

Before the Ombudsman
KPFC BHAVAN, C.V.Raman Pillai Road , Vellayambalam,
Thiruvananthapuram-695 010.

Order Dated. 1st June 2007.

Present: M.Sivathanu Pillai, Ombudsman-in Charge.

Appeal petition No 8 of 2007.

Order. No.CGRF/DCE/COMP/DOP(R)/1/2006-07/235 dated 05-03-2007
of CGRF, Kozhikode.

Sri.Joe I Mangaly,
Managing Partner,
Mangaly Timber & Furniture Works,
(PET Bottle Division),
B.O.C.College By Pass Road,
Palakkad-14.

Appellant

Vs

Assistant Executive Engineer
Electrical Sub Division, KSEB,
Kalpathy,Palakkad.

Respondent

Date of hearing. 31st May 2007.

Appellant is a consumer of Kerala State Electricity Board (herein after called Board). Board has served a short assessment invoice in December 2005.The appeal is against the order of CGRF on the petition filed by the appellant.

The issues raised by the appellant are as follows:

1. Short assessment in the case of power consumption for six months from 11/05 when open phase in LT was detected in 11/05, is not correct as there is no provision in any law or rule.
2. Compensation for double metering of lighting consumption limiting to 6 months is arbitrary and has no basis and should be from 01-09-1999.

Hearing the case was posted on 22nd May 2007 . Counsel for respondent wanted some more time to study the appeal. Hence, hearing was postponed to 31st may 2007 and heard on that day.

Respondent has stated as follows :

1. The energy meter for measuring power consumption is an electronic meter with memory and has 40 days storage facility. This was not used for detecting open CT condition.

2. Open CT condition would have been noted by meter reader as all parameters including phase voltages are scrolled.
3. Assistant Executive Engineer of Board has disposed before CGRF that the reason for taking the short assessment period as 6 months in that the consumption recorded during the months 7/2005 to 11/2005 are less compared to the monthly consumption prior to 7/2005 and after 11/2005. This is misleading as the consumption after 11/2005 is not available in 11/2005.
4. The monthly consumption is not uniform. There is no logic or valid reason to give 6 months retrospective effect. Sudden fall in consumption has occurred even after replacement of C.T.
5. There is no provision either in Act 2003 or in Supply Code 2005 or in Board's Condition of Supply to give 6 months back effect except in the case of theft or misuse of energy.
6. On 17.12.05, it was noticed that the connection to the light meter is wrongly given by tapping it after the C.T. This was rectified in 29.12.05.
7. Wrong connection did not exist prior to 4/97 because in 4/97 lighting consumption is more than power consumption.
8. APTS who conducted a detailed inspection on 24.11.05 did not notice the wrong connection.
9. Lighting consumption meter was replaced on 9.2.98. Wrong connection would have happened at that time.
10. Clause 31 (c) of the old Conditions of Supply cannot be applied because the lighting consumption meter was not faulty.

During hearing , counsel for appellant further pointed out that whenever there is an abnormality, the energy meter displays the cause as a code. Further availability of supply from each phase in the meter is indicated by LEDs. Hence if one phase CT secondary circuit becomes open, then meter reader should have noted that the corresponding LED is not burning. This means that the CT connection was through at the time of taking meter readings. The break in CT connection has occurred only after the reading was taken by meter reader on 05-11-05. Also, the Assistant Engineer has disposed before the CGRF that no attempt for downloading the stored data was made because APTS did not insist for the same.

Counsel for respondent disposed that the issue comes under Section 126 of the Electricity Act 2003 and hence there is no appeal possible before the CGRF or Ombudsman.

Counsel for appellant replied that the site mahazar clearly states that the seals of the meter box and meter were intact at the time of inspection. Also, mahazar does not mention that there was any attempt of theft or misuse. Hence the issue does not attract the provisions of Section 126. Further Section 126 has not been quoted in the bill or letter from Assistant Engineer. Also the definition of unauthorized use given under Section 126 makes it clear that the subject does not attract Section 126. Counsel further made a reference to the judgment dated 31st January 2006 of Hon High Court where the Court has accepted the argument of the appellant that the issue does not come under Section 126.

Counsel for respondent argued that as per clause 21 and 22 of the Regulation on CGRF and Ombudsman published by Electricity Regulatory Commission, there is no appeal against the order of CGRF. Counsel further stated as the meter was not faulty, there is no need to test the same by Electrical Inspector.

Counsel for appellant disposed that as there was no issue regarding the accuracy or health of the meter there is no provision in the Act to give retrospective effect for six months.. Hence the assessment for six months is not legally valid. Only the consumption for the period from 01-11-05 to 26-11-05 can be reassessed.

No further points were offered from either side.

As pointed out by the appellant, the definition of unauthorized use of electricity given in Electricity Act 2003 cannot be applied in this case, because there is no misuse, theft or unauthorized connected load. **The stand taken by respondent is totally baseless and is rejected.**

Coming to whether any appeal can be filed with Ombudsman against the order of CGRF, regulation clearly specified that an appeal can be filed which should be in Form B. Appellant has filed the appeal in Form B. **Hence the stand taken by respondent is rejected.**

No argument against the grievance of the appellant was put forward by respondent. Hence nothing prevents the acceptance of the claim of the appellant.

As pointed out by appellant, Assistant Executive Engineer of Board has diasposed before CGRF that the reason for taking six month's average includes the fact that future consumption was also high. This statement makes it clear that the conclusion is imaginary and not acceptable. Also, the consumption from April 2004 to October 2005 reveals that the consumption in June 2005 is close to the highest recorded consumption. Also the consumption in May 2005 is very close to the average for November 2004 to April 2004. This leads to two points. One is that the CT connection has not broke open till June 2005. Further if CT circuit has opened in May 2005, the actual consumption in June 2005 should be 50% more than the recorded one and in this condition the CT secondary will develop very high voltage (under CT secondary open condition load current becomes magnetizing current) resulting in flashover and consequent damage to meter also. Also at such loads, other CT leads would have burned out which has not happened. Further consumption in 8/05 is almost same as that for 8/2004 and that for 9/2005 is close to that for 9/2004. All these facts lead to the conclusion that the CT circuit has not broken before October 2005. The fact that the data

available in the meter was not verified adds strength to this. Hence the claim of Board is not acceptable. This has to be withdrawn. **Claim should be limited to October and November 2005.**

Regarding double metering in the case of lighting load, no justification is seen for giving retrospective for six months only. Respondent has not given any argument supporting the stand of Board. Appellant has stated that Assistant Engineer has disposed before CGRF that the CTs were connected on 01-09-1999. There is no argument from the side of respondent challenging this. Hence this has to be accepted. **However, the claim is limited to 2 years instead of six months taken by Board on the basis of the fact that Licensee is limited by the provisions of Section 56.2 of the Act 2003 in the case of arrears.**

The appeal is disposed off as above.

Sd/-
Ombudsman

P8/2007.....Dated

Sri.Joe I Mangaly,
Managing Partner,
Mangaly Timber & Furniture Works,
(PET Bottle Division),
B.O.C.College By Pass Road,
Palakkad-14.

Assistant Executive Engineer
Electrical Sub Division, KSEB,
Kalpathy,Palakkad

The Chief Engineer(Electrical),
Distribution North,KSEB,
Vaidyuthi Bhavan,
Gandhi Road, Kozhikode.

Officer(Engg).