Assistant Executive Engineer, Electrical Sub Division, Nadakkavu.

Arguments of the appellant:

The appellant's contention that the recorded consumption is low from July 2006 onwards in the light of consumption pattern for the year 2005 and 2006 is absolutely incorrect and hence denied. The appellant had already produced copies of invoices for the period from January 2004 to December 2006 to prove his above argument. The said invoices reveal that consumption recorded for July 2006 and August 2006 are close to the consumption recorded for the same months in 2004 and 2005. The consumption for the month of October, 2006 is also close to the consumption recorded for the month of October, 2005. Consumption for the month of September, 2006 is low in view of the fact that the hotel was closed during the day time on account of Ramzan.

In the case of consumption for the months of November 2006 and December 2006, the consumption is very much close to the consumption for the same months in 2004. Not only that on a comparison of consumption from January 2004 to December 2006 it can be safely concluded that there is no uniform consumption per month and consumption varies from month to month and the variation even goes up to 25%. For example for the month of June 2005 the consumption is only 4840 units whereas for the month of March 2006 the consumption is 6787 units. Hence it cannot be alleged that the variation in monthly consumption during the period from July, 2006 to December, 2006 was on account of fault in the meter.

It is submitted that the allegation that there was non-recording of current in "C" phase whereas test result revealed that fault was on "B" phase. Hence the inspection report which was the basis for initiating the proceedings is found to be unsustainable and on that account and also the proceedings are not maintainable. It is further submitted that usual meter reading for the month of December, 2006 was recorded on 02-01-2007 and the concerned official did not find any defect in the meter, though the allegation is that during inspection conducted on 16-01-2007 the meter showed error code SEr 000002 and SEr 000003. Had such a defect existed on 02-01-2007 definitely the official who recorded the meter reading would have noted the said defect. Hence it is established beyond any doubt that there was no fault in the meter up to 02-01-2007 and the defect was developed only after 02-01-2007. Hence there is no justification for reassessment of electricity charges from July 2006 to December 2006.

Moreover it is stated in the site mahazar that current indication in one phase was very low. That being so the resistance of CT circuit in the said phase was high. This condition cannot exist for very long periods, as over voltage developed will result in failure of insulation and subsequent flashover. Hence it can be safely concluded that the defect in the meter occurred subsequent to 02-

01-2007 and before 16-01-2007 and hence there is no justification for reassessment of electricity charges for the period from July, 2006 to December, 2006 since the appellant had remitted the electricity charges for actual consumption. Hence it is humbly prayed that the appeal may be allowed and impugned order may be set aside.

Arguments of the respondent:

1. The premises of consumer No. CB 5575 under Electrical Section Central is that of Hotel Sagar, Mavoor road, Kozhikode and the registered consumer is Smt. A Ummayya.
2. The said premises was inspected by Sri N. Rajeev, Assistant Engineer, Anti Power Theft Squad, Trivandrum along with Sri T. C. Pradeep Kumar, Sub Engineer, Electrical Section, Central, Kozhikode on 16-01-2007.
3. During the inspection it is noticed that current recorded in one phase of the meter was negligibly low at 0.02 Ampere against the actual reading of 5.1 Ampere. This indicates a fault in the circuit of the meter, which resulted in non recording of current in that phase. Also the inspection team noticed rust and spark in the terminal where the respective connections are made.
4. The test result of the above meter in the meter testing unit of TMR Division, Shornur shows that the errors are beyond permissible limit and the current in 'B' phase is missing and the meter is faulty.
5. The consumption pattern of the consumer during 2005 and 2006 is as follows

Sl. No	Year 2005	Consumption	Year 2006	Consumption
1	January	5285 units	January	6287 units
2	February	5137	February	5617
3	March	5729	March	6787
4	April	6640	April	6664
5	May	6370	May	5660
6	June	4840	June	5716
7	July	5520	July	4407
8	August	5528	August	5387
9	September	6280	September	2335
10	October	3149	October	2976
11	November	6375	November	4572
12	December	5151	December	4543

6. As the current in one phase was not recorded, the meter records energy consumption based on the readings of other two phases only. The actual meter reading then gives only less than the actual consumption.

7. On going through the consumption pattern it is evident that the recorded consumption is low from July 2006 onwards.
8. From the last week of September 2006 to 24th October 2006 it was Ramzan Noyambu and the hotel remained partially closed. So the consumption was low in this period in comparison from other months. But the recorded consumption is also lower than the usual consumption during corresponding period showing that the meter is faulty since July 2006.
9. The KSE Board served a short assessment bill amounting Rs 1,09,925.00 to make up the unbilled energy portion vide bill no 6620000404 dated 18-01-2007 for the period from 07/2006 to 12/2006.
10. The appellant filed appeal before the Honourable CGRF, Kozhikode challenging the above short assessment bill. The CGRF, Kozhikode after hearing evoked Rule 42(3) of the Terms and Conditions of Supply, 2005 of KSEB and ordered to reassess the consumption based on average of consumptions from January 2006 to June 2006 and issue revised bill. The Hon'ble CGRF, Kozhikode in the order also directed KSEB to consider only 5 month consumption against 6 months to offset the low consumption during Ramzan Noyambu.
11. As above KSEB served a revised bill amounting Rs. 86,521.00 which the consumer is yet to pay.

On the above said grounds it is humbly prayed that this Hon'ble State Electricity Ombudsman may be pleased to dismiss the appeal by confirming the assessment.

Analysis and findings

The hearing of the case was conducted on 30-12-2016, in my chamber at Edappally. Advocate Sri Ziyad Rehman represented the appellant's side. Sri. E. Manoj, Assistant Executive Engineer, Electrical Sub Division, Nadakkavu 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 main contentions of the appellant are based on the consumption pattern of previous years when compared to the period under dispute. It is argued that the consumption recorded for July and August 2006 are similar to that of for July and August 2004 and 2005. Further, consumption of October 2006 is similar to the month of October 2005. Consumption for September 2006 is low since the hotel was closed during the day time of Ramzan. According to the appellant, the variation in monthly consumption during the period from July

2006 to December 2006 was not on account of fault in the meter as there is no uniform consumption pattern and the variation even goes up to 25%. As per the site mahazar, the non recording of current in one phase was in 'C' phase whereas test result shows that fault was in 'B' phase.

The version of the respondent is that as the current in one phase was not recorded, a lesser consumption than the actual was only recorded in the meter. As the current recorded in one phase of the meter was negligibly low at 0.02 Ampere against the actual reading of 5.1 Ampere, which indicates a fault in the circuit of the meter, has resulted in non recording of current in that phase. The consumption pattern of the appellant for the period from 2004 January to December 2006 is as follows.

Sl. No	Month	Year 2004	Year 2005	Year 2006
1	January	7113	5285	6287
2	February	6130	5137	5617
3	March	5744	5729	6787
4	April	5012	6640	6664
5	May	4175	6370	5660
6	June	4756	4840	5716
7	July	4342	5520	4407
8	August	5656	5528	5387
9	September	5035	6280	2335
10	October	3327	3149	2976
11	November	3708	6375	4572
12	December	4869	5151	4543

On going through the above consumption details of the appellant, it is found that the consumption recorded for July and August 2006 are close to the values recorded for the same months in 2004 and 2005. Thus it can be safely concluded that the recording was normal for the month of July and August 2006. Moreover, the consumption recorded in October 2004 is close to that of October 2005. The low consumption for September and October 2006 was due to day time closing of the hotel during Ramzan fasting and this fact was not disputed by the respondent. Thus the reduction in consumption for September and October 2006 can be found as correct.

Coming to the consumption for November and December 2006, the figures are very much close to that of 2004. But, the energy consumption recorded during the years of 2004, 2005 and 2006, there is much variation and found inconsistent. Hence the actual date of missing of one phase cannot be ascertained from analyzing the previous consumption pattern. However, the test report shows that 'C' phase circuit inside the meter is not open. But in the site mahazar it is stated that current indication in phase 'C' was very low, which means the resistance of the CT circuit in phase 'C' was very high. This condition cannot exist for very long periods, as over voltage developed will result in failure

of insulation and subsequent flashover. So a probable conclusion can be arrived in this case is that the fault in one phase has occurred after the month of November 2006. In the above circumstances I don't find any reason to interfere with the findings of my predecessor that there is no justification for issuing the short assessment bill for the period from July 2006 to November 2006.

Decision

So, in view of the above findings the revised short assessment bill issued to the appellant for Rs. 86,521.00 is not sustainable and hence quashed. However, the respondent is directed to revise the bill for the month of December 2006 on the basis of average consumption for the period from January 2006 to June 2006. This shall be done at any rate within 30 days from the date of receipt of this order. It is made clear that no surcharge or interest shall be levied from the appellant for the appeal pending period. The appeal petition is disposed of accordingly. No order as to costs.

ELECTRICITY OMBUDSMAN

P/087/2016/_____ /Dated: _____

Delivered to:

1. Sri. Ummayya, Hotel Sagar, Mavoor Road, Kozhikode
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Nadakkavu, Kozhikode

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, Gandhi Road, Kozhikode.