



Consumer Grievance Redressal Forum, Kalyan Zone

Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301  
Ph- 2210707, Fax - 2210707, E-mail : cgrfkalyan@mahadiscom.in

No.EE/CGRF/Kalyan Zone/

Date of Grievance : 10/08/2015

Date of Order : 20/09/2017

Total days : 770

**IN THE MATTER CASE OF GRIEVANCE NO. K/E/915/1115/2015-16 IN RESPECT OF VINOD NAVANY (HUF), GALA NO.7/19, TIRPATI UDYOG NAGAR, SATIVLI ROAD, VASAI ( E ) DIST. PALGHAR, PIN CODE NO. 401 208 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING EXCESSIVE ENERGY BILL.**

Vinod Navany (HUF),  
Gala No.7/19, Tirupati Udyog Nagar,  
Sativli Road, Vasai (E),  
Pin Code-401 208  
(Consumer No.001840851482)

... (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution  
Company Limited  
through its MSEDCL, Addl. Ex. Engineer,  
Vasai Circle, Vasai ( E), . . . . . (Hereinafter referred as Licensee)

Appearance:- For Licensee :- Shri Waman, ALO, Mrs. Desai, Dy Manager,  
Mrs Dambe-UDC, Vasai Circle.

For Consumer : Shri Harshad Sheth-Consumer's representative.

[Coram- Shri A.M.Garde-Chairperson, Shri A.P. Deshmukh-Member Secretary  
and Mrs.S.A.Jamdar- Member (CPO)].

1] Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'. Further the regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission. Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2014'.

2] Consumer brought this grievance before the Forum on 10/8/2015, contending that the bill received / provided up to December 2014 was correct as per progressive reading, but thereafter in January 2015 , the bill for 'zero' consumption was issued. The Licensee has issued average bills in February 2015 for 22000 units and in March 2015 for 21000 units respectively. In the month of March 2015, meter was replaced and thereafter bill of 'zero ' consumption was issued in the month of April 2015. In May 2015 two months bill for consumption of 5809 units was issued . From June 2015 onwards regular consumption bill issued as per reading of new meter. Consumer wrote three letters dated 9/2/2015, 10/3/2015 and 25/3/2015 to the Licensee regarding low/no consumption due to unavailability of raw material.

It is contended that MRI report of earlier meter and meter replacement report not provided and also the meter testing report from NABL approved test

lab or from manufacturer is not yet received. Bill to be revised considering current trend of consumption. Consumer, therefore, on that count approached IGRC vide complaint dated 30/5/2015. But as no relief was granted as there was no hearing or order was passed by IGRC. Being dissatisfied by the IGRC, the consumer approached this Forum on 10/8/2015.

3] On receiving this grievance, it's copy along with accompaniments sent to the Licensee vide this Office Ltr. No. EE/CGRF/Kalyan/249 dated 12/8/2015. In response to it, the Officers of Licensee appeared and filed reply dated 4/5/2016. In reply, the consumer has filed rejoinder dated 16/5/2016. During the pendency of matter, CR wrote letter to Addl. Executive Engineer, Vasai ( E ) dated 22/9/2015, regarding connection was made P.D. in August 2015 and to reconnect the supply. On 27/10/2015 and 27/1/2016, CR wrote letter to CGRF regarding illegal disconnection and to reconnect the electricity supply. On 10/2/2016, CR wrote a letter to CGRF that supply is reconnected but test report about faulty meter is not given. On 28/3/2016, CR requested the Forum that as the MSEDCL is not submitting its reply then Forum may decide the matter.

4] Licensee in it's reply dated 17/1/2017, contended that consumer was having meter No. '2122672'. Consumer was billed as per reading "950250" having consumption of 10346 units for the month of December 2014. In the month of January 2015, the bill was issued to the consumer only for '1' unit, showing previous reading '950250' and current reading '950251', as there was no display on meter. Bills for the month of February 2015 for 22000 units, March 2015' for 21000' units and for April 2015'Zero' unit. Before 'no display' average consumption used by the consumer during the period from July 2014 to December 2014 (six months) was '11980' units. Meter was replaced on 25/3/2015. Bill was issued for 'No display' during the period from January 2015 to April 2015. The replaced meter was sent to ABB Company but yet no reply

received from the said company. Letter dated 16/9/2016 to ABB company regarding return of meter was kept by them on record. Hence, Licensee submitted that they will revise the bill as per Section 15.4.1 of MERC Supply Code, 2005, in which energy bill can be adjusted up to 03 months prior to detection of faulty meter after receipt of manufacturer report.

5] In the light of aforesaid factual aspects, following details are to be just borne in mind:

a] Consumer is having industrial supply from 28/7/1998 and paying regular bill till December 2014 and there was no dispute till the bill issued for the month of January 2015 in which consumption was showing only '1' unit.

b] In month of February 2015, adjustment bill for '22000' units was issued to the consumer which was paid by the consumer under protest.

c] In the month of March 2015 another adjustment bill for 21000 units was issued, but consumer has not paid the said bill.

d] On 25/3/2017 meter was replaced for the reason of no display' with the new meter No. 5795227 and bill for the month of April 2015 was issued for zero unit ( i.e. for period 5/3/2015 to 5/4/2015).

e] During the period, consumer approached Asst. Engineer of Licensee (Sativli-II) Section, on 9/2/2015, stating that there is no production. Further on 12/3/2015, stating that plant is working for capacity of 50% for last two months and finally/lastly on 25/3/2015, the consumer informed at Vasai Road ( E ) S/dn. Regarding not using the factory due to non-availability of raw material.

f] In the month of May 2015, regular bill for '5809' reading was issued, which was showing the reading for period from 05/4/2015 to 5/5/2015 but as per Licensee it was from meter replacement date to 5/5/2015.

g] Lastly/finally in the month of June 2015 a regular bill for '4366' units was issued to the consumer.

h] Licensee contended that display was not seen in the meter, also M.R.I. could not be downloaded, hence consumer charged on average basis. But the calculation of the average billing not placed on record. One more record shows that the meter was sent to Manufacturing company for obtaining meter data. The said meter was returned to Licensee on 16/9/2016 by 'Elster' company but no mention of data retrieval.

6] In view of above factual aspect, one thing is clear that it is a case of stopped meter and the meter sopped working during the period of 5/12/2014 to 5/1/2015.

Aspect of stopped meter is dealt in Supply Code and Clause 15.4.1 is the provision dealing with defective meter.

7] It contains only one clause but, there are two provisions. Main Clause i.e. 15.4.1 reads 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.:

Provided that, in case of broken or damaged meter seal, the meter shall be tested for defectiveness or tampering. In case of defective meter, the assessment shall be carried out as per clause 15.4.1 above and, in case of tampering as per Section 126 or Section 135 of the Act, depending on the circumstances of each case.

Provided further that, in case the meter has stopped recording, the consumer will be billed for the period for which the meter has stopped recording, up to a maximum period of three months, based on the average metered consumption for twelve months

immediately preceding the three months prior to the month in which the billing is contemplated.

The first proviso in the aforesaid clause pertains to the defect in the said meter, which resulted due to the act/overt act of consumer, such as unauthorised use of electricity or theft of the electricity. Said provision totally revolves around the liability for breach of legal duty as per Section 126 and 135 of Electricity Act, 2003. In that case, consumer is to be dealt by imposing penalty and punishment as stated in those sections. This first proviso is, merely reproducing the effect of those two sections in the act. In other words it deals with the accountability of consumer to act and liability created as per Law, breach of which is, made penal i.e. not to unauthorizedly use power, not to commit theft of power.

On close reading of Clause 15.4.1 and second proviso to it, one fact is clear that almost all circumstances of defective meter, are, dealt in the main clause and in the second proviso aspect of stopped meter is carved out and the mode in which quantification of charges to be worked out, is, stated. This clause deals with the avoidance or failure to discharge of legal duties by Licensee. It is supposed to maintain the service line and the meter in appropriate condition. If, there is failure to maintain it, which, it is bound duty bound, then it cannot recover the charges for total period during which such defect/stoppage which is noted, but it is made limited to three months only. Three months period on average basis is provided as reasonable and the Licensee is supposed to maintain the meter correctly, noting the defects if any within three months in the light of provisions of Supply Code and SOP as it is supposed to keep the meter flawless. But liability if any is, of a period more than three months, said additional liability cannot be recovered.

This is a legal mandate which Licensee is to face for its failure to discharge the duty of keeping the apparatus i.e. meter in proper condition. Hence, for its fault, not to maintain the meter in a proper condition, for more than three months, then the liability of consumer is, only for three months and in case of stopped meter, it is to be only to the extent of average of 12 months worked out considering last twelve months, leaving three months prior to the date of dispute.

8] In this matter, the Licensee did not give details as to how the average of '21000 and 22000' is calculated for 12 months. Hence, in this case, the average is to be calculated for 12 months that too prior to three months to meter stoppage period. As per record the meter reading was not available from 5/12/2014. Disputed period starts from the bill of January 2015, hence average to be calculated from October 2013 to September 2014. Thus this period was chose as three months prior to the dispute, are to be ignored.

9] Now liability is to be made limited for three months, if any recovery is to be done. Accordingly, billing (dispute) contemplated as per Clause 15.4.1 of Supply Code, in this matter was from 5/12/2014 to 25/3/2015. If, three months period is to be considered, then it should be from 25/3/2014 as the Licensee found it fit to remove the meter and confirmed that it is stopped recording right from 5/12/2014 onwards. Accordingly, billing dispute from 5/12/2014 to 25/3/2014 in contemplated. But liability is to be muted limited, in case any recovery is to be done, it will be only for previous three months prior to 25/3/2015 i.e. up to 25/12/2014. Hence, the period prior to 25/12/2014, there cannot be any recovery of liability from consumer. But only three months period from 25/12/2014 to 25/3/2015 is to

be considered and if in those months consumption shown by Licensee in its record is for more than average of 12 months then it's liability is to be made limited to average of 12 months units.

Secondly, consumption of consumer for three months i.e. prior to 25/12/2014 is shown less than ( i.e. 1 unit) 12 months average units, hence, there is no question of recovery from consumer for the period from 2/12/2014 to 25/12/2014.

This matter is not decided within time as the parties to have produced some documents.

In the light of aforesaid discussion, the grievance of the consumer is to be allowed.

Hence the order.

#### **ORDER**

- 1] Grievance application of consumer is hereby allowed.
- 2] Licensee is directed to calculate average consumption of consumer for the period from October 2013 to September 2014. Apply the said average for period from 25/12/2014 to 25/3/2015. Recalculate and issue revised bill accordingly only for said three months and refund excess recovery made, if any and same be credited / adjusted in consumer's ensuing bill. Interest and DPC charged on the refundable amount should be waived off.
- 5] Compliance be reported within a period of two months from the date of receipt of this order.

Date: 20/09/2017.

(Mrs.S.A.Jamdar)  
Member  
CGRF, Kalyan

(A.P.Deshmukh)  
Member Secretary  
CGRF, Kalyan.

(A.M.Garde)  
Chairperson  
CGRF, Kalyan.



**NOTE**

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.

*“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.*

- b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or

- c) delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”

- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.