

F1 KERALA STATE ELECTRICITY BOARD

ORDER OF THE CONSUMER GRIEVANCE REDRESSAL FORUM,
CENTRAL REGION, ERNAKULAM, Website : cgrf.kseb.in, Email : cgrf.ekm@gmail.com
Phone:0484-2394288, CUG No. 9496008719

Present

(1) Shri. C. P. George
(2) Shri. Silvester Peter P
(3) Shri. Jefrin Manuel

Chairperson
Member
Member

Petitioner

Sri. K A Anoob
I-World Computers
Opp. Milma Dairy
Koonamthai
Edappally-682024

Respondent

- 1) The Asst. Executive Engineer,
Electrical Sub Division, KSEB,
Kalamaserry
- 2) The Asst. Engineer,
Electrical Section, KSEB,
Thevakkal

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No.CGRF-CR/Comp. 106/2013-14

Date: 30/12/2013

ORDER**Background of the case**

The petitioner, Sri. K A Anoob is a commercial consumer with Con.No. 7527 under Electrical Section Thevakkal. On 05/09/2013, he was issued with a short assessment bill for meter faulty period from 03/2009 to 07/2009 & 09/2010 to 07/2012 and amounting Rs.31,961/-. Aggrieved petitioner approached the officials of the respondent before approaching this Forum on 12/09/2013.

Subsequently, statement of facts was called for and the same was submitted by the respondent on 08/10/2013. The Forum afforded an opportunity to hear both the parties. A hearing was conducted on 12/12/2013 and both the parties were present for the same.

Argument of the Petitioner:

The petitioner stated that he had taken over the premises with Consumer No:7527 on rental basis in 11/2011 for running his computer business but started its functioning only in January 2013. Before his occupancy the building was occupied by another person for running a godown with an average

consumption less than 200 units bimonthly. After petitioner started his business the meter was reported as faulty by the respondent's officials and bills were issued for average consumption of 200 units. Later the meter was replaced as per petitioner's request. But on 05/09/2013, the respondent issued an additional bill amounting Rs.31,961/- stating it as short assessment for meter faulty period based on petitioner's consumption after change of meter. Petitioner submitted that his consumption was increased with the installation of air conditioner in 08/2013. Hence it is unfair to back assess for 2 years based on the post average. Also the period of assessment included the period during which the premise was unused. Petitioner's consumption was increased with the installation of air conditioner in 08/2013. Petitioner prayed before the Forum to cancel the short assessment in consideration with the above mentioned situation.

The Respondent's Version:

The respondent stated that petitioner's energy meter was faulty with effect from 09/07 to 07/2009. The bimonthly bills for the above period were issued with average bimonthly consumption of 100 units. The meter got replaced on 17/08/09. Petitioner's bimonthly average consumption after change of meter came to 402 units. It shows that the consumer was undercharged during the period from 09/07 to 07/09.

Again the meter became sluggish from 09/10 onwards and was declared faulty with effect from 01/11 spot bill when it ceased to record consumption. The bimonthly bills for 01/11 and 07/11 were issued with system generated average bimonthly consumption of 200 units. This average was based on the meter sluggish period of 09/10 to 11/11 also. The meter got replaced on 20/07/12. After meter change petitioner has average consumption of 435 units bimonthly.

The shortfall in average billing during the above two occasions was reported by the audit wing during 06/2013. Accordingly a short assessment incorporating the two undercharged periods and amounting Rs.31,961/- was issued to the petitioner. The respondent submitted that the assessment made is in order and prayed to sustain the same.

Analysis and findings:

Having examined the petition in detail, the statement of facts of the respondent, considering all the facts and circumstances of the case, and perusing all the documents of both sides, the Forum comes to the following conclusions and decisions thereof.

The major aspects considered in evaluating the short assessment bill issued by the respondent:

1. Whether the method & logic used by the respondent in arriving at the conclusion that some portion of the energy has gone unrecorded is correct?
2. Whether the method and logic used by the respondent in determining the “period” of meter fault, to estimate the “average consumption” and for subsequent short assessment in the charges during the period of meter fault is the best available option?
3. Whether the procedure is acceptable as per the prevailing regulations?

According to Section 55 of IE Act; no licensee shall supply electricity, after 10/06/2005, except through installation of a correct meter in accordance with the regulations to be made in this behalf by the Authority (CEA).

According to Section 56(1) of IE Act; Licensee is empowered to disconnect supply in default of payment, Provided that the supply of electricity shall not be cut off if such person deposits, under protest, -

(a) an amount equal to the sum claimed from him, or

b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months, whichever is less, pending disposal of any dispute between him and the licensee

According to Clause 2(k) of CEA regulation (Installation & Operation of Meters); ‘Correct Meter’ means a meter, which shall at least have, features, Accuracy Class and specifications as per the standards on Installation and Operation of Meters given in Schedule of these Regulations;

According to Clause 6 (2) of CEA regulation (Installation & operations of meters); all consumer meters are owned by the licensee. Even if any consumer elects to purchase a meter, the purchased meter shall be tested, installed and sealed by the licensee.

According to Clause 10 of CEA regulation (Installation & Operation of Meters); the operation, testing and maintenance of all types of meters shall be carried out by Licensee

According to Clause 14(2) of CEA regulation (Installation & Operation of Meters); It shall be the responsibility of the licensee to record the metered data, maintain database of all the information associated with the consumer meters and verify the correctness of metered data.

According to Clause 15(2) of CEA regulation (Installation & operations of meters); when consumer reports to the licensee about consumer

meter readings not commensurate with his consumption of electricity, stoppage of meter, damage to the seal, burning or damage of the meter, the licensee shall take necessary steps as per the procedures given in the Electricity Supply Code of the Appropriate Commission read with the notified conditions of supply of electricity.

According to Clause 18(2) of CEA regulation (Installation & operations of meters; Testing of consumer meters shall be done at site at least once in five years. The licensee may instead of testing the meter at site can remove the meter and replace the same by a tested 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 the previous years or if there is consumer's complaint pertaining to a meter. The standard reference meter of better accuracy class than the meter under test shall be used for site testing of consumer meters up to 650 volts.

According to Clause 18(1)(a) of Supply Code and 31(1) of Terms & Conditions of Supply, Board is empowered to recover from the consumer, the charges for electricity supplied based on approved tariff in force.

According to 19(2) of Supply Code and 33(2) of Terms and Conditions of Supply, if the Board is unable to raise a bill on meter reading due to its no recording or malfunctioning, the Board shall issue a bill based on the previous six months average consumption. In such cases the meter shall be replaced within one month.

According to Clause 24(5) of KSERC Supply Code; If the Licensee establishes that it has undercharged the consumer either by review or otherwise, the Licensee may recover the amount undercharged from the consumer by issuing a bill and in such cases at least 30 days shall be given for the consumer to make payment against the bill. While issuing the bill, the Licensee shall specify the amount to be recovered as a separate item in the subsequent bill or as a separate bill with an explanation on this account.

According to clause 42(3) of KSEB Terms and Conditions of Supply; the consumer may report any complaint regarding meter to the concerned Electrical Section. The inspection of the meter will be carried out using the standard reference meter (Single Phase/Three Phase) available in the Section office which is tested, calibrated and sealed by the Electrical Inspectorate. If meter is found faulty such meters shall be replaced immediately at the expense of the Board. If the existing meter after having found faulty is replaced with a new one, the consumption recorded during the period in which the meter was

faulty shall be reassessed based on the average consumption for the previous six months prior to replacement of meter. If the average consumption for the previous six months 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 six months after replacement of meter and excess claimed if any, shall be adjusted in the future current charge bills.

The major points are

- The billing should be based on actual electrical parameters and quantum of electricity supplied, measured with a “correct meter”.
- The licensee is responsible for maintaining the meter and verifying the correctness of metered data through appropriate evaluation and testing. The licensee is empowered accordingly by the prevailing statutes.
- A “correct meter” installed in a premise of a consumer shall remain “correct” for a period of 5 years unless it is proved “incorrect” by a test based on the dispute by the consumer or according to the study conducted by the licensee himself on the drastic changes in consumption pattern.
- According to Sections 55 & 56 of the IE Act read with CEA regulation (Installation & Operation of Meters) and supply code; the previous six months averaging is meant to ensure the cash flow of the licensee in cases where licensee is unable to raise a bill on meter reading due to its no recording or malfunctioning. Subsequently the “incorrect” meter may be tested, reliable data from the meter may be extracted and further investigation may be done to estimate the actual consumption of the period of averaging to the best possible accuracy. The incorrect meter to be replaced with a correct meter within a month. In any case, **there is no reason to reassess the consumer with the successive average of the replaced meter when the previous six month average is available.**
- Clause 24(5) of the Supply Code & 37(5) of the Terms & Conditions of supply is applicable in cases where the consumer is under charged, but the actual consumption should be established with the data from a “correct meter” or through proper technology and documentation in tune with the prevailing regulations.
- Supply of electricity without correct meter is violation of Section 55 of IE Act and the right of the licensee to reassess the consumption needs to be evaluated accordingly.

The energy meter data and billing data of the consumer for the period of disputed short assessment is given below

Date	IR	FR	Metered	Billed	Observation	
26-5-07	1330	1330	0	100	MF & Av. bill	
30-7-07	1330	1330	0	100	MF & Av. bill	
29-9-07	1330	1330	0	100	MF & Av. bill	
27-11-07	1330	1330	0	100	MF & Av. bill	
29-1-08	1330	1330	0	100	MF & Av. bill	
27-3-08	1330	1330	0	100	MF & Av. bill	
26-5-08	1330	1330	0	100	MF & Av. bill	
27-7-08	1330	1330	0	100	MF & Av. bill	
23-9-08	1330	1330	0	100	MF & Av. bill	
24-11-08	1330	1330	0	100	MF & Av. bill	
28-1-09	1330	1330	0	100	MF & Av. bill	
28-3-09	1330	1330	0	100	MF & Av. bill	<i>Period of short assessment-1</i>
27-5-09	1330	1330	0	100	MF & Av. bill	
25-7-09	1330	1330	0	100	MF & Av. bill	
17-8-09	1330	1330	0	37	MF & Av. Units	
26-9-09	3	206	203	203	MC & metered bill	
28-11-09	206	644	438	438	Metered bill	
21-1-10	644	973	329	329	Metered bill	
18-3-10	973	1432	459	459	Metered bill	<i>Average: 435 units</i>
20-5-10	1432	1944	512	512	Metered bill	
23-7-10	1944	2277	333	333	Metered bill	
18-9-10	2277	2460	183	183	Metered bill	<i>Period of Short Assessment-2</i>
20-11-10	2460	2492	32	32	Metered bill	
19-1-11	2492	2492	0	200	MF & Av. bill	
22-3-11	2492	2492	0	200	MF & Av. bill	
19-5-11	2492	2492	0	193	MF & Av. bill	
14-7-11	2492	2492	0	200	MF & Av. bill	
15-9-11	2492	2492	0	200	MF & Av. bill	
15-11-11	2492	2492	0	200	MF & Av. bill	
11-1-12	2492	2492	0	200	MF & Av. bill	
14-3-12	2492	2492	0	200	MF & Av. bill	
11-5-12	2492	2492	0	200	MF & Av. bill	
12-7-12	2492	2492	0	200	MF & Av. bill	
20-7-12	2492	2492	0	23	MF & Av. Units	
18-9-12	0	243	243	243	MC & metered bill	

The consumer number 7512 of Electrical Section Thevakkal was back assessed for two periods-

1. Bills for the month of 3, 5 & 7/2009 for Rs.6434/- &
2. Bills for the month from 9/2010 to 07/2012 (12 bills) for Rs.25523/-

As per the data furnished by the respondent, the consumer meter was faulty even before 5/2007 and had been billed with an average consumption of 100 units, bimonthly. Based on the RAO audit report, the bimonthly bill for the month of 3, 5 & 7/2009 was reassessed with the 3 months average consumption of the new meter replaced on 17/08/2009. Estimating consumption during the faulty meter period of the previous meter based on the recorded data of the replaced new meter is allowed only when there is no recorded data of earlier consumption by the consumer. Here the consumer had been billed at an average consumption of 100 units based on earlier consumption records and no reason was furnished by the respondent to reassess the consumption based on the consumption data of new meter. As per the prevailing statutes, respondent is responsible to maintain the correct meter and supply electricity through a correct meter. As such action of the respondent does not have any regulatory basis or convincing reasons out of changes in actual site conditions. Thus **the short assessment of the bills for the month of 3, 5 & 7/2009 is invalid.**

The short assessment of the bimonthly bills from 9/2010 to 07/2012 was issued after revising the previous estimated average consumption of 200 units to 435 units and revising the period of energy meter fault from 1/2011 to 9/2010. Actually the average consumption of 200 units was estimated based consumption recorded in the bimonthly bills of 11/2010 (32 units) & 9/2010 (183 units) which should have been avoided during the estimation of the average consumption as the recorded consumption pattern changed drastically from the earlier months and become dead during the period of bimonthly bill for 11/2010 . Hence the presumption that the meter was incorrect during these months is found genuine. According to Clause 14(2) of CEA regulation (Installation & Operation of Meters) read with Clause 24(5) of the Supply code; it shall be the responsibility of the licensee to record the metered data, maintain database of all the information associated with the consumer meters and verify the correctness of metered data and do the follow up action. Thus the revised estimation of average consumption (435 units based on the consumption of the previous six month consumption, namely in the bimonthly bills of 3, 5 & 7/2010) is actually a correction of the mistake in the estimation of the average consumption and hence is in tune with the statutes in force. Even though the complainant occupied the premise only by November 2011, the electricity dues are governed by statutes in power sector read with the agreement between respondent and the registered consumer, irrespective of the agreement between tenant and building owner. Thus **the short assessment for the month from 9/2010 to 07/2012 (12 bills) is valid.**

DECISION:

- The short assessment of the bills for the month of 3, 5 & 7/2009 is invalid.
- The short assessment for the month from 9/2010 to 07/2012 (12 bills) is valid.
- The bill dated 05/09/2013 for Rs.31961/- is cancelled and a revised bill is to be issued accordingly within a month.
- Up to 12 monthly Installment (with interest @ bank rate) is to be allowed on request.

The petitioner is at liberty to file appeal before the Electricity Ombudsman, (Pallikkavil Building, Mamangalam Anjumana Road, Opp. Kochi Corporation Regional Office, Edappally, Cochin - 24) within 30 days of receipt of this order, if the petitioner is not satisfied with this decision.

The petition is disposed as above.

Dated this 30th day of December 2013

Sd/-

- 1) Sri. C. P. George
(CHAIRPERSON)

Sd/-

- 2) Sri. Silvester Peter P.
2nd Member

Sd/-

- 3) Sri. Jefrin Manuel
3rd member

Endt. On CGRF-CR/Comp. 106/13-14

Sri. K A Anoob
I-World Computers
Opp. Milma Dairy
Koonamthai
Edappally-682024

Copy Submitted to: The Chief Engineer, Distribution Central, KSEB, Gandhi Square, DH Road, Kochi -16.

Copy to: -

- (1) The Deputy Chief Engineer, Electrical Circle, KSEB
Perumbavoor
- (2) The Executive Engineer, Electrical Division, KSEB,
Aluva
- (3) The Asst. Executive Engineer, ESD, Kalamaserry
- (4) The Asst. Engineer, Electrical Section, Thevakkal

Sd/-
CHAIRPERSON

CGRF-CR/Comp. 106 /2013-14

Petitioner's Exhibits

P1 : Copy of bill dated 05/09/13

P2 : Copy of rental agreement dated 02/11/11

P3 : Copy of license from local body dated 30/11/11

Respondent's Exhibits

R1 : Extract of meter reading register from 06/05/07 to 20/07/12

R2 : Bill payment history from 06/09 to 11/13

R3 : KSEB circulars dated 21/03/13 and 31/10/07

R4 : Copies of orders of Hon'ble High Court in
WP© 34768/2011 and WP© 90/2008

Verified

Senior Assistant