

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

(Appointed by the Maharashtra Electricity Regulatory Commission
under Section 42(6) of the Electricity Act, 2003)

REPRESENTATION No. 74 of 2020

In the matter of billing of defective meter

Siddhachal Co-Op. Housing Societies Federation Ltd. (Siddhachal Societies) Appellant

V/s

Maharashtra State Electricity Distribution Co. Ltd., Wagle Estate (MSEDCL) ... Respondent

Appearances: -

For Appellant : 1. Yogesh V. Chavan
2. Hemant Hatkar, Representative

For Respondent: 1. Anil Patil, Executive Engineer, Wagle Estate Dn.
2. V.R. Sonawale, Addl. Executive Engineer, Kolshet S/Dn.


Coram: Mr. Deepak Lad

Date of Hearing: 28th October 2020

Date of Order : 3rd November 2020

ORDER

This Representation is filed on 22nd September 2020 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations) against the Order dated 17th August 2020 passed by the Consumer Grievance Redressal Forum, MSEDCL Bhandup Zone (the Forum).


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2. The Forum, by its order dated 17.08.2020 has partly allowed the grievance application in Case No. 101 /2020 and the operative part of the order is as below: -

“2. The respondent utility hereby directed to issue bill with exempted on DPC, interest on recovery amount to the applicant consumer in accordance with IGRC order dtd. 23.12.2019.”


3. Aggrieved by the order of the Forum, the Appellant filed this representation stating in brief as below: -

- (i) The Appellant has a Club House for recreational activities of the Occupants. The Appellant has three connections for Club House from 21.10.2000 in the name of Kalptaru Soham Properties Pvt. Ltd. Siddhachal, Pokharan Road -2, Vasant Vihar, Thane. The detail of connections are as below:-
 - a. Consumer No. 000011901093 having connected load of 50 KW
 - b. Consumer No. 000011901085 having connected load of 50 KW
 - c. Consumer No. 000011901115 having connected load of 50 KW
- (ii) The meters of the said three connections of the Appellant were found faulty. The Appellant was billed under huge adjustment units for months together despite follow up for replacement of the meters for about 2 years. However, the Respondent did not take any action.
- (iii) The Appellant referred the Regulation 15.4.1 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 (Supply Code Regulations). The assessment, therefore, should be made as per the provisions of Regulation 15.4.1. The defective meters are to be replaced within three months. However, it was not replaced for about two years. The Appellant was billed under faulty status for more than two years.
- (iv) The Appellant filed its grievance application in IGRC on 31.10.2019. The IGRC, by its order dated 23.12.2019 directed as


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- *“As per respondent, the consumers meter is not replaced due to non availability of the meters in stock. All above consumers are LT/IP consumers with Connected load of 50 Kw and respondent charged bill on average basis considering previous consumption and Connected load. Therefore Applicants consumers prayer to apply provision of 15.4.1 of supply code regulation and crediting of refund with DPC and interest thereon is rejected.*
 - *For consumer with consumer No 000011901115, as per Applicant, there is no use of electricity. Respondent is directed to check meter/use and issue revise bill if requires.*
 - *Respondent is directed to issue revised bill for Consumer nos 000011901093 and 000011901085 as per previous average consumption.*
 - *Respondent is directed to replace all faulty meters if not replaced.”*
- (v) The Appellant approached the Forum on 13.01.2020. The Forum, by its order dated 17.08.2020 has merely allowed the grievance directing the Respondent to issue bill without DPC and interest on recovery amount to the Appellant in accordance with IGRC order dated 23.12.2019. The IGRC and the Forum failed to interpret the Regulation 15.4.1 of the Supply Code Regulations.
- (vi) The Appellant cited the orders of the Electricity Ombudsman, Mumbai in Representation No. 119 of 2019, Rep. No. 121 of 2018, Rep. No. 126 of 2019 and 11 of 2020 in support of its Case. The Electricity Ombudsman upheld the provision of the Regulation 15.4.1 in many cases and directed Respondent to restrict average billing for three months only in case of faulty meters.
- (vii) The Respondent has failed to comply the order issued by the IGRC within 30 days. Thereafter, the Respondent has not taken proper care while formation of revise billing of faulty meters. The Respondent used incorrect formula to decide the average consumption per month. For the calculation of average consumption, 12 months units consumed should be considered instead of three months.
- (viii) The Respondent issued faulty status bill by showing huge adjustment units of 6000, 4000 and 1000 units per month respectively of the three connections since month together. It is surprising that though installation of meter of Consumer No. 000011901115 is in working condition and of no use, the Respondent has wrongly declared faulty status without proper verification and charged 1000 units per month.



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- (ix) The Respondent is duty bound to issue proper and correct bill to replace the faulty meter within time to avoid revenue loss of the Respondent. However, no proper care has been taken for years together in the subject matter.
- (x) The Appellant prays to: -
- Apply Regulation 15.4.1 of the Supply Code Regulations restricting average billing to three months without interest and delayed payment charges (DPC).
 - Take appropriate action against the erring Respondent officials as per the Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period of Giving Supply and Determination of Compensation) Regulations, 2005 (SOP Regulations 2005).
 - Provide a copy of meter replacement report as per the Regulations in force.
4. The Respondent filed its reply by email dated 16.10.2020 stating in brief as under: -
- (i) The Appellant, Siddhachal Societies, has three LT/IP consumers from 21.10.2000 in the name of Kalptaru Soham Properties Pvt. Ltd. Siddhachal, Pokharan Road -2, Vasant Vihar, Thane for the purpose of Club House.

a. Consumer No. 000011901093 with connected load of 50 KW.

- Due to non-availability of meters in stock, the said consumer`s meter was not replaced, and the consumer was billed on average basis for the period from May 2018 to January 2020 considering the previous consumption pattern. The Consumer No. 000011901093 is permanently disconnected in January 2020 by clubbing the load with Consumer No. 000011901085.
- As per order of the IGRC dated 23.12.2019, consumer`s average bills for the period May 2018 to January 2020 are corrected and revised as per previous actual average consumption from May 2017 to June 2017 which is 4699 units per month and credit of the same is adjusted in consumer`s bill.


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III. As per order of Forum dated 17.08.2020, DPC and interest is waived for Rs.19114.94 vide bill revision (B-80 Id No. 11353219) dated 15.10.2020.

b. Consumer No.000011901085 with connected load of 50 KW.

- I. Due to non-availability of meter in stock, the said consumer`s meter was not replaced, and the consumer was billed on average basis for the period from May 2018 to September 2019 considering the previous consumption pattern. The meter of the Consumer No. 000011901085 was replaced in the month of October 2019.
- II. As per order of the IGRC dated 23.12.2019, consumer`s average bills for the period May 2018 to September 2019 are corrected and revised as per previous actual average consumption from October 2016 to December 2016 (as per actual recorded) of 1582 units per month and credit of the same is adjusted in consumer`s bill.
- III. As per order of the Forum dated 17.08.2020, DPC and interest is waived for Rs.12657.19 vide bill revision (B-80 Id No. 11353225) dated 15.10.2020.

c. Consumer No. 000011901115 with connected load of 50 KW.

- I. The consumer was billed on average basis for the period from October 2018 to August 2019 considering the previous consumption pattern. The Consumer No. 000011901115 is permanently disconnected by clubbing the load with Consumer No.000011901085. The said consumer`s meter was found working. As per order of the IGRC dated 23.12.2019, consumer`s average bill for the period October 2018 to August 2019 are revised as per actual reading and credit of Rs. 19,900/- is adjusted in the consumer`s bill.
- II. As per order of the Forum dated 17.08.2020, DPC and interest is waived of for Rs.3560.71 vide bill revision (B-80 Id No. 11353212) dated 15.10.2020.


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- (ii) The grievance of the Appellant is already resolved as per the orders of the IGRC and the Forum.
- (iii) Therefore, the Respondent prays that the Representation of the Appellant be rejected.


5. Due to Covid-19 epidemic, the hearing was scheduled on 28.10.2020 on e-platform through Video Conferencing after consent from both the parties.

6. During the hearing on 28.10.2020, both the parties argued at length and reiterated their respective submissions. The Appellant argued that as per Regulation 15.4.1 of Supply Code Regulations, in case if the meter is defective, the consumer is to be billed for maximum period of three months based on the average of previous twelve months. The Respondent has also charged interest and DPC. The Appellant stated that the grievance in case of Consumer No. 000011901115 is already resolved and amicably settled and therefore, it withdraws grievance with respect to the said consumer. The Appellant intends to seek relief under Regulation 15.4.1 of the Supply Code Regulations in respect of Consumer No. 000011901093 and 000011901085. Consequently, bills paid by these two consumers be suitably adjusted in refund which may become payable after application of the relevant Regulation. In addition, DPC and interest levied may also be withdrawn.

7. The Respondent argued during the hearing that there is an acute shortage of three phase meters. The IGRC and the Forum has given reasoned orders. The energy was consumed during the disputed period by the Appellant. The grievances of these three consumers were already settled and the Respondent has complied orders of the IGRC and the Forum. The IGRC and the Forum have therefore rightly rejected the grievance as far as the applicability of Regulation 15.4.1.

Analysis and Ruling

8. Heard both the parties and perused the documents on record. It is noted that all three connections are meant for Club House which is being commonly used by the Appellant Societies


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and look after by the Appellant. The Appellant has not submitted copies of electricity bills issued to it by the Respondent. It was specifically pointed out through a letter. It was referred as LT/IP consumers' i.e. general industrial consumers in the order of the IGRC and the reply of the Respondent. There is no clarity as to the tariff applied to these three consumers. Moreover, this is also not the scope of the instant representation. Therefore, I have no reason to delve into it. However, the Respondent may look into the matter of application of appropriate tariff to these consumers. Similarly, the Respondent may look into propriety of providing three connections for a common facility of Club House.

9. It is the case of the Appellant that it was billed on average basis for connections having Consumer No. 000011901093, Consumer No.000011901085 and Consumer No. 000011901115. Out of these three consumers, the grievance of Consumer No. 000011901115 is already resolved amicably as stated by the Appellant during the hearing. The other two consumers are billed on average basis as below:-

- a. Consumer No. 000011901093 was billed on average basis for the period from May 2018 to January 2020 and it was permanently disconnected in January 2020. Though the load of this connection is clubbed with Consumer No. 000011901085 in January 2020, it is on record that it was billed on average basis from May 2018 to January 2020 and needs to be resolved through this order.
- b. Consumer No.000011901085 was billed on average basis for the period from May 2018 to September 2019. The meter of the consumer was replaced in October 2019.

10. As per the SOP Regulations 2014, the defective meter needs to be replaced in next billing cycle. Regulations need to be followed in letter and spirit. Therefore, the Appellant cannot be billed more than three months on average basis. Regulation 15.4.1 of the Supply Code Regulations is reproduced below: -


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“15.4.1 Subject to the provisions of Part XII and Part XIV of the Act, in case of a defective meter, the amount of the consumer’s bill shall be adjusted, for a maximum period of three months prior to the month in which the dispute has arisen, in accordance with the results of the test taken subject to furnishing the test report of the meter alongwith the assessed bill.


Provided that, in case of broken or damaged meter seal, the meter shall be tested for defectiveness or tampering. In case of defective meter, the assessment shall be carried out as per clause 15.4.1 above and, in case of tampering as per Section 126 or Section 135 of the Act, depending on the circumstances of each case.

Provided further that, in case the meter has stopped recording, the consumer will be billed for the period for which the meter has stopped recording, up to a maximum period of three months, based on the average metered consumption for twelve months immediately preceding the three months prior to the month in which the billing is contemplated.”

It is clearly established that the meters of the Appellant were faulty. The Respondent did not deny the same. However, shortage of meters for replacement of faulty meters of such high value consumers having load of 50 kW cannot be accepted. The Respondent is advised to study the CPL of these consumers and many other similar consumers so as to get an actual picture of billing of such high value consumers. In the instant case, Consumer No.000011901093 was billed zero units from August 2017 to April 2018. Similar is the case with Consumer No. 000011901085 for under billing. Moreover, the Respondent is also aware of the Regulatory provisions with respect to defective / faulty meter and issue of bill on average basis. For these very reasons, I do not agree with reasoning of the Forum considering Regulation 15.4.1 Second proviso.

11. In view of the above, I pass the following order:


- a) The Respondent to issue the bill
 - i. For Consumer No. 000011901093 on average basis only for the months of May 2018, June 2018 and July 2018 i.e. 3 months instead of 21 months, with the average consumption of previous 12 months of healthy period prior to May 2018.


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- ii. For Consumer No.000011901085 on average basis only for the months of May 2018, June 2018 and July 2018 i.e. 3 months instead of 17 months, with the average consumption of previous 12 months of healthy period prior to May 2018.
- b) DPC and interest levied, if any, shall be withdrawn.
- c) Other prayers of the Appellant are rejected.
- d) Order of the Forum is revised to the extent above.
- e) Compliance of the order be sent by the Respondent within two months from the date of the order.

Sd/-
(Deepak Lad)
Electricity Ombudsman (Mumbai)


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