

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

Ref. No. Secretary/MSEDCL/CGRF/BNDUZ/ Date :

Case No. 294

Hearing Dt. 06/11/2009

In the matter of wrong billing

M/s. Harbhajan Singh - Appellant

Vs.

**MSEDCL, (Panch Rasta S/ Divn)
Mulund** - Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri S.L. Kulkarni, Chairman, CGRF, Bhandup.
- 2) Shri R.M Chavan, Member Secretary,
CGRF, Bhandup.
- 3) Mrs. Manik P. Datar, Member, CGRF, Bhandup.

B - On behalf of Applicant

- 1) Shri Surjeetsingh, Consumer Representative.

C - On behalf of Respondent

- 1) Shri H.V. Dawane, Dy. Ex. Engr., Mulund.
- 2) Shri B.R. Sankpal, Art. 'C', Mulund.

Preamble

Shri Surjeetsingh, the consumers representative registered his grievance with this Forum on 22/10/09 vide case no. 294 having three phase residential connection under consumer no. 000092271064. He made an appeal against the decision of ICGRC, Thane vide letter no. SE/TUC/ICGRC/6354, dtd. 03/10/2009. ICGRC rejected his prayer for wrong bills issued to him between the period of Jan-2009 to May-2009 though he did paid theft assessment as well as compounding charges against the theft of energy.

Consumer say :

The above said connection was in the name of Shri Harbhajan Singh residing at Bunglow no. 21, C/4, Model town mall, Rajeshwari Road, Mulund-87 with sanctioned load of 0.5 kw and consumer no. 000092271084. MSEDCL officers at Panchrasta sub-divn. had inspected his premises on dtd. 19/09/08 with the reading as 33195 units. During the inspection, meter was in working condition and meter seals found OK. On 15/12/08 his meter was again inspected with the Accu-check by utility. Though the meter seal were found OK, Utility suspected that some mischief was done inside the meter. Hence they seized the meter and provided a new meter. It was tested in lab and found that one wire was cut inside meter. Assuming the theft of energy the utility issued them the bill of Rs. 1,19,780/- for assessments against theft of energy for the period of Dec2006 to Nov-2008 12741 units.

His meter was first check on dt. 19/09/2008 and was found in ok condition which was again checked on dt. 15/12/2008 and charged the theft assessment under

section 135 for last two years which was base less and wrong.

As per consumers view neither the test reports of both inspection nor the calculation sheet of theft assessment was given to him. If the period of the theft was not established, in such cases the period should be limited for six months, compounding charges were also wrongly recovered.

Though he had paid all the theft assessments charges and compounding thereon he was receiving wrong bills, from Jan 2009 to May-2009 from utility. Consumer also stated that he approached to utility for his grievance many times but nobody had care about his grievance.

In the month of Feb2009, the consumption was shown as 9086 units. After enquiring about this, utility clarified that 6000 units were charged for adjustment units. As they already paid the theft assessment charges for the period of last two years on the basis of connected load, how the 6000 units were recorded. Hence the demand for 6000 additional units was wrong and the reading of 9086 units shown in the bill for the month of Feb 2009 was wrong and exorbitant.

Prayer of the consumer:-

1) He had paid the theft assessment charges, charged by utility for the period of Dec.-2006 to Nov-2008 including compounding charges, hence, the 6000 units charged towards adjustment of units during the theft period should be withdrawn.

2) He should be granted 12 equal monthly installment for payment of remaining bill.

Utility Say:

On the behalf of utility Shri H.V.Dhavane Dy. Ex. Engr. Panchrasta sub-divn. represented case as under:-

1) The Junior Engineer, Vaishali Nagar section inspected the consumer's meter on dated 19/09/2008. In his spot inspection report he mentioned seals position of the meter box, body & terminal cover as okay, meter is in working condition and the reading is 33195. however, as per the meter issue register the original sticker seals provided to the body of meter no. 938530 were "003727& 003728" but at the time of inspection the meter seals provided to the same meter body were "041787& 041788". It is proved that these seals are duplicate. The Xerox copy of the meter issue register is enclosed herewith.

2) On 15/12/2008 the meter was checked by the accu-check in the presence of consumer representative accu-check report was "+ 0.98%" & the meter reading was "40799" the meter is very old but paper seals provided to the meter body were "041787&041788" found neat and clean i.e not a single particle of dust observed on these seals, which proves that meter body seals are duplicate though the seals are found intact. As mentioned these seals were duplicate it means consumer was indulging in theft.

3) When the meter was opened in presence of consumer's representative on dated 18/12/2008, it has been observed that some portion of orange wire

connected to the stepper motor mounted in gear assembly was found covered by red colour PVC tape. After removing the insulation of red colour PVC tape, it is clearly seen that the wire is broken into two pieces & joint is made.

Meter is tested by applying 3 phase supply load for the period of 15 minutes & during this period meter reading is increased from '40800.3' to '40800.7' after, that the joint covered by orange PVC tape was removed & again the same test was carried out for the period of 15 minutes but the reading is remained same i.e '40800.7'. this fact was shown to the consumer representative & he has agreed for the same. The original seals of meter body bearing meter no.938530 are '003727& 003728'. These seals numbers are confirmed from the records of Mulund Division Store, Mulund. Whereas duplicate seals having number '041787& 041788' are found provided to the meter body & same are noted in the spot inspection report dated 15/12/2008. It means that the consumer has changed the original meter body seals to disconnect the supply provided to stepper motor which is mounted in gear assembly as and when required so as to stop the progressive reading of meter. This is clearly the case of Theft of energy.

Considered the above fact, assessment of Rs. 119780 (Rs. One lakh nineteen thousand seven hundred eighty only) is prepared for the period of two years by observing the consumption pattern as per IE Act 2003, clause 135.

4) In case of residential consumer L.F.x D.F. is 5% If this is applied for calculation the assessment will be for

lower side than normal billing. Instead of recovery MSEDCL has to pay to the consumer even though the consumer was indulged in theft. Therefore in this case the assessment is carried on the basis of best possible judgment. For your kind information even the flying squad units also doesn't consider L.F.x.D.F. as 5%.

5) As per commercial circular no. 17 under article determination civil liability in case of theft of electricity, in the case is clearly established (CPL enclosed herewith) hence the period of assessment for two years is considered. The information of trend of consumption from Nov.2008 onward is enclosed herewith.

6) As per the commercial circular no.49 dt.21/12/2006 the compounding charges may be done on the basis of connected load & not on the basis of sanctioned load where the connected load is more than the sanction load. In this consumer's connected load is 13.32 KW & sanctioned load is 0.5 KW. Hence compounding is charged for 14 KW connected load i.e. Rs. 56000/- @ Rs.4000 per KW.

7) The consumer have been paid the amount of assessment & compounding as he committed theft. The meter reading as per CPL in the month of Nov-08 is 34519 & at the time of detection of theft is 40799. The copy of CPL & spot inspection report is enclosed herewith. The energy bill of 6280 units recorded by the old meter should have charged but due to meter replacement the bill of 690 units on average basis issued to the consumer under meter change status in the month of Dec-08 & Jan-09. The adjustment units 6280 of the old meter & actual units consumed by the new meter is

considered in the month of Feb-09 for billing & actual refund of the new meter is given to the consumer. As the adjustment units of the old meter was to considered in the system hence these are not taken in the assessment of theft of energy.

8) After replacement of the old meter consumer's consumption patter lies between 2000-3000 units per month. This is submitted for your information & further necessary action please.

Observation :

The matter was heard on 06/11/2009 when both the parties were present. During the course of hearing Appellant consumer agreed that he has no objection against the assessment made towards power theft and has already paid to the utility the theft amount charges including compounding charges. His plea is that the amount once paid by him to the utility is again demanded in the bill of Feb 2009 shown as adjustment units of 6280. However these units should have deducted from the units to be billed during the assessment for the theft of energy.

While going through the submission of both the parties forum observed that the assessment made by the utility towards the theft of energy from Dec-2006 to Nov-2008 was not as per utility's commercial circular no. 17 which is mainly based on directives given by MERC Regulations 2005.

The units billed during the period to the consumer to be deducted from the units assessed for theft of energy during that period when computed on connected load basis.

In the present case the assessment is calculated for the period of Dec.-2006 to Nov.-2008 and units already billed by utility to consumer are deducted for the period of Dec.-2006 to Nov.-2008. When utility realize that in the month of Dec.-2008 meter have recorded 6280 units which are not considered while computing the assessment of theft, utility raised it as adjustment units in the bill of consumer for the month of Feb.-2009.

Forum observed that utility should have deduct the billed units for the same period for which theft assessment is computed. Moreover, it should be restricted to maximum period of 24 months. It is worth to mentioned here the relevant section 8.6 of MERC (Electricity supply code and other conditions of supply) Regulation 2005 which state as under:-

An assessment under section 135 of the Act shall be made for the entire period for which the dishonest abstraction, consumption or use of electricity under that Section can be clearly established by the officer, authorized by the State Government in this regard.

Provided that the maximum period of assessment under this Regulation 8.6 shall be two years prior to the date of detection of such dishonest abstraction or use of electricity:

It is very explicit and clear that assessment should be made for a period prior to the date of detection. In the present case the theft was detected on 15/12/2008, hence assessment made should be limited to the period of 2 years prior to the date of its detection i.e. Dec.-2008 and the billed units should have deducted from the units to be billed. Hence Forum feel that the period of 2 yrs. should be observed as stated in Regulation 8.6 of MERC (Electricity supply code and other conditions of supply) Regulation 2005.

The utility should have consider the meter reading on the date of detection as final reading and accordingly the billed units should have counted for last 24 months. Utility can not raise any bill based on faulty meter record when consumer is charged for theft of electricity and assessed on connected load basis for a period under consideration.

The consumer as already assessed for the period upto the date of theft detection as per connected load and hence the adjustment units raised for the consumption recorded by faulty meter (meter under theft) for units 6280 should not be charged again and should be squashed, and units which may wrongly deducted from the units to be billed for the month of Dec.- 06 may be debited.

In the present case Forum feels necessarily to mention the Regulation 6.8 (b) of MERC (CGRF & E.O.) Regulation 2006, which keep this Forum aside from the Grievances, which pertains to offences and penalties as provided under Section 135 to 139 of the Act.

But it is also worth to mention here that the grievance of consumer is about the wrongly charged adjustment units in the bill for the month of Feb.-2009 and hence Forum has to go through all the matter pertains to the period of assessment made and, what the MERC Regulation speak about.

ORDER

- 1) The adjustment units charged to the consumer should be squashed and accordingly period of assessment should be observed as per MERC (Electricity Supply Code and other conditions of supply) Regulation 2005 therein Regulation 8.6.
- 2) The interest charged, if any for non-payment of these adjustment units should be waived.

The compliance should be reported to the Forum within 30 days from date of receipt of this order

The order is issued under the seal of consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 26th November 2009.

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

MRS. M.P. DATAR
MEMBER
CGRF, BHANDUP

S.L. KULKARNI
CHAIRMAN
CGRF, BHANDUP

R.M. CHAVAN
MEMBER SECRETARY
CGRF, BHANDUP