

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 70 OF 2020

In the matter of billing

Pasari Plastic Enterprises Appellant

V/s

Maharashtra State Electricity Distribution Co. Ltd. Vasai Respondent

Appearances: -

For Appellant : Harshad Sheth, Representative

For Respondent : 1. G. K. Gadekar, Executive Engineer, Vasai
2. A. S. Mirza, Addl. Executive Engineer

Coram: Deepak Lad

Date of Hearing: 7th October 2020

Date of Order : 22nd October 2020

ORDER

This Representation is filed on 2nd September 2020 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Appellant Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations) against the Order dated 10th August 2020 passed by the Consumer Grievance Redressal Forum, MSEDCL Kalyan Zone (the Forum).



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Electricity Ombudsman Mumbai



2. The Forum, by its Order dated 10.08.2020 has dismissed the grievance application in Case No.1952 of 2019-2020.

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


- a) The Appellant is LT industrial consumer (No.002170277450) from 15.01.1995 having sanctioned load (SL) of 67 HP and CD of 56 KVA at Gala No. 10, Highway Industrial Estate, Satali, Vasai.
- b) New meter having No.05793250 was installed for the premises of the Appellant in the month of January 2017. The Appellant was not billed with actual readings however, in the interval of two or three months up to January 2018. From February 2018 to July 2018, bills were given either for zero or for consumption of 160, 319 and 619 units per month. Further, the bills for zero consumption were given from August 2018 to March 2019. The Appellant made many complaints to the Section Engineer, but no cognizance was taken.
- c) The Flying Squad of the Respondent visited Appellant's premises on 14.03.2019 for spot inspection. After inspection, the Respondent gave provisional supplementary bill of Rs.17,32,400/- for consumption of 219041 units. However, Meter Reading Instrument (MRI) data and/or report was not taken by the Respondent.
- d) The Respondent has given threat of the disconnection for recovery of alleged supplementary bill of Rs.17,32,400/-, the Appellant paid the entire amount to avoid disconnection under protest.
- e) The Appellant complained to the Respondent for revision in alleged supplementary bill on 20.04.2019 with a request to revise the same. However, bill was not revised nor did the Respondent give MRI Reports to the Appellant. The Respondent pays Rs. 165/- per consumer for MRI report to its agency.

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- f) The Appellant filed the grievance in Internal Grievance Redressal Cell (IGRC) on 04.05.2019. In IGRC hearing, the Appellant raised issue of shooting of MD to 240 KVA and requested to test the meter. The IGRC, by its order dated 11.07.2019 directed to send the meter for testing to National Accreditation Board for Testing and Calibration Laboratories of India (NABL).
- g) After April 2019, meter reading was taken every month on progressive basis and billing was done. The Appellant paid the testing fees of Rs.11,800/- to the Respondent on 18.07.2019 but after four months, MSEDCL informed the Appellant that MRI reports are not available. Meter was replaced in November 2019 for sending the said meter to the manufacturer for MRI Report.
- h) The Respondent sent the meter to manufacturer, M/s. Genus Power Infra Ltd. on 22.01.2020 for MRI analysis. M/s Genus Power Infra Ltd. by its letter dated 13.02.2020 submitted its Meter Analysis Report of the meter and declared the said meter as faulty with observation that data could not be retrieved due to memory corruption. Meter display IC is faulty due to which there was no display on the meter due to its internal component failure.
- i) The Appellant insisted MRI report but MSEDCL failed to give MRI report. It is the case of defective meter as per Regulation 15.4.1 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code & Other Conditions of Supply) Regulations, 2005 (Supply Code Regulations).
- j) The Appellant approached the Forum on 27.09.2019. During hearing at the Forum, the Appellant submitted meter consumption statement.
- (i) Disputed period for consumption is February 2018 to March 2019.
- (ii) The average recorded on meter for the period from April 2016 to December 2017 is 5118 units per month.
- (iii) After dispute in meter, the average recorded on meter for the period from May 2019 to February 2020 (10 month) is 6507 units per month.


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- k) The Appellant suggested the Forum during hearing that in absence of MRI data, the average be considered as mean of 5280 and 6507 i.e. 6000 units per month for the disputed period of February 2018 to April 2019 (15 months) as part of settlement though it is fit case of defective meter. However, the Forum, by its order dated 10.08.2020 has dismissed the grievance application.
- l) The Forum failed to understand the basic issue of defective meter and Regulation 15.4.1 of the Supply Code Regulations.
- m) In view of the above, the Appellant prays that
- (i) Forum's order may be quashed. Meter manufacturing has verified as meter faulty and therefore Regulation 15.4.1 of the Supply Code Regulation be applied for revision of bill.

Or

- (ii) Disputed period is February 2018 to March 2019. Considering average consumption of earlier and post disputed period as 5800 units per month, its bill should be revised. and excess amount paid by the Appellant be refunded with interest as per Section 62(6) of the Electricity Act, 2003 (the Act) and be adjusted in the bill.


4. The Respondent MSEDCL filed its reply by email on 25.09.2020 stating in brief as under: -

- (i) The Appellant is LT Industrial consumer (No.002170277450) from 15.01.1995 having sanctioned load (SL) of 67 HP and CD of 56 KVA at Gala No. 10, Highway Industrial Estate, Sativali, Vasai.
- (ii) The Appellant was billed as per meter reading up to the billing month of July 2018. The meter No.5793250 of Genus Make was installed in the month of January 2017 and it was in running and working condition till 30.10.2019 when it was removed for testing.


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Secretary
Electricity Ombudsman Mumbai




- (iii) In the month of April 2019 when the check reading was taken and MRI data was analyzed, it was revealed that, there was accumulated unbilled consumption of 219041 units. The Appellant was billed up to 69140 KWH reading in the month of July 2018 and in the month of April 2019, the reading on meter was 288181 KWH. During the period from August 2018 to March 2019 (8 months), the Appellant was billed with 'Zero' unit. Hence the Appellant shall be billed 219041(=288181-69140) accumulated unbilled units for the period from August 2018 to March 2019 (8 months) and accordingly, the supplementary bill of 219041 unbilled units of Rs.17,32,400/- has been given to Appellant in March 2019.
- (iv) The fact of accumulation of unbilled consumption has been explained to Appellant and he therefore paid amount of supplementary bill of Rs.17,32,400/- on 25.03.2019. The above amount was paid by the Appellant willfully and without any protest etc. However, he lodged a complaint on 20.04.2019 for the first time after payment.
- (v) The Appellant filed the grievance in Internal Grievance Redressal Cell (IGRC) on 04.05.2019. The IGRC, by its order dated 11.07.2019 directed to send meter to NABL approved Lab for testing and to revise bill as per testing report. The testing charges of Rs.11800/- has been paid by the Appellant on 18.07.2019. The meter was sent to the NABL Sion Mumbai on 07.11.2019. This NABL accredited laboratory was other than that of MSEDCL. The testing fee of this laboratory is Rs.20,000/- + 18% GST. The Appellant was asked to pay the differential costs which he refused. The Appellant subsequently through his letter informed that, he is not willing for testing of meter in NABL Laboratory. However, he requested to send the meter to its manufacturer for MRI report. Therefore, the meter was sent to Genius Power Infra Ltd. on 22.01.2020 for MRI Analysis. M/s. Genius Power Infra Ltd. by its letter dated 13.02.2020 submitted its Meter Analysis Report. In the said report, it declared the said meter as faulty with the observation that data could not be retrieved due to memory corruption, IC of the meter display being faulty.


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Secretary
Electricity Ombudsman Mumbai



- (vi) The meter check reading, and MRI data of the meter was available up to reading of 283585 KWH and thereafter the said meter was shown correct reading up to the month of October 2019 when it was removed on 30.10.2019. The meter subsequently shows no display when it was analyzed by the manufacturer. The Appellant himself has withdrawn the request of testing of meter in NABL laboratory. As per the Supply Code Regulations and the Central Electricity Authority (CEA) Metering Regulations, the MSEDCL Testing Lab or NABL accredited testing labs are only prescribed mode for testing of meters, the manufacturing Co. analysis report cannot take place as evidence for Testing Report of this case. As the meter was working considerable period after accumulated readings with satisfaction to both the parties. In view of the above, the Regulation 15.4.1 of Supply Code Regulations is not applicable in this case as claimed by the Appellant.
- (vii) The meter (No.05793250) was installed in the premises of the Appellant in month of January 2017. The Appellant billed as per reading till the month of January 2018, thereafter from February 2018 to March 2019. Appellant billed on minimum side. According to the Appellant, the average monthly consumption was 6507 units per month from May 2019 to February 2020. The average for the period February 2018 to April 2019 is 14600 units per month. The previous average consumption is 6000 units per month. Consumption recorded by the same meter was in the range of 6000-7000 units per month. Hence the prayer of the Appellant is not maintainable for revision of averages as meter was working and in order up to the replacement. The said meter cannot be treated defective as meter has recorded proper reading after April 2019 till October 2019. Genus Company declared meter faulty when sent to it i.e. in month of February 2020. Meter reading shown in subsequent billing is correct, all the parameters are recorded by meter i.e. KWH, KVAH, RKVAH (LAG), RKAVH (LEAD), KW(MD), KVA(MD). The higher consumption during the period of February 2018 to April 2019 may be due to higher usage of electricity by Appellant.


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- (viii) The Appellant did not dispute the supplementary bill dated 16.03.2019 of Rs.17,32,400/- and paid without any protest. In view of Regulation 6.8 of the CGRF Regulations the grievance in respect of undisputed arrears is not maintainable.
- (ix) the Forum in its order dated 10.08.2020 has rightly addressed all issues and rejected the grievance of Appellant.
- (x) In view of the above, the Respondent prayed that the Representation of the Appellant be rejected.

5. The hearing was conducted on e-platform due to Covid-19 epidemic. The Appellant argued that if its case may be decided under Regulation 15.4.1 of the Supply Code Regulations, however, it is ready to pay if it is billed for the disputed period on average basis considering consumption prior and after the disputed period. The Respondent, however, argued that the Appellant has paid the accumulated bill without any demur, however, subsequently, he filed a complaint stating that it has paid the amount under protest. If the bill is paid without protest, it is deemed to have been paid without any dispute and as per Regulation 6.8 of the CGRF Regulations, he ought to pay the bill. Therefore, nothing remains to be decided on the representation.

Analysis and Ruling

6. Heard the parties and perused the documents on record. The Appellant is a LT Industrial consumer from 15.01.1995 with SL of 67 HP and CD of 56 KVA and the supply is being used for plastic industry. The Appellant received an abnormal bill of Rs.17,32,400/- for the consumption of 219041 units in the month of April 2019. I have gone through the Consumer Personal Ledger (CPL) of the Appellant. I noted that its meter was replaced in January 2017 and from then onwards, the monthly meter reading was not taken properly. The reading and consumption data submitted by the Respondent is tabulated below: -



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Electricity Ombudsman Mumbai



Month	Initial Reading	Final Reading	Consumption	Month	Initial Reading	Final Reading	Consumption
Jan-17	1	1	0	Oct-18	69140	69140	0
Feb-17	1	9905	9904	Nov-18	69140	69140	0
Mar-17	9905	9905	0	Dec-18	69140	69140	0
Apr-17	9905	21037	11132	Jan-19	69140	69140	0
May-17	21037	21037	0	Feb-19	69140	69140	0
Jun-17	21037	33419	12382	Mar-19	69140	69140	0
Jul-17	33419	41099	7680	Apr-19	69140	288181	219041
Aug-17	41099	42926	1827	Upto April 2019 accumulated reading			
Sep-17	42926	42926	0	May-19	288181	294930	6749
Oct-17	42926	42926	0	Jun-19	294930	300980	6050
Nov-17	42926	57839	14913	Jul-19	300980	304520	3540
Dec-17	57839	61373	3534	Aug-19	304520	311717	7197
Jan-18	61373	68020	6647	Sep-19	311717	318584	6867
Feb-18	68020	68659	639	Oct-19	318584	324880	6296
Mar-18	68659	68659	0	Note: - Meter replaced on 30.10.2019			
Apr-18	68659	68979	320	Nov-19	0	1	6117
May-18	68979	68979	0	Dec-19	1	7782	7781
Jun-18	68979	69138	159	Jan-20	7782	16329	8547
Jul-18	69138	69140	2	Feb-20	16329	22258	5929
Aug-18	69140	69140	0	Mar-20	22258	27839	5581
Sep-18	69140	69140	0				

From the above table, it is seen that during the 28 months (January 2017 to April 2019), the Appellant has been billed with a very meagre consumption running in single and three digits or sometimes zero on 19 occasions. It means that for almost 68% of the period spread across January 2017 to April 2019, the Appellant's meter was not at all read properly. Some consumption was logged into the system for name sake.

7. I am aghast with the grave irregularities committed by the Respondent. It is important to note that the Appellant is having CD of 56 KVA and is a plastic industry. Such a high value consumer has been treated as a Below Poverty Line consumer (BPL) by the Respondent. The Respondent has hired an agency to take MRI reading which is being paid around Rs.175/- per consumer per month. When the Respondent has engaged an Agency for MRI reading and paying handsomely for the same, this irregularity cannot be accepted on the face of it. Not only this, it is going


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 Secretary
 Electricity Ombudsman Mumbai




unnoticed by the supervisory staff as if there is no in-house monitoring mechanism with the Respondent. When the Respondent was questioned about the submission of the MRI reports, it was informed that the same were not available. The Appellant precisely argued during the hearing that if the MRI Reports for the entire period are made available to analyze the issue, it is ready to pay for the consumption as per the MRI reports.


8. It is seen that the billing of the consumer from May 2019 onwards appears to be taken properly with the consumption ranging from minimum 3540 to 8546. I took note of check reading report dated 16.03.2019 wherein reading available on the meter is shown as 283585 which tallies with reading of 288181 taken on 05.04.2019 as per CPL. Therefore, there is no question of meter being faulty during this period of January 2017 to April 2019. The same meter was further continued till October 2019 and was finally replaced on 30.10.2019 with display showing no reading. Therefore, this case is outside the scope of Regulation 15.4.1 of the Supply Code Regulations.

9. The modus operandi, I could see in this entire episode is to log fictitious readings for a considerable period of time and once the accumulated consumption is raised by the Respondent, take a plea of meter being faulty under Regulation 15.4.1 of the Supply Code Regulations and get undue enrichment through revision of bill for a very short period of three months. I came across such type of argument in many proceedings before me. This is more so rampant in revenue rich areas. This cannot happen unless there is collusion of the insider with consumer.

10. This meter was decided to be initially tested at NABL, but it was sent to the meter manufacturer as per the request of the Appellant. Therefore, amount paid by the Appellant towards testing at the NABL needs to be refunded.

11. The accumulated consumption of 288181 is for 28 months which translates to $(288181 / 28)$ 10292 units per month on average and is as per actual use. The Appellant has tried to misguide by quoting one incidence of its Maximum Demand getting shot up in 2016 and that too for a totally


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different meter. It is very important to note that the Appellant at its own volition has come forward as a law abiding citizen agreeing to be billed on average instead of getting the benefit under Regulation 15.4.1 in the event of meter getting faulty. This is a unique unparalleled example I have ever come across.

12. Entire sequence of events reveals that the Respondent should be more vigilant in monitoring consumption followed by frequent surprise visits to the premises of such high value consumers.

13. In view of the above discussion, I am convinced that the Forum has given appropriate order and there is no need to interfere with it, however, the Respondent is directed to refund by way of adjustment in the ensuing bill, the amount paid by the Appellant towards testing of the meter at NABL. The compliance of the same shall be submitted within a period of two months from the date of issue of this order. The order of the Forum is revised to the extent of refund of testing fee. The representation is disposed of accordingly.

14. The secretariat of this office is directed to send a copy of this order to the Chairman & Managing Director, MSEDCL for information and necessary action as deem fit.

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



(Dilip Dumbre)
Secretary

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