

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 48 OF 2022

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

C.S. Nainani (Consumer).... (Cons. No.021510412441)Appellant
(Shri Gopaldas-User)

V/s.

Maharashtra State Electricity Distribution Co. Ltd.Respondent
Ulhasnagar I (MSEDCL)

Appearances:

Appellant : Shri Gopaldas

Respondent: Nitin Kale, Executive Engineer, Ulhasnagar I Dn.

Coram: Vandana Krishna (Retd. IAS)

Date of hearing : 20th June 2022

Date of Order : 23rd June 2022

ORDER

The Representation is received on 5th 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 18th February 2022 passed by the Consumer Grievance Redressal Forum, MSEDCL, Kalyan Zone (the Forum). A Deposit Notice was sent on 06.04.2022 for an amount of Rs.25000/-. However, the


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Appellant stated that he has already paid the bills and there are no outstanding dues against him. Hence, the Representation was registered on 12.04.2022.

2. The Forum, by its Order dated 18.02.2022 has rejected the grievance application in Case of K/E/1828/2272 of 2021-22.

3. E-hearing was scheduled on 16.06.2022 (Friday). Both the parties were informed accordingly. However, the Appellant was absent for e-hearing without intimation. Hence, the e-hearing was rescheduled on 20.06.2022 (Monday) at 11.30 hours in coordination with both the parties. However, the Appellant was again absent at the scheduled time. This office tried to connect him on his mobile No. 9309870111 but there was no response. The hearing was finally held on 20.06.2022 at 12.45 p.m. with only the Respondent being present. The Appellant finally connected more than one and half hours late. However, as a special case the Appellant was given extra time for argument on audio conference with the Secretary of the Electricity Ombudsman, and the Respondent.

4. The Appellant filed this representation with written submission. The re-scheduled e-hearing was held on 20.06.2022. The Appellant's submission and argument in brief is as below: -

- (i) The Appellant is a LT Consumer (No. 021510412441) from 25.02.1986 having Sanctioned Load (SL) of 27 HP and Contract Demand (CD) of 21 KVA at P.P. Bag, near Barrack 579, Sheet No. 69, Ulhasnagar.
- (ii) The Appellant received a supplementary bill of Rs.45,424/- without any supporting calculations, etc. The bill raised is illogical and without any transparency. The Appellant has never defaulted in any bill payments.
- (iii) The Appellant approached the Respondent for clarification of the bill. However, the Respondent did not clarify the bill but intimated verbally that the meter was recording 1/3rd less for the period from 11.02.2021 to 22.10.2021.


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- (iv) The Appellant filed the grievance before the Forum on 13.12.2021. The Forum, by its Order dated 18.02.2022 rejected the grievance application.
- (v) The Appellant stated that this is the second occasion where the Respondent has assessed towards missing of B phase voltage in the meter.
- (vi) The first time, it was assessed for the period from 01.07.2018 to 01.07.2019 for missing of B phase Voltage. The Appellant approached the Forum for the redressal of his grievance on 07.10.2019 and the Forum, by its Order dated 02.12.2019 rejected the grievance application.
- (vii) The Forum failed to understand that the meter was defective on both the occasions and rejected the grievance.
- (viii) The Appellant argued that he is the actual owner of the premises for the last six years since he purchased it from Nainani, the consumer. The property tax receipt (No. 97236) dated 19.03.2021 is kept on record. However, he has not applied for the change of name to the Respondent. The Appellant clarifies that he has no objection for shifting of the meter, provided he should not be burdened financially.
- (ix) In view of the above, the Appellant prays that
- the Respondent be directed to quash the supplementary bill of Rs. 45,424/- and to issue a revised bill considering that the meter is 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)
 - to pay suitable compensation for physical and mental harassment.

5. The Respondent filed its reply dated 07.06.2022. The e-hearing was held on 20.06.2022. The Respondent's submission with arguments in brief is as below: -

- (i) The Appellant is a LT Consumer (No. 021510412441) from 25.02.1986 having SL of 27 HP and CD of 21 KVA at P.P. Bag, near Barrack 579, Sheet No. 69, Ulhasnagar. The activity is running a plastic extruder machine.


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- (ii) The Respondent installed Meter (Sr. No. HD067242) of 40-200 A Capacity of Secure make at the above said premises.
- (iii) The Assistant Engineer (Quality Control) [(AE (Q&C)] of the Respondent inspected the premises of the Appellant on 21.10.2021. During the inspection, it was observed that R, Y and B Phase voltage on meter display was showing 241, 242 and 0 V respectively, even though the Supply Voltage to the Appellant was found 241, 242 and 230 V respectively at the Consumer's load point. The current on the meter was observed to be 22.40, 23.41 and 23.22 A in R, Y and B Phase respectively. It was found that B Phase voltage was missing in the metering unit due to a loose connection.
- (iv) The MRI data of the meter was retrieved. While checking MRI data, the following points were noticed.
- L3- Phase (B Phase) Voltage was found missing from 11.02.2021 to 22.10.2021.
 - The Respondent simply tightened the loose connection of B Voltage where it was tapped externally. The display of all phases immediately started appearing on the meter. It is possible that some tampering took place leading to under – recording of electricity consumption.
- Hence, it was necessary to assess the underbilling which had happened due to missing of B Phase Voltage. The MRI Report with events related to Voltage and Current of the meter are kept on record.
- (v) Hence, the missing accessed 33% consumption on the basis of actual recorded consumption in the meter for voltage missing period is tabulated as below:

| Period for B Phase Voltage Missing | Recorded Units (11.02.2022 to 22.10.2021) | Accessed Units towards under billing | Amount of assessment (Rs.) | Bill Revision ID |
|------------------------------------|---|--------------------------------------|----------------------------|------------------|
| 11.02.2021 to 22.10.2021 | 12847 | 6423 | 45424.11 | 12470889 |


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- (vi) 'Secure' make embedded meters have been installed by MSEDCL as a part of improvement in their metering system. These meters sense potential by puncturing of cable which passes through the meter terminals. In order to achieve this, it is necessary that the cable which passes through the meter terminals should be of adequate size, and it should pass without any reasonable gap. The mechanism which is used to sense potential is screw and jaws, which puncture the cable and extract the voltage of supply. Even poor workmanship, or any force or stress on the cable, can cause disengagement of potential contact.
- (vii) The Respondent tried to inform the Appellant to apply for Appointment of a scheduled inspection many times; however, the Appellant did not respond positively for the reason best known to him. Finally, the inspection was done on 21.10.2021 and the B Phase voltage was found missing. The Appellant approached the Forum on 13.12.2021. The Forum, by its Order dated 18.02.2022 has rightly rejected the grievance application.
- (viii) The Respondent argued that the Appellant has no locus standi, since he is not the consumer of the Respondent, whereas the consumer is C. S. Nainani. It is further argued in the hearing that during inspection on 21.10.2021, the B Phase voltage of the meter was found missing due to a loose screw, where the voltage was tapped with main source. As soon as the screw was tightened, the voltage appeared on the display of the meter. Thus, the meter itself was found in order during testing on site. The Respondent further stated that the MRI was downloaded, and it was found that the B Phase voltage was missing from 11.02.2021 at 13:45:21 hrs to 21.10.2021. Accordingly, the bill was assessed towards under-recording of 1/3rd consumption in the meter. The Respondent reiterated that the activity of the Appellant consists of plastic extruder machine which requires more electricity. Hence, the meter should be shifted outside the premises for easy access and regular reading. However, the Appellant is not cooperating for shifting of the meter outside, which indicates the possibility of tampering of the meter.
- (ix) In view of the above, the Respondent prays that the Representation be rejected.


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Analysis and Ruling:

6. Heard the parties and perused the documents on record. It is the case of the Appellant that the PT Voltage of B Phase was not extended to the meter for the period from 11.02.2021 to 21.10.2021. This period is calculated from the MRI data downloaded by the Respondent. The Appellant contended that this is the second occasion where the Respondent has assessed towards missing of B phase. In the first occasion it was assessed for the period from 01.07.2018 to 01.07.2019 for missing of B phase Voltage. The Appellant does not have the knowledge about the technicality of the meter. The meter should be treated as defective as per Regulation 16.4.1 of Supply Code & SOP Regulations 2021.

7. On the other hand, the Respondent argued that since only B Phase PT Voltage was not extended to the meter, the meter as such cannot be termed as faulty; and therefore Regulation 16.4.1 of Supply Code & SOP Regulations 2021 is not attracted. There are many Judgments and orders of the Hon'ble Electricity Ombudsman, Mumbai in similar cases. On the other hand, 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 16.4.1 of the Supply Code & SOP Regulations 2021 needs to be applied, and the consumer should be charged only for three months as per the provisions of Regulation 16.4.1 which provides as under: -

“16.4 Billing in the Event of Defective/ stuck/stopped/burnt Meters

16.4.1. Subject to the provisions of Part XII and Part XIV of the Act, in case of a defective meter, the amount of the Consumer's bill shall be adjusted, for a maximum period of three months prior to the month in which the dispute has arisen, in accordance with the results of the test taken subject to furnishing the test report of the meter along with the assessed bill:

Provided that, in case of broken or damaged meter seal, the meter shall be tested for defectiveness or tampering. In case of defective meter, the assessment shall be carried out as per clause 16.4.1 above and, in case of tampering as per Section 126 or Section 135 of the Act, depending on the circumstances of each case:

Provided further that, in case the meter is stuck, burnt, lost or has stopped recording, the Consumer will be billed for the period for which the meter is stuck or has stopped recording


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or for the period for which meter was not available due to burning or loss of meter, up to a maximum period of Three (3) months, based on the consumption during the corresponding period in the previous year when readings were taken or the average consumption of the previous Three (3) billing cycles for which the meter has been read by the Distribution Licensee, whichever is higher:

Provided further that if it is established in the licensee's enquiry that the loss of meter was due to act of the Consumer and/or with his connivance, the Consumer shall be billed as per Regulation 10."

The Respondent contended that the Appellant has been charged, considering that the meter was under-recording by 33% as per MRI data. The meter was showing voltages of Y and B Phase on meter display. As soon as the screw of the PT Tapping point of B phase was tightened, the meter display started showing B phase Voltage, in addition to Y and B Voltage. When the Voltage of the B Phase was not available to the meter, the meter was recording only 66% of its actual consumption.

8. The 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."



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9. The Forum has rightly analysed the facts in its order dated 18.02.2022. Hence it is not necessary to interfere in the order of the Forum, and hence the representation deserves to be rejected.

10. In view of the above, the representation is rejected.

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


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

