

**BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)**

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

**REPRESENTATION NO. 52 OF 2021**

In the matter of retrospective recovery towards under billing of the meter

Monsoon Agro Bio Pvt. Ltd. .... Appellant

V/s.

Maharashtra State Electricity Distribution Co. Ltd. Rasta Peth Pune..... Respondent  
(MSEDCL)

**Appearances**

Appellant : R. B. Mhaske, Director

Respondent : P. S. Raut, Superintending Engineer, Rasta Peth, Pune.

**Coram: Deepak Lad**

Date of hearing: 14<sup>th</sup> July 2021

Date of Order : 6<sup>th</sup> August 2021

**ORDER**

This Representation is filed on 3<sup>rd</sup> June 2021 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations 2006) against the Order dated 22<sup>nd</sup> March 2021 passed by the Consumer Grievance Redressal Forum, MSEDCL Pune Zone (the Forum).

2. During scrutiny of this case, it was noticed that as per the Forum`s order, there are outstanding dues of more than Rs.50000/-, hence, the Appellant was required to pay Rs.25000/-

  
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towards deposit as per Regulation 17.9(f) of the CGRF Regulations 2006. It was orally informed, and notice was served on 16.06.2021 for payment of deposit. The Appellant paid the deposit of Rs.25000/-on 16.06.2021. Thereafter, the Representation is registered on 16.06.2021.

3. The Forum, by its order dated 22.03.2021 has partly allowed the grievance application in Case No. 18/2020 directing as under:

- “2. The Respondent Utility is entitled to recover the supplementary bill in arrears amounting to Rs. 5,84,341/- for the period of fifteen (15) months (27.09.2018 to 15.11.2019).
3. The consumer is granted six equal monthly instalments alongwith current bill. The monthly instalments granted for the payment of supplementary bill are to be paid along with the current bills being issued by the Utility from time to time till entire supplementary liability is fully paid by the consumer.
4. If the consumer fails to deposit the monthly instalments alongwith current bill amount, then the MSEDCL has the authority to disconnect the supply as per their rules and regulations.
5. The Utility is directed that, not to recover any interest, DPC and penalty from the consumer, for the disputed bill amount.”

4. Aggrieved by the order of the Forum, the Appellant has filed this representation stating in brief as under: -

- (i) The Appellant is Hi-Tech Agricultural HT Consumer (No.170019031210) from 09.10.2006 having Sanctioned Load (SL) of 183 KW and Contract Demand (CD) of 156 KVA at 106/12, Ramtekadi Industrial Area, Hadapsar, Pune.
- (ii) The Appellant received supplementary bill of Rs.6,86,030/- without any supporting calculations, reports etc. The bill raised is arbitrary and without any transparency. The Appellant has never defaulted any bill payments.
- (iii) The Respondent inspected the installation for replacement of existing meter for KVAH billing. Until such time, the Respondent did not notice the missing current of R phase.
- (iv) The Appellant filed the grievance application with Internal Grievance Redressal Cell (IGRC) on 24.01.2020. The IGRC, by its order dated 18.06.2020 has directed to revise the assessment by considering 30% less consumption as per Testing Report of the Respondent.

  
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- (v) The Respondent stated that the recorded consumption was only 70% as against 100% from 27.09.2018 as per Meter Reading Instrument (MRI) report and testing carried out on 10.10.2019. The meter was replaced on 15.11.2019. The Respondent revised the supplementary bill from Rs.6,86,030/- to Rs. 5,84,341/- considering recorded consumption as 70% for the period from 27.09.2018 to 15.11.2019 (meter replacement date).
- (vi) The meter is a set of integrating instruments including Current Transformers and Potential Transformers. The R phase CT of the metering unit was not functioning properly means meter is defective. The Appellant is to be billed considering defective meter as per Regulation 15.4.1 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 (Supply Code Regulations 2005).
- (vii) The Appellant approached the Forum on 31.08.2020 and prayed for revision of supplementary bill as per Regulation 15.4.1 of Supply Code Regulations 2005. The Forum, by its order dated 22.03.2021 has rejected the grievance and allowed the Respondent to recover the supplementary bill of Rs. 5,84,341/-.
- (viii) The Forum failed to understand the basic issue of defective meter and assessment to be done for three months as per Regulation 15.4.1 of Supply Code Regulations 2005.
- (ix) The Forum overlooked their own orders in case of Pranali Vichare V/s. MSEDCL, and Kailas Parbat V/s MSEDCL on defective meter which are similar to the instant case. The reason that the current before entering the metering equipment was correct and after the metering equipment was dropped down, was enough to prove that the metering equipment is faulty and there was no need to refer to any other case law for the sake of convenient interpretation favoring the Respondent.
- (x) The Forum did not consider the citation of the Judgment dated 04.07.2013 of Hon'ble Bombay High Court in Writ Petition No. 3614 of 2013 in Case of MSEDCL V/s. CGRF & Others. The said Judgment asserts the conformity of action in accordance with Regulation 15.4.1.

  
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- (xi) The order of the Forum is bad in law and against the principles of natural justice and equity and needs to be quashed and set aside.
- (xii) The Appellant referred the order of the Commission dated 23.02.2005 in Case No. 19 of 2004 in the matter of Amendment and Supplementary bills. It is explicit and vivid, referring to any case law for the sake of construction on statute which is bad in law.
- (xiii) In view of the above, the Appellant prays that
  - (a) The impugned order of the Forum be quashed and set aside
  - (b) The Respondent be directed to revise the bills for three months as per Regulation 15.4.1 of Supply Code Regulations 2005 instead of fifteen months.

5. The Respondent MSEDCL filed its reply vide its letter dated 25.06.2021 stating in brief as under: -

- (i) The Appellant is a HT Consumer (No.170019031210) from 09.10.2006 having SL of 183 KW and CD of 156 KVA at 106/12, Ramtekadi Industrial Area, Hadapsar, Pune. The Appellant is in the business of cold storage of various Agro Food Products.
- (ii) Testing team of the Respondent visited the Appellant's premises on 09.10.2019 for meter replacement of existing meter for KVAH billing. During inspection, it was observed that the R phase load side LT current was not matching with the HT side current of the Appellant's installation. Hence, R phase CT having ratio 5/5A was tested for Ratio Errors by Primary Injection method on 10.10.2019. During testing, it was found that at 5 Amp primary current (100% loading), the current in CT secondary was 0.5 Amps i.e.,10%. For primary current loading of 20%, 40%, 60% and 80% the secondary current was zero. This less recording of current by R Phase CT was witnessed by the Appellant at the site itself.
- (iii) The Respondent submits that if one of the CT is not getting secondary current output, then the meter records 33% less consumption though 100% power is used for the installation. It is stated in Part IV, Clause 4 in CEA Regulation 2006, that energy

  
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accounting and audit meters shall have facility to download the parameters through MRI as well as remote transmission of data over communication network. Therefore, the Respondent retrieved meter data through MRI. As per MRI data, the current imbalance starts from 27.09.2018 with then reading of 121874 KWH. The meter and R phase CT was replaced on 15.11.2019. The Respondent initially issued a supplementary bill of Rs. 6,86,030/- towards 33% under-recording for the period from 27.09.2018 to 15.11.2019.

- (iv) However, in this case, it was observed during testing that current in secondary of R Phase (5/5A) was only 10% against 100% in primary. In healthy condition, ideally each Phase records 33.3% of total consumption with minor variations here and there. R Phase recorded only 10% of consumption for full load as could be seen from Primary Injection test of R Phase CT. Thus, it works out to recording only 3% consumption by R Phase and 30% remained unrecorded.
- (v) The Appellant filed its grievance application in IGRC on 24.01.2020. The IGRC by its order dated 18.06.2020 has directed to revise the assessment by considering 30% less consumption as per Testing Report. Accordingly, revised supplementary bill of Rs 5,84,341/- was issued to the Appellant vide letter dated 13.07.2020.
- (vi) It is seen from the billing history that average consumption for 4 months from June-2018 to Sept-2018 was 33,880 units which was dropped down to nearly 30% from October 2018 onwards. Obviously, the Appellant would have definitely noticed this. However, it did not reciprocate on this issue for obvious reasons.
- (vii) The result of R Phase CT testing shows that the CT was saturated. Hence, as per Section 56(2) of the Electricity Act, 2003 (the Act), the assessment can be made for maximum period of 24 months, however, in the instant case, the period of under-recording is only for 15 months.
- (viii) The Appellant approached the Forum on 31.08.2020. The Forum, by its order dated 22.03.2021 has allowed the recovery of Rs. 5,84,341/- for the period of fifteen months from 27.09.2018 to 15.11.2019. The Forum has granted six equal monthly instalments along with current bill without any interest and DPC.
- (ix) The Appellant has referred the orders passed by the Forum in case of Pranali Vichare V/s MSEDCL, and Kailas Parbat V/s MSEDCL are not applicable. However, there

  
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are several Judgments of the various Courts, and orders of Hon'ble Electricity Ombudsman on identical facts/subject matter.

(x) The Respondent referred the following Judgements in support of issuing supplementary bill.

(a) Judgement of the Hon'ble Supreme Court of India 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 the Licensee is entitled to recovery supplementary bills irrespective of the period quoted in Section 56(2) of the Electricity Act, 2003.

(b) Judgement of the Hon'ble High Court, Rajasthan in Writ Petition No. 1439/2015 in Case of Ajmer Vidyut Vitaran Nigam Limited V/s M/s Phulera Granite Impex which held that the Licensee is entitled to recover the electricity bills for the period in dispute leaving the period of 30 days.

(c) Judgement dated 18.12.2018 of the Hon'ble Bombay High Court, Aurangabad Bench in Writ Petition No. 8613 of 2017 which held the Licensee is entitled to recover the electricity bills as per Section 56(2) of the Act.

(d) Order passed by the Hon'ble Electricity Ombudsman (Mumbai) in Representation No- 29 of 2014 in r/o M/s. Bafna Auto Cars (I) Pvt Ltd, V/s MSEDCL.

(xi) In this case, R Phase CT was the only culprit and therefore, Regulation 15.4.1 of Supply Code Regulations 2005 which is for defective meter, is not applicable. Therefore, the Respondent is correct in assessing the under-recorded consumption on account of R Phase CT saturation.

(xii) Therefore, the Respondent prays that the representation of the Appellant be rejected.

6. The hearing was held on 14.07.2021 on e-platform through video conferencing due to the Covid-19 epidemic and the conditions arising out of it.

7. The Appellant argued in line with its written submission. The Appellant further argued that the Appellant is in cold storage business at Pune. The Current deficiency in R phase was observed while changing the meter for KVAH billing. CT, PT and associated wiring is a part

  
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of meter as per the definition in the Act. Therefore, faulty CT amounts to faulty meter and alleged under-recording of consumption due to R Phase faulty CT needs to be examined in light of Regulation 15.4.1 of Supply Code Regulations, 2005. The Respondent therefore supposed to have billed the Appellant only for three months as per this Regulation. Assessment for a period of 15 months is totally out of question and bad in law. It further argued that the Respondent initially did not provide any explanation nor calculation for debit bill issued to the Appellant. It has also charged interest and DPC in the bill. The Respondent is duty bound to timely check the metering installation, however, it miserably failed to do it. The Appellant is not at fault in the instant case. The Appellant has cited following Judgments in support of its submission:

- (a) Supreme Court Judgment dated 02.09.1992 in Case of Nelson Motis V/s. Union of India & Anr.
- (b) Bombay High Court Judgment dated 04.07.2013 in W.P. No. 3614 of 2013 in Case of MSEDCL V/s. CGRF & Others
- (c) The Commission's Order dated 23.02.2005 in Case No. 19 of 2004 in the matter of amendment / supplementary bills.

The Appellant also argued that its legitimate claim should not be denied by taking support of other Judgments which are not in line with the factual position of the instant case. While parting with the arguments, the Appellant said that he does not have any doubt on the faultiness of the CT and therefore, there is no need to test it again. However, the entire assessment done by the Respondent needs to be vouched by the third-party expert which may be done by the Hon'ble Electricity Ombudsman. On being queried, if the meter needs to be tested by NABL Authority then it would have to bear the expenses for the same. On this, the Appellant said that he is not ready to spend on this account. The Appellant finally prayed to quash the supplementary bill and to issue bill only for a period of 3 months as per Regulation 15.4.1 of the Supply Code Regulations 2005 without any interest and DPC.

8. The Respondent argued in line with its submission and further stated that the instant case is on the lines of other cases which are decided by the Hon'ble Electricity Ombudsman, Mumbai, and also the Judgment of Hon'ble Bombay High Court, Aurangabad Bench in W.P. No. 8613 of 2017 in Case of MSEDCL V/s. Vega Chemicals Pvt. Ltd. Besides this, the Hon'ble

  
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Supreme Court Judgement dated 18.02.2020 in W.P. No. 1672 of 2020 observed that Section 56(2) did not preclude the licensee company from raising an additional or supplementary demand after expiry of limitation period under Section 56 (2) in case of a mistake or bonafide error. Therefore, the assessment towards under-recording due to R Phase CT saturation is correct and the Respondent is entitled for recovery of this under- billing. Rest of the arguments are already covered in the submission of the Respondent and hence not repeated here. The meter intrinsically not being faulty, question of applicability of Regulation 15.4.1 of Supply Code Regulations 2005 does not arise. It can only be invoked if the meter per se is faulty. This falls from the Judgment dated 18.12.2018 in W.P. No. 8613 of 2017 in Case of MSEDCL V/s. Vega Chemicals Pvt. Ltd of Hon'ble Bombay High Court, Aurangabad Bench. The assessment period of 27.09.2018 to 15.11.2019 is as per the MRI data of the meter. Energy was consumed by the Appellant as per its load during the disputed period, however, 100% recording did not happen due to R Phase CT saturation. The IGRC and the Forum have therefore rightly rejected the grievance. In light of the above, the Representation needs to be rejected.

9. During the course of hearing, the undersigned directed the Respondent to submit consumption of the Appellant for the healthy period prior to and after the impugned one.

10. The Respondent vide its email dated 16.07.2021 has submitted the additional data which is summarised in brief as below:

- (i) The details of consumption during the healthy period prior to the occurrence of CT saturation event, and total consumption including assessment from Sept.2018 to Nov.2019 which is tabulated below.

  
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Consumption during healthy period		Consumption with assessment from Sept.2018 to Nov.2019 (Impugned Period)			
Month	Recorded KWH	Month	Recorded KWH (70%)	Assessed KWH (30%)	Total KWH (100%)
Sep-17	35446	Sep-18	3570	1530	5100
<b>Oct-17</b>	<b>17186</b>	<b>Oct-18</b>	<b>23654</b>	10137	<b>33791</b>
Nov-17	17746	Nov-18	21687	9294	30981
<b>Dec-17</b>	<b>42315</b>	Dec-18	17451	7479	24930
Jan-18	22287	Jan-19	12169	5215	17384
Feb-18	28243	<b>Feb-19</b>	<b>11764</b>	5042	<b>16806</b>
Mar-18	32811	Mar-19	12752	5465	18217
Apr-18	28674	Apr-19	11949	5121	17070
May-18	27893	May-19	14791	6339	21130
Jun-18	35519	Jun-19	13972	5988	19960
Jul-18	34968	Jul-19	14541	6232	20773
Aug-18	30396	Aug-19	13459	5768	19227
		Sep-19	12841	5503	18344
		Oct-19	12405	5316	17721
		Nov-19	6007	2574	8581

- (ii) Respondent submits the details of consumption after the replacement of CT and meter are as below.

Month	Recorded KWH consumption	Recorded KVA demand
Dec-19	15947	78
Jan-20	14772	78
Feb-20	11808	78
Mar-20	22246	98
Apr-20	16308	86
May-20	14368	86
Jun-20	15922	86
Jul-20	15933	86
Aug-20	17638	86
Sep-20	21919	108
Oct-20	16316	86
Nov-20	12260	56

The period after the replacement of CT and meter comes under the lockdown due to Covid-19 epidemic, hence, cannot be compared. Appellant's Secure make old meter No X0401427 is replaced on 15.11.2019 and is in the Respondent's custody. Similarly, the saturated old epoxy resin cast CT Huphen Electromech make, Sr. No. 1402093, 5/5A, 0.5S Class is also in the Respondent's custody. This is pursuant to the directions from the Hon'ble Electricity Ombudsman.

  
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11. The Appellant by its email dated 23.07.2021 has submitted additional information which is by and large, repetition of its previous submission. However, following important points in the additional submission are as below: -

- (i) One instalment of Rs 97,390/-has been paid on 19.07.2021 as directed by the Hon'ble Electricity Ombudsman.
- (ii) The energy calculations provided by the Respondent are not acceptable, as they are not assessed by an Independent Expert Agency and hence cannot be considered valid.
- (iii) The allegations that the meter was not tested periodically, was answered by the Respondent by filing the meter testing report during the hearing. These testing reports were never given to the Appellant by the Respondent in reasonable time when the tests were conducted. Nevertheless, the Appellant admits them now.

#### **Analysis and Ruling:**

12. Heard the parties and perused the documents on record. It is the case of the Appellant that the R phase CT of the metering unit was not working properly from 27.09.2018 to 15.11.2019. This period is calculated from the MRI data downloaded by the Respondent. The Respondent further argued that since only R Phase CT was faulty, meter as such cannot be termed as faulty and therefore, Regulation 15.4.1 of the Supply Code Regulations 2005 is not attracted. There are many Judgments and orders of the Hon'ble Electricity Ombudsman, Mumbai in similar cases. On the contrary, the Appellant argued that as per the definition of the meter, if any of the equipment included in the definition goes faulty, the meter is treated as faulty and therefore, Regulation 15.4.1of the Supply Code Regulations 2005 needs to be applied

13. The Respondent contended that the Appellant has been charged considering the meter as 30% under recording. MRI data produced by the Respondent, shows that the event occurred on 27.09.2018 which was not restored till the date of meter replacement. During testing, R Phase current was only recording 10% instead of 100% of R Phase from 27.09.2018 to 15.11.2019. Therefore, the Appellant is billed only 70% of its actual consumption and was

  
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assessed with additional consumption of 30%. The supplementary bill is accordingly issued to the Appellant for a period of 15 months.

14. On perusal of MRI data sheets and snapshots submitted by the Respondent and the Respondent's own submission captured above, I have noted following important issues

- (a) Consumption during healthy period from September 2017 to August 2018 shows that it recorded highest consumption of 42315 units in December 2017 and lowest consumption of 17186 units in October 2017. Similarly, during the impugned period of 27.09.2018 to 15.11.2019, highest recorded consumption including assessed consumption is 33791 units in October 2018 and lowest consumption of 16806 units in February 2019. Total consumption during healthy and impugned period are not comparable and no useful purpose is served.
- (b) Respondent has submitted that during testing, it was found that at 5 Amp primary current (100% loading), the current in CT secondary was 0.5 Amps i.e.,10%. For primary current loading of 20%, 40%, 60% and 80% the secondary current was zero.
- (c) The Respondent presumed that the fault in CT R Phase (saturation of CT) has resulted in recording of only 3% consumption of R Phase. It has, therefore, added 30% consumption towards under-recording. This presumption is on the basis of testing carried out at the spot. It does not appear to have thoroughly studied the MRI data and snapshots available with it which belies their basic presumption. This is candidly visible from the following tables. Table A is for a situation when Power Factor event is recorded by MRI and voltages and currents are also recorded therein. Table B is for a situation when current and voltage events on some dates is recorded. The undersigned has prepared these tables based on the data submitted by the Respondent.

  
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Table A

Abstract of Snapshot details of 'Voltage and Current' events during the impugned peeriod 27.09.2018 to 15.11.2019												
Sr.No	Event	Date	Time	V L1-N	V L2-N	V L3	Line Current L1	Line Current L2	Line Current L3	Average $= (L2+L3)/2$	Considering 33% consumption of R phase	
											% Current Recorded by R phase	%Current not Recorded by R phase
1	2	3	4	5	6	7	8	9	10	11= $(9+10)/2$	12= $(8/11*33)$	13= $(33-12)$
1	Start Under Voltage	11.10.2019	10:42:21	64	24	65	0.07	0.02	0.14	Being under voltage, values not considered		
	End Under Voltage	11.10.2019	12:08:11	65	65	65	0.05	0.15	0.19	0.17	9.71	23.29
2	Start Under Voltage	10.10.2019	15:33:50	60	0	60	0.00	0.00	0.00	Being under voltage, values not considered		
	End Under Voltage	10.10.2019	15:50:41	65	64	65	0.10	0.12	0.29	0.205	16.10	16.90
3	Start Under Voltage	20.07.2019	16:35:53	25	66	65	0.00	0.03	0.01	Being under voltage, values not considered		
	End Under Voltage	20.07.2019	18:35:55	65	65	65	0.10	0.16	0.34	0.25	13.20	19.80
4	Start CT Reversal	27.08.2019	06:20:20	62	63	62	0.62	1.87	1.83	1.85	11.06	21.94
	End CT Reversal	27.08.2019	22:09:30	64	65	64	0.74	1.09	1.49	1.29	18.93	14.07
5	Current Missing Start	24.09.2019	08:00:21	63	64	64	0.05	0.17	0.26	0.22	7.67	25.33
	Current Missing End	24.09.2019	22:18:02	65	66	65	0.25	0.45	0.62	0.54	15.42	17.58
6	Current Missing Start	23.09.2019	07:33:27	62	63	62	0.05	0.18	0.26	0.22	7.50	25.50
	Current Missing End	23.09.2019	22:03:07	65	65	65	0.18	0.38	0.51	0.45	13.35	19.65
7	Current Missing Start	18.09.2019	07:56:27	62	63	62	0.05	0.18	0.27	0.23	7.33	25.67
	Current Missing End	18.09.2019	13:57:39	65	65	65	0.17	0.27	0.47	0.37	15.16	17.84
8	Current Missing Start	17.09.2019	18:21:01	63	63	63	0.05	0.18	0.27	0.23	7.33	25.67
	Current Missing End	17.09.2019	21:53:56	64	65	64	0.70	1.08	1.48	1.28	18.05	14.95
9	Current Missing Start	24.08.2019	06:48:56	63	64	63	0.05	0.18	0.28	0.23	7.17	25.83
	Current Missing End	24.08.2019	10:45:11	62	63	62	0.19	0.31	0.50	0.41	15.48	17.52
10	Current Missing Start	23.08.2019	19:40:15	63	64	63	0.05	0.19	0.28	0.24	7.02	25.98
	Current Missing End	23.08.2019	22:15:10	64	65	64	0.79	1.18	1.63	1.41	18.56	14.44
11	Current Missing Start	23.08.2019	06:29:40	63	64	63	0.05	0.19	0.28	0.24	7.02	25.98
	Current Missing End	23.08.2019	11:03:27	62	62	62	0.17	0.17	0.38	0.28	20.40	12.60
12	Current Missing Start	22.08.2019	17:05:44	63	63	63	0.05	0.19	0.28	0.24	7.02	25.98
	Current Missing End	22.08.2019	22:02:54	65	65	65	0.86	1.26	1.68	1.47	19.31	13.69
13	Current Missing Start	22.08.2019	07:33:19	63	64	63	0.05	0.19	0.28	0.24	7.02	25.98
	Current Missing End	22.08.2019	10:47:09	63	63	63	0.16	0.17	0.39	0.28	18.86	14.14
14	Current Missing Start	21.08.2019	06:36:42	63	64	63	0.05	0.18	0.28	0.23	7.17	25.83
	Current Missing End	21.08.2019	22:14:18	65	65	65	0.75	1.10	1.52	1.31	18.89	14.11
15	Start Current Terminal Shorting	27.09.2018	23:45:29	66	66	66	1.12	2.05	2.16	2.11	17.56	15.44
	End Current Terminal Shorting	27.09.2018	23:10:19	67	67	67	0.43	1.05	1.16	1.11	12.84	20.16
16	Start Current Imbalance	27.09.2018	23:10:19	67	67	67	0.43	1.05	1.16	1.11	12.84	20.16
											<b>Avg 12.78</b>	<b>Avg 20.22</b>


  
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Table B

Abstract of Snapshot details for 'PF Event' during the impugned period 27.09.2018 to 15.11.2019									
Sr,No	Event	Date	Time	Line Current L1	Line Current L2	Line Current L3	Avg $=\frac{(L2+L3)}{2}$	Consumption Recorded by R phase	Consumption Not Recorded by R phase
								Considering 33% consumption of R phase	
1	2	3	4	5	6.00	7.00	$8=\frac{(6+7)}{2}$	$11=\frac{(5/8*33)}$	$12=\frac{(33-11)}$
1	Start Low PF	27.08.2019	06:18:35	0.62	1.88	1.83	1.86	11.03	21.97
	End Low PF	27.08.2019	22:09:30	0.74	1.09	1.49	1.29	18.93	14.07
2	Start Low PF	11.01.2019	07:21:31	0.77	2.22	2.14	2.18	11.66	21.34
	End Low PF	11.01.2019	23:34:20	0.61	0.94	1.42	1.18	17.06	15.94
3	Start Low PF	08.01.2019	06:42:35	0.77	2.24	2.17	2.21	11.52	21.48
	End Low PF	08.01.2019	22:06:27	0.61	0.98	1.42	1.20	16.78	16.23
4	Start Low PF	06.01.2019	12:56:02	0.71	1.98	2.02	2.00	11.72	21.29
	End Low PF	06.01.2019	22:59:28	0.60	0.92	1.41	1.17	17.00	16.00
5	Start Low PF	06.01.2019	05:43:46	0.77	2.28	2.18	2.23	11.39	21.61
	End Low PF	06.01.2019	12:35:27	1.12	2.10	2.11	2.11	17.56	15.44
6	Start Low PF	05.01.2019	06:32:17	0.78	2.25	2.16	2.21	11.67	21.33
	End Low PF	05.01.2019	22:08:31	1.16	2.20	2.22	2.21	17.32	15.68
7	Start Low PF	03.01.2019	11:29:19	0.78	2.21	2.16	2.19	11.78	21.22
	End Low PF	03.01.2019	22:09:21	0.69	1.11	1.57	1.34	16.99	16.01
8	Start Low PF	03.01.2019	10:05:10	0.64	1.86	1.89	1.88	11.26	21.74
	End Low PF	03.01.2019	11:18:29	0.68	1.14	1.58	1.36	16.50	16.50
9	Start Low PF	03.01.2019	06:34:20	0.79	2.23	2.16	2.20	11.88	21.12
	End Low PF	03.01.2019	09:57:10	0.81	1.30	1.75	1.53	17.53	15.47
10	Start Low PF	02.01.2019	06:34:53	0.76	2.25	2.16	2.21	11.37	21.63
	End Low PF	02.01.2019	22:14:44	0.69	1.09	1.54	1.32	17.32	15.68
11	Start Low PF	01.01.2019	05:12:49	0.77	1.85	1.73	1.79	14.20	18.80
	End Low PF	01.01.2019	22:32:17	1.21	2.26	2.26	2.26	17.67	15.33
12	Start Low PF	31.12.2018	07:30:11	0.67	1.61	1.54	1.58	14.04	18.96
	End Low PF	31.12.2018	22:32:22	0.71	1.06	1.41	1.24	18.97	14.03
13	Start Low PF	30.12.2018	07:25:59	0.78	1.82	1.71	1.77	14.58	18.42
	End Low PF	30.12.2018	22:03:15	0.72	1.07	1.43	1.25	19.01	13.99
14	Start Low PF	29.12.2018	07:28:03	0.77	1.80	1.69	1.75	14.56	18.44
	End Low PF	29.12.2018	22:50:08	0.64	1.20	1.28	1.24	17.03	15.97
15	Start Low PF	28.12.2018	14:12:41	0.76	2.23	2.16	2.20	11.43	21.57
	End Low PF	28.12.2018	22:01:17	0.64	1.20	1.27	1.24	17.10	15.90
16	Start Low PF	28.12.2018	04:38:37	0.68	2.04	2.03	2.04	11.03	21.97
	End Low PF	28.12.2018	09:20:51	0.61	1.16	1.60	1.38	14.59	18.41
17	Start Low PF	27.12.2018	06:28:30	0.63	1.91	1.93	1.92	10.83	22.17
	End Low PF	27.12.2018	21:54:56	0.64	1.00	1.45	1.23	17.24	15.76
18	Start Low PF	26.12.2018	08:35:58	0.72	2.07	2.04	2.06	11.56	21.44
	End Low PF	26.12.2018	21:56:34	0.72	1.14	1.57	1.36	17.54	15.46
19	Start Low PF	25.12.2018	06:02:26	0.64	1.91	1.93	1.92	11.00	22.00
	End Low PF	25.12.2018	21:59:32	0.86	1.45	1.90	1.68	16.94	16.06
20	Start Low PF	24.12.2018	06:55:39	0.72	2.16	2.10	2.13	11.15	21.85
	End Low PF	24.12.2018	22:02:40	0.68	1.05	1.50	1.28	17.60	15.40
21	Start Low PF	23.12.2018	15:05:37	0.66	1.85	1.90	1.88	11.62	21.38
	End Low PF	23.12.2018	22:05:37	0.72	1.15	1.61	1.38	17.22	15.78
22	Start Low PF	23.12.2018	08:40:54	0.76	2.21	2.13	2.17	11.56	21.44
	End Low PF	23.12.2018	14:57:07	0.77	1.22	1.66	1.44	17.65	15.35
23	Start Low PF	22.12.2018	06:52:47	0.77	2.25	2.17	2.21	11.50	21.50
	End Low PF	22.12.2018	21:06:08	1.01	1.74	2.22	1.98	16.83	16.17
24	Start Low PF	21.12.2018	16:32:56	0.67	2.02	2.02	2.02	10.95	22.05
	End Low PF	21.12.2018	21:54:32	0.97	1.65	2.10	1.88	17.07	15.93
25	Start Low PF	21.12.2018	06:18:05	0.77	2.26	2.19	2.23	11.42	21.58
	End Low PF	21.12.2018	15:38:56	0.72	1.25	1.74	1.50	15.89	17.11
								<b>Avg 14.56%</b>	<b>Avg 18.44%</b>

  
 (Dilip Dumbre)  
 Secretary  
 Electricity Ombudsman Mumbai



On close scrutiny of these tables, it is noticed that Current is recorded for R Phase. Values of the Current may not be substantial but cannot be ignored too. It is certainly not Zero as claimed by the Respondent. On conjoin reading of both these tables, it is seen that in Table A, average percentage Current recorded by R phase is 12.78 %, and in Table B, average percentage Current recorded by R phase is 14.56 %. Therefore, it can safely be concluded that R Phase recorded average Current of  $[(12.78 + 14.56)/2]$  13.67 % and not 3 % as calculated by the Respondent. This implies that the R Phase has not recorded 19.33 % of Current and therefore consumption. It follows that the Appellant needs to be billed for unrecorded assessed consumption not at the rate of 30 % but 19.33 %. While going through the half hourly load survey data retrieved from the new meter (which is installed on 15.11.2019), it is observed that there is a sizeable load on R Phase.

15. I noticed that the Respondent has not studied the case technically nor did it take call on various parameters recorded in the MRI and jumped the gun and arrived at a conclusion that missing R Phase Current equals to 33 % under-recording empirically. It is a different matter that on second thought, it reduced the under-recording to 30 %.

16. The Appellant has cited three Judgments in his submission which are as follows:

- (a) Supreme Court of India in Case of Nelson Motis V/s. Union of India & Anr. Dated 02.09.1992
- (b) W.P. No. 3614 of 2013 of Bombay High court in case of MSEDCL V/s. CGRF & Others
- (c) MERC Order dated 23.02.2005 in Case No. 19 of 2004 in the matter of amendment / supplementary bills.

In my opinion, the Appellant has not properly appreciated the Judgments

- (a) In case of Nelson Motis V/s. Union of India, the Appellant has not taken pains to point out the ratio of the Judgment which is applicable in the instant case. If the Appellant is trying to point out a fact that when the provision of Regulation is clear, there is no need to interpret the provision differently. On this, the undersigned has taken call and in uncertain terms has mentioned that the meter intrinsically not being defective / faulty,

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai



provision of Regulation 15.4.1 of the Supply Code Regulations 2005 which is specifically for defective meter cannot be blindly applied when CT / PT and associated wiring configuration is faulty. Therefore, the ratio of this Judgment is not applicable in the instant representation.

(b) Similarly, in case of Judgment in W.P. No. 3614 of 2013, the Appellant has not at all appreciated the facts of the case and the Judgment passed by the Hon'ble Bombay High Court. The ratio of this Judgment is also not at all applicable.

(c) The Commission's order dated 23.02.2005 in Case No. 19 of 2004 deals with supplementary / amendment bills issued from 10.06.2003 up to notification of the Supply Code Regulations 2005. Therefore, this does not squarely apply in the instant representation.

17. On the contrary, Judgment dated 18.12.2018 of Hon'ble Bombay High Court, Bench at Aurangabad in W.P. No. 8613 of 2017 is squarely applicable in the instant case. The relevant part of the Judgment is quoted below:

*“33. It is, therefore, obvious in the present case that there was nothing intrinsically wrong with the meter. An under-recording of electricity consumed was associated with the act of the electrician in wrongly attaching the wires to the R, Y and B phases. I am, therefore, of the view that such a wrong attachment of wiring by the electrician would not amount to a defect in the meter. Consequentially, due to the under-recording of the meter, the consumer has consumed such energy as was normally required to be consumed and the Petitioner has lost the revenue for such under-recording.*

*34. Clause 3.4.4 of the Regulations, 2005 enables the Petitioner to recover the charges for the electricity actually supplied, which would include a fixed charge as per the prescribed rates. The consumer, therefore, has to pay full charges for the electricity actually consumed.*

*35. In the Municipal Corporation case (supra), this Court has sustained the supplementary bill raised by the Electricity Company and this Court has upheld the recovery of the amount mentioned in the supplementary bill.”*

18. In view of the above, I do not fully agree with the assessment done by the Respondent and therefore, I pass the following order:

(a) The Respondent to issue revise bill for the period 27.09.2018 to 15.11.2019 considering unrecorded consumption as 19.33 % only and not 30 %.

  
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- (b) This revised bill will not attract any DPC or interest.
- (c) The Appellant may be granted suitable instalments not more than three if the Appellant so desires albeit without DPC and interest on the component of instalment.
- (d) Respondent to submit compliance within two months from the date of this order.

19. The order of the Forum stands modified to the extent above.

20. The secretariat of this office is directed to refund amount of Rs.25000/- by way of adjustment in the ensuing bill of the Appellant.

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

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai

