



TAMIL NADU ELECTRICITY OMBUDSMAN

19- A, Rukmini Lakshmi Pathy 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. 30 of 2012

Thiru. T.C. Murugesan,
No.16, 3rd Cross Street,
Aminjikarai,
East Shenoy Nagar,
Chennai – 29.

... Appellant
(Rep. by Tvl. Lakhminarayanan &
Kamatchisundaram)

Vs

- 1) The Superintending Engineer,
Chennai Electricity Dist. Circle / West,
TANGEDCO,
33/11 KV Thirumangalam SS Complex,
Chennai - 40
- 2) Executive Engineer/O&M,
Anna Nagar Division,
Chennai Electricity Dist. Circle / West,
TANGEDCO,
11th Main Road, Anna Nagar,
Chennai - 40

... Respondents
(Rep.by Thiru. R. Karthikeyan,
EE/O&M/Anna Nagar &
Thiru. Venkatesan/AEE/Const/
Anna Nagar)

Dates of hearing : 4-9-2012 & 11.10.2012

Date of order : 7-11-2012

The above appeal petition No.30 of 2012 came up for hearings before the Electricity Ombudsman on 4-9-2012 & 11.10.2012. Upon perusing the above petition, counter, connected records, and after hearing both sides, the following order is passed by the Electricity Ombudsman :-

ORDER

1. Prayer of the Appellant:

The Appellant prayed to direct the Executive Engineer/O&M/Anna Nagar to withdraw the notice dt.20.1.2012 claiming Rs.84,586/- and to pass such other orders as the Electricity Ombudsman may deem fit.

2. Facts of the case:

The Appellant is a consumer in Chennai EDC/West and his SC No. is 167-029-54 with a sanctioned load of 5 KW. They are a Government approved advertising agency and are charged under Tariff V. The meter in the service was burnt during Oct 2011 and the billing on CC charges was done on average basis for 10/2011 and 12/2011 assessment period. The EE/O&M/Anna Nagar issued demand notice to pay a sum of Rs.84,586/- towards short levy for the period from 2/2011 to 8/2011. The appellant was permitted to pay the above amount in 5 instalments and the first month instalment of Rs.16918/- was paid along with Feb 2012 CC charges on 6.3.2012. The appellant filed a petition to CGRF of Chennai EDC/West to withdraw the above short fall amount. But the CGRF has rejected their petition and ordered to pay the short fall levy in one lumpsum. Aggrieved over the above, the appellant filed this appeal petition to the Electricity Ombudsman the appellant also informed that they have paid a sum of Rs.4229/- being the balance amount of 25% of the disputed amount on 11.7.2012.

3. Contentions of the appellant : The appellant contended the following in his appeal petition.

(i) He is a consumer of Tamil Nadu Generation and Distribution Corporation Ltd., bearing the service connection number 167-029-54 of Chennai EDC / West.

(ii) They are the Government approved advertising agency availing service connection in Tariff V with the connected load of 5 KW.

(iii) In October 2011, their service connection has been assessed with an amount of Rs.30,657/- as average billing on the ground that the meter was burnt and the same procedure was continued for the month of December 2011. The levied

amount has been paid in due date and in October 2011 the charges for the meter have been paid.

(iv) Suddenly, the Executive Engineer has issued a notice with a direction to pay an amount of Rs.84586/- towards short levy in the service for the month of 2/2011 to 8/2011.

(v) During the Month Feb 2011 to August 2011 the service connection was assessed as normal.

(vi) The notice has been issued that the average has not been levied for the defective period.

(vii) The average assessment was worked on the presumption that the CC charges during this period is low when compared to the previous months.

(viii) In May 2011 the new Government was formed and from Feb 2011 the previous Government has stopped to give advertisement through our agency and hence the CC charges during this period was low as compared to previous months. To prove this, the appellant can submit the order book for the advertisement order issued by the Government of Tamil Nadu.

(ix) The Consumer Grievance Redressal Forum / Chennai EDC /West has not accepted the request of the appellant and rejected the petition. The Forum also directed the appellant to pay the balance amount in one lumpsum. The order of the forum was received by the appellant on 19.6.2012.

(x) To comply with the Regulations appellant approached the Executive Engineer/O&M/Anna Nagar to accept the amount of Rs.4229/- being the balance amount of 25% on the disputed amount. The above amount was accepted by them on 11.7.2012.

4. Contentions of the Respondent :

The respondent has contended the following in his counter :

- (i) There is an LT service connection No.167-029-54 under Tariff V in the name of Thiru. T.C. Murugesan, No.16, 3rd Cross Street, Aminjikarai, Chennai – 29. On reviewing the consumer ledger of the above service connection by the 2nd respondent, it was noted that, the units consumed in 10/10 and 12/10 was high, but from the period 2/11 to 8/11 the consumption was recorded less and after that during 10/11, the meter becomes defective.

- (ii) The service connection was assessed with average billing during bi-monthly assessment of October 2011 and December 2011 due to meter burnt and the amount has been paid by the petitioner within the due date.
- (iii) The 2nd respondent has informed that, the consumption from 2/11 to 10/11 was declined due to 3 phase meter fails to record the consumption in any one or 2 phases and finally in all the phases. Hence, the average consumption was arrived by the 2nd respondent for the period 2/11 to 8/11 based on the base average arrived during 10/11 and 12/10. Hence, notice issued to the appellant by the 2nd respondent vide letter dt. 20.1.2012 to collect the average shortfall amount of Rs.84,586/- for the period from 2/11 to 8/11. The petitioner has paid the 1st instalment of Rs.16,918/- on 6.3.2012 and after that filed petition before the Consumer Grievance Redressal Forum / Chennai EDC/West.
- (iv) During the hearing, the appellant has stated that they run M/s Enthral Communication Agency at the above premises and the consumption recorded during 2/11 to 8/11 was less as no advertisement orders received by them due to formation of new government. They have also stated that their company have 60 nos employees and utilised electricity for the equipments to a connected load of 9.9 KW.
- (v) The appellant has produced the evidence regarding Indian Newspaper Society Agency outstanding statement and the petitioner informed that advertisement order from Feb 2011 to till date got reduced due to change of government.
- (vi) The record produced by the appellant has been checked and found that the appellant company have advertisement orders with various agencies for the above period. But the appellant has stated that order of advertisement is less from 2/11 to till date if it is so, the current consumption after fixing of new meter on 25.1.2012 could have also been recorded low like 2/11 to 8/11 consumption as claimed by the petitioner. But consumption recorded in the service connection after fixing of meter was 3145 units from 2/12 and 6100 units for 4/2012. On review of the consumption pattern before and after replacement of

new meter, it is found that the meter might have become defective from 2/11 assessment.

- (vii) Hence, as per clause 11 (1,2&5) of TN Elec. Supply Code , the average consumption was levied by the 2nd respondent from the period from 2/11 to 8/11 based on the base average consumption of 10/10 and 12/10 in the LT service connection no.167.029.54.
- (viii) The allegations stated in the above complaint is totally denied as false and misleading and the same may be put to strict proof of the same.
- (ix) Respondent deny the averment stated in para 8(1) and (2) that the service connection was assessed as normal during Feb 2012 to August 2012. During the monthly assessment, the assessor will record the meter reading as normal if the meter shows progressive reading. In this case, the meter reading was defective during 10/11. During subsequent replacement of defective meter, it is noted that consumption from 2/11 to 8/11 was less compared to previous assessment and after replacement of meter. This could not be ascertained by the assessor during the monthly assessment. The average has been levied for the defective period only.
- (x) It is prayed that the Electricity Ombudsman may please to dismiss the above appeal in TNEO appeal No. 30 of 2012 as having no merits and render justice.

5. Hearing held by the Electricity Ombudsman :T

In order to enable both the Appellant and the respondent to put forth their arguments in person, hearings were conducted on 4-9-2012 and 11-10-2012.

6. Arguments of the Appellant:

6.1 The appellant was represented by Tvl. R. Lakshminarayanan and V. Kamatchi Sundaram on 4.9.2012 and by Thiru. V. Kamatch Sundaram on 11.10.2012.

6.2 The appellants representative argued that they were informed that the meter was burnt and average billing was done for 10/2011 and 12/2011. The burnt meter cost was also paid by them on 13.10.2011. Before the above period there was no complaint on the meter functioning and the same was assessed as normal. But the respondent has issued a demand notice for payment of Rs.84,586/- towards short

levy for the period from 2/2011 to 8/2011 by comparing the above period consumption with previous period bimonthly consumptions and assumed the meter is defective.

6.3 He argued that the reduction in consumption during the above period is due to reduction in their work only and not due to defect in the meter. He informed that after Feb 2011, the Government has stopped to give advertisement through their agency due to election and there after the new Government has also not given any advertisement through their agency and hence, the work is less in their agency consequently, the consumption has also come down due to reduction in work. But, it was construed as low consumption due to defect in the meter and average was claimed. He also informed that he is willing to furnish statement from the Indian News paper Society . New Delhi to support his argument of the reduction in work. Further, he also informed that the staff strength has been reduced. The appellant argued that the assessment was recorded as normal from 2/2011 to 8/2011. Hence, for the above period since the meter is not defective, the average could not be claimed.

6.4 On 11.10.2011, Thiru. V. Kamatchi Sundaram attended the hearing . He informed that their work has been reduced since Feb 2011. He also informed that the billing amount could not exactly reflect the usage as some times one advertisement prepared may be published in more number of news papers and some advertisement may be published in one news paper only. But the work done for the advertisement will be same and the consumption depends on the works done by the agency. He also informed that all the loads connected service will not be in use always. Only the required electrical appliance will be put into service and argued that the connected load cannot be taken for arriving the conclusion on the consumption.

7. Argument of the Respondent

7.1 Thiru. Karthikeyan EE/O&M/Anna Nagar, attended the hearing on 4.9.2012 . He reiterated the contents of the counter. He argued that the connected load in the above service is about 15 KW, hence, the average consumption levied is correct. He also argued that the appellant has stated that their work has since been reduced from Feb 2011 and even now also on the same stage. But, the

consumption after changing the meter is in the range of 6000 units. As the consumer said that the advertisement work is less from 2/2011 to till date, the consumption recorded after changing meter shall also be low, but the consumption is more than 6000 units which is more than the average consumption billed. Further, he also argued that as the loads connected are fans, lights, Air Conditioner and computers, they may be in use irrespective of business and hence argued the consumption levied is correct. With regards to the contention of the appellant that in the computer entry, it was mentioned as normal hence, the meter cannot be treated as defective, the EE/O&M informed that the assessor will record the reading as normal if the meter shows progressive readings. But, that does not mean that the meter is recording correctly.

7.2 On 11.10.2012, Thiru. Venkatesan, AEE/Construction attended the hearing. He informed that as the connected load is 15 KW, considering the working hours of the office as 10.00 am to 5.00pm the average levied may be reasonable even assuming a load of 10 KW was in use.

8. Issues for consideration

8.1 I have heard the arguments put forth by the appellant and the respondent and perused the documents adduced before me. On a careful consideration of submission of both sides I find the following are the issues to be decided.

(i) Whether the contention of the appellant that the reduction in consumption recorded from 2/2011 to 8/2011 is due to reduction in work in their advertisement agency is correct ?

(ii) Whether the average consumption arrived by the licensee is correct?

9. Findings on first issue

9.1 The appellant argued that low consumption recorded in the meter from Feb 2011 to August 2011 is due to their reduction in usage. The appellant argued that their major client Tamil Nadu Govt., has not placed any order after Feb 2011 and hence, there is reduction in work and hence there is reduction in consumption. He also argued that the Air Conditioners and the computers available in the office will be put into use only when there is sufficient work. As there was less work, less consumption is recorded. The appellant furnished the statements received from

Indian News Papers Society New Delhi in support of his argument of reduction in orders/business.

9.2 The respondent argued that the connected load is 15KW. The A.C. units the computers and lights will be used irrespective of the business turnover. Further, he also pointed out that the present consumption of the service is more than 6000 units after changing the meter. The consumer has stated that their business is still less. As the present consumption with less business is more than 6000 units, the consumption recorded during 2/2011 to 8/2011 is low due to meter defect and the average consumption of 4520 units arrived for the period 2/2011 to 8/2011 is reasonable.

9.3 The appellant has furnished the copies of statement received from the Indian newspapers Society to substantiate his claim of reduction in work. The consumption recorded is not for calendar month but for about 60 days. Hence, the months which are falling on the bimonthly period billing was taken for comparison and are tabulated below :

Sl. No.	Bimonthly billing period	Consumption in units	Advertisement billing		
			Period	Rs. in Crs	Rs. in Crs
1	8/2009	4510	7/2009 8/2009	6.07 1.02	7.09
2	10/2009	4750	9/2009 10/2009	0.34 2.10	2.44
3	12/2009	4350	11/2009 12/2009	2.50 2.17	4.67
4	2/2010	4040	1/2010 2/2010	2.18 1.83	4.01
5	4/2010	4200	3/2010 4/2010	3.42 2.25	5.67
6	6/2010	3460	5/2010 6/2010	4.29 4.63	8.92
7	8/2010	2740	7/2010 8/2010	2.47 2.05	4.52
8	10/2010	4400	9/2010 10/2010	0.28 0.26	3.46
9	12/2010	4640	11/2010 12/2010	0.34 0.26	0.60
10	2/2011	2140	1/2011 2/2011	2.80 0.29	3.09
11	4/2011	1070	3/2011 4/2011	1.00 0.91	1.91
12	6/2011	1430	5/2011	0.99	2.09

			6/2011	1.10	
13	8/2011	1140	7/2011 8/2011	0.61 0.28	0.89
14	10/2011	4520	9/2011 10/2011	0.89 0.54	1.43
15	12/2011	4520	11/2011 12/2011	0.75 0.40	1.15
16	2/2012	3145	1/2012 2/2012	0.27 0.12	0.39
17	4/2012	6100	3/2012 4/2012	0.31 0.51	0.82
18	6/2012	6980	5/2012		0.16

9.4 On a careful study of the statement above, it is noted that the billing statement and the consumption has no linear relationship. It is seen that for the consumption of 4510 units, the corresponding billing for 8/2009 is 7.09 crores but for 4750 units consumption, the billing is only 2.44 crores during 10/2009 and for 4640 units consumption for 12/2010 the billing is only 0.60 crores. Hence, I am of the view that the consumption pattern has no linear relationship with the turnover of the advertising agency. It is seen that the turn over of the company as per the billing statements is 27.18 crores during 2010 and 9.13 crores during 2011 and only 1.37 crores upto 5/2012 in the year 2012. Hence, there is reduction in turnover in 2011 and in the year 2012 as contended by the appellant. But, the turnover has no impact on the consumption as seen from the above statement.

9.5 The appellant informed that his business is even now also in the reduced stage. But, it is noted that the consumption is 6100 units and 6980 units in the bimonthly period of 4/2012 and 6/2012 respectively. The respondent pointing out the above argued that the meter has become sluggish after 12/2010 bimonthly reading and hence, it is reasonable to collect average for the bimonthly period of 2/2011, 4/2011, 6/2011 and 8/2011. The above argument is forceful as the consumption for the above periods are about 16 to 33% of the average consumption arrived based on the consumption recorded in 2 bimonthly periods after changing the meter. .

9.6 The average bimonthly consumption recorded during the year 2009 is 4745 units and same is 3913 units during the year 2010. The average bimonthly consumption arrived based on 4/2012 and 6/2012 consumption recorded after changing the meter works out 6540 units. The consumption recorded during 2/2011, 4/2011, 6/2011 and 8/2011 and its comparison with the average

consumption in the years 2009, 2010 & 2012 (2 bimonthly period) are furnished below :

Period	Consumption	% When compared to average consumption of 2009.	% When compared to average consumption of 2010	% When compared to average consumption based on 4/12 & 6/12 bimonthly period
2/2011	2140	45%	55%	33%
4/2011	1070	23%	27%	16%
6/2011	1430	30%	37%	22%
8/2011	1140	24%	29%	17%

9.7 It is noted from the above, the consumption recorded during the period in question are 27 to 55% of the average consumption of the previous year 2010 and 16 to 33 % of the average consumption arrived based on 4/12 and 6/12 consumption.

9.8 In view of the points discussed in previous paras, and as the consumption recorded in the period in question are only 27 to 50% of the average bimonthly consumption of the immediate 12 months period and also about 16% to 33% of the subsequent 2 bimonthly average consumption after changing the meter, I am of the view that the consumption recorded during 2/2011, 4/2011,6/2011 and 8/2011 are low due to defect (sluggishness) in the meter. Hence, the first point is decided in favour of the respondent.

9.9 Here, I would like to point out that the consumption of 2/2011 has comedown to 2140 units as against the previous consumption of 4640 units (ie) the consumption has come to 50% of the previous consumption and was only 1070 units which is less than 25% of the 12/2010 consumption . But the licensee has not taken any action to check the meter. Had they checked the meter at that time, the grievance of petitioner would have been avoided.

10. Findings on the Second Issue :

10.1 The respondent argued that the average consumption for the meter defective period was calculated by taking average of the two assessment periods

consumption prior to Feb 2011 assessment. The respondent has taken 12/2010 and 10/2010 consumption for arriving at the average consumption.

10.2 In this regard the regulation 11 of the Supply Code, which relates to assessment of billing in cases where there is no meter or meter is defective is reproduced 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.”

10.3 On a plain reading of the above regulation 11 of the Supply Code, it is noted that either sub regulation (2) & (5) of regulation 11 could be applied for arriving the average consumption depending upon the utilisation pattern. The licensee has adopted regulation 11.2 of the Supply Code for arriving the average consumption (ie) the licensee has taken 10/2010 & 12/2010 consumption for arriving the average consumption.

10.4 As the licensee has arrived the average as per Supply Code provisions referred (11) above, I am of the view that the average arrived is correct.

11. Conclusion :

In view of my findings in para 9&10 above, I am unable to interfere with the orders of CGRF of Chennai EDC/West . With the above findings the Appeal Petition No. 30 of 2012 is disposed off by the Electricity Ombudsman. No costs.

(A. Dharmaraj)
Electricity Ombudsman

To

- 1) Thiru. T.C. Murugesan,
No.16, 3rd Cross Street,
Aminjikarai,
East Shenoy Nagar,
Chennai – 29.

- 2) The Superintending Engineer,
Chennai Electricity Dist. Circle / West,
TANGEDCO,
33/11 KV Thirumangalam SS Complex,
Chennai - 40

...

- 3) Executive Engineer/O&M,
Anna Nagar Division,
Chennai Electricity Dist. Circle / West,
TANGEDCO,
11th Main Road, Anna Nagar,
Chennai - 40
- 4) The Chairman & Managing Director,
TANGEDCO,
NPKRR Malaigai,
144, Anna Salai,
Chennai – 600 002.
- 5) The Secretary,
Tamil Nadu Electricity Regulatory Commission
No.19-A, Rukmini Lakshmiipathy Salai,
Egmore, Chennai – 600 008.
- 6) The Assistant Director (Computer) - **FOR HOSTING IN THE WEBSITE.**
Tamil Nadu Electricity Regulatory Commission
No.19-A, Rukmini Lakshmiipathy Salai
Egmore, Chennai – 600 008.