

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/022/2019
(Present: A.S. Dasappan)
Dated: 20th May 2019

Appellant : Sri. Thomas Alexander
Prasanth Bhavan, Kuttapuzha,
Thiruvalla,
Pathanamthitta

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd, Thiruvalla,
Pathanamthitta

ORDER

The appellant having consumer number 7582 is a domestic consumer under Electrical Section, Thiruvalla. The registered consumer of the premises is "Mrs. Chellamma Mathew, Prasanthi, Kuttapuzha". On 20th July 2018, the appellant complained the faultiness of the meter and the meter was replaced on 17th December 2018. While being so, the appellant was aggrieved with the exorbitant bills issued for the months of 9/2018 & 10/2018, issued by the respondent on 17-11-2018 for Rs. 3,360/- and for the months of 11/2018 & 12-2018 for Rs. 2,605/- by taking the average consumption of 356 units. The lodged complaint before the CGRF, Kottarakkara requesting to waive off the excess charges levied in the said bills. The CGRF had dismissed the petition on the ground that the bills issued by the respondent are in order and the petition is devoid of any merits, vide order no. OP No. 158/2018 dated 22-02-2019. Aggrieved by this, the appellant has submitted this Appeal petition before this Authority on 25/03/2019.

Arguments of the appellant:

On 20th July 2018, the appellant came to know that the electricity meter in his house was faulty. Although he immediately informed KSEB

office in Thiruvalla, they could not change the meter in time due to non-availability of meters. The meter was finally replaced on 17th December 2018 i.e. after almost five months. KSEB Standards of Performance states as follows:

Replacement of defective LT meter owned by licensee - Every distribution licensee shall replace defective LT meter owned by the licensee within seven working days from the date of detection of the defect.

On 17th November 2018, the appellant received a bill for Rs.3360 stating that he had consumed 712 units since 20th July. The KSEB authorities clarified that they had issued this bill based on KSEB procedure for billing in case of a defective meter. The appellant occupied the present house only in December 2017.

The appellant's daughter's marriage was on June 10th 2018, and the consumption should have been more than normal. Even then the Electricity bill for June and July was only Rs.1,471/-.

There was no one at home from mid July till the end of August 2018 at the time of the devastating monsoon floods.

There are only two persons at home – the appellant and his wife. The appellant's daughter is married and his son is at Ernakulam and he comes home only during the weekends.

In January, the appellant received another bill for Rs.2605 (Meter replaced only on 17th December 2018) Total bill amount is Rs.5965/-. To be frank, the appellant had not consumed electricity as claimed. A middle-class family's monthly budget cannot afford such exorbitant electricity charges (Rs.5965). The appellant is forced to pay this huge amount for the failure of KSEB to change the faulty meters in time. The appellant is penalized for no fault of him.

Arguments of the respondent:

The appellant had submitted new grievances and arguments in this appeal, which he had not raised before the Consumer Grievance Redressal Forum (CGRF) at Kottarakkara. As per regulation 16 of Kerala State Electricity Regulatory Commission (Standards of Performance of Distribution Licensees) Regulations 2015, the consumer shall submit an application in Form-A to the officer authorized by the licensee under regulation 15, within 30 days from the date of occurrence of such breach of guaranteed standards of performance, which he had not submitted within the stipulated period.

While the First Forum for redressal of any grievance should be addressed before the Consumer Grievance Redressal Forum, failure to maintain guaranteed standards of performance should be addressed first before the licensee itself and appeal if any should be addressed to the Hon. Kerala State Electricity Regulatory Commission. As such, an appeal based on regulation-16 of Kerala State Electricity Regulatory Commission (Standards of Performance of Distribution Licensees) Regulations 2015 is not maintainable before this Ombudsman. The arguments and appeal based on such regulations outside the jurisdiction of this Ombudsman may please be dismissed.

It is admitted that the appellant is residing in the premises of a consumer of KSEB Ltd. vide consumer number-7582 sanctioned for 550 watts in domestic purpose (LT-I(a) tariff) under Electrical Section, Thiruvalla. The registered consumer of the said premises is "Mrs. Chellamma Mathew, Prashanthi, Kuttapuzha".

The energy consumption pattern of the appellant for the last four years is shown below:-

MONTH OF DEMAND	UNITS BILLED	REMARKS
01-15	406	
03-15	368	
05-15	448	
07-15	457	
09-15	314	
11-15	381	
01-15	406	
03-15	368	
05-15	448	
07-15	457	
09-15	314	
11-15	381	
01-16	376	
03-16	422	
05-16	472	
07-16	319	
09-16	363	
11-16	381	
01-17	359	

03-17	352	
05-17	407	
07-17	250	
09-17	369	
11-17	378	
01-18	391	
03-18	381	
05-18	293	
07-18	356	Meter declared faulty. Previous average consumption during the healthy period considered for billing.
09-18	356	-DO-
11-18	356	-DO- Faulty meter replaced on 17-12-2018
01-19	450	(172 units previous average + 278 units in new meter)
03-19	289	

It could be clearly understood from the above table that the energy consumption of the premises is very much consistent and varies between 350 to 450 units bimonthly, except during two months.

Energy meter in the premises of the appellant was declared as faulty during July 2018. The average consumption recorded during the previous three billing cycles, prior to the period during which meter was declared as faulty is calculated as:-

MONTH OF DEMAND	UNITS BILLED	REMARKS
01-18	391	
03-18	381	
05-18	293	
AVERAGE	356	

The above average consumption is calculated and billed based on regulation-125(1) of the Kerala Electricity Supply Code 2014.

The argument of the appellant that the electricity consumption of the premises was bit high during March-June 2018 is false. It is argued by the appellant that his daughter's marriage was on June 10th 2018, during which the energy consumption in his premises should have been above

normal for the months of June and July 2018. If the appellant's above argument is considered, the average consumption of this premises recorded before March 2018 is as follows:-

MONTH OF DEMAND	UNITS BILLED	REMARKS
09-2017	369	
11-2017	378	
01-2018	391	
AVERAGE	379	

It is clearly seen that the above average consumption is higher than the average consumption calculated based on regulation-125(1) of the Kerala Electricity Supply Code 2014.

Due to floods 2018 during August, regular bimonthly billing was not done during September 2018 based on the directions of the Kerala government and the KSEBL. Hence regular billing was done during November 2018 only for the four months from 20th July 2018 to 17th November 2018, the average consumption of which comes to 712 units (356 units *2).

The present energy meter installed in the appellant's premises is working properly and has recorded 567 units on 12-03-2019 since its installation on 17-12-2018. The average consumption of this new meter is 396 units for 60 days, which is also higher than the average consumption calculated based on regulation 125(l) of The Kerala Electricity Supply Code 2014.

10. The present connected load at the premises is as shown below:-

EQUIPMENT	LOAD IN WATTS	QUANTITY	TOTAL CONNECTED IN WATTS
LED	9	12	108
FAN	60	7	420
FLUORESCENT TUBE	40	3	120
FRIDGE	300	1	300
WASHING MACHINE	500	1	500
MICROWAVE OVEN	1800	1	1800
TOTAL			3248 watts

It may kindly be noted that the actual connected load of the premises is 3248 watts against a sanctioned load of 550 watts.

The respondent is duty bound to provide the necessary services within the time period, as stipulated in the existing statutes and the relevant regulations by KSERC. There is no deficiency of service or illegal acts on the part of the respondent party or their officials.

The appellant had challenged the calculation of average consumption in the bills issued. The average consumption is calculated and billed based on regulation 125(l) of the Kerala Electricity Supply Code 2014.

The Consumer Grievance Redressal Forum (CGRF) at Kottarakkara in its' order dated 22nd February 2019 in OP No-158/2018 found that in this case the petitioner was issued regular bills during the faulty period based on the average consumption of the previous bills as per Regulation 125 of Kerala Electricity Supply Code 2014. It is legal and sustainable. The Forum also found the average consumption after the replacement of the energy meter is also above 356 units. Hence the petitioner is liable to remit the bill amount issued in 11/2018."

14. The invoices (demand) pending payments for the appellant were as follows:-

MONTH OF DEMAND	UNITS BILLED	DEMAND	PAYMENT DATE	REMARKS
11-18	712	Rs. 3,360.00	Rs. 5000/- paid online on 13-02-2019 only	Demand for the month of 07-2018 and 9-2018 raised for four months during 9-2018 only due to floods 2018
01-19	450	Rs. 2,335.00	Rs. 965/- paid online on 10-03-2019	No surcharge levied for demands due up to January 31 based on Govt. Decisions
03-19	289	Rs. 1,208.00	Rs. 960/- paid online on 31-03-2019	Rs. 22/- adjusted as surcharge

The exorbitant electricity charges alleged by the appellant to the tune of Rs. 5,965/- was for the energy consumed by the appellant for the six months after 7/2018 till January 2019. The Licensee as well as the Govt. had relaxed norms for the disconnection dates for the demands from

August 2018 due to Floods 2018 till 31st January 2019. Surcharges for all the demands raised after August 2018 till January 2019 was also exempted till 31st January 2019. If the consumer had remitted the bimonthly energy charges regularly soon after the receipt of the invoice, his burden could have been lessened.

Analysis and Findings

The hearing of the case was conducted on 25-04-2019, in the office of the Vydhyuthi Bhavan, Alappuzha and the appellant was represented by Sri. Thomas Alexander, and the respondent by Sri. Harikumar B, Assistant Executive Engineer, Thiruvalla Electrical Sub Division 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 Energy meter provided to the appellant was faulty and immediately complained the same during July 2018 itself. The respondent replaced the meter on 17-12-2018. During the period in dispute the appellant was issued electricity bills by taking the average consumption of the past three billing cycles immediately preceding the date of the meter being found or reported defective. Now the question to be answered is whether during those periods the consumption billed is genuine or actually consumed by the appellant.

As per the appellant, two spot bills for Rs. 3,360/- dated 17/11/2018 and Rs. 2,605/- dated 01/2019 are in dispute. The appellant's argument is that he occupied the house in December 2017 on rental basis and he produced the rental agreement as proof of his claim. Prior to the date the owner of the building was residing. The present connected load is 3248 watts. The energy meter became "faulty" in between the date of reading 19-03-2018 and 19-05-2018 showing the reading on 19-05-2018 as 29653. The basis for his complaint is that there was no one at home from mid July till the end of August 2018 at the time of the devastating monsoon floods and there are only two persons at home, the appellant and his wife. The appellant's request is to change the procedure for the billing, i.e., the mode of average.

In this case the CGRF has not observed any sufficient cause for taking the preceding three months average. The appellant's argument that he occupied the building in 12/2017 has also to be considered on the basis of provision in Regulation 125 of Supply Code, 2014. 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.

Provided further that any evidence given by consumer about conditions of working and occupancy of the concerned premises during the said period, which might have had a bearing on energy consumption, shall also be considered by the licensee for computing the average.

As the appellant occupied the premises in 12/2017 and the recording of the energy consumption in the meter became standstill in between 19-03-2018 and 19-05-2018, continued up to the date of replacement of meter on 17-12-2018, it is not proper to take the average of the recorded consumption from 22-11-2017 to 19-05-2018 for issuing spot bills from 19-05-2018 to 17-12-2018. Moreover there was no consumption in the premise for a particular period in August 2018 following the flood.

Here, the faulty meter was not replaced for 5 months from 07/2018. It seems that the Licensee has not taken proper action in time. The KSEBL has miserably failed in replacing the faulty meter in a reasonable time. The argument of the change of occupation of the building by the appellant is proved by documentary evidence. The consumption in the new meter from 17-12-2018 to 12-03-2019 is 567 units for 3 months and the average monthly consumption is 189 units. Hence this Authority is of the opinion that it is fair to compute average from the 3 months after the meter is replaced for revising the bills of the disputed periods.

Decision

It is a fact that there was flood and breakdowns in the distribution system in that area and there was no consumption in the premises during the period of August 2018. From the findings and conclusions arrived at as detailed above, I decide to set aside the spot bills from 19-05-2018 to 17-12-2018 issued to the appellant. The respondent is directed to revise the bills for the period from 19-05-2018 to 17-12-2018 (except August) by taking average consumption of 189 units per month. The monthly bill for the August shall be billed at the minimum charge applicable. This shall be done at any rate within 30 days from the date of receipt of this order.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant is found having some merits and is allowed. The order of CGRF, Kottarakkara in Petition OP No. 158/2018 dated 22-02-2018 is set aside. No order on costs.

ELECTRICITY OMBUDSMAN

P/022/2019/_____ /Dated:_____

Delivered to:

1. Sri. Thomas Alexander, Prasanth Bhavan, Kuttapuzha, Thiruvalla, Pathanamthitta
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Thiruvalla, Pathanamthitta

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, Kottarakkara - 691 506.