

BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION,
BANGALORE.

Dated this the 5th day of January, 2006

Present

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|-------------------------|-----|----------|
| 1. Shri K.P. Pandey | ... | Chairman |
| 2. Shri H.S. Subramanya | ... | Member |
| 3. Shri S.D. Ukkali | ... | Member |

Case No. OP 21/2004

Between:

Smt. Lakshmi Srinivsan,
Manager (HR) and Administration
Genesys International Corporation Ltd.,
Prestige Terminus at
Airport Exit Road, Bangalore
(By Sri R.B. Sadashivappa, Advocate)

Vs.

1. Managing Director,
BESCOM, K.R. Circle,
BANGALORE-560001.
2. Chief Engineer (Elec)
Bangalore Metropolitan Area Zone
BESCOM, K.R. Circle,
BANGALORE
3. The Assistant Engineer (Elec.)
BESCOM, S-7, Sub Division,
Air Port Exit Road,
BANGALORE-560017.

The Petitioner Company has filed an appeal on 28th October 2004, being aggrieved by the order of the I Appellate Authority, BMAZ, dated 19th May, 2004. In its petition the Company has pleaded for setting aside the impugned order dated 19th May 2004 and secondly set aside the impugned routine rating report dated 23rd April 2003 conducted by the AEE, BESCO. Notices were issued to the Petitioner as well as the Respondents and the Counsels for both the parties were heard. The facts of the case are briefly as under:

The Petitioner is carrying on business in the Development of Geographical information Science and Software Technology and registered as a consumer in BESCO through three installations, viz., 1) RR No.MGL 1960, 2) MGL 1963, 3) MGP 377. It is also provided with another meter bearing No. RR.3S.GL-1963/3-2021, which is impugned under the present appeal. The subject installation is in the name of Shri Samsad Ahmed and Zeena Ahmed, Prestige Terminus, Airport Exit Road, Bangalore-70. The said electrical installations were serviced on 24-11-1993 with specified load of 40 KW for industrial purpose. The said installation was inspected by the AEE (E) MRT Division,

Bangalore on 23rd April 2005 and it was observed that the meter- was recording 71.3 % slow. On detail verification, it was found that the meter was displaying Y & B phase currents as '00' and R phase displaying 5.57 A. The plastic and lead seals provided were found to be intact. The CT secondary wire of Y & B phase was burnt at open circuited terminals. A print out was taken by the inspecting team and data was down loaded through MRI. The matter was reported to the higher authorities for taking further action and based on the rating report, the installation was back billed for Rs.4,17,830/-. In other words, the period of back billing was computed with the consumption for the previous 6 months recording at 71.3% slow. The tariff was billed under LT-3. Aggrieved by the above said back billing, the consumer had filed a petition before the Respondent requesting for setting aside the back billing charge, wherein it was also pointed out that the back billing charges had been demanded at L.T-3 tariff, where as, the applicable tariff was under LT-5. Accordingly the Respondent had revised back billing charges to Rs.2,87,031/- and intimated the same to the Petitioner vide letter dated 15th July 2003. The Petitioner had filed appeal before the Appellate Authority on 27th June 2003 claiming that he was not liable for any back billing

charges. The Appellate Authority after examining the records and the witnesses present had dismissed the appeal and confirmed the back billing charges vide his order dated 19th May 2004. The present appeal is against the said Appellate order.

It is submitted by the Petitioner that it has been paying the Electricity charges regularly. In fact the J.E. of the Task force of BESCOM had conducted an inspection of the said meter on 14-1-2003 and the status of the said meter was certified as 'good'. Hence the second inspection conducted on 23rd April 2003 could not have revealed the slow recording of the meter. Therefore the rating report impugned in the appeal is erroneous and there was no reason as to how the meter could have slowed down. The slow running of the meter could have happened at any time between 14-1-2003 and 23rd April 2003 as the meter was found to be in good working condition as per the inspection report dated 14-1-2003. Hence the back billing for a period of 6 months i.e., from November 2002 onwards is improper and illegal. It is further submitted that the Respondents have acted high-handedly and have not carried on the routine rating in accordance with law. As per section 26.01 of KERC ES&D Code 2000-01, the routine rating ought to have been conducted at an interval of 2 years and since no

such routine rating was conducted the Petitioner cannot be held responsible for the slow recording of the meter if any. It is also argued that in the event of routine rating being undertaken, it should be done using the electronic type testing equipment preferably with the facilities of printer attached to it. In the instant case, the electronic type testing equipment did not contain any such printer. Hence the Respondents have not followed proper procedure in conducting inspection. The Appellate Authority ought to have considered these factors and cancelled the back billing charges. Based on the above, the Petitioner has pleaded for setting aside the impugned order of the Appellate Authority.

The Counsel for the Respondent has however countered the arguments put forth by the Petitioner. It is submitted at the outset that the Ist Appellate Authority has passed a speaking order, wherein the evidence placed on record has been well considered. The dispute raised in the present proceedings is in the nature of a dispute pertaining to correctness of the meter. As per Section 26 (6) of the Indian Electricity Act, the Petitioner ought to have taken up the issue before the CEIG which he has failed to do. The inspection conducted on 23-4-2003 was carried out following the

prescribed procedure and the data of the meter was down loaded and print out was taken. The Mahazar was drawn in the presence of the representative of the Petitioner and accordingly M.T. report was prepared. The period of back billing charges was for 6 months as per the ES&D Code. The reference to the inspection dated 14-1-2003 is misplaced. In the said inspection, the meter was not rated. The J.E. had only checked the connected load and other specifications and therefore it is argued that back billing has been correctly done from November 2002. The other contention raised by the Petitioner is that since the Respondent had not conducted routine rating regularly every 2 years, they are not entitled to raise a back bill is also unsustainable. If the Petitioner was aggrieved by the rating report, it could have approached the CEIG as provided under the law. This was not done by the Petitioner. In short, the Respondent has pleaded that the Appellate Authority's order is reasoned and based on evidence and therefore the Petition may be dismissed.

We have heard the Counsels for both the parties. We have also perused the Appellate Authority's file produced before us. As the facts of the case show this is a case of slow recording of the meter and raising back bill for 6 months period based on previous consumption in the said meter. On going through the Appellate

Authority's file it is clear that all the evidence available in the case has been looked into by the Appellate Authority before coming to the conclusion that the back billing charges have been rightly raised against the Petitioner. One of the main arguments of the Petitioner is that since the J.E. who had conducted inspection on 14-1-2003 had rated status of the meter as 'good', there could not have been any slow recording. On going through this report it is seen that this was a routine report which was given without opening the seal. The report contained only energy meter details and load details. This was not an inspection report conducted for rating purpose. The Mahazar Report prepared on 23rd April 2003 shows that a detailed inspection was conducted in the presence of Sri O.P. Sharma representative of the Petitioner. The report records the findings of the inspection team. The Respondents have accordingly worked out the back billing charges by taking the average consumption of 6 months period at Rs.4,17,830/- which was subsequently reduced to Rs.2,87,031/-. The averment made by the Petitioner that since the Respondent had failed to carry out the regular inspection every 2 years, it could not be charged for back billing is beside the point and does not demolish the charge of slow recording of the meter. Merely because the routine inspection was not done every 2 years, it does not mean that an

installation could not be inspected and back-billing charges raised against a consumer. We also agree that the respondent's argument that the consumer was free to approach the CEIG if it was aggrieved by the findings given by the Inspection Department about the slow recording of the meter. For the reasons known only to the Petitioner, it did not approach the CEIG and therefore its contention that the meter was not recording slow stands unproved. We do not also accept the argument that the back billing charge could not have been computed for 6 months period since the meter could not have recorded slow after 14-1-2003, for the reason that the said inspection on 14-1-2003 was a routine inspection and meter installations were not checked by opening the seals. Hence for the above reasons, we hold that the Appellate Authority's order is based on good evidence and well reasoned. Thus the Appellate Authority's order is confirmed and the Appeal is dismissed.

Sd/-	Sd/-	Sd/-
(K.P. PANDEY)	(H.S. SUBRAMANYA)	(S.D. UKKALI)
Chairman	Member	Member