Maharashtra State Electricity Distribution Co. Ltd.'s
Consumer Grievance Redressal Forum
Nagpur Urban Zone, Nagpur

Case No. CGRF(NUZ)/004/2008

Applicant : M/s. Shiva Steel Industries (NAG) Ltd.
At Satranjipura, Bhandara Road,
Nagpur.

Non–applicant : MSEDCL represented by
the Nodal Officer-
Executive Engineer,
Division No.-I, NUZ,
Nagpur.

Quorum Present : 1) Shri S.D. Jahagirdar,
Chairman,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.

2) Smt. Gouri Chandrayan,
Member,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.

3) Shri S.J. Bhargawa
Executive Engineer &
Member Secretary,
Consumer Grievance Redressal
Forum, Nagpur Urban Zone,
Nagpur.

ORDER (Passed on 21.02.2008)

This grievance application has been filed on 11.01.2008 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance

Redressal Forum & Electricity Ombudsman) Regulations, 2006 here-in-after referred-to-as the said Regulations.

The grievance of the applicant is in respect of his erroneous energy bills for the months of June & July, 2007 which, according to him, were issued wrongly on average basis misinterpreting the MERC (Electricity Supply Code and Other Conditions of Supply), Regulations, 2005 hereinafter referred-to-as the Supply Code Regulations. He has requested to revise these bills on the basis of readings of additional meter.

Before approaching this Forum, the applicant had filed his grievance on the same subject matter before the Superintending Engineer, NRC, MSEDCL, Nagpur vide his letter dated 28.05.2007 followed by his subsequent applications. The Superintending Engineer, NRC by his letters dated 02.11.2007 and another dated 01.01.2008 replied the applicant that the energy bills of the applicant for the months of June & July, 2007 were properly raised on average basis as per Regulation 15 of the Supply Code Regulations since "R" phase PT had failed on 28.05.2007 and "B" phase PT had failed on 19.06.2007. The applicant's request for raising these two bills on the basis of readings recorded by the check meter installed on the pole was rejected by the Superintending Engineer. It is against this order that the present grievance application has been filed before this Forum under the said Regulations.

The matter was heard on 29.01.2008 and 14.02.2008.

The applicant's case was presented by his nominated representative one Shri R.B. Goneka while the Assistant Engineer, NRC MSEDCL, Nagpur represented the non-applicant Company.

Some of the un-disputed facts, in brief, of the case are as under:

The applicant is a HT consumer of MSEDCL and HT meter, being meter no. MSE0161, was installed at the applicant's premises. A second meter has also been installed at an outdoor location between the Distribution Mains and the consumer's tariff meter. The tariff meter's "R" phase PT failed on 28.05.2007 and "B" phase PT failed on 19.06.2007. The applicant requested the non-applicant to issue bills as per the readings of this second meter vide his application dated 23.05.2007. The Assistant Engineer, MSEDCL recommended to his higher ups to issue energy bills for the month of June 2007 based on consumption recorded by this second alternate meter referred-to-by the applicant as a check meter for 8,82,270 Kwh units. The MSEDCL, however, issued energy bill for June, 2007 for consumption of 1007965 Kwh units. The applicant paid this energy bill. However, he wrote on 16.07.2007 to the non-applicant to revise the energy bill based on check meter readings. The Assistant Engineer Mouda S/Dn., again recommended billing the applicant as per assessment consumption of 837375 Kwh units for the month of July, 2007. However, the MSEDCL issued energy bill for 942935 KWh units. The applicant had also informed the non-applicant that he has reduced his consumption after

December 2006 due to increase in tariff vide his letter dated 20.07.2007 and another dated 23.07.2007.

The fault period of the meter in this case is from 28.05.2007 to 01.08.2008. The applicant reminded the non-applicant on 19.09.2007 saying that the faulty CT / PTs were replaced after three months from the date of intimation. Even then MSEDCL has not revised energy bills in question based on check meter readings. A reply was ultimately given on 02.11.2007 by the Superintending Engineer saying that the energy bills for June and July 2007 were issued properly on the basis on Regulation 15.4.1 of the Supply Code Regulations. The applicant's request for issuing energy bills based on the readings of check meter was not granted.

The applicant's representative strongly contended that the non-applicant's action of billing the applicant taking recourse to Second Proviso to Regulation 15.4.1 of Supply Code Regulations was not correct since the applicant's meter had never stopped working. According to him, at least one PT / CT has been working alright throughout the fault period of the meter. He added that the non-applicant should have tested meter for its accuracy by installing another meter alongwith CTs & PTs and energy bill amounts should have been on the percentage defect in the consumer's tariff meter.

He vehemently submitted that there is an additional meter (and not check meter as wrongly mentioned by the applicant in his grievance applications) installed prior to the consumer's meter at a location between the Distributing mains and the consumer's tariff meter and this additional meter was recording quantum of energy consumption correctly

throughout. The non-applicant, therefore, ought to have arrived at correct quantum of consumption for the months of June & July, 2007 based on this additional meter since the consumer's metering arrangement had developed defects.

He strongly relied upon Regulation 19 of the Central Electricity Authority (Installation and Operation of meters) Regulations, 2006 hereinafter referred to as the C.E.A. Regulations. He strongly argued that MSEDCL could have easily ascertained quantum of electricity supplied to the applicant based on the readings of this additional meter since the applicant's tariff meter had developed faults during the period 28.05.2007 to 01.08.2007. Instead, the non-applicant wrongly relied upon Regulation 15.4.1 (Second Proviso) of Supply Code Regulations with the result that excess billing came to be done to the applicant.

He has also stated that MSEDCL violated provisions contained in Regulations 14.4.1, 15.4.1, and 3.2 (b) of Supply Code Regulations.

He also referred to the recommendations made by the Assistant Engineer, Mouda Sub-Division who, according to him, properly proposed issuance of energy bills based on the readings of the additional meter.

He added that the applicant has already reported to the S.E. on 26.07.2007 that the applicant has reduced his consumption from February, 2007 onwards and also that the difference between readings of the consumer's meter and the additional meter was ranging between 4560-5670 units during the months of February to May 2007. This, he has demonstrated to say that the readings recorded by the

additional meter were generally tallying with those of his regular meter. Based on this, the applicant's representative's submission is that nothing wrong could have been happened had the non-applicant considered the readings reflected by the additional meter in view of the fact that "R" phase PT failed on 28.05.2007 and "B" phase PT failed on 09.07.2007. The fault period was thus from 28.05.2007 to 01.08.2007 when the CT, PT units were replaced by a new set.

He has taken objection to the statement made by the non-applicant in his written submission that the CEA Regulations will not be applicable to the present case and that the Distribution Licensee has to stick to Regulations made by MERC only.

He lastly prayed that the applicant's energy bills may be revised appropriately based on the readings of the additional meter.

The non-applicant has submitted his parawise report dated 28.01.2008 and additional reply dated 13.02.2008.

It has been stated in this parawise reports as well as in the oral submissions of the Assistant Engineer representing the non-applicant Company that the applicant's energy bills for the months of June & July 2007 were raised correctly by taking proper recourse to Second Proviso to Regulation 15.4.1 of the Supply Code Regulations. According to the non-applicant, the applicant's request for issuing bills as per the readings of the check meter was not considered as there is no provision in the Supply Code Regulations to bill the consumer on the basis of readings of check meter or additional meter. The meter of the applicant was found to be defective

during the faulty period of 28.05.2007 to 01.08.2007 since "R" phase PT failed on 28.05.2007 and "B" phase failed on 9.06.2007. According to the Assistant Engineer, the applicant's meter had stopped recording and hence, he was billed for the period for which the meter has stopped recording upto a maximum period of three months, based on the average metered consumption for twelve months immediately preceeding the three months prior to the month in which the billing is contemplated. The applicant's average metered consumption for 12 months i.e. March 2006 to February 2007 immediately preceeding three months prior to the month in which the billing was contemplated is 1007965 units and hence, the applicant was charged for this much quantum in the month of June 2007. Likewise, the applicant is also billed for the month of July, 2007 for 942935 units for the billing period of 29 days.

On the point of delay in replacing the faulty PT, the Assistant Engineer submitted that on 27.06.2007, the Testing Engineers tried to replace outdoor failed P.T. but the same could not be replaced due to heavy rains. However, subsequently on 11.07.2007 two nos. of PT were replaced. But while testing, it was noticed that the CT has also gone faulty. Thus, the applicant's metered consumption recorded by the consumer meter could not be considered because of the fault developed in the metering arrangement as stated above. The billing period for August 2007 is from 20.07.2007 to 20.08.2007. As faulty status of the metering arrangement continued from 20.07.2007 to 01.08.2007, billing was done on assessment basis as per provision of Regulation 15.4.1 of

Supply Code Regulations. The complete metering arrangement was restored to normalcy on 01.08.2007. Hence, from 01.08.2007 but 20.08.2007, billing has been done based on the actual readings recorded by the consumer's meter.

While commenting upon the CEA Regulations relied upon by the applicant's representative, the Assistant Engineer stated that MSEDCL has not issued any commercial circular regarding applicability thereof for the purpose of billing consumers based on the readings of such an additional meter in the event of failure of the consumer meter. She also stated that there is also no provision in the Supply Code Regulations as to the applicability of CEA Regulations in such circumstances. According to her, CEA Regulations cannot be applied to the present case and the Distribution Licensee has to stick to Supply Code Regulations only. Hence, the applicant's request for revising his energy bills based on the readings of additional meter is devoid of any merits. She also relied upon Section 45 (5) of the Electricity Act, 2003 which provides that charges fixed by the Distribution Licensee shall be in accordance with this Act and the Regulations made in this behalf by the State Commission.

She lastly prayed that the grievance application may be dismissed.

It is pertinent to mention that the non-applicant was asked on 29.01.2008 to submit all the relevant details of data retrieved in respect of both the consumer's tariff meter and the back up additional meter. However, the same has not been submitted.

The main point that comes up for consideration before this Forum is as to the exact provisions that are applicable in this case. The applicant wants his energy bills to be revised based on the readings recorded by the additional meter while the non-applicant submitted that the applicant's bills were issued correctly based on the provision contained Second Proviso to Regulation 15.4.1 of the Supply Code Regulations.

Here, what is seen is that the applicant's meter had not stopped recording at all during the fault period of 28.07.2007 to 01.08.2007 because of failure of PT or CT during this period. The applicant's regular meter was only not showing the correct quantum of consumption. The applicant's meter was, indeed, showing some consumption which was not commensurate with his actual consumption. Therefore, the non-applicant's contention that the applicant's tariff meter had stopped recording during the fault period is not correct. Due to failure of one or two PTs or one or two CTs out of three PTs / CTs, the consumer's regular tariff meter still shows 2/3 or 1/3 of his consumption as case may be. Hence, the plea made by the non-applicant that the applicant's meter had stopped recording is wrong. Thus, the concept of average consumption on the basis of which the applicant was billed taking recourse to Second Proviso to Regulation 15.4.1 of the Supply Code Regulations was not correct and proper.

Moreover, the results of meter test has not been produced by the non-applicant as required by Regulation 15.4.1 the consumer meter being defective.

The next question that comes up for consideration is as to on what basis the applicant should have been billed in such a contingency.

The applicant's representative has strongly relied upon Regulations 19 of the CEA Regulations and submitted that the readings recorded by the additional meter were very much available with the Distribution Licensee and these readings should have been considered for billing purposes. The non-applicant's reply to this submission is that the CEA Regulations will not be applicable to the present case and MSEDCL will have to stick to Supply Code Regulations only.

In this respect, we hold a firm view that the CEA Regulations will definitely come into play in such circumstances.

The Supply Code Regulations made by MERC have to be read and construed being subject in all respects to the provisions of the Electricity Act, 2003. This is made abundantly clear in Regulation 21 of the Supply Code Regulations. The Central Electricity Authority is constituted under Section 70 of the Act to exercise functions and perform such duties as are assigned to it under this Act. Under Section 73 of the Act, the C.E. A. shall perform such functions and duties as the Central Government may prescribe or direct, and in particular to various things that are enumerated in clauses (a) to (o) of Section 73. In particular, Clause (e) of Section 73 enables the C.E.A. to specify the conditions of installation of meters for transmission and supply of electricity.

It is also pertinent to mention here that MERC has also referred to applicability of CEA Regulations in its

order dated 08-09-2006 in case No. 70 of 2005 in the matter of approval of MSEDCL's schedule of charges vide comments on page 27 on the caption of cost of meter and meter box and also on page 31 on testing of meters.

The notification issued on 17.03.2006 by the CEA entitled as the C.E.A, Regulations, 2006 has specified various provisions in respect of meter reading, consumer meters, audit meters and additional meters etc. As per Regulation 19 of these Regulations, the licensee may connect additional meters to ascertain the quantity of electricity supplied to the consumer. The C.E.A. has also specified the location of this additional meter which has to be between the distributing mains and the consumer meter.

Looking to all the aforementioned mandatory provisions, it cannot be stated that the C.E.A. Regulations are not applicable to the present case. The backup additional meter installed by the licensee outside the premises of the applicant is meant for ascertaining and checking consumption of tariff meter of the applicant. Hence, in the event of failure of the existing metering arrangement at the applicant's premises, the non-applicant should have considered the quantum of consumption recorded by such an additional meter for the purpose of proper billing. In the instant case, this has not been done by the non-applicant. There is no convincing reasoning given by the non-applicant as to why the readings recorded by the additional back-up meter should not be considered for the purpose of billing the applicant.

The contention of the non-applicant that billing will have to be done only as per Supply Code Regulations in

such circumstances and about inapplicability of C.E.A. Regulations holds no substance. No doubt that billing has to be done to a consumer as per the provisions contained in Supply Code Regulations. However, in the absence of a specific provision in these Regulations in respect of a contingency like the one which has arisen in the present case, the C.E.A. Regulations will be binding upon the Distribution Licensee. The other plea taken by the Assistant Engineer that her department has not issued any commercial circular as to how a consumer should be billed in such circumstance cannot come to her rescue.

It is a matter of record that the applicant's representative has convincingly demonstrated that quantum of consumption reflected by the applicant's tariff meter and the one reflected by the additional meter from February 2007 to May 2007 was generally similar and percentage error of difference was within permissible limits.

On being pointedly asked by us, the Assistant Engineer representing the non-applicant Company stated that the applicant's additional meter was working alright and that calibration thereof was also done to confirm its accuracy from time to time.

It is also not understood as to why the non-applicant did not consider the recommendations of the Assistant Engineer, Mouda S/Dn., who had proposed to bill the applicant on the basis of readings recorded by the additional meter.

In view of above position, we have no other alternative than to hold that the applicant should be billed

based on the readings of the additional meter during the fault period as mentioned above. This is required to be done as per principles of natural justice. It follows that the billing already done to the applicant was excessive and improper.

A reference has been made by both parties to the Electricity Ombudsman's order passed in the case of H.T. connection of M/s. Anand Melting Pvt. Ltd.

We have perused the text of the order dated 05.06.2007 passed by the Electricity Ombudsman in Representation no. 25/2007 in the case of M/s. Anand Melting Pvt. Ltd., Vs. MSEDCL in the matter of high bill, disconnection of supply and compensation. This order has been passed by the Electricity Ombudsman in appeal against this Forum's order dated 31.01.2007. In this case, the non-applicant had consented to bill the applicant as per readings of the additional meter after appropriately reconciling the retrieved data. Hence, reference to this case is misconceived.

In the result, we allow the grievance application and direct the non-applicant to revise the applicant's energy bills in question on the basis of the readings recorded by the additional meter and further to give appropriate credit to the applicant.

The non-applicant shall carryout this order and report compliance to this Forum on or before 18.03.2008.

(S.J. Bhargawa) **(Smt. Gauri Chandrayan)** **(S.D. Jahagirdar)**
Member-Secretary MEMBER CHAIRMAN

CONSUMER GRIEVANCE REDRESSAL FORUM
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO LTD's
NAGPUR URBAN ZONE, NAGPUR.