



**Before the Electricity Ombudsman**  
**9/2, 6<sup>th</sup> Floor, Mahalakshmi Chambers, M.G.Road,**  
**Bangalore**

**Present: B.R.Jayaramaraje Urs, IAS (Retd.)**

**Electricity Ombudsman**

**Case No.OMB/B/G-143/2013/229**

**Dated 28.06.2013**

M/s.EFD Induction Private Limited,  
 16 C & D, KIADB Industrial Area,  
 Attibele,

**BANGALORE-562107**

**(Represented by Sri Shridhar Prabhu,**  
**Advocate - Authorised Representative)**

.. **Appellant**

**Vs**

1. The Asst. Executive Engineer(EI)  
 O & M Sub-Division, BESCO,  
 Attibele,

**BANGALORE**

2. The Chairperson,  
 Consumer Grievance Redressal Forum,  
 B.E.S.C.O.M. Corporate Office,  
 K.R.Circle,

**BANGALORE-560001**

.. **Respondents**

1. This is an appeal under Clause 21.02 of KERC (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2004 against the order passed by the Consumer Grievance Redressal Forum, BESCO, Bangalore (hereinafter referred to as the 2<sup>nd</sup> Respondent) vide No CGRF/166/2012/2204-09 dated 27.12.2012 in respect of the Appellant's grievance relating to back billing by the Assistant Executive Engineer(EI),

O & M Sub-Division, BESCO, Attibele (hereinafter referred to as the 1<sup>st</sup> Respondent) for Rs.8,60,982/- on the grounds of slow recording of the meter by 50.01%. The 2<sup>nd</sup> Respondent declined to grant any relief regarding back billing. Aggrieved by the impugned order passed by the 2<sup>nd</sup> Respondent, the Appellant has submitted his case as under:

2. The Appellant is a registered Electrical Consumer of BESCO. The installation bearing R.R No CDPHD-154 stands in the name of the Appellant. The installation was serviced on 20.01.2000 for a sanctioned load of 500 K.V.A. On 24.08.2010, the Appellant observed burning/arcing inside the meter. After observing arcing inside the meter, the Appellant addressed a letter to the 1<sup>st</sup> Respondent to attend to the defects. The 1<sup>st</sup> Respondent, during inspection of the installation, observed sound and smoke coming out of the Current Transformer & Potential Transformer and, hence, decided to get the CTs and PTs tested by the HT Rating Sub-Division to find out the exact fault. As per the request of the 1<sup>st</sup> Respondent, the HT Rating Sub-Division conducted inspection on 26.08.2010 and, after inspection, replaced the faulty C.T. During the inspection, the HT Rating Sub-Division took the meter reading and found errors within the permissible limits. Further, the Electrical Inspector inspected the installation on 21.07.2011 and made certain observations and his observations were attended to by the 1<sup>st</sup> Respondent. Again on 17.08.2011, H.T Rating Sub- Division inspected the installation to find out the cause for sound and smoke coming out of the CTs and PTs. During the inspection, they found the display changing ups and down and, hence, suggested replacement of both the PT and B Phase C.T. The 1<sup>st</sup> Respondent visited the installation to replace the PT. Further, the HT Rating Sub- Division inspected the installation on 15.03.2012. During the inspection, HT Rating Sub-Division observed the meter recording slow by 50.1% from 14.09.2011 to 15.03.2012 and, hence, recommended for raising short claims for Rs.8,60,982/-. Accordingly, the 1<sup>st</sup> Respondent raised short claims for Rs.8,60,982/-. The HT Sub-Rating Division has claimed that they have drawn mahazar during the inspection, but the mahazar is not attested by independent witnesses and the findings of the mahazar is not backed by test meter reading nor

the down loaded data shown to the Appellant. Inspection has not been carried out as per the procedure prescribed under Regulation 27.03 of the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. Procedure followed for inspection is contrary to the judgement passed by the Hon'ble High Court of Karnataka in the WP No 36978 of 2010(GM-KEB) in the matter of M/s.SPA Plaza Shop Owners Association V BESCO.

3. Further, Section 55 of the Act mandates licensee to supply through a correct meter and Regulation 9 of the Central Electricity Authority (Installation and Operation of Meters) Regulations 2006 cast duty on the Licensee to install correct meters and conduct periodical testing once in 5 years and replace meters duly tested in accredited test laboratory. In spite of representation by the Appellant, the 1<sup>st</sup> Respondent has not supplied correct meter and the Respondent cannot be allowed to take advantage of their own wrong. As per BESCO Circular dated 09.06.2011, all slow recording cases are to be referred to Third Party Agency, namely, Electrical Inspector for testing and determination of error and recording the findings. In the instant case, BESCO has not referred the meter to the Third Party Agency for testing and, hence, prayed this Authority to set aside the order passed by the 2<sup>nd</sup> Respondent and to issue directions to the 1<sup>st</sup> respondent to withdraw the back billing.

4. The 1<sup>st</sup> respondent's comments were called vide letter No OMB/B/G-143/2013/154 dated 01.02.2013. The Respondent filed statement of objections on 14.02.2013.

5. The 1<sup>st</sup> Respondent, in his statement of objections, submitted that based on the complaint received from the Appellant, the 1<sup>st</sup> Respondent inspected the installation on 24.08.2010 and noticed huge smoke in CT-PT chamber and HT side fuse blown out. Following this, the H.T Rating Sub-Division had been requested to take up inspection and rectify the mistakes. The AEE (EI) HT Rating Sub-Division, on 26.08.2010, replaced the flashed over B phase CT, calibrated the meter, test

charged and found correct. The accuracy of the energy meter had been found correct and the meter error within permissible limits. The Electrical Inspector, Bangalore South carried out only consumer side periodical inspection and had not done BESCO side inspection . Further, the AEE, HT Rating Sub-Division conducted only rating of installation on 17.08.2011 and found B phase PT connection arcing at the connecting point and this had been rectified and cubicle charged. The HT Rating Sub-Division recommended for replacement of PTs & CTs and, accordingly, PT of both phase and 'R' phase CT had been replaced and also found the meter error within permissible limits.

6. The 1<sup>st</sup> Respondent further submitted that on 15.03 2012 HT Rating Sub-Division, during periodical calibration, noticed C.T meter recording 50.1% slow on account of failure of B phase. Hence, during calibration, a mahazar had been drawn in the presence of the authorised representative of the Appellant who had not only signed the mahazar but also agreed to pay the arrears. Based on the rating report dated 15.03.2012, back billing charges of Rs.8,60,982/- had been raised for 50.1% slow recording of the meter as per the ES&D Code and this had also been communicated to the Appellant on 19.03.2012. Hence, prayed this Authority to confirm the impugned order passed by the 2<sup>nd</sup> Respondent.

7. The matter was taken up for hearing on 24.06.2013 and heard the arguments of the Advocate for the Appellant and the 1<sup>st</sup> Respondent. Both parties concluded their respective arguments on 24.06.2013.

8. Both the Advocate for the Appellant and the 1<sup>st</sup> Respondent reiterated the submissions made in the appeal memo and the statement of objections respectively.

9. Both parties were informed vide letter No.OMB/B/G-143/2013/201 dated 05.06.2013 regarding availability of Sub-Regulation 1 of Regulation 20 of KERC (Consumer Grievance Redressal Forum and & Ombudsman) Regulations, 2004 which provides for settlement by agreement through conciliation and mediation. However,

both parties have not availed this opportunity. Hence, I am proceeding to pass an order in this matter.

10. Having regard to the contending positions of the parties, the issues that emerge for our consideration are:

**a) Whether BESCO Mahazar dated 15.03.2012 drawn during inspection is as per Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka?**

**b) In the case of Meter dispute, whether the Licensee has got powers to refer the issue to the Third Party Agency without request from the Consumer?**

**c) Whether BESCO'S Circular dated 09.06.2011 is as per Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka?**

**d) Whether the backbilling is justified?**

11. To answer the 1<sup>st</sup> question, we will have to refer to Clause 27.03(iii) & (iv) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka.

Clause 27.03(iii) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka says that ***"The testing staff of the Licensee shall draw a mahazar and obtain the signature of the consumer or his representative for witnessing the test and also agreeing to pay the back billing charges in case of the slow recording of the meter"***

12. Further, Clause 27.03(iv) states that ***"If the consumer or his representative refuses to sign the Mahazar, the error in the meter need not be adjusted or meter removed and referred to the 'Third party Agency' by the Licensee for testing the meter on the spot who shall test the meter within a period of one week"***

13. The inspection report dated 15.03.2012 discloses that the representative of the Appellant was present during the inspection and drawing of mahazar and signed the mahazar and also agreed to pay the back billing charges. Hence, there appears to be no defect in the mahazar and it is found to be strictly in accordance with Clause 27.03(iii) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka.

14. To answer question No 2, we will have to refer to Clause 27.03(iv) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. which says ***"that the meter can be referred to the Third Party agency only when the consumer or his representative refuses to sign the mahazar."*** In the present case, the mahazar reveals that the Appellant has not refused to sign the mahazar and, hence, BESCO could not have referred the meter to Third Party Agency on its own without any request from the Appellant. In the present case, the Appellant seems to have not made any request for reference to the Third Party Agency and, hence, the arguments that BESCO has not acted in accordance with its own Circular and failed to refer the meter to Third Party Agency are unacceptable.

15. Regarding Question No.3, the Advocate for the Appellant cited BESCO Circular dated 09.06.2011 and argued that as per this Circular, Licensee has to refer the meter to Third Party Agency in all slow recording cases for testing and determination of error. This Circular is found to be in conflict with Clause 27.00 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka in the sense that Suo moto BESCO cannot refer all slow recording cases to Third Party Agency for testing. As per this Regulation, only when the Consumer disputes the accuracy of the meter, he shall give notice to the Licensee. The Licensee can refer the meter to Third Party Agency. Hence, BESCO Circular has to be held invalid. Therefore, no reliance can be placed on such Circulars.

16. The Advocate for the Appellant, in his arguments, referred to various Regulations under CEA (Installation & Operation, etc) Regulations, 2006 and

submitted that under this Regulation, it is the duty of the Licensee to fix a correct meter and to do calibration once in 5 years and that the Licensee has not fixed a correct meter tested in an accredited test laboratory etc. No doubt, the Regulations have set standards to the Distribution Company regarding installation of correct meters and periodical calibration etc. However, these standards are intended to be achieved through appropriate State Commission's Regulations. Accordingly, KERC has put in place these standards in its Regulations. The present case is dealt under the relevant Regulation. Therefore, this Authority found no merit in the appeal and, hence, pass the following order.

### **ORDER**

For the foregoing reasons, ***the appeal is dismissed.***



(B.R.Jayaramaraje Urs)  
Electricity Ombudsman

- 1.M/s. EFD Induction Private Limited,16 C & D, KIADB Industrial Area, Attibele, Bangalore-562107 (represented by its Legal Counsel, Sri Shridhar Prabhu, Advocate, Bangalore).
2. Consumer Grievance Redressal Forum, BESCO Corporate Office, K.R.Circle, Bangalore.
3. The Asst.Executive Engineer (Ele), O & M Sub Division, BESCO, Attibele, Bangalore – 560048).
4. Managing Directors of ESCOMs.
5. The Law Officer, BESCO Corporate Office, K.R. Circle, Bangalore
6. PS to Hon. Chairman, KERC
7. PS to Hon.Member (H), KERC
8. PS to Hon.Member (S), KERC
9. PS to Secretary, KERC