

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 74 OF 2021

In the matter of excessive billing

Mr. Harish S. Shah Appellant

V/s.

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

Appearances:

Appellant : Vinay Vaze, Representative

Respondent : 1. A. H. Holmukhe, Executive Engineer, Admn. Vasai Circle
2. K. B. Zarkar, I/C Executive Engineer, Vasai Div.
3. Rajiv Waman, ALO, Vasai
4. Anis Mirza, Adnl. Executive Engineer, Vasai
5. V. M. Gokhale, UDC (Rtd.)
6. Nandkumar Waghmare, UDC

Coram: Deepak Lad

Date of hearing: 21st December 2021 &
5th January 2022

Date of Order : 13th January 2022

ORDER

This Representation is received on 20th July 2021 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2020 (CGRF Regulations 2020) against the Order

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dated 30th April 2021 passed by the Consumer Grievance Redressal Forum, Kalyan (the Forum).

Preamble

During scrutiny of this case, it was noticed that there are outstanding dues of Rs.4,44,900/- recoverable from the Appellant as per Forum's order. Hence, the Appellant was required to pay Rs.25,000/- towards deposit as per Regulation 19.22(h) of CGRF Regulations 2020. However, the Appellant did not pay the same. Notice was served on 26.07.2021 for payment of deposit. The Appellant paid the deposit of Rs.25,000/- by NEFT on 03.11.2021, hence, the Representation is registered on 03.11.2021.

2. The Forum, by its Order dated 30.04.2021, in Case No.2059 of 2020-21 has partly allowed the grievance. The operative part of which is as below:


- “1) Utility may take legal action under section 126 of IE act 2003 if required & as per law.*
- 2) Consumer's grievance is partly allowed.*
- 3) The utility company is directed to recover the bill of 12116 Units in 6 equal installments without DPC, interest and penalty for the period...*
- 4) Utility Co. is at liberty to take action under 126 of IE act 2003 independently.*
- 5) Refund the excess amount paid meter testing fee/excess amount paid if any by way of adjustment in future bill.”*

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

- (i) The Appellant is initially an industrial consumer (No.001840891590) from 31.10.2009 having Sanctioned Load (SL) of 65 HP and Contract Demand (CD) of 54 KVA at Rajprabha Industrial Estate, Sativali Vasai (W), Tal. Vasai, Dist. Palghar. The Appellant is using power for Godown purpose at present, and hence is billed under Commercial tariff category.

History of the Case:

- (ii) Due to slump in the business, the gala is used as Godown and not for Industrial purpose. On 14.08.2018, the premises was inspected by Respondent, and it was observed as under,



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- Physically Meter No.00044822 was on site whereas the bill shows the Meter No. as 15502405.
- Consumer using the power supply for Commercial purpose as a Godown, however, actual tariff category was Industrial.
- Since then, the Respondent changed the Tariff Category from Industrial to Commercial with retrospective recovery of Rs.84630/- under Section 126 of the Electricity Act, 2003 (the Act). The Appellant paid the said recovery towards Section 126. The Appellant is billed under Commercial Tariff Category thereafter.

Grievance:


- (iii) Though the premises was used as Godown, power supply was very sparingly used, once or twice a week just for stock taking. Accordingly, only minimum bills as per reading were being issued to the Appellant since August 2018 and the same were paid regularly up to December 2019. The current reading shown on the bill on 05.12.2019 was 10049 KWH. Here it is to point out that, as per inspection report dated 18.08.2018, the meter number on the bill was corrected but KWH reading of 16634 was not taken on record.
- (iv) Somewhere in August 2019, the said Meter No.00044822. was replaced by the Respondent with a new Meter having number 055-X1143852 under meter replacement drive. Its final KWH reading of Meter No.00044822 was shown as 35706. This led to difference of 25657 (35706 – 10049) Units against the old meter. Even after replacement, the subsequent bills of November /December 2020 were issued as per old meter only without giving any effect of the replacement entry. While issuing the bill of January 2020, the initial reading of new meter was shown as 00 and the reading taken on 31.12.2019 was shown as 111 KWH leading a difference of 111 Units over a period of around 2 months. Even the subsequent bill for February 2020 shows recorded consumption as 47 Units only. It reveals from the new meter that consumption is around 30-40 Units per month.
- (v) However, in the bill for January 2020, the consumption of old meter was added as 25657 Units and the Appellant received the bill of 25768 (25657 + 111) Units


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for Rs.5,32,690/-. This being the wrong bill, the Appellant approached the Forum on 23.10.2020.

- (vi) It was submitted and argued before the Forum that during the inspection on 14.08.2018, it was made clear by the Respondent that the premises was being used for Godown purpose instead of Industrial. The premises is having load of 9 CFL lamps and 1 portable fan only. Then the question arises how the old meter has recorded the consumption of 25657 Units.
- (vii) If the meter has recorded properly then meter must be faulty compared to the load connected. Therefore, the meter needs to be tested.
- (viii) Respondent in its reply vide letter No.3908 dtd.02.11.2020, tried to prove the consumption as correct without considering the load connected. Therefore, it was necessary for the Forum to have visited this aspect from the point of view of consumption versus connected load, testing of meter, and MRI report. But unfortunately, Forum's order dated 30.04.2021 is silent on this aspect. Hence the appeal.
- (ix) As per the decision-making process of the Forum, it is felt that the Forum was more on amicable solution instead of legal issues.
- (x) After last inspection carried out on 14.08.2018 by the Respondent, the new meter from 22.10.2019 to June 2021 is as under,
- | | |
|---|------------|
| Initial reading as on 22.10.2019 | 000. |
| Last reading as up to the bill of June 2021 | 400. |
| Difference..... | 400. |
| Period involved | 08 months. |
| Average per month..... | 50 Units. |
- (xi) Moreover, the period of alleged past recovery of 25657 Units also related to Godown activity only i.e. from 08/2018 to 10/2019. We mean to say that, for the same quantum of activity, bill of 25657 Units is unjustifiable compared to monthly average of 50 Units post replacement of meter.
- (xii) The Appellant has been given to understand that the old meter removed by the Respondent is either lost or not traceable by it for which the Respondent is solely responsible. The Appellant should not be penalized for this mistake by way of


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thrusting wrong consumption through bill. The Respondent may fix the responsibility on the concerned.

(xiii) Therefore, the Appellant prays that the Respondent be directed.

- 1) To test the meter and submit the test report.
- 2) To submit copy of MRI data for the disputed period.
- 3) To revise the bill accordingly as per test report.


4. The Respondent MSEDCL by its letter dated 14.12.2021, has filed its reply stating in brief as below: -

- (i) All contentions raised by the Appellant in Representation, are denied except those herein admitted below.
- (ii) The Appellant is a consumer (No.001840891590) from 31.10.2009 having SL of 65 HP and CD of 54 KVA. at Rajprabha Industrial Estate, Sativali Vasai (W), Tal. Vasai, Dist. Palghar. The Appellant is using power for Godown purpose at present and hence is billed under Commercial tariff category.
- (iii) The status of the Appellant was “permanently disconnected” (PD) consumer from January 2017 (?) (in CPL it is March 2017) to June 2017. The Meter No.00044822 was on site prior to PD with final reading of 4892.5 KWH. The Appellant was reconnected in July 2017 with same Meter No.00044822. The same meter (No.00044822) was fed to the Billing System; however, the system was not accepting the same meter giving error code. Therefore, one character was added in meter No.(00H44822) to accept reconnection in the System for technical reason.
- (iv) The bill of July 2017 and August 2017 was sent with Meter No. 00H44822. The meter No. 00H44822 was further then corrected to original Meter No.00044822 with final reading of 9561 KWH in the month of September 2017 as per CPL.
- (v) The migration of billing system of Vasai Circle to centralized billing system was done in December 2017. During migration, the meter make-code and number was wrongly updated in the system as meter make-code as 777 and number as 15502405 instead of make-code as 076 and meter No. 00044822. Therefore, the Appellant was not billed as per actual reading from January 2018.


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- (vi) The Respondent carried out spot inspection of the premises of the Appellant on 14.08.2018. During inspection, it was observed that Meter No. 15502405 was on bill whereas the actual Meter No.00044822 was physically on the site. Consumer was using the power supply unauthorizedly for Commercial purpose (Godown) instead of Industrial. The Appellant was assessed towards unauthorized use under Section 126 of the Act for Rs.84630/- for 7073 (16634-9561) Units for 12 months (September 2017 to August 2018), finally issued on 30.01.2019 which was paid by the Appellant on 15.08.2019.
- (vii) The correction in Meter Make and Meter Number was done in the month of October 2018 in auto updating from IT billing system. Thus, original Meter No. 00044822 was brought on record.
- (viii) Meter of consumer was inside the gala since November 2018 to December 2019. The gala was found normally closed at the time of meter reading. Therefore, the Respondent was not able to take meter readings. The consumer was billed with minimum charge during the said period of January 2018 to December 2019 (24 Months). The final reading of December 2017 was 10049.16 on Meter No. 00044822.
- (ix) In view of policy regarding installation of AMR meter for all LT consumers, the old meter (No.00044822, Reading: 35706 KWH, HPL make) of the Appellant was changed with new AMR meter having Sr.No.X1143852, Secure make on 22.10.2019. The work of meter replacement was done by agency of M/s. Secure Meter as per Order given by Corporate Office. The Meter Replacement Report dated 22.10.2019 was also signed by the Appellant. As such, there was accumulation of 25655 (35706- 10049) Units from December 2017 to 22.10.2019.
- (x) In view of Meter Replacement Report and accumulated consumption the Appellant was billed for 25768 (25657 + 111) Units, in the month of January 2020. The current consumption of consumer being 111 unit in January 2020.
- (xi) The Appellant requested to test the meter vide its email dated 16.12.2020. The issue was taken with meter replacement agency, M/s. Secure Meter Company. However, it was informed that meter was misplaced, and Agency has lodged the complaint in Manikpur Police Station on 26.11.2020. Therefore, the Agency was



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not able to provide meter to the Respondent for testing as requested by the Appellant.

- (xii) Based on CPL, the Appellant was billed up to 10049 KWH in month of December 2017. On Spot Inspection Report dated 14.08.2018, the progressive reading recorded is 16634 KWH. The final reading at the time of meter replacement was 35070 KWH. The meter replacement report is dated 20.10.2019 and signed by Mr. Shivram as consumer's representative. There was no complaint with respect to correctness of meter during the period from January 2018 to October 2020. Consumer was insisting for meter testing after knowing that the meter is misplaced by the meter replacement agency.
- (xiii) The Appellant was billed for the period from January 2018 to December 2019 with a minimum bill. However, he did not complain about the same till December 2019. But when the bill for accumulated consumption in the month of Jan 2020 was issued, the Appellant for the first time complained regarding the accumulated billing.
- (xiv) The accumulated consumption of 25768 for the period January 2018 to January 2020 is for 24 months. Therefore, it can be recoverable within the provision of Section 56 (2) of the Act. This bill was raised in January 2020.
- (xv) It is therefore requested to dismiss the grievance of the Appellant.

5. Hearing was held on 21.12.2021 through video conferencing. Both the parties argued at length. The Appellant argued that it has paid supplementary bill raised by the Respondent towards unauthorized use of power under Section 126 of the Act. This recovery is of Rs.84630/-. The Appellant's connection was previously billed as per Industrial tariff as the Industrial activity was carried out. However, due to slackness in business, Industrial use of power was stopped, and premises was used as Godown for storing some material. Therefore, it does not have any issue for raising the bill under Section 126 of the Act. The Respondent messed up with meter numbers of the connection such as bill was showing one number whereas the actual meter at site was having different number. This happened twice for the reasons best known to the Respondent. After the meter was finally replaced for AMR activity as said by the Respondent, the consumption has drastically reduced. This is due to the fact



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that the premises was being used for Godown purpose with very small light and fan load. Therefore, the Appellant has doubted the huge bill raised by the Respondent may be due to defective meter. The meter therefore needs to be tested. The Respondent in its submission has said that the meter is replaced by the meter replacement agency, and it has lost the meter. Though Police complaint appears to have been lodged by the meter replacement agency, the burden due to faulty meter should not fall on the Appellant. The Appellant therefore prays for revision of bill based on the consumption during post replacement of meter.

6. The Respondent on the other hand admitted that there were some mistakes with respect to meter numbers which took place in this case. These mistakes were due to issues in the system when the migration of the billing system was done from field office to Corporate Office. However, it is a fact that there were irregularities in reading the Appellant's meter for a long time. The Appellant was in PD status during January 2017 to June 2017. At the time of reconnection, the same meter which was there before PD was physically refixed, but the system did not accept the same meter number. Therefore, the meter number was altered with addition of alphabet 'H'. The earlier meter number 00044822 changed to 00H44822. This number was then again changed (though the meter was same) to 00044822 by removing alphabet 'H'. In September 2017, reading on the meter was 9561 kWh. However, inadvertently meter code was changed from earlier 076 to 777 and meter number was changed from earlier 00044822 to 15502405. How this happened is not known to the Respondent. It is important to note here that meter was not physically changed. The meter was finally changed for AMR activity as per direction of the Head Office on 22.10.2019 with Meter No.X1143852 and initial reading as Zero and final reading of the meter (No.00044822) was 35706 which was removed. The Appellant is accordingly billed for 25768 units by reconciling all readings and the consumption for January 2020 after final meter replacement. The Appellant's stand of meter testing is nothing short of opportunism. The Representation, therefore, does not hold good on the facts of the case and needs to be rejected.

7. The second hearing was held physically on 05.01.2022 to understand the issue in proper perspective. Apart from what has been stated above, the Respondent has been directed to inform as to how many old meters have been lost by the Agency engaged by it for


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replacement, and how many FIRs have been filed by it from the date of issue of workorder to the Agency till December 2019 for the meters lost by it. It was also directed to inform whether the meter in respect of the Appellant is only lost. The said information is directed to be submitted within a week. During the hearing, the Respondent on being queried, informed that bill for unauthorized use under Section 126 of the Act is paid by the Appellant but the consumption remained to be billed through CPL and hence, bill for 25657 units was issued in January 2020. On being further questioned, as to whether this action under Section 126 of the Act is correct, the Respondent corrected its earlier statement and said that the consumption between August 2018 and December 2017 (16634 – 10049) 6585 units which is already accounted under Section 126 bill will be deducted from the total consumption of 25657 units till replacement of meter on 22.10.2019.

Analysis and Ruling

8. Heard both the parties and perused the documents on record. The Appellant, having CD of 54 KVA, was initially billed under Industrial tariff category. Meter No.00044822 was found connected on site. The Appellant was permanently disconnected in January 2017 for nonpayment of electric bills. The Appellant was reconnected in July 2017 with same Meter No.00044822. The same meter (No.00044822) was fed to the Billing System; however, the system was not accepting the same due to technical reason. Therefore, one character 'H' was added in meter (No. 00H44822) by the Respondent at their own for the System to accept it. The meter No. 00H44822 was further then corrected to original Meter No.00044822 with final reading of 9561 kWh in the month of September 2017. The Appellant was billed with "Normal Status" as per meter reading up to December 2017 with current reading 10049 KWH.

9. The Respondent carried out spot inspection of the premises of the Appellant on 14.08.2018. During inspection, Respondent observed that Appellant was using the power supply for Commercial purpose (Godown) instead of Industrial. The Appellant was therefore, assessed by the Respondent under Section 126 of the Act for Rs.84630/- for (16634 - 9561) 7073 units for 12 months (September 2017 to August 2018) which was paid by the Appellant


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on 15.08.2019. Thus, the Appellant was billed up to 16634 kWh readings of meter No. 00044822 up to August 2018.

10. The migration of the billing system to centralized billing system was done by the Respondent in December 2017. During migration, the meter make-code was updated as 777 and meter number was updated as 15502405 instead of the original one. Due to this improper input, the Appellant was not billed as per actual reading from January 2018 as per CPL.

11. On 22.10.2019 the old meter having serial No.00044822 was replaced by Secure make meter having Sr. No. X1143852. The final reading of the old meter at the time of replacement was 35706 KWH. The reason for change of meter was, that it was to be read through AMR. The meter replacement work was done by M/s. Secure Meter, the agency of the Respondent. The Appellant was billed by the Respondent for (25657 + 111) 25768 units in January 2020, including consumption of new meter as 111 units. Further, the Appellant was billed for additional 1291 units each in May 2020 and June 2020, even though the new meter is working. The summary of the billing after perusing CPL is as below:-

- a. Appellant from **January 2018 to December 2019** was billed for **Zero** consumption at a constant reading of **10049**.
- b. Appellant was billed under Section 126 pursuant to Spot Inspection Report dated 14.08.2018 meter no. 044822 – Reading was 16634.
- c. Therefore, the Appellant was billed up to August 2018 for meter reading of 16634.
- d. The same meter is continued till 22.10.2019.
- e. Therefore, Appellant needs to be billed from September 2018 till meter replacement which took place on 22.10.2019 as it was billed at Zero consumption.
- f. Meter replacement report dated 22.10.2019 records reading of 35706.
- g. Therefore, the Appellant needs to be billed for (35706 – 16634) 19072 Kwh Units for September 2018 to October 2019.
- h. The Appellant is billed on Zero consumption for Nov 2019 and Dec 2019 even for new meter.


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- i. The Appellant is billed for 111.4 units in Jan 2020, it means from 22.10.2019 till billing of Jan 2020, the Appellant has consumed 111.4 units only. Here it is presumed that the meter is read properly.
- j. Hence, from Oct 2019 till Jan 2020 the Appellant needs to be billed for (19072 + 111) 19183 units.

From above summary it is clear that the Respondent has conveniently forgotten that it billed the Appellant up to 16634 reading while raising the bill under Section 126 of the Act. It has arrived at consumption of 25657 by making the calculation as 35706 (reading on 22.10.2019) – 10049 (reading in Dec 2017), whereas the Respondent should have arrived at consumption of 19072 by making calculation as 35706 (reading on 22.10.2019) – 16634 (reading while billing under Section 126). Therefore, the Respondent has billed the Appellant twice for (25657 – 19072) 6585 units which needs to be refunded. When this is pointed out to the Respondent during hearing, it has accepted the mistake and agreed to withdraw the consumption of 6585 units.

12. The Appellant requested to test the meter (Meter No. 00044822) vide its email dated 16.12.2020. However, it was informed by the Respondent that meter is misplaced, and Agency has lodged the complaint in Manikpur Police Station on 26.11.2020. Hence it is not available for testing. The Meter (No. 00044822) was working with progressive reading of 35706 kWh up to 22.10.2019.

13. Pursuant to directions during hearing on 05.01.2022, the Respondent submitted additional information vide email dated 11.01.2022 about other FIRs lodged if any for missing meter. In this communication, it is seen that the Respondent / its meter replacement Agency has lodged complaint on Citizen Portal of the Police Department about missing of meter No. X1150386 however, it is not a FIR. Moreover, it is important to note that meter replacement program started somewhere in 2019. The Appellant's meter is replaced on 22.10.2019. The FIR / complaint for loss of this old meter is filed on 26.11.2020 almost after one year. It is interesting to note that the Appellant has requested to test the meter vide its email dated 16.12.2020, until such time there was no formal request. Therefore, it can be safely concluded



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that Appellant tried to encash the fact that the meter is missing, and it cannot be made available for testing. Notwithstanding this, the conduct of the Respondent is also not very clean. During spot inspection on 14.08.2018 the Respondent's visiting team did not note down the various equipment, machines etc. which is the essence of Section 126 of the Act. It is, therefore, not clear whether Appellant really ever undertaking an Industrial activity at the premises which entitled him to be billed at Industrial tariff. Therefore, entire sequence of events appears to be murkier for the following reasons.

- (i) The Respondent's earnest desire to install the same meter after PD though System was not accepting. It changed the Serial No. of the meter by adopting various unapproved methods of altering Serial No.
- (ii) There is no noting of machineries / equipment found connected in this spot inspection report, while billing under Section 126 of the Act.
- (iii) The work of meter replacement was given to private agency. The Respondent did not bother about return of old meters by the agency. This has resulted in missing few meters.
- (iv) The Respondent also did not even bother to examine the necessity of installing an AMR compatible meter particularly when the Appellant has shifted from industrial to commercial with very small load. It simply acted on old data of the Appellant treating it as industrial connection for connected load of 65 HP. The Respondent did not think that it was its duty to check whether there is really 65 HP load connected or not.

14. The Respondent during the hearing informed that the meter is inside the premises and is found locked on many occasions. However, the Respondent never tried to take recourse to the provision of the Regulations with respect to lock premises. The Respondent never served any notice to the Appellant for keeping the premises open for taking reading. The Appellant also never bothered for being billed at Zero consumptions for a substantial period of time. The Appellant has also not brought on record as to whether it ever tried to send the meter reading through the IT application developed by the Respondent.


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15. I am therefore of the considered view that the concerned officer of the rank of Chief Engineer need to investigate the entire case, so that it will come to know what is going on filed and based on his investigation the appropriate action as deemed fit needs to be taken against the responsible officers.


16. From the facts of the case, it can be safely concluded that the issue is of accumulated reading and there is almost no scope for doubting the final reading of the meter removed, nor there is any scope to doubt the working of the meter. I, therefore, pass the following order:

- i. The Respondent is directed to revise the bill for the period Sept 2018 to Jan 2020 and issue the bill for the same period for (19072 + 111) 19183 units only.
- ii. Interest and DPC levied if any from Sept 2018 to Jan 2020 is waived of.
- iii. The Appellant to pay balance outstanding amount within three instalments along with the current bills.
- iv. Compliance to be reported by the Respondent within two months from the date of this order.
- v. The order of the Forum is revised to the extent above.

17. The Secretariat of this office is directed to send a copy of this order to the Chief Engineer, MSEDCL Kalyan for further necessary action, and further refund the deposit amount of Rs.25000/- to the Appellant by way of adjusting it against his ensuing electricity bills payable to the Respondent.

18. The Representation is disposed of accordingly.

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


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