



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

Case No. 55/2017

Date of Grievance : 04.09.2017

Date of Order : 25.10.2017

In the matter of recovery of arrears in the event of defective meter.

M/s. P.N.Gadgil & Co.,
Shop No.5+6+26, Archway,
Homes, Plot No.22-24, Mahaganesh Col.,
Paud road, Kothrud, Pune.

Complainant
(Herein after referred to as Consumer)

Versus

The Executive Engineer,
M.S.E.D.C.L.,
Kothrud 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. Shekhar Kulkarni (Representative) Mr.Prabhakar Patil , ---""---
For Respondent	Mr. Ramesh Lokare, Addl.Ex.Engineer, Kothrud Sub/dn. Mrs.Sonar, AEE, Kothrud Dn. Mrs.Angha Pimplekar, A.E.,Kothrud S/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 & dissatisfied by the order dated 29/07/2017 passed by IGRC Ganeshkhind Urban Circle, Pune, thereby rejecting the grievance, the consumer above named prefers the present grievance application on the following amongst other grounds.

3. The papers containing the above grievance were sent by the forum to the Executive Engineer, Kothrud Division vide letter No. EE/CGRF/PZ /281 Dated 06/09/2017. Accordingly the Distribution License filed its reply on 04/10/2017.
4. We heard both sides at length, gone through the contentions of the consumer and reply of the respondent & documents placed on record by the parties.
5. The facts giving rise to the grievance may be stated as under :

The consumer namely, M/s. P.N.Gadgil & Co., having Consumer No.160260246442 with sanctioned load 45 KW was connected on 26.09.2001 in the category, LT-II. The consumer regularly pays the electricity bills. Consumer's installation was checked by the Licensee on 09.01.2017. It was observed that B Phase CT was missing in respect of meter No.02173665, Make- ABB accordingly the Licensee prepared verification report & Panchanama at the site in the presence of consumer representative Mr.Vaibhav Bodke. Thereafter the said meter along with CTs was sent to testing lab at Kothrud Dn. & tested in the presence of consumer representative. As per test result, the meter & CTs were found to be OK. Therefore the Licensee installed the same meter & CTs at the consumer installation on 10.1.2017. Thereafter the Licensee made assessment of missing units on the basis of MRI data for the period of 1995 days for 241229 units amounting to Rs.30,07,062/- & demanded the bill amount vide letter dated 14.3.2017. The consumer deposited 50% amount of the disputed bill under protest vide letter dated 13.6.2017. Thereafter the consumer approached to IGRC, Ganeshkhind Urban Circle, Pune for waiver of disputed amount of Rs.30,07,062/- vide application dated 14.6.2017. The IGRC rejected the grievance of the consumer vide impugned order dated 29.7.2017. Thereafter the consumer approached to the Forum with present grievance with request to make assessment of disputed bill for the past period of three months as per Reg.15.4.1 of the supply code & claims adjustment of bill deposited under protest in the future bills.

6. The consumer representative Mr. Shekhar Kulkarni submitted that the Licensee visited the premises of the consumer on 9.1.2017 & carried inspection of the meter. It was found that B phase CT current was recording zero. Thereafter the said meter was sent to the testing lab at Kothrud Dn. The testing Lab checked meter on 09.01.2017 and found that the meter & CT were OK. Thereafter the Licensee sent supplementary bill for 241229 units amounting to Rs.30,07,062/-. The Licensee threatened disconnection of supply for recovery of the said bill. Therefore the consumer deposited 50% amount of the disputed bill under protest on 13.6.2017. He further submitted that the Licensee made assessment for the period of Oct.2011 to Jan.2016 i.e. for the period of 5 ½ Years which is illegal. As per Reg.15.4.1 of supply code Regulations,2005 in case of defective meter recovery can be made for maximum period of 3 months only prior to the month of dispute & hence the Licensee be directed to issue revised bill only for the period of 3 months & the amount of disputed bills deposited by the consumer under protest be adjusted in from the future bills.
7. On the other hand Mr. Ramesh Lokare, AEE, Kothrud Sub/dn. submitted that the consumer meter was checked on the site on 9.01.2017. MRI data was retrieve & it was observed that B Phase CT current events occurred as low & sometimes start & then stop i.e. intermittently passed the current. Therefore the said meter along with CTs was sent to testing lab Kothrud Dn. It was tested on 9.1.2017 in the presence of consumer representative Mr. Bodke. The testing result of the meter with CTs was found to be OK. Therefore the same meter along with CTs was installed at the consumer's site. After reconnecting the meter with CTs it was observed that currents of all three phases were being displaying on the meter. The MRI data was taken on 10.1.2017 & also analyzed by the agency. It was found that B phase CT was intermittent from Oct.2011. The Licensee made assessment of B phase CT missing from Oct.2011 to Jan.2017 for 241229 units

- amounting to Rs.30,07,062/- & sent supplementary bill to the consumer. The consumer deposited 50% amount of the said disputed bill on 13.6.2017.
8. Mr.Lokare further submitted that Reg.15.4.1 of Supply Code Regulations, 2005 is not applicable in this case because B Phase CT was working intermittently. After tightening the screw the meter was again tested in the lab & meter with CTs was found OK. MRI data shows that the consumer has consumed the power. Therefore the consumer is liable to pay the amount of disputed bill. He placed reliance to the **Representation No.29 of 2014 M/s.Bafna Auto Cars (I) Pvt.Ltd. Vs. MSEDCL decided on 25.8.2014.**
9. 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.*
10. It is the responsibility of the distribution Licensee to have periodic testing and maintenance of all the consumer meters & to issue correct bills to the consumer. Regulation 14.4 of MERC supply code Regulations,2005 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.**

11. It is seen that the Licensee did not get testing of the consumer meter periodically but have inspected it after about 5^{1/2} years. Therefore there is deficiency in service on the part of the Licensee.
12. 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.

13. 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.
14. The Licensee inspected the consumer's meter no. 02173665, ABB-Make, on 9.1.2017, it was observed that B Phase current was zero on meter display whereas incoming cable current measured by tong tester and it was 27.2 Amp. of B phase & hence it is declared that B Phase CT is missing on meter only. Thereafter the said meter along with CTs was checked at the testing lab Kothrud in the presence of consumer representative on the same day.

The meter & CTs were found OK. Thereafter the same meter along with CTs was installed at the consumer's site. After reconnecting the meter it was found that all 3 phases of CTs were displaying on the meter. Therefore it is clear that two CTs were working satisfactorily. The MRI data was retrieved & analyze it was observed that the meter has recorded the reading of B phase CT intermittently as seen from MRI. After MRI data retrieval it is declared that B Phase CT was working with intermittent current results. Therefore the consumer has consumed the energy. Since the meter & CTs were found OK, it is not the case of defective meter. Therefore Reg.15.4.1 of supply code Regulation, 2005 is not applicable in this case. The consumer has regularly paid the bills. On the basis of MRI data the Licensee made assessment of B phase current missing for the period Oct.2011 to Jan.2017 for 241229 units amounting to Rs.30,07,062/- . However as per Section 56 (2) of the Electricity Act, the Licensee cannot recover past arrears for the period more than two years. Therefore the Licensee is required to issue revised bills for the period of two years previous to date of inspection dated 9.1.2017. The grievance is liable to be partly allowed.

Date : 25.10.2017

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:

The Licensee was inspected the site of consumer's premises & it is seen that B phase current on meter display was zero whereas incoming cable of B phase current shown as 27.2 Amp.by tong tester. The MRI data

was retrieved & the events occurred as low current & start-stop events of the B Phase current. The CT & meter was again tested at Kothrud Dn. Lab & its test results found satisfactory & hence the meter was not faulty/defective.

Considering the above facts, and thereafter the data was retrieved through MRI & it is seen that the events logged on as B phase current shown as intermittently for 1995 days i.e. the meter recorded consumption of two CTs 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 or human errors or due to oversight or such like mistakes, bar of limitations cannot be raised.

Hence the propose recovery is correct amounting to Rs.30,07,062/- for the 241229 unbilled units for the period Oct.-2011 to Jan.-2017 & it shall be recoverable from the above mentioned consumers, as this is only clerical mistake due to oversight. The necessary installments for payment to the consumers shall be given as per MSEDCL Rules & Regulations without interest & DPC."

Sd/-

B.S.Savant

Member/Secretary

CGRF:PZ: PUNE

Hence the order by majority

ORDER

1. Grievance of the consumer is partly allowed.

2. The demand raised by Licensee, quantifying dues to the tune of Rs.30,07,062/- for unbilled 241229 units during the period Oct.2011 to Jan.2017 vide supplementary bill is hereby set aside.
3. The impugned order passed by IGRC, GKUC is hereby set aside.
4. The Licensee to issue revised bill making it limited only for the period of two years prior to the date of inspection excluding DPC & Interest vide Section 56 (2) of the Act.
5. The Licensee to adjust amount of disputed bill paid by the consumer under protest in the future bills.
6. The Licensee to report compliance within one month from the date of this order.

Delivered on: - 25.10.2017

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.