

OFFICE OF THE ELECTRICITY OMBUDSMAN
(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act of 2003)
B-53, Paschimi Marg, Vasant Vihar, New Delhi-110057
(Phone No: 011- 26144979)

Appeal No. 16/2020

(Against the CGRF-TPDDL's order dated 11.03.2020 in CG No. 125/2019)

IN THE MATTER OF

SHRI KRISHAN CHAND GUPTA

Vs.

TATA POWER DELHI DISTRIBUTION LTD.

Present:

Appellant : Shri Krishan Chand Gupta alongwith Ms. Priya

Respondent: Shri Ajay Joshi, Sr. Manager (Legal), on behalf of the TPDDL.

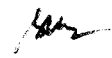
Date of Hearing: 18.11.2020

Date of Order: 03.12.2020

ORDER

1. The appeal No. 16/2020 has been filed by Shri Yogesh Goel, the registered consumer through his authorized representative Shri K.C. Gupta, against the order of the Forum (CGRF-TPDDL) dated 11.03.2020 passed in CG No. 125/2019. The issue concerned in the Appellant's grievance is regarding billing dispute wherein a demand was raised by the Discom (Respondent) on average assessment basis on account of replacement of defective meter against his non-domestic connection bearing CA No. 600011136748 installed at House No. 30, KH. No. 252/251/282/292, Block -B, Village Shalimar Bagh, Delhi-110088.

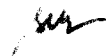
2. The brief background of the appeal arises from the receipt of an impugned bill in July, 2019 for an exorbitant amount of Rs.1,70,690/- against the consumption of 5713 units along with CIS (Consumer Information Sheet) amount of Rs.1,01,656/-



and current demand of Rs.68,997/- which was duly paid by the Appellant. The Appellant submitted that he approached the concerned authorities of the Discom with the request to rectify the bill along with relevant documents and the test report of the meter but his grievances were not resolved by them. He stated that on 01.04.2019 an inspection team visited his premises to inspect the meter and it was conveyed that since there is no display in the meter and meter being defective, the same will be replaced with a new meter. The new meter was installed on 23.04.2019 and as per the Meter Replacement Form the CT Ratio of the old meter was 60/5 whereas the CT Ratio of new meter is 100/5. The Appellant further received another bill for an amount of Rs.1,86,090/- on 14.08.2019 to be paid immediately along with a disconnection notice. He further stated that the Discom in their reply dated 16.08.2019 in response to his letter dated 16.07.2019 against the assessment of Rs.1,01,656/- informed him that load without potential has been observed in B-Phase as per the test report and that the assessment amount for the period 25.02.2019 to 23.04.2019 is in order.

As the Appellant was not satisfied with the reply of the Discom, he approached the CGRF for redressal of his grievances and since he was also not entirely satisfied with the order of the CGRF, hence preferred this appeal mainly on the grounds that the CGRF, has failed to take into consideration the fact that the assessment for the defective period should have been done on the basis of actual average consumption recorded during the corresponding period in the preceding year excluding the provisional billing instead of next three billing cycles after replacement of the meter. The Appellant has also disputed the contention of the Discom regarding cutoff date of the occurrence of the defect w.e.f. 24.02.2019 since the meter had stopped recording only on 25.03.2019 as per third party testing lab report. He further alleged that the CT Ratio of 60/5 of the old meter with a sanctioned load of 41 KVA was inadequate which attributed to the meter getting burnt and also raised serious objection to the inference drawn by EQDC (Electronics & Quality Development Centre), the third party lab's report that the meter can be declared defective on the basis of B-Phase low voltage.

In view of the above background, the Appellant prayed that the order passed by the Forum be set-aside, the impugned bill be got rectified as per the instant regulations and to withdraw the illegal and wrong demand raised by the Discom



3. The Discom in its reply submitted that the Appellant has disputed the addition of an amount of Rs.1,01,656.19 in the bill for the month of July, 2019 against his electricity connection bearing CA No.600011136748. The Discom submitted that the said amount was added in the bill on account of assessment and revision of the bill as the existing meter was found defective and replaced with a new meter on 24.04.2019 with 'No Display' remarks. An amount of Rs.26,189.49 for 2685 KVAH units for the period 06.02.2019 to 24.02.2019 was payable by the Appellant for actual unbilled consumption. In addition to the above an assessment for an amount of Rs.75,466.70 for 7737 KVAH units for the defective period from 25.02.2019 to 23.04.2019 was also carried out on the basis of the period 08.08.2018 to 06.02.2019, viz, six months prior to the occurrence of the defect.

The following chronology of the events was submitted by the Discom in order to summarize the whole issue under consideration.

- 28.03.2019 : The Automated Meter Reading (AMR) was downloaded and B-Phase was found to be missing
- 01.04.2019 : Meter was inspected by Enforcement Team in the presence of the Appellant. Meter data could not be downloaded and the meter was sealed.
- 24.04.2019 : Existing meter was replaced with 'No Display' remarks. Old meter was retained at site and new meter was installed in place of old defective meter.
- 10.05.2019 : Retained meter was seized for Third Party Lab testing.
- 30.05.2019 : Old defective meter was tested by Third Party Lab, EQDC. The meter was found completely stopped with no display and no pulse output as all the phases i.e. R, Y, B were showing no current on the application of external load. EQDC observed that meter segregated in the lab and meter PCB found burnt and carbonized inside the meter body. Meter box CT unit segregated in the lab and no abnormalities found inside the meter box CT units. However, in the special



observation EQDC remarked that case will be finalized after data analysis.

01.07.2019 : On account of assessment and bill revision an amount of Rs.1,01,656.19 has been added in the bill issued in July, 2019.

23.08.2019 : The Appellant approached the CGRF.

The CGRF vide its final order dated 11.03.2020 directed to re-assess the consumption for the period 25.02.2019 to 23.04.2019 on the basis of consumption during the period 01.05.2019 to 01.08.2019. The CGRF further held that reading based bill for the period 06.02.2019 to 24.02.2019 is in order. The Discom further submitted that as per the CGRF's final order, the re-assessment was carried out and Bill dated 14.04.2020 for an amount of Rs.1,11,421.55 was issued wherein Rs.31,417.63 was debited. That on receipt of representation of the Appellant with respect to the compliance of CGRF's order, they re-analyzed and reconciled the account and a credit adjustment of Rs.31,417.65 and Rs.9,783.26 on account of re-assessment of the consumption for the period 25.02.2019 to 23.04.2019 on the basis of consumption during the period 01.05.2019 to 01.08.2019 is being given in the accounts. Thereby they have duly complied with the order of the CGRF.

4. The Discom further put forth their clarifications regarding the contention of the Appellant of non issue of the bill as per EQDC report. The Discom submitted that as per instantaneous report, EQDC observed that the meter had stopped recording from 25.03.2019 and the defect in the meter had occurred for the first time on 24.02.2019 when the average voltage substantially dropped from around 240 V to 170 V. Meter which was not recording the actual consumption remained connected during the faulty period from 25.02.2019 to 23.04.2019. Therefore, bill on the basis of reading for the period 06.02.2019 to 24.02.2019 for an amount of Rs.26,189.49 and assessment for period 25.02.2019 to 23.04.2019 on the basis of 08.08.2018 to 06.02.2019 for an amount of Rs.75,466.70 was issued. The Discom also submitted that they have carried out bill revision and assessment in accordance with provisions of law and EQDC report, hence the same is payable by the Appellant. In view of the above, the Discom denied that the bill issued to the Appellant has any irregularity and they have raised the bill as per the provisions of law and in compliance to the direction of the CGRF.



The Discom further explained that initially prior to the CGRF's order the period between 25.02.2019 to 23.04.2019 was assessed considering the average consumption for the period 08.08.2018 to 06.02.2019 i.e. six months immediately preceding the occurrence of the defect. The reason for selecting this base period instead of corresponding period of previous year is that average per day consumption for the corresponding period of previous year from 11.02.2018 to 30.04.2018 is 76.48 KVAH units whereas that for previous six months from 08.08.2018 to 06.02.2019 is 214 KVAH units which shows that there has been substantial increase in consumption during the period immediately preceding the defective period. In addition to above, the record of maximum demand (MDI) also registered an increasing trend. Further, the pattern of consumption during February, 2018 to May, 2018 remained comparatively less however registered gradual increase from June, 2018 upto September, 2018 followed by slight decline upto February, 2019. The average consumption per day for the Base Period from 07.01.2018 to 30.04.2018 is 76.48 KVAH whereas MDI ranged between minimum of 17.58 KVA to maximum 32.98 KVA as against sanctioned load of 41 KVA. The average consumption per day for the six billing months covering period from 01.09.2018 to 06.02.2019, i.e. six billing cycles preceding the period of occurrence of fault is 214.40 KVAH whereas the MDI ranged from minimum of 22.41 KVA to maximum 49.63 KVA. The average consumption per day for five billing months covering period from 01.05.2019 to 03.09.2019 after the replacement of the defective meter is 201.8 KVAH and MDI ranged between 17.76 to 22.26 KVA.

The above shows that there was substantial increase in consumption during the period immediately preceding the defective period. The variation is clearly visible if viewed from the monthly trend starting from 09.06.2018 onwards. The record of maximum demand also shows this trend of increasing consumption

In view of above, the Discom submitted that since they have duly revised the bill in accordance with the orders of the CGRF, therefore, it is prayed to dismiss the present appeal of the Appellant as the same does not have any merit.

5. After hearing both the parties and considering the material on record, the basic issue revolves around an assessment amount of Rs.1,01,656.19 reflected in the Appellant's bill for the month of July, 2019 on the grounds that his meter was found defective from 25.02.2019 to 23.04.2019. The Appellant has raised objection that the meter had stopped recoding on 25.03.2019 only, hence the meter cannot



be termed defective for the whole period from 25.02.2019 to 23.04.2019 and further the assessment should be carried out on the basis of corresponding period of the previous year as per the regulations. Secondly, the Appellant is also apprehensive of the fact that the CT Ratio of 60/5 of the old meter with a sanctioned load of 41 KVA was inadequate which attributed to the meter getting burnt.

On careful examination of the record it is observed that the CGRF has rightly concluded that the CT Ratio of 60/5 in respect of old meter is in conformity with the laid down standards and hence the contention and apprehension of the Appellant that his old meter might have burnt on account of CT Ratio being low i.e. 60/5 instead of 100/5, that of new meter, has no basis and is not tenable.

As per the records available, it is evident that the Automated Meter Reading (AMR) was downloaded on 28.03.2019 and B-Phase was found missing in the meter and further the meter was inspected by the Discom in the presence of the representative of the Appellant on 01.04.2019 wherein the meter data could not be down loaded and thus the meter was sealed. The old meter was replaced on 24.04.2019 and was sent for testing to EQDC, the third party lab. The contention of the Appellant that when the meter had stopped recording on 25.03.2019 then as to why the defective period has been taken from 25.02.2019 to 23.04.2019 is also not tenable, since it has been observed from the records that as per the instantaneous report of EQDC, the meter had stopped recording from 25.03.2019 and the defect in the meter had occurred for the first time on 24.02.2019, when the average voltage had substantially dropped from around 240 V to 170 V. The meter which was not recording the actual consumption remained connected during the faulty period from 25.02.2019 to 23.04.2019. Therefore, the differential bill on the basis of unbilled readings for the period 06.02.2019 to 24.02.2019 and assessment bill for the period from 25.02.2019 to 23.04.2019 has been rightly raised by the Discom. With regards to another apprehension of the Appellant that the test report of the third party lab, viz EQDC, may not be right and the meter be got tested in some other lab, it is held that as per Regulations 32 (2) (iii), the decision of the accredited lab other than that of the licensee shall be final and binding on the licensee as well as the consumer and, therefore, this contention of the Appellant is also not in order and misconceived.

6. Now coming to the main issue of the basis of assessment for raising the assessment bill for the defective period from 25.02.2019 to 23.04.2019 adopted by



the Discom, it is observed that they have raised the assessment bill on the basis of average consumption for the base period from 08.08.2018 to 06.02.2019, i.e. six months immediately preceding the occurrence of the defect in the meter. The reason cited by the Discom for selecting this base period is that average per day consumption for the corresponding period of the previous year i.e. from 11.02.2018 to 30.04.2018 is very low as compared to the base period of preceding six months selected by them. This clearly shows that there has been substantial increase in consumption during the period immediately preceding the defective period. The Discom has further submitted that the pattern of consumption during February, 2018 to May, 2018 remained comparatively less which later on registered a gradual increase from June, 2018 onwards. On the other hand, the CGRF vide its order has given some relief to the Appellant by directing the Discom to assess the consumption for the defective period from 25.02.2019 to 23.04.2019 on the basis of average consumption of next three billing cycles w.e.f. 01.05.2019 to 01.08.2019, i.e. after the replacement of the defective meter .

Before deliberating on the above issue of selecting the base period for assessment of the consumption for the defective period, the DERC's Regulation 39(1) needs to be purused. The operative part of the regulation is given as under:

"39. Billing in case of defective or damaged meter:-

1) The consumer shall be billed on the basis of actual average consumption recorded during the corresponding period in the preceding year, excluding the provisional billing:

Provided that if actual consumption recorded during the corresponding period in the preceding year is either not available or partially available, the actual average consumption of past 6 (six) billing cycles immediately preceding the date of meter being detected or reported defective, excluding the provisional billing, shall be used for billing purpose;

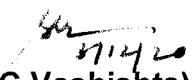
Provided further that if the actual average consumption of past 6 (six) months is either not available or partially available, the average consumption for the next 3 (three) billing cycles excluding provisional billing after the installation of new meter shall be used for billing purpose."



In the background of Regulation 39(1), it is quite clear that the billing in case of defective meter shall have to be done on the basis of actual average consumption recorded during the corresponding period in the preceding year excluding the provisional billing. It is pertinent to point out here that since in the instant case the data for the corresponding period of the previous year pertaining to the defective period from 07.01.2018 to 30.04.2018 is available, therefore, there is no point in taking the period of assessment either for the preceding six months from the occurrence of the defect as has been taken by the Discom or for the next three months after replacement of meter as considered by the CGRF. The period of assessment other than as prescribed in the regulations cannot be considered since the issue of assessment cannot be decided on any other basis other than the DERC's Regulations. However, the decision of the CGRF in upholding the differential bill for the period 06.02.2019 to 24.02.2019 raised by the Discom is in order as the same is based on the actual readings available. Further, the CGRF has rightly waived of the LPSC amount as reflected in the bill dated 09.08.2019.

After considering all the facts and circumstances of the case, the CGRF's order is partially modified and the Discom is directed to assess the consumption for the defective period from 25.02.2019 to 23.04.2019 strictly on the basis of actual average consumption recorded during the corresponding period in the preceding year. The revised bill be raised after excluding the payments already made in respect of the period under dispute and other amounts paid by the Appellant during the hearing in CGRF and before the Ombudsman. The Discom is directed to comply with the above orders and send the compliance report within 15 days.

With the above direction, the appeal is disposed of accordingly.


(S.C.Vashishta)
Electricity Ombudsman
03.12.2020