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. 63 of 2024**

Thiru S. Loganathan,
No.2, Vinayagapuram, 4th Street,
Rayapuram, Tiruppur – 641 601.

. . . . . Appellant
(Rep. by Thiru L.Senthil Kumar)

Vs.

1. The Assistant Engineer/O&M/ Periyandipalayam,
Tiruppur Electricity Distribution Circle,
TANGEDCO,
Mangalam Road, Periandipalayam,
Tirupur-641687.

2. The Executive Engineer/O&M/Tiruppur,
Tiruppur Electricity Distribution Circle,
TANGEDCO,
EB Office Campus, Kumarnagar,
Avinashi Road, Tirupur - 641602.

. . . . Respondents
(ThiruP.Somasundaram, AE/O&M/Periyandipalayam
ThiruS.Ramachandran, EE/O&M/ Tiruppur)

**Petition Received on: 02-09-2024**

**Date of hearing: 09-10-2024**

**Date of order: 22-10-2024**

The Appeal Petition received on 02.09.2024, filed by Thiru S. Loganathan, No.2, Vinayagapuram, 4th Street, Rayapuram, Tiruppur – 641 601 was registered as Appeal Petition No. 63 of 2024. The above appeal petition came up for hearing before the Electricity Ombudsman on 09.10.2024.Upon perusing the Appeal

Petition, Counter affidavit, written argument, 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 calculate the average billing amount for the defective meter in his SC No. 212-001-189 as per TNERC prior two months average.

**2.0 Brief History of the case:**

2.1 The Appellant has prayed to calculate the average billing amount for the defective meter in his SC No. 212-001-189 as per TNERC prior two months average.

2.2 The Respondent has stated that the meter was sent to MRT for testing and found it was functioning upto 21.10.2023. Hence based on the MRT reading, average billing amount has been calculated for the defective meter.

2.3 Hence the Appellant has filed a petition with the CGRF of Tiruppur EDC on 04.05.2024.

2.4 The CGRF of Tiruppur EDC has issued an order dated 13.06.2024. Aggrieved over the order, the Appellant has preferred this appeal petition before the Electricity Ombudsman.

**3.0 Orders of the CGRF :**

3.1 The CGRF of Tiruppur Electricity Distribution Circle issued its order on 13.06.2024. The relevant portion of the order is extracted below: -

*"**Order:***

*திரு லோகநாதன், திருப்பூர் அவர்களின் மின் இணைப்பு எண்.212-001-189-ற்கு விடுபட்ட சராசரி தொகை ரூ.55,512/- மனுதாரரிடமிருந்து வசூல் செய்ய*

*எதிர்மனுதாரருக்கு ஆணையிட்டு இம்மனு மன்றத்தால் முடித்து வைக்கப்படுகிறது."*

**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 09.10.2024 through video conferencing.

4.2 On behalf of the Appellant his representative Thiru L.Senthil Kumar attended the hearing and put forth his arguments.

4.3 The Respondents Thiru P.Somasundaram, AE/O&M/Periyandipalayam and Thiru S.Ramachandran, EE/O&M/ Tiruppur of Tiruppur Electricity Distribution Circle 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 he has recently been invoiced for MRT Auto Shortfall amounting to Rs.55,088/- in addition to his regular bill. Upon reviewing the charges, he understood that these pertain to defective meter reading charges. However, he highlighted that during the month of defective meter reading, he had already paid the average amount of Rs.78,025/- as evidenced by the attached bill summary for their reference. Considering that the amount has been settled for the specified period, he requested to cancel the mentioned MRT Auto Shortfall charges.

5.2 The Appellant has stated that the CGRF calculation of average for new meter is based on previous month and not as per TNERC rules of 2 months average billing. He stated that he is ready to pay as per TNERC rules 2 months average calculation.

5.3 The Appellant has prayed to calculate as per TNERC average billing prior two months for the new meter average taken.

**6.0 Arguments of the Respondent:**

6.1 The Respondent has stated that the petitioner is having the EB service No. 212-001-189, Tariff IIIB for a Load of 49.0Kw for Industrial purposes. During the Assessment of 10/2023 the Average billing has been made on 25/10/2023 due to defective of Meter (Forward Creeping-Dial Jump) for the Average List of 8500 Units as follows:

The Consumption in 06/2023 = 8290 Units
The Consumption in 08/2023 = 8710 Units
The Average $\frac{17000 \text{ Units}}{2}$ = 8500 Units

During 12/2023 the Billing has been made as follows:

The Average Units from 25/10/2003 to 18/11/2023 (Date of meter replacement)

= $\frac{8500 \text{ Units}}{60 \text{ Days}}$ x24 Days

= 3400 Units and 3609 Units with the actual consumption for the period of 18/11/2023 to 20/12/2023 (16195-12586)
Total 7009 Units (3400 Units + 3609 Units)

6.2 The Respondent has stated that the defective meter has been replaced on 18/11/2023 and the released meter has been sent to MRT for testing. From the MRT Test Result it was found that the meter has been functioning upto 21/10/2023 with the reading of 450635 KWH / 457943 KVAH / MD 19.18 KW. While entering the correct reading the Auto slip has been generated for Rs. 55,088/- as shortfall.

6.3 The Respondent has stated that based on the Consumer objection the working Sheet has been obtained from MRT on 29/05/2024 and the details of working sheet is as follows:

**As per MRT Short fell unit calculation**

| DESCRIPTION | UNITS |
|---|---|
| Meter reading as per MRT Report upto 21.10.2023 | 450635 |
| Before assessment reading for the month 08/2023 | 437840 |

| | |
|---|---|
| (Reading date 21.08.2023) | |
| 10/2023 month Actual units to be collected | 12795 |
| Average to be billed from 22.10.23 to 18.11.23 (28 Days)<br>(12795/61x28 days = 5873 units) | 5873 |
| Fixed meter units (18.11.23 to 20.12.2023) | 3609 |
| Subtotal (21.08.2023 to 20.12.2023) | 22277 |
| Less Already billed in 10/2023 & 12/2023 (8500+7009) | 15509 |
| Short fall consumption | 6768 |

**Short fall amount calculation by MRT as per LT billing on line calculator**

| Units | Rate | Amount |
|---|---|---|
| 6768 | 7.65 | 51775.20 |
| Peak Hour Charges | | 1505.88 |
| Total CC Charges | | 53281.08 |
| E Tax 5% | | 2664.05 |
| Total Short fall amount | | 55945.13 |
| Or say | | 55945 |

6.4 The Respondent has stated that based on the Letter No. CFC/Rev/FC/Rev/DFC/Rev/AAO/Asst/F.Tariff order/ D.902/2023 Dt.13.12.2023 the above short fall has been revised as follows which was withdrawn the Peak Hour charge from 10/11/2023.

**Short fall amount calculation by AAO/Revenue Branch/Tirupur**

| | | | | | |
|---|---|---|---|---|---|
| 22.10.2023 | 18.11.2023 | 27 days | | 6768 units | |
| PEAK HOUR CHARGES DISCONTINUED FROM 10.11.2023 As per Lr.No.CFC/Rev/FC/Rev/AAQ/Asst/F Tariff Order/D.902/2023 dt 13.12.2023 | | | | | |
| 22.10.2023 | 10.11.2023 | 19 days | | 4763 Units | |

| | | | | | |
|---|---|---|---|---|---|
| 10.11 2023 | 18.11.2023 | 8 days | | 2005 Units | |
| 4763 UNITS | | | 2005 UNITS | | |
| CC Charges | 36437 | | CC Charges | 15338 | |
| Peak Hour Charges | 1093 | | Peak Hour Charges | | |
| E-Tax | 1877 | | E-Tax | 767 | |
| TOTAL | 39407 | | | 16105 | |
| TOTAL = 39407+ 16105 = Rs.55512/- | | | | | |

Hence, the Consumer was advised to pay the shortfall amount of Rs 55,512/- by the Hon'ble CGRF Order dt. 13.06.2024

## 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 the documents submitted by them, the following are the issues to be decided.

1. What are the TNERC regulatory guidelines for determining consumption during the period when the meter is defective?
2. Is the Appellant's claim that he should not be charged for the defective meter period, stating that he has already paid the average charges, valid?

## 8.0 Findings on the first issue:

8.1 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 burntor to have ceased to function and no theft of energy orviolation is suspected, the quantity of electricity supplied during the period when the meter was defective, shallbe 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."*

8.2 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 noticed that the meter has been defective from 22.10.2023 to 18.11.2023. Further, 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 of 06/2023 and 08/2023. The Appellant has also agreed that his meter was defective during the disputed period.

**9.0 <u>Findings on the second issue</u>:**

9.1 The Appellant contends that he was invoiced for an MRT Auto Shortfall of Rs. 55,088/- related to defective meter reading charges, despite having already paid an average amount of Rs. 78,025/- for the period in question. He argued that the charges for the defective meter reading have already been settled and request the cancellation of the additional shortfall charges. The Appellant further claims that the calculation of the average for the new meter by the CGRF is incorrect, as it was based on the previous month rather than the two-month average, which is required by TNERC regulations. The Appellant is willing to pay based on the proper two-month average calculation as per TNERC rules and has requested a recalculation accordingly.

9.2 The Respondent countered the Appellant's claims by providing a detailed explanation of how the charges were calculated following the discovery of a defective meter in the Appellant’s EB service, No. 212-001-189. During the assessment period in October 2023, the meter was found to have a "Forward Creeping-Dial Jump," which led to the application of average billing for the period. The average units for billing were calculated based on previous consumption patterns, using the recorded readings from June and August 2023, and the average was determined to be 8500 units. Accordingly, the billing for October 2023 and the period up to the meter replacement on 18/11/2023 was carried out.

9.3 After the meter was replaced, it was sent to the MRT for testing. The MRT report confirmed that the meter was functioning correctly until 21/10/2023. Based on this report, an auto slip was generated, reflecting a shortfall amount of Rs. 55,088/-. In response to the Appellant's objection, the MRT provided a working sheet that calculated the actual units consumed during the period from August to December 2023, resulting in a total consumption of 22,277 units. After deducting the units already billed, a shortfall of 6768 units was identified, leading to a revised shortfall amount of Rs. 55,945/-.

9.4 The Respondent further explained that, in accordance with a directive from the Chief Financial Controller's office, the peak hour charges were discontinued after 10/11/2023. This resulted in a recalculated shortfall of Rs.55,512/- after excluding peak hour charges for the period from 10/11/2023 to 18/11/2023. The Respondent maintained that the shortfall amount was accurately calculated based on the MRT report and the applicable regulations, and that the Appellant's request to cancel the shortfall was unjustified. The Respondent upheld that the shortfall amount of Rs.55,512/- should be paid as per the CGRF's order dated 13.06.2024.

9.5 The meter in the Appellant's service connection was identified as defective during the 10/2023 assessment. According to the consumer ledger, the meter was functioning normally up to the 08/2023 assessment. The defective meter was subsequently replaced on 18.11.2023 and sent to the MRT for data retrieval. Based on the CMRI downloaded data, the MRT report confirmed that the meter readings were accurate, with a dial jump occurring on 22.10.2023. As a result, the final reading (FR) taken on 21.10.2023, before the dial jump, is deemed accurate according to the CMRI data.

9.6 In this context, 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."*

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. Therefore, as per MRT downloaded report the actual FR should be considered up to 21.10.2023 i.e. final reading 450635 KWH. Accordingly, the meter defective period starts from 22.10.2023 to until the meter was replaced i.e. on 18.11.2023. Hence, the consumption should be calculated using an average method in accordance with TNERC regulations.

9.7 The Appellant agrees that the meter was defective during the disputed period and is willing to pay the average bill based on the TNERC regulation, which requires calculating the average consumption over the prior two months. He has requested that the charges be recalculated accordingly, with the average consumption of the prior two months applied for the new meter's billing. During the hearing the Respondent agreed that as per the MRT final reading dt. 21.10.2023 with a KWH of 450653 the billing period of 08/2023 and 10/2023 billing will be taken for calculating average which is discussed below. The consumption for eighth month billing period 20.06.2023 to 21.08.2023 8710 units as per revised MRT final reading on 21.10.2023 it was around 12795 units. The Respondent agreed to take average as per the consumption of $8^{th}$ month and $10^{th}$ month billing period. Hence, the Respondent is instructed to recalculate the average as discussed for the defective period of 22.10.2023 to 18.11.2023 in line with regulation 11 of TNE Supply Code Regulations and send a revised demand notice for the said defective period.

9.8 Therefore, the Respondent is directed to revise the bill accordingly and take necessary action as per TNERC Supply Code 12, including any claim or adjustment that may be required.

**10.0 <u>Conclusion</u>:**

10.1 Considering the above findings, the Respondent is required to revise the average for the defective period from 22.10.2023 to 18.11.2023 based on the above findings.

10.2 With the above findings the A.P. No. 63 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

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