

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 167 OF 2023

(REVIEW OF ORDER IN REPRESENTATION NO. 71 OF 2023)

In the matter of accumulated consumption and high billing

Smt. Sangita Kailash PawarReview Applicant

V/s

Maharashtra State Electricity Distribution Co. Ltd. Chandwad Dn. (MSEDCL)... Respondent

Appearances:

Review Applicant: 1. Sandeep Kailash Pawar
2. Jayant Mutha, Representative

Respondent : Keshav Kalumali, Executive Engineer, Chandwad

Coram: Vandana Krishna [I.A.S. (Retd.)]

Date of hearing: 2nd February 2024

Date of Order: 12th February 2024

ORDER

This Review Application was filed on 29th November 2023 under Regulation No. 22.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) for review of the Order dated 27th October 2023 in Representation 71 of 2023 passed by the Electricity



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Ombudsman (Mumbai). The Electricity Ombudsman (Mumbai), by its order had rejected the representation of the Appellant.

2. Aggrieved by this order of the Electricity Ombudsman (Mumbai), the Applicant has filed this Review Application. The e-hearing was held on 2nd February 2024 through Video Conference. Both the parties were heard at length The Applicant's written submissions and arguments in brief are as below:

- (i) The Applicant is a residential consumer (No.073034083255) from 16.07.2016 at House No. 7221/18, Flat No. 18, Sai Prasad Heights, Ghodakenagar, Pimpalgaon Basawant.
- (ii) The average consumption of the Applicant was 65 (=575/9) units per month for the period from July 2016 to March 2017 and the average monthly consumption from February 2021 to June 2023 was 85 units per month.
- (iii) The Electricity Ombudsman, in its order, observed that the difference of units recorded was 9929(=10897 – 968) units for the period of 43 months from Aug. 2017 to Feb. 2021. i.e. $9929 / 43 = 231$ units per month. The Appellant argued that it was not possible to record 231 units per month as the connected load of the Appellant was very less i.e. 0.6 KW. This is a case where the meter must have recorded abnormal reading. There is also a possibility of jumping of reading. The Applicant's average consumption is 85 units per month at present. Hence, an average of 231 units per month is not acceptable.
- (iv) The Forum directed to revise the bill as per average of 133 units per month for the disputed period from Aug.-2017 to Feb.-2021. The order of the Forum has been upheld by this Authority. This is an injustice to the Applicant.
- (v) The Applicant pointed out that the cause of the action of the grievance was from April 2019 to March 2022. However, Maharashtra Electricity Regulatory



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Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 (Supply Code & SOP Regulations 2021) came in force on 25.02.2021. The Respondent committed a serious mistake of taking the meter reading incorrectly. The Applicant is entitled to get compensation from the Respondent for not recording the reading correctly as per Maharashtra Electricity Regulatory Commission (Standard of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 (SOP regulations 2014). However, the Electricity Ombudsman (Mumbai) did not award any compensation. Hence, compensation towards failure to meet Standards of Performance is necessary.

- (vi) In view of the above, the Applicant prays that the present Review Application be allowed as per Regulation 22 of CGRF & EO Regulations 2020. The Respondent be directed
- a) to revise the bill considering assessed use of 85 units per month (instead of 133 units per month) for the period of 24 months from March 2019 to Feb. 2020 without any interest and delayed payment charges.
 - b) to compensate suitably towards failure for taking proper readings as per Maharashtra Electricity Regulatory Commission (Standard of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 instead of Supply Code & SOP Regulations 2021.

3. The Respondent MSEDCL filed its written reply on 01.02.2024. Its written submissions along with its arguments on 2nd February 2024 are as below: -

- (i) The Applicant is a residential consumer as mentioned in Para 2 (i). A meter of Genus Make (Sr. No. 7650668, 5-30 Amp.) was installed on 16.07.2016.


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- (ii) There is no new point mentioned in this review application of the Applicant. Hence, the Respondent has repeated the important points which were replied in the original Rep. 71 of 2023. The billing done for the Applicant from the date of connection to Feb. 2022 is tabulated below:

Table 1

Month	Initial Reading (KWH)	Current Reading (KWH)	Cons. (Units)	Status	Month	Initial Reading (KWH)	Current Reading (KWH)	Cons. (Units)	Status	Month	Initial Reading (KWH)	Current Reading (KWH)	Cons. (Units)	Status
					Apr-17	575	723	148	Normal	Apr-18	1032	1061	29	Normal
					May-17	723	828	105	Normal	May-18	1061	1088	27	Normal
					Jun-17	828	913	85	Normal	Jun-18	1088	1119	31	Normal
Jul-16	0	0	32	RNA	Jul-17	913	968	55	Normal	Jul-18	1119	1139	20	Normal
Aug-16	0	82	82	Normal	Aug-17	968	975	7	Normal	Aug-18	1139	1141	2	Normal
Sep-16	82	171	89	Normal	Sep-17	975	984	9	Normal	Sep-18	1141	1152	11	Normal
Oct-16	171	263	92	Normal	Oct-17	984	997	13	Normal	Oct-18	1152	1170	18	Normal
Nov-16	263	312	49	Normal	Nov-17	997	1004	7	Normal	Nov-18	1170	1184	14	Normal
Dec-16	312	366	54	Normal	Dec-17	1004	1011	7	Normal	Dec-18	1184	1223	39	Normal
Jan-17	366	416	50	Normal	Jan-18	1011	1018	7	Normal	Jan-19	1223	1255	32	Normal
Feb-17	416	478	62	Normal	Feb-18	1018	1025	7	Normal	Feb-19	1255	1255	28	RNT
Mar-17	478	575	97	Normal	Mar-18	1025	1032	7	Normal	Mar-19	1223	1255	28	Faulty
Apr-19	1255	1255	28	Faulty	Apr-20	5481	5481	28	Faulty					
May-19	1255	3106	28	Faulty	May-20	5481	5481	28	Faulty					
Jun-19	3106	4214	28	Faulty	Jun-20	5481	5481	28	Faulty					
Jul-19	4214	4640	28	Faulty	Jul-20	5481	5481	28	Faulty					
Aug-19	4640	5481	28	Faulty	Aug-20	5481	5481	28	Faulty					
Sep-19	5481	5481	28	Faulty	Sep-20	5481	5481	28	Faulty					
Oct-19	5481	5481	28	Faulty	Oct-20	5481	5481	28	Faulty					
Nov-19	5481	5481	28	Faulty	Nov-20	5481	5481	28	Faulty					
Dec-19	5481	5481	28	Faulty	Dec-20	5481	5481	51	Faulty					
Jan-20	5481	5481	28	Faulty	Jan-21	5481	5481	51	Faulty					
Feb-20	5481	5481	28	Faulty	Feb-21	5481	10897	5416	Normal					
Mar-20	5481	5481	28	Faulty	Mar-21	10897	10990	93	Normal					

- (iii) July 2016 to July 2017: -The Respondent issued bills as per the actual meter reading for this period. The monthly consumption was in the range of 50 to 148 units per month.
- (iv) August 2017 to February 2019: - Unfortunately, the Meter Reading Agency of the Respondent did not take actual monthly meter readings from August 2017. The total consumption during this period was shown only 287(=1255-968) units for 19 months, i.e. only 15 (=287/19) units per month with “Normal” Status. These recordings were obviously faulty or manipulated to drastically reduce the bill.



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- (v) March 2019 to November 2020: - The meter was functioning correctly; however, the **Applicant was mistakenly (or in connivance) billed with “Faulty” Status for only 28 units per month from March 2019 to Nov. 2020**, and again “Faulty” Status for 51 units per month for Dec. 2020 & Jan. 2021. It is suspected that these readings were manipulated.
- (vi) The above period partially covers the period of Covid 19 Pandemic from 22nd March 2020 onwards, with complete lockdown for about 4 months, and partial lockdown for further one and half years, when there was severe restriction of movement of people and most people were working from home. Hence, generally there was excessive use of electricity during that period, while the recorded consumption was only 28 units per month.
- (vii) A proper reading of the Applicant was finally obtained by a new Meter Reading Agency only in the month of Feb. 2021. The Applicant was accordingly billed for accumulated consumption of 5416 (10897 kWh– 5481 kWh) units for Rs.79,900/- in the month of Feb. 2021, for the period September 2019 to Feb 2021.
- (viii) The Respondent inspected the Flat-Premises on 20.04.2021. During the inspection, the load of the Appellant was found to be: - 2 Tubes, 1 fridge, 4 Bulbs, 1 TV, 1 Mixer, 3 Fans, lighting, etc. The meter was removed for testing purposes on 20.04.2021 which was tested on 22.04.2021. The test result of the meter found it to be in order. The same meter was refixed to the Applicant and is working satisfactorily at present. The load of the Applicant was found to be 2 Tubes, 3 LED Bulbs, 1 TV, 1 Fridge, 3 Fans and other essential points. **The connected load of the Applicant was 0.0740 KW. Hence, the assessment was calculated as per Commercial Circular No. 133 dated 15.02.2011 as 0.740(connected load) x 0.25(Diversity Factor) x 24 (Hours) x 30 (Days) = 133 units per month.**



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- (ix) The IGRC observed that the Applicant was under billed for 43 months from Aug. 2017 to Feb. 2021. The actual consumption was 9929 units [10897 kWh (recorded in Feb. 2021) – 968 kWh (recorded in August 2017)]. The average consumption comes to 231 units per month. However, based on the load factor, **the IGRC directed to revise the bill considering only 133 units/month as per Commercial Circular No. 133 dated 115.02.2011. This calculation of IGRC was just and fair.**
- (x) Because of the suspected manipulations of the meter readings, the then Meter Reading Agency has been blacklisted from MSEDCL's work.
- (xi) **The Applicant has enjoyed average billing at a much lower side from August 2017 to Feb. 2021.**
- (xii) The Respondent argued that there is no tendency for a digital meter of Genus make to run fast for a specific period and to work normally or accurately in other periods. **There is no tendency of jumping of the meter reading in a Genus Meter. The meter is installed at the Society Meter Cabin of the Applicant. The meter has accurately recorded consumption and is functioning correctly at present.**
- (xiii) The Respondent cited the Judgment of the Hon'ble Supreme Court in Civil Appeal No. 7235 of 2009 in the case of M/s. Prem Cottex V/s. Uttar Haryana Bijli Vitran Nigam Ltd. for recovery of escaped billing. It is a case of "escaped assessment" and not "deficiency in service."
- (xiv) The points raised for review by the Applicant were already on record for perusal during the original Representation. This is not a fit case for Review as the Applicant has not pointed out any new discovery in the matter. The Applicant has also failed to show any error on the face of the record. As such the present review is not maintainable considering the provision of Regulation 22 of the CGRF &



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EO Regulations 2020. The Respondent prays that the review application be rejected.

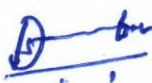
Analysis and Ruling

4. Heard both the parties and perused the documents on record. After a careful reading of the Review Application, it is seen that the Review Applicant has repeated what it had already brought on record in the original Representation No.71 of 2023, the order of which is under review. The Review Applicant has not brought out any new issue which he did not know at the time of filing the original Representation.

5. It is observed from the CPL of the Appellant as shown in Table 1 of Para 3 (ii) that he was billed as per actual consumption from July 2016 to July 2017 with a consumption pattern in the range of 50 to 148 units per month. Thereafter, the consumption recorded suddenly dropped to 7 to 9 units, 28 and 51 units per month which seems suspicious. The actual consumption recorded was 9929(=10897 – 968) units for the period of 43 months from Aug. 2017 to Feb. 2021. i.e. $9929 / 43 = 231$ units per month including the Covid lockdown period from 22.03.2020 to Feb.2021.

6. The Respondent inspected the Flat-Premises on 20.04.2021. During the inspection, the load of the Appellant was found to be: - 2 Tubes, 1 fridge, 4 Bulbs, 1 TV, 1 Mixer, 3 Fans, lighting, etc. The IGRC as well as the Forum has assessed the Appellant considering a connected load of 0.74 KW, and using the accepted formula as per Commercial Circular 133 dated 15.02.2011, as below:

$0.740 \times 0.25 \times 24 \times 30 = 133$ units per month. This is much lower than the actual pattern of 231 units per month. The Applicant has prayed to apply a still lower assessed consumption of 85 units per month, without any scientific basis.



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7. The Forum has considered a low consumption pattern of only 133 units per month rather than 231 units per month, giving the benefit of doubt to the consumer, and in the interest of settlement of the case. All these issues have been recorded in the original order dated 27.10.2023 in Representation No. 71 of 2023, hence, no new facts or evidence is seen to be discovered at this stage.

8. The scope of a Review under the Regulation 22 of the CGRF & EO Regulations 2020 is very limited. The said Regulation is quoted below: -

“22 Review of Order of Electricity Ombudsman

22.1 Any person aggrieved by an order of the Electricity Ombudsman, including the Distribution Licensee, may apply for a review of such order within thirty (30) days of the date of the order to the Electricity Ombudsman, under the following circumstances:

(a) Where no appeal has been preferred;

(b) on account of some mistake or error apparent from the face of the record

(c) upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed.

22.2 An application for such review shall clearly state the matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed or the mistake or error apparent from the face of the record.

22.3 The review application shall be accompanied by such documents, supporting data and statements as the Electricity Ombudsman may determine.

22.4 When it appears to the Electricity Ombudsman that there is no sufficient ground for review, the Electricity Ombudsman shall reject such review application: Provided that



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no application shall be rejected unless the applicant has been given an opportunity of being heard.

22.5 When the Electricity Ombudsman is of the opinion that the review application should be granted, it shall grant the same provided that no such application will be granted without previous notice to the opposite side or party to enable him to appear and to be heard in support of the order, the review of which is applied for.”

9. We are of the opinion that all important issues in sum and substance have been covered in the original order. The review application is nothing but a repetition of the original representation. The Applicant has already benefitted by suspected under recording of consumption from August 2017 to November 2020. There is no scientific evidence of jumping of the meter reading or abnormal reading.

10. In view of the above, I am of the considered view that there is no substance in this Review Application, and it is, therefore, rejected and disposed of accordingly.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

