

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REVIEW APPLICATION NO.13 OF 2020

IN

REPRESENTATION NO.74 OF 2020

In the matter of billing of defective meter

Siddhachal CHS Federation Ltd.....Review Applicant

V/s.

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

Appearances

For Review Applicant: Hemant Hatkar, Representative

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


Coram: Mr. Deepak Lad

Date of hearing: 14th January 2021

Date of Order : 27th January 2021

ORDER

This Review Application is registered on 3rd December 2020 under Regulation 19 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations 2006) for review of the Order dated 3rd November 2020 passed in Representation No. 74 of 2020.


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Secretary
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2. The Electricity Ombudsman, Mumbai in its order dated 3rd November 2020 in Representation No. 74 of 2020 has directed as below: -

“a) The Respondent to issue the bill

- i. For Consumer No. 000011901093 on average basis only for the months of May 2018, June 2018 and July 2018 i.e. 3 months instead of 21 months, with the average consumption of previous 12 months of healthy period prior to May 2018.*
 - ii. For Consumer No.000011901085 on average basis only for the months of May 2018, June 2018 and July 2018 i.e. 3 months instead of 17 months, with the average consumption of previous 12 months of healthy period prior to May 2018.*
- b) DPC and interest levied, if any, shall be withdrawn.*
 - c) Other prayers of the Appellant are rejected.*
 - d) Order of the Forum is revised to the extent above.*
 - e) Compliance of the order be sent by the Respondent within two months from the date of the order.”*

3. The Review Applicant has filed this Review Application stating in brief as under: -

- (i) The Respondent has failed to provide the correct and complete information regarding status of this case till the date of hearing. It was well informed by email dated 01.10.2020 regarding B-80 required to be passed prior to the period of May 2018 along with a copy of electricity bill.
- (ii) The Respondent has approved the minus B-80 for the period January 2017 to April 2018 before the date of hearing of the said Consumer No. 000011901085. It is stated that the said B-80 has been prepared on the basis of copies of electricity bills provided to the Respondent on 16.08.2020. However, the fact is not disclosed by the Respondent even during the hearing. The intention of doing such irregularities by the Respondent is beyond its understanding and thereby misleading the Authority.
- (iii) The subject matter of the Representation No. 74 of 2020 is to ascertain the correct applicability of the provision of Regulation 15.4.1 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 (Supply Code Regulations) in this case which the IGRC and the Forum have failed to interpret. The meter of Consumer No. 000011901085 became faulty since January 2017 and Respondent started adjustment units thereafter.



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- (iv) The other meter of Consumer No. 000011901093 became faulty since September 2017 and the Respondent started imposing adjustment units thereafter. This fact is clearly noted by the Hon'ble Electricity Ombudsman in the hearing.
- (v) The Respondent has replaced the faulty meters in the month of October 2019 itself by carrying out clubbing activity as per the Respondent's Circular No. 110 of 2010. Hence, original 4 installations were converted into 2 installations and the 2 installations were declared P.D. with effect from October 2019. However, the Respondent stated wrong period of P.D. as January 2020. The data must have been fed to the IT section in the month of February 2020.
- (vi) The provision of Regulation 15.4.1 is noticeably clear for recovery of faulty meter i.e., three months prior to the month in which the billing is contemplated. Therefore, it is obvious to charge recovery from February, March, and April 2017 at 1526 units p.m. Also, September, October, November 2017 at 4072 units per month respectively as per average pattern consumption of preceding 2 months. However, the Order shows the period as May, June, July 2018. Hence, period is to be reviewed accordingly for redressal of the grievance in real sense.
- (vii) The Applicant prays for interest as per the bank rate on refund of the appeal order as per the provision of Section 62 (6) of the Electricity Act, 2003.

4. The Respondent, by its letter dated 22.12.2020 has filed its reply by email as under:

- (i) The B-80 form for the period January 2017 to April 2018 are prepared for subdivision use only for checking calculation. This sample B-80 is not approved and no case of approval as grievance is first time submitted to the Forum on 02.09.2020 and even in the order of Hon. Ombudsman the period within this time limit is considered for recovery which is correctly given by subdivision to consumer.
- (ii) The complete CPL is submitted and all facts are noted by Hon'ble Electricity Ombudsman.
- (iii) P.D. Report of above-mentioned consumer clearly shows that as P.D. date of consumer is 02.01.2020 but report fed in system on 04.02.2020 but consumer is not charged anything in respective electricity bill.



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- (iv) As per Regulation No. 6.6 of CGRF Regulations,2006, the utility is empowered to entertain the grievance which is filed within 2 years from the date of cause of action. The grievance filed after two years is clearly time barred as per the said regulation and in the aforesaid case it is clearly shown that consumer has approached the Forum on 13.01.2020, the effective bill revision will be from February 2018 onwards.
- (v) Also, the 12 months average is calculated as per the order of Hon'ble Electricity Ombudsman to give correct bill in the month of May 2018, June 2018 and July 2018 but due to bill revision already done as per the Forum's compliance, the same period of bill revision is not accepted by system hence it is time consuming part but are in process of issuing correct bill through system.
- (vi) The provisional bill is also issued to the applicant and it was explained to him in detail how the order of Ombudsman is completely followed by the Respondent. The B-80 as per the Forum's order is credited in system.
- (vii) The compliance of the order dated 03.11.2020 in Representation No. 74 of 2020 is under process, hence it is requested to dismiss the review application.

5. The Review Applicant has filed its additional submission with reference to Respondent's reply stating in brief as under: -

- (i) In this case, the Applicant filed grievance in IGRC on 31.10.2019. The IGRC by its order dated 23.12.2019 clearly directed the Respondent to revise the faulty bill on the basis of average pattern consumption of meter found to be in working condition (healthy period). However, Respondent revised the faulty bill only from May 2018 onwards instead of January 2017 and August 2017. Hence, the Respondent's reply is not correct.
- (ii) The Respondent stated that (-) B 80 for the period January 2017 to April 2018 has been prepared for sake of calculation purpose. But the fact is that the same is prepared as per copy bills provided to them from time to time. The Respondent could not trace out the adjustment units from CPL record which is surprising.
- (iii) The Respondent clearly states in their say in the original Representation No. 74 of 2020 that '0' units has been charged instead of adjustments during the billing


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period prior to May 2018 in both the consumer accounts. The question arises which statement is genuine, valid and correct?

- (iv) The Respondent has clubbed the supply of 4 installations into 2 during the month of October 2019 itself as per Departmental Circular No. 110 of 2010. Accordingly, Meter of Consumer No. 000011901085 has been changed in 05.10.2019 in billing system. Similarly, for Consumer No. 00001901093 in October 2019 also. Then why PD reports is remained to be fed to IT Section? The Respondent has wrongly charged average units of 4699 for October 2019 to January 2020 i.e. in PD period.
- (v) The Respondent states the provision of Regulation 6.6 for the first time. However, Appellant wants to know why this provision has not been referred in IGRC / Forum proceedings as well as in the original Representation No. 74 of 2020? How is Electricity Ombudsman going to allow the provision at this stage and so on?
- (vi) The original grievance has been registered in IGRC in October 2019 and naturally the period of dispute will be from October 2019 and prior to 24 months as per provision of Regulation 6.6.
- (vii) The above facts clearly show and declare that the Respondent is trying to evade the correct information and mislead the Appellate Authorities every now then.

6. Due to Covid-19 epidemic, the hearing was held on 14.01.2020 on e-platform through Video Conferencing after consent from both the parties.

7. During the hearing, the Appellant argued at length stating that the Respondent failed to provide the correct and complete information regarding status of this case till the date of hearing. It was well informed by email dated 01.10.2020 regarding B-80 required to be passed prior to the period of May 2018 along with a copy of electricity bill. In the original order, the period has been considered from May 2018 whereas though the CPL shows zero consumption prior to May 2018, the Respondent, as a matter of fact, levied some consumption and recovered the amount therefor during that period. Hence, it cannot be treated as a zero consumption. Therefore, the order of the Hon'ble Electricity Ombudsman needs to be modified and take into consideration the months in which the Respondent has shown zero consumption but actually


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charged some consumption through suitable adjustments needs to be modified. Further, this period needs to be stretched to the date of filing the grievance with the IGRC which is 31.10.2019.

8. The Respondent argued that the Appellant filed the original grievance with the Forum on 13.01.2020 and therefore, as per Regulation 6.6, it is entitled for relief for 24 months prior to 13.01.2020 which will be February 2018.

Analysis and Ruling

9. Heard the parties and perused the documents on record. This Review Application is filed under Regulation 19 of the CGRF Regulations 2006 which is reproduced below:


“19.1 Any person aggrieved by an order of the Electricity Ombudsman, may, 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 or on account of some mistake or error apparent from the face of the record, may apply for a review of such order, within thirty (30) days of the date of the order, as the case may be, to the Electricity Ombudsman.

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

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

19.4 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.”

10. Ongoing through the records it is observed that though the Respondent has shown zero consumption in CPL, it has in fact levied some consumption and recovered the amount therefor prior to May 2018. Therefore, this apparent error of zero consumption has crept in while calculating the period of 24 months for the period of defective meter which finally resulted in giving effect from May 2018 onwards only. Therefore, this period needs to be stretched


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backwards till completion of 24 months which comes to February 2018 as against May 2018. As a result, the Review Application needs to be allowed to that extent.

11. Since the Review Applicant has raised many issues with respect to B-80 adjustments, both the parties were directed to sit together and understand the issues and draw minutes of the meeting. In pursuance of this direction, the minutes of the meeting dated 15.01.2021 signed by both the parties is received by this office which confirms to the consideration of period from February 2018 instead of May 2018.

12. In view of the above in partial modification of the order dated 03.11.2020, I pass the following order:

- (a) The Review Application is partly allowed.
- (b) The period of 24 months as against 21 months in respect of Consumer No. 000011901093 be counted from February 2018 instead of May 2018.
- (c) The period of 20 months instead of 17 months in respect of Consumer No. 000011901085 be counted from February 2018 instead of May 2018.
- (d) Rest of the order remains unchanged.

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


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

