

**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**  
(Telephone No.011-26144979)

**Appeal No. 14/2019**

(Against the CGRF-TPDDL's order dated 14.03.2019 in C.G. No.7922/07/18/NRL)

**IN THE MATTER OF**

**SHRI VINOD KUMAR GARG & SHRI MUKESH KUMAR**

**Vs.**

**TATA POWER DELHI DISTRIBUTION LTD.**

**Present:**

**Appellant:** Shri Mukesh Kumar, the Appellant along with  
Shri K.C. Gupta, Authorized Representative.

**Respondent:** Shri Gautam Jayprakash, Sr. Manager, Shri Harshendu  
Kumar, Sr. Manager and Ms. Sheena Sood, Asst. Manager  
on behalf of TPDDL.

**Dates of Hearing:** 20.06.2019

**Date of Order:** 24.06.2019

**ORDER**

1 The Appeal No.14/2019 has been filed by Shri Vinod Kumar Garg & Shri Mukesh Kumar in respect of electricity connection installed at Plot No. 2133, Ground Floor, Sector - I, DSIIDC Industrial area, Narela, Delhi against the CGRF-TPDDL's order dated 14.03.2019 passed in C.G. No. 7922/07/18/NRL. The issue concerned in the Appellant's grievance is regarding the billing dispute against the meter found defective/faulty in respect of his electricity connection bearing CA No. 60011943523 for a sanctioned load of 90 KW.

2. The Appellant has filed the instant appeal wherein he has stated that an inspection was carried out by the officials of the Enforcement Team of the Discom (Respondent) on 23.11.2017. The inspecting team did not find anything abnormal with the working and accuracy check of the meter. All the seals of the meter were found to be intact and no abnormality was noticed with the meter current & voltage and the total connected load at the time of inspection was also found to be less than the sanctioned load. Further, after few days of the inspection, the existing meter No. 93405101 was removed and taken away by the officials of the Discom and a new meter was installed at the site. He was informed by the Discom to visit the laboratory for witnessing the testing of the removed meter on 30.01.2018. As per the Appellant, during the testing of the meter all the seals were found to be O.K. and the meter was



working properly, however, he alleged that one of the officials present there started pressing/pushing the button repeatedly while the meter was being tested and then verbally stated that the meter is running slow on one phase, though in fact it was not slow. The Appellant further alleged that there seems to be a foul play being played for raising a wrong and illegal demand by the concerned officials of the Discom.

The Appellant also conveyed that thereafter, a demand bill of Rs.3,55,275.90 was received by him with the current bill dated 14.06.2018 having the due date as 29.06.2018, which included a supplementary demand of Rs.1,91,947/-. He also submitted that no show cause notice or notice of any nature whatsoever alleging any irregularity in the subject cited connection was issued by the Discom before raising the supplementary demand of Rs.1,91,947/-, but for a revised bill which was received along with the above mentioned current bill stating that the said revised bill has been raised for charging an escaped demand from 08.09.2017 to 09.01.2018 for 19306 units amounting to Rs.1,78,597/- and for 1443 units amounting to Rs.13,350/- for the period 10.01.2018 to 11.01.2018 respectively, thus totaling Rs.1,91,947/- as an adjustment in the current bill.

3. The Appellant also alleged that since the meter has been declared defective without getting its accuracy checked by third party and also the matter was not intentionally referred to the Electrical Inspector, as provided under Regulation 38 (g) of the DERC's Supply Code & Performance Standards Regulations, 2007, by the Discom, hence the said supplementary demand as raised is incorrect, illegal, unjustified and not payable by him. He further explained that as per the test and analysis report R-Phase current has been found to be missing intermittently on meter display during testing thus concluding that the meter is recording 30.06% less energy consumption as compared to actual energy consumed and hence the accuracy of the meter is 30.06% slow. In view of the above, the Appellant submitted that since R-Phase current was not missing continuously but only intermittently, so the conclusion of treating the meter slow by 30.06% is wrong and hence the amount assessed for the period from 08.09.2017 to 11.01.2018 on the basis of one phase current missing intermittently is not sustainable.

The Appellant also cited and submitted the copy of an earlier order dated 28.01.2013 of CGRF-TPDDL, in the matter of Shri Sunil Yadav Vs. TPDDL in the case CG No. 4696/10/12/BDL, which was a case similar to the facts and circumstances of the present case and wherein the CGRF had allowed the complaint of the consumer and hence requested to consider his case in the light of the same and allow his plaint on similar grounds. During the hearing, in support of his case, the Appellant also referred to a similar case as decided by the then Ombudsman vide order dated 25.04.2018 in favour of Discom, in the matter of Shri Saurabh Purthi Vs. TPDDL, which has been challenged in the Hon'ble High Court of Delhi and is now listed for 30.09.2019. The same was taken on record. He further argued that since the above referred case is still pending in the Hon'ble High Court and is yet to be decided hence the CGRF cannot decide his case without considering the outcome of that case.



The Appellant approached the CGRF wherein his submission for quashing and rectification of the wrong, huge and illegal assessed bill was not accepted and hence preferred this appeal for setting aside the order of the CGRF dated 14.03.2019.

In view of the above submissions, the Appellant finally prayed that the said supplementary demand be directed to be withdrawn by the Discom and they be further directed to issue the revised bill for the consumption bill only after wavier of LSPC.

4. The Discom in its reply submitted that the premises of the consumer were inspected by them on 23.11.2017 and retained the meter bearing No. 93405101 at the Appellant's premises for seizing and testing of the said meter at third party laboratory and further data analysis. The said meter was replaced with a new meter bearing No. 93408997 on 12.01.2018 and the old meter was seized on 15.01.2018. The said meter was then sent to NABL accredited third party independent laboratory for further testing since the meter was suspected to be tempered. As per the testing report provided by the Electronics & Quality Development Centre (EQDC), the aforesaid meter was found to be recording 30.06 percent less energy consumption as compared to the actual energy consumed due to the intermittent missing of R-Phase current since 08.09.2017 as per the current related events submitted by Discom. However, no other discrepancy was found in the meter as per the report. The copy of the meter replacement protocol sheet, inspection report, meter seizure memo, notice for testing of the meter and third party laboratory report duly signed by the Appellant were also submitted by the Discom for reference and record.

Therefore, in view of the above, the Discom carried out the assessment of Rs.1,78,597/- for 19306 KVAH units, for the period 08.09.2017 to 09.01.2018, till the last recorded reading billed by the Discom, for charging the escape demand on account of meter being slow by 30.06 percent due to R-Phase missing in accordance with the prevalent regulations. In addition to above, Discom also carried out the reading based adjustment of unbilled units amounting to Rs.13,350/- for 1443 KVAH units, for the period 10.01.2018 to 11.01.2018 i.e. till the replacement of the meter. In view of the foregoing, the Discom conveyed that the consumer or the representative of the consumer neither disputed nor refused to sign the inspection report, meter replacement protocol sheet and third party laboratory report, which itself shows that this is an afterthought ground to evade the payment of dues which otherwise he is under obligation to pay. Accordingly, Discom submitted that in view of the above, the Appellant is liable to pay to the cumulative assessment amount of Rs.1,91,947/- which have been assessed as per the prevailing regulations. The Discom further stated that the consumption subsequent to the meter change is considerably high which corroborates the fact that the meter was slow as found in the test report. It has also been submitted by the Discom that the Appellant is not liable for any relief of LPSC waiver and any installment of the payable amount. During the hearing, the Discom also submitted the consumption data for pre & post replacement of the meter along with the copies of current related events for the concerned period to prove their point



that the meter was reading slow on account of R-phase missing during the intervening period and hence the assessment made by them is right and is payable by the Appellant. The same were taken on record. The Discom also rebutted the argument of the Appellant regarding monitoring of meter of the connection on day to day basis by pleading that neither it is possible nor they are under any obligation to monitor lakhs of connections everyday and for the same reason regulations have provided the period of six months for raising the revised bills if need be.

5. With regards to two similar cases as referred to by the Appellant, the case of Shri Sunil Yadav vs. TPDDL in case No. 4696/10/12/BDL which was decided by CGRF in favour of the Appellant on 28.01.2013 and another similar case which was decided later on by the then Ombudsman on 25.04.2018 in favour of the Discom and now stands challenged in the Hon'ble High Court, the Discom submitted that the order of the Ombudsman will have the precedence over the CGRF order as per the law of precedence and further the CGRF's order has no relevance in this particular case. Regarding the order dated 25.04.2018, which has been challenged in the Hon'ble High Court, the Discom argued that the said case is still pending in the Court and there is no specific stay on the same and the Court has also not set-aside the order. In view of the same, no cognizance of the above cases can be taken in deciding the instant case.

In view of the above submissions, the Discom prayed that the present appeal is liable to be dismissed and decided in their favour and to pass such other and further order(s), as deem fit and proper in the facts and circumstances of the case.

6. After hearing both the parties and going through the material on record, the basic issue that emerges is that the Discom inspected the meter and found that the current in R-Phase was missing intermittently and hence changed the same with a new one. The meter replacement protocol sheet was duly countersigned by the consumer/consumer's representative and he did not raise the issue that the meter should be got tested through Electrical Inspector. The Discom, however, sent the meter to EQDC, which is a NABL accredited third party independent laboratory as notified by Delhi Electricity Regulatory Commission, for further testing since the meter was suspected to be tampered in view of the current missing intermittently on one phase. As per the report of the laboratory, it was found that meter is slow by 30.06 percent and was recording less energy than the actual consumption. The Appellant was served with a notice by the Discom to witness the testing as per regulations in the laboratory and the test report was also countersigned by the Appellant/his representative in token thereof. In view of above and after perusing the consumption data and the current related events as submitted by the Discom, it is concluded that they have rightly raised a supplementary demand of RS.1,91,947/- from 08.09.2017 to 11.01.2018 on the basis of current missing in 'R' - Phase intermittently as per DERC Regulations, 2017.

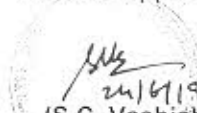


The Appellant is however challenging the credibility of the test conducted by an accredited laboratory as notified by DERC. In the present case, it is clear from the site inspection report that clamp on meter was displaying a current of 8.4 Amp on R-Phase whereas the meter display was showing zero reading. The same has been corroborated by the test in the laboratory and hence the findings of the laboratory cannot be questioned in any case. Also as per clause 32 (2)(iii) of DERC Regulations, 2017, the decision of the accredited laboratory notified by the Commission or accredited laboratory other than that of Licensee as the case may be shall be final and binding on the licensee and the consumer both. The clause 38(g) of DERC Regulations, 2007 as referred to by the Appellant cannot be considered here in the present case as this case pertains to the period when the regulations of 2017 were already in force. In short, the findings of EQDC, the accredited laboratory cannot be doubted and the supplementary demand as raised by the Discom on the basis of analysis report issued by EQDC is in order.

Under the normal operating conditions the meter would have been recording all the three phases whereas in the present case the current in one phase was not recording continuously as a consequence of which the meter was registering lower consumption values. This is a technical fact and the Appellant cannot merely take shelter behind the claim that the meter, as far as his consumption data is concerned is defective or faulty. Regarding the revised billing modalities, the Discom has followed the due procedure prescribed under section 32(2)(7) of the DERC's Supply Code & Performance Standards Regulations, 2017 by raising the bill for the period from 08.09.2017 to 11.01.2018. The plea of the Appellant regarding monitoring of modems on day to day basis is arbitrary and vague and has no basis and is not worth consideration, hence rejected.

With regard to the order of CGRF dated 28.01.2013 in the matter of Shri Sunil Yadav V/s TPDDL in case No. 4696/10/12/BDL as cited by the Appellant, it is held that there is no relevance and similarity between the two cases and the plea of the Appellant is devoid of any merit and cannot be considered. Similarly, in the second case dated 25.04.2018, as decided by the then Ombudsman in favour of Discom, which stands challenged in the Hon'ble High Court, it is held that no cognizance of the same can be taken as the same is yet to be decided by the Court and secondly every other case has to be dealt with independently on the merit of the individual case. In view of the same the plea of the Appellant in this regard is not maintainable.

Based on the observations enumerated above, no substantive case is made out for any interference with the verdict of the CGRF and the appeal is disposed of accordingly.

  
24/6/19  
(S.C. Vashishta)  
Electricity Ombudsman  
24.06.2019