

STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO: P /223/2011.

(Present: T P Vivekanandan)

APPELLANT	: Sri. N. Vasavan, Santhi Nivas, Akhil Road, Konthuruthi P.O, Pin: 682013 Thevera, Kochi-13.
RESPONDENT	: The Assistant Executive Engineer, Electrical Sub Division, College, KSEB, Ernakulam.

ORDER.

Background of the case: -

The appellant is a domestic consumer of electricity with connection No.486 under Electrical section, Thevera. The electric meter in the premises of the consumer was alleged to be not working properly, resulting abnormal reading during the period 3/08 to 1/09. The appellant was issued a bill dated 16-1-2009, for a consumption of 500 units as average, amounting to Rs.2089/- for 1/09. While making the payment of the said bill, the amount was further amended to Rs.2138/- and the same was paid by the appellant on 22/1/2009. The petitioner had filed a representation on 16/1/09 requesting to revise the bill dated 16/1/09 in accordance with the previous consumption and to replace the defective meter. It is alleged that a team of three persons led by the Sub Engineer trespassed into his house on 10/1/09 and inspected the electric meter and electric points/appliances in his house. A mahasar dated 19/1/09 was handed over to the appellant stating no foul play in the meter and replaced the defective meter with a new one. Later another mahassar was issued with the same date 19/1/09 with a malafide intention stating that the meter cover was broken and meter displaced, but the Meter seals were intact. The next bill dated 17/3/09 issued for the period from 16/1/09 to 16/3/09 was showed a consumption of 274 units. But in the bill an amount of Rs.569/- was shown as arrears being the cost of new meter. The appellant took the matter before the Assistant Engineer, Thevera, requesting to review and adjust the amount charged, as the highest consumption was recorded, during the period from 1/08 to 7/08, was due to the defective meter only. The same was rejected on 31/3/2010. Consequent to this, a complaint was made before the CGRF, Ernakulam on 21/10/2010. The Forum has disposed of the complaint by reckoning 404 units (bi-monthly) as the true average consumption, based on the bills of defective meter or its malfunctioning, and further restricted the revision of bills for the months of 11/08 and 1/09 only vide Order No.CGRF-CR/Comp 61/2010-11 dt. 21/3/11. Aggrieved by the said order, the Appellant has filed the Appeal Petition, before this Authority.

Arguments of the Appellant: -

The appellant is the consumer No 486-8 of Thevera Section. The bill of 1/09 was given for 500 units amounting to Rs 2089/-, though the reading was only 3 units for that period of 2 months. But while making the payment on 22.1.09, the bill was raised to Rs 2138/-. Hence he placed a request to review the bill and replace the meter on 16.1.09. The officials visited the house on 19.1.2009. They inspected the meter and prepared a mahazar at 17.20 Hrs and latter issued another copy of mahazar at 17.44 Hrs. The second mahazar was prepared with malafide intentions. In this mahazar, it is stated that while

replacing the old meter it came to light that the Meter cover was broken and was in a detached condition. It is also stated that the seals of meter were intact but the meter was dislocated.

The appellant has adduced the following arguments in his petition dated 26/5/2011, filed before this Authority. He submits that the average consumption of electricity in his house was 300 units for every two months prior to 16/1/2008. But due to malfunctioning of the meter, the consumption was on higher side and was 510 units in 3/08, was 560 units in 5/08 and was 450 units in 7/08. Thereafter the same meter recorded low readings of 203 units in 9/08, 46 units in 11/08 and 3 units in 1/09. But KSEB charged for 500 units for the month of 1/09 without any basis.

Because of the above bill, an application dated 16/1/09 was given to Assistant Engineer, Thevera, to revise the bill and replace the meter. The meter was replaced on 19/1/09 but charged Rs. 569/- as cost of meter through the next regular bill of 3/09 and he paid the amount under threat of disconnection. Consequent to the replacement of the meter, the energy readings recorded were 274 units in 3/09, 314 units in 5/09 and 269 units in 7/09, which works out to an average of 286 units for every two months. Therefore, an application dated 14/12/09 was given to A.E. to review the previous reading and adjust the excess and less amount charged from 3/08 to 16/1/09. This was rejected by AE on 31/3/10. Hence he filed Petition before the CGRF, Ernakulam on 21.10.2010.

The appellant argues that the highest consumption ever recorded was during the period of 3/08, 5/08 and 7/08, which was 510 units, 560 units and 450 units respectively. This was only due to the defective meter or its malfunctioning, as has been evidenced subsequently from the low readings recorded from the same meter in 11/08 (46 units) and in 1/09 (3 units) and thereafter the meter had stopped functioning.

The appellant submits that the finding of the CGRF, reckoning 404 units as the average of preceding six months is unsustainable because the meter has ceased its function only during 1/09. In that case, the previous six months reading to be reckoned is from 7/08 onwards, and this works out to be an average of 233 units for two months period. He further argues that the decision of the Forum taking 404 units as the bi-monthly average for the defective period of the meter and restricted the revision to 11/08 and 1/09 only, instead of from 3/08 to 1/09 is highly illegal. According to the appellant, the Forum has not fully applied the provisions in Regulation 33(2) of KSEB T&C of Supply, 2005, which reads "If the average consumption for the previous six months cannot be taken due to 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." So the consumption may be fixed on the basis of the meter reading of the succeeding three months after replacement of the meter and that will come to 147 units per month. The appellant has also requested to issue orders to adjust the bills from 3/08 to 1/09 accordingly which according to him is just and reasonable in the circumstances of the case.

Finally, the appellant submits that he had already given an application for the revision of the connected load on 22/1/09 and as the actual position is not available, interest if any, may be dispensed with.

Relief sought: - 1) To order KSEB to revise the bills from 3/08 to 1/09 and readjust the amount as per clause 33(2) of T & C of Supply, 2005.

2) Refund the amount of Rs 569/- collected by KSEB towards cost of Meter.

3) To regularize the additional load for which papers were submitted on 22.1.2009.

Arguments of the Respondent: -

The respondent denies all the averments and allegations contained in the petition except to the extent he has specifically admitted in his written statement.

The respondent argues that the average bimonthly consumption prior to 16/1/2008 was 326 units and the energy meter installed at the consumer's premises was working properly up to 7/08. The energy meter became sluggish from 7/08 onwards and it was confirmed that the meter was faulty in 1/09 and subsequently the faulty meter was replaced on 19/1/09. The complainant was charged for an average of

500 units during the meter faulty period, taking the previous six months consumption (meter healthy period) as per Regulation 33(2) of Terms and Conditions of Supply 2005.

The respondent further challenges the contention of the appellant that the highest consumption recorded for the period from 3/08 (510units), 5/08(560units), and 7/08(450units), were due to defective working or malfunctioning of the meter. He argues that if the consumption recorded during the above period was due to malfunctioning of the meter, the consumer might have lodged the complaint against it and the meter could have been checked to his satisfaction by the Board or by the Electrical Inspector. But he did not raise any objection on the bills issued to him in the above period because of the proper working of the meter and bills issued were for the average energy consumed by him only. Further they argues that the appellant had not raised any complaint about the malfunctioning of the meter when he was charged for 203 units in 9/08 and 46 units in 11/08, during the meter sluggish period. As the Energy meter was found defective from 7/08 to 1/09, the consumer has to be charged for the said period as per the true average consumption, based on the average of the previous six months. But the appellant was charged an average of 500 units in 1/09 only and shall be assessed for the remaining months of meter faulty period so as to make good the loss of current charges to the Board due to Meter's fault. Further the arguments of the appellant is not acceptable for taking into account the meter sluggish period 9/08 to 11/08 (recorded only 46 and 3 units of consumption) for reckoning the 6 months healthy period of meter for assessing the average, since it is the ever lowest consumption recorded for the last five years prior to 11/2008. It is clear from the above recorded consumption of 11/08, that the meter has already became defective and immediately ceased to function after recording consumption of 3 units. The respondent also submits that even after the replacement of the defective meter, the appellants' bimonthly energy consumption never falls below 200 units.

Regarding the matter of the connected load, the respondent has reported that, the issue has been settled by regularizing the connected load in 9/09.

Analysis and Findings: -

On examining the Petition and argument notes filed by the Appellant, the statement of facts of the Respondent, perusing all the documents and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions thereof.

The main dispute is the period of defectiveness or malfunctioning of the energy meter provided to the consumer. According to the appellant the malfunctioning of the meter commenced from 16/1/2008 onwards and he lists the following bills for checking;

1. Bill No 5541077506 dt. 17/3/08 for 510 units
2. „ 5541015089 dt. 16/5/08 for 560 units
3. „ 55410193641 dt. 16/7/08 for 450 units

To prove this statement, the appellant has produced the copies of the previous bills and copies of the bills issued after replacement of the faulty meter. On perusing the meter readings, it is noticed that, during the period of 3/04 to 11/08, the highest reading recorded for a bi-month was 348 units. Now, with respect to the undisputed period just prior to meter becoming faulty and after its replacement in 1/09, it is noted that the bimonthly average consumption for the period 5/07 to 1/08 was 327 units and for the period of 1/09 to 7/09, the average usage was 286 units. His argument that the reduction in energy consumption was due to replacing of tube/bulbs with CFL as well as adopting strict control, can be considered. The respondent has challenged this contention of the appellant as he did not raise any objection on the bills issued to him for the period from 16/1/08 to 16/7/08, when the actual energy consumption as per the reading was above 500 units per bi-month. This argument cannot be accepted as a sufficient reason to prove the meter was not defective during the said period. The consumption pattern of the whole period shows that his average consumption never exceeded 350 units per bi-month. Considering all these aspects, I hold the view that the meter became defective from 1/08

onwards and it is only proper to take previous six months meter reading prior to 1/08, as the correct solution of the grievance of the appellant.

It is seen that the mahazar prepared on 19.1.2009, (stated to be as the 2nd mahazar by the appellant), clearly mention that the meter cover is seen broken and in a displaced condition, but the seals of the meter are intact and the consumer is bound to pay the cost of the meter damaged at his premises. It is also seen from the document produced before me, that the AE has issued a letter dated 23.3.09 intimating the consumer, that he has failed to keep the Meter provided to his house in a safe and secured manner and has caused damage to the meter and hence is liable to pay the costs. No averment is put against the said allegation by the appellant. He has paid the amount also. The consumer has not raised any serious argument for the refund of meter cost before this Forum.

Since the appellant's connected load has already been regularized in 9/09, no disputes exists in this matter.

DECISION: -

From the analysis done and the conclusions arrived at as detailed above, I am of the opinion that the Meter was erratically functioning during the period 1/08 onwards and hence needs revision of the bills issued from 3/08 to 1/09. The true average energy consumption during this period shall be assessed based on the consumption of the previous 3 bi-months (6 months) of the period 7/07 to 1/08. That is the true average consumption shall be $(309+345+324)/3=326$ units per bi-month, during the period 3/08 to 01/09 i.e. till the meter was replaced. The respondent shall revise the bi-monthly bill of the said period accordingly and the excess amount, if any, shall be adjusted in the consumer's future bills. The excess amount arrived at, as per this order, shall also be communicated to the consumer with details within 45 days of this order.

The refund of Meter cost is disallowed as the respondent has prepared a mahazar regarding the breakage of Meter cover and given notice to the consumer intimating the meter's damage and asking to make payment. Further the appellant has failed to put forward any serious contentions against the same notice of AE before this Forum, and therefore I feel that the amount is payable by the consumer for not securing the Meter provided to his house.

The connected load of consumer is noted as regularized by the Respondent.

Having decided as above, the Appeal Petition filed by the consumer Sri N Vasavan, stands disposed of, and it is ordered accordingly. No order on costs. Dated the 2nd of March, 2012,

ELECTRICITY OMBUDSMAN.

NO: P /223 /2011/ 1141/ Dated 02.03.2012.

Forwarded to: - 1). Sri. N. Vasavan, SanthiNivas, Akhil Road, Konthuruthi P.O.,
Thevera, Kochi-13.
2) The Assistant Executive Engineer
Electrical Sub Division, KSEB, College, Ernakulam.

Copy to: - 1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam,
Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSEB, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4
3. The Chairperson, Consumer Grievance Redressal Forum, KSEB, Power House Bldg,
Ernakulam- 682018.