

# BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

## REPRESENTATION NO. 46 OF 2022

In the matter of exorbitant billing

Surendra Sukhram Yadav ..... Appellant  
(On behalf of Naresh C. Soneji)

V/s.

Maharashtra State Electricity Distribution Co. Ltd. .... Respondent  
Vasai (MSEDCL)

Appearances:

Appellant : Ramchandra Pandey, Representative

Respondent : 1. Anis Mirza, Addl. Executive Engineer, Vasai (East) S/Dn.  
2. V. M. Gokhale, U.D.C.


**Coram: Vandana Krishna (Retd. IAS)**

Date of hearing : 15<sup>th</sup> July 2022

Date of Order : 26<sup>th</sup> July 2022

## ORDER

This Representation was filed on 4<sup>th</sup> April 2022 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Order dated 14<sup>th</sup> March 2022 passed by the Consumer Grievance Redressal Forum, MSEDCL, Vasai (the Forum).

  
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2. The Forum, by its order dated 14.03.2022 has partly allowed the application in Case No. 57 of 2021 by directing as below:

*“2. That Respondent is directed to set aside supplementary bill issued in March 2021 and issue revised bills making it limited to 24 months prior to date of detection with average units of 169 per month. Waive interest and DPC.*


*3. The Respondent is directed to adjust the amount paid by the consumer if any.*

*4. That the Respondents shall grant six monthly installments for payment of revised bill, installments shall be paid by consumer along with current energy monthly bill.”*

3. As per the above order of the Forum, it is seen that the total billing for 14,500 units would be reduced to 4,056 units.

4. The Appellant has filed this representation against the order of the Forum. The hearing was held on 15.07.2022. Both parties were heard. His written submission and arguments in brief are as below:


- a) The Appellant (Surendra Sukhram Yadav, on behalf of Naresh C. Soneji) is a Commercial Consumer (No. 002178379308) from 15.01.2014 having Sanctioned load of 0.64 KW at Gala No. 111, Mahaveer Industrial Estate Naikpada Wali, Vasai (East) Tal- Vasai Dist- Palghar.
- b) The Appellant is regular in payment of the bills issued from time to time without disputes. The Respondent initially installed a Meter No. 02712361 of Flash Make on 15<sup>th</sup> January 2014. The said meter (No.02712361) was replaced on 9<sup>th</sup> January 2020 by a new meter (No. 09775974) of Genus Make without informing the Appellant.
- c) The Respondent issued an exorbitant bill of Rs.1,51,440/- for accumulated 12,311 units in the month of March 2021 for a period of 25 months. The original meter was faulty, and an imaginary reading was entered as final reading of the old meter (No.02712361) in the Meter Replacement Report dated 9<sup>th</sup> January 2020.

  
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- d) Verification of the final reading, and testing of the old meter was mandatory on the part of the Respondent. However, the Respondent did not show the final actual meter reading during meter replacement. Hence, the imaginary reading of 12891 KWH cannot be taken on record. The old meter had recorded reading of only 580 KWH from 15<sup>th</sup> January 2014 to March 2019. Excess consumption of 12311(12891-580) units was wrongly shown for the period of March 2019 to March 2021, and on the new meter (No.009775974) also, the reading was excessively recorded as 2189 (2190-1) KWH from 9<sup>th</sup> January 2020 to 19<sup>th</sup> March 2021. Hence, the billing of total 14500 (12311 + 2189) Units in March 2021 were imaginary, and hence need to be quashed.
- e) The Appellant filed a grievance before the Forum on 16.04.2021. The Forum, by its order dated 14.03.2022 has partly allowed the grievance application by directing to revise bill for 24 months with average of 169 units per month. The Forum failed to understand the basic issue that the old meter was defective. As per Regulation 16.4.1 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 (Supply Code & SOP Regulations 2021), in the event of a defective meter, the assessment should be restricted only for 3 months prior to the month in which dispute has arisen. However, the Forum failed to realise this important aspect. Hence, it is necessary that the order of the Forum be set aside.
- f) In view of the above, the Appellant prays that the Respondent be directed
- a to quash the bill of Rs. 1,51,440/- of March 2021, and to issue a revised bill considering that the old meter was defective, and issue bill as per Regulation 16.4.1 of Supply Code & SOP Regulations 2021.
  - b to credit this refundable amount to the Appellant by NEFT/ RTGS mode.
  - c to pay Rs. 5000/- towards compensation for physical and mental harassment.

5. The Respondent filed its written reply dated 24.06.2022. Its written submission along with its arguments on 15.07.2022 is stated in brief as below: -

  
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- (i) All contentions raised in Representation are denied except those admitted herein below.
- (ii) The Appellant (Surendra Sukhram Yadav, on behalf of Naresh C. Soneji) is a Commercial Consumer (No. 002178379308) from 15.01.2014 having Sanctioned load of 0.64 KW at Gala No. 111, Mahaveer Industrial Estate Naikpada Wali, Vasai (East) Tal- Vasai Dist- Palghar. A Meter (No.02712361) of Flash make was installed on 15.01.2014.
- (iii) The Appellant was being billed wrongly with average of only 5 to 50 units per month, instead of the actual consumption of 120 to 200 Units per month on “Normal”, “Reading Not Available (RNA)”, “Reading Not Taken (RNT)” Status

from the date of installation of meter i.e., January 2014 to December 2019. Thus, the Appellant was billed only for 580 units till December 2019 for 68 months, though he actually consumed considerably more than this.

- (iv) The said meter (No.02712361 of Flash Make with Final Reading of 12891 KWH) was replaced on 9<sup>th</sup> January 2020 by a new meter (No. 09775974 of Genus Make) with an initial reading of 1 KWH. The Meter Replacement Report was reflected in CPL in the month of February 2020. Unfortunately, the Appellant was again billed with RNT, RNA, Lock, Inaccessible Status from January 2020 to February 2021. Thereafter, the mistake was noticed, and the bill of March 2021 was issued for accumulated consumption of 25 months from March 2019 to March 2021 of 14,500 units for Rs. 1,51,440/- as per actual reading of the old meter and new meter. The breakup of units billed is as below:

- (a) Old Meter: 12891(Final Reading in the month of Jan 2020) – 580 (billed Units in the month of Mar 2019) = 12311 Units
- (b) New Meter: 2190 (Current Reading in the month of Mar 2021)- 1(Initial Reading in the month of February 2020) = 2189 Units
- (c) Total Billed Units = 12311 + 2189 = 14500 Units, for a total period of 84 months.


  
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- (v) The detection of mistake was noticed for the first time in March 2021. Hence, Section 56(2) of the Electricity Act, 2003 is not applicable in the present case. The Respondent referred the Supreme Court Judgement dated 05.10.2021 in Civil Appeal No. 7235 of 2009 in Case of Prem Cottex V/s. Utter Haryana Bijli Vitran Nigam Ltd. & Others. The Judgement is squarely applicable in present case. The Respondent is entitled to recover all consumed units which was under billed and tabulated as below:

Meter	Period of Consumption	Months	Initial Reading (KWH)	Final /Current Reading(KWH)	Diff. (FR-IR) KWh	Avg. Monthly Cons. (Units/Month)
<b>Old Meter No. No.02712361</b>	Jan.2014 to Jan.2020	73	1	12891	12890	177
<b>New Meter No.009775974</b>	Feb. 2020 to Jun .2022	29	1	4616	4615	159

- (vi) The Appellant filed his complaints of high bill on 05.04.2021 and requested for the old meter testing which was replaced on 09.01.2020. Accordingly, it was informed to him that the old meter of Flash Make was already scrapped and not available for testing. Normally, after 6 months, a replaced meter is sent for scrapping.
- (vii) The Respondent argued that the representation is filed by one Surendra Sukhram Yadav who is not the consumer. “Schedule B” is a statutory document and is to be filed by the Consumer as per CGRF & EO Regulations 2020. The consumer’s representative has also submitted various irrelevant information without any signature of the Appellant. Hence, this representation is not maintainable as per CGRF & EO Regulations 2020.
- (viii) The Respondent argued that the Gala/Unit of the Appellant is situated at Industrial Estate. Normally, almost all meters of the Industrial Estate are of three phases, mainly for industrial/Commercial activities, except a few examples of single-phase meters. All these meters of high consumption are billed in “PC-0” of billing processing Cycle of important consumers’ cycle. The Appellant’s meter being a

  
(Dilip Dumbre)  
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single-phase meter, is billed in “PC-1”. The area of PC-1 is different than that of industrial estate. This is the main reason for non-proper reading of the single-phase meter of the Appellant. He has actually consumed this power, and he is supposed to pay the same. He never made any complaint earlier of under billing of power consumption.

- (ix) In view of the above, the Respondent request to reject the Representation of the Appellant.


### **Analysis and Ruling**

6. Heard the parties and perused the documents on record. The Appellant is a Consumer from 15.01.2014 with sanctioned Load of 0.64 KW, and having Commercial activity at Gala No. 111, Mahaveer Industrial Estate Naikpada Wali, Vasai (East) Tal- Vasai Dist- Palghar.

7. The initial Meter (No.02712361) of Flash make was installed on 15.01.2014. The activity of the Appellant is mainly of assembly of electric and electronic materials from the date of

supply. The connected load was 5 tube-lights, 5 Fans, one Inverter and one solder machine etc., as per spot verification report dated 02.02.2022.

8. It is the case of the Appellant that the Respondent issued bills with reading of only 580 KWH up to the month of Feb.2019. The Appellant was further billed with RNT, RNA, Lock, and Inaccessible Status from Jan.2020 to Feb. 2021. Afterwards the Appellant was actually billed as per reading on the meters. The Respondent contended that Gala/Unit of the Appellant is situated at an Industrial Estate where most of the meters of the Industrial Estate are of three phases, mainly for industrial/Commercial activities. All these meters of high consumption are billed in “PC-0” of billing processing Cycle of very important consumers. The Appellant’s meter is single phase, which is billed in “PC-1” which is not in the top priority list, being a relatively lesser amount. Hence, it remained unchecked. The Respondent wrongly entered various status of billing as RNT, RNA etc. and the billing was not proper. The consumption

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai



pattern of the Old Meter No. No.02712361 was 177 units per month, considering the actual meter reading for the period from January 2014 to January 2020, whereas the consumption pattern of the New Meter No.009775974 was 159 Units per month considering the actual meter reading for the period from February 2020 to June 2022, which includes the period of Covid-19 Pandemic.

9. When we perused the CPL on record for the period from April 2021 to Dec. 2021, it is observed that the highest consumption was 248 units in August 2021, and the lowest consumption was 116 units in May 2021. This is in line with the billing, and the bill cannot be said to be excessive.

Considering various circumstances, The Forum observed that

*“In view of above Judgment, the matter becomes crystal clear, the past recovery more than 24 months by licensee needs to be quashed as it hit by provision of Section 56(2) of Electricity Act, 2003.*


*The Hon’ble Electricity Ombudsman, Maharashtra also in their several orders e.g., Case No.53 of 2021, Case No.57 of 2021, Case No.14 of 2021 etc has restricted the right of licensee to recover past arrears upto 24 months from date of detection of errors in view of Section 56(2) of Electricity Act, 2003.”*

The Forum has rightly analyzed the case and hence it is not necessary to interfere with the order of the Forum. The case does not stand even on merit, leaving aside the issue that the Representation was not signed by the Consumer.

The Hon’ble Supreme Court of India in its Judgment dated 18.02.2020 in Civil Appeal No.1672 of 2020 in case of Assistant Engineer, Ajmer Vidyut Vitran Nigam Limited & Anr. V/s. Rahamatullah Khan alias Rahamjulla has held that:

*“9. Applying the aforesaid ratio to the facts of the present case, the licensee company raised an additional demand on 18.03.2014 for the period July, 2009 to September, 2011.*

*The licensee company discovered the mistake of billing under the wrong Tariff Code on 18.03.2014. The limitation period of two years under Section 56(2) had by then already expired.*

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai




*Section 56(2) did not preclude the licensee company from raising an additional or supplementary demand after the expiry of the limitation period under Section 56(2) in the case of a mistake or bona fide error. It did not however, empower the licensee company to take recourse to the coercive measure of disconnection of electricity supply, for recovery of the additional demand.”*

In view of the above Judgment of the Supreme Court the Respondent can recover tariff difference only for 24 months retrospectively. However, Section 56(2) does not preclude the licensee company from raising an additional or supplementary demand after the expiry of the limitation period under it in case of a mistake or bona-fide error. It does not however, empower the licensee company to take recourse to the coercive measure of disconnection of electricity supply, for recovery of the additional demand.

10. In view of the above, the representation of the Appellant is rejected, and disposed of accordingly.

Sd/-  
(Vandana Krishna)  
Electricity Ombudsman (Mumbai)

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai

