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APPEAL PETITION No. P/127/2017  
(Present: A.S. Dasappan)  
Dated: 28<sup>th</sup> February 2018

Appellant : Sri. Antony Z  
Udayagiri Fuels, Karamcode,  
Kalluvathukkal, Kollam

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Limited,  
Chathannur, Kollam

### **ORDER**

#### **Background of the Case**

The appellant who runs a fuel station in the name and style Udayagiri fuels, Karamcode, Kalluvathukkal, is the registered consumer of Low Tension three phase service connection, with consumer no.13146 and tariff LT VIIA under Electrical Section, Parippally. The complaint of the appellant is that his electric meter showed exorbitant readings in electricity consumption ever since 2011 even if he limited his consumption. The appellant has requested to refund the loss sustained during the period from 12/2011 to 01/2017. The appellant approached the CGRF, South, Kottarakkara, with Petition No. 465/2017 and the Forum disposed of the petition with the following orders "To revise the energy charge of the petitioner for six months based on the average of three billing cycles after the replacement of the meter and excess amount shall be adjusted in the subsequent bills", vide order dated 31-10-2017. Aggrieved by the decision, the appellant has submitted the Appeal petition before this Authority.

**Arguments of the appellant:**

The appellant is the owner of Udayagiri Fuels an IOC affiliated fuel station. Initially the establishment was run for 24 hours but from the year 2010 last quarter onwards, the same was operated only for 16 hours. But during the year 2011 the energy consumption of his establishment has increased double fold even after he limited his consumption.

From the year 2011 itself the appellant had filed complaints complaining about the said abnormal increase in the said meter reading. But none of the officials had cared to test the meter properly and find out its accuracy. The appellant had been complaining all along the year 2011 to 2017 on various occasions but it was only lastly on 20/01/2017 that the respondent had decided to use a parallel meter to find out the accuracy of the meter in the appellants establishment. The reading of the establishments meter and the test meter for the period were compared from 20/01/2017 to 27 /01/2017.

The meter of the establishments reading from 20/01/2017 to 27/01/2017 and that of the test meter is shown below.

Establishment meter

20/01/2017- 152308

27/01/2017-152855

Reading is 547 Units

The reading of the test meter on these 7 days was from 0 units to 202 Units. The difference between these two readings shows 345 units have been over charged in just 7 days.

The meter was then send for testing by remittance dated 06-02-2017 and it is found that the same is faulty. Based upon the said facts the appellant sought for the amount that was charged from the appellant in excess by the Board. The respondent had illegally by order dated 17/06/2017 bearing No AE/Bill Revision/2017-18/22 granted a refund of the 3 months excess amounts charged from the consumer. Aggrieved by the same the appellant preferred the compliant OP 465/2017 which granted refunded for a period of 3 months alone.

The complainant prefers this petition based on the following grounds.

The admitted case of both the parties is that the meter in the premises of the appellant, that was installed when the establishment started functioning was

over charging the customer. The consistent case of the appellant was that it was in 2011 that the appellant had raised a complaint that even in spite of the consumption being reduced the electricity bill had shown a considerable increase. This complaint with regard to the metering of electricity was continuously been raised from the year 2011. Even the CGRF had in its order, clearly found that the relevant principle with regard to check meter and inspection of meters as mandated by law was not followed. Relevant principle was mentioned in 2014 KHC 3740.

The contention that the respondent had inspected the meter on 24/ 11/2015 is absolutely false.

The contention that the respondent had inspected the meter on 20/01/2017 and detected leakage is absolutely false. The wiring in the premises of the appellant is done by the IOC with high quality materials with high quality cables. As per regulation 110 of the Kerala Electricity Supply Code sub section 9- The employee of the licensee or the person duly authorised by the licensee for reading of the meter shall also inform the concerned official of the licensee about the leakage. There was never any report of a leakage being reported by the respondent nor had the consumer been informed about any leakage. As per the sub section 8 of Reg 110 - the consumer has to be advised to get the wiring checked and leakage removed- such an exercise also never happened on 20/01/2017. No meter test reports were even provided to the appellant. If the earth leakage indication is displayed in the meter the licensees shall suitably inform the consumer through installation report or regular electricity bills or meter test report as applicable.

No records have been produced by the respondent to show that the periodical inspection and testing of the meter at the appellants premises were done by them as per the Central Electricity Authority (Installation and Operation of Meters) Regulation 2006.

No notice prior to 3 days of the testing of the meter on 20/01/2017 or 24/ 11/2015 was given. No records showing the service of such a notice is produced by the respondent as per Regulation 115 of the Code.

As per Central Electricity Authority ( Installation and Operation of Meters) Regulation 2006 Regulation 18 specifically shows that testing of the consumer meter shall be done if study of the consumption pattern changes from the similar months or seasons of the previous year or if there is a complaint pertaining to the meter. In the present case the CGRF had found out that there is a serious change in pattern at least from the year 2013 in spite of the reduction in consumption of energy. The duty and responsibility is on the licensee to voluntarily test the meter if the same shows changes in the consumption pattern which is never done in the present case.

Section 134 of the Code specifically says that “If after payment of any bills it is found that the licensee had overcharged the consumer, the excess amount shall be refunded to the consumer with interest at bank rate.”

The respondent clearly ignored the guiding principle and the burden of proof laid down on the authorities by way of Regulation 42 of the Conditions of Supply 2005. The first clause itself shows that the duty and responsibility of the Board to keep the meter in good condition. From what point of time the Board had failed in its duty to keep the meter in good condition has to be proved by the Board with evidence when the consequence of the lack of responsibility of the respondent results in the financial suffering of the consumer.

The licensee had violated all principles of natural justice in proceeding against the consumer.

As per the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, Regulation 15(2) says “In case the consumer reports to the licensee about consumer meter readings not commensurate with his consumption of electricity, stoppage of meter, damage to the seal, burning or damage of the meter, the licensee shall take necessary steps as per the procedures given in the Electricity Supply Code of the Appropriate Commission read with the notified conditions of supply of electricity.”

Regulation 18(2) “Consumer meters- the testing of consumer meters shall be done at site at least once in five years. The licensee may instead of testing the meter at site can remove the meter and replace the same by a tested meter duly tested in an accredited test laboratory. In addition, meters installed in the circuit shall be tested if study of consumption pattern changes drastically from the similar months or season of the previous years or if there is consumer's complaint pertaining to a meter. The standard reference meter of better accuracy class than the meter under test shall be used for site testing of consumer meters up to 650 volts. The testing for consumers' meters above 650 volts should cover the entire metering system including CTs, VTs. Testing may be carried out through NABL accredited mobile laboratory using secondary injection kit, measuring unit and phantom loading or at any accredited test laboratory and recalibrated if required at manufacturer's works.”

The appellant requests to set aside the order No: AE/Bill Revision/2017-18/22 by the Assistant Engineer, Electrical Section Parippally dated 17.06.2017 and direct reimbursement of the amounts over charged from the consumer from the year 2011 onwards.

**Arguments of the respondent:**

It is true that consumer had lodged a complaint at Electrical Section, Parippally on 17.11.2015 remitting requisite fee, for testing his installation (Rs.10/ as AF and Rs.50/- as TF), as per schedule I of Kerala Electricity Supply

Code 2014. The authorized representative of this Respondent has inspected the meter on 24-11-2015 and found that Appellant's meter was working properly. The inspection report was recorded in the common complaint register of Electrical Section, Parippally.

The appellant had lodged another complaint on 20-10-2016 remitting fee required for installation testing as per schedule - I of Kerala Electricity Supply Code 2014. This respondent had made inspection strictly in adherence with the Reg.14 of Kerala State Electricity Regulatory Commission (standard of performance of Distribution Licensees) Regulation 2015 which came into force on 11-10-2016. This respondent had inspected the premises on 24-10-2016 and detected leakage of current due to complaints on the Appellant's electrical wiring and the defect was pointed out to the consumer at site and also recorded in the Common Complaint Register within 4 days from the date of appellant's request.

The Appellant had remitted Rs.200/- towards testing of meter with a calibrated meter along with Application fee of Rs.10/- on 19-1-2017. In furtherance of the Appellant's request, this respondent had tested energy meter with a standard reference meter on 20-1-2017 and detected excess consumption in the appellant's energy meter when tested for 7 days. This Respondent had changed the energy meter with a new one on 27-1-2017. All steps following the request of the Appellant was initiated strictly within the time specified under reg 116(5) and replaced the energy meter immediately in accordance with reg 118 ( 1) of Kerala Electricity Supply Code 2014. This respondent has acted in conformity with the reg 14 and 15 of the KSERC (Standard of Performance of Distribution licensee) Regulation 2015 which came into force with effect from 11/1/2016. Furthermore, all actions on the part of this respondent has been incorporated in the common complaint register kept in the office with remarks and affixing initials of authorized representative who under took the work. The appellant has also requested after making payment as per schedule 1 of Supply Code for testing the meter at TMR, Thirumala and this respondent has taken all steps to test the meter and the test results was dispatched to the Appellant within the time specified in reg 115 (7) of the Kerala Electricity Supply Code 2014.

This respondent upon the faulty declaration of energy meter has acted strictly in adherence with reg 115(9) which lays down that " in case the meter is found 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 charge on account of such revision shall be adjusted in the two subsequent bills".

The date of last test date is on 24-10~2016 and the period from this date, being the shortest as per reg 115(9), has been into account by this respondent for revising the energy charges of the appellant from 26-10-2016 to 26-1-2017. Thus this respondent has arrived at an amount of Rs.49, 122/- which shall be

adjusted in the Appellant's future bill and intimated the appellants. The calculation is provided in Table III and Table IV below.

Table III

Revised demand based on the average consumption of the new meter

Periods	Units	Demand (CC + Duty)
26-10-2016 to 31-10-2016	166	1461
01-11-2016 to 30-11-2016	856	7533
01-12-2016 to 31-12-2016	856	7533
01-01-2017 to 26-01-2017	718	6319
<b>Total</b>	<b>2596</b>	<b>22846</b>

Table IV

Billed consumption before replacing the faulty meter

Periods	Units	Demand (CC + Duty)
26-10-2016 to 31-10-2016	484	4951
01-11-2016 to 30-11-2016	2216	22670
01-12-2016 to 31-12-2016	2507	25647
01-01-2017 to 26-01-2017	1828	18700
<b>Total</b>	<b>7035</b>	<b>71968</b>

Balance at credit = Rs. 71, 968 - Rs.22,846

= Rs.49,122/-

The appellant also complained that the electricity consumption in his premises had become double and quadruple ever since December 2011. There are many instances of billing periods before and after December 2011 in which consumption are of the same order of consumption in December 2011. The consumption during certain billing period of previous years before 12/2011 is furnished in Table 1 below.

TABLE I

SI No	Bill Date	Consumption
1	2/7/2008	854kwh
2	1/11/2010	794kwh
3	1/12/2010	794kwh

4	1/1/2011	784kwh
5	1 /2/2011	977kwh
6	1/3/2011	897kwh
7	1/10/2011	815kwh
8	1/11/2011	910kwh
9	1/12/2011	1093kwh

Whereas consumption after December 2011 furnished in Table II below

TABLE II

SI No	Bill Date	Consumption
1	2/1/2012	1165 kwh
2	1/5/2012	1194 kwh
3	1 /7 /2012	1039 kwh
4	1/11/2012	1265 kwh
5	1 /2/2013	1256 kwh
6	1 /3/2013	1259 kwh
7	1 /5/2013	1261 kwh
8	1 /7 /2013	1193 kwh

From Table II above, it can be construed that the consumption does not show a drastic hike from that of December 2011 (which is 1093 as per Table I). The appellant might have picked the lowest consumption prior to December 2011 to content that his consumption had doubled or quadrupled ever since 2011. Hence the contention of the Appellant stood falsified from that fact there are consumption near to that of December 2011 even in 7 /2008, 2010 and half of the billing periods in the year 2011.

In fact the authorized representative of this complaint, who is a Sub Engineer, could reach the conclusion that the meter was working properly by counting number of pulses for a particular load working for specified period time and by taking units shown in the meter when a known load is made operational for a specified period of time. The authorized representative of this respondent had recorded the inspection details in the common complaint register of Electrical

Section, Parippally on 24.11.2015. It is submitted that the register is verified by Regulatory Authorities as well as Internal and External Auditors. Therefore the averments of the appellant cannot be sustained.

The appellant has requested for testing his installation remitting the requisite fee on 17-11-2015 and the authorized representative of this respondent upon inspecting the meter on 24-11-2015 had reached to the conclusion that the meter was working properly. Regulation 116 (6) of Kerala Supply Code 2014 mandates to follow the procedure as detailed in reg 115, only if the meter is found defective upon this inspection. As the meter was found functioning properly, no such measures were initiated by this respondent. The Appellant has made a written complaint in regard of his excess bill only on 17-11-2015. He has not made any such written complaint or oral submission prior to 17-11-2015. This respondent has acted in pursuance of Appellant's complaint dated 17-11-2015 and made all entries in the common complaint register. Further this respondent has detected leakage of current due to wiring complaint on 24-10-2016 subsequent to the request made by the Appellant on 20-10-2016 and the defect was pointed out to the consumer at the site.

It is worthy to note that the appellant has been informed of the faulty condition of the meter in pursuance of inspection held on 27-1-2017 subsequent to his request on 19-1-2017. This respondent has also made earnest timely effort to test the appellant's energy meter in the TMR and to deliver him the result within the time specified in the Supply Code 2014. It is therefore evident that this respondent has neither acted to make any financial loss nor inflicted mental torture on the appellant as alleged by him.

The appellant who became aware of the faulty condition of the meter from this respondent, merely guessed that this meter had remained faulty since December 2011, long back from the date on which he had lodged his first complaint with this respondent on 17-11-2015. It is therefore submitted that this respondent is not liable to refund any amount claimed illegally by the appellant merely on the presumption that the energy meter would have been faulty since December 2011. It is also most respectfully submitted that such an averment on the part of the appellant has no legal backing of any of the prevailing rules/regulations and hence unsustainable.

It is also the submission of this respondent that, alteration, renovation etc on electrical system in the premises is carried out by the Indian Oil Corporation. The varying nature of consumption pattern in the premises has bearing on such alteration or renovation made in the premises without the sanction or approval of this respondent. Moreover, this respondent has come to the conclusion that there is leakage of current due to wiring complaint (detected on 24-10-2016). It is therefore submitted that this respondent is not liable for any refund on the payment made by the appellant against consumption on account of earth leakage. Further this respondent asserts that an amount of



Rs.49,122/- arrived at as per reg 115 (9) due to excess consumption for 3 billing periods shall be adjusted in the future bill of the Appellant.

The date of last test date is on 24-10-2016 and the period from this date, being the shortest as per reg 115(9), has been into account by this respondent for revising the energy charges of the appellant from 26-10-2016 to 26-1-2017. The respondent requests to dismiss the petition on merits and on legal provisions as stated supra.

### **Analysis and Findings: -**

The Hearing of the case was conducted on 19.01.2018 in the Court Hall of CGRF, Kottrakkara. Sri. Z Antony and Sri. B Sathyaseelan, Manager of Udayagiri Fuels represented the appellant's side and Smt. Jayasmitha S.B., Assistant Executive Engineer, Electrical Sub Division, Chathannur and Sri. Noushad A., Nodal Officer, Electrical Sub Division, Chathannur represented the respondent's side.

On perusing the Appeal Petition, the counter of the Respondent, the documents submitted, arguments during the hearing and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions there of.

The appellant's meter was found faulty (recording high than the actual) when tested on 20-01-2017. The appellant's case is that the meter was faulty during the entire period from 12/2011 to 01/2017 and thereby collected excess amount towards current charges from them during that period. This is based on the fact that the consumption, after change of the faulty meter in 01/2017, was lower as compared with previous consumption. Though the appellant had argued that several complaints were submitted regarding the abnormal increase in the meter reading, he has not produced any supporting evidences to prove this fact. However the respondent has admitted that he received a complaint on 17-11-2015 for testing the meter, with due fees remitted. But the respondent failed to conduct testing of the meter as per the provisions in the Supply Code, instead a representative of the respondent inspected the meter on 24-11-2015 and declared the meter was working properly. According to the respondent, the Sub Engineer reached the conclusion that the meter was working properly by counting number of pulses for a particular load working for specified period time and by taking units shown in the meter when a known load is made operational for a specified period of time. This version of the respondent cannot be considered as valid and not justified. Further the appellant had made another complaint about the meter fault on 20-10-2016 after remitting the required fees. It is reported that the respondent had inspected the premises on 24-10-2016 and detected leakage of current due to complaints on the Appellant's electrical wiring and the defect was pointed out

to the consumer at site. If there is leakage, normally the appellant will take action to rectify this, otherwise he was compelled to pay exorbitant bill amounts. At this time also no testing of the meter by installing with a standard reference meter was done by the respondent. Again the appellant had remitted Rs.200/- as testing fee of the meter on 19-01-2017, as per Regulation 116(4) of Supply Code, 2014. The respondent had tested energy meter with a standard reference meter on 20-1-2017 and detected excess reading in the appellant's energy meter. The difference in reading between the existing meter and reference meter was 345 units for 7 days. The meter was also tested in the TMR Division, Thirumala and report shows that "errors at various load conditions are beyond the permissible limit and dial is not Ok. Hence the meter is declared as faulty."

There is no basis or reasonable justification for his argument that the meter was faulty from 12/2011 onwards. I have gone through the statement of meter reading produced by the respondent which shows that the consumption was not in a consistent pattern during these years. After the replacement of the meter in 1/2017, it was below 1000 units up to July 2017 and the consumption increased above 1000 units in the subsequent months.

The year wise average energy consumption of the consumer is as follows.

2012 = 1349 units,

2013 = 1465 units,

2014 = 1745 units,

2015 = 1907 units,

2016= 2233 units,

2017 = 1132 units,

The dispute is in ascertaining the period during which the meter was faulty. According to the appellant, this can be ascertained by watching the considerable variations in the monthly energy use recorded. Referring the year wise consumption, listed above the yearly average consumption varies in every year. In this case, it is relevant to point out the correct procedure to be followed regarding complaint of meter faultiness, as specified in Regulation 42 (3) of KSEB Terms and Conditions of Supply 2005.

It reads; "The consumer may report any complaint regarding meter to the concerned Electrical Section. The inspection of the meter will be carried out using the standard reference meter (Single Phase/Three Phase) available in the section office which is tested, calibrated and sealed by the Electrical Inspectorate. If meter is found faulty such meters shall be replaced immediately at the expense of the Board. If the existing meter after having

replaced with a new one the consumption recorded during the period in which the meter was faulty shall be reassessed based on the average consumption for the previous six months prior to replacement of meter. If the average consumption for the previous six 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 six months after replacement of meter and excess claimed if any, shall be adjusted in the future current charge bills.”

Here the dispute is on the point, for which period, the meter was faulty. The appellant has failed to produce any sufficient evidence to prove his claim of meter faultiness from the year 12/2011 onwards. His only argument is that the low consumption after change of meter and the difficulty to check the accuracy of a meter, sealed by the licensee, as it is not at all practicable as far as the consumer is concerned. The consumer cannot check the meter or is not supposed to do so. But there is the possibility that he can bring to the attention of the respondent any abnormal energy consumption or any unusual meter reading noticed then and there. But the complaint was made only in 11/2015. The increase in the meter reading is not all exorbitant to be noted by reader and there is also the chance that it might be due to higher power requirement. It is more the liability of the consumer to watch any such excessive reading than the normal usage and report KSEB to take further action. The consumer himself failed to notice the disproportionate reading, as claimed by him, weakens his case that the meter was faulty and showed excessive consumption from 2012 onwards.

The Clauses 134(1) (2) and (3) of the Electricity Supply Code, 2014, allows the Licensee to recover the amount undercharged from the consumer and also to refund the overcharged amount to the consumer. The perusal of the meter reading register and the year wise consumption pattern, does not reflect a consistent energy use. But it is confirmed that the meter was faulty and recording a higher consumption than the actual, while tested with a Test meter in 1/2017, and therefore the consumer is eligible for refund to the period he has paid in excess. But it is difficult to fix the correct period of meter faultiness in this case.

The respondent has stated that they had detected leakage of current in the premises of the appellant on 24-10-2016, but not explained further actions taken on it. Besides the recorded consumption from 10/2016 to 01/2017, the month on which the meter changed, are at the same range of previous months till the replacement of meter which establishes the faultiness of the meter was the reason for recording high consumption.

I am of the view that it is reasonable to revise bills for the last one year prior to 1/2017 as per the average and, since the consumption recorded for this one year is comparatively higher than the other years and due to the respondent's

failure to conduct a proper inspection and testing of meter on receipt of complaint from the appellant in 11/2015.

**Decision**

From the analysis done above and the conclusions arrived at, I take the following decisions.

From the conclusions arrived at as detailed above, and under the provisions of Clause 134 (3) of the Supply Code, 2014, I am fully convinced that the request of the appellant is reasonable and justifiable.

The excess amount collected from the appellant for a period of one year prior to 01/2017, shall be refunded/adjusted by the respondent, by taking average of the consumption for 02/2017, 03/2017 and 04/2017. The refund shall be made within 60 days of this order with applicable interest and may be adjusted in the future bills of the consumer. The amount of refund so calculated may also be communicated to the appellant with details. Hence, I decide that the order of the CGRF stands modified to this extent.

Having concluded and decided as above it is ordered accordingly. The Appeal Petition filed by the Consumer is allowed to the extent as ordered and stands disposed of as such. No order on Costs.

**Electricity Ombudsman**

Ref. No. P/127/ 2017/ \_\_\_\_\_ / Dated \_\_\_\_\_

Forwarded to: -

- 1). Sri. Antony Z., Udayagiri Fuels, Karamcode, Kalluvathukkal, Kollam
- 2).The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Chathannur, Kollam.

Copy to: -

- 1).The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
- 2).The Secretary, KSEBoard, Vydyuthibhavanam, Pattom, Thiruvananthapuram-4.
- 3).The Chairperson, Consumer Grievance Redressal Forum, KSE Board Ltd., Vydyuthibhavanam, Kottarakkara.