



TAMIL NADU ELECTRICITY OMBUDSMAN

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present: Thiru. S. Devarajan Electricity Ombudsman

Appeal Petition No. 24 of 2018

Thiru. V. Rajendrakumar Jain,
(Quinchem Life Science),
AL -189, First Street, 11th Main Road,
Anna Nagar, Chennai – 600 040.

. Appellant
(Rep by V. Rajendrakumar Jain)

Vs

1) The Executive Engineer/O&M/Avadi,
Chennai Electricity Distribution Circle/West,
TANGEDCO,
229, N.M. Road, Avadi, Chennai – 600 054.

2) The Assistant Engineer/Sothuperumbedu,
Chennai Electricity Distribution Circle/West,
TANGEDCO,
138/2, Sothuperumbedu, Orakkadu Post,
Chennai – 600 067.

. Respondents

(Rep by Thiru.Renganathan/Executive Engineer/Avadi)

Date of hearing : 7.8.2018

Date of Order : 28 .11.2018

The Petition dt. 7.5.2018 filed by Thiru. V. Rajendrakumar Jain, (Quinchem Life Science) AL -189, First Street, 11th Main Road, Anna Nagar, Chennai – 600 040 was registered as Appeal Petition No.24 of 2018. The above appeal petition came up for hearing before the Electricity Ombudsman on 7.8.2018. Upon perusing the appeal petition, counter affidavit and after hearing both sides, the Electricity Ombudsman passes the following order.

ORDER

1. Prayer of the Appellant:

The appellant requested to adopt average shortfall as per the TN electricity supply code regulation 11(2) for the meter defective period for their SC No.057-005-970.

2. Brief History of the case:

2.1 Appellant's static digital meter was found to be defective in the month of October 2017. In such case the average of preceding four months have to be taken as current consumption units for the meter defective period i.e October 2017 as per the appellant. In such case the average works out to Rs.34,253/- where as the respondent have charged Rs.66,559/-.

2.2 The appellant submitted his grievance to CGRF of CEDC/West on 29.01.2018. Since there was no action taken even after 50 days, the appellant filed this appeal petition as per CGRF Regulation 17(4). In the mean time, the CGRF of CEDC/West have issued its order on 27.04.2018.

3. Orders of the CGRF :

3.1 The CGRF of CEDC/West have issued its order on 27.04.2018. The relevant portion of the order is extracted below:-

"In view of the above, respondent shall adopt average consumption for the meter defective period (for the assessment month of 10/17 and for 11 days from 30.10.2017 to 10.11.2017) based on the average arrived from the assessment months of 10/16 to 1/17. Further, the respondent is directed to refund the amount if any to the petitioner by way of adjustment in the future current consumption bill of the LT service connection no.057-005-970, and send compliance report to the forum within five days on the implementation of the order."

4. Arguments of the Appellant furnished in the Appeal Petition :

4.1 Appellant's static digital meter was found to be defective in the month of October 2017. In such case preceding four months reading September, August, July and June have to be considered. In such case the average works out Rs.34253/- where as we have been charged Rs.66559/-. Our average meter reading for 4 months works out to 4514 units (i.e.) 150 Unit per day but their calculation says 313 units/day.

4.2 Further on our complaint new static digital meter was installed on 10th November 2017, during the 10 day period of consumption same highest reading calculation was assumed (i.e.) 313 / units day, which means we are paying tariff for 163 units/ day for not consumed by us.

4.3 From 10th November 2017 to 30th November 2017 when new meter was installed the consumption during the period was 1660 units (i.e.) 74 units / day. Subsequently in the month of December 2017, consumption was 4718 units (i.e.) - 157 units / day. Above 4 cases clearly says we were charged at least Rs.42000/- more than what was consumed for no mistake of ours.

4.4 Further landis + Gyr Ltd model E-650, is a advanced metering technology company, the product Technical specification says.

- Recording of data for integrated period and programmable time zone.
- History values for recording of various data for billing
- Recording of tamper events - compartment wise, with programmable

persistence time and thresholds.

4.5 With such advance metering, the data of actually consumed must have been retrieved. As per S.Govindaraju (EE) Tangedco, "Electronic meters retain the usage record of 6 months at any given time. In the event of any defect in the meter, common meter reading instruments helps retrieve the data from the meter

and upload on the computer". This has also not happened.

4.6 Further please note when GST came into effect from July'2017, the SME sector as a whole has slowed down in Tamil Nadu and in India significantly, same applies to us.

4.7 Further we are manufacturers of Choco Paste and Ice Cream covering, a raw material for ice cream manufacturing whose consumption is seasonal (ie) ice cream is more consumed in Summer than in winter, hence taking highest reading is unjustified. Considering the above facts, I request you to arrive at the actual consumption and help us resolve this long standing issue.

5. Arguments of Respondent furnished in counter:

5.1 I submit that the LT CT Service Connection A/c No: 057-005-970, Tariff III-B (Industrial) was effected to the appellant on 08.07.2011 for a load of 111 KW with 200/5A CT Ratio having multiple factor as 40 for energy and maximum demand calculations.

5.2 I submit that the existing Static Digital meter was found to be defective on 30.10.2017. Therefore, the average was arrived as 9390 units based on TNERC supply code under section 11(5). Assessment of billing in cases where there is no meter or meter is defective, Article (5) states that,

"If the condition 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 condition of working were similar to those in the period covered by the billing".

5.3 I submit that in this case as the working condition are similar, average billing was adopted as per above clause. For calculating the average amount, the average was arrived as 9390 units based on consecutive four months consumption from 02/2017 to 05/2017.

KWH Consumption

02/2017	-	8730.4 units
03/2017	-	10290.4 units
04/2017	-	8686.4 units
05/2017	-	<u>9852.8</u> units
		<u>37560</u>

Average Consumption : $37560/4 = 9390$ units

5.4 I submit that the defective meter was replaced on 10.11.2017 with initial reading as 1.51 KWH, 1.28 KVAH for the billing month of 11/2017. The reading was taken on 30.11.2017 with the final reading as 43.01 KWH and 48.28 KVAH. The Recorded consumption from 10.11.2017 to 30.11.2017 was 1660 units.

5.5 I submit that the defective period from 30.10.2017 to 10.11.2017 for 11 days, the average consumption is calculated as 3443 units, based on the previous month average,

The average consumption calculated as 9390 units.

Per day average - $9390/30 = 313$ units/ day

Hence for 11 days (30.10.2017 to 10.11.2017) = 3443 units.

5.6 I submit that the defective meter released from M/s Quinchem Life Science has been sent to the manufacturer for retrieval of the data. But, the manufacturer M/s Landis Gyr has stated that the meter datas could not be downloaded. Hence, there is no way to revise the bill.

6. Hearing held by the Electricity Ombudsman:

6.1 To enable the Appellant and the Respondent to put forth their arguments in person a hearing was conducted on 7.8.2018.

6.2 The appellant Thiru. V. Rajendrakumar attended the hearing and put forth his arguments.

6.3 Thiru. S. Ranganathan, Executive Engineer/O&M/Avadi has attended the

hearing and put forth his arguments.

7.0 Arguments putforth by the Appellant on the hearing date :

7.1 The appellant Thiru. V. Rajendrakumar Jain reiterated the contents of the Appeal petition.

7.2 Appellant stated that their static digital meter was found defective in the month of October 2017. As per regulation preceding four months reading have to be taken, in such case the average works out Rs.34,253/- where as the respondent have charged Rs.66,559/- which is abnormal.

7.3 Further on an average it works out to 4514 units (i.e.) 150 units/day but their calculation was 313 units/day. After installation of new meter also our consumption was 1660 units for 21 days i.e. from 10.11.2017 to 30.11.2017 which works out to 79 units per day. But for the period from 1.11.2017 to 10.11.2017, the respondent has charged the same highest reading of 313 units/day.

7.4 The appellant has stated that the data of actually consumed units should have been retrieved to check our usage since the released meter is an advanced one and refused to accept the respondent's statement that the meter data could not be downloaded.

7.5 Further he stated that they are manufacturers of choco-paste and ice cream covering, a raw material for ice cream manufacturing whose consumption is seasonal and hence taking highest reading is not justified. Therefore he requested to arrive at the actual consumption.

8.0 Arguments put forth by the Respondent on the hearing date:

8.1 Respondents have reiterated the contents furnished in the counter affidavit.

8.2 Respondents have argued that the appellant's static meter was found to be defective on 30.10.2017. Therefore shortfall average was arrived as 9390 units for

the month of 10/2017 based on TNERC supply code under section 11(5) by taking consecutive four months consumption from 02/2017 to 05/2017.

8.3 Further the respondents stated that the same average has also been adopted for the period from 30.11.2017 to 10.11.2017 i.e. for 11 days. Further they argued that the request of the appellant is not feasible since consumption is not consistent.

9. Findings of the Electricity Ombudsman :

9.1 In the MRT report dated 23.02.2017, the AEE/MRT has stated that the meter data could not be downloaded by the meter manufacturer and hence suggested bill revision for the meter defective from 26.09.2017 to 10.11.2017. In the absence of downloaded data, the date from which the meter became defective is not known. The meter condition is normal when the reading was taken on 26.09.2017 and it should have become defective any day in between 26.09.2017 to 30.10.2017. Further there is no dispute that the released meter is defective. Only the method adopted by the respondent to arrive the average consumption is disputed by the Appellant. In order to find out whether the average consumption worked out is as per regulation, we have to refer regulation 11 of the Supply Code which is extracted below:-

"11. Assessment of billing in cases where there is no meter or meter is defective:

(1) Where supply to the consumer is given without a meter or where the meter fixed is found defective 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 not installed or the meter installed 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.

(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 On a careful reading of the said regulation, it is noted that regulation 11(2), 11(4) & 11(5) are the relevant regulations for arriving the average consumption for the meter defective period. The respondent has adopted regulation 11(5) and arrived average consumption for the meter defective period (i.e.) any consecutive four months for the meter consumption recorded during the preceding 12 months period wherein the consumption pattern is similar to the defective period. The respondent have adopted 4 months period from 02/2017 to 05/2017 for arriving the average consumption.

9.3 But the appellant argued that the above calculation is wrong and the average shall be determined by taking the average of the electricity supplied during the preceding four months as per regulation 11(2) of the TNERC supply code. Further it is stated that they are manufacturers of choco-paste and ice cream covering, a raw material for ice cream manufacturing whose consumption is seasonal and hence taking highest reading is not justified. But the appellant has not furnished any valid documents in support of his contention.

9.4 The Respondent also argued that the Appellant has not produced any documents like production details to show that there was less utilization during 10/2017 & 11/2017. Further, the licensee has not furnished the downloaded details of the meter. In the absence of the downloaded data, we have to analyse the consumption pattern only to arrive the consumption during the disputed period. The consumption details for the year 2014 to 2017 are tabulated below:

PERIOD	2014	2015	2016	2017	14, 15 & 2016 Avg
1	3856	7002	6608	7942	
2	5017	11604	9324	8730	
3	4299	8509	5541	10290	
4	5693	9514	5924	8686	
5	4996	10217	8123	9853	
6	4996	8257	7842	6654	
7	6108	6988	7305	5667	
8	6260	8523	7362	2548	
9	6995	7422	6826	3190	
10	7538	7675	7641	9390 Avg	7618
11	7778	5420	13244	5103	8814
12	9270	4688	6400	4718	
Total	72806	95819	92140		
Monthly Ave	6067	7985	7678		

9.5 It could be seen from the above table that the consumption recorded during October of every year is almost consistent and is less than the average arrived by the respondent. Therefore it may be concluded that the average consumption arrived taking highest consumption of the preceding twelve months by the respondent is wrong. Further the preceding four months consumption as per regulation 11(2) is 4515 units which is also very less than the average monthly consumption considering the whole year and hence regulation 11(2) also cannot be applicable in the present case.

9.6 The respondent has arrived the average by taking consumption from 02/2017 to 05/2017 which is not in consistent with regulation 11(5) since the conditions in regard to usage of electricity during the periods were different. Therefore the average has to be arrived only based on the similar condition of working i.e. from 10/2016 to 01/2017. The average units with similar condition of working is 8808 units which is also in consistent with meter defective period of 10/2017 and 11/2017 (upto 09.11.2017).

9.7 The appellant has stated that they are manufacturers of choco paste and ice cream covering, a raw material for ice cream and whose consumption are more in summer than in winter. But there is no variation in the consumption pattern of the appellant as per the consumer ledger. Even in some instances the consumption patterns of the appellant during winter are higher than the monthly average. Therefore the argument of the appellant is not reasonable.

9.8 The CGRF of CEDC/West have ordered to adopt average consumption for the meter defective based on the average arrived for the assessments period from 10/2016 to 01/2017. The same is acceptable to me. But as per available record, the defective meter was replaced on 10.11.2017 and therefore the defective period for 11/2017 may be restricted for the period upto 09.11.2017. Therefore, the respondent are directed to adopt average consumption for the meter defective period i.e. for the assessment month of 10/2017 and for 11 days from 30.10.2017 to 09.11.2017.

10. Conclusion :

10.1 As per my findings in para 9 above, the respondents are directed to adopt average consumption for the meter defective period i.e. for the assessment month of 10/2017 and for 11 days from 30.10.2017 to 09.11.2017 based on the average arrived for the assessments period from 10/2016 to 01/2017 within 30 days from the date of receipt of this order. Any refund on account of revision may be adjusted in the future current consumption bill of the appellant SC No.057-005-970.

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

10.3 With the above findings the AP. No.24 of 2018 is finally disposed of by the Electricity Ombudsman. No Costs.

(S. Devarajan)
Electricity Ombudsman

To

1) Thiru. V. Rajendrakumar Jain,
(Quinchem Life Science),
AL -189. First Street, 11th Main Road,
Anna Nagar, Chennai – 600 040.

2) The Executive Engineer/O&M/Avadi,
Chennai Electricity Distribution Circle/West,
TANGEDCO,
229, N.M. Road, Avadi,
Chennai – 600 054.

3) The Assistant Engineer/Sothuperumbedu,
Chennai Electricity Distribution Circle/West,
TANGEDCO,
138/2, Sothuperumbedu, Orakkadu Post,
Chennai – 600 067.

4) The Superintending Engineer,
Chennai Electricity Distribution Circle/West,
TANGEDCO,
33/11 KV Thirumangalam SS Complex,
Anna Nagar, Chennai – 40.

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

6) The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmi pathy Salai,
Egmore, Chennai – 600 008.

7) The Assistant Director (Computer) – **For Hosting in the TNEO Website**
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmi pathy Salai,
Egmore, Chennai – 600 008.