

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 42 OF 2021

In the matter of billing as per MERC's Order in Case No. 131 of 2020 & Others

Thakur Infra Projects Pvt. Ltd. Appellant

V/s.

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

Appearances:

Appellant : Harshad Sheth, Representative

Respondent : 1. M. K. Sangle, Executive Engineer
2. Pranay Chakraborty, Dy. Executive Engineer


Coram: Deepak Lad

Date of hearing : 20th August 2021

Date of Order : 24th August 2021

ORDER

This Representation is filed on 27th May 2021 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF Regulations 2020) against the Order dated 19th April 2021 passed by the Consumer Grievance Redressal Forum, MSEDCL Bhandup Zone (the Forum).


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2. The Forum, by its Order dated 19.04.2021, has dismissed the grievance application in Case No. 79 of 2021.

3. Aggrieved by the order dated 19.04.2021 of the Forum, the Appellant has filed this representation stating in brief as follows: -

- (i) The Appellant is HT Industrial Consumer (No. 025539025400) from 10.12.2001 having sanctioned load (SL) of 1500 KW and Contract Demand (CD) of 990 KVA at Plot No. 265/1, Om Sadanika Building, Uran Naka, Panvel.
- (ii) There was complete lockdown from 22.03.2020 due to Covid-19 epidemic. The Appellant has received huge bill on kVAh basis for the month of April 2020. As the premises remained locked due to lockdown period as per Government restrictions, Appellant was unable to maintain its Power Factor (PF) near to unity as the capacitors remained in 'on' position, resulting in recording of higher kVAh units. Though Appellant had consumed much less real power (kWh), it was required to pay huge amount due to leading PF with higher kVAh units.
- (iii) The Statistical Data of the Appellant for consumption and Power Factor from February to May 2020 is as below:

Month	Consumption in kWh	PF
Feb-20	318498	0.906
Mar-20	239961	0.683
Apr-20	31407	0.076
May-20	128957	0.332

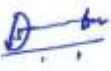
- (iv) Various industrial organizations have filed Petitions before the Maharashtra Electricity Regulatory Commission (the Commission) regarding issues raised due to implementation of kVAh billing from April 2020 pursuant to lockdown due to Covid-19 epidemic. The Commission therefore issued Common Order on 13.11.2020 in Case


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No. 131 of 2020 & Others in respect of kVAh billing methodology for the lockdown period.

- (v) Improper implementation of the Commission's order by the Respondent resulted loss to the Appellant. The spirit of the order has not been implemented by the Respondent. The Appellant has been denied its legitimate refunds pursuant to the said order. This happened due to considering PF of entire month of March 2020 instead of only 22 days. The relevant data up to 22.03.2020 is available with the Respondent as MRI has been downloaded by it. Even the Respondent could have considered PF of February 2020 being more than 0.90 as per the Commission's order para 19 b & c.
- (vi) Lockdown resulted in capacitors remaining in 'on' position and fed reactive power to the system which culminated into poor PF. Therefore, kVAh component became very high and resulted in higher billing. In this entire condition, Appellant was not able to approach its factory premises for corrective action. This has been taken care of by the Commission in its order dated 13.11.2020 in Case No. 131 of 2020 & Others. Therefore, the Respondent should have considered the consumption and PF of the Appellant till the lockdown commenced. However, it considered the recorded consumption for the entire month of March 2020 instead of only 22 days. Production in the factory was totally stopped from lockdown. Even the Respondent could have considered PF for February 2020 in which there was normal production. The action of the Respondent has resulted in grave financial injury to the Appellant.
- (vii) The Appellant has filed grievance with the Forum on 02.02.2021. The Appellant requested Meter Reading Instrument (MRI) Report of March 2020 by its additional submission in the Forum for ascertaining their PF as on 22.03.2020 but the information was not provided by the Respondent. During the hearing in Forum, it was again requested. However, the Forum erred on this issue and did not insist the Respondent to give MRI report as per the Appellant's demand. Working days of March 2020 were 22 days but readings were taken for 31 days, and PF calculated for 31 days instead of actual 22 days. The Forum, by its order dated 19.04.2021 has dismissed the grievance


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application in Case No. 79 of 2021. The Forum failed to understand the basic issue and rejected the grievance stating that it has no jurisdiction in this case as far as going beyond the mandate of the Commission's order.

- (viii) The Appellants referred Para No. 19 of the Commission's order dated 13.11.2020. The Forum has erred in not considering the preceding month's consumption and PF while passing the order. In the entire case Commission's order has been wrongly interpreted. Therefore, Hon'ble Electricity Ombudsman is requested to set aside the order of the Forum and the Respondent be directed to consider the consumption for 22 days of March 2020 for passing necessary relief.
- (ix) If there is no data for 22 days of March 2020 then the consumption and PF of February 2020 may be considered, and necessary relief be given by revising bill for the month of April 2020.

4. The Respondent MSEDCL, by its letter dated 09.07.2021 submitted its reply stating in brief as under: -

- (i) At the very outset, the Respondent denies all and singular allegations, statements and contentions made in the Representation to the extent that the same are contrary to and/or inconsistent with what is stated herein. Further, nothing shall be deemed to have been admitted by it merely because the same may not have been dealt with specifically and/or traversed seriatim.
- (ii) The Appellant, Thakur Infra Projects Pvt. Ltd. is a HT Consumer (No. 025539025400) having CL 1500 KW and CD 22 KVA at Plot No. 265/1, 1st Floor, Om Sadanika Building, Panvel Uran Road.
- (iii) The Appellant vide letter dated 19.11.2020 and 21.1.2021 represented that the Respondent has denied or also not complied the Commission's Order dated 13.11.2020 in Case No 131 of 2020 & Others on kVAh billing during the Covid-19 Pandemic.


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- (iv) The brief details and relief given by the Commission by its order dated 13.11.2020 in Case No. 131 of 2020 & Others considering the Covid-19 Pandemic and difficulties faced by the Appellant during lockdown, is as under:

“19.....

- a. This relief is applicable to eligible consumer from all consumer categories to whom PF incentive/penalty mechanism or kVAh billing mechanism is applicable.
- b. Consumer is eligible only if its monthly consumption during lockdown period of April or May is lower than or equal to 25% of consumption of March 2020. In case, the actual consumption of March 2020 is not available (due to shutdown/closure), then available actual consumption of immediate precedent month shall be used. Further, in case of billing of consumers based on assessed consumption during lockdown period, then monthly consumption during lockdown period shall be computed based on actual meter reading data as and when was available.
- c. Billed PF of eligible consumer for March 2020 or other preceding month whose consumption is used for reference purpose at 'b' above shall be used to arrive at reference PF. Consumer would be eligible for relief only if its Reference PF is equal to or above 0.90 (lead or lag).
- d. If actual PF of eligible consumer during lockdown period is lower than Reference PF then, Reference PF shall be used for billing purpose. In case of higher actual PF than Reference PF then billing shall be based on actual PF. Intent of use of 'Reference PF' is only to give relief to the eligible consumers (as mentioned above) for the PF penalty for LT consumers and reduce kVAh billing for HT consumer.
- e. In case of LT consumers.....
- f. In case of HT consumer, if consumer is eligible for use of 'Reference PF' as per 'd' above, then its monthly kVAh shall be derived by using kWh recorded during lockdown period and 'Reference PF'.
- g. This relief is applicable only for the month of April and May 2020. Eligible consumer may get benefit for none or any 1 or all 2 months depending upon whether consumption during that month is lower than threshold limit specified in 'b' above. As monthly consumption is basis of eligibility, no additional certification from consumer of any sort be asked for.
- h. Distribution Licensees may revise electricity bills of eligible consumers based on above principle and credit the refund amount in equal instalments (equal to numbers of months eligible for relief) in upcoming electricity bills of consumers.”

- (v) In this case, the consumption of March 2020 and April 2020 is indicated as below: -



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Month	kWh	kVAh	Consumption Comparison in kWh for the month w.r.t March 2020 in %	Power factor
March 2020	239961	444319	NA	0.683
April 2020	31407	412331	13.08	0.076

It can be seen from the above that if kWh is compared between March 2020 and April 2020, then April consumption is 13.08% of March 2020 but the PF during March is 0.683 which is below 0.9 and do not fulfil the criteria as per the ruling of the Commission. If kVAh of March 2020 and April 2020 is compared, being kVAh billing implemented from the month of April 2020, then also kVAh recorded in the month of March 2020 is more by 31988 units which shows that PF is not maintained by the Appellant in the month of March-2020.

- (vi) Consumers whose consumption of April or May 2020 is less than 25% consumption of March and PF in the month of March was equal and above 0.9, received the credits in equal installments in the bill of November and December 2020.
- (vii) In view of above, this office vide letter No.5831 dated 30.12.2020 informed the Appellant that he is not eligible for the relief given by the Commission in Case No. 131 of 2020 & Others.
- (viii) Appellant approached the Internal Grievance Redressal Cell (IGRC) vide its application dated 18.12.2020 and then the Forum on 02.02.2021. Both the authorities dismissed the application/grievance.
- (ix) It is to bring out that lockdown started from 23.03.2020 even then some factories were operating after lockdown which can be seen from the consumption recorded in the meter. Further MSEDCL implemented kVAh billing from the month of April 2020 as per the Commission's directives and further the Commission in Case No. 131 of 2020 & Others has given relief to those consumers who have been subjected to higher bill


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due to poor PF in the month of April or May 2020. In this case, consumption of the healthy period of March 2020 is available which is 239961 units and the PF maintained by the Appellant in March is 0.683. Even though the consumption in terms of kWh recorded in the month of April 2020 is less than 25% consumption recorded in the month of March 2020, but PF recorded in the month of March 2020 is 0.683 which is below 0.9, hence the Appellant was not eligible for the benefit as per the ruling of the Commission. On this ground the present representation needs to be rejected.

- (x) It is therefore most respectfully prayed that the Hon'ble Electricity Ombudsman may be pleased to:
- a) Dismiss the present representation filed by the Appellant.
 - b) Hold the acts of the Respondent as just and in accordance with law.
 - c) Pass any further orders as it deems fit and proper in the interest of justice and good conscience.

5. Physical hearing was held on 20.08.2021 at Respondent's Office at Vashi by observing Covid-19 epidemic guidelines for appropriate behaviour. The Appellant was not present for physical hearing though he wilfully consented to be connected on audio. The Appellant and the Respondent argued in line with their written submissions and the arguments of both the parties are fully covered above in their respective submissions and hence not repeated here.

Analysis and Ruling

6. Heard the parties and perused the documents on record. Basic prayer in this representation is that the Respondent did not interpret the order of the Commission in Case No. 131 of 2020 & Others in letter and spirit. The Appellant further argued that even the Forum erred in interpreting the order properly. That apart, the Appellant argued that if the data for the month of March 2020 is not available, the Respondent can well take the data for the month of February 2020.



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7. The Commission in its order in Case No. 131 of 2020 & Others has allowed relief to be passed to eligible consumers, eligibility of which is provided in para 19 (b) quoted above at paragraph 4 (iv) of this order. On plain reading of this paragraph, it is clear that the Commission has clearly spelt out consumption of March 2020 as a basic consumption. It has not prescribed any qualifying clauses for “consumption of March 2020” as such. While passing the order, the Hon’ble Commission was aware of the fact that the lockdown has been enforced from 22.03.2020. Knowing this well, the Commission has simply said that “consumption of March 2020” and billed PF of eligible consumer needs to be considered. Therefore, the undersigned cannot add or alter any word in the said paragraph 19 (b) or (c) or interpret it otherwise. Therefore, there is no question of considering consumption of March 2020 for 22 days only and PF of February 2020 for passing necessary relief as prayed by the Appellant. If this is considered, it will amount to altering the order of the Commission which is not permitted. The Appellant was having the knowledge of this order and therefore it could have tried for review of the order of the Commission or sought clarification. However, it opted for grievance redressal mechanism.

8. In view of this, the prayer of the Appellant does not stand scrutiny to the unambiguous text of para 19 (b) or (c) of the Commission’s order in Case No. 131 of 2020 & others. Therefore, the Representation cannot be allowed and hence rejected.

Sd/-
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Electricity Ombudsman (Mumbai)


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