



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-179/2014/443

Dated 24.11.2014

M/s.Rameshwari Wires P.Ltd.,
Plot No.8 C-1,
KIADB Industrial Area,
HOSKOTE-562114

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

.. **Appellants**

Vs

1. The Asst. Executive Engineer(EI)
O & M Sub Division,
BESCOM,
HOSKOTE

2. Chairperson,
Consumer Grievance Redressal Forum
Office of the Superintending Engineer,
BESCOM, East Circle,
No.12, Curve Road
Tasker Town,
BANGALORE-560051

.. **Respondents**

1. This is an appeal under Clause 22.02 of KERC (CGRF & Ombudsman) Regulations, 2004 against the order passed by the Consumer Grievance Redressal Forum (here in after referred to as the 2nd Respondent) vide Order No 02 dated 02.06.2014 in respect of the complaint by the Appellant relating to raising of back billing charges by the Assistant Executive Engineer (EI), O & M Sub-Division, BESCO, Hoskote (hereinafter referred to as the 1st Respondent) for Rs.2,15,345/- on account of the slow recording of the meter by 35.13%. Aggrieved by the order passed by the 2nd Respondent, the Appellant has submitted his case as under:

2. The Appellant is an electricity consumer of BESCO and installation bearing R.R No HP1898 stands in the name of the Appellant. The installation was serviced on 30.06.1988 with a sanctioned load of 81.11 HP under LT-5 Tariff Schedule. The Meter Testing Division inspected the subject installation on 04.08.2011 and found (a) the CTs recording slow by 35.13% and (b) the need for changing existing 50/5A CT to 75/5A CT. Based on this report, the O & M Sub Division on 20.04.2013 back billed the Appellant for Rs.2,15,345/-. Though the Meter Testing Division recommended for replacement of the existing meter, till date the O & M sub division has not replaced the defective meter. The Appellant also requested the Licensee several times to replace the meter but to no avail. As per Section 55 of the Electricity Act, 2003, it is mandatory on the part of the Licensee to supply electricity through a correct meter. It is also the responsibility of the Licensee to install a correct meter under Clause 9 of the Central Electricity Authority (installation & operation of meters) Regulations, 2006.

3. Further, the Appellant purchased the meter on 08.08.2011 and even submitted the tax invoice to the 1st Respondent to install the meter early but the 1st Respondent has not allowed the meter to be fixed and, hence, the 1st Respondent cannot take advantage of his own fault. The present case relates to slow recording of the meter and as per BESCO Circular No G.M(c) BC5/F-2126/CYS-2R dated

09.06.2011, all slow recording cases are to be referred to third party, namely, Electrical Inspector for testing and determination of error and recording the findings. This has not been done by the 1st Respondent in the present case and, hence, he is not liable to pay the back billing charges.

4. The 1st Respondent's comments were called vide letter No OMB/B/G-179/2014/366 dated 10.06.2014.

5. The 1st Respondent in his statement of objections submitted that the subject installation had been inspected on 02.02.2013 by the Meter Testing Division and found that the meter had been recording slow by 35.13% on account of the opening of the R phase in the CT. The Meter Testing Division, in its report sent to the 1st Respondent, recommended for change of meter by higher capacity only after the Appellant paid the back billing charges. Based on this report, a demand notice had been issued to the Appellant for Rs.2,15,345/-. Though there is a clear evidence of CT `R' phase open circuit for 263 days as on 29.06.2012, back billing had been limited to 180 days as per Regulation 27.03(i) of the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. The Appellant, instead of paying the amount, approached the 2nd Respondent for quashing the demand. The 2nd Respondent, after hearing the Appellant, passed order refusing to quash the back billing demand raised by the 1st Respondent and further directed the Appellant to pay 50% of the bill immediately and the remaining amount in four instalments without interest. There is no illegality in the claims and, hence, prayed this Authority to confirm the order passed by the 2nd Respondent.

6. The case was taken up for hearing on 17.11.2014. On behalf of the Appellant, Advocate Shri Shridhar Prabhu appeared and put forth his arguments and the 1st Respondent, Shri Kanthareddy, Assistant Executive Engineer (EI) appeared and submitted his arguments.

7. During the hearing, both parties reiterated the submissions made in the appeal memo and statement of objections respectively.

8. Both parties were informed vide letter No.OMB/B/G-179/2014/434 dated 05.11.2014 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.

9. Having regard to the contending positions of the parties, the issue that emerges for our consideration is:

Whether back billing against the Appellant for Rs.2,15,345/- is in conformity with the Regulations?

10. From the records made available to this Authority, it is seen that the Meter Testing Division, during their routine inspection of the subject installation dated 04.08.2014, advised replacement of the meter to avoid future complications. However, the meter was not replaced. Again, Meter Testing Division conducted inspection on 02.02.2013 and observed slow recording of the meter by 35.13% and advised the 1st Respondent to back bill the Appellant for Rs.2,15,345/-. Based on this report, the 1st Respondent appears to have raised back bill for a period of 180 days i.e. 6 months preceding the inspection.

11. The Advocate for the Appellant argued that the Appellant is not liable to pay the back billing charges because the Licensee has not replaced the defective meter in spite of repeated requests. The 1st Respondent, in his defence, clarified that the meter could not be replaced as there was a specific advice from the Meter Testing Division not to replace the meter till the back billing charges were paid by the Appellant and also that the meter should be in service as evidence in case the meter

referred to third party agency for inspection. In the instant case, the Appellant appears to have not disputed the accuracy of the meter and, hence, the Licensee could not have referred the matter for inspection to a third party agency under Clause 27.10 of the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. Hence, claims made by the 1st Respondent against the Appellant based on Meter Testing Division's report that meter had a slow recording by 35.13% are found to be totally in conformity with Regulation 27.03(i) of the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. The contention of the Appellant that he is not liable to pay the back billing charges for the reasons of Licensee not replacing the defective meter cannot be accepted when the Licensee has actually supplied power to the Appellant. The Appellant can approach the Licensee for replacement of the defective meter after settling the pending electricity bills. Hence, this Authority does not see any strong grounds to interfere in the impugned order. Therefore, the following order:

ORDER

For the foregoing reasons, the appeal is dismissed. However, the 1st respondent is directed to replace the defective meter within one month from the date of the Appellant settling the BESCO electricity bills.



(B.R. Jayaramaraje Urs)
Electricity Ombudsman

1. M/s. Rameshwari Wires P.Ltd., Plot No.8 C-1, KIADB Industrial Area, Hoskote-562114 (represented by their Legal Counsel, Sri Shridhar Prabhu, Bangalore).
2. Chairperson, Consumer Grievance Redressal Forum, Bangalore Urban District, Basaveshwarnagar, Bangalore.
3. The Assistant Executive Engineer (Ele), O & M Sub Division, BESCO, Hoskote.

4. Managing Directors of ESCOMs.
5. PS to Hon. Chairman, KERC
6. PS to Hon.Member (A), KERC
7. PS to Hon.Member (M), KERC
8. PS to Secretary, KERC