



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. S. Devarajan, Electricity Ombudsman

A.P.No. 68 of 2021

M/s. Annai Velankanni Engineering College,
C/o. Stephen & Stephen Advocates Associates,
BRIO Hall, No.4/23E, 4th Main Road, Kamaraj Nagar,
Thiruvanmiyur, Chennai – 600 091.

. Appellant
(Rep. by Thiru N. Senthil Viswarooban, Advocate
& Thiru Franklin Stephen, Advocate)

Vs.

1. The Assistant Engineer/O&M/Mylaudy,
Kanyakumari Electricity Distribution Circle,
TANGEDCO,
Main Road, Mylaudy – 629 403.

2. The Assistant Accounts Officer,
Kanyakumari Electricity Distribution Circle,
TANGEDCO,
Parvathipuram, Nagercoil - 629 003.

3. The Executive Engineer/O&M/Nagercoil,
Kanyakumari Electricity Distribution Circle,
TANGEDCO,
Parvathipuram, Nagercoil - 629 003.

. . . . Respondents
(Thiru C. Rajasekar, EE/O&M/Nagercoil)

Petition Received on: 26-08-2021

Date of hearing: 29-10-2021

Date of order: 24-01-2022

The Appeal Petition received on 26.08.2021 filed by M/s. Annai Velankanni Engineering College, C/o. Stephen & Stephen Advocates Associates, BRIO Hall, No.4/23E, 4th Main Road, Kamaraj Nagar, Thiruvannamiyur, Chennai – 600 091 was registered as Appeal Petition No. 68 of 2021. The above appeal petition came up for hearing before the Electricity Ombudsman on 29.10.2021. 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 revise the bill and adjust the same in the ensuing electricity bills.

2.0 Brief History of the case:

2.1 The appellant M/s. Annai Velankanni College of Engineering stated that due to Covid-19 pandemic, as per the Government instructions, the functioning of the college and students activities were not allowed till the month of 09/2020. But the respondent TANGEDCO has claimed average billing for the period from 03/2020 to 09/2020 suspecting meter defectiveness during the period of lockdown.

2.2 The appellant has filed a petition with the CGRF of Kanyakumari EDC on 16.06.2021. The application was not taken on the file of the Chairman, CGRF, Kanyakumari EDC. Hence, the appellant preferred this appeal petition before the Electricity Ombudsman.

3.0 Hearing held by the Electricity Ombudsman:

3.1 To enable the Appellant and the Respondent to put forth their arguments, a hearing was conducted on 29.10.2021 through video conferencing.

3.2 On behalf of the Appellant Thiru N. Senthil Viswarooban and Thiru Franklin Stephen, Advocates of M/s. Stephen & Stephen Advocates Associates have

attended the hearing and put forth their arguments.

3.3 The respondent Thiru C. Rajasekar, EE/O&M/Nagercoil of Kanyakumari Electricity Distribution Circle has attended the hearing and put forth his arguments.

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

4.0 Arguments of the Appellant :

4.1 The Appellant has stated that this appeal is made against average billing done in the LT Service Connection A/c. No. 145-006-834, under Tariff IIB2 presumed to have been appropriate average suspecting meter defectiveness during the period of Lock Down.

4.2 The Appellant has stated that Annai Vailankanni College of Engineering, is a law abiding citizen and a diligent consumer paying the electricity bill regularly without any default.

4.3 The Appellant has stated that the average billing was done for the period from 03/2020 to 09/2020 taking the average consumption of 4774 units. It is to be specifically stated here that the said LTCT service connection A/c.No. 145-006-834, under Tariff IIB2 is being utilized for Engineering College. The consumption depends only on the usage of fans & lights depending upon the functioning of the college and attending of classes by the students & staff. It is needless to state that taking the average of consumptions during the period of non-occupation is basically & totally wrong.

4.4 The Appellant has stated that the whole nation was under lock down as per the Government instructions due to Covid-19 Pandemic from the period from 22.03.2020 and so many restrictions were there even for the movement of people & traffic which was slightly relaxed from the month end of 08/2020 but the

functioning of college and student activities were not allowed till the month of 09/2020 which all the EB authorities well aware of the developments.

4.5 The Appellant has stated that while the situation is so, the AE/O&M/Mylady, has made average billing for the period from 03/2020 to 09/2020 without verifying the actual status of the premises and without proper understanding of the regulations prescribed.

4.6 The Appellant has stated that it is clearly evident from the consumer status the AE/O&M/Mylady has entered reading only on 07.12.2020 that Meter was defective. The details could be well evident from the consumer details from TANGEDCO's records.

4.7 The Appellant has stated that the responsibility of taking reading in LTCT electricity service connections lies only with the Assistant Engineers. It is not known how the section officer / (Assistant Engineer) while taking reading for the month of 04/2020 has entered defectiveness and billed on average basis without verifying the status of the premises. Even it is assumed that the Assistant Engineer has verified the service connection and entered reading, he should have taken action to replace the defective meter within 30 days from the date of defectiveness as per the DSOP regulations. It clearly shows the lethargy on the part of the Assistant Engineer/Mylady who was least bothered to consider the representation of the consumers or to act as per the regulations.

4.8 The Appellant has stated that the meter was replaced only on 03.09.2020 after repeated attempts made by this consumer and continuous follow up. Though MRT wing has inspected the meter as if it was defective on 03.09.2020 and replaced it, however it is not known whether the MRT wing has downloaded the data from the alleged defective static meter to ascertain the actual reading for proper billing. It is reliably learnt that the TANGEDCO authorities have specifically given instructions to download the data from the defective meters removed from consumer premises to ascertain the factual position of the meter. It is not known whether the wing has downloaded the data or not.

4.9 In this regard the Appellant has brought to the notice of the following regulation;

Regulation 11 of Tamilnadu electricity Supply code under the heading assessment of billing in cases where there is no meter or meter is defective clearly envisages:

- 1. Where the supply is given without a meter or where the meter fixed is found defective or ceased to function and no theft of energy or violation is suspected, the quantity of electricity supplied during the period when the meter was not installed or the meter installed was defective shall be assessed as mentioned here under.*
- 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 HT Scs & LT Scs provided that the conditions in regard to the use of electricity during the said four months were not different from the those which prevailed during the period in question.*
- 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 the Low Tension service connections by the Engineer in charge of the distributionon the basis of connected load and the hours of usage of electricity by the consumer.*
- 7. In case the consumer does not agree with the assessment made by the Engineer, the matter may be referred to the next higher level officer of the licensee. In case the consumer is not still satisfied, the consumer is at liberty to approach the respective CGRF of the licensee.*

4.10 The Appellant has stated that as per the above TNERC Regulations, blind average should not be adopted when there is a change in circumstances and this average billing is contra in toto to the codes inscribed by the Tamilnadu Electricity Regulatory Commission. Though proper objection was made before the authorities concerned no fruitful action taken so far to revise the CC amount and hence the institution was forced to file a petition before the CGRF /KKEDC but the same was also not disposed within the stipulated period of 50 days as envisaged in Reg.7(7) of TNERC Regulations for CGRF & Electricity Ombudsman 2004. Therefore this appeal is filed before this forum reposing faith that the genuine appeal would be considered appropriately as per regulations.

4.11 The Appellant has raised the following questions on the cause of average billing:

1. Whether the AE/Mylady has entered reading from 03/2020 to 09/2020 after taking physical verification of the premises?
2. If not how he has assumed defectiveness without verifying the physical status

due to restrictions of Lock Down?

3. Whether the meter change made during 12/2020 is actual meter change to correct the mistake done by the AE?

Why all the readings from 05/2020 to 11/2020 have been entered only on 07.12.2020

4. Whether the data was downloaded from the static/ electronic defective meter removed?
5. If not downloaded reason behind that?
6. Is it for suppressing the material fact?
7. If TANGEDCO has specifically instructed to download the meter data after replacement, for confirming the FR to avoid revenue leakage why it has not been adhered to in this issue?
8. Is there any effort made to download the data after this dispute arose?
9. If MRT Wing could not download the data, whether any effort has been made to refer to the meter vendor for downloading?

4.12 The Appellant has stated that it is quiet astonished to note that the Section Officer has entered " Not in use" for the month of 04/2020 has preferred to enter meter defectiveness for the months of 05/2020 to 08/2020 only on 07.12.2020 even though the meter was said to have been replaced on 03.09.2020 and average shortfall was worked out for those periods. The Section officer has applied blind average without following the due procedure or regulations prescribed. When the whole nation was under Lock Down and movements were completely restricted and the educational institutions were not allowed to function, average billing done on this service connection during those periods clearly shows the non-application of mind and procedures prescribed. Further the blind statement by the MRT wing that Meter data could not be downloaded is a blatant violation of the regulations of TNERC & Electricity Act 2003. The meter has not been sent to the company for further action to download the data even after complaint was made clearly shows lethargy on the part of the officials concerned.

4.13 The Appellant has stated that though the Hon'ble T.N. Electricity Ombudsman through various orders / Judgement in Appeals has clearly directed

the Distribution Licensee to follow the due procedure and the regulations prescribed but the same are not adhered too till date.

4.14 The Appellant has stated that the average billing done is on assumption and presumption, even otherwise the benefit of doubt should only be extended to the innocent consumer. Further "No display" is fault on the equipment of TANGEDCO and for which the meter cost should not have been borne by the consumer and needs to be refunded.

4.15 The Appellant has prayed to direct the TANGEDCO authorities to revise the average billing done in LT Service Connection A/c No. 145-006-834 during the Lock Down period and adjust the same in the ensuing electricity bills.

5.0 Arguments of the Respondent:

5.1 The Respondent has stated that M/s. Annai Velankani College of Engineering, the LTCT SC No.145-006-834 TF IIB (2) was not assessed for reading during 03/2020 due to Covid-19 Lock Down and previous month (02/2020) bill amount was billed. The assessment for 04/2020 was recorded as "not in use". In 05/2020 assessment meter status recorded as defective, due to its defectiveness.

5.2 The Respondent has stated that a letter was addressed to the consumer by the Junior Engineer/ Distribution/ Mylady vide Letter No. JE/D/MDY/F.Cons. .Meter / D. 204 / 20, Dt. 19.08.2020 and stated that LTCT meter was not available in the stores and requested to procure a meter and meter cost will be refunded as per the TANGEDCO norms.

5.3 The Respondent also stated that the consumer purchased the meter only on 27.08.2020 and the meter was fixed by MRT on 03.9.2020 after testing. Average Billing calculated based on the average of highest consecutive 4 months consumption (09/19 to 12/19) of 6307 units per month and the demand raised for Rs.54,528/- P.M.

5.4 The Respondent has stated that in the meantime the consumer submitted representation to the Chairman, TNEB, Chennai-2 for regularisation of EB bill from March to September 2020 letter dated 21.10.2020 due to Lock down, the college closed from 23.03.2020 and requested for revision of bill.

5.5 The Respondent has stated that in this connection SE/KKEDC/Nagercoil vide Memo dated 20.11.2020 formed a team to analyse the consumer's request duly considering the MRT report and regularise the CC bill for the above said period in accordance with TNERC Regulations vide Memo.No .SE/KKEDC/DFC/AO/Rev/RCS/A2/D.638/2020 dated 20.11.2020.

5.6 The Respondent has stated that on verification of the records and reports, the team concluded the following

1. In the meter test report of AEE/MRT/Nagercoil communicated vide Lr.No.AEE/MRT/NGL/F.LTCT/D.368/20 Dt.17.09.2020, it was informed that the data from released defective meter could not be down loaded. Hence the reading during the defective period could not be recorded and analysed.
2. The consumer meter cost of *Rs.2177/-* as per Lr.No.CE/MM1SEIMMII/EEM/AEE1/F. Consumer-Meter/ D.204 /19, Dated 27.11.2019 will be adjusted against the forth coming CC bill after reconnection of the service connection.
3. Based on the TNERC Clause -11(5) following 4 consecutive months were considered for the average adoption is necessary to revise the bill as per TNERC clause.

Sl.No	Date	Reading	Units	
1	30.01.2020	5304.16	5620.77	5620.77
2	27.02.2020	5522.3	6544.2	6544.2
3	27.03.2020	PMC		3465
4	27.04.2020	5753.3	6930/2	3465

Average taken for the month 01/20-04/20= $19094.97/4=(4773.74)=4774$ Units

The average billing unit per month revised as is 4774.

Month	Already assessed (Based on the average period from 09/19 to 12/19)		New Revised assessment (Based on the average period from 01/20 to 04/20)	
	Units	Amount	Units	Amount
05/2020	6307	54528	4774	42518
06/2020	6307	54528	4774	42518
07/2020	6307	54528	4774	42518
08/2020	6307	54528	4774	42518

The following CC bill with BPSC amount has been remitted by consumer on 07.12.2020 vide PR No.TIK1 451A1 D625/07.12.2020.

03/2020 : Rs. 56,480/-
 04/2020 : Rs. 7,874/-
 05/2020 : Rs.1,70,072/- (42518 x 4)
 To 08/2020
 09/2020 : Rs.33,037/-
 10/2020 : Rs.24,410/-

5.7 The Respondent has submitted that Annai Velankani college was utilised as Facility Quarantine centre by District Administration during the lock down period vide Kanyakumari District Collector Letter No. H.18105/2020 dt. 20.07.2020

5.8 Further it is informed that the meter cost (as per Board cost data) amount of Rs.2177/- has been adjusted against the 12/2020 month CC bill towards the supply of LTCT meter of the consumer.

5.9 Further it is informed the following.

1. The Assistant Engineer/Distribution / Mylady Physically verified and recorded the reading.

Month	Reading of AE/D/Mylady
03/2020	Lock down PMC done
04/2020	Not in use actual meter reading recoded
05/2020	Meter defective
06/2020	Meter defective
07/2020	Meter defective
08/2020	Meter defective
03.09.2020	Meter Changed (Consumer meter)

2. The Assistant Engineer/ Distribution/Mylady verified the meter and recorded the meter defect during 05/2020.
3. Meter changed on 03.09.2020
4. Original assessment entry made by AE/D/Mylady during the assessment period has been subsequently deleted and re-entry done on 07.12.2020 as per committee report communicated vide Lr.No.EE/D/NGI/AAO/RB/AS/MDY/D.290/20 dated 27.11.2020.
5. It is in practice of down loading the data of the defective meter by MRT wing at the time of replacing the meter. The MRT confirmed that the meter found defective in this service could not be down loaded.
6. The old meter was replaced by the healthy one supplied by the consumer and the data could not be downloaded from the old meter.
7. There is no suppression of material fact.
8. In this case since the meter defective, data could not be downloaded by MRT.
9. In this case, the MRT was requested for down loading of data from the defective meter vide letter dt.17.09.2020. It was reported that the data could not be down loaded from the released meter.
10. MRT has informed the defective meter was TTL make and the company is not functioning now.

6.0 Findings of the Electricity Ombudsman:

6.1 I have heard the arguments of both the appellant and the Respondent. Based on the arguments and the documents submitted by them the following conclusion is arrived.

6.2 The Appellant has stated that Annai Velankanni Engineering College is having LTCT service connection No.145-006-834 under LT Tariff IIB(2). During covid-19 pandemic lockdown period from 22.03.2020 functioning of College and student activities were not allowed. But the respondent has claimed shortfall for

the period from 03/2020 to 09/2020 suspecting meter failure. Hence the appellant has requested to revise the average billing for the lockdown period and adjust the same in the ensuing electricity bills.

6.3 The respondent has stated that for the billing month 03/2020 previous month bill amount (02/2020) has been collected due to Covid-19 lockdown. The assessment month 04/2020 has been recorded as not in use and during 05/2020 assessment the meter status recorded as defective. New meter was fixed on 03.09.2020 and for the meter defective period average of highest consumption recorded from 09/2019 to 12/2019 has been claimed initially. However based on the committee recommendation report which was constituted by the SE/KEDC, the shortfall for the meter defective period 05/2020 to 08/2020 was claimed taking the average of the consumption recorded in the billing months 01/2020, 02/2020, 03/2020 and 04/2020.

6.4 In the absence of CMRI downloaded data, the meter defective period can be decided based on the consumer ledger data only. Current consumption reading 5522.3 kwh has been recorded on 27.02.2020 and the consumption is 6544.2 units. The assessment month 03/2020 has been recorded as PMC. The reading 5753.3 kwh has been recorded on 27.04.2020 and the consumption as 6930 units with the remark not in use which is the total consumption for the months 03/2020 & 04/2020. Considering the lockdown period which was commenced from 25.03.2020 and the CC reading is recorded on site inspection, the CC 6930 units for the assessment months 03/2020 and 04/2020 is reasonable and considered to be correct. The meter is recorded as defective while taking CC final reading as 5753.3 Kwh on 28.05.2020, which is same reading as recorded on 27.04.2020. Hence, I am of the opinion that the meter might have failed even before 28.05.2020 but after 27.04.2020 since display failure has been recorded only on 28.05.2020. Hence the meter defective period is considered to be 28.04.2020 to 03.09.2020.

6.5 Though the meter defective period is considered to be 28.04.2020 to 03.09.2020, the respondent is not eligible to claim shortfall from 28.04.2020 since Covid-19 pandemic lockdown has commenced from 25.03.2020. However, it is to

be noted that the Annai Velankanni Engineering College has been used as Covid-19 quarantine centre from 19.06.2020 to 21.08.2020 (54 days) as per the report of Revenue Divisional Officer, Nagercoil. Hence I am of the opinion that the respondent is entitled to claim shortfall for the period from 19.06.2020 to 21.08.2020 only.

6.6 As the CC reading is not available for 03/2020 due to PMC adoption for lockdown period, the assessment month 03/2020 and 04/2020 can't be considered for computing average for shortfall calculation. Hence as per regulation 11(2) of TN Electricity Supply Code the respondent is directed to compute the average based on the current consumption units recorded in the assessment months 11/2019, 12/2019, 01/2020 and 02/2020 for computing average current consumption for the meter defective period from 19.06.2020 to 21.08.2020.

6.7 Since the Covid-19 lockdown was commenced on 25.03.2020, the current consumption during the period from 28.04.2020 to 18.06.2020 and from 22.08.2020 to 03.09.2020 will not be the same as the consumption during the normal days of prior to lockdown period. The current consumption may have to be computed according to the usage for common lighting and security purposes during the above lockdown periods. Hence, the respondent is advised to compute CC units for the period from 28.04.2020 to 18.06.2020 and 22.08.2020 to 03.09.2020 as per regulation 11(6).

7.0 Conclusion:

7.1 As per the findings in para 6.0 above, the Respondent is directed to compute the shortfall for the period 19.06.2020 to 21.08.2020 based on the current consumption units recorded in the assessment months 11/2019 to 02/2020.

7.2 For the Covid-19 lockdown periods from 28.04.2020 to 18.06.2020 and from 22.08.2020 to 03.09.2020 the respondent is directed to compute the shortfall as per the regulation 11(6) since during the above period the Engineering College was not functioning.

7.3 After arriving at the shortfall amount as above, the excess amount if any may be refunded to the appellant by way of adjustment in the future bills.

7.4 A compliance report shall be submitted to the Electricity Ombudsman within 45 days from the date of receipt of this order.

7.5 With the above findings the A.P. No. 68 of 2021 is finally disposed of by the Electricity Ombudsman. No costs.

(S. Devarajan)
Electricity Ombudsman

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

To

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4. The Executive Engineer/O&M/Nagercoil,
Kanyakumari Electricity Distribution Circle,
TANGEDCO,
Parvathipuram, Nagercoil - 629 003.

5. The Superintending Engineer,
Kanyakumari Electricity Distribution Circle,
TANGEDCO,
Parvathipuram, Nagercoil – 629 003.

- By Email

6. The Chairman & Managing Director,
TANGEDCO,
NPKRR Maaligai,
144, Anna Salai, Chennai -600 002.

– By Email

7. The Secretary,
Tamil Nadu Electricity Regulatory Commission,
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– By Email

8. The Assistant Director (Computer) – **For Hosting in the TNERC Website**
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