



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

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

Electricity Ombudsman

Case No.OMB/B/G-140/2012/174

Dated 12.03.2013

Smt.Shashikala T and Sri Venkatesh T,
 No.72, Ganesh Darshini, 17th Cross,
 Malleshwaram,
 BANGALORE-560003

**(Represented by Sri P.Jayappa, Retd.EE(E),
 No.52, Nanjappa Layout, Yelachenahalli,
 Bangalore- Authorised Representative)**

.. **Appellants**

Vs

1. The Asst. Executive Engineer(EI)
 O & M C-2 Sub Division,
 BESCOM,
 Malleshwaram,
BANGALORE-560003

2. The Chairperson,
 Consumer Grievance Redressal Forum,
 BESCOM Corporate Office,
 K.R.Circle,
BANGALORE-560001.

.. **Respondents**

1. This is an appeal under clause 21.2 of the provisions of KERC (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2004 against the order passed by the Consumer Grievance Redressal Forum, BESCOM, Bangalore

(hereinafter referred to as the 2nd Respondent) vide No CGRF/176/2012/2101-106 dated 16.11.2012 with regard to the Appellants' grievance relating to short claim demand made by the Assistant Executive Engineer (EI), C-2 Sub Divisionm, BESCOm, Malleshwaram, Bangalore-560003, (hereinafter referred to as the 1st Respondent) for Rs.1,56,193/- as per the 1st meter test dated 24.07.2010 and Rs.6,90,337/- as per the 2nd test dated 15.05.2012 and refusal of the 2nd Respondent to issue direction to the 1st Respondent to limit the claims for a period of one month as per the letter of Executive Engineer(EI) M.T. Rating Division dated 23.03.2011. Aggrieved by the decisions of the 2nd Respondent, the Appellants have submitted their case as under:

2. The Appellants are the registered electricity consumers of BESCOm bearing R.R No C2L-11754 and the installation stands in the name of the Appellants. This installation was serviced on 19th February 2004 for a load of 25 K.W. The building has 3 floors. The ground floor is occupied by Ganesha Darshini, the 1st floor is occupied by Swamy Emporium and the 2rd Floor is occupied by Lakshya software. All the floors have a separate meter and the occupants are paying the electricity bill.

3. The Assistant Executive Engineer(EI) M.T Rating Division inspected the Appellants' installation on 24.07.2010 and, after the inspection, the Assistant Executive Engineer, M.T.Division reported that the meter had slow recording by 32.18%. The report was forwarded to the Assistant Executive Engineer(EI), C-2 Sub-Division, who in turn, raised a short claim demand for Rs.1,56,193/-. The Appellants, after receipt of the short claim demand, requested the Assistant Executive Engineer(EI), C-2 Sub Division to change the C.Ts as the C.Ts might have been failed due to the cutting of wires by the rats. This representation was submitted on 05.05.2012. The BESCOm arranged for a meter test by the Electrical Inspectorate on 15.05.2012. The Deputy Electrical Inspector (Electrical Inspectorate), who conducted the tests, reported that the meter had a slow recording by 66.65%. Based on this report, the Assistant Executive Engineer (EI), C-2 Sub Division issued a demand for Rs.6,90,337/-. The Executive Engineer, MT

Rating Division, in his letter dated 22.03.2011 addressed to the Assistant Executive Engineer (EI), C-2 Sub Division, informed that the Appellant had represented that the consumption pattern had been the same for the previous year and, hence, the Assistant Executive Engineer(EI), C-2 Sub Division, to revise the claims for a period of one month. In spite of this letter, the Assistant Executive Engineer(EI), C-2 Sub Division issued a short claim demand for Rs.1,56,193/- for a period of 6 months prior to the inspection. Further, the BESCOM, even though provided parallel meter after the first test, continued to take the reading of the old meter. As per Note 1 of Clause 27.03 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka, the Licensee has to take the parallel meter reading for working out the averages for billing purposes and it ought not to have billed on the basis of old meter reading. Hence, the Appellant prayed this Authority to set aside the impugned order passed by the 2nd Respondent and to issue direction to the 1st Respondent to limit its claim to one month as per the letter issued by the Executive Engineer, M.T Rating Division dated 23.03.2011 to the Assistant Executive Engineer(EI), C-2 Sub Division.

4. The 1st Respondent's comments were called vide No OMB/B/G-140/2012 dated 13.12.2012. The 1st Respondent has furnished his comments vide letter No. AEE/AAO/C2/SA1/1850 dated 24.12.2012.

5. In his comments, the 1st Respondent submitted that the M.T Rating Sub-Division during their periodical inspection on 24.07.2010 observed that the subject meter had a slow recording by 32.18% due to weakening of R-Phase C.T which was due to biting of outer skin by the rats. Further, the consumers failed to show the place to shift the meter to a safer place and also had not paid the back billing charges and, hence, the meter had not been shifted. The request of the Appellants to revise the bill for a period of one month as per the M.T Rating Division's report had not been accepted as this report had not been accepted by the Internal Audit and, hence, back billing for Rs.1,56,193/- was justified. The Appellants disputed the back billing and paid only Rs.40,000/- against the arrears of Rs.1,56,193/-.

6. Again on 15.05.2012, the M.T Rating Division conducted periodical inspection and observed that the meter had a slow recording by 66.65%. During this inspection, the Appellant had been present and he had been explained about the slow recording of the meter and even their signature had been obtained on the mahazar. Later, the M.T Rating Division sent a report to the Assistant Executive Engineer, C-2 Sub-Division for raising a back bill for Rs.6,90,337/- for a period of 6 months prior to inspection and this is in conformity with Clause 27.03(i) of the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka and, hence, prayed this Authority to confirm the impugned order passed by the 2nd Respondent and to dismiss the appeal.

7. The case was taken up for hearing on 12.02.2013 and, after several adjournments, the arguments of both parties came to be concluded on 01.03.2013.

8. The Authorised Representative of the Appellant, Shri P.Jayappa, in his oral and written arguments, submitted that the M.T Rating Division, though conducted inspection of the installation on 24.07.2010, failed to draw a mahazar and also not obtained the signatures of two independent witnesses on the mahazar. Based on the M.T Rating Division's report, the Appellants, on their own, collected a provisional bill from the Executive Engineer, M.T.Rating Division and paid Rs.40,000/- vide receipt No. 5928 dated 31.01.2011. The contention of the M.T Rating Division that the meter had been defective and had been showing less consumption was not acceptable as they had not used Electronic Type Testing Equipment for testing the meter. Aggrieved by this, the Appellants approached the Assistant Executive Engineer(EI), C-2 Sub Division, who in turn, advised the Appellants to approach the M.T Rating Division. As per the advice of the Assistant Executive Engineer(EI), C-2 Sub Division, the Appellants approached the M.T Rating Division and the M.T Rating Division considered the request of the Appellants and revised the bill for Rs.26,401/- for a period of one month as short claim. Based on this, the Assistant Executive Engineer(EI), C-2 Sub Division prepared a withdrawal statement and forwarded it to

the Divisional Office for approval. The Audit Wing in the Divisional office had not accepted the withdrawal statement prepared by the Assistant Executive Engineer(EI), C-2 Sub Division and advised the Assistant Executive Engineer(EI), C-2 Sub Division to collect Rs.1,56,193/- and, thus, the Assistant Executive Engineer(EI), C-2 Sub Division stuck to the original demand and raised back billing charges for Rs.1,56,193/-.

9. The Authorised Representative of the Appellants added that, though the Appellants had not requested for calibration of the installation, the M.T Rating Division arranged for the 3rd party inspection in the presence of the Appellants on 15.05.2012. The 3rd Party agency made observation that the meter had a slow recording by 66.65% and further observed that the slow recording had been due to weakening of R- phase C.T which had been due to biting of outer skin by rats. Based on this report, the Assistant Executive Engineer(EI), C-2 Sub Division made a short claim for Rs.6,90,337/- for a period from 24.07.2010 to 15.05.2012. The 1st Respondent provided new parallel meter with C.Ts in a separate box and, however, the earlier meter continued to exist and recording. Even after fixing the parallel meter, BESCOM continued to issue bills based on the old meter. Under Note 1 of Clause 27.03 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka, the billing has to be done on the basis of parallel meter till the original meter is rectified. If the billing had been done on the basis of parallel meter, the consumption would have come down to 50%.

10. Concluding his arguments, the Authorised Representative of the Appellants submitted that the instruments used for testing had not been fool-proof and, hence, the Appellants are ready to pay difference in consumption from 15.05.2002 based on parallel meter reading.

11. The Law Officer, BESCOM, appearing for the 1st Respondent, submitted that the subject installation had been serviced on 19.02.2004 under L.T.3 Tariff category with a sanctioned load of 20 K.W and this had been further enhanced to 25 K.W.

The building under reference has three floors and all the three floors have sub meters, but for billing purposes, the meter fixed by BESCO was considered and not the sub meters. The M.T Rating Division, during its periodical inspection dated 24.7.2010, observed that the subject meter had a slow recording by 32.18% and, further, during the inspection, the M.T Rating Division had drawn a mahazar and also explained the slow recording of the meter to the Appellants and the Appellants even attested their signature on the mahazar. The Inspecting Staff furnished inspection findings to the Appellants and, hence, the arguments of the Appellants that the mahazar had not been in conformity with the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka could not be accepted. The Appellants, before the inspection, had given a letter to the Authorities that they would not hold BESCO responsible for missing of seals at R.R No C2L-11754. Based on the M.T Rating Division's report and also after personal verification, the Assistant Executive Engineer(EI), C-2 Sub Division issued a short claim demand for Rs.1,56,193/- for a period of 6 months prior to inspection. Again, a reminder had been issued on 24.02.2012 advising the Appellants to pay short claim amount of Rs.1,56,193/-. Against this demand, the Appellants had paid Rs.70,000/.

12. The Law Officer, BESCO further added that the M.T Rating Division, at the instance of the Assistant Executive Engineer(EI), C-2 Sub Division, again conducted meter test on 15.05.2012 and observed that the meter had a slow recording by 66.65%. The M.T Rating Division followed all the procedures of inspection and, based on the MT Rating Division's report and also personally satisfying, the Assistant Executive Engineer(EI), C-2 Sub Division raised a demand for Rs.6,90,337/- for a period of 6 months prior to the inspection dated 15.05.2012 at the rate of 66.65% slow recording. BESCO made a short claim for Rs.1,56,193/- at the rate of 32.18% slow recording prior to inspection dated 24.07.2010 and both claims had been made as per Clause under 27.03(i) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka and, hence, there is no irregularity in the bills raised and, hence, prayed this Authority to confirm the order passed by the 2nd Respondent and to dismiss the appeal.

13. Both parties were informed vide letter No.OMB/B/G-140/2012/149 dated 23.01.2013 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.

14. Having regard to the contending positions of the parties, the following issues emerge for our consideration:

a) Whether the Meter Testing Division, after reporting 32.18% slow recording of the meter, can again recommend for revision of the assessment for a period of one month instead of 6 months only on the basis of consumer representation?

b) Whether the short claim for Rs 6,90,337/- based on 66.65% slow recording of the meter is as per clause 27.03(i) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka?

15. In order to answer the first question, we will have to refer to the calibration done by the M.T Rating Division dated 24.07.2010 which stated that **"the meter had a slow recording by 32.18% due to the weakening of the C.T coil in the `R` phase, it has opened and the C.T terminal wires became bare due to the moisture and back biting"** and further advised the Assistant Executive Engineer(EI), C-2 Sub Division to collect short claims as per BESCO norms. The Mahazar evidences the attendance of the Appellants during the inspection and attesting their signature. Mahazar is found to have been drawn as per Clause 27.03(iii) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka which stated 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". The Appellants appear to have not filed any objection to the findings. Based on the M.T Rating Division's report, the Assistant Executive Engineer, C-2 Sub Division seems to have raised a short claim demand for Rs.1,56,193/- for a period of 6 months prior to the inspection dated 24.07.2010. The Appellants' Authorised Representative's contention that the inspecting officers had not used Electronic type testing equipment was rebutted by the 1st Respondent's Advocate and reiterated using the Electronic Type Testing Equipment for the meter testing. Since the Authorised Representative vehemently argued that meter testing Electronic Test Type Equipment had not been used, this Authority sought to know from the Authorised Representative of the Appellants whether the Appellants were prepared to file an affidavit to prove their assertions, but the reply came in the negative. However, the Appellants' Representative relied on the letter issued by the Executive Engineer, M.T Rating Division to the Assistant Executive Engineer(EI), C-2 Sub Division which stated that **"The above installation was inspected/rated by M.T staff on 24.07.2010 and noticed that the meter is recording 32.18% slow and there is 6 K.W excess load. Hence, short claims charged worked out for Rs.1,56,193/- for excess load & slow recording for 6 months. But the consumer has stated in his letter that the consumption pattern has remained same and also the consumption pattern is same from last one year. Hence, the short claim charges for slow recording is revised for 1 month only, as per consumption pattern."**

This letter appears very strange for the reasons that the Executive Engineer, M.T Rating Division, without reference to the test report and without rechecking the meter, wrote to the Assistant Executive Engineer(EI), C-2 Sub Division to revise the back billing charges for a period of one month based only on the Appellant's representation which stated **"that the reading of sub-meters tallied with BESCO meter and there was no slow recording."** Based on the letter of the Executive Engineer, M.T.Rating Division, the Assistant Executive Engineer(EI), C-2 Sub Division is found to have prepared a withdrawal statement for Rs.1,56,193/- and submitted to the Divisional Office for approval. It appears that the Internal Audit in

the Divisional Office objected to this proposal on the ground that regulations do not provide for raising back billing charges for a period of one month. The audit is found to have acted in accordance with law, but the Executive Engineer, MT Rating Division appears to have issued a letter to the Assistant Executive Engineer(EI), C-2 Sub Division to collect back billing charges for a period of one month without conducting any further test and only on the basis of Appellants' representation. This is uncalled for and done without any basis. Hence, short claim demand raised as per audit observation for Rs.1,56,193/ is found to be strictly in accordance with law and, hence, there appears to be no good grounds to interfere with the impugned order of the 2nd Respondent. Further, the back billing charges raised for a period of 6 months in pursuance of Audit advice appears to be fully in conformity with Clause 27.03(i) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka.

16. In order to answer the second question, we will have to refer to the inspection conducted by the M.T Rating Division on 15.05.2012. The Authorised Representative of the Appellants argued that the Appellants had not given any representation for second meter test, but the Assistant Executive Engineer(EI), C-2 Sub Division's letter addressed to the Appellant dated 18.06.2012 says **"that the inspection had been conducted at the request of the Appellants as per their letter dated 05.05.2012."** This letter confirms that the second meter test was conducted at the request of the Appellants and it appears that the Appellants had not requested for test by a third party agency and, hence, the 1st Respondent appears to have arranged for second meter test through M.T Rating Division. From the records, it can be seen that the M.T Rating Division has conducted calibration of the subject meter in the presence of the Deputy Electrical Inspector (Electrical Inspectorate) and the Appellants dated 15.05.2012. During the inspection, the M.T Rating Division observed slow recording of the meter by 66.65% and further observed that ***"The 'R' phase current was not recorded by the meter where as the current recorded in the accucheck was 44% Amp slow recording. All the C.T coils were opened (skin has been opened)...As on 15.5.2002***

meter is recording -66.5% slow. same has been explained to the consumer. As per the request of AEE C2-SD, parallel meter with C.T operated meter has been fixed for the study of consumption to bill according to BESCO norms". Based on the M.T Rating Division's report, the Assistant Executive Engineer(EI), C-2 Sub Division found to have made short claims for Rs.6,90,337/- at the rate 66.65% slow recording of the meter for a period of 6 months prior to inspection. Testing Reports/Mahazar reveal that M.T Rating Division has followed the procedure of inspection and also obtained the signature of the Appellants for witnessing the test as per Clause 27.03(iii) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. M.T Rating Division seems to have taken the help of Electrical Inspectorate for second meter testing and, after tests, M.T.Rating Division has come to the conclusion that the meter had a slow recording by 66.65%. The Inspecting Staff have also recorded the reasons for slow recording in their report. It is also seen from the report that the Inspecting Staff have provided parallel meter with C.Ts for billing purposes. Hence, the arguments of the Appellants that the consumption has come down after fixing the parallel meter and BESCO should take parallel meter reading for working out averages cannot be accepted as there is no provision under clause 27.03(i) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. Hence, the following orders:

ORDER

17. For the foregoing reasons, this Authority does not see any strong grounds to interfere with the order passed by the 2nd Respondent and, hence, **the appeal is dismissed.**


 (B.R.Jayaramaraje Urs)
 Electricity Ombudsman

1. Smt. Shashikala T and Sri Venkatesh T, No.72, Ganesh Darshini, 17th Cross, Malleshwaram, Bangalore-560003 (represented by Shri P.Jayappa, Retd EE(E), No.52, Nanjappa Layout, Yelachenahalli, Bangalore).
2. The Chairman, Consumer Grievance Redressal Forum, BESCO Corporate Office, K.R.Circle, Bangalore
3. The Assistant Executive Engineer (Ele), O & M C-2 Sub Division, BESCO, Malleshwaram, Bangalore-560003 .
4. Shri Vinayaka.K., Law Officer, BESCO Corporate Office, K.R.Circle, Bangalore-560001.
5. Managing Directors of ESCOMs.
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
10. OCA