

D-973.

## 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 09.01.2018**

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, Gulbarga

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 case is taken up again as per the order of the Hon'ble High Court dated 12.4.2016. The respondents GESCOM in the instant case had approached the Hon'ble High Court, Kalburgi Bench, in W.P.204595/2016 (GM-KEB) against the order passed by this Authority dated 12.04.2016. The Hon'ble High Court in their order dated 25.10.2016 vide para 7 and 8 have held as follows :

*“7. Although several contentions have been urged by GESCOM which have been referred to in the body of the order the reasons assigned by the CGRF in dismissing the complaint as have been adverted to, ultimately, do not disclose consideration of those contentions, Electricity Ombudsman has not dealt with the said contentions. The order, is therefore, not a speaking order in as much as relevant regulations framed by the Karnataka Electricity Regulation Commission which have bearing on the point so also the*

*contentions urged by GESCOM have not been considered. Therefore, matter requires reconsideration by the Electricity Ombudsman.*

*8. Hence, writ petition is allowed. Impugned order passed by Electricity Ombudsman is set-aside. Matter is remitted back for fresh considerations, Keeping in mind the observations made above”.*

2. Firstly, The learned Advocate for the respondents had filed objections for appearance of Sri M.G.Prabhakar, authorized representative for the appellant on the ground that he being an active member of the Advisory Committee of the KERC and having affinity with KERC Ombudsman in the movement of various matters dealt as a member of the Advisory Committee of KERC. The matter was heard in detail. After considering the submissions made by both the parties the objection was set aside and the authorized representative for the appellant Sri M.G.Prabhakar was allowed to present the case on behalf of the appellant. Later, the case was taken up for hearing on several dates.

3. The contentions raised by the respondents during the earlier hearing before the Ombudsman vide their statement of objections dated 3.9.2015 which the Hon’ble High Court has referred are reproduced as below :

(i). The time of the tariff (TOD) which was provided by the Hon’ble Karnataka Electricity Regulatory Commission based on time of day use as optional to consumers under LT5 category and under HT2(a) and HT2(B) categories (where trivector meter is fixed).

(ii). The appellant who made a request for extending TOD tariff in respect of their installations HKHT-4 & 5 and KHT-6 at Bidar District. The GESCOM considering the application of Appellant for TOD tariff it was observed vide letter dated 30.4.2011 as follows:

“With reference to the above, during our MRT staff visit to your installations bearing RR Nos. (a) HKHT-5(c) KHT-6, following observations were made.

a) HKHT-04

Observations :

i.	Installation is having ETV meters of L&T make, WR200BB52C2, 5A, 0.55 class non ABT features, with T.O.D. for 5 domain (zones).
ii.	The existing CTs and PTs are of 0.5 and 0.1 class

Above ETV meter, CTs and PTs are to be replaced by :

i.	L&T made WR30BB11 ABTRS, 0.2s class, 1 amp, ETV meter with ABT features.
ii.	CTs with ratio of 25/1-1A, 0.2s class of burden 5VA and PTs by 0.2s class ratio of $\frac{33KV}{110V/3}$ - $110V/3 \text{ - } 110V/33$

b) HKHT-05.

Observations :

i.	Installation is having ETV meter of L&T make, WR200BB52C1, 5A, 0.5s Class non ABT features, with T.O.D for 5 domain (period) :
ii.	CTs with ratio of 25/1-1A, 0.2s class of burden 5VA and PTs by 0.2s class ratio of $\frac{33KV/ \quad 3}{110V/ \quad 3-110V/ 33} \quad \text{Burden 10 VA}$

c) HKHT-06.

i. Installation is having ETV meter of L&T make, WR200BB52C1, 5A, 0.5s class non ABT featured, without T.O.D facility.

ii. The existing CTs and PTs are of 0.5 class.

Above ETV meter, CTs and PTs are to be replaced by :

i. L & T made WR300BB11 ABTRS, 0.2s class, 1 amp, ETV meter with ABT features.

ii. CTs with ratio of 30/1-1A, 0.2s class of burden 5 VA and PTs by 0.2s class ratio of  $\frac{33KV/ \quad 3}{110V/ \quad 3-110V/ 33}$  Burden 10 VA

d) The meters of the above 3 installations have to be got programmed by the manufacturer of the 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
- iv. 22.00 Hrs to 24.00 Hrs

After compliance to the above said observations you are requested to intimate to this office for extending T.O.D. facility to the above installations.”

(iii). In spite of the letters issued by AEE and Executive Engineer and Chief Engineer of GESCOM, for replacement of meter which was non-compatible TOD meter, instead of replacement of meter, appellant went on making several correspondences with GESCOM and KERC. That, the replacement of existing CT, PT from 0.5s class accuracy to 0.2s class accuracy is in accordance with the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006. And any delay in extending benefit of TOD tariff to the said installations is only due to non-compliance of GESCOM communication by the appellant/consumer for replacement of proper meter for recording in terms of the timing of TOD tariff. Hence without compliance of the above said requirement of GESCOM, extending TOD tariff which was not possible, hence any delay in extending TOD tariff to the appellant is clearly attributable to the complainant/consumer.

(iv). As per the tariff order of the KERC wherein it is made clear that, the TOD based on time of day use as optional to consumers under LT-5 category and under HT 2(a) and HT 2(b) categories where trivector meter is fixed. In these circumstances it was made clear by the KERC that, the meter's in terms of letter dated 30.04.2011 for replacement of existing

meter's of the appellant with meters as prescribed by the Chief Engineer (Ele) Corporate Planning, which was mandatory. Hence failing to replace with meters as prescribed by GESCOM is a lapse on the part of the appellant/consumer for not extending TOD tariff immediately. Hence finding given by the CGRF on the said issue is proper and which is in terms of the regulations, and no grounds is made out for interfering by this Hon'ble Ombudsman. And above appeal filed by the appellant is liable to be dismissed;

(v). The Time of the Day Meter is defined under the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 and which means a meter suitable for recording and indicating consumption of electricity during specified time periods of the day. Hence replacement of meter for the purpose of extending TOD tariff was mandatory, and in spite of instructions and letters issued to the appellant, he failed to replace same immediately. Hence, appellant's claim of giving TOD tariff with retrospective effect i.e., from the date of his application is without any basis, and said claim is quite contrary to the said provisions of the Act, Regulations and Orders. Hence rightly the CGRF has rejected said claim;

(vi). The claim of the appellant that, TOD tariff was given without replacement of any meters is quite baseless, and same is denied, and further it is stated, that, the TOD tariff was given to the appellant only on replacement of meter, hence contention of appellant is liable to be rejected which is without any basis. And further it is clear from the Regulation 15.03 of the Supply Code of KERC, which is extracted as follows:

“15.03. In all other cases, if the consumer desires to increase the number and capacity of connected machinery beyond the sanctioned load, he shall get the additional load sanctioned and furnish the contractor’s completion-cum-test report to the Licensee, where upon, the representatives of the Licensee shall call and inspect the alterations and if necessary, change the meters and fuses and alter the service line at the cost of the consumer. Failure to give notice to the Licensee shall render the installation liable for disconnection and action as per Clause 42.01 (ii) & (iii)”.

(vii). Any delay caused in extending TOD tariff facility was only due to non-compliance of GESCOM communication and only due to time spent by the Karanja Industries in unnecessary correspondence without replacing meter required for providing TOD tariff facility. And further GESCOM extended TOD facility as soon as consumer provided meter for replacement to the GESCOM that is on 5.9.2011, hence any delay in extending TOD facility is attributable to the appellant only;

(viii). It is submitted that, the claim of the appellant that, the benefit of TOD tariff, is eligible to be given with effect from January 2011, the respondent/GESCOM is herein denying said claim, and it is reiterated that, the benefit of TOD tariff is to be given only from the date of calibration of the meter i.e.2.11.2011 and not as per the claim of the appellant;



(ix). The grounds raised in the appeal is devoid of merits, and the finding given by the CGRF on the issues raised by the appellant are specific and in consonance to the material evidence on record and same is after considering in detail to the provisions of Electricity Act, Regulations of the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 and Regulations of the Supply Code. And further provisions and regulations quoted in the grounds to memorandum of appeal of the appellant, same is considered by the CGRF while passing detailed judgement, hence requires no interference with the decision rendered by the CGRF and accordingly above appeal is liable to be dismissed

4. Further, the learned Advocate for the respondent again has filed the following written arguments vide memo dated 22.7.2017 and has contended as follows :

(i) The complaint is not maintainable for the sole reason that, the instructions given by the GESCOM vide letter dated 30.04.2011 issued by the Chief Engineer (Ele) in No.GESCOM/CEE (CP)/EE/AE(Coml)2011-12/4461-66, to procure 0.25 class meters, and further complainant accordingly procured meters and same were replaced by GESCOM. Hence instructions given vide letter of GESCOM dated 30.04.2011 has become final and same is not questioned by the complainant, and after having replaced with meters later claiming TOD tariff retrospective from the date of application is without any basis and same is liable to be rejected;

- (ii) The complainant had claimed Time of the Tariff (ToD) in terms of the Tariff Order-2010 issued by Hon'ble KERC, the order 27 is extracted as follows :

*“The Commission has continued the Time of day (TOD) tariff based on time of day use as optional for consumers under LT 5 category (where trivector meter is fixed) and under HT 2(a) and HT2(b) categories. Details of TOD tariff are indicated under the respective Tariff category”.*

And further to the said Tariff Order-2010 tariff schedule is prescribed for the TOD Tariff at the option of the consumer, the same is extracted as follows :

Time of Day	Increase + / reduction (-) over the normal tariff applicable
22.00 Hrs to 6.00 Hrs	(-) 60 paise per unit
06.00 Hrs to 18.00 Hrs	0
18.00 Hrs to 22.00 Hrs	+ 60 paise per unit

And admittedly when the time of TOD request was made by the complainant, the existing meter was not having TOD features as prescribed By KERC in the tariff order. And further it is clear from the relief sought by the complainant which is extracted as follows :

*“ the complainant prays that this Hon’ble Forum may be pleased to direct the Licensee to reimburse the benefit from the date of our application and as per tariff order either by taking average consumption or at the average of actual consumption recorded after the scheme was extended to us “*

Wherein the complainant is seeking relief of TOD with retrospective effect from the date of application, without replacing meter as prescribed by GESCOM for providing TOD benefit. And in the above case admittedly complainant has procured meter with TOD facility only in the month of November 2011. Hence the complainant with a claim of retrospective effect from the date of application is without any basis, same is liable to be rejected and rightly the CGRF rejected said claim, hence above complaint which is in the nature of appeal is liable to be rejected:

- (iii) The tariff order of the Hon’ble KERC is specific TOD tariff is required to be provided at the option of the consumer where trivector meter is fixed. And in regard to claim of the complainant for grant of relief with retrospective effect, there is no scope in the tariff order, and the tariff order issued by the Hon’ble KERC is final, and the CGRF or the Ombudsman has no authority to interpret or give different meaning to the tariff order-2010. Hence above complainant is not maintainable under the provisions of the KERC (Consumer Grievances Redressal Forum and Ombudsman Regulations), 2004, and the CGRF should have dismissed the said

complaint on the ground of maintainability. Hence the Hon'ble Ombudsman may be pleased to dismiss above complaint on the ground of maintainability.

- (iv) Regulation 15.03 of the Conditions of Supply of Electricity of Distribution Licensee in the State of Karnataka specifies that "... and if necessary change the meters and fuses and alter the service line at the cost of the Consumer". And further provisions referred by the complainant i.e. Regulation 25 of the Supply Code and Section 55 of the Electricity Act is not applicable to the above case;
- (v) On earlier occasion by letter dated 10.11.2006 which is produced before this Hon'ble Ombudsman, for procurement of new meter, and complainant has complied with such instructions and procured fresh meter and same was replaced. And presently in the above case taking stand that, it is GESCOM who has to procure meter is quite without any basis, and said stand is liable to be rejected;
- (vi) The complainant is blowing hot and cold at the same time by contending at one stage that, existing meter has TOD facility and there is no reason to replace meter and at the same time takes another stand, it is GESCOM who has to provide new meter for having collected security deposit already. This makes clear that, the complainant is not disputing that, the existing meter is not having TOD facility and it was required to be replaced with new meter with TOD facility;

- (vii) The respondent GESCOM issued letter dated 30.04.2011 for replacement of meter for availing TOD facility, and wherein the complainant procured meter only in the month of November 2011, and approached the CGRF by filing complaint under the provisions of the Karnataka Electricity Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2004, wherein same is within the time frame which is fixed under the said Regulations, the Regulation No.6 of the said Regulations is herein extracted as follows :

*“6. Procedure for grievance redressal and lodging complaints.*

*6.1. In the event of a complaint not being redressed satisfactorily as provided in the Complaints Handling and Redressal Standards relating to distribution and supply (Standards of Performance) of power issued by the Commission, shall submit his grievance to the Forum not later than one (1) month from the date of lodging of the grievance with the Licensee”.*

It is clear from the records wherein first time when complainant was issued with letter dated 30.04.2011 by GESCOM for procuring meter with TOD facility. And said intimation is not challenged in the above proceedings and same has become final. And if at all complainant had any grievance in regard to change of meter for availing TOD tariff facility, same should have been questioned before the CGRF under the said regulation 6.1 within a period of one month. Any complaint filed after lapse of one month either the CGRF or the Ombudsman will (not) get jurisdiction to entertain

the above complaint, hence above complaint filed before the CGRF is liable to be rejected on the sole ground of limitation. It is the duty of the CGRF and Hon'ble Ombudsman to consider first whether the complaint made by the complainant is within the time prescribed by the Regulations. Because, the Regulations gives power to the CGRF and Hon'ble Ombudsman for entertaining complaint only if the same is filed within one month from the date of lodging of the grievance with the Licensee. If the complaint is considered without looking into question of limitation, then same has to be considered as without jurisdiction and any order passed has to be considered as nullity in the eye of law;

- (viii) In the similar circumstances in the case of Bmf Beltings Limited – vs – The Chairman, Tamilnadu, in W.P.26675/2004 in Division Bench has held at para 12 and 13 which is extracted as follows :

*“12. The above fact is not disputed by the learned Counsel appearing for the petitioners. On the contrary, a statement showing the various dates of installation of TOD meters was produced by the learned Counsel for the Association itself. He as fairly admitted that the Board is giving set off from the date on which the TOD meters were fixed and in the list furnished by them in respect of 32 Wind Mill owners, different dates have been given.*

*13. We do not see any written wanton delay on the part of the respondent Board in implementing the orders of this Court. In fact, pursuant to the order passed by this Court, a meeting of the Full Board was held on 23.04.2005 and a decision in respect of the implementation of the order of this Court was taken by the Board. Pursuant to the said meeting, Permanent B.P. (FB) Nos 101 dated 09.05.2005 was issued by the Board. Therefore, the argument of*

*the learned Counsel appearing for the Association is unsustainable and we consider there is no delay on the part of the Board in giving effect to the order of this Court. On the contrary, it was the wrong understanding on the part of the Wind Mill owners, who have not come forward to install appropriate meters for measuring the energy generators in their wind form so as to enable the Board to activate the same and calculate the generation of electricity during peak hours”.*

5. The representative of M/s.Karanja Industries Pvt. Ltd., has reiterated the averments made earlier and also submissions made in the appeal memo along with the copies of the regulations pertaining to installation of meters by the Government and citing the orders made by the Appellate Tribunal for Electricity.

6. The submissions made by both the parties, contentions raised by them is perused and considered.

7. Consequently, the following issues emerges for consideration.

(a) Whether the complaint filed by the appellant before the CGRF is barred by limitation which is raised by the respondents now?

(b) Whether the Respondents are entitled for any reliefs as claimed in their written memo.

8. As regards the point of limitation, during the hearing before the CGRF earlier and before this Authority, the respondent had not raised the issue of limitation. However, by virtue of an amendment issued in the year 2013 for the regulations governing the functioning of the office of CGRF and Ombudsman, the time limit for filing the complaint before the Forum was raised to three months. However, the CGRF admitted the complaint and

after detailed enquiry considered the submissions made and passed the final order. During the deliberations before CGRF, the point of limitation regarding filing of complaint was not raised and debated. Also, the time of earlier appeal before this Authority, the issue did not come up for consideration. The respondents seldom raised the issue before the Hon'ble High Court also. It does not appear to be fair at this point of deliberation to consider this. Hence the question regarding the limitation does not arise.

9. Regarding the second issue i.e. reliefs claimed by the respondent it has to be seen and considered as per the following conditions laid down by KERC and Government of India.

- a) Clause 7.05 of the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka states as follows :

*“TOD tariff facility shall be extended to any Consumer at his option for eligible categories.*

- b) Clause 15.03 of the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka states thus :

*“15.03. In all other cases, if the consumer desires to increase the number and capacity of connected machinery beyond the sanctioned load, he shall get the additional load sanctioned and furnish the contractor's completion-cum-test report to the Licensee, where upon, the representatives of the Licensee shall call and inspect the alterations and if necessary, change the meters and fuses and alter the service line at the cost of the consumer. Failure to give notice to the Licensee shall render the installation liable for disconnection and action as per Clause 42.01 (ii) & (iii)”.*



- c) Regulation 25.02 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka states thus :

*“25.02. In case of HT installations, the Licensee shall provide HT electronic type Trivector metering equipment for registering the power demand as well as energy consumed and with the facility of ‘Time of the day’ Metering with memory capacity of one month”*

- d) Clause 3 and 4 of Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 states as follows :

### *3. Applicability of regulations.*

*(1) These Regulations shall be applicable to meters installed and to be installed by all the generating companies and licensees who are engaged in the business of generation, transmission, trading, distribution, supply of electricity and to all categories of consumers.*

*(2) After coming into force of these regulations, the provisions of the Indian Electricity Rules, 1956 relating to installation and operation of meters in this regard shall not be applicable.*

*(3) These regulations provide for type, standards, ownership, location, accuracy class, installation, operation, testing and maintenance, access, sealing, safety, meter reading and recording, meter failure or discrepancies, anti tampering features, quality assurance, calibration and periodical testing of meters, additional meters and adoption of new technologies in respect of following meters for correct accounting, billing and audit of electricity:*

- (i) Interface meter*
- (ii) Consumer meter*
- (iii) Energy accounting and audit Meter*

*“4. Type of meters. –*

*(1) All interface meters, consumer meters and energy accounting and audit meters shall be of static type.*

*(2) The meters not complying with these regulations shall be replaced by the licensee on his own or on request of the consumer. The meters may also be replaced as per the regulations or directions of the Appropriate Commission or pursuant to the reforms programme of the Appropriate Government”.*

- e) Clause 6 (2)(a) of the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 which relates to the ownership of the meters states “*Consumer meters shall generally be owned by the licensee*”.

The specification of accuracy of meters indicated regarding standards on installation and operation of meters in the schedule of the said regulations is as follows:

Accuracy Class	Meters shall meet the following requirements of Accuracy Class	
	Interface meters	0.25
	<b>Consumer meters</b>	
	Up to 650 Volts	1.0 or better
	Above 650 volts and up to 33 kilo volts	0.5S or better
	Above 33 kilo volts	0.2S

In the light of the above said norms, the following points are to be considered.

10. On perusal of records , it could be seen that the appellant has submitted his first request letter on 3.1.2011 for TOD benefit and reiterated the same in his further letters submitted to the Licensee.

11. However, the Licensee after lapse of four months, replied and advised the appellant through a letter dated 30.04.2011 issued by the Chief Engineer. It is as follows :

“With reference to the above, during our MRT staff visit to your installations bearing RR Nos. (a) HKHT-5(c) KHT-6, following observations were made.

a) HKHT-04

Observations :

i.	Installation is having ETV meters of L&T make, WR200BB52C2, 5A, 0.5S class non ABT features, with T.O.D. for 5 domain (zones).
ii.	The existing CTs and PTs are of 0.5 and 0.1 class

Above ETV meter, CTs and PTs are to be replaced by :

i.	L&T made WR30BB11 ABTRS, 0.2s class, 1 amp, ETV meter with ABT features.
ii.	CTs with ratio of 25/1-1A, 0.2s class of burden 5VA and PTs by 0.2s class ratio of $\frac{33KV/\sqrt{3}}{110V/\sqrt{3-110V/\sqrt{33}}}$ Burden 10VA

b) HKHT-05.

Observations :

i.	Installation is having ETV meter of L&T make, WR200BB52C1, 5A, 0.5s Class non ABT features, with T.O.D for 5 domain (period) :
ii.	The existing CTs and PTs are of 0.5 Class.
Above ETV meter, CTs and PTS are to be replaced by	
i.	L & T make WR300BB!! ABRFS, 0.2S class, 1 amp. ETV meter with ABT features
ii.	CTs with ratio of 25/1-1A, 0.2s class of burden 5VA and PTs by 0.2s class ratio of $\frac{33KV/\sqrt{3}}{110V/\sqrt{3-110V/\sqrt{33}}}$ Burden 10 VA

c) HKHT-06.

i. Installation is having ETV meter of L&T make, WR200BB52C1, 5A, 0.5s class non ABT featured, without T.O.D facility.

ii. The existing CTs and PTs are of 0.5 class.

Above ETV meter, CTs and PTs are to be replaced by :

i. L & T made WR300BB11 ABTRS, 0.2s class, 1 amp, ETV meter with ABT features.

ii. CTs with ratio of 30/1-1A, 0.2s class of burden 5 VA and PTs by 0.2s class ratio of  $\frac{33KV/\sqrt{3}}{110V/3-110V/\sqrt{3}}$  Burden 10 VA

d) The meters of the above 3 installations have to be got programmed by the manufacturer of the 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 iv. 22.00 Hrs to 24.00 Hrs

After compliance to the above said observations you are requested to intimate to this office for extending T.O.D. facility to the above installations.”

12. For the said letter of the Chief Engineer, the appellant M/s. Karanja Industries Pvt. Ltd., vide letter dated 6.5.2011 has replied as follows :

*“We invite your kind attention towards your office letter dated 30.04.2011 through which it has been informed to us to comply with the observations as informed in your letter for extending the TOD facility to the above installations.*

*In this connection it is pertinent to mention here that as per Section-*

*55 of the Electricity Act the consumer is required to place Security Deposit for the price of the meter & the licensee has to install the required meter. We are already holding the Security Deposit with GESCOM whereby the GESCOM has installed the meter of L & T make-ER300P which is TOD compliant. Further, the meter with 0.5 class is sufficient for supply of above 650 volts & up to 33 KVA and there is no necessity of installing 0.2S class meter. While BESCO has already extended such facility on the similar tours meters.*

*In view of the fact, that our supply is from 33 KVA line, the present meter itself is sufficient. As per the tariff notification applicable to HT (a) category, the meter is to be programmed for 3 categories (against four suggested by you) as under which may also be examined.*

<i>22 Hrs. to 06 Hrs. (-)</i>	<i>0.80 paise per unit</i>
<i>06 Hrs. to 18 Hrs.(0)</i>	<i>0</i>
<i>18 Hrs.to 22 Hrs (+)</i>	<i>0.80 paise per unit</i>

*Further we request you to kindly refer to CEA (Installation & Operation of meters) Regulation 2006 Schedule Part-I standards for all types of meters. In the light of the above, we once again request you to kindly arrange for extending the TOD facility without any further delay in the matter and we also request you to cause orders for crediting the facility benefit w.e.f. Jan'11 @ 1/6<sup>th</sup> of the units consumed as ours is 24 hours running unit".*

13. This correspondence made by the appellant to the Licensee makes clear the fact that the meter was TOD compliant. At least at this junction the Licensee authorities should have replaced and appraised the consumer. The

reasons submitted also reveals that the Licensee authorities did not take up the matter in spite of representation being forwarded by the KERC.

14. As required under the norms cited above relating to the meters, it is made clear that the onus lies on the Licensee to replace the meter.

15. Dragging the time for 6 to 7 month from the date of filing the request by the appellant, the Licensee authorities appears to have failed in discharge their defined responsibilities. This non-responsive attitude on the part of Licensee authorities has resulted for the whole issue to come up. The norms and regulations made by the ESCOMs and the KERC are to be properly implemented keeping in mind the interest of both ESCOM and consumer.

16. The point here for consideration is the silence of GESCOM authorities on the request made by the consumer vide their letter dated 3.1.2011 and on further dates. They have conveyed to the authorities, saying that the meter installed was TOD compliant having all the standard parameters which are required for claiming TOD benefit. Accordingly, they have insisted and requested for extending the benefit with effect from 3.1.2011. This fact has not been properly taken into cognizance by the GESCOM authorities. On receipt of this letter dated 03.01.2011, the Licensee Authority should have inspected the installation and ascertained the position immediately. Rather they insisted the consumer appellant to replace the meter only after a lapse of four months. All this strengthens the case of the appellant to claim the TOD benefit from the date of his first application dated 3.1.2011.

17. Even after the letter dated 30.4.2011 by the GESCOM to the appellant, the appellant again has addressed letters dated 6.5.2011, 11.7.2011, 17.5.2011, 7.12.2011, 4.1.2012, 13.3.2012 reiterating its stand that the meter is TOD compliant, and requested the authorities to grant TOD facility but in vain.

18. (1.0) The decision taken by CGRF in dismissing the petition, mainly centered around the following reasons:

i. The meters of the installations are not having T.O.D. facilities as on 03-01-2011, the day the petitioner filed an application for Extending the T.O.D facility to the installations, as the meters were 0.5 S (Class of accuracy) and not 0.2 class (Class of accuracy and considered, the plea of respondent licensee that 0.5 class accuracy meters are to be replaced by 0.2 class accuracy to avail T.O.D. facility.

ii. The petitioner has to replace the existing meters of his installations as per the clause No.15.03 c.o.s. of KERC.

(2.0.) Further CGRF justifies the above reasons, based on the fact that the petitioner himself has replaced he meters during the month of September 2011, which implies that the petitioner accepts the facts of



- (i) the meters of the installations are to be provided with 0.2 S (Class of accuracy) and (ii) the meters are to be replaced by petitioner.

3.1 The CGRF has not considered the following facts while coming to final conclusion:

i. The existing meters were having T.O.D facility, with current rating of 5 A and accuracy class 0.5.S. The meter Standards, as per the CEA (installation and operation of meters and operation of meters) Regulations, 2006, specify that the accuracy class of consumer meters between 650 volts & 33,000 volts to be 0.5 class or better means 0.5 accuracy, which is adequate for petitioner's installations which or 33 KV and below.

ii. The CGRF referred the Clause No.15.03 of C.O.S of KERC, that the consumer has to replace the meter. But this provision is not applicable in the present case. Clause No.15.03 would apply for the extension & alterations of Low Tension (L.T) installations. In the present case the petitioner's installations are HT installations and there are no extensions or alterations in the installations. For extending T.O.D facility a meter having provision for recording the energy of different specified time Zones is adequate.

iii. The provision under **clause 8.12 of KERC COS** clearly specifies that “ in case of HT & EHT installations, the licensee shall provide HT- ETV

metering equipment.....”.

iv. As per the **clause 8.13 of KERC C O S**, “T O D tariff facility shall be extended to any Applicant/Consumer at his option for eligible “categories”.

v. Regulation 6.0(2) CEA (installation and operation of meters) Regulation 2006, also specifies that “Consumers meters shall be generally be owned by licensee”.

vi. Section-55 of I E Act 2003 provides that “.....the licensee has a duty to provide meter to the consumer installation and to collect the security for meter price, unless the consume himself opt for purchase of meter”.

3.2 The conclusion of CGRF that the existing meters are not having the TOD

facility and meters are to be replaced by the consume, based on the fact

that he meters have been replaced by the Petitioner during September 2011 is in correct.

4.0. The consumer has opted for T O D facility in his letter dated: 3<sup>rd</sup>

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2011. The Respondent licensee was required to inspect the existing

meters and if required has to provide right type of meter for TOD duly collecting charges if any. The Consumer/petitioner wrote several letters to the Respondent licensee to extend TOD facility to his installations. But the Respondent licensee did not take any action. Ultimately the petitioner/consumer was forced to install the 0.2.S (class of accuracy) meters during September 2011. This would show that there was dereliction of duty on the part of the licensee and consumer should be suitably compensated for the loss incurred by him due to not extending the TOD facility to his installations with effect from the next meter reading date after 3<sup>rd</sup> January 2011.

5.0 If at all meters are to be replaced it has to be done by the Respondent Licensee as the subject meters are supplied by the Respondent by collecting meter security deposit.

6.0 **I totally disagree with the contention of CGRF that:**

q) The subject meters are of 0.55 (class of accuracy) are to be replaced by 0.2 S merely stating that 0.2 S are more accurate than 0.5 S. The selection of class of accuracy of consumer meters are clearly specified as 0.5 S or better up to 33 KV in the CEA (installation and

operation of meters) Regulations, 2006. One has to be guided by the Regulations in force and not arbitrarily.

- b) The conclusion of CGRF that the existing meters are not having the TOD facility and meters are to be replaced by the consumer, based on the fact that the meters have been replaced by the Petitioner during September 2011.

7,0 It all shows that the petitioner has been unnecessarily forced by the respondent licensee to replace the meters to avail the TOD facility for more than 8 months.

19. The learned Counsel for the respondents has placed reliance on Clause 15.03 of Conditions of Supply of Electricity and also the Judgement in the case of Bmf Beltings Limited – vs – The Chairman, Tamil Nadu, in W.P.26675/2005 in Division Bench of Tamil Nadu. Placing reliance on the above, the learned Counsel argued that it is the duty of the appellant to replace the meter and as soon as the meter was replaced the TOD benefit has been given.

20). A conjoint reading of Clause 15.03 and 25.02 of Conditions of Supply and also Clause 3, 4 and 6(2)(a) of Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, makes it clear that the ownership of the Meter is with the Licensee, replacement of meters is the responsibility of the Licensee on its own or on request of the consumer. Further, the Judgement cited above of the Hon'ble High Court of Tamil Nadu, is a case where the wind mill owners were generating the energy and were

supplying to the Board. In that view, the Court has held that the installation of the meter has to be done by the generator and the Board would calibrate the meter. This Judgement of the Hon'ble High Court of Tamil Nadu has no application to the facts of this case. The appellant in the instant case is a consumer running an industry, not a power generating unit. Here, the energy is supplied by the Licensee, and as observed earlier, meters are generally owned by the Licensee, and if replacement is necessitated it is the duty of the Licensee to replace the meter.

21. In view of the above and after considering all the issues as ordered by the Hon'ble High Court of Karnataka, the order dated 12.04.2016 passed by this Authority is hereby confirmed.

**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. Sri Ravindra Reddy, Advocate, No.49, 57<sup>th</sup> 'A' Cross, 4<sup>th</sup> Block, Rajajinagar, Bangalore – 560 010.
3. The Chief Engineer (Ele), Corporate Planning GESCOM, Corporate Office, Gulbarga.
4. The Executive Engineer, GESCOM, Humnabad
5. The Executive Engineer, GESCOM, Bidar
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. Secretary, KERC

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To:

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J.P.Nagar,  
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To:  
Sri Ravindra Reddy,  
Advocate,  
No.49, 57<sup>th</sup> `A' Cross,  
4<sup>th</sup> Block, Rajajinagar,  
Bangalore – 560 010.