

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/133/2017
(Present: A.S. Dasappan)
Dated: 13th March 2018

Appellant : Sri. Ramadasan A.K.
Reshmi, Valiyachethil,
Parandoor P.O.,
Kozhikode

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

ORDER

Background of the case:

The appellant is a domestic consumer of electricity with connection No.8632 under Electrical section, Kakkur, Kozhikode. The three phase electric meter in the premises of the consumer was alleged to be faulty, resulting the appellant was billed based on average consumption proceeding to 08-10-2012 i.e., 230 units, for a period upto 04-02-2015. The appellant's faulty meter was replaced on 04-02-2015 and the actual consumption from 04-02-2015 to 10-02-2015 was 45 units. The appellant was issued a bill amounting to Rs. 1051/- for the consumption of 252 units for the bimonthly period ending on 10-02-2015. The appellant's contention is that his consumption during this period was 230 units and hence the excess amount collected has to be refunded. Further the rent for faulty meter was collected @Rs.30/- for 28 months is also to be refunded. Consequent to this, a complaint was made before the CGRF, Kozhikode. The Forum has disposed of the petition by dismissing the plea of the petitioner for the revision of the bill dated 10-02-2015 for Rs.1051/- vide Order No.120/2014-15 dated 29-07-2015. The appellant, thereafter, filed a petition before the CDRF, Kozhikode and the Hon'ble Forum dismissed the petition directing the appellant to approach the proper Appellate Forum vide

order dated 31-10-2017 in CC434/2015. Hence, the Appellant has filed the Appeal Petition, before this Authority.

Arguments of the appellant:

The complainant is a domestic consumer of KSE Board Ltd, Kakkur Section, Kozhikode, vide consumer No: 8632. The respondent has reported that the electric meter became dysfunctional from 08-10-2012 onwards. Afterwards the amount for 230 units as the average of 3 meter readings before 08-10-2012 as per the Kerala Electricity Supply Code 2014 and Section 124 of Electrical Regulatory Commission Act was remitting. On 04-02-2015 the suspected defective meter was replaced by KSEB. On 10-02-2015 meter reading was taken 45 watts. Even though the appellant's bimonthly consumption during the faulty period was 230 units, the bill issued was for 252 units.

This billing is incorrect and against the prevailing laws of Supply Code 2014 and others as under.

1. The electrical meter is the property of KSE Board Ltd, and they are collecting rent for the same.
2. The meter has to be changed within a period of two meter reading period i.e. 4 months. Actually it was replaced after 28 months.
3. The consumption tariff was fixed not on day to day basis. So the calculation made by KSE Board Ltd. is incorrect and against justice.
4. According to the Supply Code 2014 before changing the tariff or any change in calculating the bill amount shall be informed the consumer sufficiently earlier.

Eventhough the opposite parties agreed the above matters were not fulfilled at the trial court. CGRF Kozhikode ordered against the petition without monitoring the above facts.

So the complainant went to CDRF Kozhikode to consider the above facts as a new suit. The opposite parties filed a version contesting the petition is not maintainable before the Forum as the petition has already filed in CGRF vide OP No: 120/2014-15. So the petition was dismissed by the CDRF directing to approach the proper Appellate Forum.i.e. Electrical Ombudsman.

Remedies sought for:

1. For 252 units consumption KSEB Ltd. charged Rs 1051/- as energy charges and others. For 230 units the appellant was paying Rs 864/-. Rs 181/- has to be repaid.
2. Rs 30/- per month was collected as rent for meter during the faulty period. So Rs 840(28*30) has to be repaid.

3. Different expenses occurred due to the above suit in CGRF is Rs 1000/-
4. So a total of Rs 2021/- has to be paid by the opposite parties including the excess amount collected, the rent collected and cost of proceedings.
5. Moreover the amount incurred during this proceedings.

Arguments of the respondent:

The appellant is a consumer under Electrical Section Kakkur with consumer no.1167641008632 (8632). The three phase service connection was provided to the consumer for domestic purpose with a connected load of 4160 watts. The consumer has been billed as per bimonthly reading and all charges remitted up to date. While taking meter reading at the premises of appellant on 08-10-2012, mechanical meter connected to the service connection no.8632 was found faulty. Hence the energy consumption was billed based on the average consumption preceding to 08.10.2012 ie.232 units. This billing based on average consumption was continued for the entire faulty period upto the replacement of faulty meter with a new good meter on 04.02.2015. The consumer did not lodge any complaint against the billing made based on average consumption or bill calculation for the billing made during the entire faulty meter period. The initial reading (IR) of the new meter installed on 04.02.2015 was zero. After that regular meter reading was taken on 10.02.2015 and the reading FR on this date was 45 units. This means the consumption for six days is 45 units. As actual consumption for six days for the bimonthly period was available, the average consumption was not taken for the entire bimonthly period. Instead for six days ie from 04.02.2015 to 10.02.2015 the actual consumption of 45 units was taken and for the balance bimonthly period of 2/2015 for meter faulty period the average consumption was taken ie.207 units, thus making the total consumption for bimonthly period of 2/2015 period as 252 units. Accordingly a bill amounting to Rs.1051/ was issued to consumer for 252 units. The calculation details of the bill were communicated to the consumer directly while serving the bill and this amount was remitted by the appellant on 18.02.2015.

The argument of the appellant that the billing is incorrect and against prevailing law Supply Code 2014 and Section 124 is baseless and incorrect. The Section 124 deals with procedure for billing when meter is not accessible and has no relevance in this case. In the subject case the billing for meter defective period was made as per the Section 125 of the Electricity Supply Code 2014.

The energy meter is the property of the licensee KSEBL and the rent is collected as per the provisions in the Supply Code 2014 and based on the approved rate.

The delay in replacing the meter was due to non availability of sufficient number of three phase meters. Even though the meter was only changed on

04-02-2015, the billing was made based on the average consumption during the entire faulty meter period and no excess charge was remitted by the consumer. The consumer had not lodged any complaint against this average reading, billing during the entire faulty meter period and has remitted the bill amounts without any objection. When the reading was taken for the first time after the meter replacement of faulty meter the actual consumption recorded for six days was 45 units which points out that the actual consumption for bimonthly period is more than the average consumption. The appellant who is aggrieved by the increase of 22 units in the bimonthly bill of 2/2015 is keeping silent about this fact and also increase in consumption during subsequent months of 4/2015, 06/2015 and 08/2015.

The consumption was taken for bimonthly period and the billing was done based on approved tariff for domestic consumers. There is no change in tariff or change in calculating the bill amount. The consumer is billed under domestic tariff only. The billing for the said bimonthly period was made based on average consumption for the meter faulty period and based on the actual consumption after replacing the faulty meter with a good meter. Hence the billing during this period is absolutely correct and as per the prevailing rules and regulation.

As per prevailing rules the billing based on average consumption can be made only when the meter is defective or faulty. The argument of the appellant to bill based on the average consumption during the period for which the meter is working is against law and is illegal.

All actions taken by the respondent in this regard are as per the rules and regulations. The averments and arguments of the appellant are baseless and not sustainable under law.

Analysis and Findings: -

The hearing of the case was conducted on 20-02-2018, in the Court Hall of CGRF, Kozhikode and the appellant was represented by Sri. Ramadasan A.K., and Smt. C. Nisha Banu., Assistant Executive Engineer, KSEBL Balussery Sub Division appeared for the respondent and they have argued the case, mainly on the lines stated above.

On examining the Petition and argument notes 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 final decisions thereof.

The appellant has challenged the respondent's version that the existing meter was faulty during the period of 10/2012 to 04-02-2015. The dispute pertains the amounts charged for the bimonthly bills issued during the alleged faulty period.

Hence the point for decision is whether the meter was faulty and if so, what was the true average bimonthly energy consumption of the consumer during the meter faulty period?

It is pertinent to note that even without conducting any testing the appellant's meter which is a mechanical meter, the respondent declared the meter as suspected faulty for the previous period due to the reduction in consumption.

The respondent has not produced any test report in connection with the testing of disputed meter at the laboratories accredited by the NABL. Here in this case, the respondent declared the meter as faulty that too even without conducting any testing.

The KSEB has to assess the consumer, during the meter faulty period, as per the then existing provision of Regulation 33 (2) of the Terms and Conditions of Supply, 2005. Regulation 33 (2) reads; "If the Board is unable to raise a bill on meter reading due to its non-recording or malfunctioning, the Board shall issue bill based on the previous 6 months average consumption. In such cases the meter shall be replaced within one month. If the average consumption for the previous six months cannot be taken due to the meter ceasing to record the consumption or for any other reason, the consumption will be determined based on the meter reading in the succeeding three months after replacement of the meter."

Thus, as per Reg. 33(2), the meter shall be replaced within a period of one month. Here, the alleged faulty meter was not replaced for 28 months from 10/2012. It seems that the Board has not taken proper action in time, if the meter was faulty. The Board has miserably failed in replacing a faulty meter in a reasonable time and penalizing the consumer after 3 years is not fair.

The Board is duty bound to watch the discrepancies in the meter readings obtained and take appropriate action in time, including the replacement of faulty meters, after conducting proper inspection by installing a parallel meter and preparation of site mahazar and if required testing the meter in an approved laboratory. There is total laxity or lapses on the part of respondent in this regard. The average consumption reported by the Respondent, prior to Meter became faulty was 230 units. The consumption details of the appellant received from the respondent is reproduced below.

Main Meter Readings

SC Information	IR.Date	IR.Status	IR	FR.Dae	FR.Statns	FR	OMF	Units
CON/LT-1A/3P11/4160W	04-08-2010	Working	13372	04-10-2010	Working	13616	1	244
CON/LT-1A/3P11/4160W	04-10-2010	Working	13616	02-12-2010	Working	13779	1	163
CON/LT-1A/3P11/4160W	02-12-2010	Working	13779	04-02-2011	Working	13912	1	133
CON/LT-1A/3P11/4160W	04-02-2011	Working	13912	01-04-2011	Working	14079	1	167
CON/LT-1A/3P11/4160W	01-04-2011	Working	14079	09-06-2011	Working	14309	1	230
CON/LT-1A/3P11/4160W	09-06-2011	Working	14309	06-08-2011	Working	14459	1	150
CON/LT-1A/3P11/4160W	06-08-2011	Working	14459	08-10-2011	Working	14699	1	240
CON/LT-1A/3P11/4160W	08-10-2011	Working	14699	09-12-2011	Working	14799	1	100
CON/LT-1A/3P11/4160W	09-12-2011	Working	14799	08-02-2012	Working	14919	1	120
CON/LT-1A/3P11/4160W	08-02-2012	Working	14919	10-04-2012	Working	14982	1	63
CON/LT-1A/3P11/4160W	10-04-2012	Working	14982	07-06-2012	Working	15462	1	480
CON/LT-1A/3P11/4160W	07-06-2012	Working	15462	09-08-2012	Working	15572	1	110
CON/LT-1A/3P11/4160W	09-08-2012	Working	15572	08-10-2012	SF	15618	1	218
CON/LT-1A/3P11/4160W	08-10-2012	SF	15618	07-12-2012	SF	15837	1	218
CON/LT-1A/3P11/4160W	07-12-2012	SF	15837	08-02-2013	SF	16081	1	218
CON/LT-1A/3P11/4160W	08-02-2013	SF	16081	06-04-2013	SF	16081	1	218
CON/LT-1A/3P11/4160W	06-04-2013	SF	16081	10-06-2013	SF	16562	1	230
CON/LT-1A/3P11/4160W	10-06-2013	SF	16562	13-08-2013	SF	16733	1	230
CON/LT-1A/3P11/4160W	13-08-2013	SF	16733	08-10-2013	SF	16733	1	230
CON/LT-1A/3P11/4160W	08-10-2013	SF	16733	09-12-2013	SF	16834	1	230
CON/LT-1A/3P11/4160W	09-12-2013	SF	16834	10-02-2014	SF	17103	1	230
CON/LT-1A/3P11/4160W	10-02-2014	SF	17103	14-04-2014	SF	17636	1	230
CON/LT-1A/3P11/4160W	14-04-2014	SF	17636	09-06-2014	SF	17815	1	230
CON/LT-1A/3P11/4160W	09-06-2014	SF	17815	11-08-2014	SF	18076	1	230
CON/LT-1A/3P11/4160W	11-08-2014	SF	18076	15-10-2014	SF	18323	1	230
CON/LT-1A/3P11/4160W	15-10-2014	SF	18323	15-12-2014	SF	18447	1	230
CON/LT-1A/3P11/4160W	15-12-2014	SF	18447	04-02-2015	SF	18565	1	207
CON/LT-1A/3P11/4160W	04-02-2015	Working	0	10-02-2015	Working	45	1	45
CON/LT-1A/3P11/4160W	10-02-2015	Working	45	13-04-2015	Working	376	1	331
CON/LT-1A/3P11/4160W	13-04-2015	Working	376	09-C6-2015	Working	685	1	309
CON/LT-1A/3P11/4160W	09-06-2015	Working	685	10-08-2015	Working	1038	1	353
CON/LT-1A/3P11/4160W	10-08-2015	Working	1038	08-10-2015	Working	1300	1	262
CON/LT-1A/3P11/4160W	08-10-2015	Working	1300	08-12-2015	Working	1626	1	326
CON/LT-1A/3P11/4160W	08-12-2015	Working	1626	09-02-2016	Working	1837	1	211
CON/LT-1A/3P11/4160W	09-02-2016	Working	1837	08-04-2016	Working	2300	1	463
CON/LT-1A/3P11/4160W	08-04-2016	Working	2300	07-06-2016	Working	2893	1	593
CON/LT-1A/3P11/4160W	07-06-2016	Working	2893	08-08-2016	Working	3130	1	237
CON/LT-1A/3P11/4160W	08-08-2016	Working	3130	31-12-1969	Working		1	

As shown in the statement the appellant's consumption before 10/2012 is not in a consistent manner and it was below 245 units except 480 units for the bimonth of 6/2012. This higher consumption is in the summer season. According to the respondent, the meter was found faulty from 10/2012 onwards. But on going through the details consumption after 10/2012, it is revealed that the appellants meter showed the following readings in the bi-months. 10/2012 – 46 units, 12/2012-219 units, 2/2013-244 units, 4/2013 – 0 units, 6/2013 – 481units, 8/2013- 171 units, 10-2013 – 0 units, 12/2013-

101 units, 2/2014 – 269 units, 4/2014 – 533 units, 6/2014 – 179 units, 8/2014 – 261 units, 10/2014 – 247 units, 12/2014 - 124 units, 2/2015 – 163 units. There is no conclusive evidence like the test report, details of the inspection conducted and site mahazar etc produced by the respondent to prove the meter of the appellant was faulty during the period. It was also not known how the respondent calculated the average consumption 230 units. In the bi-months of 6/2013, 2/2014, 4/2014, 8/2014 and 10/2014, the actual consumption is found exceeded the average consumption. It is also suspected that the meter reading was not taken regularly as an average consumption was billed from 8/2012 to 2/2015. Considering all the above facts, it is concluded that, the assessment done for the disputed meter faulty bi-months of the consumer, fixed to 230 units per bi-month, taking it as his true average energy consumption, is not found reasonable in the circumstances of gross omission and negligence on the part of the Respondent. The consumer is bound to pay the electricity charge for the energy he has consumed. The actual consumption recorded in the meter from 9/8/2012 to 10/2/2015 was 3038 units and the average consumption fixed during the period was 3424 units. But the average consumption of 3 bi-months prior to the period of 8/2012 comes only 218 units and the respondent assessed the consumer accordingly for four bimonths for the period from 8/2012 and thereafter the average consumption was taken to 230 units which was not correct and baseless.

The appellant has also raised objection against the calculation of 207 units for the period from 15-12-2014 to 4-2-2015 which covers only 50 days. The bill has to be raised on pro rata basis, if it not covers 60 days of energy consumption. The 6 days consumption corresponds to the next month's energy use only and it has to be billed separately at the rates corresponding to a month rate accordingly, i.e. it need not be split up, considering as for next two month's consumption, for the billing purpose.

This Authority has observed the following facts. 1. As per the meter reading register, the meter is only suspected faulty. 2. No inspection or testing of the meter was done as per the provisions in the rules. 3. The 3 phase meter is a mechanical meter. 4. Average for 218 units and 230 units are seen assessed, but consumption is seen recorded during the average assessed period.

The faultiness of the meter is not proved conclusively and the respondent had collected excess amount from the consumer by taking wrong average consumption during the period as 3424 units against the actual consumption of 3038 units. Hence the excess amount collected from the consumer for 386 units is required to be adjusted/refunded in the future bills. Hence the respondent is directed to revise the bill on the lines stated above. I do not find any purposeful attempt from the respondent's side to harass the consumer in this case and hence request for compensation is not allowed. Similarly the request for refund of meter rent is also rejected, as the meter faultiness is not proved.

Decision

From the findings and conclusions arrived at as detailed above, I decide to set aside the decision of CGRF, Kozhikode issued in OP No.120/2014-15 dated 29-07-2015 and to quash the average bills (15 spot bills) issued for the period from 8/2012 to 2/2015. The respondent is directed to revise the bills for the consumption for the period from 8/2012 to 2/2015, by taking 203 units (3038 units/15 bi-months) as bi-monthly consumption and refund the excess amount collected by fixing average as 218 units and 230 units. The excess amount collected shall be refunded to the consumer by way of adjustment in the next bimonthly bill issued within 30 days of this order with applicable interest, with communication to the consumer of the amount adjusted as per this order.

Having concluded and decided as above it is ordered accordingly. The Appeal Petition filed by the appellant stands disposed of as such. No order on costs.

ELECTRICITY OMBUDSMAN

P/133/2017/ _____ /Dated: _____

Delivered to:

1. Sri. Sri. Ramadasan A.K., Reshmi, Valiyachethil, Parandoor
P.O.,Kozhikode
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board
Ltd., Balusserey, 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.