



A consumer is the important visitor on our premises.
He is not dependent on us. We are dependent on him.
-Mahatma Gandhi

TAMIL NADU ELECTRICITY OMBUDSMAN

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Before The Tamil Nadu Electricity Ombudsman, Chennai

Present : Thiru. N.Kannan, Electricity Ombudsman

A.P.No. 57 of 2024

BY RPAD

Thiru E.Renex Benjamin,
No.27/61, Kalai illam,
1st Floor, 4th Cross Road,
Collectorate Colony, Aminjikai,
Chennai – 600 030.

..... Appellant
(Thiru E.Renex Benjamin)

Vs.

The Executive Engineer/O&M/Anna Nagar,
Chennai Electricity Distribution Circle/West,
TANGEDCO,
1100 A,H Block, 5th street, Ranganathan Garden,
Anna Nagar, Chennai-600 040.

.... Respondent
(Thiru S. Anbarasu, EE/O&M/ Anna Nagar)

Petition Received on: 31-07-2024

Date of hearing: 18-09-2024

Date of order: 30-09-2024

The Appeal Petition received on 31.07.2024, filed by Thiru E.Renex Benjamin, No.27/61, Kalai illam, 1st Floor, 4th Cross Road, Collectorate Colony, Aminjikai, Chennai – 600 030 was registered as Appeal Petition No. 57 of 2024. The above appeal petition came up for hearing before the Electricity Ombudsman on 18.09.2024. Upon perusing the Appeal Petition, Counter affidavit, written arguments and the oral submission made on the hearing date from both the parties, the Electricity Ombudsman passes the following order.

ORDER

1. Prayer of the Appellant:

The Appellant has prayed to revisit the order for computing Average for the defective period which is again to a high value and seek relief to this order for his SC No. 164-008-552.

2.0 Brief History of the case:

2.1 The Appellant has prayed to revise the average calculated amount in his SC No. 164-008-552 for the defective period.

2.2 The Respondent has stated that based on the request of the petitioner, the meter was sent to MRT which declares that the meter was defective from 10-02-2024 and the same was replaced on 22-05-2024.

2.3 Hence, the Appellant filed a petition with the CGRF of Chennai Electricity Distribution Circle/West on 22.04.2024.

2.4 The CGRF of Chennai Electricity Distribution Circle/West issued an order dated 29.05.2024 directs the Respondent to adopt average for the defective period from 10-02-2024 to 21-05-2024 in accordance with the regulations. Aggrieved over the order of the Respondent on computing average, the Appellant has filed this appeal petition before the Electricity Ombudsman.

3.0 Orders of the CGRF :

3.1 The CGRF of Chennai Electricity Distribution Circle/West issued its order on 29.05.2024. The relevant portion of the order is extracted below: -

“Order:

As per the above findings, the meter in service connection no.164-008-552 has been declared defective from 10.02.2024 by the MRT. Hence, the forum directs the Respondent to adopt average billing for the period from 10.02.2024 to 21.05.2024 in accordance with Regulation 11 of the TNE Supply Code, and to adjust the excess amount, if any, paid by the petitioner within 2 weeks from the date of receipt of this order.

A compliance report shall be submitted to the forum within 20 days from the date of receipt of this order.

With this, the petition is disposed of.”

4.0 Hearing held by the Electricity Ombudsman:

4.1 To enable the Appellant and the Respondent to put forth their arguments, a hearing was conducted on 18.09.2024 in person.

4.2 The Appellant Thiru E. Renex Benjamin attended the hearing and put forth his arguments.

4.3 The Respondent Thiru S. Anbarasu, EE/O&M/Anna Nagar, Chennai Electricity Distribution Circle/West attended the hearing and put forth his arguments.

4.4 As the Electricity Ombudsman is the appellate authority, only the prayers which were submitted before the CGRF are considered for issuing orders. Further, the prayer which requires relief under the Regulations for CGRF and Electricity Ombudsman, 2004 alone is discussed hereunder.

5.0 Arguments of the Appellant:

5.1 The Appellant has stated that his electric meter was running fast and its accounting and his billing amount was very high. However an order was passed as “On a plain reading of the above regulation, average billing has to be adopted when the meter fixed is found defective”. so kindly request to revisit the order for computing average for the defective period 10-02-2024 to 21-05-2024. As the amount billed during this defective period was very high and enormous and prayed to resolve excess amount paid during this defective period.

6.0 Arguments of the Respondent:

6.1 The Respondent has submitted that the premises at No.27/61, Kalai illam, 1st floor, 4th cross road, Collectorate colony, Aminjikarai, Chennai- 600 106 is owned

by Thiru. G. Bhaskar who had obtained the LT Sc No. 09-164-008-552, TF.IA to the above premises.

6.2 The Respondent has submitted that the petitioner is a tenant in the above premises and he is the enjoyer of the above LT service connection as noticed in the inspection. The petitioner has submitted the letter on 21.11.2023 stated that he is the tenant in the above premise and the current bill made for 11/2023 seems to be high and has requested to change the meter on inspection. Based on the request, the metering point & its meter were checked in presence of the petitioner on 15-12-2023 by A.Gnanaprakasam, Line Inspector of Arumbakkam section. During inspection, it was found that the meter in LT Sc No. 164-008-552 is working in good condition and the same was informed to the petitioner.

6.3 The Respondent has submitted that the petitioner has, again, submitted the letter dt.25.03.2024 in Arumbakkam, O&M section office stating the bill amount is getting on higher side and has requested to change the meter if discrepancy noticed.

6.4 The Respondent has submitted that based on his request, the metering point of the above service connection and the premises were inspected thoroughly by the Assistant Engineer / O&M / Arumbakkam on 29-03-2024 and again inspection was carried out by AEE/O&M/Arumbakkam on 10-04-2024. During inspection, no suspected malfunction is noticed on physical function.

6.5 The Respondent has submitted that after verification of the metering point on consecutive days, the meter was sent to MRT vide Lr.No. AEE/O&M/ARUMBAKKAM/ F.MRT/D.367/2024, dt. 22.04.2024 and the data of the meter were down loaded to analyse the meter performance at MRT lab in LT Sc No.164-008-552. It was also requested to furnish the analysis report on the above case.

6.6 The Respondent has submitted that the MRT wing has furnished the report vide Lr. No: AEE/MRT/M/AE/Lab/F. Meter/D.304/2024 dt.16/05/2024 declaring the

meter as defective from 10.02.2024. As per the declaration, the defective meter was replaced on 21/05/2024 by the healthy meter.

6.7 The Respondent has submitted that the petitioner has also filed the petition in CGRF/CEDC/West circle on 22-04-2024 through on line mode stating the billing amount is very high and requesting to replace the meter at the earliest time. The Respondent further submitted that the petitioner was informed through mail on 24.05.2024 stating that the existing meter was defective and the defective meter was replaced on 21-05-2024.

6.8 The Respondent has further submitted that the CGRF/West EDC has issued the order on 29.05.2024 on the petition filed on 22.04.2024 for the above subject matter. He further contended that the petitioner has paid the CC charges for 03/2024 & 05/2024 as per assessment. However, as per the CGRF order, the average billing was adopted and reassessed for 03/2024 & 05/2024 based on TNERC regulation No.11 since meter was found defective from 10.02.2024 to 20.05.2024. The working statement of average billing & deviated amount is furnished below.

AVERAGE BASE & ITS CALCULATION

Base period	Units consumed	Average Units	Regulation adopted
07/2023	520	1047	11(5) of TNERC
09/2023	527	2	
Total	1047	= 523 units	

Calculation of re assessment based on Average billing

Assessment month	Already collected		Re assessed --		Difference
	units	Amount	units	Amount	
03/2024	660	3290	523	2134	+1156
05/2024	410	1185	523	2134	-949
Total Amount		4475		4268	+ 207

6.9 The Respondent has submitted that during the preceding twelve months from defective period similar usage (working) condition is noticed in the base period of 07/2023 & 09/2023. The consumption is similar in the assessment month of 07/2023 & 09/2023. Hence, the average billing was adopted based on the consumption of 07/2023 & 09/2023 as per the regulation No. 11 (5) TNERC.

6.10 The Respondent has submitted that the regulation No.11(5) of TNERC stipulates to adopt average billing by taking any consecutive four months period during the preceding twelve months. He further submitted that the recorded MD & the reading taken on 31.08.2024 in LT Sc A/c No. 164.008.552 is given below.

KWH: 615.9
KVAH: 684.8
MD: 1.22 KW,

6.11 The Respondent has submitted that the connected load in the above service connection at the mentioned premises is furnished bellow.

Sl. No.	Equipment	Qty	Rated cap	Total power
1	Split AC- 1 ton cap	01	1130	1130 W
2	Television	01	100	100 W
3	Fridge	01	180	180 W
4	Ceiling Fan	03	60	180 W
5	Table fan	01	80	80 W
6	Washing machine	01	720	720 W
7	Geyser	01	2000	2000 W
8	Water Purifier	01	100	100 W
9	Micro oven	01	1500	1500 W
10	Induction stove	01	1500	1500 W
11	LED light	03	18	54 W
12	Tube light	01	20	20 W
	Total connected load			7564 W

6.12 The Respondent has submitted that the energy consumption is arrived at as below for the connected load in the above premise as per the approved formulae.

$$\text{a) Energy consumption} = \frac{\text{Load in KW} \times \text{Load factor} \times \text{No. of hours used} \times \text{No. of day}}{\text{Diversity factor}}$$

$$\text{(For 70\% load)} = \frac{7.56 \times 0.7 \times 12 \times 60}{1} = 3810 \text{ units}$$

$$\text{b) Energy consumption} = \frac{7.56 \times 0.3 \times 12 \times 60}{1} = 1632 \text{ units}$$

6.13 The Respondent has submitted that the average billing may be worked out under regulation No. 11(2) of TNESC as tabulated below.

AVERAGE BASE & ITS CALCULATION

Base period	Units consumed	Average units	Regulation adopted
01/2024	472	$\frac{1273}{2}$ = 637 units	11(2) of TNERC
11/2023	801		
Total	1047		

Calculation of re assessment based on Average billing

Assessment month	Already collected		Re assessed --		Difference
	units	Amount	units	Amount	
03/2024	660	3290	637	3083	+ 207
05/2024	410	1185	637	3083	- 1898
Total Amount		4475		6166	-1691

From the above, it is noted that the shortfall amount of Rs.1691/- to be collected from the consumer as per regulation No.11 (2) of TNERC.

6.14 The Respondent has submitted that the average billing adopted for the defective period in LT Sc A/c No. 09-164-008-552, under TF.IA is to be revised as per TNERC regulation No.11 (2).

6.15 The Respondent has prayed to allow to revise the average billing in LT service connection No. 09-164-008-552,TF.IA as per regulation No.11(2) TNERC and dismissed the Appeal Petition No.57 of 2024 as may deem it fit and proper and thus render Justice.

7.0 Findings of the Electricity Ombudsman:

7.1 I have heard the arguments of both the Appellant and the Respondent. Based on the arguments and documents submitted by them, the following are the issues to be decided;

1. What is the status of the Meter during the disputed period?
2. What is the regulation for assessment when the meter is defective?
3. Was the method adopted by the Respondent is as per regulation?
4. Whether the claim of the Appellant to refund the excess amount if paid is tenable?

8.0 Findings on the first issue:

8.1 The Appellant asserts that their electric meter was running faster than normal, resulting in excessively high billing amounts. A written complaint for the second time on 25/03/2024 was given to the MMDA EB office, no action was taken. The Appellant specifically requested the replacement of the faulty meter, emphasizing that the meter continued to show inflated billing amounts while they were only using standard household appliances, without high-consumption items such as air conditioners.

8.2 The Respondent contends that the premises at No.27/61, Kalai illam, 1st Floor, Collectorate Colony, Aminjikarai, Chennai, is owned by Thiru. G. Bhaskar, and the petitioner, as a tenant, is the user of the LT service connection No. 09-164-008-552. The petitioner complained of high billing amounts and requested a meter inspection and replacement. Upon inspection on 15-12-2023 and 29-03-2024, it was found that the meter was functioning properly. However after further proceeding the meter was referred to MRT on 22-04-2024. The MRT in its report dt. 16.05.2024 declared the meter defective from 10.02.2024, Hence the meter was replaced on 21.05.2024.

8.3 In this regard, I am of the view that the Meter Relay Testing (MRT) report is valid evidence according to the Section 35 of the Evidence Act 1872 which is discussed below:

“35. Relevancy of entry in public record or an electronic record made in performance of duty. An entry in any public or other official book, register or record or an electronic record stating a fact in issue or relevant fact and made by a public servant in the discharge of his official duty or by any other person in performance of a duty specially enjoined by law of the country in which such book, register or record or an electronic record is kept is a relevant fact.”

8.4 Based on the aforementioned details, it is apparent that an entry in any public or other official book, register, or record is admissible as evidence under the law of the country. Additionally, the MRT wing of the Licensee is authorized to determine the status of the meter after conducting a scientific test. From the MRT report it is evident that the meter was defective from 10.02.2024 and the defective meter was replaced on 21.05.2024. Therefore, it is concluded that the meter was defective during the period of 10.02.2024 to 21.05.2024. However it is noticed that the Appellant has paid CC charges for 03/2024 to 05/2024 as per assessment.

9.0 Findings on the second issue:

9.1 In order to determine the regulation for assessment when the meter is defective, I would like to refer to TNERC Supply Code Regulation 11, which is extracted below:

“11. Assessment of billing in cases where the meter is defective:

(1) Where the meter fixed is found defective or burnt or to have ceased to function and no theft of energy or violation is suspected, the quantity of electricity supplied during the period when the meter was defective, shall be assessed based on the data downloaded through CMRI from the defective meter and scrutiny of those data , load curve etc., besides taking into consideration of site condition to corroborate the assessment so made. Wherever such downloading of data could not be done, the reason for not getting the meter tested or the reason for not downloading the data from the defective or burnt meter shall be recorded and signed by the designated authority by the Licensee. Wherever the data could not be downloaded, the quantity of electricity supplied during the period when the meter was defective, shall be assessed as mentioned hereunder.

(2) The quantity of electricity, supplied during the period in question shall be determined by taking the average of the electricity supplied during the preceding four months in respect of both High Tension service connections and Low Tension service connections provided that the conditions in regard to use of electricity during the said four months were not different from those which prevailed during the period in question.

(3) In respect of High Tension service connections, where the meter fixed for measuring the maximum Demand becomes defective, the Maximum Demand shall be assessed by computation on the basis of the average of the recorded demand during the previous four months.

(4) Where the meter becomes defective immediately after the service connection is effected, the quantum of electricity supplied during the period in question is to be determined by taking the average of the electricity supplied during the succeeding four months periods after installation of a correct meter, provided the conditions in regard to the use of electricity in respect of such Low Tension service connections are not different. The consumer shall be charged monthly minimum provisionally for defective period and after assessment the actual charges will be recovered after adjusting the amount collected provisionally.

(5) If the conditions in regard to use of electricity during the periods as mentioned above were different, assessment shall be made on the basis of any consecutive four months period during the preceding twelve months when the conditions of working were similar to those in the period covered by the billing.

(6) Where it is not possible to select a set of four months, the quantity of electricity supplied will be assessed in the case of Low Tension service connections by the Engineer in charge of the distribution and in the case of High Tension service connections by the next higher level officer on the basis of the connected load and the hours of usage of electricity by the consumer. In all above cases, the relevant test results and clear working sheet indicating the basis of computation of billing for the back period, the period during which the meter was found defective etc., shall be promptly communication to the consumer in writing under acknowledgement.

(7) In case the consumer does not agree with the assessment made by the Engineer or the higher –level officer as the case may be, the matter may be referred to the next higher-level officer of the Licensee. In case the consumer is still not satisfied, the consumer is at liberty to approach the respective Consumer Grievance Redressal Forum of the Licensee.”

9.2 The regulation clearly outlines the expectations and requirements for billing revisions during defective meter periods. Upon thorough examination of the aforementioned regulation, it is evident that Regulations 11(2), 11(4), 11(5), and 11(6) prescribe the procedures for computing the average consumption during the period of meter defect. In the present case, it is observed that the Respondent has adopted the provision of TNE Supply Code Regulation 11(2) for computing the

energy charges for the defective period based on the consumption pattern as per consumer ledger.

10.0 Findings on the third issue:

10.1 The Appellant also raised the issue before the Consumer Grievance Redressal Forum, stating that the meter was malfunctioning and leading to overcharges. However, an order was passed adopting average billing for the defective period, based on the regulations in force. The Appellant contends that this approach was inappropriate, as the billing during the defective meter period, from 10.02.2024 to 21.05.2024, was excessively high, even though they had already raised concerns and requested the meter's replacement.

10.2 Further, the Appellant argued that applying average billing did not address the issue of inflated charges, especially considering the fact that their electricity usage was low. As a result, they request a reconsideration of the order and a refund of the excess amount paid during the defective meter period, stressing that the meter should have been replaced earlier to prevent these inflated charges.

10.3 The Respondent argued that the petitioner's claim of high billing amounts was addressed through an average billing calculation, following TNERC Regulation No. 11(5). The average consumption was derived from similar usage patterns in the months of July and September 2023, and the petitioner was billed accordingly. They emphasize that the reassessment and adoption of average billing were conducted in compliance with regulatory guidelines.

10.4 The Respondent also highlights that the connected load in the premises includes various household appliances, and the calculated energy consumption aligns with the load capacity. Based on these findings, the Respondent asserts that the billing method was appropriate and justified. They further note that an additional amount of Rs. 1691/- is owed by the petitioner due to the reassessment under TNERC Regulation No. 11(2), and they request permission to revise the average billing for the defective period.

10.5 From the findings in para 8, it has been established and proven that the meter was indeed defective during the disputed period, as confirmed by the MRT report, which identified the date of the defect. The next point of discussion is the regulation to be followed when the meter is found to be defective. According to the findings in para 9, there are various methods available to calculate average consumption during such periods. The Respondent initially adopted 7/23 and 9/23 as base average for average shortfall calculation. Now, the respondent has given another calculation in his counter ie by adopting 11/2023 & 01/2024 as base average for meter defective period for 03/2024 & 05/2024 which I found is not correct and consistent with the method provided in the regulations. However, I am of the view that TNERC Supply Code Regulation 11(5) should be applied in this case which states that *“If the conditions in regard to use of electricity during the periods as mentioned above were different, assessment shall be made on the basis of any consecutive four months period during the preceding twelve months when the conditions of working were similar to those in the period covered by the billing.”* As the issue is pertaining to meter defective in domestic use, the conditions related to climatic pattern of the terrain should be taken into account. Therefore, the respondent is directed to adopt average as per regulation 11(5) of TNE Supply when conditions of working were similar to those in the period covered by the billing.

11.0 Findings on the fourth issue:

11.1 The claim of the Appellant for a refund of the excess amount paid must be examined in light of whether there is any provision in the TNERC regulations addressing errors in billing. In this context, Regulation 12 of the TNE Supply Code, which is relevant to this case, is discussed below:

“12. Errors in billing

(1) 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.

(2) Where it is found that the consumer has been over-charged, the excess amount paid by such consumer shall be refunded along with interest at the rate applicable

for security deposit. The interest shall be computed from the date on which the excess amount was paid. Such excess amount with interest may be paid by cheque in the month subsequent to the detection of excess recovery or may be adjusted in the future current consumption bills upto two assessments at the option of the consumer. The sum which remains to be recovered after two assessments may be paid by cheque. Interest shall be upto the date of last payment.

(3) Wherever the Licensees receive complaints from consumers that there is error in billing, etc. the Licensee shall resolve such disputes regarding quantum of commercial transaction involved within the due date for payment, provided the complaint is lodged three days prior to the due date for payment. Such of those complaints received during the last three days period shall be resolved before the next billing along with refunds / adjustments if any. However, the consumer shall not, on the plea of incorrectness of the charges, withhold any portion of the charges.”

11.2 It is clear from the foregoing paras that, in the event of any clerical errors or mistakes in the amount levied, demanded or charged by the Licensee, they are entitled to demand an additional payment if they undercharge, and the consumer is entitled to a refund in the case of overcharging.

11.3 Hence, the Respondent is obligated to process the refund / demand in accordance with Regulation 12 of the TNE Supply Code, after arriving at the average calculation for the defective period as per Regulation 11(5), when conditions of working were similar to those in the period covered by the billing, if any excess amount has been charged, the same should be refunded as per the relevant provisions.

12.0 Conclusion:

12.1 From the findings of the foregoing paragraphs, it is concluded that the Respondent is required to revise the billing for the defective period by applying Regulation 11(5), when conditions of working were similar to those in the period covered by the billing to calculate average consumption. If there is any errors in billing after this recalculation, the Respondent is obligated to process the refund / demand in accordance with Regulation 12 of the TNE Supply Code, ensuring compliance with the regulatory framework.

12.2 A compliance report in this regard shall be furnished within 45 days from the date of receipt of this order.

12.3 With the above findings the A.P. No. 57 of 2024 is finally disposed of by the Electricity Ombudsman. No Costs.

(N. Kannan)
Electricity Ombudsman

“நுகர்வோர் இல்லையேல், நிறுவனம் இல்லை”
“No Consumer, No Utility”

To

1. Thiru E.Renex Benjamin,
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Chennai – 600 030.

- By RPAD

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Anna Nagar, Chennai-600 040.

3. The Superintending Engineer,
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Anna Nagar, Chennai - 600 040.

- By email

4. The Chairman & Managing Director,
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– By Email

5. The Secretary,
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6. The Assistant Director (Computer)
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