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APPEAL PETITION NO. P/088/2016

(Present: V.V. Sathyarajan)

Dated: 13<sup>th</sup> March 2017

Appellant : Sri P. Sunder Rajan  
SMRA-64, St. Martin Church Road,  
Palarivattom,  
Ernakulam.

Respondent : The Asst. Executive Engineer,  
Electrical Sub Division,  
KSE Board Limited  
Palarivattom, Ernakulam.

**ORDER**

**Background of the case:**

The appellant, Sri P. Sunder Rajan, is having domestic service connection with consumer number 1061 under the jurisdiction of Electrical Section, Palarivattom. The appellant complained to the Consumer Grievance Redressal Forum of the Kerala State Electricity Board, Ernakulam that he has not consumed the energy as shown in bills for 2/2013 and 3/2013, which are exorbitantly high. As per the order of CGRF the respondent changed the faulty meter on 03-10-2013. But the appellant argued that the replaced meter was also faulty and showed excess consumption than the actual. So the appellant again lodged complaint before the CGRF. The Forum, vide order in OP No. 7/2014-15 dated 19-08-2014, had directed the respondent to replace the meter and to reassess the bi-monthly bills from 16-04-2013 to 05-08-2014 based on the average consumption of three succeeding bimonthly bills after replacing the meter.

But the respondent replaced the meter only on 21-12-2015 and issued the revised bills accordingly. The appellant has again filed a petition before the CGRF, Ernakulam, seeking to issue revised bills for the months of April and June 2016 as per the average consumption after replacing the meter which is tested and the reference meter installed for checking the accuracy. But the Forum dismissed the petition as it was found devoid of merits. Being aggrieved against the said order the appellant has submitted this appeal petition.

**Arguments of the appellant:**

01. The appellant is a domestic consumer with No. 1061 of Electrical Section, Palarivattom, Kochi 682025. Till 10-02-2013 the appellant's mechanical meter showed average monthly consumption of 75 units but the respondent used to levy charges by issuing bi-monthly bills. Thereafter the respondent fixed a new electronic meter which started to show unbelievably high power consumption. Therefore the appellant complained to the Consumer Grievance Redressal Forum of the Kerala State Electricity Board, Ernakulam that he did not use power as claimed in bills for 2/2013 and 3/2013, which are exorbitantly high and therefore he is liable to be given refund of the excess charges levied. The meter was also faulty and also went berserk and showed power, which the appellant did not utilize. The appellant stays alone in the building and is not using more than 2 tube lights for 2-3 hours, 1 fan for about 4-6 hours and another for 12 hours and computer for about 4 hour per day. Therefore, on 24-04-2014 the appellant complained to the CGRF that in addition to the bills collected for 2/2013 and 3/2013, the bills collected for 24-02-2014 and 02-04-2014 are also liable to be revised and the amount collected excess to be refunded. He submitted before the CGRF that these bills cannot exceed his average consumption recorded during the period 20-12-2013 and hence consumed power may be regulated as such. Admitting his plea, on 19-08-2014 the CGRF ordered that:

01. The meter shall be replaced with a new one immediately. The bimonthly bills from 10-04-2013 to 05-08-2014 are to be revised according to the average consumption arrived from the three succeeding bimonthly bills in the new meter and excess amount if any, to be adjusted in the subsequent bills. The bimonthly units arrived shall not be less than the average consumption pattern for the financial year 2012-13.

02. This appellant did not at all complain and hence did not direct the respondent to revise any bill other than those raised for the 4 bi-months namely 2/2013 and 3/2013 and 2/2014 and 4/2014.

03. At the time the CGRF passed the order, the power consumed was 175 units for Rs. 580.00 only. This fact is evident in bill paid for 2/2016.

04. But, the changed new meter showed 694 units (Rs. 4,435.00) and 387 units (Rs. 1,730.00) respectively for the bi-months payable on 15-04-2016 and 16-06-2016.

05. As such, the applicant complained to the respondent, paid meter testing charge and the respondent sent complained meter for testing and got it back. While the changed meter was with the testing authority, the substituted meter showed 130 units (Rs. 372.00) payable for 8/2016 bi-month.

06. When the tested meter was refixed again, it showed only 141 units (Rs. 401.00) for the bi-monthly bill payable for 10/2016 and Rs. 400.00 for the bi-monthly bill payable for 12/2016.

06. All these three bills, except the two of 15-04-2016 and 16-06-2016, prove that the meter before testing was faulty; but got repaired during testing by the arm of the KSEB, Chalakkudy. Thus this appellant's average bi-monthly consumption is only around 150 units.

07. In the meanwhile, the respondent Assistant Engineer threatened disconnection in the event this appellant did not pay bills raised for 694 units (Rs. 4,435.00) and 387 units (Rs. 1,730.00). He approached the Executive Engineer for orders to permit him to pay in installments. The Executive Engineer refused to order installment against the bills for Rs. 1,730.00, on ground that it is current bill, and directed the appellant to pay Rs. 1,730.00, and then apply for installment. When the appellant paid this sum, without prejudice to his other rights, the Executive Engineer ordered and he paid the said sum of Rs. 4,435.00 together with interest and penal charges including needless fixed charges by installments.

08. After paying the said disputed amount, on 17-08-2016 this appellant complained to the CGRF and requested that the Assistant Engineer may be directed to refund the excess sum paid as per bills referred to in Para 7 supra. But the CGRF dismissed the complaint holding:

*"It is observed that the appellant is sparing the time of the Forum on his illusion and hence dismissed".*

09. The above order dismissing the complaint not only did not take this appellant's averments or claims into consideration or the CGRF was pleased to find that the appellant had cause of action to complain and right to claim refund; instead the CGRF characterized the complaint as 'illusion', which mean 'seeing blues' (madness). An august body, like CGRF could have better avoided such usage. Its submitting copy of the order rather than issuing copy to 2nd respondent Chief Engineer displays its subordination to said Chief Engineer and failure to apply independent mind and perform without prejudice. The CGRF has thus refused to hear this appellant and has denied him justice, which is unfortunate.

10. There is, therefore, no order to the Assistant Engineer to revise bills for the period 2/2013, 4/2013, 2/2014 or 4/2014, which has been already paid by this appellant. The Assistant Engineer has therefore no reason to send any bill for arrears to this appellant.

11. While the Assistant Engineer had no reason to send any revised bill, he has sent the appellant letter dated 22-10-2016 together with a bill for Rs. 607.00 claiming it is arrear bill. As such, the appellant is not liable to pay any arrears. Hence, he sent reply to that effect to the Assistant Engineer on 21-11-2016.

12. The Assistant Engineer has sent to this appellant bill for Rs. 23,825.00 claiming arrears for the years 2013, 2014, 2015 and 2016. It is submitted that the appellant does not owe or is liable to pay arrears or any bill. Hence arrear bill is issued without cause of action and authority; hence it is arbitrary and illegal and hence is liable to be set aside as null and void and the Assistant Engineer directed not to sever this appellant's power supply as threatened.

On the aforesaid grounds and the reasons, it is most respectfully prayed that this Hon'ble Forum may be pleased to quash the CGRF's order and direct the Assistant Engineer that he shall not sever this appellant's power supply. Unless this prayer is granted, irreparable loss and injury will be caused to the appellant. It is hence prayed accordingly.

**Arguments of the respondent:**

The respondent argued that the above appeal is not maintainable either in law or on facts on the other hand it is filed by ulterior motives in order to harass the respondent.

It is respectfully submitted that consumer number 1061 is a domestic consumer registered under LT I A Tariff. Consumer filed Comp No.7/14-15 and Comp. No. 60/13-14 before the Hon'ble CGRF (CR) and both the complaints were disposed by the Forum. During the introduction of Oruma net in Section office, somehow the regular bills in respect of this consumer are not generated. (8-2014 to 10-2015). Hence these bills (8/2014 to 12/2015) and generated later, on 21-12-2015. These bills are remain unremitted till date. Bill dated 19-06-2013 revised for Rs. 1,582.00, remain partially remitted even though bill revised as per CGRF-CR/Comp.No.60/2013-14/248 dated 28-10-2013.

As per CGRF-CR/Comp.7/2014-15 Dt. 19-08-2014, *“the bimonthly bills from 16-04-2013 to 05-08-2014 are to be revised according to the average consumption arrived from the three succeeding bimonthly bills in the new meter and excess amount, if any, to be adjusted in the subsequent bills. The bimonthly units arrived shall not be less than the average consumption pattern for the financial year 2012-13”*. Accordingly the meter changed on 21-12-2015 with a new meter with serial No. 55416656. Then bill dated 05-02-2016 is generated for 175 units & bill dated 04-04-2016 generated for 699 units. Consumer remitted meter testing fee on 20-04-2016. The meter was sent to TMR, Angamaly for testing, after installing another meter with serial No.56046821 at the premises. The consumption recorded for bill dated 06-06-2016 is 387 units.

From 06-06-2016 to 24-06-2016, the meter recorded 47 units. Meter Test Report clearly stated that the meter send for testing is in good condition. Then the original meter with serial No. 55416656 was reinstalled. Total consumption of bill dated 05-08-2016 becomes 130 units. Assistant

Engineer, vide Lr. No. DB 30/16-17/14/AE/ES/PVTM dated 22-06-2016, requested to pay the current charges to avoid disconnection, since the meter is not faulty. He approached Executive Engineer for sanction of installments. Four installments were granted for bill dated 4/2016. Bill dated 6-2016 remitted on 15-07-2016. All the four installments remitted in time. Bill dated 8/2016 & 10/2016 are also remitted in time.

Meanwhile, regular bills from 17-04-2013 to 05-08-2014 revised as per CGRF CR/Comp.7/2014-15 dated 19-08-2014, according to the new average of consumption arrived from the three completed billing cycles of the replaced meter. The consumptions are 699, 387 & 130, the average of which comes to 406 units. Thus the bills from 17-04-2013 to 05-08-2014 are revised as stated below.

Bill date	Original Amount	Remitted Amount	Revised Amount	Split up Details	Balance to be remitted
17-04-2013	837	837	1444	40+1276+127.60	607
19-06-2013	1582	858	1468	40+1300+48+127.17	610
23-08-2013	384	384	1557	40+1389+127.60	1173
24-10-2013	904	904	1557	40+1389+127.60	653
31-12-2013	1108	1108	1557	40+1389+127.60	449
24-02-2014	1710	1710	1557	40+1389+127.60	-153
02-04-2014	2144	2144	1557	40+1389+127.60	-587
02-06-2014	3888	73	1557	40+1389+127.60	-2331
05-08-2014	1371	115	1557	40+1389+127.60 (Bill issued on 21-12-2015)	186

Difference of revised demand of Rs. 607.00 entered as ex-system bill on 22-10-2016. Bill dated 05-12-2016 issued for Rs. 397.00. Thus the amount outstanding is Rs. 24,564.00 (CC Rs.19,847.00 + S/C Rs. 4,717.00). Because of the above reasons the Hon'ble Ombudsman has no reason to entertain the appeal. The appellant is not eligible for any of the reliefs sought for and the appeal may be dismissed.

### **Analysis and findings**

A hearing of the case was conducted in my chamber at Edappally, Ernakulam, on 27-02-2017. Sri Sunder Rajan was present for the appellant's side and Smt. Letha S, Assistant Executive Engineer, Electrical Sub Division, Palarivattom represented the respondent's side. Both sides have presented their arguments on the lines as stated above. On examining the petition of the appellant, the statement of facts filed by the respondent, the arguments in 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.

The appellant's contention is that the monthly bills issued for 4/2013 and 6/2013 were exorbitant and hence he approached CGRF on 04-07-2013 and the Forum in its order dated 19-08-2014 directed the respondent to change the appellant's meter immediately and to revise the monthly bills from 16-04-2013 to 05-08-2014 according to the average consumption arrived from the three succeeding bimonthly bills. But the respondent replaced the meter on 03-10-2013 and issued regular bills. As the regular bills dated 24-02-2014 and 02-04-2014 showed exorbitant consumption, the appellant again raised complaint against this meter and the respondent verified the accuracy of the meter by installing a reference meter and no irregularities detected. Hence the respondent issued monthly bills for 02-06-2014 and 04-08-2014. After that the display of the meter has failed and the respondent issued bills based on previous average consumption as 540 units.

Then the respondent changed the meter on 21-12-2015 and the bills dated 05-02-2016, 04-04-2016 and 06-06-2016 was issued for a consumption of 175, 699 and 387 units respectively. Since the appellant raised complaint against the bimonthly bills, the existing meter was sent to TMR, Angamaly for testing. According to the respondent, there was no defect in the meter and hence the meter undergone for testing was reinstalled. Thereafter, the consumption recorded as per bill dated 05-08-2016 was 130 units. The respondent has taken the consumption for 699, 387 and 130 units for calculating the average of 3 succeeding bimonthly readings which comes to 406 units and the bills from 17-04-2013 to 05-08-2014 were revised accordingly.

**The point to be decided in this case is whether the action of the respondent in revising the bill relying on the average consumption after replacing the meter on 21-12-2015 in the absence of a detailed checking specified in the CEA Regulation, 2006, is proper?**

The perusal of the records reveals that even though the respondent replaced the meter on 03-10-2013 and issued bimonthly bills based on the consumption recorded. But the appellant raised complaint against the regular bills dated 24-02-2014 and 02-04-2014 as the consumption was exorbitant. Though the respondent checked the accuracy of the meter by installing a reference meter for a period of 7 days and declared that the error in the appellant's meter is within the permissible limit and issued monthly bills for 02-06-2014 and 04-08-2014. It is pertinent to note that as the meter has no display; bill dated 04-08-2014 was issued based on the average consumption for 540 units. A prudent interference from the respondents would have taken, to find out the reason for the excess consumption either by verifying the appellant's installations or by testing the meter in a laboratory accredited by NABL, the issue could have been settled. The installation of a good meter (standard reference meter) in tandem to the existing meter would help the appellant to clear his doubts on the existing meter than any documentary evidence. But this was not seen done timely in this case, which is the reason for the whole issue. Hence the

appellant again was constrained to approach the Forum on 24-04-2014 alleging that the bills issued were exorbitant and requested to revise the bill taking into the account of average consumption for the year 2012-13.

In this case the CGRF has not observed any reason for taking the succeeding three months average instead of the preceding 3 billing cycles. The replacement of a mechanical meter by an electronic meter has not been considered as a sufficient reason to revise the bills according to the average consumption arrived from the three succeeding billing cycles after replacement of the meter instead of taking of average consumption of the past 3 billing cycles immediately preceding the date of meter being found or reported defective. Regulation 125 of Supply Code, 2014 stipulates 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 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”.**

Here in this case, the respondent has not produced any test report in connection with the testing of disputed meter at the laboratories accredited by the NABL. **Regulation 115 (9) says that in the case the meter is found to be faulty, revision of bill on the basis of test report shall be done for a maximum period of 6 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 two subsequent bills.** The respondent's version is that meter is not faulty and the reading in the meter is as per actual consumption. But the appellant complained the exorbitant bills raised for the periods namely 2/2013, 4/2013, 2/2014 and 4/2014 was due to meter faultiness or any other reasons. The basis for his complaint is that he stays alone in the building and is not using more than 2 tube lights for 2-3 hours, 1 fan for about 4-6 hours and another for 12 hours and computer for about 4 hour per day and his average monthly consumption till 10-02-2013 was only 75 units.

Neither the respondent nor the appellant furnished the bimonthly consumption details for the previous years and for the year 2012-13. The appellant's contention is that after replacement of the meter on 21-12-2015, the bimonthly consumption is 130 units for 8/2016, 141 units for 10/2016 and 140 units for 12/2016 are in order. Hence the appellant requested to revise the bills for the period 02/2013, 04/2013, 02/2014 and 04/2014 which have been already paid.

It is pertinent to note that the respondent has issued bill dated 29-11-2016 for Rs. 23,825.00 claiming as arrears for the previous period from 08/2014 to 12/2015 without cause of action and authority. Admittedly, the respondent had not issued the regular bills to the appellant for the period

from 08/2014 to 12/2015 and the reason for the same was not furnished. However, it is revealed that these bills were generated only on 21-12-2015, based on an average consumption of 370 units per month. The respondent issued bill for an amount of Rs. 24,564.00 (Current Charge Rs. 19,847.00 + surcharge Rs. 4,717.00) as outstanding arrear against the appellant. The respondent failed to produce any convincing reasons for the above assessment made in this case. Further, the respondent failed to furnish the reason for the non-billing the appellant for the period from 08/2014 to 12/2015.

The respondents who are duty bound to check the meter as per Clause 18(2) of Central Electricity Authority (Installation & Operation of Meters) Regulations, 2006, when a complaint is made by a consumer. As per Regulation 109(20) of Supply Code, 2014, it shall be the responsibility of the licensee to maintain the meter and if it in good working condition at all times. As per Regulation 115(4) of Supply Code, 2014, in the case of testing on the request of the consumer, he shall have to pay the testing fee as per the Schedule of Miscellaneous Charges given in Schedule 1 of Supply Code.

Provided that if the meter found to be recording incorrectly or defective or damaged due to technical reasons such as voltage fluctuation or transients, attributable to the licensee, testing fee shall be refunded to the consumer by the licensee by adjustment in the subsequent bills. When the consumer is all alone complaining about excess billing, the respondent must be reasonable in clearing the doubts of the consumer. In the absence of any documentary evidence to prove that the respondent has checked the meter timely after following the procedure, there is no reason to charge the appellant for the above period from 08/2014 to 12/2015 on the basis of average consumption of 370 units.

However, on a perusal of the bimonthly consumption of the appellant for the period from 16-08-2012 to 13-02-2013 it can be seen that the average consumption is arrived at 252 units, which is detailed below.

16-08-2012 to 16-10-2012	= 335 units
16-10-2012 to 15-12-2012	= 183 units
15-12-2012 to 13-02-2013	= 239 units
Total	= 757 units

Regulation 125 of Supply Code, 2014 stipulates 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 meter being found or reported defective.** Hence this Authority is of the considered opinion that the bimonthly bills for the period from 13-02-2013 to 05-08-2014 are to be revised according to the average consumption arrived at 252 units. Further, the bimonthly bills issued to the appellant for the period from 08/2014 to 12/2015 arrived at 370 units is without any basis or documents and hence liable to be revised to the previous average

consumption of 252 units. Since the existing meter is found working properly there is no need to revise the bimonthly bills already issued for the months of April and June 2016.

### **Decision**

In view of the above facts, as the existing energy meter is found working properly, the appellant is liable to remit the bimonthly bills based on the consumption recorded in the meter. However, it is made clear that the respondent shall conduct periodical inspection or testing of appellant's meter as specified in the Central Electricity Authority (Installation & Operation of Meters) Regulations, 2006.

The bill issued for Rs. 24,564.00 (Current Charge Rs. 19,847 + Surcharge Rs. 4,717) is hereby quashed. However, the respondent is directed to revise the bill for the period from 13-02-2013 to 12/2015 based on average consumption of 252 units. This shall be done at any rate within 30 days from the date of receipt of this order. Any amount remitted in excess by the appellant shall be refunded or adjusted against the future bills. The order of CGRF in OP No. CGRF-CR/Comp 55/2016-17/377 dated 26-10-2016 is modified to this extent. No order as to costs.

**ELECTRICITY OMBUDSMAN**

P/088/2016/\_\_\_\_\_/Dated:\_\_\_\_\_

Delivered to:

1. Sri P. Sunder Rajan, SMRA-64, St. Martin Church Road, Palarivattom, Ernakulam.
2. The Asst. Executive Engineer, Electrical Sub Division, KSE Board Limited, Palarivattom, Ernakulam.

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, CGRF-CR, 220 kV, KSE Board Limited, Substation Compound, HMT Colony P.O., Kalamassery, PIN: 683 503.