

**Consumer Grievance Redressal Forum
Maharashtra State Electricity Distribution Co. Ltd.
Bhandup Urban Zone, Bhandup**

Ref. No. Member Secretary/MSEDCL/CGRF/BNDUZ/

Date :

Case No. 499

Hearing Dt. 10/06/2013,
28/06/2013, 03/07/2013.

In the matter of under billing recovery due to tampering events

M/s.Ashok Enterprises. - Complainant

Vs.

Bhandup, MSEDCL. - Respondent

Present during the hearing

A] - On behalf of CGRF, Bhandup

- 1) Shri S.K. Chaudhari, Chairman, CGRF Bhandup.
- 2) Shri R.M Chavan, Member Secretary, CGRF, Bhandup
- 3) Dr. Smt. Archana Sabnis, Member, CGRF, Bhandup.

B] - On behalf of Complainant

- 1) Shri Sanjay Shukla, Consumer Representative.

C] - On behalf of Respondent

- 1) Shri. P.H. Shirke. Dy. Ex. Engr., Pannalal, Sub Division.

M/s. Ashok Enterprises is a Industrial Consumer having 3 phase electric connection under Sr.No. 100000413385 at Ram Rahim Udyog Nagar, Sonapur, Bhandup (W).

The Respondent Utility's officer had inspected the premises on 30/09/2011 and subsequently again on 10/10/2011 and found the consumer has crossed the sanctioned contract demand of 25 KVA which was confirmed (59.35 KVA) from the meter record.

The Respondent has raised the recovery for 3 months period owing to the excess crossed contract demand and the event of tampering found in to MRI report for the July 2011 to Sep 2011.

On behalf of consumer, Shri. Sanjay. R. Shukla was present.(hear in after referred to as to "the Representative".) He stated that premises was inspected by the Jr. Engineer, Flying squad along with other officers on 30/09/2011. The Flying squad unit has tested meter and prepared "Spot Panchanama" where in meter was found working within permissible limit of error. However as per the opinion of Respondent the CT's of meter were found suspicious as there were tampering event in MRI reports and hence CT's were seized and new CT's were provided in the metering unit.

The Representative further stated that on 01/10/2011 again Panchanama was prepared for testing of CT's of "Ash more make". In the break in Panchanama. it was clearly stated that no abnormality was found in the CT's.

He added that the accuracy of meter and CT's were found within limit of error Even though utility raised the recovery for 3 months on the basis of excess M.D. recorded and tampering events in the MRI report.

He insisted that in the events of breakdown of any phase or minimum load on any phase can reduced the current / Voltage and it can not be construed as "tampering."

He reproduced the 15.4.1.of MERC (Electricity Supply code and other Condition of Supply) Regulations 2005. "Billing in the Event of Defective Meters." which speaks that *"in case of defective meter, the amount of the consumer bill shall be adjusted for a maximum period of 3 months prior to the month in which the dispute has arise, in accordance with the results of the test taken Subject to furnishing the test report of the meter along with the assessed bill."*

The Representative added that the Respondent can not apply this Regulation in this case as it is applicable only in case of defective meter.

He contended that the testing report of meter and CT's are within permissible Limit of error but Respondent malafidly charged the recovery which is, inconsonant with the Regulations of commission and Electricity Act 2003.

He further questioned that if there was a tampering event in the MRI Report why the Respondent had not taken the action against the consumer under section 135 of E.A. 2003.

The Representative prayed that

- 1) The recovery charged for the period of July 2011 to Sep 2011 should be quashed along with interest there on.
- 2) The amount paid by the consumer should be refunded with the applicable interest there on .

On the behalf of the Utility Shri. P.H. Shirke, Dy. Ex. Engineer was present to represent the case (here in after will referred as to the Respondent.) He stated that consumer has used the excess load which is recorded in terms of maximum demand by the meter. However the consumption recorded during this period is very less. He further added that on retrieval of meter data with the help of MRI, it is noticed that there are number of current missing events called as tampering events.

He admitted that on testing of meter and in the break-in- Panchanama of current transformer i.e. CT's, no abnormality was found and hence the case of dishonest abstraction of energy was not filed,

The Respondent explained that there might have been some suspected activities which do not allow to record the authentic consumption, and hence the recovery for last three months is been charged on the basis of maximum demand recorded by the meter.

During the proceedings the complainant Stated that if the Respondent has claimed the recovery for under billing due to defective metering unit as mentioned in the Regulation 15.4.1 of MERC (Electricity supply code and other conditions of supply) Regulations 2005, then the Respondent should have replaced that meter immediately. He claimed that this action of Respondent is contradictory to its statement of defective meter recovery.

The matter is heard on 20/07/2013 and subsequently on 07/08/2013, Both the parties were present. The perusal of record and arguments during the proceeding reveals that recovery charged for under billing is due to

- 1) The excess M.D. recorded which is not matched with the consumption record of meter.
- 2) Tampering events observed in the MRI reports.

In such circumstances Forum feels that when the consumer exceeds his demand than the sanctioned limit, there is a provision in the Commission's tariff order and conditions of supply, to levy the penal charges for excess KVA demand, with due intimation to the consumer or otherwise.

If there was enough evidence for tampering of meter in support the tampering events of MRI report the Respondent should have taken the action as per the provision in Electricity Act 2003.

In the instant case the Forum has to decide whether the provision of section 15.4.1 of Regulations 2005 can apply if the metering unit is not defective.

The answer is definitely negative.

As regards to the tampering event, the Forum feels that if there is any residual doubt, the Respondent should have investigated the matter accordingly and action should have been taken under section 135 and 138 of Electricity Act 2003.

It is not understood, when the Respondent is claiming the recovery for the reason of defective meter, then how the defective meter is kept in the circuit and consumer is billed on normal status for the rest of period.

Moreover how the meter can be declared as defective when all the results of metering unit were found working normally and well-within permissible limit of error, which has been admitted by the Respondent in his submission.

The Respondent is unable to persuade the reason for claimed recovery against the defective meter on which the consumer is normally billed by license till date, Hence Forum has no other alternative but to direct the Respondent to refund the recovery charged for the period of July 2011 to Sept. 2011 along with interest at the rate of RBI.

ORDER

- 1) Application is allowed.
- 2) The Respondent utility is directed to refund the under billed recovery along with interest at rate of RBI.

- 3) No order as to cost
- 4) Both the parties be informed accordingly.
- 5) The compliance should be reported with a month.

The order is issued under the seal of consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 31st August 2013.

Note: 1) If Consumer is not satisfied with the decision, he may have representation within 60 days from 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 go in writ before the Hon. High Court within 60 days from receipt of the order.

DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP

S. K. CHOUDHARY
CHAIRMAN
CGRF, BHANDUP

R.M. CHAVAN
MEMBER SECRETARY
CGRF, BHANDUP

**Consumer Grievance Redressal Forum
Maharashtra State Electricity Distribution Co. Ltd.
Bhandup Urban Zone, Bhandup**

Ref. No. Member Secretary/MSEDCL/CGRF/BNDUZ/

Date :

Case No. 500

Hearing Dt. 10/06/2013,
28/06/2013, 03/07/2013.

In the matter of under billing recovery due to tampering events

M/s. Mumtaz Enterprises. - Complainant

Vs.

Bhandup, MSEDCL. - Respondent

Present during the hearing

A] - On behalf of CGRF, Bhandup

- 1) Shri S.K. Chaudhari, Chairman, CGRF Bhandup.
- 2) Shri R.M Chavan, Member Secretary, CGRF, Bhandup
- 3) Dr. Smt. Archana Sabnis, Member, CGRF, Bhandup.

B] - On behalf of Complainant

- 1) Shri Sanjay Shukla, Consumer Representative.

C] - On behalf of Respondent

- 1) Shri. P.H. Shirke. Dy. Ex. Engr., Pannalal, Sub Division.

M/s. Mumtaz Enterprises is a Industrial Consumer having 3 phase electric connection under Sr.No. 100000415892 at Plot No. 193, CTS No. 213 Lake Road, Behind – J.B. Advani, Sonapur, Bhandup (W).

The Respondent Utility's officer had inspected the premises on 30/09/2011 and subsequently again on 10/10/2011 and found the consumer has the sanctioned contract demand of 54 KVA but meter record shows less consumption and the tampering events are observed in the MRI reports.

The Respondent has raised the recovery for 3 months period owing to the event of tampering found in to MRI report for the July 2011 to Sep 2011.

On behalf of consumer, Shri. Sanjay. R. Shukla was present.(hear in after referred to as to "the Representative".) He stated that premises was inspected by the Jr. Engineer, Flying squad along with other officers on 30/09/2011. The Flying squad unit has tested meter and prepared "Spot Panchanama" where in meter was found working within permissible limit of error. However as per the opinion of Respondent the CT's of meter were found suspicious as there were tampering event in MRI reports and hence CT's were seized and new CT's were provided in the metering unit.

The Representative further stated that on 01/10/2011 again Panchanama was prepared for testing of CT's of "Ash more make". In the break in Panchanama. it was clearly stated that no abnormality was found in the CT's.

He added that the accuracy of meter and CT's were found within limit of error Even though utility raised the recovery for 3 months on the basis of tampering events in the MRI report.

He insisted that in the events of breakdown of any phase or minimum load on any phase can reduced the current / Voltage and it can not be construed as "tampering."

He reproduced the 15.4.1.of MERC (Electricity Supply code and other Condition of Supply) Regulations 2005. "Billing in the Event of Defective Meters." which speaks that *"in case of defective meter, the amount of the consumer bill shall be adjusted for a maximum period of 3 months prior to the month in which the dispute has arise, in accordance with the results of the test taken Subject to furnishing the test report of the meter along with the assessed bill."*

The Representative added that the Respondent can not apply this Regulation in this case as it is applicable only in case of defective meter.

He contended that the testing report of meter and CT's are within permissible Limit of error but Respondent malafidly charged the recovery which is, inconsonant with the Regulations of commission and Electricity Act 2003.

He further questioned that if there was a tampering event in the MRI Report why the Respondent had not taken the action against the consumer under section 135 of E.A. 2003.

The Representative prayed that

- 1) The recovery charged for the period of July 2011 to Sep 2011 should be quashed along with interest there on.
- 2) The amount paid by the consumer should be refunded with the applicable interest there on .

On the behalf of the Utility Shri. P.H. Shirke, Dy. Ex. Engineer was present to represent the case (here in after will referred as to the Respondent.) He stated that on retrieval of meter data with the help of MRI, it is noticed that there are number of current missing events called as tampering events.

He admitted that on testing of meter and in the break-in- Panchanama of current transformer i.e. CT's, no abnormality was found and hence the case of dishonest abstraction of energy was not filed,

The Respondent explained that there might have been some suspected activities which do not allow to record the authentic consumption, and hence the recovery for last three months is been charged on the basis of maximum demand recorded by the meter.

During the proceedings the complainant stated that if the Respondent has claimed the recovery for under billing due to defective metering unit as mentioned in the Regulation 15.4.1 of MERC (Electricity supply code and other conditions of supply) Regulations 2005, then the Respondent should have replaced that meter immediately. He claimed that this action of Respondent is contradictory to its statement of defective meter recovery.

The matter was heard on 20/07/2013 and subsequently on 07/08/2013, Both the parties were present. The perusal of record and arguments during the proceeding reveals that recovery charged for under billing is due to

- 1) Tampering events observed in the MRI reports.

If there was enough evidence for tampering of meter in support the tampering events of MRI report the Respondent should have taken the action as per the provision in Electricity Act 2003.

In the instant case the Forum has to decide whether the provision of section 15.4.1 of Regulations 2005 can apply if the metering unit is not defective.

The answer is definitely negative.

As regards to the tampering event, the Forum feels that if there is any residual doubt, the Respondent should have investigated the matter accordingly and action should have been taken under section 135 and 138 of Electricity Act 2003.

It is not understood, when the Respondent is claiming the recovery for the reason of defective meter, then how the defective meter is kept in the circuit and consumer is billed on normal status for the rest of period.

Moreover how the meter can be declared as defective when all the results of metering unit is well-within permissible limit of error, which has been admitted by the Respondent in his submission.

The Respondent is unable to persuade the reason for claimed recovery against the defective meter on which the consumer is normally billed by license till date, Hence Forum has no other alternative but to direct the Respondent to refund the recovery charged for the period of July 2011 to Sept. 2011 along with interest at the rate of RBI.

ORDER

- 1) Application is allowed.
- 2) The Respondent utility is directed to refund the under billed recovery along with interest at rate of RBI.
- 3) No order as to cost
- 4) Both the parties be informed accordingly.
- 5) The compliance should be reported with a month.

The order is issued under the seal of consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 31st August 2013.

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

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

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**Consumer Grievance Redressal Forum
Maharashtra State Electricity Distribution Co. Ltd.
Bhandup Urban Zone, Bhandup**

Ref. No. Member Secretary/MSEDCL/CGRF/BNDUZ/

Date :

Case No. 501

Hearing Dt. 10/06/2013,
28/06/2013, 03/07/2013.

In the matter of under billing recovery due to tampering events

Mr. Brijesh P. Upadhyaya - Complainant

Vs.

Bhandup, MSEDCL. - Respondent

Present during the hearing

A] - On behalf of CGRF, Bhandup

- 1) Shri S.K. Chaudhari, Chairman, CGRF Bhandup.
- 2) Shri R.M Chavan, Member Secretary, CGRF, Bhandup
- 3) Dr. Smt. Archana Sabnis, Member, CGRF, Bhandup.

B] - On behalf of Complainant

- 1) Shri Sanjay Shukla, Consumer Representative.

C] - On behalf of Respondent

- 1) Shri. P.H. Shirke. Dy. Ex. Engr., Pannalal, Sub Division.

Mr. Brijesh P. Upadhyaya is a Industrial Consumer having 3 phase electric connection under Sr.No. 100000419685 at Gala No. 2, Ram Rahim Udyog Nagar, Behind – J.B.Advani Compund, Sonapur, Bhandup (W).

The Respondent Utility's officer had inspected the premises on 30/09/2011 and subsequently again on 10/10/2011 and found the consumer has crossed the sanctioned contract demand of 41 KVA which was confirmed (53 KVA) from the meter record.

The Respondent has raised the recovery for 3 months period owing to the excess crossed contract demand and the event of tampering found in to MRI report for the July 2011 to Sep 2011.

On behalf of consumer, Shri. Sanjay. R. Shukla was present.(hear in after referred to as to "the Representative".) He stated that premises was inspected by the Jr. Engineer, Flying squad along with other officers on 30/09/2011. The Flying squad unit has tested meter and prepared "Spot Panchanama" where in meter was found working within permissible limit of error. However as per the opinion of Respondent the CT's of meter were found suspicious as there were tampering event in MRI reports and hence CT's were seized and new CT's were provided in the metering unit.

The Representative further stated that on 01/10/2011 again Panchanama was prepared for testing of CT's of "Ash more make". In the break in Panchanama. it was clearly stated that no abnormality was found in the CT's.

He added that the accuracy of meter and CT's were found within limit of error Even though utility raised the recovery for 3 months on the basis of excess M.D. recorded and tampering events in the MRI report.

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He contended that the testing report of meter and CT's are within permissible Limit of error but Respondent malafidly charged the recovery which is, inconsonant with the Regulations of commission and Electricity Act 2003.

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The Representative prayed that

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He admitted that on testing of meter and in the break-in- Panchanama of current transformer i.e. CT's, no abnormality was found and hence the case of dishonest abstraction of energy was not filed,

The Respondent explained that there might have been some suspected activities which do not allow to record the authentic consumption, and hence the recovery for last three months is been charged on the basis of maximum demand recorded by the meter.

During the proceedings the complainant Stated that if the Respondent has claimed the recovery for under billing due to defective metering unit as mentioned in the Regulation 15.4.1 of MERC (Electricity supply code and other conditions of supply) Regulations 2005, then the Respondent should have replaced that meter immediately. He claimed that this action of Respondent is contradictory to its statement of defective meter recovery.

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In such circumstances Forum feels that when the consumer exceeds his demand than the sanctioned limit, there is a provision in the Commission's tariff order and conditions of supply, to levy the penal charges for excess KVA demand, with due intimation to the consumer or otherwise.

If there was enough evidence for tampering of meter in support the tampering events of MRI report the Respondent should have taken the action as per the provision in Electricity Act 2003.

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The answer is definitely negative.

As regards to the tampering event, the Forum feels that if there is any residual doubt, the Respondent should have investigated the matter accordingly and action should have been taken under section 135 and 138 of Electricity Act 2003.

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ORDER

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