

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 79 OF 2020

In the matter of billing

Valmik Prakash Patil (Occupier) Appellant
(Abhiram Dharmu Singh, Original Consumer)

V/s

Maharashtra State Electricity Distribution Co. Ltd. Wagle Estate (MSEDCL) ... Respondent

Appearances: -

For Appellant : Valmik Prakash Patil

For Respondent : 1. Anil Patil, Executive Engineer, Wagle Estate, Thane
2. V.R. Sonawale, Addl. Executive Engineer, Kolshet S/Dn.


Coram: Deepak Lad

Date of Hearing: 4th November 2020

Date of Order : 27th November 2020

ORDER

This Representation is filed on 7th October 2020 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations) against the order dated 18th August 2020 passed by the Consumer Grievance Redressal Forum, MSEDCL Bhandup Zone (the Forum).



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



2. The Forum, by its order dated 18.08.2020 has allowed the grievance in Case No. 115 of 2020 as per the order of Internal Grievance Redressal Cell (IGRC) dated 18.01.2020.

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

- (i) The Appellant entered into a Leave and License (L & L) Agreement with Mr. Abhiram Dharmu Singh for Gala No. 23 (A) II 9 Acre, Kothari Compound, Manpada, Thane (West) on rental basis having electric connection with Consumer No.000133134514. This L & L Agreement is registered on 05.12.2018. However, he shifted his laundry workshop in this rental premises from November 2018.
- (ii) The Respondent did not record the meter reading nor issued bill from January 2018 till June 2019, and suddenly issued bill of Rs.4,12,788/- in the month of June 2019 which was mostly consumed from January 2018 to October 2018 by the other tenant who vacated the premises before the Appellant took possession.
- (iii) From the bill of June 2019, the Appellant understood that the tariff is not industrial but commercial, hence, the Appellant submitted his application dated 28.06.2019 which is received by the Respondent on 29.06.2019 for change of tariff category from commercial to industrial and to get tariff difference from November 2018. However, the Respondent approved the tariff difference only from July 2019. The Respondent did not take reading and issued the bill after 18 months on the Appellant's reminder.
- (iv) The Appellant filed the grievance application with the IGRC on 27.11.2019. The IGRC, by its order dated 18.01.2020 rejected the grievance and allowed prospective change of tariff category and did not allow retrospective tariff difference from November 2018.
- (v) Not satisfied with the order of the IGRC, the Appellant approached the Forum on 17.02.2020. The Forum, by its order dated 18.08.2020 has allowed the grievance as per the order of IGRC and also commented that no evidence for support to claim difference from November 2018. The Forum failed to appreciate the certificate of Ministry of Micro, Small, and Medium Enterprises (MSME), Government of India and also the Gumasta Certificate which clearly shows address with nature of activity of the Appellant.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




- (vi) The previous tenant has done huge consumption for one year. The Respondent did not issue bill as per consumption while the previous tenant was consuming. The Appellant has to pay the alleged bill forcefully to avoid disconnection.
- (vii) In view of the factual position, the Appellant prays that
 - (a) The Respondent be directed to change tariff category from commercial to industrial from December 2018 to June 2019
 - (b) To take suitable disciplinary action against the concerned staff.

4. The Respondent filed its reply by letter dated 23.10.2020 vide email stating in brief as under:-


- (i) Mr. Abhiram Dharmu Singh is a LT Consumer (No.000133134514) from 11.09.2015, having at present sanctioned load of 50 KW and Contract Demand of 50 KVA at Gala No. 23 (A) II 9 Acre, Kothari Compound, Manpada, Thane (West). He was billed under commercial tariff category.
- (ii) The Appellant is occupier, and he has applied for change of tariff category from commercial to industrial to the Respondent first time on 29.06.2019. Accordingly, the premises and actual usage of power supply was inspected by the Section Officer of the Respondent. During inspection, it was observed that the consumer is using the supply for Laundry purpose and is eligible for Industrial tariff.
- (iii) After receipt of inspection report, the Respondent changed the tariff category of the Appellant from commercial to industrial in the billing month of November 2019 and informed the Appellant in the same month.
- (iv) Considering application dated 29.06.2019 for change in tariff category, the refund of tariff difference from commercial to industrial was given to the Appellant from July 2019 to October 2019 as per computerised bill revision system. The details of bill revision (B-80) is given as below: -

Sr. No.	Month	B-80 ID	B-80 Approved date	Amount
1	July 2019	10723317	13.12.2019	(-) 20,078.51/-
2	August 2019	10726179	22.11.2019	(-) 17,244.79/-
3	September 2019	10723434	22.11.2019	(-) 20,702.08/-
4	October 2019	10723481	20.11.2019	(-) 35,579.51/-
	Total			(-) 93,604.89/-


 (Dilip Dumbre)
 Secretary
 Electricity Ombudsman Mumbai



- (v) As per Regulation 4.13(b) of the Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period of Giving Supply and Determination of Compensation) Regulations, 2014 (SOP Regulations 2014) the change of tariff shall be effected within the second billing cycle on the receipt of application from the consumer. In this case, the application for change in tariff from commercial to industrial category is received on 29.06.2019 and accordingly the Respondent changed the tariff in the billing month of November 2019 with retrospective refund from July 2019. As per the Regulation No. 4.13 (b), it is crystal clear that the tariff shall be changed with prospective effect only from the date of application. The retrospective effect is not permissible.
- (vi) The L & L Agreement is between the Appellant and Abhiram Dharmu Singh without mentioning the purpose. The proof of L & L Agreement does not ensure that Laundry activity started on the same day in existing premises.
- (vii) The Appellant filed the grievance application with IGRC on 27.11.2019. The IGRC, by its order dated 18.01.2020 directed as below:-
- *“As per Respondent say, Tariff is revised by applying industrial tariff instead of Commercial by the respondent in the month of Nov- 2019 on the basis of consumer application and refund of tariff difference for the period from date of first application to Nov- 2019 is credited by respondent in applicant consumers bill.*
 - *As per Regulation 4.13 (b) of MERC Regulations 2014, the change of category for use of supply in reference of tariff shall be effected within the second billing cycle on receipt of*
 - *Further, it is nowhere directed in MERC Regulations that the tariff should be changed with retrospective effect. The tariff should be changed with prospective effect only application and hence no retrospective effect can be given.*
 - *As there is no single application from Applicant for the change in tariff, from Dec- 2018 to Date of first application i.e. 29.06.2019, the tariff can be changed with prospective effect only. Hence consumer`s grievance to Industrial tariff instead of*
 - *Commercial w.e.f. Jun-2019 and refund of tariff difference for the above period is hereby rejected.”*
- (viii) The Appellant approached the Forum on 17.02.2020. The Forum, by its order dated 18.08.2020 has allowed the grievance as per the order of IGRC.
- (ix) The Respondent therefore prays that the representation of the Appellant be rejected.


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5. The hearing was scheduled on 04.11.2020 on e-platform through Video Conferencing due to Covid-19 epidemic after consent from both the parties.

6. During the hearing on 04.11.2020, the Appellant argued at length in line with his written submission. The Appellant has taken the said premises on rental basis and entered into L & L Agreement on 05.12.2018. The Appellant started its activity of Laundry business from December 2018 on above address. The Respondent did not record the meter reading nor issued bill from January 2018 till June 2019, and suddenly issued bill of Rs.4,12,788/- in the month of June 2019 which was mostly consumed from January 2018 till October 2018 by the earlier tenant. As per bill of June 2019, the Appellant understood that bill tariff is not industrial but commercial. Hence, the Appellant applied for change of tariff category on 29.06.2019 from commercial to industrial to get tariff difference from November 2018 as per L & L Agreement and MSME registration Certificate, but the Respondent changed to effective industrial tariff from November 2019 and refunded retrospective tariff difference from July 2019 to October 2019. In view of the factual consideration, the Appellant prays that the Respondent be directed to change tariff category from commercial to industrial from December 2018 to June 2019.

7. The Respondent argued that the Appellant applied for change of tariff category to the Respondent first time on 29.06.2019 from commercial to industrial. After inspection, the Respondent changed the tariff category of the said consumer from commercial to industrial in the billing month of November 2019 and the refund of tariff difference from commercial to industrial was given to consumer from July 2019 to October 2019 as per Regulation 4.13(b) of SOP Regulations 2014. The initial activity of the consumer was commercial. The enhancement of load from 2KW to 50 KW was sanctioned on 05.01.2018 as per application for commercial purpose and subsequently it was released. The Consumer Personal Ledger (CPL) of the consumer and detail of average billing will be submitted shortly.

8. Respondent in its additional submission sent vide letter No.1485 dated 11.11.2020, copy of which is endorsed to the Appellant consumer has repeated some of its earlier points. The points which are not covered in the representation and not argued have been captured as below:


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




- (a) Prior to inspection of the premises, whether the Appellant was running laundry or otherwise cannot be confirmed.
- (b) The consumer was billed on RNA status for 10 months from July 2018 to April 2019. During these 10 months, for the first 5 months, old owner / occupier shut the business and the premises was locked from July 2018 to November 2018 and for next 5 months, the new occupier did not allow the meter reader to enter his premises for taking the reading. However, Section Engineer, Mr. Rahul Khobe of the Respondent forcefully entered the premises and took the reading.
- (c) The Appellant, himself, applied for grant of 4 instalments vide his letter dated 28.06.2019 for the total bill amount from December 2018 to May 2019 though, he paid RNA status bills in respective months in this period.
- (d) The Appellant is now pressurising the Hon. Electricity Ombudsman by giving threat of suicide and also pressurising the Section Engineer to reduce the bill. The Appellant is running the business for many years and knows monthly power use. He lodged a complaint on 28.06.2019, only after getting the complete bill in the month of May 2019.
- (e) If it is admitted that the Appellant has submitted application on 21.01.2019 then he would have definitely mentioned it in its subsequent application dated 28.06.2019. This so-called letter of 21.01.2019 is not at all received by the Respondent. It is nothing but afterthought on the part of the Appellant to get the tariff difference.

9. The Appellant filed its rejoinder dated 13.11.2020 clarifying pointwise submission in response to the reply dated 11.11.2020 of the Respondent

Analysis and Ruling

10. Heard the parties. Perused documents on record. On bare perusal of the CPL submitted by the Respondent, the consumer was billed with normal consumption up to February 2018 under commercial tariff category. The meter is replaced in March 2018 due to enhancement of load from 2 KW to 50 KW. The new meter No. 55X0460636 was updated into the system and the consumer was billed as per reading from April 2018 to June 2018 with consumption of 608,


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Secretary
Electricity Ombudsman Mumbai




278 and 250 units with progressive reading as 1092 KWH respectively. The consumer was billed on average basis for 259 units per month as readings were not available (RNA) from July 2018 to April 2019. The consumer was billed for accumulated consumption of 28623 (29715-1092) units for May 2019 amounting to Rs.4,12,788/-. The consumer is billed under commercial tariff category up to June 2019.

11. The Appellant for the first time applied for change of tariff category to the Respondent on 29.06.2019 from commercial to industrial. After inspection, the Respondent changed the tariff category in the billing month of November 2019 and the refund of tariff difference was given to consumer from July 2019 to October 2019. The Appellant kept copy of the L & L Agreement on record. Though the consumer has changed the purpose of use of power, he did not intimate the Respondent until his first application dated 29.06.2019. The Respondent clarified that it was compelled to bill the consumer with RNA status for July 2018 to April 2019 as the meter was inside the premises and was locked. The Appellant has paid all bills of commercial tariff category from December 2018 onwards of RNA status till date when the grievance arose. The argument of the Appellant that the bills were not issued by the Respondent is totally false as the bills were paid by him till April 2019 periodically in respective months from December 2018 onwards. The present consumption pattern of the Appellant is found in the range of 1800 to 7000 units per month.

12. From the above, I noted following important points: -

- (a) The Appellant executed and registered L & L Agreement with the owner of the premises on 05.12.2018. The connection stands in the name of the owner.
- (b) This agreement does not indicate the purpose 'Laundry' for which the premises has been rented. Though, however, it does mention 'Industrial / Official' use.
- (c) The Appellant as per his own submission has started Laundry business from December 2018.
- (d) It is in possession of Udyog Aadhar and Shop Establishment receipt showing address as Unit No. 23(A) II, Made of Brick, Wall and Roof of AC Sheets, Gat No. 59/28, Ground floor, Chitalsar, Manpada, Thane 400 607.
- (e) The Appellant submitted change of tariff category application dated 28.06.2019 from Commercial to Industrial.


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Secretary
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- (f) The Appellant has paid RNA status commercial tariff category bills on 20.01.2019, 18.02.2019, 18.03.2019, 17.04.2019, 19.05.2019 for the respective months.
- (g) The Appellant approached for grant of 4 instalments vide its letter dated 28.06.2019 when he received bill for accumulated consumption for 11 months i.e. from July 2018 to May 2019.
- (h) As per the Respondent, for 10 months from July 2018 to April 2019, initial period of 5 months when the premises was occupied by previous user, readings could not be taken and for next 5 months, the Appellant (present occupier) did not allow meter reader to read the meter. However, this is opposed by the Appellant.

13. From the above points, it is difficult to admit the submission of the Appellant that he was unaware of the category of electricity tariff applied by the Respondent as he, himself paid bills issued on RNA status. Secondly, the Appellant is a businessman and prudent check / inquiry of all issues is a part and parcel of any business establishment. The Appellant was well aware of his probable power consumption with the volume of the work he was handling, however, he paid all small amount bills without any demur. He only raised the issue when the bill for accumulated consumption due to RNA status was served to him.

14. I will be failing in my duty if I do not mention the fact in this order that the Appellant issued an email on 07.11.2020 at 9:17 p.m. addressed to the undersigned stating therein amongst other things, *"In case suicidal attempt or any other attempt by me, Concern officials Mr. V R Sonawale, Mr. S M Mane, Mr. Arvind Bulbule will be solely responsible for the same, because I had multiple meetings with Each officer along with attached & many other communications, but they never helped me even because of their department's mistake."*

15. This email was replied by email dated 11.11.2020 at 5:01 p.m. It is an attempt on the part of the Appellant in adopting coercive tactics and trying to influence the proceedings before the undersigned. It is a different matter that the Appellant immediately apologised on 12.11.2020 at 11:25 a.m. in response to the email of this office.

16. Ongoing through the entire chain of events, I came to the conclusion that the action on the part of the Respondent is in line with the Regulation 4.13(b) of the SOP Regulations 2014


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for change of tariff category if the purpose is changed. The said Regulation is reproduced below:

“4.13 (b) change of category for use of supply in reference of Tariff schedule shall be effected within the second billing cycle on receipt of application and payment of necessary charges.”

The Appellant in its own interest is supposed to have intimated the Respondent about the change of purpose for which the power is actually to be used when he rented the premises. This apart, the Appellant should have taken cognizance of the tariff applicable to the premises (which is printed on the bills) when he paid all bills with RNA status.

17. The Respondent is duty bound to give due credit of the amount paid by the Appellant towards bills of RNA status, if not already given.


18. The Respondent has also not followed due process under the Regulations for taking reading in case of locked premises, therefore, interest and DPC levied, if any, also needs to be waived of.

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

- (a) The Respondent to pass on the credit of the amount paid by the Appellant towards bills with RNA status, if not already done.
- (b) Interest and DPC levied, if any, is waived of.
- (c) The Respondent to submit compliance within two months from the date of issue of this order.

20. The Representation is disposed of accordingly.

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


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

