

OFFICE OF 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: 011-26144979)

Appeal No. 40/2023

(Against the CGRF-TPDDL's order dated 08.08.2023 in C.G No. 34/2023)

IN THE MATTER OF

Smt. Krishna Devi

Vs.

Tata Power Delhi Distribution Limited

Present:

Appellant: Shri Ashish Shokeen, son of Smt. Krishna Devi, Appellant

Respondent: Shri Ajay Joshi, AGM (Legal) and Shri Rajesh Kumar Gupta,
Manager on behalf of the TPDDL

Date of Hearing: 13.12.2023

Date of Order: 14.12.2023

ORDER

1. Appeal No. 40/2023 has been filed by Smt Krishna Devi, R/o 149, Suraksha Enclave, Delhi – 110034, through her son Shri Ashish, against the order dated 08.08.2023, passed by the Consumer Grievance Redressal Forum (CGRF) –Tata Power Delhi Distribution Ltd. (TPDDL) in CG No. 34/2023.

2. The brief background of the case is that the Appellant has a non-domestic electricity connection of 4 KW vide CA No. 60016664389, at her property bearing House No. 31 (old No. 35), Khasra No. 628/468, First Floor, Village Sultanpur Majra, Delhi-110041, for the last ten years. The bills issued by Discom were being regularly paid by her. In September, 2022, the Respondent issued a bill of Rs.1,28,100/- for 10502 units vide Bill No. 10099268160 dated 07.09.2022 for the period 30.06.2022 to 01.09.2022. Whereas, according to the 'consumption pattern chart' from September, 2020 to September, 2022, her electricity consumption was only 632 units per month.



3. On receiving such an exorbitant bill, the Appellant sent number of emails, viz., 13.09.2022, 15.09.2022, 20.09.2022, 24.09.022, 27.09.2022, 06.10.2022 and 12.10.2022 to the Discom asking relevant questions and for seeking information, i.e. (a) the reason for such a huge bill, (b) in the bill, the reading of KWH was 22176, whereas the reading of KVAh was 31314, so the reasons for such a huge mismatch in the KWH and KVAh readings and (c) exact period of 10502 units and measures to be taken to minimize the difference between KWH and KVAh readings?

4. When the appellant did not receive any response from the Discom, the Appellant made a payment of Rs. 20,000/- with a request not to disconnect the supply of electricity until the issue gets resolved. However, the Discom disconnected the electricity connection on 17.10.2022 and restored the same only after making full payment of Rs.1,28,100/- under protest. Later, the Discom vide their email dated 01.11.2022 informed him as follows:

- a) The bill in question has been generated on KVAh reading, which was earlier inadvertently done on the KWH unit.
- b) As per Tariff Order 2018-2019, all commercial connections have to be billed on KVAh consumption. In this particular case, a new meter was installed on 05.12.2018 and the consumption was inadvertently billed on KWH till 30.06.2022. This was checked and found in September, 2022. Accordingly, it had been corrected, and the bill on KVAh consumption basis was raised.
- c) Consumption of 10502 KVAh units is the differential reading for the period 05.12.2018 to 01.09.2022. The Discom also requested to maintain a power factor of 1 for subsequent billing. If, the Appellant desires payment in 4-5 equal monthly installment can also be considered.

Due to delay in reply and disconnection of electricity supply, the Appellant filed a complaint before the CGRF for withdrawal of the impugned bill of Rs.1,28,100/- and restoration of supply.

5. In rebuttal, the Respondent submitted that the bills from December, 2018 (the date of installation of Smart Meter, i.e., 05.12.2018) were being issued on KWh consumption because data was not communicated through Meter Data Management (MDM), therefore, billing was done on KWh readings by taking readings manually through a Hand Held Device (HHD). However, it started communicating in March, 2020. At that time, Smart Meter was a new technology, and due to lockdown on account of COVID-19, physical verification was not possible, therefore, billing was continued on KWh to avoid any higher billing to customers. The Respondent further stated that for the time being the KVAh consumption is considered the same as KWh



consumption for billing purposes only. Later on, the data was analyzed on all possible parameters and the gap found, so the difference of KVAh units being escaped demand of Rs.1,28,100/- for 10502 units from 05.12.2018 to 01.09.2022 was issued on 07.09.2022.

6. The Forum, in its order dated 08.08.2023, opined that the bill raised by the Respondent for an amount of Rs.1,28,100/-, is in order. Further, the LPSC amount, if received from the complainant be refunded. The Forum also awarded compensation to the tune of Rs.5,000/-. Both the compensation and LPSC amounts were to be adjusted in her subsequent bills.

7. Aggrieved with the order dated 08.08.2023, passed by the Forum, the Appellant preferred this appeal dated 11.09.2023, and reiterated the same as submitted before the Forum. In addition, the Appellant referred to various judgments/regulations in support of her appeal and submitted the following grounds of appeal:

(i) That the Forum held the impugned demand as an escape demand, whereas this is the case of a deficiency of services and not an escape demand. In this regard, the appellant referred to the Apex Court's order in the matter of M/s Prem Cottex vs. Uttar Haryana Bijli Vitran Nigam Ltd & Ors in Civil Appeal No. 7235 of 2009, where the Apex Court had inter alia held that "..... In fact, even before going into the question of Section 56(2), the consumer forum is obliged to find out at the threshold whether there was any deficiency in service. It is, only then the recourse taken by the licensee for recovery of the amount can be put to the test in terms of Section 56...." Therefore, the demand is barred under Regulation 56 of the Electricity Act, 2003.

ii) That neither she knew about the irregular power factor or difference in KWh and KVAh nor the Respondent provided an opportunity to correct the discrepancy by installing a shunt capacitor and issued incorrect bills for a long period of four years, which is a clear violation of regulations.

iii) That there is another meter (CA No.60027871601) installed in the same premises and adjacent to the meter, in question, which is being regularly billed on a KVAh basis. Then why was the alleged bill (CA No. 60016664389) was being issued on a KWh basis is not clear?



iv) That the Respondent has taken pretext of COVID-19 to cover their deficiencies. In this regard, the Appellant referred to the Ombudsman's Order dated 30.03.2022 in Appeal No. 36/2021 (Arman Ansari vs. TPDDL), wherein it was emphasized that the Respondent should have acted in right earnest during the above duration to settle the grievance of the Appellant.

v) That in spite of the matter being sub-judice before the Forum, the officials from the Enforcement Department of the Respondent visited the premises in question, booked a case of unauthorized electricity use, and issued another bill amounting to Rs.1,11,349/-.

vi) That the Discom violated the Regulations and showed highhandedness, therefore, award compensation to him in terms of Regulation 74 of DERC's Supply Code, 2017.

And finally the appellant prayed for:

- (a) To withdraw the impugned bill of Rs.1,28,100/-, and refund the amount deposited under protest along with interest.
- (b) To award compensation to the tune of Rs.2.00 lakh against harassment and mental agony.
- (c) Any other relief(s) which may deem fit and proper in the circumstances of the case.

8. However, the Discom, in its written submissions vide letter dated 12.10.2023, reiterated the same as submitted in its reply before the Forum. In support of its contention, the Discom also submitted following:

(i) The Respondent referred to the Hon'ble Supreme Court's judgement in M/s Swastic Industries vs. Maharashtra State Electricity Board in AIR 1997SC1101 held that "..... there is no deficiency of service in making supplementary demand for escaped billing....."

(ii) Regarding the maintenance of the power factor, the Discom submitted that it is the Appellant's responsibility to maintain the power factor by installing power factor correction equipment. The Appellant was informed about the fact that the power factor is not being maintained through the bills for the year 2018.



(iii) In addition, the Discom also submitted the following reasons for skipping the download of consumption in the KVAh unit:

- (a) Non-timely switching on KVAh tariff immediately after the installation of the Smart Meter on 05.12.2018.
- (b) Meter remained disconnected from April, 2019 to June, 2019, and electricity supply was restored on 02.06.2019.
- (c) Consumption from October, 2019 onwards started increasing, then only an upward increase in consumption was noticed, therefore, the process for reading verification in September, 2020 was initiated and found high consumption as a number of sewing machines, fans, tubes, etc. were in use.
- (d) In March, 2020, the reading was 6166 KWh and 6134 KVAh. The consequent consumption as 765 Units (KWh) and 733 Units (KVAh), respectively. Therefore, the reading could be taken for billing as KVAh cannot be lower than KWh consumption.
- (e) Covid Period
- (f) A bill dated 02.07.2022 was issued for the period 31.05.2022 to 30.06.2022 and then stopped issuing bills for quality control. At that time, the error was detected. On 11.08.2022, when the Appellant (through her son Shri Ashish) requested (vide Notification No. 2031250332) for reading, she was apprised that the bill was stopped for analyzing KVAh reading and the bill would be generated as soon as possible.

(iv) The Discom denied that the COVID pandemic was the sole reason for not releasing the bill on KVAh. The main reason is that they could not release the bill on KVAh without verification of data and relevant information.

(v) The Discom denied the contention of the Appellant that another bill of Rs.1,11,349/- issued on account of an unauthorized electricity connection and submitted that no case of any misuse was booked against the Appellant's connection.

9. In the additional submissions made by the Appellant through an e-mail dated 11.12.2023, attention has been invited to the obligation imposed by the DERC in its order dated 28.03.2018 and the laid down formula for obtaining KVA/KVAh projection by dividing KW/KWh projection by the power factor.



10. The appeal was admitted and taken up for hearing on 13.12.2023. During the hearing, the Appellant was represented by her son Shri Ashish and the Respondent was represented by its authorized representatives/Advocate. An opportunity was given to both the parties to plead their respective cases at length.

11. During the course of hearing, the Authorized Representative (AR) reiterated the Appellant's contentions as submitted in the appeal as well as in the additional submissions. Further, the AR emphasized on the order of Hon'ble Apex Court passed in the matter of "Prem Cottex vs. Uttar Haryana Bijli Vitran Nigam Ltd & Ors" and contested mainly on the three grounds; i) Impugned demand is not covered under "escaped assessment" ii) Explicit deficiency in services of Respondent; iii) Time barred Demand, therefore, Section 56 (2) of the Electricity Act, 2003, is applicable. Furthermore, in spite of numerous communications regarding reasons behind exorbitant bill (Sep-2022) of Rs.1,28,100/-, no reply was received. Even after making of partial payment of Rs.20,000/- in respect of the disputed bill on 26.09.2022, as envisaged in regulation, to save electricity supply, the connection was disconnected on 17.10.2022. However, the Appellant responded only on 01.11.2022. In this regard, the Appellant also referred to the order dated 30.03.2022 passed by the Ombudsman in the matter of Shri Arman Ansari vs. TPDDL, wherein the Ombudsman had laid down that the Discom should have acted in right earnest to settle the grievance of the Appellant.

12. In rebuttal, Respondent reiterated its justification as before the CGRF and written statement in this office. In response to a query whether after installation of smart meter in December, 2018, the Respondent, on its part make any endeavors to educate the consumer prior to September, 2022, to the effect that subsequent billing would be on KVAh basis instead of KWh, Respondent could not respond convincingly. The Officer present sought to justify inaction by the Discom during the period 2019 till 2022 on account of the I.T. snag, non communication by the smart meter till March, 2020, and the lack of the technical skill and training on shift to the new technology.

13. It cannot be disputed that the demand raised for Rs.1,28,100/- was for the difference of the units consumed during the period 05.12.2018 to 01.09.2022 and recoverable. However, despite numerous e-mails, the Discom failed to explain or clarify the demand to the Appellant and adopted the mechanism of notice for disconnection in blanket violation of Regulation 45(1) since grievance raised was pending for resolution. The law laid down by the Apex Court in the case Civil Appeal 1672 of 2020 – Assistant Engineer, Ajmer Vidyut Vitran Nigam Ltd. Vs. Rahamatullah Khan applies. It was not open to the Discom to take recourse to coercive measures



of disconnection of electricity supply for recovery of the additional demand. The connection was restored only on payment of the impugned bill of Rs. 1,28,100/-.

14. No plausible explanation has come for the delay of about one and half year from March, 2020 in raising the bill on KVAh basis. Even, the CGRF has observed that the Respondent handled the dispute raised by the complainant/Appellant in a highly callous and stereotyped manner. It is a glaring example of high handedness and mechanical functioning of the Respondent.

15. This Court is of considered opinion that the following factors have led to the non-resolution of the present issue of the Appellant (a) absence of the training of the staff for adopting new technology, (b) Lack of coordination between the various Departments, viz; IT, Billing, Customer Care, Training and their working as independent silos, (c) No concern for redressal of grievance of the consumers and (d) Absence of dissemination of information by the Discom with the Appellant/consumers on the impact of shifting of billing from KWh to KVAh as well as the steps that could be taken to neutralize the power factor.

These factors certainly reflect deficiency in service at various levels which lead to accumulation of payable amount. Non-functional automated billing due to technical snag and the abnormal delay in adoption of technology was also another reason for the dissatisfaction of the Appellant.

16. This Court has heard both the parties, perused their respective contentions. The Court has also gone through the relevant rules, citations, etc., very minutely and is of considered opinion that grievance of the Appellant was not handled appropriately due to reasons mentioned above and, therefore, directs as under:

(a) The order dated 08.08.2023 passed by the CGRF is upheld, as regards the liability of the Appellant to pay for the actual consumption of electricity.

(b) In the interest of equity and justice, Discom is required to pay an amount of Rs.25,000/- (Rupees Twenty Five Thousand) as compensation to the Appellant, which would be adjusted against the ensuing bills.


(c) CEO of the Discom is directed to order an enquiry and fix responsibility for the delay of over one and a half year in raising the bill on KVAh basis when the MDM was operational w.e.f. March, 2020. The enquiry should also highlight the non-issue of bills for the connection w.e.f. 05.12.2018 when the 'smart meter' was installed.



(d) Having regard to the stand taken by the Discom in this case, a presumption arises about similar other cases pending with the Discom. Since it involves a lot of revenue at stake, CEO may also take appropriate steps in this regard.

(e) In the backdrop of the above analysis, CEO may take steps for ensuring proper coordination amongst the various departments for giving best service to the consumers in a coherent manner and also to protect business interest.

The appeal stands disposed off accordingly.


(P.K. Bhardwaj)
Electricity Ombudsman
14.12.2023