

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

Case No. CGRF(NUZ)/206/2013

Applicant : M/s. U.C.N. Cable Network Pvt. Ltd.,
502, Milestone, 12, Ramdaspath,
Nagpur : 10.

Non-applicant : Nodal Officer,
The Executive Engineer,
Congressnagar Division, NUC,
MSEDCL,
NAGPUR.

Quorum Present : 1) Shri. Subhash Jichkar
Member.
2) Shri B.A. Wasnik,
Member Secretary.

ORDER PASSED ON 30.12.2013.

1. The applicant filed present grievance application before this Forum on 28.10.2013 under Regulation 6.5 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as Regulations). Along with the main application, the applicant also filed an application for interim relief u/s 8.3 of the said regulations.

2. The applicants' case in brief is that applicant is a C.T. Meter consumer of non applicant bearing Consumer No.

419996372422. From the date of installation of electric connection the non applicant is charging electricity bills as per commercial rate. All the bills issued by the non applicant have been paid by the applicant before due date and nothing is outstanding towards the applicant till September 2013.

3. Staff of the non applicant regularly visits the premises of the applicant for taking meter reading for the electricity consumed by the applicant and as per those readings the bills are raised by the non applicant and applicant has paid all the bills till September 2013.

4. It is also submitted that it was alleged by the non applicant that on 27.8.2013, Testing Engineer from Testing Division (U) MSEDCL, Nagpur visited the site of the applicant for testing of LT CT Meter as per the instruction of Chief Engineer, NUZ, Nagpur vide communication dated 12.8.2013 bearing No. CE/NUZ/Tech/00613. It was also alleged that during the testing it was found that C.T. connected to the metering panel is of ratio 200/5A and meter is of CTR 100/5A. Therefore it was alleged that the “Multiplying Factor” for raising the electricity bills to the applicant shall be MF – 2.

5. It is further submitted that based on the above findings non applicant made an assessment for escaped billing for the period July 2008 to July 2013 and raised demand for Rs. 96,55,713.76 for 8,38,844 units.

6. It is submitted that applicant raised an objection to the above assessment with the non applicant. However, the non applicant reiterated the stand taken in its earlier communication and did not give any satisfactory reply to the objection raised by the applicant. It is also submitted that even when it was fault on the part of the non applicant in not issuing proper bills and not applying proper M.F., the non applicant issued a notice u/s 56 (1) of the Electricity Act 2003 on Dt. 18.10.2013 and thereby threatened to disconnect the electricity for non payment of the difference of electricity charges. This notice is illegal and not tenable in the eyes of law. Therefore applicant prayed to quash and set aside the said notice Dt. 18.10.2013 u/s 56 (1), quash and set aside the assessment for less billing for the period from July 2008 to July 2013 amounting to Rs. 96,55,713.76 for 8,38,844 units issued by non applicant. Applicant also prayed for grant of interim relief by directing the non applicant not to disconnect the electricity supply of the applicant till finalization of this case.

7. Non applicant denied applicant's case by filing reply Dt. 28.11.2013. It is submitted that power supply to above consumer was released on Dt. 14.1.2007. The C.T. ratio provided for this installation was 200/5 Amp. from the date of connection itself. However the meter provided was of the C.T. ratio of 100/5 Amp. Therefore recorded by the meter has to be multiplied by 2 for actual calculation of billed units initially from January 2007 to July 2007. The M.F. was billed wrongly by considering MF – 1. However, this error was noticed during August 2007 and MF was corrected as 2.

8. The difference of escaped billing from the month of January 2007 to July 2007 was raised in the consumers monthly bill in the month of September 2007 amounting to Rs. 2,47,388.28 only, and the consumer has paid the said amount. This shows that the consumer has no dispute in assessing the bill as per MF 2 and now he is denying the same. At that time the consumer did not raise any queries about this excessive bill which means that consumer agreed for the said bill and multiplying factor 2 for the installation so consumer paid the said amount. The M.F. 2 continued till June 2008 and consumer paid all the bills as per MF 2 up to June 2008. In the month of July 2008 the billing of C.T. Meter was transferred to the Division office from Sub-Division office. During the transfer of the connection to the Division office, the data fed to the IT section is erroneously fed, resulting in wrong feeding of MF as 1 against actual MF as 2. This is clerical mistake and human error. So multiplying factor for calculation of billed units changed from MF 2 to MF 1 from the billing month of July 2008. Undervalued bills were issued from July 2008 onwards. Consumer who was knowing that their installation's MF is 2 and paid similar escaped bill for previous period, did not raise any objection nor informed to the Company and enjoyed undervalued billing since July 2008 onwards.

9. On Dt. 27.8.2013, during the inspection of Testing Engineers from Testing Division (U), NUZ, Nagpur, it was observed that C.T. ratio is 200/5A and meter is of ratio of 100/5 A. Hence for calculation of billed units (Actual consumption) billed units should be

multiplied by 2 for billing purpose. Testing Division submitted their report to Executive Engineer, Congressnagar Division vide L. No. 1009 Dt. 28.8.2013. On receipt of letter of Testing Division and verifying CPL of this installation, it was found that from the month of July 2008 onwards, bills were issued by MF 1 instead of actual MF 2. The consumer was under billed from July 2008 to July 2013. Hence this office calculated the difference on account of difference of M.F. for 838844 units for Rs. 9655714.00 and raised demand to the applicant accordingly. Due to non receipt of payment, 15 days notice under section 56 (1) of I.E. Act 2003 was issued to the consumer on Dt. 18.10.2013. The said notice is legal and valid and since the consumer / applicant is liable to pay the escaped bill of Rs. 9655714.00 the grievance application may be dismissed.

10. Forum heard arguments of both the sides and perused the record.

11. It is an admitted fact that the demand raised by the non applicant is on account of escaped billing which actually should have been billed for the period July 2008 to July 2013. It is also an admitted fact that same type of assessment was previously done by the non applicant for the period January 2007 to July 2007 for Rs. 247388.28 which the applicant duly paid without raising any objection. Hence there is enough scope to believe that the consumer was aware of applicable Multiplying Factor i.e. '2'. Even then he continued to enjoy the under billing on account of application of wrong M.F.

12. It is note worthy to mention here that the applicant has challenged the notice issued by the non applicant u/s 56 (1) of I.E. Act 2003. The Forum finds that amount on account of under billing due to wrong M.F. was outstanding against the applicant and demand of Rs. 96,55714,00 was raised by the non applicant to the applicant. Due to non payment of the said amount, the non applicant / licensee has every right to issue disconnection notice u/s 56 (1) of I.E. Act 2003 for recovery of outstanding amount to the consumer. Hence Forum finds no force in the objection raised against issue of disconnection notice u/s 56 (1) of I.E. Act 2003. Moreover, the applicant filed application u/s 8.3 of the said regulations for interim relief against disconnection notice on which this office has issued interim order on Dt. 31.10.2013 directing the applicant to pay 1/4th of the amount of demand raised by the non applicant and on such payment further directed the non applicant not to disconnect the electricity supply till final decision in the matter.

13. Furthermore, the applicant's contention was that issue of proper bills is the responsibility of non applicant and since this so called under billing was due to negligence on the part of non applicant, the applicant is not liable to pay the amount of demand raised by the non applicant. In this connection, this is to mention here that application of wrong M.F. is human error on account of staff of non applicant which can be committed by anybody while feeding necessary information to I.T. section. However, the human error

committed by the clerical staff, should not lead to loss of revenue to non applicant as revenue of the non applicant is public money.

14. It is noteworthy to mention here that non applicant produced order of CGRF Pune Zone in Case No. 172/2008, holding licensee entitle to recover the previous bill from the consumer on account of under billing. On perusal of the said order passed by Learned C.G.R.F. this Forum finds that facts of the case squarely apply to the case in hand. Hence this Forum is also of the opinion that non applicant is eligible to recover unbilled amount for the past period. The question of limitation period does not arise in case in hand as the meter was not faulty at any point of time. On the contrary, regular bills for half the amount for double electricity consumed were being issued to the applicant. Forum also finds that applicant was well aware of the fact that the applicable multiplying factor to his billing is '2'. Even then the applicant continued to enjoy less electricity bills for such a long period. Hence the demand raised by the non applicant forms a part of actual bill for the said period.

15. The applicant relied up on the decision of C.G.R.F. Ratnagiri Zone. However, on perusal of the order passed by the Learned C.G.R.F. Ratnagiri, the facts in the said case do not apply to the case in hand. Moreover this shall be violation of section 3.1 & 3.2 (b) of MERC (Electricity Supply Code & Other conditions of Supply) Regulations 2005. The non applicant also produced order passed by Hon'ble High Court Bombay in writ petition No. 264 of 2006 decided on 18.1.2007 where facts similar with the case in hand are involved.

16. Under the circumstance discussed above, the Forum proceeds to pass following order: -

ORDER

- 1) Grievance application is dismissed.
- 2) Notice issued u/s 56 (1) of I.E. Act 2003 by the non applicant is legal, valid and justified.
- 3) Non applicant is hereby held entitled to recovery the amount of escaped billing to the tune of Rs. 96,55,714.00 from the applicant.
- 4) As the amount of demand is for accumulated billing, Applicant may be granted suitable installments at the discretion of non applicant.
- 5) The interim order Dt. 31.10.2013 passed by this Forum is hereby cancelled.

Sd/-
(Shri B.A. Wasnik)
MEMBER
SECRETARY

Sd/-
(Shri Subhash Jichkar)
MEMBER