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APPEAL PETITION No. P/030/2018  
(Present: A.S. Dasappan)  
Dated: 20<sup>th</sup> July 2018

Appellant : Sri. Paulachan P.P.  
Pentapack Polymers Pvt. Ltd.,  
Kanjoor, Kalady,  
Ernakulam

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Ltd., Kalady,  
Ernakulam

### **ORDER**

#### **Background of the case**

Sri Paulachan P.P. is a consumer of electricity of Electrical Section, Kanjoor with Consumer No. 1157479007722 since 04-10-2011 having a connected load of 73 kW and a contract demand of 80 kVA under LT IV ToD tariff. He is running a firm in the name and style of "M/s Penta Pack" in the Mini Industrial Estate, Kanjoor. An inspection was conducted in the premises by the Sub Engineer in the presence of the APTS unit Ernakulam KSEB on 28/10/2017 and detected that one phase of the CT meter was not recording consumption due to the failure of current from the current transformer (CT). Subsequent to the inspection, a provisional demand amounting to Rs. 4,19,344/- was issued to the appellant. The Assessing Officer after the personal hearing denied all objections raised by the appellant and directed to remit the assessed amount vide proceedings dated 10/11/2017. Aggrieved by the decision of the Assistant Engineer, the appellant had filed petition before the CGRF Ernakulam vide OP No. 84/2017-18.

#### **Arguments of the appellant:**

An inspection had been conducted in the premises of the above service connection with consumer no. 1157479007722 on 28/10/2017 and detected that one phase of the CT meter was not recording consumption due to the

failure of current from that phase. A site mahazar was prepared by the Sub Engineer Electrical section, Kanjoor in the presence of APTS unit Ernakulam of KSEB.

Subsequent to the inspection, a provisional demand amounting to Rs. 4,19,344/- was prepared and issued with the assessment that only 1200/1923 of the actual consumption had been recorded in the meter from 06/05/2017. In the proceedings attached with the provisional demand, they stated that the provisional demand is prepared under Sec 152 of Electricity and directed to file objections if any within 7 days on receipt of the order. The provisional demand and the proceedings were received on 30/10/2017 and the appellant had filed their objections on 06/11/2017. The Assessing Officer, after the personal hearing denied all objections and directed to remit the assessed amount without any relief vide proceedings dated 10/11/2017. The CGRF by its erroneous order dismissed the petition filed by the appellant on lack of merits.

1) A Site mahazar had been prepared at the time of inspection and in the site mahazar, it is recorded that, the security seals of the meter box and the meter are intact and current from the R phase was not recording in the meter and hence the consumption in the R Phase was not recording in the meter. Further, it is recorded in the site mahazar that, by checking the meter data by software, it was revealed that the R Phase current was not recording in the meter from 06/05/2017.

According to clause 18(2) of Central Electricity Authority (Installation and operation of meters) Regulations, 2006, "the testing of consumer meters shall be done at site at least once in 5 years. The licensee may instead of testing the meter at site can remove the meter and replace the same by a 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 previous years or there is consumer's complaint pertaining to a meter. The Standard reference meter of better accuracy class than the meter under test shall be issued for site testing of the consumer meters up to 650 volts. In the instant case, it is seen recorded in the site mahazar that, the meter was tested with a Zera make standard meter and found that, 1923-watt hour consumption was recorded in the standard meter against 1200-watt hour recorded in the consumer meter. But the details of the standard meter such as serial no, capacity, accuracy class, test certificate of the meter from an accredited laboratory etc are not recorded in the site mahazar and hence the testing with the so called Zera Standard meter have not any authority and not admissible. Hence the demand prepared based on the above testing is not sustainable and to be cancelled. The metering equipment is not tested in an approved or accredited laboratory. This type of testing of the meter is only intended to declare the meter as faulty or not for the accuracy. But the short assessment bill calculated and issued based on the above test with a standard meter.

If the failure of the current from R Phase was from 06/05/2017 as recorded in the site mahazar, it could be easily found out by the sub Engineer who had taken the monthly meter reading regularly. Since it was not reported by the Sub Engineer during the meter reading taken on 01/10/2017 or before, the failure was between the date of meter reading for the previous month and the inspection date of 28/10/2017. In the site mahazar, it was recorded that the R phase current is not recording in the display and it could be easily seen by the meter reader during the monthly meter reading and the meter reading is also designated as a primary inspection and hence the missing of the failure of one phase voltage was only between the last reading date and the inspection date. Hence the assessment made from 06/05/2017 without any evidence is illegal and not sustainable.

2) As per Regulation 152(3), third proviso, while calculating the amount of electricity short collected by the licensee, the factors as specified in sub regulation (8) of regulation 155 shall be considered. The sub regulation (8)(iii) of Regulation 155 says that, the period of short collection is to be limited to "actual period from which the previous checking of installation to date of inspection". In the case in hand, the date of previous checking of the installation should be considered as the date of previous meter reading. Hence the short assessment is to be revised for the previous average consumption for the period from the previous date of meter reading to the inspection date.

3) In the site Mahazar, it was seen recorded that the data of the meter checked with the help of software, but no downloaded data attested by an approved Authority was issued up to the third hearing of the CGRF even repeated requests. The downloaded data of the meter was issued during the third hearing of the CGRF, but the appellant is not convinced for the failure of the one phase current from 06/05/2017. The accuracy test conducted by comparing the meter with a standard meter connected parallel to the meter installed in the premises is not an approved method. The metering equipment is not tested in an approved or accredited laboratory for the accuracy. Hence the short assessment prepared arbitrarily based on the above test result is illegal and not sustainable.

4) The fault of the metering equipments was not rectified by the licensee for the further 5 months from the inspection and continued the billing up to March 2018 with the erroneous method and the same was rectified only during the month of March 2018. As per the regulation 125(2) of Supply code 2014 the licensee shall replace the defective or damaged meter within a maximum period of two billing cycles.

The CGRF viewed the serious lapses and negligence on the part of the meter reading officials and the billing officials of KSEB in the above case, but

the Forum simply uphold the short assessment bill issued by the licensee by its order dated 31st march 2018.

In view of the above all facts, the appellant prays to this Authority to admit the appeal and set aside the erroneous order of the CGRF and necessary directions should be issued to cancel the illegal short assessment.

**Arguments of the respondent:**

An inspection was conducted by the Section staff in the premise in presence of APTS on 28-10-2017 and found that current is not reached in 'R' Phase of the meter from 06-05-2017 onwards. In the testing the consumer meter recorded 1200wh whereas the test meter showed 1923wh in a particular period. Also a reduction in consumption and contract demand was seen from 06/2017 to 10/2017. As such a provisional bill for Rs. 4,19,344/- was given to the appellant towards short assessment from 6/2017 to 10/2017. The appellant filed a complaint before the Assistant Engineer on 06-11-2017 against the short assessment bill. The Assistant Engineer confirmed the bill amount without any change and intimated the appellant to remit the amount before 29-11-2017. As per Section 134 (1) of Kerala Electricity Supply Code, 2014 Licensee can realize the revenue loss by giving a bill to the consumer. Also the bill is for the period of meter defect and under the same tariff without any interest.

When the new meter was installed and compared with the old meter there was difference in readings and found that more units recorded in the new meter.

On the above circumstances appellant is liable to remit the final bill and hence the appeal may be dismissed.

**Analysis and Findings**

The hearing of the case was conducted on 19-06-2018, in the office of the State Electricity Ombudsman, Edappally, Kochi. Sri. Paulachan P.P., represented the appellant's side and Smt. Sheeba I., Assistant Executive Engineer, Electrical Sub Division, Kalady, 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 APTS has inspected the consumer's premises on 28-10-2017 and found that the CT connected in R phase of the meter is defective, thus resulting in the recording of a lower consumption than what is actually consumed. Hence, the appellant was issued a provisional short assessment bill to recover

the cost of energy escaped from billing due to non recording of consumption in one phase of the meter. The CGRF has observed that the short assessment bill issued by the respondent is genuine and sustainable and hence the consumer is liable to pay the amount.

The respondent has averred that the total period of phase failure was obtained by downloading the meter. The respondent relied upon the downloaded data and consumption pattern for establishing the period of phase failure of one phase. According to them, the dip in consumption from 06/2017 is the result of the missing of current in R phase. Under charging of prior bill is established due to an anomaly detected at the premises for which Kerala Electricity Supply Code, 2014 Regulation 134 (1) is applicable. It was also contended that the downloaded data was convinced by the CGRF.

The issue arising for consideration in this appeal is whether the period assessed and the quantum of energy loss computed are in order and the appellant is liable for the payment of short assessment for Rs. 4,19,344/-.

Normally, the respondent is bound to rectify the defects to the meter or renew the CTs or the CT meter itself, if it is found defective/faulty, after informing the consumer. The consumer was assessed for Rs. 4,19,344/-, for non-recording of energy due to defects of the R phase, from 06/2017 to 10/2017, by taking the lost energy as 37.6% of the actual consumption.

The respondent has not produced any test report in connection with the testing of disputed meter at the laboratories accredited by the NABL. The appellant has also not raised any objection and not taken the opportunity to test the meter in a laboratory accredited by the NABL, by requesting the same remitting the required fees. Here in this case, the respondent confirmed the non recording of one phase on the basis of the inspection conducted in the premises and load survey/tamper report down loaded.

Further this Authority is of the opinion that if the respondent had to inspect the metering system soon after the recorded consumption decreases considerably during the disputed period, it can be easily detected the defect in the metering and to avoid the loss, if any, occurred to the licensee. Under the Regulation 113, sub clause (7) of Supply Code, 2014 requires the licensee to test the CT, PT and the wiring connections, where ever applicable while testing the meter.

The consumption recorded in the meter itself was taken for assessing the unrecorded portion of energy. The site mahazar justifies missing of current in one phase of the appellant's metering equipment in the appellant's premises. In view of the above facts it is clear that the energy meter installed in the

appellant's premises was only recording in two phases of actual consumption on the inspection date of 28-10-2017, but not confirmed the missing of energy in one phase at the rate of 37.6% of the consumption in the assessment period. The estimation of 33.33% is theoretically true in the case of failure of one number CT connected to the energy meter. Another method of assessment is based on the average consumption of previous three billing cycles energy consumption obtained and if the average consumption for the previous three billing cycles 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 three months after replacement of meter or rectification of defects in the metering system. This method is suggested under Regulation 125 of Kerala Electricity Supply Code, 2014.

The appellant has contended that if there was failure of the CT connection was from 06/2017 onwards as assumed by the licensee; it could be easily find out by the Sub Engineer who had taken the monthly readings regularly.

Further the appellant contended that Regulation 134 (1) of Supply Code, 2014 is not at all applicable in this case of meter defective case. According to the appellant, this provision applies in only a case where he has undercharged the consumer which means that the meter has recorded the actual consumption, but the licensee has not realised its charges accurately. In the event of any clerical errors or mistakes in the amount levied, demanded or charged by the Board then in the case of under charging, the Board shall have a right to demand an additional amount and in the case of over charges, the consumer shall have the right to get refund of the excess amount provided at that time such claims were not barred by limitation under the law then in force.

Refuting the above contentions, the respondent has averred that the total period of phase failure was obtained on the basis of the consumption pattern. The respondent relied upon the consumption pattern for establishing the period of phase failure and missing of current in one phase. According to them, the dip in consumption from 06/2017 is the result of the CT failure.

The meter is not a recording or display unit only but all the components including lead wires include a meter. Moreover, this is not a whole current meter but a CT operated meter, where CT is connected with metering unit using lead wires and phase voltage from all three phases are tapped from the source of supply and then connected with the same metering unit. Thereby wiring is also there for this metering system. This coordinates for computing energy is lead to the processing unit of the meter unit from different components of the meter then various electrical quantities are processed then recorded cumulative or otherwise and displayed in the display unit. Any defect in any part or component of meter is defect in meter. The fact of the matter is,

the meter was defective since one CT was defective and hence one phase current was missing in the meter.

From the site mahazar, it is revealed that the failure of current in one phase was due to the defect of the CT connected to one phase of the meter. The meter will record the time and date of tampers, and the same can be downloaded using MRI/Laptop and can be analyzed. Date of occurrence of CT open/bypass/short, voltage missing/low voltage/ unbalance etc can easily be found out using downloaded data.

Even though inspection was conducted on 28-10-2017, the defect of the CT was rectified in 28-02-2018 only. The appellant was billed afterwards till the date of the rectification of CT based on the billing pattern adopted for the short assessment made by the respondent. The appellant has also paid the bills. The appellant stated that the plant is for manufacturing bottles and seasonal. December to May is the season and June to November is off season period. The APTS, Ernakulam connected a standard reference meter with the disputed consumer meter and applied load for a short period and checked consumption on both meters. As per the site mahazar, it was noticed that the consumption recorded on standard meter was 1923 Wh and at the same time consumer meter recorded 1200 Wh.

As per the respondent the energy consumption was not recorded in 'R' phase of the meter from 6-5-2017 onwards and hence short assessment bill for the consumption from 05/2017 to 09/2017 was issued taking the "Energy loss multiplying factor as 723/1200" (37.6%). This factor was arrived at by the respondent on the date of inspection by operating a portion of the load for a short duration which records only below 2 kWh. This testing only reflects the status of recording in that particular short period and hence cannot apply for short assessment of the consumption for a period of five months in the premises having a monthly consumption of around 30000 kWh.

On verifying the downloaded data of the meter, the current in 'R' phase is continuously shows zero from 9-6-2017 onwards only and hence the short assessment of energy in 5/2017 cannot be accepted. Moreover, the recorded consumption in 5/2017 is 33570 kWh which is the highest among the available period prior to 5/2017 and after the rectification of metering defect on 28-02-2018. Also on verifying the available consumption pattern produced by the respondent, the dip in recorded consumption starts only from 6/2017 onwards. Also the recorded consumption in 10/2017 is to be taken for the billing as the date of inspection is 28-10-2017. As such the short assessment period has to be revised from 9-6-2017 to 10/2017.

On going through the records, it is found that the total consumption (recorded) for the faulty meter period from 06/2017 to 10/2017 (5 months) is as follows.

Month	Recorded consumption		
	Normal	Peak	Off peak
06/2017	8280	2730	6060
07/2017	8970	3120	6660
08/2017	10950	3810	7740
09/2017	11370	4110	8160
10/2017	7830	2670	5670
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Total	47400	16440	34290
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Average consumption recorded prior to the faulty period for 03/2017 to 05/2017 (3 months) is 15191 kWh, 5330 kWh and 11230 kWh for the normal peak and off peak period respectively. The consumption recorded in the meter itself was taken for assessing the unrecorded portion of energy. The downloaded data shows that the CT current in the three phases are available for 8 days in 6/2017 during the disputed period and hence 8 days can also be excluded from the calculation of short assessed amount. Since the quantum of loss calculated based on 37.6% missing of consumption is not established conclusively, this Authority feels that it is fair to assess the appellant for the missing of consumption during the disputed period from 9-6-2017 to till the date of rectification of the defect by taking the average consumption of 03/2017, 04/2017 and 05/2017.

### **Decision**

From the findings and conclusions arrived at as detailed above, I decide to set aside the short assessment bill amounting to Rs. 4,19,344/- issued to the appellant. The respondent is directed to revise the bills for the consumption for the period from 9-6-2017 to 10/2017 by taking the average consumption of 03/2017, 04/2017 and 05/2017. Accordingly the respondent shall raise a bill for the meter faulty period and issue the revised bill to the consumer within fifteen days.

The appellant is also eligible for installments, if requested for, and the respondent shall issue the same. The consumer shall pay the whole amount or the 1st installment within 30 days of the revised bill date. The subsequent installments will bear interest from 30th day of the bill issued to the day of payment. No interest or surcharge is payable by the consumer for the Petition and Appeal pending period before the CGRF and this Authority up to 30<sup>th</sup> day of the revised bill date.



Having concluded and decided as above it is ordered accordingly. The Appeal Petition filed by the Consumer is allowed as ordered and stands disposed of as such. The order of CGRF in OP No. 84/2016-17 dated 31-03-2018 is set aside. No order on costs.

**ELECTRICITY OMBUDSMAN**

P/030/2018/ \_\_\_\_\_ /Dated: \_\_\_\_\_

Delivered to:

1. Sri. Paulachan P.P., Pentapack Polymers Pvt. Ltd., Kanjoor, Kalady, Ernakulam
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Kalady, 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.