

**CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L., PUNE ZONE, PUNE**

Case No.24/2015

Date of Grievance : 29.09.2015

Date of Order : 27.11.2015

In the matter of exorbitant billing.

Shri Ramesh Balkrushna DholePatil
TPS 153,PL1, Sangamwadi
DholePatilRoad,
Kapila Garden, Pune-01

Complainant

(Herein after referred to as Consumer)

Versus

The Executive Engineer,
M.S.E.D.C.L.,
Bundgarden Division,
Pune.

Respondent

(Herein after referred to as Licensee)

Quorum

**Chair person
Member Secretary
Member**

**Mr. S.N.Shelke
Mr. D.H.Agrawal
Mr. S.S.Pathak**

Appearance

For Consumer

**Mr.Sudhir S.Gaikwad
Mr.Sunil S.Brahme**

For Respondent

**Mr. P.H.Shirke, Ex.Engineer
Bundgarden Division,Pune.
Mr.B.G.Panghat, Addl.Ex.Engr.
Wadia Sub/dn.,Pune.**

- 1) The Consumer has filed present Grievance application under regulation no. 6.4 of the MERC (CGRF & E.O.) Regulations 2006.
- 2) Being aggrieved and dissatisfied by the order dated 10.09.2015 passed by IGRC Rastapeth Urban Circle, Pune, thereby rejecting the grievance,

the consumer above named prefers this grievance application in Schedule-A on the following amongst the other grounds.

- 3) The papers containing the above grievance were sent by the Forum to the Executive Engineer, M.S.E.D.C.L., Bundgarden Dn, Pune vide letter no. EE/CGRF/PZ/Notice/24 of 2015/277 dtd.03.10.2015. Accordingly the Distribution Licensee i.e. MSEDCL filed its reply on 28.10.2015.
- 4) We heard both the parties and gone through the contentions of the consumer and reply of the respondent and the documents placed on record by the parties. On its basis following factual aspects were disclosed.
 - i) Consumer Mr. Ramesh Balkrishana Dhole Patil LT consumer connected on 8.10.1993 vide consumer no.170016757180 in the category LT-II B .
 - ii) The Licensee inspected the metering equipment of the consumer on 22.7.2014.
 - iii) It was found by the Licensee during inspection that R Phase CT current recorded by meter was zero.
 - iv) The Licensee replaced C.T.meter with box by new C.T. meter with box on 23.7.2014.
 - v) Consumption after replacement of C.T. meter watched by the Licensee upto March-2015 as per the MRI data in cumulative campus status report, R-Phase C.T. current was missing for 390 days but R-Phase C.T. found to be burnt which shows that factional current was recorded by C.T. due to which consumption pattern from July-2011 to July-2014 (till the replacement) found to be 30% less as compared to consumption before July -2011 & after Aug.2014 till date.
 - vi) The Licensee made assessment of CT missing for 390 days as stud type C T of R-Phase was found brunt from July -2011 to July-2014 quantifying 94926 units for Rs.9,53,133/-.
 - vii) The Licensee informed the consumer above mentioned arrears of bills vide letter dated 27th April 2015

- viii) The consumer made grievance of above mentioned assessment & arrears of bills to IGRC, Rastapeth Urban Circle. in Schedule-X on 27.07.2015.
- ix) IGRC, Rastapeth rejected the consumer grievance and directed to pay the bill of Rs.953133/- by installments vide impugned order dated 10.9.2015
- 5) The consumer representatives namely Mr.Sunil Sharad Brahme & Mr.Sudhir Shankar Gaikwad submitted that the letter dated 27th April 15 issued by the Licensee was received to the consumer alongwith assessment sheet for CT missing but it does not mention when the premises of the consumer was visited. The meter was inspected without any intimation and in absence of the consumer or any witness nor any spot inspection report was given to the consumer. Therefore it is violation of regulation no. 8, 8.1, & 8.3 of MERC supply Code regulations-2005. They further submitted that the distribution Licensee shall be responsible for the periodic testing & maintenance of all consumer meters as per Regulation No.14.4.1 of MERC Supply Code Regulations, 2005. They further submitted that if only R Phase C.T. was burnt and CT meter was found working, what was the need to replace the entire CT meter with box. However the Licensee without the knowledge of the consumer replaced the C T meter & violated the rules & the guidelines of MERC. They further submitted that the Licensee made assessment on the basis of CPL and MRI data during the period from July 2011 to July 2014 i.e. for 36 months calculating on the basis of 30% less recording, and the consumer was informed about a said arrears vide letter dated 27th April 2015 i.e. only after 45 months. Therefore as per Section 56(2) of the Electricity Act 2003, the sum demanded by the Licensee is time barred since more than 2 years period elapsed after it became first due in the month of July-2011. The consumer cannot be held responsible for the misdeeds and negligence on the part of the Licensee. Therefore consumer lastly requests to set aside the said arrears with compensation of Rs.50,000/- awarding to consumer from the Licensee.

- 6) On the other hand the Licensee was represented by Mr. P.H.Shirke, Ex.Engineer & Mr.B.G.Panghat, Addl.Ex.Engr. Wadia Sub/dn. They submitted that inspection of the metering equipment of the consumer was carried out by the section officer on 22.7.2014 and same was informed to the consumer orally. During the inspection it was found that R-Phase CT current recorded by meter found to be zero. Therefore complete CT meter with box was replaced by new CT meter with box on 23.7.2014. After replacement consumption was watched upto March-2015 and after studying previous CPL and current consumption assessment was made. They further submitted that as per MRI data R phase CT current missing was found to be for 390 days but R phase CT was found to be burnt which shows that fractional current was recorded by CT due to which consumption pattern from July-2011 to July-2014 (till the replacement) was found to be 30% less with the consumption before July-2011 and from Aug.2014 till date.
- 7) It is further submitted on behalf of Licensee that technically speaking, in case of LT connection with CT meter, equipment which is used to measure energy consumed by the consumer is CT meter which records quantum of electrical energy consumed by the user. The CT meter in this case was not faulty, but only R phase CT was found burnt. Therefore in the present case Regulation No.15.4.1 of MERC supply code,2005 is not applicable. The said regulation is related with the defective meter and does not relate to CT failure in the phase.
- 8) It is further submitted on behalf of Licensee that though, as per MRI data R phase CT is missing for 390 days as stud type CT of R phase was found burnt, actual current recorded by meter was negligible and same can be proved by the consumption pattern of the consumer even after replacement of burnt CT. They lastly submitted that the assessment carried by the Licensee for the period from July-2011 to July-2014 towards 94926 units for Rs.953133/- is correct and the consumer is liable to pay the said bill.

- 9) Licensee placed reliance to the case of M/s.Rototest Polyster and another v/s Administrator, Department of Dadra and Nagar Haveli (UT) Electricity Department of Silvasa and others reported in 2010 (4) BCR, wherein Hon Bombay High Court held that -

“ A consumer is under billed due to a clerical mistake of calculation; bar of limitation cannot be raised. Hence, challenge of petitioner is not tenable and Sec.56(2) of E.A. is not a bar for recovery of due amount by Respondents.”

- 10) In view of above mentioned facts & circumstances following points arise for our determination. We give our finding thereon for the reasons stated below.

Points

- 1) Whether provisions of Regulation No.15.4.1 of MERC supply code, Regulations 2005, are applicable to the Present case?
 - 2) Whether consumer is liable to pay arrears of bill amounting to Rs.953133/- for 94926 units for the period from July-2011 to July-2014 as claimed for ? If no, what is the extent of liability of the consumer as per law?
 - 3) What order?
- 11) Our findings are -----
- i) as to point no. 1 in the negative.
 - ii) As to point no.2 in the negative. Extent of liability of the consumer is for 2 years from the date when such sum became first as per Section 56(2) of the Act.
 - iii) As to Point No.3 as per final order.

12) **Reasons**

According to Licensee they carried inspection of metering equipment of the Licensee on 22.7.2014 and at that time it was found that R-Phase CT-current recorded by meter was zero. Therefore they had replaced

complete CT meter with box by new CT meter with box on 23.7.2014. However the said meter was not faulty. On the contrary, it is the case of consumer that the meter was defective during the period from July-2011 to July-2014, therefore the assessment period in case of defective meter as per regulation no. 15.4.1 of supply code is only for 3 months.

13. Therefore the Licensee be directed to revise the assessment into the definition of meter as provided under Regulation No.2 (m) of MERC (Standards of performance of Distribution Licensee, period for giving supply and determination of compensation) Regulations 2005 which reads as under.

2) *Definitions:201 In these regulations unless the context otherwise requires, (m)' Meter' means a set of integrating instruments used to measure and/or record and store the amount of electrical energy supplied or the quantity of electrical energy contained in the supply, in a given time, which include whole current meter and metering equipment, such as current transformer, capacitor voltage transformer or potential or voltage transformer with necessary wiring and accessories and also includes pre-payment meters.*

14) Regulation No.15.4.1 of the MERC (Electricity Supply Code and other conditions of supply) Regulations, 2005 provides billing in the event of defective meters. It reads as under.

15.4 Billing in the Event of Defective Meters : *15.4.1 Subject to the provisions of Part-XII and Part XIV of the Act. in case of 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 14.4.1 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 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.

- 15) As per definition of meter referred to above as given in SOP Regulations, meter includes whole current meter and metering equipments such as current transformer , capacitor voltage transformer or potential transformer with necessary wiring and accessories etc.

On perusal of metering equipment inspection report dated 22.7.2014, it is seen that one phase CT current was is missing. Similarly as per cumulative tampered status report of MRI, R phase CT current was found to be missing for 390 days and it was found to be burnt. It shows fractional current was recorded by CT due to which consumption pattern from July 2011 to July 2014 was found to be less by 30% with consumption before July-2011 and even after replacement of CT meter. The consumer has LT connection with CT meter. The said CT meter equipment is used to measure quantum of electrical energy consumed by the consumer. In the present case CT meter is not faulty but only R-phase CT was found to be burnt. The data retrieved by MRI is sufficient to analyze and finalization of total use as measured by meter. The meter has recorded reading as seen from MRI data. As per MRI R phase CT is missing for 390 days since stud type CT of R phase was found burnt. Actual current recorded by meter was negligible. Therefore Licensee assessed the bill of the consumer to Rs.953133/- for 94926 units during the period from July-2011 to July-2014. In the present case we find that meter and CT meter are not faulty but only R phase CT was found to be burnt. Therefore Regulation No.15.4.1 of supply code, 2005 is not applicable to the present case. Hence we answer point no.1 in the negative.

- 16) Point No.2 : The consumer has strongly opposed to supplementary bill issued by the Licensee for Rs.953133/- for 94926 units of the period from July-2011 to July-2014. According to consumer the Licensee has not followed the mandatory provisions of the Electricity Act and the regulations there under. Inspection of metering equipment and replacement of it was done by the Licensee in the absence of the consumer

and without his knowledge. The consumer came to know about supplementary bill as mentioned above on 27th April 2015 i. e after 3 years & 9 months of sum became due. The sum became first due in the month of July-2011 and therefore the demand made by Licensee on 27th April 2015 is time barred as per section 56 (2) of the Act.

17) Now we shall take bird's eye view on relevant provisions of Electricity Laws. Regulation No.8 of MERC (Electricity supply code and other conditions of supply) Regulations, 2005 to the extent of relevance reads as under.

8. Access to consumer Premises :-

8.1 *Subject to the provisions contained in Part XII. Part XIV and section 163 of the Act, the Distribution Licensee shall not seek entry to the consumer's premises beyond the point of supply.*

8.2 *No inspection of any domestic premises shall be carried out between sunset and sunrise except in the presence of an adult male member occupying such premises, or an adult male representative.*

8.3 *While seeking entry into the consumers' premises, the Authorised Representative shall visibly display his name tag and produce for scrutiny, proof of Identity or authorization of the Distribution Licensee and shall inform the consumer of his reason for entry into the premises. The Authorised Representative shall also carry the job sheet or work order setting out the work required to be done at the premises and show the same to the consumer before entering the premises.....*

18. Regulation No.14.4.1 of the MERC (Electricity Supply Code and other conditions of supply) Regulations, 2005 supply code reads as under.

14.4 Testing & maintenance of meter :

14.4.1. *The Distribution Licensee shall be responsible for the periodic testing and maintenance of all consumer meters.....*

19. Section 56 of the Electricity Act, 2003 provides disconnection of supply in default of payment. Sub Section (2) of Section 56 provides that no sum due from any consumer under this section shall be recoverable after the period of two years from the date of when such sum became first due. It reads as under.

(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.

20. Inspection report in respect of metering equipment carried by Section officer of the Licensee dated 22.7.2014 does not bear any signature of the consumer or any independent witness. There is also no endorsement on the report that copy of it was handed over to the consumer. It is the responsibility of the Licensee for the periodic testing and maintenance of all consumer meters as per regulation no. 14.4.1 of the supply code. As per sub section (2) of Section 56 of the Act, no sum due from any consumer under this section shall be recoverable after the period of two years from the date of when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied. The Licensee visited the consumer premises on 22.7.2014. It was found by the section officer of the Licensee that R phase CT current recorded by the meter was to be zero. Thereafter Licensee replaced the CT meter with box on 23.7.2014. Thereafter Licensee made assessment of R phase CT missing for 390 days with the help of MRI data and CPL for the consumption pattern from July-2011 to July-2014. Thus detection of error is on 22.7.2014. However, the Licensee did not bring the said fact to the notice of consumer immediately after the said inspection. Record shows that the consumer came to know about the said fact on 27th April 2015 when the said letter was sent to the consumer. In the said letter no any reason is mentioned why such delay about nine months was caused to inform the consumer. Therefore as per Section 56(2) the sum became first due in July-2011 but Licensee detected the error on 22.7.2014. Therefore sum recoverable from the consumer is of two years prior to 22.7.2014 and the Licensee can recover the arrears from 22.7.2012 & not from 22.7.2011. Therefore the Licensee needs to reassess supplementary bill of the consumer in respect of missing of R phase CT from July-2012 and to issue fresh supplementary bill to the consumer. With due respect the ratio laid down

in 2010(4) BCR 456 cited supra would be applicable to the facts & circumstances present case. At the same time it may be mentioned that there is delay in periodic inspection of the meter and also delay in giving information to the consumer about R phase CT missing. Therefore the Licensee should take necessary steps against erring employees. The consumer is not liable to pay arrears of bills from July-2011 but his extent of liability is from July-2012. For the reasons mentioned above we answer Point No.2 accordingly.

Lastly we proceed to pass the following order.

ORDER

1. Grievance of consumer is partly allowed with cost.
2. Demand raised by the Licensee quantifying dues to the tune of Rs.953133/- for 94926 units is hereby set aside.
3. The Licensee is to revise the said bill making it limited only for the period from July-2012 to July-2014 as discussed in Para No. 20 above.
4. The Licensee is to give suitable installments to the consumer excluding DPC & interest in the said revised bill as per circular of the Licensee dated 18.6.2009.
5. The Licensee to issue such revised bill within 30 days from the receipt of this order and to submit compliance of it within further 15 days to this office.

Delivered on: - 27.11.2015

Sd/-	Sd/-	Sd/-
D.H.Agrawal	S.S.Pathak	S.N.Shelke
Member/Secretary	Member	Chairperson
CGRF:PZ:PUNE	CGRF:PZ:PUNE	CGRF:PZ:PUNE

Note :- The consumer if not satisfied may filed representation against this order before the Hon.'ble Ombudsman within 60 days from the date of this order at the following address.

Office of the Ombudsman,
Maharashtra Electricity Regulatory Commission,
606/608, Keshav Bldg.,
Bandra Kurla Complex,
Bandra (E), Mumbai-51.