

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/097/2019
(Present: A.S. Dasappan)
Dated: 6th February 2020

Appellant : Sri. V.V.Joy
Vallooran House, Karukutty P.O.,
Angamaly

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

ORDER

Background of the case:

The appellant is an occupier of the premises bearing consumer number 1155816008461 under LT VII A tariff with a connected load of 1680 Watts under Electrical Section, Karukutty. A short assessment bill amounting to Rs. 3462/- due to meter faulty period from 08/17 to 10/17 has been issued to the consumer on 21-03-2019. Against the short assessment bill, the appellant had approached the CGRF, Ernakulam by filing a petition No. OP No. 23/2019-20. The Forum dismissed due to lack of merits vide order dated 21-11-2019. Aggrieved against this, the appellant has submitted this appeal petition before this Authority on 12-12-2019.

Arguments of the appellant:

The appellant is a consumer of Electrical Section, Karukutty of KSEB Limited under commercial tariff with Consumer Number 8461. The appellant received an additional bill for Rs. 3,462/- and a petition was filed in the Consumer Grievance Redressal Forum, Central Region for the cancellation of the bill. But the Forum dismissed the petition.

The above premises was occupied by the appellant on 01-07-2018 following an agreement executed between the appellant and the building owner and started functioning of the shop by name, "Vallooran's Vadaka Kendram" only on 17-08-2018. The appellant produced the copy of the lease agreement and printed notice intimating the inauguration of the shop.

The additional bill from 08/2017 to 10/2017 were issued to the appellant and during that period the shops were in closed stage. Billing for 87 units and 86 units were done from 6/2017 and 8/2017 and in 10/2017 billing was done for 86 units alleging the meter was faulty. There is no provision to issue excess bill for the period by assuming consumption in the new meter. The contentions of the appellant are:

- 1) It is illegal to revise the bill for 8/2017 after a long period stating the readings were not available in 6/2017 and 8/2017.
- 2) Billing is done in 10/2017 on average basis stating meter is faulty. As per Regulation 114 of Kerala Electricity Supply Code, 2014 the meter was not tested and billing was done only on assumption, for which KSEBL has no powers.
- 3) Even the meter was faulty in the said period, the bills in the faulty period were to be issued as per Regulation 125 of Supply Code. As per the Regulations, if the meter is faulty, the bills are to be issued taking the average of the previous consumption for 3 bills. The previous consumption for 12/2016 – 137 units, 02/2017 – 66 units and 04/2017 – 58 units. Hence the billing done for 86 units for 08/2017 to 10/2017 was legally correct.

The request of the appellant is to cancel the reassessed bill for Rs. 3,462/- as it is legally unsustainable.

Arguments of the respondent:

The service connection is registered in favor of Sri. George Antony, Edassery (H), Karukutty. P.O and the short assessment bill causing this litigation was issued in favour of the registered consumer but only served to the premises (present occupier of the premises).

Prior to this occupier the premises was occupied and used electricity combined together by two parties on rent basis. Viz a two-wheeler workshop and an upholstery work. After stopping the upholstery shop the same room was functioned as a fish shop.

During the meter faulty period the consumer premises were two-wheeler workshop and fish shop. Later separate service connection was effected to two wheeler workshop. Since the occupiers of the premises was altered frequently KSEBL cannot be issued short assessment bill to the previous occupier as per Regulation 134 (1) of Kerala Electricity Supply Code 2014. It can be issued only to the registered consumer through present occupier.

It is submitted that the sluggishness of meter was suspected from the bi monthly readings during 2/2017 to 4/2017 since an abnormality in the consumption of the consumer was noticed during the reading on 2/2017 and 4/2017. The reading on 15.6.2017 was same as that of 4/2017. Accordingly, an average billing for 87 unit and 86 unit respectively was done for the month of 6/2017 and 8/2017 by taking previous readings on 12/2016, 2/2017 and

4/2017. Since readings on 13.10.2017 was also same as that of 8/2017 and confirmed that the meter is fully dead (No display) and declared as faulty and charged for previous average 86 unit. Hence meter changed on 26.10.2017.

Next reading taken on 12.12.2017 and billed for 181 unit only since no healthy average cannot be taken with part reading. As per the regulation 125 (1) of Kerala Electricity Supply Code 2014 in the case of defective or damaged meter, the consumer shall be billed on the basis of average consumption of the past three billing cycles immediately preceding the date of the meter being found or reported defective.

Provided that, the average shall be computed from the three 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.

(2) Charges based on the average consumption as computed above shall be levied only for a maximum period of two billing cycles during which time the licensee shall replace the defective or damaged meter with a correct meter.

In this case the previous average taken for preparing bill for meter faulty period which are confirmed later was not healthy average, the licensee have every right to re assess and issue short assessment bill based on the healthy average confirmed after meter changing with correct meter as per the regulation 125 (1) of Kerala Electricity Supply Code 2014. In this case testing of meter as per the regulation 114 of Kerala Electricity Supply Code 2014 is not necessary since the meter is confirmed as faulty (No display).

The KSEBL has every right to issue the short assessment bill since the average bill issued for the said bill was under charged, hence a short-assessed bill amounting Rs. 3462/- (Rupees Three thousand Four hundred and Sixty-Two only) for the period from 8/17 to 10/17 was served to the consumer on 21-3-2019.

It is submitted that the revenue loss due to wrong assignment of average bill is to be recovered from the consumer and law permits the licensee to recover the undercharged amount.

Regulation 134 (1) of Kerala Electricity Supply Code 2014 provides that 'If the licensee establishes either by review or otherwise, that it has undercharged the consumer, the licensee may recover the amount so undercharged from the consumer by issuing a bill and in such cases at least thirty days shall be given to the consumer for making payment of the bill.

The short assessment bills legally due to Kerala State Electricity Board Limited and the consumer is bound to pay the amount due to Kerala State Electricity Board Limited for the electricity charges used by it. Hence the demand is legally correct.

Analysis and Findings

The hearing of the case was conducted on 28-01-2020, in the office of the State Electricity Ombudsman, Edappally, Kochi, and Sri Joy V.V., the appellant and the respondent by Sri. Ashrafudeen J, Assistant Executive Engineer, Angamaly Electrical Sub Division appeared for the hearing 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 contention of the appellant is that no inspection in the premises or any testing of the meter was done before declaring the meter as sluggish or faulty. According to the appellant, the billing done taking previous average of three billing cycles was legally correct as per regulation 125 of the Supply Code 2014. The appellant has submitted a notice for inauguration of his firm in the premises with effect from 17-08-2018, but could not be functioned as planned due to the flood in 2018.

On the other hand the respondent argued that average energy consumption was arrived at based on the healthy average consumption for three billing cycles for the billing months of 2/18, 4/18 and 6/18 after the meter replacement and a short assessment bill was issued accordingly.

The point to be decided in this case is as to whether the issuance of short assessment bill dated 21-03-2019 for Rs. 3462/- to the appellant after reassessing on the basis of average consumption of 312 units is in order or not?

On going through the records, it can be seen that the respondent has issued monthly bills based on the recorded consumption/average consumption and the appellant remitted the same without any fail. It is the responsibility of the respondent that he had to test the meter when the dip in consumption detected and confirmed the sluggishness if any.

A fault in the meter can lead to errors in measurement of power consumption. This error could result in a recording that is either more or less than the actual electricity consumption of the consumer. If the licensee/consumer suspects a fault in the meter, they should get it tested. If the meter is found defective, charges based on the average consumption of the past three billing cycles immediately preceding the date of meter being found or reported defective shall be levied only for a maximum period of two billing cycles during which time the licensee shall replace the defective or damaged meter.

In this case, the respondent suspected the meter as faulty and issued bills taking previous average. The respondent assumed that the meter is sluggish from the month of 02/2017 onwards. The appellant is bound to pay the electricity charges for his actual consumption.

The appellant has given evidence about the conditions of working and occupancy of concerned premises during the said period. There is no material to show that the respondent has conducted any detailed checking of the appellant's meter during the disputed period from 15-04-2017. A site inspection was not done and site mahazar not prepared by the respondent. The connected load and tariff assigned to a consumer cannot be considered for measurement of consumption during a previous suspected faulty meter period or dip in consumption since the consumption depends on various aspects like conditions of working and occupancy of concerned premises.

The energy meter of the appellant was changed on 26-10-2017. The bimonthly consumption in the new meter from 12/2017 to 06/2018 is 493 kwh , 245 kwh and 68 kwh respectively. But the respondent has taken the average 493 kwh, 245 kwh and 198 kwh for issuing the short assessment bill and hence the average calculated is not correct. The consumption of the appellant in continuation from 06/2018 is as follows.

08/2018 -130 kwh
10/2018 - 65 kwh
12/2018 - 78 kwh
02/2018 - 65 kwh

It is found that the appellant executed a rent agreement with building owner on 04-06-2018 and occupied the premises on 17-08-2018. The above consumption details shows that after occupation of the building by the appellant, the consumption of the appellant is comparatively low to the previous period pertains from 12/2017 to 06/2018. As such issuing a short assessment bill prepared on the succeeding months consumption is not proper.

The appellant was once billed taking the previous average consumption and further billing for the same period taking the succeeding consumption pattern is not admissible as per prevailing rules. In this background, the issuance of short assessment bill, after lapse of a long period, on the appellant merely on the basis of presumption and succeeding consumption pattern cannot be justified before law.

Decision

From the conclusions arrived at as detailed above, I decide to quash the short assessment bill amounting to Rs. 3462/- issued to the appellant.

Having concluded and decided as above it is ordered accordingly. The Appeal Petition filed by the appellant is allowed as ordered and stands disposed of as such. The order of CGRF in OP No. 23/2019-20 dated 21-11-2019 is set aside. No order on costs.

ELECTRICITY OMBUDSMAN

P/097/2019/_____ /Dated:_____

Delivered to:

1. Sri. V.V.Joy, Vallooran House, Karukutty P.O., Angamaly
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Angamaly, Ernakulam

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, CGRF-CR, 220 kV Substation Compound, KSE Board Limited, HMT Colony P.O., Kalamassery, PIN: 683 503.

