

(A Govt. of Maharashtra Undertaking)

CIN : U40109MH2005SGC153645

PHONE NO. : 25664314/25664316 Consumer Grievance Redressal Forum

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Website: www.mahadiscom.in Mumbai – 400078.

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/

Date

Case No. 609

Hearing Dt. 5.11.2015

In the matter of accumulated bill to the consumer who was unbilled from 2009 to 2015

M/s. Regency Towers CHS Ltd., - Applicant

Vs.

M.S.E.D.C.Ltd., Kolshet, Sub Division

- Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri. Anil P. Bhavthankar, Chairperson, CGRF, Bhandup.
- 2) Shri. Ravindra S. Avhad, Member Secretary, CGRF, Bhandup.
- 3) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri. Ashish Gupte - Consumer
- 2) Naveen L. Nawathe

C - On behalf of Respondent

- 1) Shri. J.M.Digankar, Addl. Executive Engineer, Kolshet sub division

ORDER (Passed on 27/11/2015)

1. Above named consumer has filed his grievance against respondent utility, challenging demand of accumulated arrears and notice of disconnection issued by utility on 20.10.2014.

2. The consumer is having connection which is used for the common facilities of the society, precisely Pump House. The consumer having consumer no is 000383036160, date of connection is 23.08.2009 and the sanction load of connected load is 67.10KW.
3. It is submitted that in the month of July 2011 property was handed over to the society from the builder. The society continued to pay electricity bills for all 9 meters which the builder was paying till the time.
4. No property tax receipt or other documents were handed over till the month of August 2011. Accordingly the society was continually paying and depositing the bills of 9 meters.
5. It is stated that on 08.08.2014 the premises was visited by the officer of MSEDCL and he gave verification report about meter no 012670/ consumer 000383383524, on which the reading was recorded (314954) Verification report with the remark as “unbilled consumer” was prepared and bill was issued as per actual reading recorded during the inspection dtd.08.08.2015. Thereafter on receipt of the demand bill and disconnection notice u/s 56 issued by respondent utility, consumer demanded relevant information and details and reasons of unbilled amount (Rs. 5074360/-) Shocked with the bill and the notice, he lodged compliant with the utility on 30.10.2015.
6. The Consumer No 38306160, meter number 012670 had shown meter reading of 330028 units. On 30.10.2014 the amount payable was Rs.4191630/-. Thereafter the respondent utility issued the bill on 25.11.2014 demanding Rs. 43,92,590/-, showing the reading as 332777 units on meter no 0012670. Thereafter consumer demanded copy of CPL. According to consumer they conducted urgent meeting of the members and disclosed the said fact of accumulated bill against the meter which is used for pump room. As there was threat of disconnection water pump; the

consumer approached utility and prayed for installments against the disputed bill on 21.11.2014. Accordingly the consumer has already deposited amount of Rs. 10 Lakh on 28.11.2014 and contested the said demand by raising dispute before respondent utility's officer.

Thereafter the consumer paid Rs. 5 lakh on 29.12.2014 and Rs. 10 lakh on 24.1.2014. The consumer approached the respondent utility and made the Representation.

The consumer has stated that the builder did not hand over details of this sub meter and therefore the consumer could not make representation earlier. On 15.03.2015 consumer made communication with the respondent utility and raised the dispute. Thereafter on 07.04.2015 consumer filed complaint with IGRC Wagle Estate, Kolshet Division to seek redressal. On 24.04.2015 consumer received the notice of hearing which was to be held on the next day, i.e. 06.05.2015. Once again hearing was fixed on 03.07.2015. Even at this time there was no intimation received by the consumer for hearing.

7. Thereafter the respondent utility disconnected the power supply of the disputed meter and demanded deposit of Rs. 2 Lakh, which the consumer deposited on 20.08.2015.

Thereafter consumer requested the IGRC and raised dispute on the ground of legality of the bill u/s 56(2) of E.A. which was issued for the period for more than 2 years.

The consumer also challenged the legality of notice of disconnection. According to consumer he has paid Rs. 27 Lakh under protest. It is his contention that the utility has recovered charges for 24 month, amounting to Rs.16,76,652/-. Excess amount of Rs. 10,23,348/- which was deposited should be refunded to consumer with interest.

Accordingly the dispute was filed before IGRC. The consumer filed demand notice 30.10.2014, details of bifurcation of bill and demand bill of

respondent utility since August 2014 onwards. Consumer also filed receipts of payment of deposited amount and gave detailed record of the disputed meter.

8. After filing the said complaint the notice was issued to both the parties. Respondent utility appeared and filed copy of verification report, demand bill, demand notice, bifurcation of period of meter reading against the disputed meter, copy of CPL, letter correspondence and receipt and photograph of the disputed meter.
9. It appeared from the record that the consumer had already approached IGRC and filed complaint on 07.04.2015. But even after issuing notice the IGRC did not decide the said complaint within stipulated time. Therefore above said consumer approached this Forum and filed complaint on 07.03.2015 and prayed for withdrawal of illegal disconnection notice and demand of accumulated bill for the period of 60 month.
10. After filing this complaint notice was issued to respondent utility. Respondent utility appeared and filed the reply to consumer on 05.11.2015. According to respondent utility all connections to Regency Tower premises were released before Jun-2010. The consumer was detected as unbilled by section Engineer, Ovala-I when he visited the premises on 05/08/2014. He prepared report of provisional assessment of bill for Rs. 41.91Lakh. It was issued to the consumer (meter having sr. No. 12670 which was checked during inspection). It was found that the consumer was using supply from this meter for common amenities like pump. It was his responsibility to inform the utility about non-receipt of electric bill, which was used for supply of common amenities.

Therefore after verification of report, the units actually recorded on meter (314954) were divided into 60 months considering that of other connections we released in June 2010; which works out to be 5200 units per months.

Now the consumer is getting regular bills since November 2014. Present reading is 397957 as per CPL given to the consumer which is attached with reply.

According to respondent utility, considering the pattern of consumption; bill issued to the consumer for the period of 60 months is proper.

11. After perusing the rival contentions of consumer and respondent utility following points arose for our consideration:

- 1) Whether respondent utility is entitled to recover arrears of bill.
- 2) Whether consumer is entitled any relief in the form of refund with interest.

Reasons

12. We have perused all the contentions and issues raised by consumer in this dispute. We have also perused the documents filed by consumer and respondent utility. It appears that the society is in existence since the years 2009 as the date of connection is 23.12.2009.

It is admitted that the said meter has sanctioned load and connected load 67.10KW. Accordingly the same was used by the society for common areas and benefit was taken by members of society.

13. It is stated by the consumer that he was not aware of existence of this meter, as it was not included in the list of meters provided by the builder. But this contention is not tenable as it is his duty to confirm the same.

14. Under the condition of supply Rule 20.1.25 it is responsibility of consumer and if he does not receive the bill or for any other reason the recording of meter could not be made available, it should be brought to the notice officers of respondent utility by visiting the office. The consumer has a Right to apply for duplicate bill or demand details of meter. It is surprising that despite using the supply from the said disputed meter for 5 years, the consumer did not bother to pay its charges till the date of inspection i.e. till 08.08.2014.
15. Under condition of supply, it is also the duty of officers of respondent utility to take the reading of all the meters properly. But the respondent utility was not diligent to read the said meter. Therefore even the CPL for the said meter was not prepared.
16. During the course of hearing it was brought to our notice that though this consumer was using the supply from this meter, it remained unbilled for 16 month.
17. As verification report dated 08.08.2014 revealed that the consumer was unbilled, utility is hereby directed to investigate the reason for the same and take suitable action against the erred officer.
18. Subsequently the second verification report was carried out. The consumption pattern of the said meter was recorded and monthly units actually used by consumer were calculated, which is 5200 per month.
19. Respondent utility calculated actual units recorded on said the meter. The excess units(314954)were divided and bifurcated in 60 months

for calculating average unit, which were 5200 units per month and since November 2014 the regular bill was issued to consumer.

20. Now the question is whether respondent utility is entitled to recover the arrears for 60 months.

Regarding this issue, we hold that the case of 'unbilled meter' does not satisfy section 56(2), where the demand of arrears should be 'continuous'.

21. Therefore we hold that in this case, section 56(2) limiting recovery up to the period of 2 years is applicable. Electricity Act section 56(2) states as: *"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 become 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"*.

22. Therefore we hold that the contention of the consumer is valid. The respondent utility cannot demand the arrears exceeding 24 months.

23. For the rest of arrears respondent utility is at liberty to file a claim before the appropriate civil court. **The consumer is liable to execute Indemnity Bond for remaining amount till the time there is final verdict of the larger bench on this issue.**

24. In this present case, the consumer has already deposited the amount claimed by the utility. Thus, now there is hardly any recovery from this consumer. However the amount recovered by the utility towards interest and DPC charges are till October 2015 are liable to be quashed and set aside.

ORDER

- 1) Consumer complaint no. 609 is partly allowed.

- 3) The respondent utility is hereby directed to prepare correct bill for the units actually consumed as per reading recorded for the period of 24 months.

- 3) The respondent utility shall not charge any interest and DPC.

- 4) The consumer is entitled for adjustment and refund of arrears already deposited as per law.

No order as to cost.

Both the parties should be informed accordingly.

Proceeding close.

The compliance should be reported within 45 days.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup.

Note:

1) If Consumer is not satisfied with the decision, he may file representation within 60 days from the date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman
The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051

2) If utility is not satisfied with order, it may file representation before the Hon. High Court within 60 days from receipt of the order.

I Agree/Disagree

I Agree/Disagree

**DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP**

**ANIL P. BHAVTHANKAR
CHAIRPERSON
CGRF, BHANDUP**

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**