

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION No. 10 of 2020

In the matter of billing and defective meter

Kanifnath Stone Udyog Appellant

V/s

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

Appearances: -

Appellant : Vijay Chandrakant Gilbile

Respondent : Gavare, Executive Engineer, Bhosari Dn.


Coram: Mr. Deepak Lad

Date of Hearing: 7th April 2021

Date of Order : 12th April 2021

ORDER

This Representation is filed on 6th November 2019 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations) against the Order dated 13th November 2019 passed by the Consumer Grievance Redressal Forum, MSEDCL Pune Zone (the Forum).


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2. The Forum, by its order dated 13.11.2019 has partly allowed the grievance application in Case No. 36/2019 and the operative part of the order is as below: -

“2. The Respondent Utility shall recover the arrears of bill by calculating the monthly consumption units 5051 for 15 months period from Oct.2017 to Jan.-2019.

3. The consumer shall pay the said bill in 6 equal monthly installments.

4. The Respondent Utility shall not charge Interest, DPC & penalty to the consumer. The reconnection charges should be recovered alongwith deposit as per MSEDCL Rules & Regulations. The new meter shall be provided immediately after depositing the first installment.


5. No other charges shall be applicable to the consumer “

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

(i) The Appellant is an industrial consumer (No. 170149066660) having sanctioned load of 150 HP and Contract Demand of 120 KVA at 439/3, Gilbilenagar, Moshi, Tal. Haveli, Pune for the purpose of stone crusher since the year 2008.

(ii) The Appellant was in financial crunch which caused outstanding dues of the electricity bill to the tune of Rs. 2,25,480/- in May 2017. The supply of the Appellant was disconnected on 21.06.2017 by the Respondent by removing the meter.


(iii) Power supply is used for the purpose of Stone Crusher from the date of connection which is 08.01.2008. The Stone Crusher work was stopped from 31.05.2017 pursuant to orders of the Revenue Department. Therefore, the agreement of the Appellant with the Revenue Department of Government of Maharashtra was terminated on 30.6.2017. It also indicated that the electric supply should be given for 1 HP water pump only and therefore the use of connection was restricted to 1 HP. The Appellant has taken loan from various agencies and the outstanding


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amount of Rs. 99,480/-(after adjustment of security deposit of Rs. 1,26,000/-) paid on 11.09.2017. The Appellant had requested to reconnect the supply. The supply of the Appellant was reconnected on 19.09.2017. The new energy meter was not available with the Respondent therefore the supply was restored by installing old meter of which meter reading display counter was not working.

- (iv) The Respondent did not issue the electricity bills from October 2017 onwards. The Respondent visited site on 31.08.2018. Afterward, the Appellant was assessed for Rs.10,41,780/- for 15 months from October 2017 onwards. The Appellant was informed to pay the said supplementary bill. The Appellant was shocked to see such huge bill as Tahsildar stated to use 1 HP connection only after restoring of electricity supply. The use of the Appellant was limited. The Appellant vide its letter dated 21.01.2019 has objected the assessment bill and requested to revise the assessment considering the work stop notice of Government Authority. The Respondent did not solve the grievance.
- (v) The Appellant filed the grievance application in Internal grievance Redressal Cell (IGRC) on 27.02.2019. The IGRC vide its order dated 25.04.2019 has directed the Appellant to pay the reviewed assessment bill of Rs. 6,03,810/-. It was not possible to pay such huge bill as there was limited use on site.
- (vi) The Appellant approached the Forum on 25.04.2019. The Forum, by its order dated 13.11.2019 has directed to revise the assessment. The Respondent issued the assessment bill of Rs. 9,94,352/- for the period of October 2017 to January 2019. The assessment bill is increased from Rs. 6,03,810/- to Rs. 9,94,352/-.
- (vii) The meter of the said connection of the Appellant was found faulty. The Appellant was billed with average consumption. The Respondent did not replace the defective meter for 15 months.


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(viii) The Appellant prays that the Respondent be directed to reconnect the supply, revise the bill appropriately and to compensate suitably towards mental torture.


4. The Respondent filed its reply by email dated 19.03.2021 stating in brief as under: -

(i) The Appellant is an industrial consumer (No. 170149066666) from 08.01.2008 having sanctioned load of 150 HP and Contract Demand (CD) of 120 KVA at 439/3, Gilbilenagar, Moshi, Tal. Haveli, Pune for the purpose of stone crusher.

(ii) The Appellant was in arrears in May 2017. The connection of the Appellant was permanently disconnected (PD) on 21.06.2017 for non-payment of outstanding amount of Rs. 2,25,480/-. The meter of the Appellant was not showing any display. The security deposit of Rs. 1,26,000/- was adjusted against the outstanding amount. The Appellant paid the balance amount of Rs.99,480/- (2,25,480-1,26,000) vide Receipt No. 9195777 dated on 11.09.2017. The Appellant requested to reconnect the supply immediately.


(iii) The Respondent was duty bound to reconnect the supply of the Appellant as request for reconnection came within period of about three months which is less than 6 months as per Conditions of Supply. There was acute shortage of the new meters. No new meter was made available for reconnection by the Authority and hence the supply of the Appellant was reconnected on 19.09.2017 by installing the then existing meter which was not showing any display.

(iv) The Reconnection Report was sent to IT Department of the Billing System, however, the Appellant was not made live due to technical problem in the System. The Appellant remained PD on record, on the contrary the Appellant was consuming the energy on the site from 19.09.2017 onwards without display on the meter. The Appellant remained PD for next 12 months. The Appellant has never intimated that he did not receive any bill from reconnection of the supply.


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- (v) The Respondent`s Asst. Engineer carried out spot inspection on 31.08.2018. During inspection, the stone crushing work of the Appellant was going on as per normal use and there was no display on the meter on site. Therefore, the Appellant was assessed for Rs.10,41,780/- of 97500 units for 15 months from October 2017 onwards considering consumption of 6500 units per month as per consumption pattern of the previous period. The Appellant was informed to pay the said supplementary bill with suitable installments.
- (vi) The Appellant vide its letter dated 21.01.2019 has protested the assessment bill and requested to revise the assessment considering the work stop notice of Government Authority. Accordingly, the Respondent`s Asst. Engineer has re-inspected the site on 05.02.2019 and considered the present uses of stone crusher, the average consumption of the Appellant was 5051 unit per month for the period from June 2016 to May 2017. Accordingly, the assessment bill is revised for 5800 units per month for 6 months i.e. Oct. 2017 to Jan. 2018 and May 2018 & June 2018, 200 units per month for 3 months from Feb- 2018 to April 2018 and 1000 units per month for 3 months from July 2018 to Sep 2018 i.e. 38400 units for 12 months from Oct 2017 to Sept 2018 and fixed/demand charges of Rs. 16800 per month for Oct 2018 to Jan 2019. Accordingly, the Respondent issued a revised assessment of Rs. 6,03,810/- for the period from Oct 2017 to Jan 2019.
- (vii) The Appellant filed the grievance application in IGRC on 27.02.2019. The IGRC vide its order dated 25.04.2019 has confirmed the revised assessment of Rs. 6,03, 810/- and directed the Appellant to pay the revised assessment in suitable installments.
- (viii) The Appellant approached the Forum on 25.04.2019. The Forum, by its order dated 13.11.2019 has directed to revise the assessment considering monthly consumption pattern of 5051units per month for 15 months period from Oct.2017 to Jan.-2019. Accordingly, the assessment bill is revised for Rs. 9,94,352/- for the period of Oct.


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2017 to Jan. 2019 considering 5051 units per month and the same is issued to the Appellant.

- (ix) The Respondent pointed out that Sai Sidhhanath Company of Stone Crusher Activity of Appellant`s area was found working for the period October 2017 to January 2019. Appellant`s working was also confirmed during inspection dated 31.08.2018.
- (x) The Respondents prays that the Representation of the Appellant be rejected.

5. Due to Covid-19 epidemic, the hearing was held on 07.04.2021 on e-platform through Video Conferencing after consent from both the parties.

6. The Forum issued the order on 13.09.2019 and the Appellant filed this Representation on 06.11.2019. After scrutiny of the representation, the Appellant was orally informed to pay deposit of Rs.25000/- in accordance with the Regulation 17.9 (f), however, the Appellant did not pay. Therefore, he was finally put to notice to pay it vide letter dated 27.11.2019. The Appellant finally paid it on 04.02.2021.


7. During the hearing on 07.04.2021, the Appellant respectfully submitted that the delay in payment of deposit of Rs.25000/- was due to the illness of severe nature of his son coupled with lockdown imposed due to Covid-19 epidemic. He was therefore not able to manage the funds for payment. The Appellant argued that the stone crusher activity was almost closed. Moreover, Upper Tahsildar, Pimpri Chinchwad, Taluka Haveli vide its letter dated 15.05.2017 to Executive Engineer MSEDCL Bhosari informed that electricity supply meant for stone crusher of the Appellant be continued only for water supply and not for the stone crusher. The Appellant, therefore, argued that power supply was used only for 1 HP water pump and lighting. The agreement of the Appellant with Revenue Department of Government of Maharashtra was terminated on 30.6.2017 and the Stone crusher work was stopped from 31.05.2017. He further said


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that the supply of the Appellant was reconnected on 19.09.2017. The Respondent did not issue the electricity bills since last 15 months from October 2017 to January 2019. The meter of the said connection of the Appellant was found defective from 19.09.2017. The Appellant was billed with average consumption. The Appellant pointed out that the Appellant has taken various loans and has to sell part of his property to pay the loan. The Appellant prays that the Respondent be directed to revise the bill appropriately and to compensate suitably towards mental torture.

8. The Respondent argued at length and reiterated its respective submission. The Respondent further argued that the supply of the Appellant was permanently disconnected on 21.06.2017 for non-payment of outstanding amount of Rs. 2,25,480/-. The Appellant paid the outstanding arrears and requested to restore the supply on 11.09.2017. There was acute shortage of the meter due to cancellation of tender at Corporate Office. Therefore, the supply was reconnected on 19.09.2017 by installing the same old meter (Secure Make, Sr. No. MSE67738) which was removed at the time of PD. This meter was not showing the reading on its display counter. The Respondent argued that the Appellant is diverting main focus by referring letter of Upper Tahsildar dated 15.05.2017. The letter dated 15.05.2017 of Upper Tahsildar, Pimpri Chinchwad is for disconnection of supply of the Appellant and to restore only water supply which has no rational as the Appellant has itself requested for restoring supply after paying the arrears, on urgent basis for his entire load including water pump. Documents to make PD consumer to Live was fed to the Billing System however, the same could not be done due to technical glitch. The Appellant remained PD on record though the Appellant was consuming the energy for Stone Crusher at site. The Respondent's Asst. Engineer carried out spot inspection on 31.08.2018. During inspection the stone crushing work of the Appellant was going on as per normal use. The Respondent pointed out that Sai Sidhhanth Company of Stone Crusher Activity of Appellant's area (who was also one amongst the list of the Tahsildar letter dated 15.05.2017) found working for the period October 2017 to January 2019. The IGRC and the Forum has given reasoned orders. The energy was consumed during the disputed period by the Appellant. Therefore, the Respondent prays that the Representation of the Appellant be rejected.



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Analysis and Ruling

9. Heard both the parties and perused the documents on record. I noted the following important points in this case:

- (a) The Appellant was PD on 21.06.2017 for nonpayment of arrears of Rs. 2,25,480/-. However, the supply was reconnected on 19.09.2017 after payment of Rs. (2,25,480 - 1,26,000 SD) 99,480/-.
- (b) While PD connection was made live at site (and not in the system due to technical glitch) on 19.09.2017, meter installed was the old one only of which the meter reading display counter was faulty. This was due to non-availability of meters.
- (c) The Respondent carried out spot inspection on 31.08.2018. During inspection the stone crushing work of the Appellant was going on as per normal use and there was no display on the meter on site.
- (d) The Respondent issued assessment bill of Rs.10,41,780/- of 97500 units for 15 months from October 2017 to January 2019 considering consumption of 6500 units per month as per consumption pattern of the previous period. However, the Appellant protested this by letter dated 21.01.2019.
- (e) The Appellant premises was again inspected on 05.02.2019 and bill was revised to Rs.6,03,810/- based on the factual position. This bill was served on 18.02.2019 which was not paid. This revision was confirmed by the IGRC when the Appellant approached it. However, the Appellant was disconnected in February 2019 for nonpayment of arrears.
- (f) The Forum, however, revised this bill of Rs.6,03,810/- to Rs. 9,94,352/- for the period of Oct. 2017 to Jan. 2019 considering 5051 units per month and the same was issued to the Appellant which was also not paid by the Appellant even though the Forum has allowed to pay the bill by instalments.


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- (g) This faulty meter continued at the premises from 19.09.2017 till January 2019 and the Appellant was in a disconnected position from February 2019 to 10.12.2019.
- (h) The Appellant requested for restoration of supply and paid some amount out of arrears when the Appellant was reconnected with new meter on 10.12.2019.

From the above sequence of events, it is observed that the Appellant's premises was knowingly connected with the faulty meter from 19.09.2017 till January 2019 i.e. approximately 16 months for which the Appellant's consumption was assessed and issued bill. Here the blame cannot be thrust upon the Appellant for not insisting to put a healthy meter. Therefore, the Respondent itself is solely responsible for such a great lapse on its part. Further, it is difficult to believe that the Respondent cannot provide a healthy meter for a continuous period of 15/16 months, particularly, when the Appellant is a high value consumer having CD of 120 KVA.

10. The defective meter needs to be replaced as per the Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 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 as per Regulation 15.4.1 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code & Other Conditions of Supply) Regulations, 2005 (Supply Code Regulation 2005). The said Regulation is reproduced below: -

“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.


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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.” (Emphasis added)

The said meter (Secure Make, Sr. No. MSE67738) was tested by the Respondent’s Testing Team on 02.07.2019. The testing report dated 02.07.2019 indicates that;


“Remarks:

- 1) *Meter display was not showing, when supply is given to meter i.e. No display meter.*
- 2) *Meter data is not retrieved through MRI.*
- 3) *Recommended for manufacturer opinion.”*

The meter was therefore sent to Secure Meters Ltd. (Manufacturer) vide letter dated 18.07.2019 for testing and retrieval of data of the meter. The Secure Meters Ltd. vide its email dated 29.08.2017 intimated that testing and retrieval of data is not possible due to failure of internal component of memory.

It is clearly established that the meter of the Appellant was faulty. The Respondent did not deny the same.

11. The Respondent advanced the argument that the meter could not be replaced due to acute shortage of meters. The Appellant being a high value consumer of 150 HP and 120 KVA CD, the Respondent ought to have replaced the faulty meter on top priority. Even the option of purchasing the meter by the Appellant could have been given by the Respondent. However, nothing of the sort has been brought on record. Notwithstanding the fact that there was shortage of meters, the Appellant cannot be billed on assessed consumption for a period of 15 to 16 months. In fact the Regulation is very clear which mandates replacement of faulty meter within two billing cycles. I am surprised by the act of the Respondent to provide the same faulty meter after making the Appellant live from its PD status. The Respondent did not submit in its reply nor argued that it


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has informed the Appellant that the meter with faulty display counter is being installed at its premises and it will be billed on assessment basis, due to shortage of meters.

12. It is important to record here that letter of Upper Tahsildar Pimpri Chinchwad does not have any bearing in this case. It is the consumer / the Appellant who is obligated under the Regulations to request in writing to the Respondent to reduce / increase in load, disconnection / reconnection of power supply of a particular premises.

13. In view of the sequence of events as above and express provision of the Regulation 15.4.1 of the Supply Code Regulation 2005, I pass the following order:

- a) The Respondent to issue the bill for 3 months as per average consumption instead of 15/16 months consumption. However, demand charges and other charges as may be applicable except energy consumption for the entire period of 15 / 16 months shall be billed. Average consumption per month shall be calculated on the basis of average consumption of previous 12 months of the healthy period.
- b) The bill shall not attract any interest and delayed payment charges.
- c) Other prayers of the Appellant are rejected.
- d) Order of the Forum is revised to the extent above.
- e) Respondent to submit compliance report within two months from the date of the order.

Sd/-
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Electricity Ombudsman (Mumbai)


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