

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 40 OF 2022

In the matter of billing

Rakesh Chatwarbai Popli.....Appellant

V/s.

Maharashtra State Electricity Distribution Co. Ltd. Respondent
Ulhasnagar I (MSEDCL)

Appearances:

Appellant : J. S. Rajput, Representative

Respondent: Pravin Chakole, Executive Engineer


Coram: Vandana Krishna (Retd. IAS)

Date of hearing : 19th April 2022

Date of Order : 28th April 2022

ORDER

The Representation is filed on 22nd March 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 dated 18th February 2022 passed by the Consumer Grievance Redressal Forum, MSEDCL, Kalyan Zone (the Forum).


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2. The Forum, by its Order dated 18.02.2022 has rejected the grievance application in Case No. K/E/1841/2286/ of 2021-22 by giving following directions:

- “2. The consumer is directed to pay the bill in three equal instalments.
3. DPC, interest and penalty shall not be levied if consumer is ready to pay the bill in one installment; else DPC, interest and penalty shall be fully recovered.”*

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

- (i) The Appellant is a residential consumer (No. 021513013601) of the Respondent from 22.04.2003 at Flat No. 602, Sachdev Nagar II, Datta Mandir, Ulhasnagar.
- (ii) The meter (No. 6501163903) of the Appellant was found to be faulty from February 2020 onwards and was to be replaced. The said meter is installed in the common box of the Appellant's society.
- (iii) According to the Respondent, the meter was in order in the month of December 2021, and the meter recorded 6398 units as accumulated consumption for 23 months, from February 2020 to December 2021, for which bill of Rs.98540/- was issued.
- (iv) The same meter was again found faulty in January and February 2022. The Respondent, purposefully, did not replace the meter within the prescribed time but replaced it, in February 2022 which was after 24 months.
- (v) The Appellant referred Commercial Circular No. 305 of the Respondent dated 25.05.2018 which states that faulty meter be replaced within 48 hours, however, the Respondent failed to do this.
- (vi) Thereafter, the Respondent is liable for three months' recovery as per Regulation 16.4.1. As per the provision of Regulation 16.4.1 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 (Supply Code & SOP Regulations 2021), bills can be issued only for a period of three months, where the meter is defective.



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- (vii) The Appellant filed the grievance with the Forum on 03.01.2022. However, the Forum by its order dated 18.02.2022 has rejected the grievance application. The Forum failed to understand the basic issue of faulty meter.
- (viii) The Appellant has, therefore, prayed that
- bills be considered for only 3 months under faulty status as per Regulation 16.4.1 of Supply Code & SOP Regulations 2021.
 - SOP towards delay in replacement of faulty meter and compensation of Rs. 20,000/- towards harassment.

4. The Respondent has filed its reply dated 08.04.2022 which is stated in brief as under: -

- (i) Its preliminary objection is that the main Appellant, Rakesh C. Popli has not signed the Representation dated 22.03.2022, but it is signed by his so-called representative, Mr. Jagansinh R. Rajput. The Respondent strongly objected to the appearance of Mr. Jagansinh R. Rajput in this case. In most of the cases under Ulhasnagar jurisdiction, Mr. Jagansinh R. Rajput is appearing on behalf of various consumers as their representative. It is seen from the records that so far, Mr. Rajput has appeared in almost all cases of Ulhasnagar. It seems very unlikely that the same person can be a relative, neighbour, business associate or personal friend of all these Appellants. This indicates his commercial interest, and that he is getting remuneration from consumers for filing cases before the Hon'ble Forum and the Hon'ble Electricity Ombudsman. Hence, the Respondent prays that Jagansinh R. Rajput should not be allowed to appear in the present case.
- (ii) The Respondent referred the Regulations 8.10 and 8.11 of the CGRF & EO Regulations 2020 which are as below:-


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“8.10 A Complainant, Distribution Licensee or any other person who is a party to any proceedings before the Forum may either appear in person or authorise any representative other than an Advocate (within the meaning of the Advocates Act, 1961), to present his case before the Forum and to do all or any of the acts for the purpose, subject to production of duly authenticated authorisation made by the party in favour of such representative, and subject to the condition that he, -

(a) is appearing on an individual case basis;

(b) has a pre-existing relationship with the Complainant (such as: a relative, neighbour, business associate or personal friend);

(c) is not receiving any form of, direct or indirect, remuneration for appearing before the Forum and files a written declaration to that effect;

(d) demonstrates to the Forum that he is competent to represent the party.

*8.11 The Forum may within its discretion disallow any representative to appear before it in any case, for reasons to be recorded in writing, on account of breach of the terms of the undertaking or misconduct or failure in providing proper assistance to the Forum.”..... **Emphasis added.***

- (iii) The Appellant is a residential consumer (No. 021513013601) from 22.04.2003 at Flat No. 602, Sachdev Nagar 2, Datta Mandir under Ulhasnagar -3 subdivision.
- (iv) The meter having No. 6501163903 of the Appellant is proper and accurate. The Meter Reading Agency of the Respondent mistakenly showed the above meter as ‘Faulty’ Status for the period from February 2020 to November 2021. This was the Covid period. However, the meter was properly working on site for the disputed period of February 2020 to December 2021.
- (v) The Respondent has taken the accumulated meter reading of 19695 KWH of the Appellant in December 2021 and issued the bill to the Appellant as per the meter reading. The photo of the meter reading is kept on record. The Appellant was billed with accumulated consumption of 6398(19695-13297) units for Rs.68,781.63 in December 2021. The accumulated consumption is bifurcated for the period of 23 months with consumption of 278 units per month for getting slab benefit as per Residential Tariff Category. The revised

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bill of Rs. 28,560/- was issued to the Appellant and the necessary Credit was given to the Appellant in the bill of December 2021. The meter was found to be non-working from January 2022. The bills issued in January and February 2022 were also revised as per average consumption. The Appellant has unconditionally and without any protest paid the balance bill of Rs. 35,490/- on 22.03.2022.

- (vi) In above case, the meter was shown as 'Faulty' status on bills for the period of February 2020 to December 2021 even though the meter was working properly. The bills of Faulty status were already revised.
- (vii) In view of the above, the Appellant prays that the Representation of the Appellant be dismissed.


5. The hearing was held on 19.04.2022. The Representative of the Appellant was physically present whereas the Respondent attended the hearing through video conference. At the first instance, the Respondent objected to the presence of Shri J.S. Rajput, the Appellant's Representative in attending the hearing. The Respondent has alleged that the Representative has manipulated the documents and signed the present Representation on behalf of the Appellant. Hence, the Representative was questioned about the non-presence of the Appellant. He submitted a letter of the Appellant dated 19.04.2022 stating that the Appellant had met with an accident due to which his hand is fractured, and he is not able to attend the hearing physically or through Video Conferencing. It is not clear, why the Appellant cannot attend even a video conference due to a hand fracture. In fact, the office of the Electricity Ombudsman has specifically allowed Appellants to appear online through video conferencing to facilitate their personal appearance in the face of difficulties in travelling. The Respondent further alleged that he has come with malafide intention which is not allowed as per Regulation 8.10 of the CGRF & EO Regulations 2020.


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6. The above allegations are noted; however, the Representative is allowed to represent this present Representation as a special case. The Appellant and the Respondent argued in line with their written submissions. The Appellant stated that the meter was defective and billed for faulty status from February 2020 (i.e. just before the Covid-19 pandemic started) to November 2021. The actual meter reading was taken in December 2021, and the accumulated reading showed a jump due to erratic behaviour, hence a wrong bill was issued. Thereafter, the meter stopped recording in January 2022 with “No Display”, and the meter was then replaced in February 2022. Hence, the Appellant prays that the bill should be issued for only 3 months for the entire period when the meter was “faulty”, as per Regulation 16.4.1 of Supply Code & SOP Regulations 2021. The amount, which was recovered be refunded, and suitable compensation be paid towards harassment.

7. The Respondent argued that the disputed connection is in the name of Popli which was shown faulty on record. The meter was actually working. The meter (No.6501163903) was in working condition right through the disputed period. The meter reading agency wrongly recorded “Faulty” status from February 2020 to November 2021 during the Covid-19 pandemic. During this period, it was difficult, rather impossible, to make field visits to check meters due to Covid. The Respondent has taken the accumulated meter reading of 19695 KWH in December 2021 at the end of the period from February 2020 to December 2021 i.e., 23 months. Hence, the Respondent issued the bill to the Appellant as per the actual meter reading. The accumulated consumption was properly distributed month wise for the period from February 2020 to December 2021 (23 months) with average consumption of 278 units per month, for getting slab benefit as per Residential Tariff Category. The Appellant has unconditionally and without any protest paid the entire due amount of the bill of Rs. 35,490/- on 22.03.2022.


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8. After the meter reading taken in December 2021, the meter suddenly turned faulty and stopped working in January 2022. The meter was replaced by a new meter in February 2022. Disciplinary action is already taken against the meter reading agency for wrongly recording the status of meter as 'faulty'. The Respondent further argued that finding the meter "faulty" after recording a large, accumulated consumption seems very suspicious. It seems to be a Modus Operandi with a malafide intention because many similar cases have come to notice, whereby a meter suddenly becomes faulty and stops displaying the readings immediately after a disputed large reading. Hence, there is no actual grievance, but a created one.

9. The consumption pattern of alleged disputed period is near about the same, prior to and after the meter replacement. Therefore, the Respondent prays that the representation be rejected.

Analysis and Ruling


10. Heard the parties and perused the documents on record. The Appellant is a residential consumer. The consumption of the Appellant for the period from January 2018 to December 2021 is tabulated as below:


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Month	Consumption(Units)	Month	Consumption(Units)	Month	Consumption(Units)	Remarks	Month	Consumption(Units)	Remarks
Jan-18	160	Jan-19	124	Jan-20	164	Faulty Status	Jan-21	170	Faulty Status
Feb-18	173	Feb-19	126	Feb-20	170		Feb-21	170	
Mar-18	271	Mar-19	135	Mar-20	170		Mar-21	170	
Apr-18	448	Apr-19	275	Apr-20	170		Apr-21	170	
May-18	297	May-19	450	May-20	170		May-21	170	
Jun-18	660	Jun-19	579	Jun-20	170		Jun-21	170	
Jul-18	869	Jul-19	395	Jul-20	170		Jul-21	170	
Aug-18	147	Aug-19	201	Aug-20	170		Aug-21	170	
Sep-18	222	Sep-19	163	Sep-20	170		Sep-21	170	
Oct-18	236	Oct-19	235	Oct-20	170		Oct-21	170	
Nov-18	319	Nov-19	195	Nov-20	170		Nov-21	170	
Dec-18	196	Dec-19	152	Dec-20	170		Dec-21	6398	
Total	3998	Total	3030	Accumulated cons: 23 months			6398		
Avg. Cons./month	333	Avg. Cons./month	253	Avg. Cons./month from February 2020 to Dec 2021			278		

From the above table, it is seen that the average consumption was 333, 253 and 278 units per month for the year 2018, 2019 and (2020 & 2021) respectively. In fact, in the earlier years of 2018 and 2019, the maximum consumption had gone up to 869 units (in July 2018) and 579 units (in June 2019), while the average billing under dispute is only 278 units per month. Thus, it is clearly established that the meter was working properly till December 2021. The dispute is regarding accumulated reading of 19695 KWH in the said meter from February 2020 up to December 2021. The Respondent apparently did not take actual readings due to Covid -19 pandemic and billed the Appellant with wrong 'Faulty Status' for the period from February 2020 to November 2021. The accumulated consumption of 6398(19695-13297) units is for the period from February 2020 to December 2021(23 months) with an average of 278 units per month. This period partially comes under the lockdown declared due to Covid-19 pandemic during which all workers were directed to work from home. Its consumption tallies with previous consumption pattern of the Appellant in the earlier years 2018 and 2019 also. Hence, it can be inferred that the meter is not defective, and the reading of December 2021 is correct.


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11. It is necessary to mention that the Appellant should have been billed on “Reading Not Taken” status instead of “Faulty” status. The Respondent has not taken due note of the Practice Direction issued by the Commission for the billing during Covid-19 lockdown period.

12. The Forum has rightly observed all issues in its order; hence, it is not necessary to interfere in its order.

13. In view of this discussion, the prayer for application of Regulation 16.4.1 of Supply Code & SOP Regulations 2021 and grant of compensation is not tenable and therefore rejected.

14. It is seen that the signature of Appellant on Inspection Report dated 08.01.2022 and Schedule B does not tally. While going through the sequence of the complaint, the original Appellant has written only one letter dated 28.12.2021 to the Respondent for his complaint. All the other correspondence such as seeking information including CPL under Right to Information Act, 2005 has been done not by the original Appellant, but by the representative, Mr. Rajput. Further, the Representative wrote the letter on 21.03.2022 to the Electricity Ombudsman (Mumbai) for solving the complaint of the Appellant. ‘Schedule A’ form of the Forum and ‘Schedule B’ form of the Electricity Ombudsman (Mumbai) were also filled by the Representative in his own handwriting, rather than by the original Appellant.

15. Considering the above issues and the serious allegations against the representative, Shri J. S. Rajput is hereby barred to act as representative for any Appellants, unless the original Appellants are personally present physically or through e-hearing.


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16. The Representation is disposed of accordingly.

Sd/-
(Vandana Krishna)
Electricity Ombudsman (M)



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