

## BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 98 OF 2022

In the matter of excess billing

Cosmos Prime Projects Limited ..... Appellant

V/s.

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

Appearances:

Appellant : Ramchandra Pandey, Representative

Respondent : 1. Pratap Machiye, Executive Engineer, Palghar Dn.  
2. Narendra Sangepu, Dy. Ex. Engineer, Boisar Sub.Dn.


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

Date of hearing: 28<sup>th</sup> October 2022

Date of Order : 18<sup>th</sup> November 2022

### ORDER

This Representation was filed on 30<sup>th</sup> August 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 6<sup>th</sup> May 2022 passed by the Consumer Grievance Redressal Forum, MSEDCL, Vasai Zone (the Forum).

  
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2. The Forum by its order dated 06.05.2022 partly allowed the grievance application in Case No. 71 of 2021 with the directions:

- “2. Respondent shall revise bill for January 2021 for all four meters after waiving off interest and DPC.*
- 3. Respondent shall grant six equal monthly instalments for payment of supplementary bill, which shall be paid by consumer along with current monthly bill subject to condition that a single default on the part of consumer will authorize Respondent to recover the dues in lump-sum with applicable future interest.*
- 4. The Respondent shall adjust the refund amount paid by consumer in the future bills.*
- 5. Respondent shall take action on the meter reading agency for not taking readings for a long period.”*

3. Aggrieved by the order of the Forum, the Appellant filed this representation. The e-hearing was held on 28.10.2022 through video conferencing. Both the parties were heard. The Appellant’s written submission and arguments are stated in brief as below:

- (i) The Appellant, Cosmos Prime Project Ltd., is a developer who has developed Cosmos Paradise Building No. 1, 2 & 3 having A, B & C wings for each building i.e., total 9 wings, at Boisar (East), Tal & Dist. Palghar.
- (ii) The Respondent, MSEDCL installed electric meters at the above buildings in May/June 2019, and the buildings’ flats are sold to flat purchasers.
- (iii) The Respondent did not take readings from the date of connections, but took the readings for the first time only on 21.01.2021, i.e. after 21 months. During this period, billing was done on ‘average basis’.
- (iv) Out of 9 connections of common purpose, 4 meters of 4 wings recorded high consumption compared to the other 5 wings meters, causing highhanded accumulated bills being issued in Jan/ Feb 2021. The details are as below:

  
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<b>Consumption observed on Old meters from the date of instllation(25.06.2019) to readings taken first time (21.01.2021)</b>						
Sr. No.	Cons. No.	Old Meter No.	Period from		Bill amount of Jan. 2021(Rs.)	Amount paid under protest(Rs.)
			576 days Cons. (units)	Cons./ day (Units)		
1	3531259717	7603745858	9546	16.57	114963.5	61189
2	3531260031	7603745860	33763	58.61	485319.4	266672
3	3531260049	7603745859	23922	41.53	330287.4	180750
4	3531260006	7603745862	11661	20.24	141791.6	75511

(v) The Appellant made part payments of four connections to avoid disconnection of supply. However, since the meters were running abnormally fast, the Appellant made a written request on 10.03.2021 for the above disputed bills with following aspects:

- Do not disconnect the supply.
- Replace these fast meters at any cost.
- Bill revision as per load connected on meters.
- To give relief from high bill which was based on faulty meters.


(vi) Since no meters were available with the Respondent, the Appellant purchased the meters and requested the Respondent on 19.03.2021 for test, install and refund of meter cost of Rs.21240/-. The Respondent asked to pay 30% bill and meter testing charges. Meter testing charges of Rs. 4153.60 for 4 meters were paid, and old meters replaced by new tested meters on 22.03.2021. Consumption pattern of replaced new meters are given below:

<b>Consumption observed on new meters from the date of instllation(22.03.2021) to 15.06.2021</b>				
Sr. No.	Consumer No.	New Meter No.	576 days Cons. (units)	Cons./ day (Units)
1	3531259717	7640266938	385	4.5
2	3531260031	7640266831	813	9.5
3	3531260049	7640266557	346	4
4	3531260006	7640266635*	No Display	--
*Note:Replaced further by new meter				

  
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- (vii) The supply of the Appellant was disconnected on 24.06.2021 because of non-payment disputed bills. Appellant approached the Respondent for restoring the supply on payment of undisputed units consumed by new meters, and also gave a written request on 28.06.2021 for bill revision on the basis of new meter consumptions, but the Respondent did not agree. However, the Respondent advised to pay testing fee for testing of disputed meters, i.e. old meters in **National Accreditation Board for Testing and Calibration Laboratories (NABL)**.
- (viii) The Appellant disagreed to pay meter testing charges because the old disputed meters were purchased by the Respondent from HPL Company and were originally installed for new connections without testing in any laboratory. At last, having no option, the Appellant paid meter testing Charges of Rs.4153.60 for the old 4 meters. The test result of the meters found in order. But the basic grievance remained unsolved. These meters might have jumped and/or hung abnormally, which might have recorded high bill. The Appellant's use for these meters of common purpose are near about the same in all wings.
- (ix) The Respondent advised for testing the meters in **Laboratory of NABL** which the Appellant did not agree. It was the liability of the Respondent to provide test reports that such meters were tested when originally installed on 25.06.2019, but it failed to do so. Hence the Respondent should test the meter **at its own cost** from anywhere i.e. from manufacturer HPL or NABL. The Appellant again requested the Respondent in writing on 08.07.2021 as follows:
- To accept the undisputed current bills of the new meters and restore supply. Respondent refused to do it.
  - CPL and MRI of disputed meter & period demanded. Respondent served incomplete CPL and MRI.
  - Meter No.40266635 purchased by the Appellant had no display, so Appellant requested for receiving 30% disputed bill and to restore supply by new meter. Respondent refused to do it.
  - Installing disputed meters in series of new Meter No. 40266939. The Respondent refused it.

  
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- Refund of meter cost of Rs.21240/- and send the old meters to HPL for testing since meter is under guarantee period. Respondent refused it.
  - Refund of testing charges of Rs.4153.60, as it was paid under compulsion for testing of the meters purchased by the Respondent.
- (x) Respondent replied in writing for payment of Rs.9500/- for testing meters in TQA Lab. Appellant filed grievance with the Forum on 22.07.2021 for the following reliefs:
- (a) Restore supply of Consumer No. 3531259717, 3531260031 & 3531260049 on payment of undisputed bills on the basis of new meters' consumption.
  - (b) Restore supply of Consumer No. 3531260006 by new Meter No. 40266939 on receiving 30% of disputed bill.
  - (c) For installing 4 old meters in series along with the new fresh Meter No. 40266939 that was provided by the supplier by replacing display Meter No. 40266635.
  - (d) Bill revision on the basis of units consumed by the new meter.
  - (e) Refund of meter cost amounting to Rs. 21240/- purchased by the Appellant.
  - (f) Refund of meter testing charges of Rs.4153.60 that the Respondent recovered for testing of those meters installed by it without testing for new connections.
  - (g) Send the old disputed meters for replacement to HPL Company because the meters are under guarantee as per MSEDCL meter norms.
- (xi) No Forum was available for adjudication of interim relief; hence the Appellant had no option but to serve a protest letter online on 06.08.2021, and to pay all disputed bills to restore supply. It was a great mismanagement of consumer grievance mechanism.
- (xii) The Respondent replied on 25.01.2022 ignoring all legal obligations and demands of the Appellant. The Forum ignored all legal submissions made by the Appellant along with the rejoinder submitted on 10.02.2022 and passed the order in favour of the Respondent by giving impermissible vague observations that *“There is possibility of the supply from this meter being used for other activities during construction period.”*
- (xiii) The Forum has not given justice to the Appellant, whereas the Appellant has the right to get justice under the following terms:
- (a) Disputed bill paid 53%, but no supply restored.
  - (b) Demand for old meter to be installed in series with Meter No. 40266939 to verify the accuracy, but not done.

  
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- (c) MRI of a disputed meter is the right of a consumer, but this was not received.
- (d) Purchase of meter by Appellant is optional whenever the Respondent fails to provide it, however, refund of meter cost is pending. Respondent is applying improper refund theory of MSEDCL rate which is against the principle of justice.
- (e) Old meters were installed for new connections without testing; test report is not submitted on merit. It is a violation of law.
- (f) Proper bill should be applied as per connected load on meter, or based on the pattern of new meter consumption for the disputed period billing. Vaguely saying that electricity may have been used from this meter for other activities is improper. It should be verified by MRI report.
- (g) Meter No. 40266635 purchased by the Appellant was not tested for a second time due to 'no display' status and other meters of MSEDCL were not tested at the time of installation of new connections. Hence, the meter testing charges of Rs.7268.80 should be refunded, but are not yet refunded.
- (h) The Forum did not address the points of the Appellant.
- (i) Nature of relief expected from the Electricity Ombudsman is as below:
- (a) To verify the load connected on the disputed meters and period of MRI data for checking the possibility of electricity used from this meter for other activities, in view of the Forum's order.
- (b) The disputed meter should be sent to the Manufacturer's lab for load analysis of disputed period from 25.06.2019 to 22.03.2021 by MRI data.
- (c) The bill of disputed period should be revised as per Commercial Circular No. 133 of 2011 after collecting load data from this MRI report.
- (d) If MRI data is not available, then the bill should be revised on the basis of the new meter consumption pattern.
- (e) After revision of the bill, extra paid amounts should be refunded with applicable interest to the Appellant / builder by DD / cheque, and not adjusted in future bills, because the amount of Rs.11,71,647/- has been paid by the builder against liabilities of respective flat purchasers due to their incapability to pay huge amounts of bill for restoring supply.

  
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(f) Meter No. 40266635 purchased by the Appellant was not tested second time due to “no display” status, and other meters of MSEDCL were not tested at the time of installation of new connections. Hence, meter testing charges of Rs.7268.80 should be refunded.

(g) Any further suitable relief as deemed fit.

4. The Respondent attended the hearing through video conferencing on 28.10.2022. The statement of defence by its letter dated 20.09.2022 along with its arguments are stated in brief as under:

- (i) The Appellant had applied for electric supply for construction of a residential project named M/s. Cosmos Prime Projects Ltd at village Betegaon in the year May and June 2019. Accordingly, the Respondent released 204 residential connections, 18 commercial connections and 9 connections for common purpose like staircase, water pump and lift for 9 wings of three buildings. Electric supply vide Consumer Nos. 3531259717, 3531260031, 3531260049 & 3531260006 was released for staircase, water pump and lift of buildings No. 1/A, 3/A, 3/B, 2/A respectively on 25.06.2019.
- (ii) The meter readings of all these Consumer Nos. 3531259717, 3531260031, 3531260049 & 3531260006 was inadvertently not taken during the period from June 2019 till December 2020, and the Appellant was billed on average basis during this period, including the Covid-19 pandemic period from 22.03.2020 onwards. The mistake was corrected in the month of January 2021 by taking actual reading. The actual reading of all these four Consumer Numbers is tabulated as below:

Sr. No.	Consumer No.	Initial Reading (kWh)	Reading found in Jan-2021 (kWh)	Total unbilled consumption (Units)
1	3531259717	1	9545	9545
2	3531260031	1	33763	33763
3	3531260049	1	23922	23922
4	3531260006	1	11661	11661

  
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Therefore, the bill for the accumulated consumption of 21 months of Consumer No. 3531259717, 3531260031, 3531260049 & 3531260006 was issued in January 2021.

- (iii) The bills of these Consumer No. 3531259717, 3531260031, 3531260049 & 3531260006 were generated by giving slab benefit of 21 months, and accordingly locked credit of Rs.5299/-, Rs.10062/-, Rs.6337/-, & Rs.6337/- were given against average bills paid by the Appellant.
- (iv) The meters of Consumer No. 3531259717, 3531260031, 3531260049 & 3531260006, having Meter No. 3745858, 3745860, 3745859, 3745862, were tested on 29.06.2021 at Meter Testing Laboratory of Palghar Division. During testing, the meters found in order.
- (v) **The bill for accumulated consumption of 21 months were given as per actual meter reading taken onsite in the month of January 2021.** The meters were found in order in testing, therefore the bill raised for accumulated consumption in January 2021 is legal and proper and within the permissible period of 24 months provided under Section 56 (2) of the Electricity Act, 2003. The Appellant might have used this meter for various construction related activities, and the meters have accurately recorded the consumption. The allegation of the Appellant regarding non-use and faulty meters is not tenable.
- (vi) It was seen that the Appellant did not agree with the meter testing report of the Respondent. Therefore on 14.07.2021, it was informed to the Appellant that it can get its meters tested independently at any Laboratory of NABL after payment of the prescribed testing fees of Rs.9500/- per meter. The Appellant did not pay the testing fees and failed to avail the opportunity to get the meters tested through a third party.
- (vii) The Appellant basically is challenging accuracy of the original meters and raising contention of non-use. Contrarily they were not ready to retest the meters in testing laboratory like NABL. Hence, allegations based on comparison of consumption prior to the change of meters and after installation of new meters are not justifiable. The consumption may vary according to actual use, therefore



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it cannot be the basis for denying the consumption actually recorded by the meters which are found okay in testing.


- (viii) The Appellant's request for revision of bill as per connected load cannot be accepted. It is surprising that only four meters (installed for common use) were allegedly found to be fast, out of total 91 meters installed.
- (ix) The meters were not read for 21 months. Hence, it is decided to check whether any collusion of the Appellant with field staff might have happened in these cases.
- (x) The meters of all 4 above-mentioned consumer numbers were replaced in the month of April 2021 as per the request of the Appellant, by the same make of meters which are owned by the Appellants.
- (xi) In view of above, the Respondent prays that the representation of the Appellant be rejected.

5. During the hearing, on 28.10.2022, the Appellant was asked for testing of disputed meters in NABL. The Appellant was willing to pay the statutory testing charges immediately. Hence, it was directed to Appellant to approach the Respondent and to pay the testing charges within seven days. The Respondent was directed to get the meters tested at NABL in the presence of the Appellant. However, more than seven days have elapsed, and the Respondent has sent an email dated 11.11.2022 that the Appellant has not approached their office for testing of meters, nor made any payment of testing fees of Rs.9500/- per meter. The Secretariat of this office also forwarded this letter by email to the Appellant and again gave him an opportunity to get the meters tested; however the Appellant did not act accordingly till date.

### **Analysis and Ruling**

6. Heard the parties and perused the documents on record.

7. The Appellant, Cosmos Prime Project Ltd., is a developer who has developed Cosmos Paradise Building No. 1, 2 & 3 having A, B & C wings for each building i.e., total 9 wings, at Boisar (East), Tal & Dist. Palghar. The Appellant had applied for electric supply for this

  
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residential project in May and June 2019. Accordingly, the Respondent released 9 connections for common purpose like staircase, water pump and lift for 9 wings of three buildings. No readings were taken for the first 21 months, i.e. from June 2019 till December 2020, even though the meters were subsequently found to be working in order.

8. The sanctioned load is 10 KW each for all those connections which are used for common purpose like staircase, water pump and lift. The average consumption in the system of the Respondent at the initial stage should be commensurate with sanctioned load. However, it is observed that these consumers were billed on “average” consumption in the range of only 67 to 100 units per month, which are much less compared to sanctioned load. This shows that these consumers were under billed for 20 months, and when actual readings were taken next month, it resulted into accumulated consumption which is considerably high. This is a lacuna of the Respondent which should be looked into seriously, since this fact itself sounds suspicious and gives a hint of the possibility of collusion at the field level to hide high consumption during the construction period.

9. Subsequently, when the meter readings were actually taken in January 2021, the bills were generated by giving slab benefit of 21 months. These accumulated bills were now found to be unacceptable by the Appellant being very high. So, the meters of Consumer No. 3531259717, 3531260031, 3531260049 & 3531260006 having Meter No. 3745858, 3745860, 3745859, 3745862, were tested on 29.06.2021 at the Meter Testing Laboratory of Palghar Division. The test results of the meters were found in order. Therefore, the bills raised for 21 months which is apparently the original construction period, are legal and proper and within the permissible period of 24 months provided under Section 56 (2) of the Electricity Act, 2003.

10. The Respondent contended that the Appellant might have used these meters for various other construction related activities, and the meters have accurately recorded the consumption. Hence, the allegation of the Appellant regarding non-use and faulty meters is not tenable. On the contrary, the Appellant is not ready to test the meters in an independent testing laboratory NABL. Consumption may vary according to actual use; therefore, subsequent variation in the

  
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consumption pattern, or comparison with other meters cannot be the basis for refuting the consumption recorded by the meters which are subsequently found okay in testing.

11. The Forum has rightly analysed the case; hence, it is not necessary to interfere with its order.

12. The Representation is disposed of accordingly.

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



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