

# BEFORE THE ELECTRICITY OMBUDSMAN

9/2, 6<sup>th</sup> Floor, Mahalakshmi Chambers, M.G Road, Bangalore – 560 001

**Present: B.N.Krishnaiah  
Electricity Ombudsman**

**Case No.OMB/G/G-222/2015**

**Dated the 12<sup>th</sup> April 2016**

Between :

Karanja Industries Pvt. Ltd.,  
Akkamahadevi Colony,  
Bidar,  
Represented by its General Manger,  
Sri Rghavendra Patil

... Appellant

(By Sri M.G.Prabhakar, Authorised Representative)

And :

GESCOM, Gulbarga, represented by its  
1) Managing Director,  
Corporate Office,  
Gublarga

2) Chief Engineer (Ele)  
Corporate Planning GESCOM,  
Corporate Office, Gulbarga.

3) Executive Engineer, GESCOM,  
Humnabad

4) Executive Engineer, GESCOM,  
Bidar

5) Assistant Executive Engineer,  
GESCOM, O & M Division,  
Humnabad, Bidar District.

6) Assistant Executive Engineer,  
GESCOM, O & M Division,  
Kamthana, Bidar.

7) The Chairman,  
Consumer Grievances Redressal Fourm,  
GESCOM, O & M Circle, Shivanagar Area,  
Bidar – 585 102

... Respondents

(Sri Ravindra Reddy for R-1 to R-6)

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1. This is an appeal under Clause 21.02 of KERC ( CGRF & Ombudsman) Regulations, 2004, against the orders passed by the CGRF, Bidar, dated 01.07.2015.

2. Letter dated 30.07.2015 was issued to the Assistant Executive Engineers, Humnabad and Kamthana, calling for their comments. The Assistant Executive Engineer, Kamthana, has submitted his reply vide letter dated 18.08.2015. Further, the Advocate for R-1 to R-6 has filed statement of objections on 03.09.2015.

3. Both the parties were informed vide letter dated 03.09.2015 regarding availability of sub-regulation 20(1) of KERC (CGRF & Ombudsman) Regulations,

2004 for settlement by conciliation and mediation which both parties have not availed. Hence, the Authority proceeds to pass the orders on merits.

4. The contentions made by the appellant is summarized as follows :

- (i) The Appellant is a private limited company incorporated under the Companies Act, 1956. It has availed HT power supply to the installation RR Nos.HKHT-4 & 5 and KHT – 6.
- (ii) As per the tariff order 2010 issued by the Karnataka Electricity Regulatory Commission the ToD was extended from next meter reading dated of 01.01.2011 applicable to HT 2(a) and HT 2(b) tariff schedule category at the option of the consumer. Accordingly a request was made to the Licensee for extending ToD benefit vide letter dated 03.01.2011.
- (iii) Even after consistent persuasion by the Appellant vide letters dated 08.02.2011, 24.02.2011, 21.03.2011 and 02.04.2011, 24.04.2011 and letter dated 11.04.2011 by the Secretary, Karnataka Electricity Regulatory Commission to the Managing Director of GESCOM, the Scheme was not extended to the three installations of the Appellant Company. A letter from the Chief Engineer (C.P), Corporate office, GESCOM, dated 30.04.2011 was received by the Appellant asking to change the meters, and to provide meter with ABT features along with CTs of ratios of 30/1 A.O.2s and programmed accordingly by the manufacturers. In response to the said letter the appellant clarified that the existing meters were ToD compliant and there was no need of any change of meters in accordance with the provisions of the Act and CEA Regulations, etc.

- (iv) ToD benefit stipulated under tariff order was applicable w.e.f. January 2011. By virtue of application made on 3.1.2011 to the GESCOM, they should have extended the above benefit from January 2011. However, it was not agreed to inspite of the appellant's reminders and clarifying GESCOMs objections of need for providing ABT features and change of CTs and PTs from existing 0.5s to 0.2s in accordance with Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006.
- (v) After repeated requests and persuasion GESCOM favoured the Appellant by extending the ToD benefit from September/November 2011 without changing the meter confirming the stand of the Appellant.
- (vi) For the delay caused in extending the ToD facility, the appellant has suffered losses and therefore filed the complaint before the CGRF, Gulbarga and later to the CGRF, Bidar.
- (vii) The CGRF, Bidar, dismissed the complaint by its order dated 01.07.2015. Hence, the Appellant is before this Authority.

5. The Counsel for the respondent GESCOM has filed the statement of objections and has contended as follows :

- (i) The ToD facility provided by the Karnataka Electricity Regulatory Commission is optional to consumers under LT-5 category and under HT-2(a) and Ht-2(b) categories (where trivector meter is fixed).
- (ii) Appellant made a request for ToD tariff. The MRT division of GESCOM inspected the installations and made observations stating that the

meters have to be got programmed by the manufacturer with ToD prescribed by the GESCOm i.e.(i) 00.00 Hrs to 06.00 Hrs, (ii) 06.00 Hrs to 18.00 Hrs, (iii) 18.00 Hrs to 22.00 Hrs and (iv) 22.00 Hrs to 24.00 Hrs. The appellant was asked to comply with the said observations and to intimate the GESCOm for extending ToD facility to the installations.

- (iii) In spite of the letters by AEE, Executive Engineer and Chief Engineer of GESCOm for replacement of meter the appellant kept quiet. Instead, the appellant went on making correspondence with GESCOm and KERC. The replacement of existing CT, PT from 0.5s class accuracy to 0.2 class accuracy is in accordance with the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006. Delay in extending the ToD is only due to non-replacement of proper meter for recording schedules of the time of ToD tariff.
- (iv) ToD is defined under the Central Authority (Installation and Operation of Meters) Regulations, 2006, and which means a meter suitable for recording and indicating consumption of electricity during specified time period of the day. Hence, replacement of meter for the purpose of extending ToD tariff was mandatory. The appellant failed to replace the same immediately. Hence, appellant's claim of giving ToD tariff with retrospective effect from the date of his application is without any basis.
- (v) Further, GESCOm extended ToD facility as soon as consumer provided meter for replacement to the GESCOm on 05.09.2011. Hence any delay in extending ToD facility is attributable to the appellant only.

6. The CGRF in its order dated 01.07.2015 has framed the following issues:

- (i) Whether the complainant proves that he is eligible to get ToD facility from 03.01.2011 to 01.09.2011?
- (ii) Whether the complainant fulfills the qualifying requirements for availing ToD facility?
- (iii) Whether the existing meter was having ToD facility as claimed by the complainant?
- (iv) Whether the licensee is liable for providing ToD compatible meter?
- (v) Whether the complainant established claims made in the complaint is supported by the provisions of COS code prescribed by KERC.

7. All the above issues were found to be negative by the CGRF and hence the CGRF dismissed complaint filed by the appellant.

8. The CGRF in their order dated 01.07.2015 have held that the existing meter was not having the ToD facility. The CGRF have considered the contentions of the AEE, Kamthana, that the provisions of Section 55 of the Electricity Act 2003 are applicable only at the time of servicing whereas these installations were serviced prior to the year 2003 and hence the provisions of Section 55 are not applicable to the instant case. According to Clause 15.03 of the COS of KERC which is operational with effect from 2006, any extensions and alterations requested by the consumer, like the changing of meter, fuses, and service lines, etc, are to be permitted at the cost of consumer only.

9. The AEE, Humnabad, has also contended before the CGRF saying that existing meter was not having ToD facility of any time zone as prescribed by the

KERC and reiterated that replacement of existing CT, PT from 0.5s Class to 0.2s Class accuracy is in accordance with CEA Regulations, 2006. It is very clear from CEAs Regulations 2006 that the accuracy class of meter for voltage class above 650 V to 33 kV is 0.5s or better. It was to have 0.2s class meter, CT and PT which are more accurate than 0.5s class. The very purpose of replacing 0.5s class CTs, PTs by 0.2s class is to have more accuracy and justification to the consumer for his legitimate energy consumption. There is no ill intention on part of GESCO and action proposed by GESCO is in the interest of consumer billing accuracy. However, ToD non-compatible meter was replaced with ToD compatible of new version meter by the consumer retaining the existing CTs and PTs.

10. The CGRF held that the contention of the complainant is not supported by the provisions of CEA Regulations or the Electricity Act 2003 and KERC Regulations. If the consumer opts for obtaining the ToD facility as per tariff order 2010, alteration if any in the metering equipments shall be borne by the consumer himself. After a long correspondence the Appellant obliged and provided a meter with all required standard of ToD on 05.09.2011 and from them the ToD facility is extended to the consumer in the next billing cycle.

11. The learned Authorized Representative for the appellant argued the matter and reiterated his submissions made in the appeal memo and further argued that the meter fixed earlier was ToD compliant. If it was not ToD compliant it was the duty of the Licensee to replace the meter. He further argued that there is clear delay and dereliction of duty on the part of the Licensee and prayed the Authority to grant the reliefs sought for. It is the duty

of the Licensee to replace the meter as stipulated in the relevant rules. In support of his argument he has cited the two Judgements of the Hon'ble Appellate Tribunal for Electricity dated 07.09.2011 and 27.09.2011 in respect of Appeal No.184 of 2010 and 27.09.2011 respectively wherein it is made clear that no person can take advantage of his own wrong. He also quotes the relevant provisions detailed in rules issued by Central Electricity Authority.

12. The counsel for the Respondents Sri Ravindra Reddy reiterated his contentions made in the statement of objections. He argued that ToD facility is provided at the option of the consumer. The appellant requested for ToD. A letter was issued on 30.04.2011 to the appellant informing that the meter does not have ToD facility and advised to replace the meter having ToD facility. After lot of correspondence on 05.11.011 meter with ToD was procured by the Appellant. After replacing the meter ToD facility was granted.

13. In view of the above facts and circumstances the issue that arises for consideration is "whether the order passed by the CGRF dismissing the complaint is justified".

14. Under the stipulations and conditions enshrined under the norms issued by Karnataka Electricity Regulatory Commission and Regulation 18(2) of Central Electricity Authority (Installation and Operation of Meters), it is made clear and mandated, that it is the duty of the Licensee to replace the meters which do not comply with the Regulations in force and further to ensure that the meter so fixed is of the required accuracy standard and entitled for ToD facility.



15. The written arguments filed by the appellant and respondent and the oral submissions made by both the parties is considered and following order is passed.

**ORDER**

The appeal is allowed. The order dated 01.07.2015 of the CGRF, Bidar, is set aside. The respondent GESCOM is directed to reimburse the benefit of TOD to the Appellant from the date of application dated 02.01.2011 filed by the appellant by taking the average of actual consumption recorded after the scheme was extended with Bank rate of interest applicable for the relevant period as per Rules.

**Sd/-**  
**(B.N.Krishnaiah)**  
**Electricity Ombudsman**

**To :**

1. Sri M.G.Prabhakar, No.79, 14<sup>th</sup> Cross, 2<sup>nd</sup> Phase, J.P.Nagar, Bangalore – 560 078
2. The Chief Engineer (Ele), Corporate Planning GESCOM, Corporate Office, Gulbarga.
3. The Executive Engineer, GESCOM, Humnabad
4. The Executive Engineer, GESCOM, Bidar
5. Sri Ravindra Reddy, Advocate, No.49, 57<sup>th</sup> 'A' Cross, 4<sup>th</sup> Block, Rajajinagar, Bangalore – 560 010.
6. The Assistant Executive Engineer, GESCOM, O & M Division, Humnabad, Bidar District.

7. The Assistant Executive Engineer, GESCOM, O & M Division, Kamthana, Bidar.
8. The Chairman & Superintending Engineer, Consumer Grievances Redressal Fourm, GESCOM, O & M Circle, Shivanagar Area, Bidar – 585 102
9. Managing Directors of ESCOMs.
10. PS to Hon. Chairman, KERC
11. PS to Hon. Member (A), KERC
12. PS to Hon. Member (M), KERC
13. PS to Secretary, KERC

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