

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 88 OF 2021

In the matter of excess demand and load factor incentive

Autade Spinners Pvt. Ltd. Appellant

V/s.

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

Appearances:

For Appellant : 1. Sunil Kamate, Unit Head
2. Munna Shaikh, Electrical Engineer
3. Dattatray Bhosale, Liasoning Officer

For Respondent : 1. Santosh K. Sangle, Superintending Engineer
2. S. R. Shinde, Ex. Engineer (Admn)
3. R. T. Madane, Dy. Ex. Engineer


Coram: Deepak Lad

Date of hearing: 4th February 2022

Date of Order : 22nd February 2022

ORDER

This Representation is filed on 6th December 2021 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2020 (CGRF Regulations 2020) against the Order dated 5th October 2021 passed by the Consumer Grievance Redressal Forum, MSEDCL, Baramati Zone (the Forum).

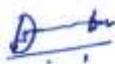

(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



2. The Forum, by its order dated 05.10.2021 has dismissed the grievance application in Case No.01 of 2021.

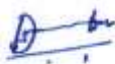
3. Aggrieved by the order dated 05.10.2021 of the Forum, the Appellant has filed this Representation stating, in brief as under: -

- (i) The Appellant is a HT Consumer (No.341519056760) from 22.03.2018 connected on 33 kV express feeder having Sanctioned Load (SL) of 3700 KW and Contract Demand (CD) of 1900 KVA at Gat No.3342/1B, Sant Damji Nagar, Post and Taluka - Mangalwedha, Dist. Solapur.
- (ii) The new meter having Sliding Window Mechanism (SWM) of 10 minutes time slot, was installed by the Respondent in the month of November 2019 for determination of Maximum Demand (MD).
- (iii) The Appellant received disputed bill for December 2019 on 03.01.2020. In this bill the Respondent has considered MD billing cycle as per new SWM. The MD was recorded as 1911 KVA against the CD of 1900 KVA. As per tariff order dated 12.09.2018 in Case 195 of 2017 of Maharashtra Electricity Regulatory Commission (the Commission), it is necessary to consider Block Window Method of 30 minutes for calculation of MD. The Appellant stated that as per Block Window Method, MD for December 2019 is within the CD limit and hence Appellant is fully eligible for Load Factor Incentive in the bill for the month of December 2019.
- (iv) The Respondent's prayer to calculate MD on the basis of SWM is rejected by the Commission in its Tariff Order dated 30.03.2020 in Case No. 322 of 2019 for further period also.
- (v) The Appellant filed the grievance with Internal Grievance Redressal Cell (IGRC) and then with the Forum, but both have not appreciated the factual position of the mandate of the Commission and rejected the grievance. Therefore, the Appellant prays that the order of the Forum needs to be set aside and Load Factor Incentive, as may be admissible, by considering MD under Block Window Method of 30 minutes be granted.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

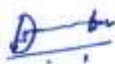


4. The Respondent filed its reply dated 03.01.2022 which is stated in brief as under: -
- (i) The Appellant is a HT Consumer (No. 341519056760) from 22.03.2018 connected on 33 kV express feeder having SL of 3700 KW and CD of 1900 KVA at Gat No. 3342/1B, Sant Damji Nagar, Post and Taluka - Mangalwedha, Dist. Solapur.
 - (ii) The Commission in Mid-Term Review Order dated 12.09.2018 in Case No. 195 of 2017 directs MSEDCL to educate the consumers and take all necessary steps to ensure that all the consumers are billed by kVAh billing method from the next MYT Order which will be effective from 1st April 2020. Further, as a first step towards implementation of kVAh billing system, which is devoid of any separate incentive / penalty for power factor, the Commission has decided to reduce the existing Power Factor Incentive / Penalty by 50%. Accordingly, MSEDCL issued Commercial Circular No. 311 dated 01.10.2018 regarding the above said order of the Commission and copy of the same is also send to all HT consumers including the Appellant vide email dated 05.10.2018.
 - (iii) Further, a Discussion Session was organized by MSEDCL on 22.02.2019 for consumers at MIDC, Solapur and at Division Office, Pandharpur regarding kVAh billing. Intimation of said Discussion Session was given to consumers as well as Industrial organizations. Copy of this circular, email and attendance sheet etc. are kept on record.
 - (iv) In view of above said order of the Commission, it is required to change meters of all HT consumers compatible to kVAh method of billing before 01.04.2020. As such, the meter of the Appellant was changed by new meter (No. 076-05041258) on 13.11.2019 which is compatible to kVAh billing. However, the billing was done as per kWh method up to March 2020. It is submitted that before installing the new meter for the Appellant, same meter was tested and found correct.
 - (v) Billing for the month of November 2019 was done as per kWh billing method. The reading of new meter was taken through AMR/MRI and were correct. Appellant consumer received Load Factor Incentive in the said bill. The Appellant paid the bill for the month of November 2019.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



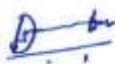
- (vi) The bill of the Appellant for the month of December 2019 was issued by taking reading through AMR/MRI. As per said reading, the MD recorded was 1911 kVA, which is more than CD, which resulted in levying of charges on account of exceeding CD and not getting Load Factor Incentive, as it was not eligible as per the Tariff Order of the Commission. As per Regulation 22.20 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code and SOP of Distribution Licensees including Power Quality) Regulations, 2021, it is obligatory for the consumer to maintain the average power factor of its load at levels in accordance with the relevant orders of the Commission.
- (vii) The bill for the month of December 2019 issued as per Tariff Order of the Commission and hence is correct and legal. The Appellant deposited the amount of the bill Rs.80,34,350/- on 09.01.2020, without any protest. Therefore, this complaint is liable to be rejected on this point only.
- (viii) The IGRC and the Forum dismissed the grievance application of the Appellant. The Respondent humbly endorse & support observations of the Forum that,
- “the billing of complainant consumer was done with changed meter for the month of November as well as December 2019, however complainant consumer only complaint about the bill of December 2019 only. And even there after the bills of the complainant consumer were issued on the basis of same meter and there is no complaint regarding the reading recorded by said meter. The complainant consumer itself responsible for not taking precautionary steps for maintaining of Load factor.”*
- (ix) Respondent proceeds to make humble submissions setting out factual and legal matrix of the case as under.
- (x) It is false to say that, only due to change of meter, the MD of the Appellant was wrongly recorded as 1911 kVA. It is required to see the fact that, billing of the Appellant was done with changed meter for the month of November 2019 as well as December 2019, however, the Appellant only complained about the bill of December 2019 only. And even thereafter, the bills of the Appellant were issued on the basis of same meter and there is no complaint regarding the reading recorded


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



by the said meter. The Appellant, itself, is responsible for not taking precautionary steps for maintaining of load factor.

- (xi) It is submitted that, along with Main Meter, Check Meter was also installed with the Appellant as it is having CD of 1900 kVA. However, only Main Meter was changed, and Check Meter is there as it is. It is also submitted that the bills are issued as per reading of the Main Meter only. It is submitted that as per Regulation 15.2.5 of Supply Code & SOP Regulations, 2021, Check Meter readings shall not be used for billing purpose by the Distribution Licensee except when the Main Meter is found and proven to be erroneous. Therefore, the demand of the Appellant to consider the reading of Check Meter is not legal.
- (xii) It is submitted that, MSEDCL rightly replied the Appellant vide 1) Letter No. 123 dated 03.01.2020, 2) Email dated 12.06.2020 at 3:40 pm., and Letter No. 3600 dated 03.08.2020 that the billing of the Appellant was rightly done for the month of December 2020.
- (xiii) It is submitted that the Appellant, itself, in its letter dated 31.12.2019 and other communications stated that for updating MD controlling Software, it requires one month time to make changes in the software. However, it is required to consider the fact that, the meter was changed on 13.11.2019 and the Appellant has full knowledge about it. Then, after more than one month, the billing demand of the Appellant was recorded as 1911 KVA on 17.12.2019. From the above, it is clear that the Appellant, itself, not taken steps within one month and only after recording exceeded demand, complaining about it with wrong reason.
- (xiv) It is submitted that, after receiving complaint from the Appellant, this office has directed Testing Division to inspect and verify consumer's energy meter. Accordingly, the Testing Team visited the Appellant's premises on 13.01.2020 and testing was carried out in the presence of its representative. As per the test report, load test was taken for 30 minutes for both, the Main Meter and Check Meter. Results were found satisfactory. The said report submitted by EE(T), Solapur has also been signed by the Appellant's representative.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

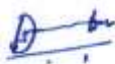


- (xv) It is submitted that, meters of all HT consumers under Solapur Circle including the Appellant were changed for compatibility with kVAh method of billing and there is no any single complaint of other consumers regarding exceeding CD due to change of meter.
- (xvi) It is submitted that, the Representation of the Appellant is frivolous, vexatious, malafide and without any sufficient cause and there is no prima facie loss or damage, or inconvenience caused to the Appellant. Also, the representation is devoid of merits and deserves to be dismissed with cost.

5. Hearing was scheduled on 24.01.2022, however, it was postponed at the request of the Appellant. Thereafter, it was rescheduled on 31.01.2022 which was also postponed due to ill-health of the undersigned. Finally, the hearing was held on 04.02.2022 on e-platform through video conferencing. Both the parties argued in line with their respective submissions. The main argument of the Appellant is that billing done by the Respondent for the month of December 2019 is based on SWM which is not permitted by the Commission. The meter has been changed by the Respondent on 13.11.2019 for proposed kVAh billing which was to be implemented from April 2020. The new meter is likely to have programmed for SWM for MD recording at the interval of 10 minutes. Moreover, it has installed Demand Controller in its factory. Since kVAh billing will be starting from April 2020, it has not configured Demand Controller minutely considering that the existing meter is not having any issue as such. However, the Demand Controller remained in the same status, and the Respondent changed the meter on 13.11.2019 for kVAh billing. Therefore, there arose a problem of shooting the MD to 1911 in absence fine tuning of Demand Controller which resulted not only levy of penalty for exceeding MD, but it badly affected the Load Factor Incentive. Moreover, the Commission, in its order dated 30.06.2020 in Case No. 84 of 2020 regarding Case of Maharashtra State Electricity Distribution Co. Ltd. seeking review of the MYT Order dated 30.03.2020 issued in Case No 322 of 2019 has recorded as below:-

“24. Issue L: Recording of maximum demand (Sliding Window Method)

MSEDCL's Submission:


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



24.4. MSEDCL has installed new kVAh compatible meters for almost all HT consumers with Sliding Window Demand features. During the replacement drive of meters, it was observed that maximum demand of some of consumers was recorded more than their contract demand which resulted in levying of penalty on account of violating contract demand. MSEDCL had identified 3411 numbers of such consumers and refunded all penal charges to them. In subsequent months of replacement, consumers have rescheduled their loads in such a way that their peak load are within the contract demand.

Commission's Analysis and Ruling

24.14 The Commission notes that in its impugned MYT Order provided detailed reasons as reproduced below for rejecting MSEDCL's proposal of sliding scale measurement of consumer's maximum demand:

8.13.9.....

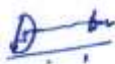
8.13.10....

8.13.11...

.....Hence, review sought by MSEDCL on this issue needs to be rejected.

24.15. At the same time the Commission also notes that MSEDCL has already installed such meters having feature of sliding scale measurement of Maximum Demand to all its HT consumer and now MSEDCL is contending that all these meters have to be replaced to have 30 minutes block measurement of Maximum Demand. The Commission notes that such situation arose because of MSEDCL's failure to seek Regulatory Approvals of the Commission. MSEDCL should avoid such mistakes in future."

6. When the Commission has rejected the SWM, the Respondent cannot bill the Appellant on the same. This SWM with 10 minutes interval has unnecessarily penalized the Appellant which needs to be corrected and demand penalty be withdrawn with grant of Load Factor Incentive. The Appellant also argued that it did experienced fluctuations in power supply in past, as well, it is experiencing the same even now. To put it on record, from 01.12.2019 to 15.12.2019, MD of Main Meter was 1836 KVA and for Check Meter 1833 KVA. On 17.12.2019, its feeder tripped from 132 kV EHV Mangalvedha Substation from 2.27 pm to 2.35 pm. After resumption of power supply, it has started one by one machine with a precaution not to exceed its CD but on the same day, at 3.10 pm its Main Meter MD increased to 1911 KVA, and at 4 pm Check Meter MD increased to 1871 kVA. Moreover, it is unnecessarily suffering due to various tripping on its feeder. Therefore, this slight exceeding of CD by 11 KVA as against sanction of 1900 kVA is


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



miniscule and the Respondent should not penalise the Appellant. The Respondent has refunded demand penalty in respect of 3411 consumers as could be seen from the order of the Commission.

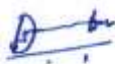
7. Respondent, on the other hand, argued that there is no problem with the meter. Moreover, it has confirmed from the Manufacturer that the meter is configured only for 30 minutes time block and the recording of MD is not on SWM. Moreover, Demand Controller Operation is the internal issue of the Appellant, and the Respondent has nothing to do with it. Moreover, the same meter performed well in November 2019 then after December 2019 till its replacement on 05.01.2022. This change in meter is also at the request of the Appellant so as to match with the RTC of the Check Meter as there was minor time difference of less than 2 minutes. Since the Main Meter was in order, there is no propriety to consider the reading of the Check Meter as requested by the Appellant.

8. During the hearing, when the undersigned confronted the Respondent with Para 24.4 of the Commission's order dated 30.06.2020 in Case No. 84 of 2020, the Respondent said that it will go through it and offer its comments. On refund to 3411 consumers, the Respondent said that there is no consumer in Solapur Circle falling under this category. The Respondent is directed to send information on what exactly is the case and on what basis, refund of demand penalty effected to 3411 consumers in SWM. The information is sought to be submitted within 10 days.

Analysis and Ruling

9. Heard the parties and perused the documents on record. Pursuance to directives in the hearing, the Respondent submitted some information but that does not answer the query raised with respect to the logic in refund to 3411 consumers of MSEDCL as a whole. However, in response to query of the Respondent, the Manufacturer through its email dated 20.01.2022 has stated that:-

“As per raw data of meter serial number -5041258 (Data Downloaded in month Dec 2021 – 02/12/2021) is having demand interval set with 30 minutes integration based on sliding window


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



principle with sub integration period of 10 minutes and the maximum of these demand is stored as maximum demand along with date and time.”

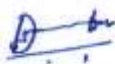
During the course of hearing, and subsequent discussion with the Respondent, it is understood that this refund is done by Corporate Office of the Respondent, and for those consumers who have exceeded the CD in the month of installation of SWM meter. This is also clear from the submission of the Respondent, (MSEDCL Corporate Office) which is recorded by the Commission at para 24.4 in its order dated 30.06.2020 in Case No. 84 of 2020 which is again quoted below:

24.4. MSEDCL has installed new kVAh compatible meters for almost all HT consumers with Sliding Window Demand features. During the replacement drive of meters, it was observed that maximum demand of some of consumers was recorded more than their contract demand which resulted in levying of penalty on account of violating contract demand. MSEDCL had identified 3411 numbers of such consumers and refunded all penal charges to them. In subsequent months of replacement, consumers have rescheduled their loads in such a way that their peak load are within the contract demand.

From the above, it is clear that the Respondent has refunded the amount of penal charges to those consumers who have exceeded their CD in the month of installation of meter and who, by default, were not able to manage their load. It is also contended by MSEDCL in above order of the Commission that *“In subsequent months of replacement, consumers have rescheduled their loads in such a way that their peak load are within the contract demand.”*

10. In the instant case, it is important to note the argument of the Appellant that all such consumers including it, were caught unaware with installation of such meters and the functionality of the same. Therefore, the Appellant did not fine tune its load controller which resulted in exceeding the CD in next month. Therefore, it deserves justice in this regard. It further argued that it never exceeded the CD as it adjusted its load controller.

11. It is worthy of noting that the Respondent fixed this meter for the Appellant on 13.11.2019, and it exceeded the CD to 1911 KVA on 17.12.2019. The most important aspect which deserves more attention is that the Check Meter installed for the Appellant recorded MD of 1871 KVA on


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



the very same day. This (main) meter came to be replaced quite late for time synchronisation with the Check Meter at the request of the Appellant.

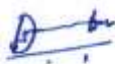
12. In view of the above discussion, I am of the opinion that the Appellant is inadvertently discriminated and therefore, equity demands that the penal charges levied to the Appellant by the Respondent needs to be withdrawn. The Appellant cannot be made to suffer for the arbitrary action of the Respondent and particularly when the Commission did not approve of its logic in implementation of SWM methodology for considering Maximum Demand. Withdrawal of penalty for exceeding CD will automatically trigger the Appellant's entitlement for Load Factor Incentive.

13. In view of the above, I pass the following order: -

- (a) The Respondent is directed to withdraw the penal charges for the month of December 2019 for exceeding the CD.
- (b) The Load Factor Incentive, as may be applicable, is also directed to be given.
- (c) The Respondent to submit compliance within two months from the date of this order.

14. The Representation is allowed and disposed of accordingly.

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


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

