

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 166 OF 2022

In the matter of additional billing

Manoj Dattatray Sathe.....Appellant

V/s.

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

Appearances:

Appellant : 1.S.D. Sathe
2. T.D. Jadhav, Representative
3. Suresh Sancheti, Representative

Respondent : 1. Manik Rathod, Executive Engineer, Mulshi Dn.
2. Pramod Babrekar, Addl. Exe. Engineer, Mulshi Dn.
3. Gopal Patil, Addl. Exe. Engineer, Fly Squad, Pune (R)
4. Phulchand K. Phad, Dy. Ex. Engineer, Mulshi Sub Dn.

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

Date of hearing: 23rd December 2022 and
2nd January 2023

Date of Order : 12th January 2023

ORDER

This Representation was filed on 28th October 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 24th August 2022 passed by the Consumer Grievance Redressal Forum, MSEDCL Pune Zone (the Forum).



(Dilip Dumbre)
Secretary

Electricity Ombudsman Mumbai



2. The Forum, by its Order dated 24.08.2022 has rejected the grievance application.

3. The Appellant has filed this representation against the order of the Forum. The hearing was held on 23.12.2022 and 02.01.2023. The Appellant was physically present for the hearing, and the Respondent attended the hearing through video conference. Both the parties were heard at length. The Appellant's written submission and arguments are as below:

- (i) The Appellant is a Commercial Consumer (No.183140000857) from 11th January 2013 initially having Sanctioned Load (SL) of 25 KW and Contract Demand (CD) of 21 KVA at Gat No 523, 524 at post Kule, Tal. Mulshi, Dist. Pune. The Appellant is running a petrol pump. At present, the load is reduced from 25 KW to 8 KW. The Appellant has installed a Solar Power System in the year 2021.
- (ii) The Appellant was receiving electricity bills regularly but without any consumption from the year 2014. The Appellant by its letter dated Nil (Inward No. Nil dated 29.10.2014) has intimated the Respondent to check the meter and take appropriate action to avoid future assessment bill. Verbal communications were also made to the Respondent many times for corrective action; however, the Respondent did not take any corrective action for checking the meter. The Appellant was regular in payment of the monthly bills.
- (iii) The Respondent, in the year 2016, had sealed the meter cabin box by paper seal. Hence, the Appellant used to follow up regarding the faulty meter replacement issue verbally. However no written complaint was given till December 2020. No action was taken by the Respondent from 2016 onwards.
- (iv) The Appellant had intimated by its letter in the month of October 2020 to change the tariff category from LT II(B) to LT II (A) and to take appropriate action of defective meter replacement. However, the Respondent did not take any action.
- (v) The Flying Squad of the Respondent inspected the premises of the Appellant on 02.12.2020, and a Spot Panchnama was also made on the same day. During checking, the meter was found 33% slow. The Respondent issued a supplementary bill of

Rs.10,48, 695/- at the average of 677 units per month for 107 months i.e., from the date of connection to December 2020. The meter was also replaced.

- (vi) Testing and maintenance of the meter is the responsibility of the Respondent. The Appellant referred Regulation 14.4.1 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005(Supply Code Regulations 2005) which is reproduced below:

“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.”

The Respondent is duty bound to test the meter periodically. In the instant case, the meter was not tested periodically.

The Appellant also referred Regulation 14.3 of the Supply Code Regulations 2005 related to direction for taking readings. The said Regulation 14.3 is reproduced as below:

“14.3 Reading of Meter

Meter readings shall be undertaken by the Authorised Representative at least once in every three months in the case of agricultural consumers, and at least once in every two months in the case of all other consumers, unless otherwise specifically approved by the Commission for any consumer or class of consumers.”

The Respondent has defaulted in taking monthly readings.

- (vii) The Appellant, by his letter dated 29.07.2021 requested the Respondent to bill him prospectively as per reading after replacement of the meter on 02.12.2020. Respondent's Superintending Engineer by his letter dated 30.07.2021 has also directed to revise bill as per rules and regulations in force. Even then the Respondent failed to do so.
- (viii) The meter should be treated as faulty, and therefore Regulation 15.4.1 of the Supply Code Regulations 2005 needs to be applied and the Appellant should be charged only for three months as per the provisions of Regulation 15.4.1 of the Supply Code Regulations 2005. Regulation 15.4.1 provides as under: -

“15.4.1 Subject to the provisions of Part XII and Part XIV of the Act, in case of a defective meter, the amount of the consumer’s bill shall be adjusted, for a maximum period of three months prior to the month in which the dispute has arisen, in accordance with the results of the test taken subject to furnishing the test report of the meter along with the assessed bill.”

- (ix) The Petrol Pump, at the initial stage, was under trial for the first year and was not well known to the Common Public. The population of vehicles was also very limited. Hence, the average consumption assessment of 677 units per month is baseless. The Appellant pointed out that the consumption pattern of the Appellant was about 500 units per month. The Appellant did not know the charges of KVA MD billing. The Appellant has paid about 3 to 3.5 lakhs bill for the disputed period. In fact, such huge bills were not paid by any other petrol pump competitors.
- (x) The Appellant prays that the Respondent be directed to:-
- a) Withdraw the supplementary bill of Rs. 10,66,600/-. He requested to be billed for three months only as per Regulation 15.4.1 of the Supply Code regulations 2005.
 - b) Grant suitable installments without any interest and DPC.
 - c) Waive of the interest and Delayed Payment Charges (DPC) till date

4. The Respondent, by its letter dated 23.11.2022 has submitted its written reply. The written submission along with its arguments are stated below: -

- (i) The Appellant is a Commercial Consumer (No.183140000857) from 11th January 2013 with SL of 25 KW and CD of 21 KVA at Gat No 523, 524 at post Kule, Tal. Mulshi, Dist. Pune. Thereafter, the Appellant reduced the SL from 25 KW to 8 KW in the year 2020/2021. The electricity connection is being used for the purpose of running a petrol pump from the date of connection.
- (ii) An L & T make meter (Sr. No. 12081421) of 3 phase 100/5 A and CT of 100/5 A (Plugging type) was installed on 11th January 2013. The bill was generated in the month of June 2013 for 50 units (First bill), and for the month of July 2013 for 63.3 units (= 113.3-50). The reading on the meter was 113.3 KWH in July 2013. **The Appellant was billed with zero units from August 2013 to Dec. 2020 (93 months).**

- (iii) The meter of the Appellant was installed in the room where LT panel was also installed. The Appellant had fixed a lock to the metering room and did not allow entry to any person of the meter reading agency, as well as any Officer/ Staff of Paud-I Section Office. The Appellant being an influential person in that area, the Respondent did not think of taking action against him.
- (iv) Meanwhile, MSEDCL started a special drive of “Meter Replacement” of consumers having load 20 KW and more in the year 2019 and 2020. The Appellant was in the list covered by the special drive of meter replacement. The Section Officer informed that the Appellant was not allowing anyone to enter the meter cabin as per compilation of list dated 05.10.2019. The Appellant being an influential person, no action was taken against him. However, it was reported to higher authorities for further advice. The Respondent had deputed an agency (Om Gurudevdatla Electricals) for meter replacement in August 2020. The Agency by its letter dated 17.08.2020 and 09.10.2020 informed that the Appellant did not allow them to enter the meter cabin for replacement of meter. All correspondence in this regard is kept on record. The Appellant had obstructed replacement of the said meter from 2016 onwards till November 2020.
- (v) The Flying Squad of the Respondent inspected the premises of the Appellant on 02.12.2020. During inspection, it was observed that the Appellant was wrongly billed with zero units from the date of installation of the meter. The CT Secondary currents were not extended to the meter. The Voltage parameter was reflected on the display of the meter; however, CT secondary currents were zero on the meter display, **though the petrol pump was functioning with full capacity**. Hence, the meter was unable to record the consumption.
- (vi) As per physical inspection of the meter and plugging CT block, it is found that studs of CT Block were not properly connected with the terminal of the meter due to suspected tampering i.e., short length of studs of CT Block. When the meter was tested with CT Block, it was found that R & B phase consumption were not recorded by the meter at the instant of testing, and only R phase consumption was recorded. **Thus, the meter was under recording by 66 % at the time of testing. The Appellant was billed with zero units from August 2013 till the date of testing.**

The Flying Squad made a Panchnama on the spot in detail. The meter was also replaced.

- (vii) As per connected load, purpose and working hours as per norms, the Flying Squad has given assessment from the date of connection (under billing period) to the date of meter replacement. The assessment of Rs 10,48,695/- for 72386 units for 107 months (from date of connection to December 2020) was made and issued to the Appellant immediately. The Appellant has not paid this assessment of Rs.10,48,695/- till date.
- (viii) The consumption pattern of the Appellant was 535 units per month after meter replacement. Later on, in 2021, the Appellant has shifted to Solar System and also reduced the load on paper.
- (ix) The Appellant, Proprietor of Mahalakshmi Petroleum is very rough in behaviour, and used to verbally abuse the Respondent with vulgar language when approached for monthly readings and disconnection. At one time, he even gave a threat of suicide in office, if the supply was disconnected. The case was then closed by conciliating with the Appellant. After going through all events, his Consumer Personal Ledger (CPL) and case details, it is seen that due to restriction to enter and take meter readings and obstruction of Agency and MSEDCL staff, readings could not be done properly. His CPL shows zero units from August 2014 to Dec. 2020.**The actual assessment bill will be revised for 94 Months instead of 107 months and will be issued to the consumer in due course.**
- (x) The consumption pattern of the Appellant varies in the range from 5000 to 5600 units per month. The Appellant approached the Forum on 1st October 2021. The Forum, in its order dated 24th August 2022 has addressed all these issues and rejected the grievance of the Appellant.
- (xi) The assessment is based on “escaped billing” as per Judgement dated 05.10.2021 of Hon’ble Supreme Court in Civil Appeal No. 7235 of 2009 in the Case of Prem Cottex V/s Uttar Haryana Bijli Vitran Nigam Ltd. & Ors. The Appellant has not come with clean hands before the grievance redressal mechanism. Hence, the Respondent requested to reject the Representation of the Appellant.

5. During the hearing, considering the depth of the grievance, the Appellant and Respondent were advised to examine whether they are ready for an amicable settlement on the following aspects :-

(a) Assessment period for 107 months.

(b) Consumption data of electricity of the petrol pump after the meter replacement.

Analysis and Ruling:

6. Heard the parties and perused the documents on record. The Appellant is a Commercial Consumer (No.183140000857) from 11th January 2013 at Gat No 523, 524 at post Kule, Tal. Mulshi, Dist. Pune. The electricity connection is used for the purpose of running a petrol pump from the date of connection. An L & T make meter (Sr. No. 12081421) of 3 phase 100/5 A and CT of 100/5 A was installed on the date of connection. The bills were generated in the month of June 2013 and July 2013 as per readings. The progressive reading on the meter was 113.3 KWH in July 2013. Thereafter, the Appellant was billed with zero unit from August 2013 to Dec. 2020 (93 months). The reasons and circumstances for this zero billing is under dispute, as discussed below.

7. The Appellant contended that it is the responsibility of the Respondent to take monthly readings. The Appellant never obstructed to take readings and / or replacement of meter. The meter should be treated as faulty, and therefore Regulation 15.4.1 of the Supply Code Regulations 2005 needs to be applied and the Appellant should be charged only for three months as per the provisions of Regulation 15.4.1 of the Supply Code Regulations 2005. Regulation 15.4.1 provides as under: -

“15.4.1 Subject to the provisions of Part XII and Part XIV of the Act, in case of a defective meter, the amount of the consumer’s bill shall be adjusted, for a maximum period of three months prior to the month in which the dispute has arisen, in accordance with the results of the test taken subject to furnishing the test report of the meter along with the assessed bill.”

8. The Respondent contended that the meter of the Appellant was installed in the room where LT panel was also installed, and this room was locked by the Appellant. No person whether of meter reading agency, or any Officer/ Staff of Paud-I Section Office was allowed

to enter the room. The Appellant being an influential person in that area, the Respondent did not think of taking any action against him. However, in 02.12.2020, the Flying Squad of the Respondent inspected the premises of the Appellant and during inspection, it was observed that the Appellant was wrongly billed with zero units from the date of installation of the meter. The CT Secondary currents were not extended to the meter. Hence, the meter was unable to record the real consumption.

9. An assessment of Rs 10,48,695/- for 72386 units for 107 months (from the date of connection to December 2020) was made and issued to the Appellant immediately. The Appellant has not paid this assessment of Rs.10,48,695/- till date. Subsequently the Respondent agreed to reduce this assessment period of 94 months, as per their written submission.

10. The Respondent cited the Judgment dated 05.10 2021 of the Hon'ble Supreme Court of India in Civil Appeal No. 7235 of 2009 in Case of Prem Cottex V/s. Uttar Haryana Bijli Vitran Nigam Ltd. and Others. However, the ratio of this Judgment is not applicable in the instant case considering the depth of the grievance.

11. As per directions given during the hearing, the Respondent sent an email on 5th January 2023 intimating the minutes of the meeting of settlement held between the Appellant and the Respondent. In view of the law of Limitation Act, a revised period of assessment of 36 months, for 500 units per month, was agreed upon, counting from the date of detection by the Flying Squad i.e. 2nd December 2020, and the meter was also replaced at that time. According to the Respondent, the consumption pattern was 535 units per month after meter replacement. However, the assessment is now agreed upon as 500 units per month, due to some of its period being covered under Covid-19 pandemic lockdown (March 2020 to December 2020).

12. In view of the above settlement, I pass the following order:

- a) The Respondent to revise the supplementary bill for 36 months prior to the date of meter replacement i.e. 02.12.2020 at the rate of 500 units per month without DPC and interest levied, if any.

- b) The Appellant may be granted three equal monthly instalments without DPC and interest.
 - c) The Respondent to submit compliance report within two months from the date of this order.
 - d) Other prayers of the Appellant are rejected.
13. The order of the Forum stands modified to the extent above.
14. The representation is disposed of accordingly.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)