

BEFORE THE ELECTRICITY OMBUDSMAN
(For the State of Goa and Union Territories)
Under Section 42 (6) of the Electricity Act, 2003
3rd Floor, Plot No. 55-56, Udyog Vihar - Phase IV, Sector 18
Gurugram (Haryana) 122015,
, Email ID: ombudsman.jercuts@gov.in
Phone No.:0124-4684708

Appeal No-207 of 2023

Date of Video Conferencing: 23rd January, 2024

6th February, 2024, 27th February, 2024

Date of Order: 4th March, 2024

In the matter of: -

Mrs Zebun Nisa

Noor Manzil, Sisty Nagar, Near Marine Gate,
Port Blair, A&Ni Island 744101

.... Appellant

Versus

The Executive Engineer (HQ)

Electricity Department, A&Ni Island

.... Respondent No 1

The Assistant Engineer I, HQ Division,

Electricity Department, A&Ni Island

.... Respondent No 2

Parties present:

Appellant(s)

Ms Nasir Hussain

Respondent

Mrs Maduri Shukla, Executive Engineer (HQ), E.D Deptt.

Andaman & Nicobar Island

Mr Navin Lal,

Assistant Engineer I, HQ Division,

Electricity Department, A&Ni Island

ORDER

This representation was filed on 27th December, 2023 by Mrs Zebun Nisa Noor Manzil, Sisty Nagar, Near Marine Gate, Port Blair, A&Ni Island 744101 under Section 42(6) of the Electricity Act 2003 read with Regulations 32 & 33 of Joint Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations against the order in case **No. ANI/CGRF/297/23-24/29 Dtd 07.09.2023** passed by the Ld. Consumer Grievance Redressal Forum (CGRF), A&Ni Island on 15.12.2023.

Following a thorough review of the documents supporting the representation, the Ombudsman issued an admission notice on 27th December, 2023. The Ombudsman directed the respondents to file the reply to the appeal filed by the appellant vide this office letter dated 27.12.2023.

The complainant Nazeen Daughter in Law of registered consumer Smti. Zebun Nisa, W/o Late Noor Hussain, R/o Sisty Nagar, Port Blair filed a complaint with the Office of Ombudsman JERC feeling aggrieved of the decision of Ld CGRF A&Ni Island vide order No **ANI/CGRF/297/23-24/29 Dtd 15.12.2023** regarding excess billing bearing Consumer No. D1/2871 (Commercial) & D1/3065 (Domestic).

The complaint was forwarded on 27.12.2023 to the Superintending Engineer, Electricity Department, Andaman and Nicobar Island who represents the Respondent/ Licensee (ED) for submitting reply/comments.

The Respondent Executive Engineer (HQ), Electricity Department, Andaman & Nicobar Island submitted the comments vide her letter No EE/HQ/Tech/29B/2023/4223 dated 16.01.2024 which is taken on record.

Submissions made by the Appellant

The appellant submits that

The homestay "Sunnyvale Andaman" is run by me, Nazeen, Daughter-in law of Zebun Nisa attached to consumer no. 01/2871 (Commercial). Our residence is in the same floor,

was run by husband till his demise in July 2021. The homestay business is very seasonal, so in mid-2022, when we notice that during the non-seasonal time, where we have extremely less occupancy the electricity bill is quite high for the homestay. Even our residence, electricity billing we notice is high with 3 persons, where consumption is by usage of led lights, fan, computer, mobile charging and washing machine and no air conditioner. We complaint and the departmental personal came and told there is nothing wrong with the meter it is perfectly well. When we mentioned the usage is less but the bill is high, they stress we are wrong but miraculously from next month onwards the bill amount has been reduced (highlighted). Attached consumer ledger provide by the electricity department for D1/2871 (Annexure-1), D1/3065 (Annexure-II).

When these data were provided it was notice in the 1 half of year 2021, we were receiving high billing amount even though as the whole world know the tourism was down and business were closed. Since that time my husband was taking care of the business so I have no idea about the action taken by the electricity department for the concern raised by him.

Like any common person we were paying our electricity bill till June23 even though we are 100% sure the billing amount mentioned is not in proportional to the consumption but there was no way we can prove it and trouble the extremely busy officials. From May 23 onwards there was huge shortage of water and all the private water tankers also were taken by the administration. So we have to close our operation but we were still paying the electricity bill Same for the residence there were steady increase in bill even though with just 2 persons residing as the elder child was in mainland studying.

On an unplanned trip we went to mainland on 23rd June23, we were supposed to be back within a week but we were able to return only on 19th Aug 23. (Attached Air tickets Annexure III). During this duration there was no personal were residing in the homestay as well as in our residence, it was totally closed When we saw the bill for the month of July23, we decided to write to the electricity department on 11 Aug 23 and reminder on 30th Aug 23.

Emailed it to the CGRF, Horticulture Road, Hadoo, Andaman & Nicobar Islands on 1 Sept 23(Annexure VI) As clearly mentioned to the CGRF, if have not stayed for a period of almost two month we would have continue to pay our electricity bills and there would have been no complaint and our consumer number still continue to reflect in the list of faulty/burnt meter.

From the letter address to "the Assistant Engineer (Workshop), Ref no ANI/CGRF/10-297/137 dated 08/09/2023 (Annexure VII), we came to know that

D1/2871 (commercial) was faulty from Feb 2023.

D1/3065 (Domestic) was burnt from June 2023.

On 28th Aug 23 both faulty meters were replaced and we are unaware about.

The purpose of going to CGRF is during all this time it was mentioned to us multiply times the "SMART" meter is correct, there is fault in consumer side not informing about the trip to mainland. Is this our mistake to believe that during our unplanned trip the meter will be not SMARTLY working and the department knowing that the meter was faulty from Feb23 has SMARTLY done their work by informing to the concerned department on a periodic basis.

Looking at the enormous number of faulty meter data provide by the electricity department for just one sector, raises concern on the accountability of the personal involve.

In a small set up like ours this sort of undue expenses cause huge impact, for that matter in any organization. We do understand electricity department has to safe guard itself against any loss but what about the consumer. We have been tangles in clauses and permutation

The appellant further states that she left from Port Blair to Hyderabad on 23/06/2023 with her family and returned on 19/08/2023. My residence with home-stay was closed till I returned back to Port Blair. In the absent period home stay was non-functioning and closed. Further, she said that in the month of July 2023, 1 had refused to pay the electricity

bill due to the highest reading consumption showing in the bill. She said that last year my energy meter was replaced and now latest on 13/06/2023 once again my meter was replaced without intimation, I and my daughter are living in my residence without Air Condition. My commercial meter was replaced without any intimation in January 2021.

Hence, the complainant requested the Ombudsman to revise the bill on the absence period which she had not used from 23/06/2023 to 19/08/2023 and excess amount paid by him may be adjusted in future bills, and accordingly she submitted flight tickets for her family traveling from Port Blair to Hyderabad on 23/06/2023 and returned on 19/08/2023, which is kept in the case file.

For common people like us, irrespective of "SMART" meter or unsmarts meter;

Billing amount unit consumed 'fixed charge based on meter type

It should not account for the inefficiency of the personnel sitting on the faulty meter data.

Again, as I have mentioned to the CGRF Andaman & Nicobar Island, why should any person pay for something if that person has consumed it.

CGRF, Andaman and Nicobar Island, in their judgment F.No. ANI/CGRF/10-297/230 dated 15/12/2023 (Annexure VIII) has graciously address the issue and given direction but saying cannot provide the relief due to lack on jurisdiction is very disheartening. Only reason the complaint was done to CGRF because it was told us if the bill is generated you have to pay no question asked, which I feel is not right.

Submissions made by the Respondent

The Assistant Engineer-I(HQ) on behalf of the Respondent/ Licensee (ED) in his submission has stated that: -

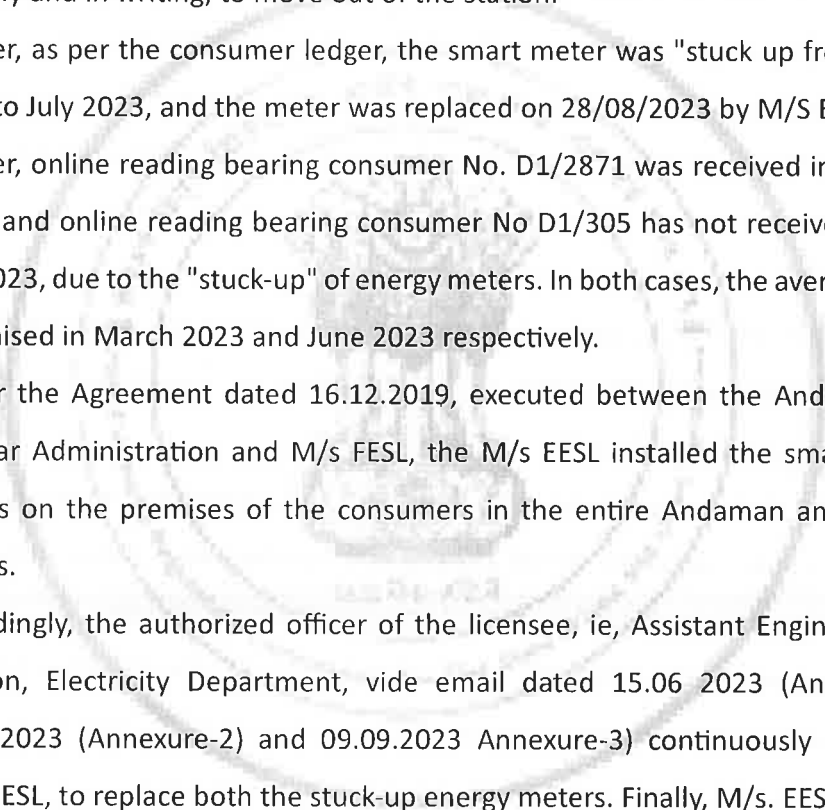
- A. "The consumer bearing A/C No. D1/2871 (Three phase Commercial) and D1/3065 (Single phase Domestic) of Smti. Zaibun Nisha has requested to look into the matter vide her letter dated 11/08/2023 addressed to the Assistant Engineer-I (HQ), Electricity Department (Enclosed).

- B. The online reading was not receiving since February 2023 and the average billing was raised since March, 2023 for A/C No. D1/2871 (Three phase Commercial).
- C. The online reading was not receiving since July 2023 and the average billing was raised since June 2023 for A/C No. D1/3065 (single phase Domestic).
- D. As per the direction of to the Assistant Engineer-I, Electricity Department both the smart energy meters were replaced with the coordination of EESL staffs on 28.08.2023.
- E. The energy meter test report of both the smart energy meters was received from EESL as per mail send from Junior Engineer (Aberdeen Bazar) on 13.09.2023.
- F. Mail to EESL for details of faulty smart meters on 15.6.2023, 26.07.2023 & 09.09.2023.
- G. As directed by the Forum of the following documents are submitted for consumer bearing A/C No. D1/2871 (Three phase Commercial) & D1/3065 (Single phase Domestic) of Smti. Zaibun Nisha.
- H. Consumer Profile (Ledger Sheet) - January, 2021 to till date.
- I. EESL online reading report - January, 2021 to till date.
- J. Meter reading book from January, 2021 to till date.

The Assistant Engineer-I(HQ), Elect. Dept., representing on behalf of the Respondent/Licensee (ED) stated that the complainant had not given prior notice in writing before she moved out of the station. Further he said that as per consumer ledger the smart meter was 'struck-up' from March 2023 to July 2023 and the meter was replaced on 28/08/2023.

Further, Superintending Engineer, A&N Administration, Electricity Department has filed and affidavit dated 16.01.2024 stating that

- I. The complainant/appellant Smti. Nazeen, is the daughter-in-law of consumer Smti. Zaibun Nisha, bearing Account No. D1/2871 (three-phase commercial) and D1/3065 (single-phase domestic). Smti. Zaibun Nisha has requested to revise the electricity bill for the period, which she had not used from 23/06/2023 to 19/08/2023, as during this period she and her family left Port Blair to Hyderabad on 23.06.2023 and returned on 19/08/2023.

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- II. During the period, consumer Smti. Zaibun Nisha was available in the above building and using the electricity.
- III. The consumer Account No. D1/2871 (three-phase commercial) a commercial connection and is used for the homestay, viz., "Sunnyvale Andaman" and the consumer Account No. D1/3065 (single-phase domestic) is used for the residence on the same floor
- IV. The complainant was not given any prior intimation by this department, both verbally and in writing, to move out of the station.
- V. Further, as per the consumer ledger, the smart meter was "stuck up from March 2023 to July 2023, and the meter was replaced on 28/08/2023 by M/S EESL
- VI. Further, online reading bearing consumer No. D1/2871 was received in February 2023, and online reading bearing consumer No D1/305 has not received it since July 2023, due to the "stuck-up" of energy meters. In both cases, the average billing was raised in March 2023 and June 2023 respectively.
- VII. As per the Agreement dated 16.12.2019, executed between the Andaman and Nicobar Administration and M/s FESL, the M/s EESL installed the smart energy meters on the premises of the consumers in the entire Andaman and Nicobar Islands.
- VIII. Accordingly, the authorized officer of the licensee, ie, Assistant Engineer 1, HQ Division, Electricity Department, vide email dated 15.06 2023 (Annexure-1), 26.07.2023 (Annexure-2) and 09.09.2023 Annexure-3) continuously requested M/s. EESL, to replace both the stuck-up energy meters. Finally, M/s. EESL changed the above-mentioned smart energy meters on 28.08.2023. It is significant to mention that the authorized officer, ie., the Assistant Engineer-1, HQ Division, Electricity Department, did not follow Section 6.47 of JERC Regulation 2018 (Supply Code) while replacing 648 both energy meters by M/s. EESL because a representative of M/s EESL. came suddenly and replaced the meters. However, the officer, vide circular No. ANI/CGRF/10-297/230 dated 15.12.2023 (Annexure-4),

has directed all junior engineers to strictly adhere to Section 6.47 of JERC Regulation 2018 (Supply Code) while replacing energy meters.

- IX. It is pertinent to draw the kind attention of the Hon'ble Ombudsman to the fact that JERC Regulation No. 23/2018 (Electricity Supply Code) under Section 7.12 states that "in case of a defective, stuck, stopped, or burned meter, the consumer shall be billed on the basis of the higher monthly consumption of the corresponding month of the previous year and the average monthly consumption of the immediately preceding three months These charges shall be leviable for a maximum period of three months, during which time the licensee is expected to have replaced the defective meter." Accordingly, average billing was in respect of consumer No D128 (commercial) and consumer No D13005 (domestic) between the above-mentioned periods, and the smart meters were replaced in August, 2013 and till date, the meters are working properly.
- X. The consumer, being aggrieved by the decision of the CGRF order passed vide No. ANI/CGRF/10-297/230 dated 15.12.2023, filed an appeal before the Hon'ble Ombudsman (Annexure-5)
- XI. In light of the above appeal, the Hon'ble Ombudsman has issued an Admission Notice vide Appeal No. 207 of 2023, wherein at Pont No 2, it has advised to settle the representation through mutual agreement within 10 days.
- XII. In response, vide letter No. IL/AL/SD-1/HQ/25-3/2024/750 dated 09/01/2024 (Annexure-6) the complainant was requested to come to the meeting with the undersigned for discussion about her grievance once again and redress the same through mutual consent as far as possible.
- XIII. The representative of the consumer attended the meeting on the stipulates date and time, but she denied the mutual agreement.
- XIV. The followings documents are submitted for consumer bearing Account No. D1/2871 (Commercial three phase) and D1/3065 (Domestic single phase):
- a. Consumer profile (Ledger sheet), January, 21 to August 23
 - b. EESL online reading report January, 21 to August,23

c. Meter Reading Book January, 21 to August 23

Proceedings:

Hearing on 23.01.2024

Present:

Mrs Nasir Hussain

For Appellant

Mr Navin Lal, Assistant Engineer,

For Respondent

E.D. A&Ni Island.

Both the parties were present during the hearing. Both the parties were heard. Assistant Engineer E.D. A&Ni Island was directed to get both the meters

A. Consumer No D1/2871 (Commercial) Meter No GP No 7801879

B. Consumer no D1/3065 (Domestic) Meter No GP No 7412787

Downloaded by EESL. The downloaded data to be shared on or before 6th February, 2024.

Hearing on 06.02.2024

Present:

Mrs Nasir Hussain

For Appellant

Mrs Madhuri Shukla

For Respondent

S.E E.D. A&NI Island

Mr Navin Lal, Assistant Engineer,

For Respondent

E.D. A&Ni Island.

Mr. Navin Lal informed that E.D A&Ni Island has requested EESL to get the data extracted for both the meters but till date they have not collected the meters.

Mrs. Madhuri Shukla SE ED A&Ni Island has informed that the EESL do not have any Lab in A&Ni Island and they need to Send the meter to M/s Genus at Jaipur Rajasthan for extraction of data for which she seeked two weeks' time.

In order to conclude the case in the interest of justice two weeks' time allowed.

Next date of Hearing fixed for 20/2/2024 with the direction to ED A&Ni Island to take up the issue with EESL expeditiously.

I/c Registry to follow up and issue hearing notice.

S.E. E.D A&Ni Island vide her Email dated 20.02.2024

Hearing on 27.02.2024

Present:

Mrs Nasir Hussain

For Appellant

Mr Ravichandar Raveendran

On own

Chairman CGRF A&Ni Island

Mrs Madhuri Shukla

For Respondent

S.E E.D. A&NI Island

Mr Navin Lal, Assistant Engineer,

For Respondent

E.D. A&Ni Island.

Mr. Ravichander Ravindran appeared at the hearing unrepresented. He argued that in the case at hand, as per Order No. ANI/CGRF/297/23-24/29 dated 07/09/2023, he took into account the crucial factor that the appellant failed to notify the respondent licensee before departing from the area for an extended period of two months. When questioned regarding the provision in the JERC Supply Code 2019, the Electricity Act 2003, or any directives from the Electricity Department mandating consumers to inform the supplier prior to prolonged absences, the response provided was negative.

The Respondent Assistant Engineer, ED A&Ni Island confirmed that no such instructions have been issued by the department which states that the consumer has to notify electricity department/ licensee before moving out of station for a longer period.

Further, the data submitted by the E.D A&Ni Island related to two meters of connection number D1/2871 (GP7801879) and D1/3065 (GP7412787) extracted data by the OEM indicates that the meter against connection number D1/3065 is not burnt and reading

pattern also shows that the meter was working and they have declared the meter as burnt based on the report of Linemen. The data related to other connection D1/2871 clearly shows that the meter is stopped from march 2023 at reading 12550.

The appellant also reiterated her submission which is already on the record.

Both the parties submitted that they do not have anything more to submit, hearing concluded and order reserved.

Finding and Analysis:

The complainant/appellant Smti. Nazeen, is the daughter-in-law of consumer Smti. Zaibun Nisha, bearing Account No. D1/2871 (three-phase commercial) and D1/3065 (single-phase domestic).

She had left for mainland on 23.06.2023 and returned back on 19.08.2023. She has submitted the copy of her Air tickets and Boarding pass in support of her submission. Accordingly, she had requested to revise the electricity bill for the period, which she had not used from 23/06/2023 to 19/08/2023, as during this period she and her family left Port Blair to Hyderabad on 23.06.2023 and returned on 19/08/2023.

Further, she has submitted that on 8th June, 2023 she had complained to E.D. A&Ni Island regarding No supply at her premise. The Lineman attending the power issue has reported that the meter installed against connection number D1/3065 (Domestic) is burnt and after getting official process followed up, he restored the power supply by by-passing the meter. The final reading as per the consumer ledger is 7727.

The other meter installed against connection number D1/2871 (Commercial) is already running faulty since March, 2023. This meter was also stuck up at reading at 12550.

The data extracted by OEM (M/s GENUS) as provided by the E.D. A&Ni Island is analyzed and relied upon to conclude that: -

A. Consumer No D1/2871 (Commercial) Meter No GP No 7801879

The meter reading was 11967 as on 1.02.2023 and it is stopped at Reading 12550 as on 1.03.2023. The MD reported is 4.260 as on 19.02.2023 and MD reported is "ZERO" for the month of July and August 2023.

There is No meter Temper data for the month of June, July 2023 and for August 2023 there is only one event from 15:09 to 15:20.

E.D. A&Ni has reported this meter as stopped/defective to EESL who has to replace this meter but they did not do it for as long as six months when they replaced it on 28th August, 2023.

B. Consumer no D1/3065 (Domestic) Meter No GP No 7412787

On June 1st, 2023, the meter reading stood at 7689, which increased to 7727 by July 1st, 2023, and further to 7730 in August 2023. The Maximum Demand Indicator (MDI) readings were recorded as 1.594 on May 30th, 2023, 1.092 on June 6th, 2023, and 0.482 on July 7th, 2023. According to records provided by the Electricity Department of A&Ni Island, the meter was reported as burnt on June 8th, 2023, with a reading of 7722. However, based on the reading chart supplied by the Electricity Department, the reading for July 2023 is 7727, while the meter's data extracted by the Original Equipment Manufacturer (OEM) shows a reading of 7730 for August 2023. This reading pattern suggests that the meter is operational and the supply is not in use, contradicting the department's claim of the meter being burnt.

Furthermore, the meter temper data provided by the OEM, upon which reliance is placed, indicates nine recorded temper events for July 2023, with no temper data available for August 2023. This raises doubts about the department's assertion that the meter was bypassed on June 8th, 2023. If indeed the meter was bypassed on that date, it is illogical for the meter to record temper data related to power supply failure in July 2023. Additionally, the absence of temper data for June 8th, 2023, further undermines the department's claim of bypassing the meter on that specific date.

The reading pattern as observed from the above facts it is established that meter against Consumer No D1/2871 (Commercial) Meter No GP No 7801879 is defective since March 2023 at reading 12550 and meter against Consumer no D1/3065 (Domestic) Meter No GP No 7412787 is not defective as there is incremental reading recorded. Due to low recorded consumption in the month of June-July 2023 of only 5 Units E.D has raised a bill for 211 without verifying the meter status. The supply from this meter was alive but since the user was not at home the recorded consumption is very low.

It is evident from the record that the consumer was not at home and they have submitted their Air Tickets supported by the Boarding Pass of Flight No 6E 879 from Port Blair to Chennai and 6E 6401 from Chennai to Hyderabad for dated 23rd June, 2023 of INDIGO and Boarding pass of Flight No 6E 707 of INDIGO from Hyderabad to Port Blair for dated 19th August, 2023. The meter data extracted by OEM is also indicative of these facts that the supply is not in use for the period 23rd June, 2023 to 19th August, 2023.

Final order:

I have heard the appellant, the Respondent Licensee E.D A&Ni Island and perused the relevant material on record.

Admittedly, the appellant has filed the present complaint to seek relief against the assessment raised by the E.D A&Ni Island for the period 23rd June, 2023 to 19th August, 2023. Although the E.D A&Ni has followed the guidelines as stipulated in the JERC Supply Code 2018 but they have not applied their analytical skills to further investigate the facts brought up by the appellant that when they were not at home for almost two months (23.06.2023 to 19.08.2023) and submitted proof for the same. The single-phase domestic meter vide connection No D1/3065 has been declared burnt whereas the extracted data provided by the E>D A&NI Island/OEM clearly indicates that the meter was working till August 2023 and the same is not burnt. The reading pattern also shows incremental reading. As such, it is ordered accordingly,

- A. A. The appellant's representation/appeal is allowed.
- B. The Order dated 07/09/2023, in Complaint No- ANI/CGRF/297/23-24/29, issued by Learned CGRF- A&Ni, is annulled.



C. The Ld CGRF in its order has ordered as

The complaint No. 297 is hereby closed due to lack of jurisdiction to take up the grounds raised by the consumer and a specific direction to the Respondent/ Licensee (ED) for implementation strictly as per Regulations.

The remarks cannot be appreciated as the complainant has not sought any relief under section 126, 127, 135 to 139, 142, 143, 152, and 161 of the Act. As per the section 19 **Limitations/ pre-conditions for submission of grievance** of JERC CGRF and Ombudsman Regulations 2019

- *The Forum may reject the grievance at any stage under any or more of the following circumstances: -*

(a) in cases where proceedings in respect of the same matter and between the same Complainant and the licensee are pending before any court, tribunal, arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority;

(b) in cases which fall under sections 126, 127, 135 to 139, 142, 143, 152, and 161 of the Act;

(c) in cases where the grievance has been submitted two years after the date on which the cause of action has arisen; and

(d) in the case of grievances which are -

(i) frivolous, vexatious, malafide;

In the present case the relief sought by the appellant is very much within the jurisdiction of CGRF Puducherry.

D. The bill for Consumer no D1/3065 (Domestic) Meter No GP No 7412787 shall be revised on merits in view of the facts given above.

E. The bill for Consumer No D1/2871 (Commercial) Meter No GP No 7801879 shall be revised by excluding the period from 23rd June, 2023, to 19th August, 2023, during which the supply was not in use, and only fixed charges shall be applied. Billing for the period from 1st March 2023 to 23rd June, 2023, and from 19th August to 28th August, when a new meter is installed, shall be

- E. The bill for Consumer No D1/2871 (Commercial) Meter No GP No 7801879 shall be revised by excluding the period from 23rd June, 2023, to 19th August, 2023, during which the supply was not in use, and only fixed charges shall be applied. Billing for the period from 1st March 2023 to 23rd June, 2023, and from 19th August to 28th August, when a new meter is installed, shall be carried out in accordance with the provisions of section 7.12 & 7.13 of the JERC Supply Code.
- F. The field team is instructed to conduct thorough testing and examination of meters before declaring them as defective/burnt.
- G. F. It has been noted that there is a consistent failure to adhere to guidelines 6.13, 6.14 & 6.15 for meter replacement in the JERC Supply Code 2018.
- H. A comprehensive review at the top level with the vendor is necessary to ensure strict adherence to the guidelines and timelines for meter replacement as per the Master Agreement dated 16.12.2019, in A&Ni Island.
- I. The Respondent/Licensee (ED) is directed to raise awareness among consumers regarding facilities for accessing daily consumption data to enable consumers to analyze their consumption data themselves.
- J. When EESL is providing smart meters in A&Ni Island, they must establish a meter testing lab on the island.
- K. The Respondent/Licensee is instructed to submit a compliance report within 15 days from the date of issuance of this order as per JERC Regulation No 26/2019 under clause 27(1).
- L. A certified copy of this order shall be forwarded to the Superintending Engineer (Respondent/Licensee) and the Nodal Officer CGRF A&Ni Island.
- M. The appeal is accordingly disposed of.



(C M SHARMA)

Electricity Ombudsman

For Goa & UTs (Except Delhi)

Dated: 4th March, 2024

