

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 51 OF 2021

In the matter of excess billing

Ashok Maruti Mhatre Appellant
(M/s. Saibaba International – A/c. No. 101165009)

V/s.

Adani Electricity Mumbai Limited (AEML)..... Respondent

Appearances:

Appellant : Ashok Maruti Mhatre
Respondent : 1. Mritunjay Kumar Jha, Nodal Officer
2. Shrikant Pathak, Asst. V.P.
3. Arun Ayare, G.M.
4. Suresh Patil, G.M.


Coram: Deepak Lad

Date of hearing: 7th July 2021

Date of Order : 11th August 2021

ORDER

This Representation is received on 20th May 2021 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations 2006) against the Order dated 10th May 2021 passed by the Consumer Grievance Redressal Forum, AEML (the Forum).


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2. During scrutiny of this case, it was noticed that as per the Forum's order, there are outstanding dues of more than Rs.50000/-. Hence, the Appellant was required to pay Rs. 25,000/- towards deposit as per Regulation 17.9(f) of CGRF Regulations 2006. Notice was served to the Appellant on 21.05.2021 for payment of deposit. The Appellant paid the deposit of Rs. 25,000/- on 14.06.2021. Therefore, the Representation is registered on 14.06.2021.

3. The Forum, by its order dated 10.05. 2021 has dismissed the Grievance Application No. 7/2020.

4. Aggrieved by the order of the Forum, the Appellant filed this representation stating in brief as under:


- (i) The Appellant is a residential consumer (Account No. 101165009), under the name of M/s. Saibaba International, Saibaba Complex, 53 54, Saichand B Wing, Goregaon (E) Mumbai.
- (ii) The Respondent issued excess bill on estimated basis for the period March 2020 to July 2020. The Appellant's premise is One Bedroom Hall Kitchen (BHK). The said premises has one Split AC having capacity of 1.5 Ton, and also one portable AC (Bluestar) of 1.0 Ton. The excess bill was issued on 01.08.2020 claiming an amount of Rs. 80,870/-.
- (iii) The units consumed from February 2020 to July 2020 is tabulated as below:

Meter No.	Date	Reading	Consumption	Remarks
8384640	27.02.2020	32245		
8384640	27.03.2020	32450	205	
8384640	27.04.2020	32669	219	
8384640	27.05.2020	32881	212	
8384640	26.06.2020	38358	5477	Rs. 80870/-
8384640	28.07.2020	40222	1864	
8384640	12.08.2020	40851	629	
8966635	13.08.2020	0		


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- (iv) The Respondent did not take actual meter reading for the month of March 2020 to May 2020 and the bills were generated by Respondent on the basis of estimated bills.
- (v) The electricity bill for the month of July 2020 was prepared by taking undue advantage of some defect in the meter (Development of Black Spot) which had taken place in the month of June 2020. In view of the said defect, when the meter was read on 26.06.2020, the units consumed shown as 5477 and meter reading was shown as 38358 KWh. The said defect in the meter further continued in the month of July 2020 and hence when the meter reading had been taken on 28.07.2020, the consumption was shown as 1864 units and meter reading shown as 40222 KWh.
- (vi) Taking undue advantage of this defective meter which had taken place in the month of June 2020, the Respondent demanded sum of Rs. 61,490/- by claiming excess consumption by discarding the actual meter reading which had taken on March 2020 to June 2020. The said additional demand of Rs. 61,490/- was incorporated in the bill issued for the month of July 2020. For the month of July 2020, Appellant was charged 1864 units and the total amount incorporated in the bill of July 2020 was Rs. 80,870/-.
- (vii) For the month of August 2020, the units consumed till 13.08.2020 was 629 units. The old meter replaced with new meter bearing No.8966365. The representative of the Respondent also checked all the equipment used by the Appellant. The consumption recorded by the new meter is incorporated in the bill issued for the month of August 2020 and unit consumed is shown as 87 units. The said bill was served in first week of September 2020.
- (viii) While leaving the Appellant's premises, the said representative also directed him to lodge a complaint with the Respondent. Accordingly, the Appellant filed its written complaint with the Respondent on 28.08.2020 for the excess bill of July 2020 wherein Rs. 61,490.71 for the month of March 2020 to June 2020 as well as for the month of July 2020 for Rs. 19,382/- were claimed. This total bill of Rs. 80,870/- was received for the first time in August 2020.


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- (ix) The Appellant received a letter dated 13.10.2020 from Respondent informing him that the bill for the month of March 2020 to May 2020 was generated on the basis of average consumption and on taking actual reading in the month of June 2020, the Respondent realized that the Appellant was underbilled and was called upon to pay Rs.45,843.86. The said statement of Respondent was incorrect. The Appellant has been provided with the order dated 20.04.2021 (along with meter reading statement) which clearly indicates that meter reading had taken place in the month of March 2020 to May 2020. Thereafter, on 31.10.2020, a letter was addressed to the Appellant informing that the demand raised by the Respondent was proper and if the Appellant is aggrieved then he should approach the Internal Grievance Redressal Cell (IGRC). Accordingly, complaint was further lodged in IGRC with prescribed format on 26.11.2020 which was disposed of on 30.12.2020 without relief.
- (x) The IGRC instead of examining the defect in meter (development of Black Spot) justified the higher demand of Respondent by contending that higher consumption is by New Portable AC which the Appellant installed. The Appellant was also directed to get the Portable AC examined with the Blue Star Company being the manufacturer. The defective meter was replaced on 13.08.2020. The meter was allegedly tested on 14.08.2020 in the absence of the Appellant. As the order of IGRC was without any substance and have not examined the possibility of incorrect recording of consumption and had merely proceeded on the basis of the consumption recorded by said defective meter. Estimated consumption was based upon the consumption recorded by the said defective meter for the period from June 2020 to 13.08.2020 (up to the meter replacement). Thus, injustice is caused.
- (xi) The Appellant got the said Portable AC tested through Blue Star Company who gave a report that the said AC does not consume any higher electricity.
- (xii) Thereafter, the Appellant approached the Forum on 11.03.2020. The Respondent contended that there was no defect in the meter and higher consumption was due to the Portable AC unit. The Forum passed an order on 10.05.2021 and dismissed the Grievance by making observation that since the functioning of the meter is


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found ok, there is no provision in the act authorizing the Forum to interfere with the actual meter reading. The Forum totally overlooked the fact that bill for the month of March to May 2020 was collected and issued as per the meter reading. The Forum committed error by not looking into the last consumption pattern which was within the range of 200 to 250 units per month. Similarly, even the new meter has recorded monthly consumption as 200 to 250 units.

- (xiii) Both, the IGRC and the Forum totally neglected the fact that meter reading had taken place in the month of March 2020 to May 2020 and consumption recorded was up to 215 units. The consumption recorded by the newly installed meter is also below 250 units approximately. There was no possibility of the Appellant residing in one BHK to consume 1500 to 1800 units per month.
- (xiv) The Appellant, therefore, prays that the amount of Rs. 22,500/- deposited by the Appellant be refunded and the demand raised by the Respondent claiming an amount of Rs. 80,780/- be set aside.

5. The Respondent filed its reply dated 30.06.2021 by email stating in brief as under: -


- (i) The Appellant is a residential consumer (Account No. 101165009), under the name of M/s. Saibaba International, Saibaba Complex, 53 54, Saichand, B Wing, Goregaon (E) Mumbai.
- (ii) The Appellant has filed the instant Representation against the excess billing for April 2020 to June 2020 on electric meter No. 8384640.
- (iii) At the outset, the Respondent repudiates entire allegations as made by the Appellant as the same is unfounded and nothing shall be deemed to be admitted unless same is specifically admitted hereunder.
- (iv) It raises monthly bills to its consumers and the billing amount is calculated based on the electric meter installed by it and taking into consideration tariff rates applicable.
- (v) That a nationwide lockdown was imposed including Mumbai, under the order/s passed by the Government/s. In view of the Covid-19 epidemic, the Maharashtra Electricity Regulatory Commission (the Hon'ble Commission) issued Practice


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Direction on 26.03.2020, whereby ‘*Measures to Minimize Public Interface in view of Coronavirus epidemic (Covid-19)*’ was brought in force. The said Practice Direction was issued to ensure uninterrupted power supply and also considering the handicaps that a Distribution Licensee would encounter during the epidemic induced lockdown.

- (vi) Under the said Practice Direction, the distribution licensees were to ensure continuous power supply and permitted the distribution licensees to suspend certain non-essential services that required visiting consumers’ premises or meeting consumers in person, such as meter reading and billing. In 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).
- (vii) As per Regulation 7.2 of the Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 (SOP Regulations 2014), in case the Distribution Licensee is unable to carry out the meter reading during billing cycle, the Distribution Licensee would prepare and provide a provisional bill to the consumer based on the average consumption of last three billing cycles wherein the meter readings were carried out. It is further stated that the amounts paid in the provisional bills shall be adjusted against the bills raised on the basis of actual meter reading during the subsequent billing cycle.
- (viii) On account of the Covid-19 epidemic and the lockdown imposed, the employees and /or the representatives of Respondent were unable to take the meter reading of consumers. Hence, the Respondent requested its consumers, through SMS, WhatsApp, and emails, to click pictures of the actual meter readings and forward the same to the Respondent enabling to raise bills thereon. However, majority of the consumers did not adhere to the said request made. In the absence of access to the actual meter reading, Respondent had to adopt the procedure enumerated in Regulation 7.2 of the SOP Regulations 2014 read with the said Practice Direction



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and thus, Respondent issued provisional / average bills, based on the average of the previous three months.


- (ix) Pursuant thereto, lockdown was imposed with certain relaxations in the month of June 2020 and Respondent were able to record the consolidated actual meter readings. Upon inspection of the Appellant's electric meter, it was discovered that the electricity consumed by the Appellant for the months of March 2020 to June 2020, viz. an aggregate of 6113 units. Hence, an amended bill dated 22.07.2020 was issued giving due credit of average billing with slab adjustments.
- (x) The Appellant registered a high bill complaint on 12. 08.2020. Accordingly, the Respondent checked the meter (No.8384640) on 12.08.2020 at site, the meter was found working as "ok", the same was communicated to the Appellant. The consumption data was retrieved from the meter, and it was found that the Appellant was estimated on the lower side and consumed energy units have been accumulated in the month of June 2020 bill.
- (xi) The old Meter No. 8384640 was replaced with new Meter No.8966365 as the old meter had developed black spot in the display. The developing of black spot in meter display does not mean that the meter is not recording energy consumption. However, for reconfirmation of meter data downloaded, the old meter was sent to the meter testing laboratory (NABL accredited laboratory) of the Respondent. The meter test result of the meter found in order as per the test report dated 14.08.2020. The Appellant was in principle verbally agreed and satisfied with the test report and thereafter never questioned about the functioning of the meter. Therefore, as per the process the meter was sent for scrap. However, he is reluctant to pay the bill amount.
- (xii) The Appellant filed its grievance application in Internal Grievance Redressal Cell (IGRC) on 26.11.2020. The IGRC vide its order dated 30.12.2020 as

*"1. The consumer to get the new portable AC of Bluestar Co. checked thoroughly & take up the case further with them, in case of any issue with the functioning of the AC machine.
2. For AEML, not to disconnect the supply, till the case is resolved & as the consumer is paying the current bill."*


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- (xiii) Without prejudice to the aforesaid submissions, with regard to email copy of examination report of the manufacturer attached by the Appellant, in the said report it is mentioned that *“As machine consumes around 5 Amp and machine can be run up to 8 amp so the machine is not consuming the electricity for your information.”* The Respondent humbly submits that in the said report it is mentioned that the machine is not consuming the electricity for your information. For the sake of understanding, an electric machine cannot run without electricity and the report of the manufacturer which was shared after prolonged follow up by the Appellant suggests that machine is not consuming electricity. It is submitted that for energy consumption billing, the report of the manufacturer cannot be considered nevertheless, the reliability of report itself need to be revalidated by the Appellant for his own satisfaction.
- (xiv) The Appellant approached the Forum on 10.03.2021. It is submitted that while the dispute was pending before the Forum, the Respondent once again explained and endeavoured to resolve the entire issue, nevertheless the Appellant is reluctant to understand the fact that the billing is done for the actual consumption recorded in the meter and as per the tariff order. It is pertinent to mention that since July 2020, the Appellant has not paid the amended bill amount to the Respondent and due amount accumulated to Rs.50494.05 as on 29.06.2021.
- (xv) The Forum, by its order dated 10.05.2021 has dismissed the grievance application after careful consideration of the entire facts, documents on records, details and submissions made by the parties and there is no infirmity in the impugned order, therefore the order passed by the Forum does not warrant any interference.
- (xvi) The bill raised is correct, valid and the Appellant is duty bound and under obligation to pay the entire amount due along with the interest on arrears and Delay Payment Charges (DPC) which are applicable in terms of the Regulations and Tariff framed by the Hon’ble Commission.
- (xvii) In view of the above facts and circumstances, it is prayed that the Representation of the Appellant be rejected.


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5. The Appellant files its written argument by email dated 05.07.2021 and by hand delivery stating in brief as under: -

- (i) Appellant is residing in a flat consist of one BHK and the average consumption of units per month prior to March 2020 was from 250 to 300 units which can be seen from the meter reading and consumption chart produced by the Respondent dated 26.04.2021. Due to Covid-19 epidemic, actual meter reading was not taken by the Respondent and Respondent issued bill for the period March 2020 to May 2020 on the basis of past consumption. The said bills were not served upon the Appellant.
- (ii) There was a defect in the meter during the period March 2020 to June 2020 and meter was running fast. When the meter reading was taken on 26.06.2020, the reading was shown as 38358 KWh and on the basis of the said reading Appellant was charged for having consumed 5477units. The Respondent revised the electricity bill issued for the month of March 2020 to May 2020 on the basis of consumption recorded in the meter for the month of June 2020 and came to conclusion that the Appellant has consume 4585 units and called upon the Appellant to pay sum Rs.45,843.86 and added the said estimated demand in the bill issued for the month of July 2020 and called upon the Appellant to pay sum of Rs.80,870/-.
- (iii) Appellant immediately raised a dispute. Thereafter the old meter (No..8384640) was removed and new meter (No.8966365) was installed on 14.08.2020. The new meter recorded the consumption of units as 87 units for the month of August. The units consumed is between the ranges of 250 to 300 units per month.
- (iv) The Appellant thereafter got the portable AC checked and submitted the report to the Forum. It is understood that during lockdown as people were not permitted to move out there was possibility of more consumption of electricity but not abnormal consumption.
- (v) The fact stated by the Appellant is not disputed but have relied upon meter reading and meter test report carried by Respondent. The Respondent thus justified their higher demand.


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- (vi) The Respondent are trying to take undue advantage of its own mistake for technical defect. Admittedly, old meter bearing No.8384640 was defective and had developed black spot.
- (vii) Complaint regarding fast running of meter was lodged by the Appellant orally on 12.08.2020 and therefore premise was visited on 12.08.2020 by technicians of Respondent. The said technicians thoroughly examined all the fittings and fixtures of electricity connections as well as meter. When the said technicians noticed development of black spot in old meter bearing No.8384640 they removed the same and install new meter bearing No.8966365. This fact indicates that there was some defect in recording consumption of unit and meter require replacement. These facts indicate that the average consumption of the Appellant cannot be more than 250 units per month and hence the bill generated by the Respondent for the month of March 2020 to May 2020 for consuming 636 units was proper and there was no need to issue any supplementary revised estimated bills.
- (viii) Act of the Respondent in demanding amount of Rs. 80,870/- is arbitrary and against the principle of natural justice. The report of the meter testing was also not furnished to the Appellant. Appellant therefore is deprived with opportunity to get the said report contradicted by examining another expert. The said meter testing is of complicated nature and no comments, affidavit or any letter is given by person who has examined and tested. Moreover, the item mentioned in the meter reading do not spell out the meaning and common man with reasonable prudent will not understand. The Forum has not explained the said meter reading. Even in reply filed by Respondent the said report is also not explained, and it is merely mentioned that the old meter was found ok. In the meter report, the said facts are not mentioned thus validity of the functioning of meter is presumed to be ok and Respondent has acted upon the defective meter. Thus, the entire act is against the principle of natural justice, arbitrary and malafide.
- (ix) The Forum committed great error in not considering the report of Blue Star Company on consumption of unit by Portable AC. Respondent had not produced any opinion of other experts to dispute the validity of the said report. In the said


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report it is clearly mentioned that the Portable AC consumed around 5 Amp and sometimes run into 8 Amp. Since there was no material to raise doubt on the correctness of the said report, the same should have been accepted by the Forum. It is further mentioned that no material was produced on record to show how much time portable AC was used.

- (x) The validity of the report of Blue Star Company was not disputed or contradicted. Similarly, the Forum also committed error in observing that both the ACs namely Split AC of 1.5 ton as well as portable AC and fans were used at a time. If a person used AC unit then there is no question of he using portable ac as well as fan. If all electrical equipment's are used at a time and continuously used at a time it may result into fire due to excessive used.
- (xi) The IGRC proceeded on the basis of assumptions and presumptions and it was brought to notice of IGRC that the premises was used by his son alone and there are no other person residing and occupying the same. The son of the Appellant was using the said premises only for the study purpose as the exams were approaching. Thus, there was no possibility of son of the Appellant used Split AC, Portable AC and Fans at a time.
- (xii) Thus, the entire finding of using the AC for continuously and long-time is without any material.
- (xiii) The IGRC as well as Forum committed error in neglecting the fact that the consumption of the unit recorded by the new meter is between the ranges of 200 to 250 units though the Appellant has used the portable AC and all other equipments. If these facts taken into consideration, it will be seen that the bill issued on average basis for the month of March 2020 to May 2020 is without any substance.
- (xiv) The entire dispute pertains to estimated bill issued by the Respondent for the period of March 2020 to May 2020 and demanding sum of Rs.45,843.86. The said aspect is repeated by IGRC in its order dated 30.12.2020. It is admitted by Respondent that sum of Rs. 22,500/- against the demand of Rs. 45,843.86 was paid. It is admitted position that I have deposited sum of Rs. 25,000/- before this Hon'ble Forum. Thus, more than bill amount, the Appellant has paid and nothing is due and


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payable by him if at all any adverse order is passed. Respondent therefore be restrained from making further demand and be directed to collect bill as per the actual consumptions.

(xv) Therefore, the application deserves to be allowed.

6. The hearing was held on 07.07.2021 on e-platform through video conferencing due to the Covid-19 epidemic and the conditions arising out of it.

7. The Appellant argued in line with his written submission. He argued that he received an excess bill for the month of July 2020 amounting to Rs.80870/- whereas bills up to June 2020 are paid. The said bill was received in August 2020. He orally complained to the Respondent. The officials of the Respondent visited his premises, tested the load, and changed the meter on 12.08.2020. They also advised the Appellant to file a written complaint with the Respondent. Written complaint dated 26.08.2020 was given to the Respondent stating that the amount charged in the bill is not only excessive but unreasonable and illogical. The Respondent has claimed demand of Rs.61,490/- towards the previous period of April to May 2020 and Rs.19,382/- for July 2020, the current month. The Appellant argued that he has been charged excessively for his residence premises which he never consumed compared to his past consumption which never exceeded 400 units and told the Respondent to withdraw the said bill. No relief was received from the Respondent, the complaint was further lodged with IGRC on 26.11.2020 which was disposed of on 30.12.2020 without relief with an observation that the portable AC of Blue Star was consuming high units. The said AC was tested and found in order. Thereafter, the Appellant approached the Forum on 11.03.2020. The Respondent contended that there was no defect in the meter and higher consumption was due to the Portable AC unit. The Forum passed an order on 10.05.2021 dismissing the grievance application. Hence, this representation before the Hon'ble Electricity Ombudsman.

8. The Respondent reiterated its arguments as per its submission. It argued that an average bill was given for the period of April to May 2020 as per the Practice Direction of the Hon'ble Commission due to the restrictions of Covid-19 epidemic. The actual reading was then taken


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in the month of June 2020 when the lockdown due to the epidemic was eased and it was found that the average bill for the said period was on the lower side, hence, the actual reading of the said period including the reading of June 2020 together was clubbed in the bill of June 2020. The Respondent has also submitted the reading chart from which the readings of December 2019, January 2020 and February 2020 for 243, 284 and 122 respectively totalling to 649 and average coming to 216 units. Thereafter, bill for 205 units was sent. Shri Phatak, Asst. V.P. pointed out that 3 months average multiplied by number of days is taken and then the bill is sent. The meter was tested at site on 14.08.2020 in the absence of the Appellant and found to be working properly. Shri Phatak stated that the test report was already shared with the Appellant at IGRC level. The meter display was blank, and its data was downloaded through MRI. The Hon'ble Electricity Ombudsman remarked that it is obligatory on the part of the Respondent to serve notice to the consumers for testing of the meter.


9. During the hearing, Respondent was directed to submit the following:

- (a) Policy of scrapping of meter.
- (b) Statement on consumption in 4 burning hours scenarios.

The Respondent also volunteered to call the Appellant for a meeting to take a call on the entire issue.

10. Post hearing, the Respondent has submitted additional notes of arguments by email dated 20.07.2021. The Respondent has also agreed to appear physically to clarify the calculation and explain the same.

- (i) The present Representation is filed by the Appellant and same is pending for adjudication before this Hon'ble Authority. The Respondent has submitted its detailed reply along with the annexure to this Hon'ble Authority.
- (ii) During the hearing on 07.07.2021 through video conference, the Respondent has made its oral submissions of arguments where the Hon'ble Authority raised certain points and directed the Respondent to submit the consumption calculation considering the connected load of premises of the Appellant and various scenarios


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of consumption based on utilization of connected load /appliances. In view of the observations of the Hon'ble Authority, the Respondent requested for one more opportunity to explain and discuss the issue with the Appellant with an endeavor to resolve the issue amicably. On request of the Respondent and with consent of the Appellant, this Hon'ble Authority was pleased enough to grant an opportunity to the parties to resolve the billing issues amicably.

- (iii) Now this written note of submission / Arguments is submitted and it is humbly requested that this may kindly be read as part of parcel of the submissions and pleadings of the Respondent.
- (iv) The Respondent humbly represents the entire facts in chronological order. The following pointed submissions are imperative for the proper adjudication of the captioned Representation.
- (v) From the entire grievance/ representation of the Appellant, it may be seen that he has primarily raised the following two issues:
- I. Excess billing on estimated basis for the period March 2020 to June 2020.
 - II. Bills to be raised on the average consumption basis reflected in the newly installed meter.
- (vi) The Respondent humbly refer and rely on the Regulation 14.4 of the Supply Code Regulations 2005 which deals with the Testing and maintenance of Meter. The sub rules of Regulation 14.4. enunciates as under: -


“14.4.1 The Distribution Licensee shall be responsible for the periodic testing and maintenance of all consumer meters.

14.4.2 The consumer may, upon payment of such testing charges as may be approved by the Commission under Regulation 18, request the Distribution Licensee to test the accuracy of the meter:

Provided that the consumer may require the Distribution Licensee to get the meter tested at such facility as may be approved by the Commission.

14.4.3 The Distribution Licensee shall provide a copy of the meter test report to the consumer within a period of two months from the date of request for testing of meter by the consumer.”


It is humbly submitted that during site visit, the personnel of the Respondent found that black spot has developed in meter display and therefore the meter was replaced


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on 12.08.2020 in the presence of the representative (Son - Mr. Sumit) of the Appellant. The Respondent filled all meter downloaded details in the meter replacement form and mentioned remark as MRI done & Lab test, the said meter replacement form was duly signed by the representative of the Appellant. Thereafter, for reconfirmation of the MRI download and accuracy of the meter, as per the internal practice the Respondent, suo- moto referred the meter to its meter testing laboratory. Since the meter was sent only for the reconfirmation purpose therefore the Appellant was not invited to witness the meter test. It is pertinent to mention here that Appellant is a well-qualified legal professional and nowhere in his complaint and / or at any point of time he has ever disputed the meter accuracy or MRI test report, furthermore he has never approached the Respondent for meter testing as provided under Regulation 14.4.2. Consequently, as per the general practice the meter was scrapped.


- (vii) It is submitted that in reply to letters of the Appellant, the Respondent vide its letters dated 13.10.2020 and 31.10.2020 have apprised the entire facts and calculation to the Appellant however he is insisting to calculate the bill on average consumption basis.
- (viii) The Respondent prepared the calculation chart considering the various scenarios and visited the site to revalidate the facts for high consumption for a limited period of month from March 2020 to June 2020. The personnel of the Respondent again visited the site, during site visit by the senior officials of the Respondent, they met Mr. Sumit, son of Mr. Ashok M. Mhatre (Appellant herein) and discussed the entire facts and details at length. During discussions, the following facts came to the knowledge of the Respondent that:
- a) Some friends of Mr. Sumit from Los Angeles had arrived and due to lockdown, they resided somewhere from February 2020 onwards at his residence.
 - b) Both air conditioners were being used.
 - c) They used microwave to heat their lunch and other foods.
- (ix) Thereafter, the Respondent invited the Appellant at their office on 13.07.2021 at 11.30 a.m. for a meeting / discussion to resolve the issue. The Appellant visited


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the office of the Respondent, entire facts were deliberated and again explained to with an intention to resolve the issue, nevertheless the Appellant did not agree to the same and insisted to raise the bill on estimate basis, based on his past consumption.

- (x) The Respondent humbly submits that under the provisions of Supply Code Regulations 2005, raising of electricity consumption bills on average and estimate basis are allowed only under certain scenarios such as, where meter is not accessible (subject to correction after actual meter reading is available) and when the meter has stopped recording the consumption. In the instant case, actual consumption recorded in the meter is available, the Respondent have shared the consumption downloaded from meter and MRI report with Appellant as well as with this Hon'ble Authority. Further, the National Accreditation Board for Testing and Calibration Laboratories (NABL), accredited meter testing laboratory of the Respondent in its test report has established units recorded in meter which is matching with the billed units. Furthermore, the bill is raised as per the applicable tariff in line with the tariff order passed by the Hon'ble Commission, therefore, the Respondent is unable to accede Appellant's request / suggestion to calculate the bill on average basis and the meeting to resolve the issue amicably completed without concrete result/ resolution. Further, in compliance with the oral direction of this Hon'ble Authority, the Respondent have prepared calculation sheet considering connected load and different scenarios of consumption hours. A copy of calculation sheet with multiple usage scenario is attached.
- (xi) The prayer of the Appellant is denied in toto. In fact, the bill raised is correct, valid and the Appellant is duty bound and under obligation to pay the entire due amount along with the interest on arrears and Delay Payment Charges (DPC) which are applicable in terms of the Regulations and Tariff framed by the Hon'ble Commission.
- (xii) In view of the above-mentioned facts and circumstances, it is most respectfully prayed that this Hon'ble Authority be pleased enough to direct the Appellant to pay entire due amount of Rs.50,494.05 on 29.06.2021 and reject the representation.



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11. The Appellant countered to the notes of additional written arguments submitted by the Respondent by email on 24.07.2021 and by hand delivery on 26.07.2021 which is as follows:

- (i) The Appellant submits that he has been served with the notes of additional written argument by the Respondent justifying the claim.
- (ii) The entire additional note of argument is required to be rejected as there was no direction issued by this Hon'ble Forum on 07.07.2021 directing the Respondent to file any consumption calculation. The additional notes of arguments are nothing but enhancing the scope of the dispute or bringing additional issue which was not before the lower authorities.
- (iii) The issue involves in the present representation is;
 - (a) Whether the issuance of enhance bill on the estimated basis by the Respondent for the period commencing from March 2020 to July 2020 claiming sum of Rs. 80,870/- was proper?
 - (b) Whether meter testing was done by the Respondent strictly in accordance with the Regulation No. 14 of the Supply Code Regulations 2005? Whether Respondent was justified in carrying out meter testing in absence of Applicant?
 - (c) Is it possible to consume 1500 to 1800 units per month for the residential premises of One BHK?
- (iv) Whether Respondent was justified in destroying and / or disposing of the old meter bearing No. 8384640 when dispute regarding functioning of the meter was pending before competent authorities?

On 07.07.2021 Appellant raised the above referred issue and hence the Hon'ble Ombudsman raised a query with the Respondent whether it is possible to consume more than 1500 units per month. The Hon'ble Ombudsman further directed the Respondent to arrive at the figure considering consumption of common man.
- (v) The Respondent totally misinterpreted said observation and considered the said observation as an order and made an attempt to recalculate the consumption pattern. The Respondent considered user of all the electrical equipment for 12 hours, 18


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hours and 24 hours. While determining estimated consumption, the Respondent totally overlooked the present consumption of units which is in the range of 250 to 300 per month. The estimated consumption produced along with additional notes of arguments is totally illogical. I am mentioning below the illogical calculation.


a) The portable AC of One Ton was shown as used for 12 hours in the bedroom and AC fixed at the bedroom is also shown as used for 12 hours. At the same time fan was also shown as working for 12 hours. It is impossible to believe that when AC is functioning nobody will use fan. Moreover, it is impossible to believe that the AC in the bedroom is used for 24 hours. Thus, the presumption on the part of Respondent regarding consumption of unit for 24 hours in the bedroom is illogical.

b) Similarly in the Hall fan is shown as used for 12 hours and tube light is also shown as functioning for 12 hours. If a man using bedroom for 24 hours there is no question of applicant's son using hall at any time. Consumption of units in the hall is therefore unfounded and without any substance.

c) Similarly in the kitchen it is shown that fan and the tube light is working for 12 hours, and oven is also used. Double Door fridge and washing machine is also shown as used and the consumption shown for Double Door Fridge is 8.4 units per day the recording of the said consumption for the kitchen portion is also impossible to believe. When a person is using tube light and the AC 24 hours in the bedroom there is no question of any person keeping tube light and fan functioning for 12 hours. Nowadays almost all the consumers used Double Door fridge and Washing Machine. If the consumption estimated by the Respondents is taken as true, the units consumed by the said equipment will be 252 units for only fridge.

d) The Respondent have also added the consumption of unit by Geyser and LED Bulbs in passage and bathroom. Respondent has also added LED bulb in Bedroom. If a person is using tube light, there is no question of using LED Bulb.

e) In the bedroom there was a LED TV and shown as functioning for 12 hours and units are consumed by the said LED TV is added. At the relevant time, Appellant was not having any TV.



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- (vi) The Respondent have merely given consumption of an electricity units by the various equipment. It is not mentioned that the Appellant was having all the equipment and same were functioning for 12 hours. The dispute is raised by the Appellant as charge levied by the Respondent on estimated basis is very high and without any substance. The justification sought to be given by submitting report on consumption of electric unit by the equipment mentioned in the said statement cannot be accepted as the equipment mentioned in the statements are not in the Appellant's premises and moreover the said equipment is not used for 12 hours.
- (vii) Admittedly son of the Appellant is residing in the premises and one person cannot under any circumstances use the electrical equipment for the periods mentioned in the statements. The Respondent has also tried to misled this Hon'ble Forum by mentioning the facts that one of the friends of the Appellant's son had visited the premises and hence there was higher consumption. The said contention is totally incorrect as during those periods there was no international travelling allowed. The said visitor is no one else but the person residing in the same building on ground floor and he was not staying with the Appellant. Moreover, the said friend of the Appellant has returned to India in the year 2021 and he was not in India during February 2020 to July 2020. This is substantiated by the travel documents of the incumbent.
- (viii) In the circumstances it is most respectfully prayed that the Representation be allowed, and the order of the Forum be set aside.

Analysis and Ruling

12. Heard the parties and perused the documents on record. There is no dispute about the manner in which the bills have been prepared by the Respondent for the months of March, April, and May 2020 as per the Practice Directions issued by the Hon'ble Commission. The bills for these three months are issued on average basis and actual reading taken in the month of June 2020. Total consumption of March, April, May, and June 2020 is spread over almost equally by the Respondent. The dispute raised by the Appellant is the bill for the month of June 2020. The Appellant is of the firm opinion that the Respondent has raised the bill for


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month of March, April, and May 2020 as per the actual reading for consumption of 205, 219 and 212 units respectively whereas consumption for the month of June 2020 is shown as 5477 units which is extremely high compared to March, April, and May 2020.

On the contrary, the Respondent argued that actual readings were not taken for the March, April, and May 2020 due to Practice Direction issued by the Hon'ble Commission pursuant to Covid-19 epidemic. The Respondent further argued that the entire consumption from March to June 2020 has been spread over these months almost equally and slab benefits as per the Tariff Order is given to the Appellant. The Appellant is not the only consumer which has been meted out this treatment, but it is implemented for all its consumers. The Appellant tested the meter on site, which was found in order, however, the meter was replaced as its digital display counter developed fault and was not showing any reading. The meter was again tested in the laboratory and its data retrieved. There was apparently no fault in the meter as was seen from the data except that the display counter was faulty. The data log shows that there was substantial consumption during these four months.

I observed that the Appellant in his submission has stated that he has orally complained about excess bill to the Respondent pursuant to which the Respondent sent its team for inspection on 12.08.2020. The visiting team observed a black spot on the meter and therefore removed it on the same day. Then the Appellant filed his first written complaint dated 26.08.2020 with the Respondent which was shown received on 28.08.2020. The Respondent tested the meter in its laboratory on 14.08.2020 under the Material Code 2000678986. Therefore, it is clearly seen that the Respondent was aware of the nature of the complaint prior to 12.08.2020. The nature of the complaint is also recorded on meter replacement report as "High Consumption Complaint". On being queried during the hearing, the Respondent informed that the meter was scrapped and is no more available. I am unable to understand that when the Respondent was aware of the nature of the complaint, how come it has not expected that the Appellant may resort to grievance redressal mechanism available under the Electricity Act 2003. Therefore, the logic in scrapping the meter so early is beyond imagination.

The Respondent in its submission has stated that it has received complaint of high bill on 12.08.2020. Its staff checked the meter on the very same day and found working 'ok' and same was communicated to the Appellant. In this submission, there is nothing which proves that it


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has called upon the Appellant to witness the so-called inspection /checking of the meter at the site. Probably, the Respondent appears to have ignored the important and mandatory provision of Regulation 7 of Supply Code Regulations 2005 which stipulates as below:-

“7. Maintaining the Property of the Distribution Licensee

No person other than an Authorised Representative or any other person authorised under the Act and the rules and regulations made thereunder shall be authorised to operate, handle or remove any electrical plant, electric lines or meter or break, remove, erase or otherwise interfere with the seals, name plates and distinguishing numbers or marks affixed on such property of the Distribution Licensee placed in the consumer’s premises:

Provided that such Authorised Representative shall not perform any of the acts under this Regulation 7 except in the presence of the consumer or his representative:

Provided further that the Distribution Licensee shall provide prior intimation to the consumer of the visit of the Authorised Representative to the consumer’s premises, except where the Distribution Licensee has reason to believe that any person is indulging in unauthorized use of electricity and / or is committing an offence of the nature provided for in Part XIV of the Act on such premises.”

“14.4 Testing and Maintenance of Meter


14.4.1 The Distribution Licensee shall be responsible for the periodic testing and maintenance of all consumer meters.

14.4.2 The consumer may, upon payment of such testing charges as may be approved by the Commission under Regulation 18, request the Distribution Licensee to test the accuracy of the meter:

Provided that the consumer may require the Distribution Licensee to get the meter tested at such facility as may be approved by the Commission.

14.4.3 The Distribution Licensee shall provide a copy of the meter test report to the consumer within a period of two months from the date of request for testing of meter by the consumer.

14.4.4 In the event of the meter being tested and found to be beyond the limits of accuracy prescribed in the Indian Electricity Rules, 1956, till the regulations are specified by the Authority under Section 55 of the Act, the Distribution Licensee shall refund the testing charges paid by the consumer and adjust the amount of the bill in accordance with the results of the test as specified in Regulation 15.4 below.” (Emphasis added)



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On homogenous reading of all the Regulations quoted above, it is clear that it was obligatory on the part of the Respondent to have preserved the meter till the adjudication of the dispute raised by the Appellant. There is no need to explain to the Respondent as to why these important provisions have been incorporated in the Supply Code Regulations 2005. The intention in framing the Regulations the way it has been framed is writ large from the opening paragraph of Regulation 7. Therefore, it is matter of grave concern, notwithstanding whether the meter is in order or otherwise, how the Respondent scrapped the meter particularly when it has not implemented the mandatory provision of Regulation 7 of the Supply Code Regulations 2005. To add fuel to the entire episode of negligence and utter disregard to the provision of the Regulation, the Respondent has absolutely left no room for further testing of the meter either at the behest of the undersigned or at the request of the Appellant whatever. On the top of it all, the Respondent has argued that the Appellant has not requested testing of the meter. It was the duty of the Respondent which is working in the field of service to the consumers at large to prove its point beyond reasonable doubt in the interest of natural justice which is the basic intention of the Regulations. This was very much required when the Respondent knew that the meter has developed snag, (whatever) as far as digital display counter of the meter is concerned. The act of commission or omission on the part of the Respondent has raised many questions than it answers. This is highly unbecoming of a utility such as the Respondent. It is important to note the spirit of Regulations quoted above for better degree of transparency. The Hon'ble Commission has taken due cognizance of the same and incorporated suitable clause by way of Regulation 15.6.4 in Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 Regulations 2021. The same is quoted below: -

“15.6.4. Before testing a Consumer’s meter, the Distribution Licensee shall give advance notice through written communication by hand delivery or post or courier or any digital means of communication of atleast Two (2) working days, intimating the date, time and place of testing so that the Consumer or his authorised representative may be present at the testing:

Provided that the Consumer’s supply shall be continued through a temporary meter which shall be used for billing the Consumer during the period in which the meter is being tested in the laboratory:


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Provided that if the Consumer or his authorised representative are not present on appointed date, time and place, the Distribution Licensee may complete the testing of the Consumer meter.”

13. The Respondent in its submission and argument said that the Appellant did not raise any issue with the healthiness of the meter and also did not request for testing of the same except saying that he has been billed excessively. The Respondent ought to understand that complaint of high energy bill is intrinsically linked with the working of the meter. Besides the Appellant not only did not pay the impugned bill but contested the same in grievance redressal mechanism. Further, on close scrutiny of Supply Code, & SOP Regulations, it could be seen that the Distribution Licensee is loaded with heavy obligations vis-à-vis the consumers in general, therefore, the Respondent was obligated to have maintained greater degree of transparency.

14. Despite grave shortcomings on the part of the Respondent, the MRI data retrieved from the meter tells a different story. The said data is tabulated in the following table:

Meter No. 8384640 of Shenzhen Kaifa Make					
Active Energy	Date	KWH Reading	Difference KWH Consumption Units	MD (KVA) @Time (Hrs) / Date	
	18.08.2020	40853	438	3.6775	04:00 /03.08.2020
History 1	31.07.2020	40415	1780	4.5075	18:30/12.07.2020
History 2	30.06.2020	38635	1831	4.1875	16:30/21.06.2020
History 3	31.05.2020	36804	1781	5.4637	18:30/25.05.2020
History 4	30.04.2020	35023	1664	3.5837	02:00/18.04.2020
History 5	31.03.2020	33359	1102	3.8225	09:00/10.03.2020
History 6	29.02.2020	32257		3.475	14:00/01.02.2020

Testing date	14.08.2020
Load	Meter Error %
100% UPF	0.15
20% UPF	0.17
10% UPF	0.23
100% 0.5 LAG	0.21
20% 0.5 LAG	0.58


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10% 0.5 LAG	0.60
Creep test	Pass
Dial test	Pass
Meter reading	40851
Accuracy class	1
Final meter status	Meter - OK

Despite technical snag in digital display counter of the meter, the above table shows that the readings at the end of the month are stored in the memory of the meter. From the above table, it is seen that during the period of March to May 2020, Maximum Demand (MD) recorded is 5.4637KVA highest in May 2020, specifically on 25.05.2020. Similarly, MD recorded is 3.5837 KVA in April 2020, specifically on 18.04.2020. It means that it has used substantial amount of power in these three months and in terms of KWH, it is 1102, 1664 and 1781 in March, April, and May 2020 respectively.

15. Submission of the Appellant that the Respondent has taken reading in the month of March, April, and May 2020 is totally incorrect as it was total lockdown in the city of Mumbai and for that in the entire State. It is because of lockdown due to pandemic that the Hon'ble Commission has issued Practice Direction which allowed all the distribution licensees in the State to bill their consumers on the basis of average / estimated consumption. Relevant quote of the Practice Direction is given below: -

“Practice Direction:

- a. *Distribution Licensee shall ensure continuity of supply. Complaints related to restoration of supply as also the safety related complaints shall continue to be attended by Distribution Licensee.*
- b. *The Distribution Licensees may suspend other non-essential services which require visiting consumer premises or meeting consumer in person i.e. Meter reading, Billing, Offline Bill Collection at Bill Payment Centres, release of new connections etc.*
- c. *Wherever Automated Meter Reading facility is available, same shall be used for meter reading.*
- d. ***In absence of Meter reading the Consumers shall be intimated through digital channels such as email, sms, mobile app about their estimated bill computed on average basis as per Supply Code Regulations.***
- e. *For bill payment, Distribution Licensee shall facilitate and update alternate payment modes i.e. digital payment mode.*
- f. *All the above measures shall be communicated through social media, electronic media and print media for wider publicity.*


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This Practice Direction shall remain in vogue till such time the Government's Order imposing restrictions on account of COVID-19 is in force." (Emphasis added)

Therefore, the Appellant's harping on the consumption being low in March, April, and May 2020 and therefore, June 2020 consumption should be worked in a similar way is totally incorrect and misfit in the set of circumstances. The Respondent's Testing Laboratory is a NABL Accredited Laboratory, testing of the Appellant's meter cannot be doubted. This is substantiated by the fact that the meter memory has recorded the amount of consumption in its history as shown above.


Similarly, the response of the Appellant, on technically calculated consumption of individual appliances submitted by the Respondent (pursuant to direction of the undersigned) has not been appreciated and analysed properly by the Appellant. The Respondent has not assumed 12 burning hours for each, and every appliance as alleged by the Appellant.

16. I, therefore, do not find any substance in the argument of the Appellant that he has been excessively billed for the following reasons:

- (a) The Respondent has not taken meter readings for March, April, and May 2020 due to pandemic and pursuant to the Practice Directions issued by the Hon'ble Commission.
- (b) The Respondent has specifically given a Note with respect to (a) above in the energy bill.
- (c) Meter memory has stored in its history the readings on last day of the month of March, April, and May 2020 which is tabulated above which belies the submission of the Appellant.

17. I, therefore, pass the following order:

- (a) The Respondent to revise the bill within 15 days without levying DPC and interest on the energy bills during the impugned period from March to July 2020.
- (b) The Appellant should pay the said revised bill in two monthly instalments.
- (c) Respondent to submit compliance within two months from the date of this order.


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18. It is a fact that the Respondent has erred in not implementing the provisions of the Regulations quoted above in letter and spirit and therefore it is a fit case to impose penalty. However, I take a lenient view and hereby severely caution the Respondent to make amend its way of working in order to achieve better degree of transparency while dealing with consumers at large. In addition, I, hereby direct the Respondent not to scrap the meter of any consumer if it receives a complaint of high bill and approaches the licensee and grievance redressal mechanism, till the issue is decided.

19. I am at pains to note that the Forum has also not taken cognizance of the Regulations in proper perspective. Hence, the Forum's order is modified to the extent above.

20. The Representation is disposed of accordingly.

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

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


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

