



# **TAMIL NADU ELECTRICITY OMBUDSMAN**

19- A, Rukmini Lakshmiipathy Salai, (Marshal Road),  
Egmore, Chennai – 600 008.

Phone : ++91-044-2841 1376 / 2841 1378/ 2841 1379 Fax : ++91-044-2841 1377  
Email : tnerc@nic.in Web site : www. tneo.gov.in

**BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI**

**Present : Thiru. A. Dharmaraj, Electricity Ombudsman**

**Appeal Petition No.6 of 2010**

Tmt. Sarojini,  
W/o P.C. Gopal,  
Pallipalayam Bhoomalur Post,  
Mangalam Via – 641 663.

.... Appellant

Vs.

1. The Executive Engineer /O&M /Urban,  
Somanur Division,  
Coimbatore EDC /South,  
TANGEDCO.
2. The Assistant Engineer,  
Samalapuram Section,  
Coimbatore EDC/South,  
TANGEDCO.

... Respondents

**Date of hearing : 20-9-2011**

**Date of order : 4-10-2011**

The above Appeal Petition No. 6 of 2010 came up for final hearing before the Electricity Ombudsman on 20-9-2011. Upon perusing the above petition and the connected records and after hearing both sides, the following order is passed by the Electricity Ombudsman:-

## **ORDER**

1. **Prayer of the Appellant in Appeal Petition No.6 of 2010:-**

The Petitioner Tmt. Sarojini W/o Thiru. P.C. Gopal, Pallipalayam has prayed to cancel the order of the Assistant Engineer/Samalapuram to pay Rs.2,06,979/- towards excess energy charges for the month of 12/2008 and 01/2009, for exceeding the monthly quota fixed for her LT CT SC No.278-003-1529 of Karugampalayam Distribution as the Consumer Grievance Redressal Forum (CGRF) of CBE/EDC/South has directed the consumer to file an appeal to the Ombudsman due to the fact that no consensus was arrived in the Forum. As per clause 7(8) of the Regulations for Consumer Grievance Redressal Forum and Electricity Ombudsman, 2004 the Electricity Ombudsman has to pass final order when there is an equality of votes in the proceedings to the forum.

2. **Facts of the case :-**

The Petitioner Tmt. Sarojini has obtained a LTCT Service No.278-003-1529 on 9-7-2008 for a sanctioned load of 125 HP+2 KW. The TNEB (now TANGEDCO) has issued R&C measures on 1-11-2008. As per the above order all categories of LTCT Industries are subjected to 20% energy cut on base consumption. The board has also issued guidelines to fix the energy quota for each industry. Revised guidelines were also issued on 17-11-2008 for fixing the energy quota for LTCT Industries for which service was effected after 1-4-2008. The energy quota fixed for the Petitioner's industry is 19200 units per month. The letter intimating the above energy quota was issued to the Petitioner industry

only on 21-1-2009. But based on the audit objections the Respondent has issued demand notice for payment of Rs.2,06,979/- on 11-09-2009 towards excess energy charges for exceeding the monthly energy quota for the month of 12/2008 and 1/2009 (i.e.) for the period falling before intimation of the energy quota. The Petitioner preferred a complaint before CGRF Coimbatore EDC/South against the above demand as the excess energy charges levied are for the period that falls before receipt of the letter intimating monthly energy quota fixed for her industry. In the CGRF meeting held on 22-2-2010, each of the members and chairman has different opinion on the above subject matter and hence it could not be decided by majority of votes.

As per regulations 7(8) of the Regulation for CGRF, the case may be referred to Ombudsman in case of equality of votes. Accordingly the CGRF has ordered the consumer to file an appeal with the Ombudsman within 30 days.

### **3.0 Contention of the Petitioner :**

The Petitioner stated the following: -

- a) When contacted the TNEB office, for fixation of energy quota it was informed that their service was effected only during 7/2008 and the energy quota will be fixed after knowing six months energy consumption.
- b) The letter fixing the energy quota as 19200 units per month for her Industry with effect from 11/2008 was issued on 21-1-2009.
- c) The guidelines for fixing energy quota for new LTCT services has been issued by the Board on 17-11-2008. Though the above

instructions are issued by the Board well in time, the order intimating the energy quota was issued to her only on 21-1-2009 (ie) after a lapse of 2 months from the date of Boards instructions.

- d) The energy quota fixed for her service was issued on 21-1-2009 but, excess energy charges of Rs.2,09,979, was demanded stating that the industry has exceeded the energy quota during 12/2008 and 01/2009.
- e) As quota was intimated on 21-1-2009, exceeding the quota during 12/2008 and 01/2009, does not arise.
- f) The Petitioner stated that due to the Respondents belated intimation of the quota, the consumption exceeded the quota and hence approached the CGRF for cancellation of the excess energy charges for exceeding the quota.
- g) As there is no consensus decision the CGRF of Coimbatore EDC/South has advised to appeal to the Electricity Ombudsman.

**4. Contentions of the Respondent :-**

In the counter filed by the Respondent the following has been stated:-

- i) The Petitioner having admitted in her petition that she is aware of the implementations of the R&C measures from 11/2008 ought to have restricted her consumption to the quota announced by TANGEDCO.

- ii) The Petitioner has admitted and paid the penal extra charges partly for the month of 01/2009.
- iii) The error or mistake in not levying the extra charges for violation of energy quota was pointed out by Board's audit Dept., and recommended for revision of bills during 12/2008 and 01/2009.
- iv) In the notice dated 21-1-2009, it has been mentioned that the quota is from the month of 12/2008.
- v) The lower CGRF has failed to appreciate that the demand is in consistent with regulation 12 of TNERC's Supply Code.
- vi) The lower CGRF failed to appreciate that the appellant has specifically agreed under clause 12 of Electricity Supply Agreement to pay any short levy due to clerical errors or inadvertent mistakes is computation of demand.
- vii) The demand of extra charges for quote violation is reasonable and actual revenue loss arises due to error of the Respondent / Licensee.

**5. Hearing held by Ombudsman :-**

A hearing was held by Ombudsman on 20-9-2011 in this regard to enable the parties to put forth their views:-

**6. Arguments of the Petitioner :-**

The Petitioner was represented by Thiru.P.C.Gopal. The Petitioner's representative has reiterated the contents of the petition. His argument is

that without knowing the quota, how can the consumption be restricted to a unknown value. He has also informed that after receipt of the intimation regarding their energy quota, they have not exceeded it. He has stated that the consumption is 120 units, 736 units, 8124 and 21700 units for 8/2008, 9/2009, 10/2008 and 11/2008 respectively.

Regarding the Petitioner statement that TNEB informed that the fixing of energy quota for the new industries will be done after knowing the consumption for a six months , the representative of Petitioner informed that the above was not said by AE or any officer of the Board but only information gathered from the TNEB's office.

**7. Arguments of the Respondent:-**

The Respondent was represented by Thiru.K.Venugopalan, JE/ Samalapuram.

He has also reiterated the points given in the counter. He has stated that in the 21-1-2009 order, it was stated that 20% energy cut was imposed from 1-11-.2008 and as per clause 12 of the Supply Code and clause 12 of the Electricity Supply agreement executed by the Petitioner, board is eligible to claim the short levy due to clerical errors or inadvertent mistakes in computation of demand. He has also accepted that it is the mistake on the part of the licensee in intimating the quota fixed belatedly. He has also confirmed that

except new LTCT services, all others LTCT services were issued with notice intimating the quota.

**8. Issue before the Ombudsman:-**

I have heard both sides, gone through their appeal, and counter affidavit, on a careful consideration of rival submissions and perusal of records, I find the following is the issue for consideration.

*“Whether, the Petitioner, industry can be levied extra energy charges for exceeding the energy quota for a period for which the energy quota was intimated to the industry after expiry of the said period”.*

**9. Findings of the Electricity Ombudsman:-**

On perusal of records, it is seen that the Board has issued guidelines for fixing the energy quota on 17-11-2008, but the officers of the Board have not intimated the energy quota fixed for the Petitioners industry in time.

They have intimated the monthly energy quota fixed on 21-1-2009 and claim excess energy charges for exceeding the energy quota for the period falling before 21-1-2009 also based on audit remarks.

Both the Petitioner and the Respondent have agreed that the notice fixing the monthly energy quota of the Petitioner industry was issued only on 21-1-2009. The Respondent has also agreed that it is a mistake on their part in intimating the quota belatedly.

However, the Respondent is arguing his case mainly based on the following two points for levy of extra energy charges for exceeding the quota during 12/2008 and 01/2009 even though intimation regarding the quota was issued on 21-1-2009.

- (i) The consumer is aware that R&C measures are implemented from 11/2008 (ie) 20% energy cut on base consumption for LT CT industries. Hence she ought to have restricted her consumption of energy to the quota announced by the TANGEDCO.
- (ii) As per Regulation 12 of Supply Code Error in billing and as per clause 12 of Electricity Supply agreement the licensee is having right to demand an additional amount in case of clerical errors or mistakes in the amount levied. Being a error, the licensee is entitled to claim the excess energy charges.

Regarding the first point, without knowing the energy quota, for the month, I don't think any consumer can restrict their consumption to an unknown value. The argument of the Appellant, had the energy quota been intimated during 11/2008 itself, she would not have exceeded the quota citing there is no violation after intimation of quota is a valid argument for consideration.

Further, the circular dated 17-11-2008 wherein the guidelines for arriving at the energy quota for new LT CT services issued is an internal circular meant for

the licensees' office and a consumer cannot be expected to know the contents to arrive at the quota for the industry. In this regard, it is to be pointed out that as per the licensee's (Chief Engineer - Commercial) instructions dated 1-11-2008, the Executive Engineer (O&M)s are instructed to fix the quota for the LTCT /LT industries and commercial consumers and intimate the same to them in the prescribed format. Accordingly, the concerned Executive Engineer (O & M) has immediately intimated the quota fixed to all LTCT services except the newly effected service connections. Hence, the Respondent has failed in his duty to intimate the quota in time to the Petitioner's industry and cannot claim extra charges for exceeding the quota for a back period.

Regarding the second point, the Clause 12 of the LT agreement referred by the Respondent is reproduced below:-

- a) *In the event of any clerical errors or mistakes in the amount levied, demanded or charged by the Licensee, the Licensee will have the right to demand an additional amount in case of undercharging and the consumer will have the right to get refund of the excess amount in the case of overcharging. The consumer have the right to set refund of the excess amount provided at that time such claims were not barred by limitation under the act.*

*The regulation 12 of the supply code (ie) error in billing referred by the Respondent also states the same.*

*The above clause deals with the error in billing (i.e) clerical errors or mistakes in the amount levied. The error in billing may be arithmetical one or may be due to not taking account of some details which may be available at that*

time but missed due to over-sight or inadvertently. The above Clause does not contemplate levy of penalty. In the instant case, the error is levying extra energy charges (Penal Charges) for the excess energy consumed for an earlier period based on the energy quota fixed and intimated at a later date. Hence, the above clause is not applicable to this case.

**Conclusion:-**

In view of the findings given in para 9, the licensee can claim excess energy charges for exceeding the monthly energy quota fixed from the Petitioner only from the date of intimation of Quota fixed for her industry (i.e.) from 21-1-2009 only and not from any back period.

With the above findings, A.P. No.6 of 2010 is finally disposed of by the Electricity Ombudsman with no costs.

Sd/-  
**(A.Dharmaraj)**  
Electricity Ombudsman

To

1. Tmt. Sarojini,  
W/o P.C. Gopal,  
Pallipalayam Bhoomalur Road,  
Mangalam Via – 641 663.
  
2. The Chairperson (Superintending Engineer)  
Consumer Grievance Redressal Forum  
Coimbatore Electricity Distribution Circle/South,  
Tatabad, Coimbatore – 12.

3. The Executive Engineer /O&M /Urban,  
Somanur Division,  
Coimbatore EDC /South,  
TANGEDCO.
4. The Chairman  
Tamil Nadu Electricity Board  
NPKRR Maligai,  
144, Anna salai,  
Chennai – 600 002.
5. The Secretary  
Tamil Nadu Electricity Regulatory Commission  
No.19A, Rukmini Lakshmi pathy Salai  
Egmore, Chennai – 600 008.
6. The Assistant Director (Computer)  
Tamil Nadu Electricity Regulatory Commission  
No.19A, Rukmini Lakshmi pathy Salai  
Egmore, Chennai – 600 008. - for hosting in the website.