

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

Case No.03/2017

Date of Grievance : 09.01.2017

Date of Order : 02.03.2017

In the matter of recovery in case of defective meter.

Mrs. Reshma Saraf,
Shop No.7, Millennium Star,
Dhole Patil Road, Behind Ruby Hospital,
Pune - 411001.

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

Chairperson	Mr. S.N.Shelke
Member Secretary	Mrs. B.S.Savant
Member	Mr. S.S.Pathak

Appearance

For Consumer	Mr.Ravi Shivarkar (Representative)
	Mr.Milind Naik (Representative)
For Respondent	Mr.D.Yelpale, EE, Bundgarden Dn.
	Mr.D.N.Sali,A. E.E.,Wadia Sub-Dn.

- 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 04.01.2017 passed by IGRC Rastapeth Urban Circle, Pune, thereby rejecting the grievance, the consumer above named prefers this grievance application on the following amongst 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/03 of 2017/07 dtd.09.01.2017. Accordingly the Distribution Licensee i.e. MSEDCL filed its reply on 25.01.2017.
- 4) We heard both sides at length and gone through the contentions of the consumer and reply of the licensee and the documents placed on record by the parties. On its basis following factual aspects were disclosed.
 - i) Consumer namely Mrs.Reshma Saraf, having consumer No.160232050028 connected on 05.01.2008 and categorized as LT -II (Commercial) & having sanctioned load 11.3 KW.
 - ii) The Flying squad of the Licensee inspected the premises of the consumer on 18.6.2016 and tested the LT CT operated meter having Sr. No. MS 268744/Secure make & found that R phase PT was open due to internal fault as incoming terminal was burnt. Other two phases were found OK.
 - iii) The Licensee retrieved MRI data & on analysis the said data found that R Phase PT was missing and tampered event was occurred from 17.4.2015.
 - iv) The Licensee tested the said meter in the Testing lab Rastapeth on 23.6.2016 and found that on meter display R Ph PT is missing and meter is found- 47.82%.
 - v) Therefore the Licensee made assessment from May-2015 to June-2016 for 13284 units amounting to Rs.177040/- and issued bill of the said amount on 8.7.2016.
 - vi) Thereafter the Licensee issued notice on 9th Nov.2016 under Section 56(1) of Electricity Act, 2003 for demanding of arrears of Rs.2,00,970/-.
 - vii) The consumer made complaint before IGRC, Rastapeth on 11.11.2016 that the said consumption was of previous consumer & that she was not liable to pay the said bill according to provisions of MERC conditions of supply.

- viii) The IGRC rejected the grievance of the consumer vide impugned order dated 4th Jan.2017.
5. The consumer representative Mr. Ravi Shivarkar submitted that the consumer has received a letter from the office of Addl.Ex.Engineer, Wadia Sub-division dated 8th July 2016 in respect of the faulty meter found during the inspection dated 18th June 2016 carried by the Flying Squad. Subsequently the said meter was tested on 23rd June 2016 in the testing division. In the said report it is stated that there is an internal meter fault due to which the R phase PT was not working & showing 00 volts. As per the said report the R phase wire was burnt by over current or loose connection. But the consumer is not aware of the said fact. Moreover it was never noticed by the reading agency while taking the meter reading since May-2015. The consumer has no access to the meter box. The consumer has been regularly paying electricity bills issued by the Licensee & never defaulted to pay any bill till date. He further submits that the said shop was purchased by the present consumer on 20th Jan.2016 from the previous owner Mr.Girish Bhagnani. Therefore the present consumer cannot be held liable to pay the past arrears of the previous consumer since the MRI data indicates that the fault developed from May-2015. He further submits that the Licensee threatened disconnection of supply on failure to pay such wrong billed amount. But the consumer is being unnecessarily victimized. He further submits that as per Regulation 15.4.1. of MERC supply code in the event of defective meter consumers liability is restricted only for the period of 3 months prior to the detection of error. Therefore, he lastly submits that the said bill be set aside & grievance be allowed.
6. On the other hand Mr.Yelpale, Ex.Engineer, Bundgarden Division submitted that the Flying Squad of the Licensee inspected the premises of the consumer on 18.6.2016 & found that the metering equipment (Meter Sr. No.MS 268744) was slow by 33.05 %. Therefore the said meter was tested in the presence of consumer representative on 23.6.2016. It was found that R phase PT of the said meter was missing & voltage shown by the energy meter is 00 volts. It

was found that R phase PT wire of the metering equipment was open due to internal fault as incoming terminus of R Phase was found burnt by over-current or loose connection. Other two phases were OK. MRI data was retrieved & it was found that, " R phase missing". Tamper event was occurred from 17.4.2015. The Licensee made assessment of missing units from May-2015 to June-2016 for 13284 units & accordingly bill of Rs.1,77,040/- was issued to the consumer. He lastly submitted that the consumer is liable to pay the said bill since she has consumed the Electric Energy and therefore the grievance of the consumer be rejected.

7. According to the Licensee they carried inspection of the metering equipment of the consumer on 18.06.2016 and at that time it was noticed that R phase PT wire of the meter was opened due to internal fault as incoming terminal of R phase was found burnt by over-current or loose connection. Other two phases were found to be OK. The data retrieved from MRI indicates that R phase missing and tampered event was occurred from 17.4.2015. Accordingly Licensee assessed missing units 13284. Therefore Licensee issued supplementary bill of Rs.1,77,040/-. On the contrary, it is the contention of consumer that they have regularly paid the bills issued by the Licensee and that there was no fault on their part. Consumer was not aware about the said fault on the contrary it was the duty of the Licensee to have periodic testing & maintenance of all consumers meters and to issue correct bills. The said fault was also not noticed by the meter reading agency since May-2015. The Licensee cannot recover past arrears from the consumers for their own faults & moreover as per supply code Regulations 15.4.1 the Licensee cannot recover bill for more than 3 months preceding to the detection of error.

8. Definition of meter is provided under Regulation No.2.1 (s) of MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014. It reads as under:

2.1 In these regulations unless the context otherwise requires.

(s) 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 includes whole current meter and metering equipment, such as current transformer, capacitor voltage transformer or potential or voltage transformer with necessary wiring and accessories, communication systems used for Automatic Meter Reading (AMR) and also includes pre-payment meters.

9. Thus as per definition of the meter as referred to above meters includes whole current meter and metering equipments such as current transformer capacitor, voltage transformer or potential or voltage transformer with necessary wiring and accessories, communication systems used for Automatic Meter Reading (AMR) etc. In the present case it was found that R Ph PT of metering equipment was found missing from 17.4.2015 and meter was slow by 47.82%. Therefore Licensee made assessment of missing units issued supplementary bill of Rs.1,77,040/-.
10. Regulation No.15.4.1 of the MERC (Electricity Supply Code and other conditions of supply) Regulations, 2005 provides for 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.

11. It is to be noted that it is the responsibility of the Licensee to have periodic testing and maintenance of all consumer meters as per Regulation 14.4.1 of MERC supply code Regulations, 2005. The consumer has regularly paid the electricity bills issued time to time by the Licensee. The Licensee inspected the metering equipment of the consumer on 18.6.2016 and found that R Ph PT was missing from 17.4.2015 as per MRI data analysis. The Licensee made assessment of missing units from May-2015 to June 2016 for 13284 units and issued supplementary bill of Rs.1,77,040/-. It is not the case of the Licensee that under Section 126 or 135 of Electricity Act, 2003. Similarly provisions of section 56 (2) of Electricity Act, 2003, pertaining to recovery of past arrears within the period of two years preceding the date of demand are not applicable in case of defective meter. But it is the case that due to R Ph PT missing the meter recorded units less by 1/3. CT & PT are part and parcels of the metering equipment as per definition of meter provided under MERC SOP Regulation, 2014. Therefore facts of the present case constitute the case of defective meter which is governed under Regulation of 15.4.1 of supply code Regulations, 2005. Therefore liability of the consumer is to be calculated only for three months prior to the date of inspection i.e. prior to 18.6.2016. Accordingly claim of Licensee for the period May-2015 to June-2016 for 13284 units amounting to Rs.1,77,040 requires to be set aside and it is now required to be worked out a fresh making it limited only for three months. In the result, grievance is liable to be allowed.

Date : 02.03.2017

I agree,

Sd/-
S.S.Pathak
Member
CGRF:PZ:PUNE

Sd/-
S.N.Shelke
Chairperson
CGRF:PZ:PUNE

Member Secretary, (B.S. Savant)

I have gone through the above reasoning and my opinion in this matter is differing as below:

Considering the above facts, and thereafter the data was retrieved through MRI & it is seen that the events logged on as R phase PT was missing and tampered event was occurred from 17.4.2015. The Licensee tested the said meter in the testing lab, Rastapeth on 23.6.2016. Therefore the Licensee made the assessment for period May-2015 to June-2016 for 13284 units amounting to Rs.1,77,040/- i.e. the meter recorded consumption of two PTs which in aggregate was 66.66% of total energy supplied to the consumer & thus the consumer was under billed 33.33%.

In Case of M/s. Rototex Polyester & V/s. Administrator Department of Dadra & Nagar Haveli (UT) Electricity Department of Silvassa 7 ors., 2010 (4) BCR 456, cited supra Hon'ble High Court Bombay held that when consumer is under billed due to clerical mistake of calculation, bar of limitations cannot be raised.

Hence the propose recovery is correct amounting to Rs.1,77,040/- for the 13284 unbilled units for the period May -2015 to June-2016 & recoverable from the above mentioned consumers, as this is only clerical mistake of calculation. The necessary installments for payment to the consumers shall be given as per MSEDCL Rules & Regulations without interest & DPC."

B.S.Savant
Member/Secretary
CGRF:PZ: PUNE

Hence the order by majority

ORDER

1. Grievance of the consumer stands allowed.
2. The demand raised by the Licensee, quantifying dues to the tune of Rs.1,77,040/- for 13284 units for the period from May-2015 to June 2016 is hereby set aside.

3. The impugned order dated 4.1.2017 passed by IGRC, Rastapeth is hereby set aside.
4. The Licensee to issue revised bill to the consumer making it limited for 3 months preceeding to the date of inspection of the metering equipment of the consumer vide Regulation 15.4.1 of the MERC supply code Regulations, 2005.
5. The Licensee to report compliance within one month from the date of this order.

Delivered on: - 02.03.2017

Sd/-
S.S.Pathak
Member
CGRF:PZ:PUNE

Sd/-
S.N.Shelke
Chairperson
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