

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 157 OF 2022

In the matter of excess billing

Smt. Almas Amanat Ali Khan Appellant

V/s.

Maharashtra State Electricity Distribution Co. Ltd., Nagar Road Dn. (MSEDCL) ... Respondent

Appearances:

Appellant : Ramesh H. Dongarkar, Representative

Respondent : 1. Ashok Jadhav, Executive Engineer, Nagar Road Dn.
2. Diwakar Deshmukh, Addl. Executive Engineer

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

Date of hearing: 27th December 2022

Date of Order : 5th January 2023

ORDER

This Representation was filed on 21st September 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



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Secretary

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dated 10th August 2022 passed by the Consumer Grievance Redressal Forum, MSEDCL Pune Zone (the Forum).

2. The Forum, by its Order dated 10.08.2022 has rejected the grievance application in Case No. 45 of 2021.

3. The Appellant has filed this representation against the order of the Forum. The hearing was held on 27.12.2022 where the Appellant was physically present, and the Respondent attended the hearing through video conference. The Appellant's written submission and arguments in brief are stated as below: -

- (i) The Appellant is a Commercial Consumer (No 170015269572) from 10.05.1989 at S. No. 191/204/205/206 PL. 101, Lohgaon, Viman Nagar, R. No. 8, Pune.
- (ii) The sanctioned load of the Appellant was 5 KW on 10.05.1989. In November 2019, the Appellant applied for enhancement of 10 KW load to 15 KW and the Respondent released the same from December 2019 with payment of Rs. 10,000/- as Security Deposit. The Appellant started running a restaurant and bar.
- (iii) The Appellant was billed as per actual meter reading up to the month of Dec. 2019. Thereafter, the Appellant was billed on average basis from Jan. 2020 to March 2020 at average of 210, 800, 800 units respectively. The Appellant requested the Respondent on its online portal in March 2020 to issue bills as per reading, however, the Respondent did not do so.
- (iv) The Respondent has put on record the copy of photo readings taken. Out of a total period of grievance of 24 months, only 16 photo readings were taken on record. When the said meter was removed for testing twice, the possibility of reading manipulation cannot be ruled out.


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- (v) The Appellant referred the Circular No. 50 dated 22.08.2006 of the Respondent where it was directed as below:

*“It is therefore, decided that in those cases where meter is not faulty and is in working condition for taking the reading, the average bill beyond one billing cycle should not be issued in future. If reading is not provided by the meter reader and some wrong status is given, on the stipulated date for preparation of the bill and average bill is issued then the decision has been taken that **the difference between the billing as per actual reading and average bill should be recovered from the salary of the concerned meter reader.**”*
(Emphasis added)

In the above Circular, it is indicated that the difference between actual and average billing should be recovered from the meter reader. In the present case, meter reading agency is to be penalized for the difference between the billing as per actual reading and average bill, and the necessary credit should be passed on to the Appellant. However, it is not done till date.

- (vi) The Respondent issued an accumulated consumption bill of Rs. 9,64,720/- for 105433 units for 19 months of Jan. 2020 to July 2021 and failed to issue bills as per monthly reading.
- (vii) The Appellant kept on record the CPL of the adjacent consumer where monthly billing was done correctly as per actual readings, however, the Respondent failed to do so for the Appellant.
- (viii) The Appellant filed the grievance before the Forum on 13.09.2021. The Forum directed her to pay 50 % amount of outstanding bill. The Appellant paid the same. The hearing was held on 29.06.2022. The Forum, by its Order dated 10.08.2022 rejected the grievance application. The Forum failed to understand the basic issue that the Respondent did not issue bills as per actual meter reading.
- (ix) In view of the above, the Appellant prays that
- a) the Respondent be directed to revise bill for only six months (instead of 19 months) without interest and delayed payment charges.



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- b) The remaining difference of supplementary the bill be recovered from the concerned as per Circular No. 50 dated 22.08.2006 of the Respondent.
- c) The amount of Rs. 1900/- be awarded towards compensation for failure of standards of performance.


4. The Respondent filed its reply by its letter dated 16.12.2022. The hearing was held on 27.12.2022 where the Respondent attended the hearing through video conference. Both the parties were heard. The Respondent's submission and arguments in brief is stated as below: -

- (i) The Appellant is a Commercial Consumer (No 170015269572) from 10.05.1989 at S. No. 191/204/205/206 PL 101, Lohgaon, Viman Nagar, R. No. 8, Pune. The Appellant is running a restaurant and bar.
- (ii) The consumption of the Appellant was in the range of 1000 to 2000 units up to July 2019. However, the consumption of the Appellant dropped in the range of 60 to 400 units per month from Aug. 2019 to Dec. 2019. The Appellant did not inform about the renovation work of her bar and restaurant. The Respondent was unaware of this fact.
- (iii) The consumption of Appellant was observed to be 7195, 9236, 11404 units for the month of Jan.2020 to March 2020 respectively as per photo readings on site. The billing system has auto created average billing due to" Exceptional" consumption which was more than four times that of previous average consumption.
- (iv) A nationwide lockdown was imposed from March 2020 under the order/s passed by the Government/s. In view of the Covid-19 pandemic, the Maharashtra Electricity Regulatory Commission (the Commission) issued Practice Direction on 26.03.2020, whereby 'Measures to Minimize Public Interface in view of Coronavirus pandemic (Covid-19)' was brought in force. The said Practice Direction was issued to ensure uninterrupted power supply. Under the said Practice Direction, the distribution licensees were to ensure continuous power supply and permitted the distribution


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- licensees to suspend certain non-essential services that required visiting consumers' premises or meeting consumers in person, such as meter reading and billing. In the absence of meter reading, the Distribution Licensee was required to issue an average bill computed on average basis as per Maharashtra Electricity Regulatory Commission (Electricity Supply Code & Other Conditions of Supply) Regulations, 2005 (Supply Code Regulations 2005).
- (v) As per the said Practice Direction, the Respondent issued provisional / average bills, based on the average of the previous three months.
- (vi) Lockdown was imposed with certain relaxations in the month of June 2020, and the Respondent was able to record the consolidated actual meter readings. Unfortunately the Appellant was billed with average consumption of only 800 units per month up to July 2021 due to shortage of manpower. The Appellant never pointed out this under billing.
- (vii) The Assistant Engineer of the Respondent inspected the premises on 27.07.2021. As per inspection report, and as per the photo reading of 14.07.2021 as 185502 KWH, the Respondent issued a provisional bill of Rs. 9,64,720/- for 105433(=185702- 80069) units for 19 months for the period of Jan. 2020 to July 2021 by giving credit of average billing.
- (viii) It was jointly decided to test the meter in the Testing Laboratory of Nagar Road Division. The Appellant refused to cooperate for removing the meter for testing, and tried to postpone the removal every time. At last the meter was removed and sent for testing on 21.08.2021, and the meter test result found in order. The same meter was again installed on site.


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- (ix) Meanwhile, the billing of the Appellant was done on average basis for Aug. 2020. From Sept. 2021 and onwards, the Appellant was billed as per actual reading.
- (x) The meter was sent for testing to the NABL accredited laboratory of the Respondent. The test result of the meter was found in order on 21.12.2021.
- (xi) The Appellant filed its grievance before the Forum on 13.09.2021 for waiver of bill and not to disconnect the meter. The Forum, by its Order dated 10.08.2022 has rightly rejected the grievance application. The Forum observed that the meter was tested twice and found in order. At present, the said meter is working satisfactorily.
- (xii) The Respondent put on record photos of readings. It clearly indicates that the Appellant has consumed the electricity, and the Respondent has issued the supplementary bill of actual consumed electric power. But the Appellant is reluctant to pay the bill of consumed units.
- (xiii) The Circular No. 50 dated 22.08.2006 of the Respondent is an internal circular, as a drive was taken up for reducing average billing. The Appellant has nothing to do with the content of the circular, which never specified waiver of bill in case of accumulated consumption. The period of accumulated consumption falls within the limit of Section 56 (2) of the Electricity Act, 2003.
- (xiv) In view of the above facts and circumstances, it is prayed that the Representation of the Appellant be rejected.


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Analysis and Ruling

5. Heard both the parties and perused the documents on record. The Appellant is a Commercial Consumer (No 170015269572) from 10.05.1989 at S. No. 191/204/205/206 PL 101, Lohgaon, Viman Nagar, R. No. 8, Pune. The Appellant is running a restaurant and bar.

6. The sanctioned load of the Appellant was enhanced from 10 KW to 15 KW from Dec. 2019. The Appellant was billed as per actual meter reading up to the month of Dec. 2019. This bar & restaurant was under renovation. The consumption of the Appellant was in the range of 1000 to 2000 units up to July 2019. However, the consumption of the Appellant dropped in the range of 60 to 400 units per month from Aug. 2019 to Dec. 2019 during the renovation period. There is no record available that the Appellant had informed the Respondent about the renovation work of bar and restaurant, indicating that there would be less consumption. The Appellant was billed with average consumption up to Aug. 2021 and thereafter as per actual consumption from Sept. 2021 onwards. The abstract of photo readings and actual billing with average billing is tabulated as below:

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Months	Photo Reading Date	Initial Reading (KWH)	Final Reading (KWH)	Actual Cons. (Units)	Billed Consumption	Status
Oct-19	14.10.2019	79438	79503	65	65	Normal
Nov-19	14.11.2019	79503	79658	155	155	Normal
Dec-19	14.12.2019	79658	80069	411	411	Normal
Jan-20	14.01.2020	80069	87264	7195	210	RNT
Feb-20	14.02.2020	87264	96500	9236	800	Inacceable
Mar-20	14.03.2020	96500	107904	11404	800	RNT
Apr-20					184	RNT
May-20					80	RNT
Jun-20					80	RNT
Jul-20					80	locked
Aug-20	14.08.2020	107904	115615	7711	800	Inaccessible
Sep-20					800	locked
Oct-20	14.10.2020	115615	131171	15556	800	Inaccessible
Nov-20	14.11.2020	131171	138596	7425	800	Inaccessible
Dec-20	14.12.2020	138596	146928	8332	800	locked
Jan-21	14.01.2021	146928	153938	7010	800	RNT
Feb-21	14.02.2021	153938	162495	8557	800	RNT
Mar-21	14.03.2021	162495	170556	8061	800	RNT
Apr-21	Photo reading NA				800	RNT
May-21					1714	locked
Jun-21					1943	locked
Jul-21	14.07.2021	170556	185502	14946	1164	locked
Aug-21	14.08.2021	185502	193161	7659	800	Inaccessible
Sep-21	14.09.2021	193161	202143	8982	202143	19 months

7. The Respondent contended that the consumption of the Appellant was observed to be 7195, 9236, 11404 units for the month of Jan.2020 to March 2020 respectively as per photo readings on


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site. The billing system has auto created average billing due to "Exceptional" consumption which was more than four times that of previous average consumption.


8. The Appellant was billed with average consumption as tabulated above, including the period of Covid-19 pandemic. The Assistant Engineer of the Respondent inspected the premises on 27.07.2021. The Respondent issued a provisional bill of Rs. 9,64,720/- for 105433(=185702-80069) units for 19 months for the period of Jan. 2020 to July 2021 by giving credit of average billing.

9. The meter of the Appellant was tested in the testing laboratory of Nagar Road Division on 21.08.2021 and in NABL accredited laboratory on 29.12.2021. The test results of the meter for both the testing, were found in order.

10. The Appellant contended that Circular No. 50 dated 22.08.2006 of the Respondent is applicable to them. The difference between the billing as per actual reading and average bill should be recovered from the salary of the concerned meter reader and crediting to the Appellant's bill. A careful reading of this circular shows that it was not stated anywhere for crediting the difference of the bill to the Appellant. This is an internal circular for improvement of the Respondent's billing system.

11. The Section 56 (2) of the Electricity Act, 2003 is reproduced below:


"(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity."


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This Section 56 (2) of the Act has been interpreted by the Larger Bench Judgment dated 12.03.2019 of the Bombay High Court in W.P. No. 10764 of 2011 with Other Writ Petitions. In this particular case, the 'average' bills were issued as actual meter reading could not be recorded during the pandemic due to staff shortage. This is a bonafide mistake of the Respondent; however, the Respondent should have verified the readings in February or March 2020, once the readings started coming much higher than before. The supplementary bill was issued for 19 months which is less than the period of 24 months as provided in Section 56(2) of the Act. The average consumption of the Appellant was 5549 units per month for the period from Jan.2021 to July 2022(19 months). The consumption pattern of the Appellant for the last one year varies from 8056 to 12522 units per month for the current period of Dec. 2021 to Nov. 2022 as per actual meter readings. The average consumption is comparable to this.

12. The Forum, in its Order dated 10.08.2022 has rightly analysed the case with proper reasoning.
13. In view of the above, the Respondent is directed as under: -
 - a) to revise the bill by withdrawing interest and DPC, levied if any, for the period of grievance mechanism from 13.09.2021 to the date of this order.
 - b) to allow the Appellant to pay the revised bill in six equal instalments. If the Appellant fails to pay any instalment, proportionate interest will be accrued, and the Respondent has the liberty to take action as per law.
 - c) Compliance to be submitted within two months from the date of issue of this order.
 - d) Other prayers of the Appellant are rejected.
14. The Forum's order is modified to the extent above.


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15. The Representation is disposed of accordingly.

16. The secretariat of this office is directed to refund the amount of Rs.25000/- deposited by the Appellant by way of adjustment in the ensuing bill.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

