

MAHARASTRA STATE ELECTRICITY DISTRIBUTION

CO.LTD. KALYAN

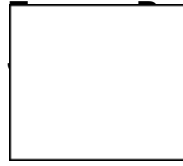
ZONE,

KALYAN

Office of the Consumer
Grievance Redressal

Phone 1) 2210707

2) 2328283



hind Tejashri,
eherwanji Road,

Ext-122.

IN THE MATTER OF GRIEVANCE NO. K/E/015/0017OF 05-06
OF M/S HARSIDDHA ENGINEERING WORKS REGISTERED
WITH CONSUMER GRIEVANCE REDRESSAL FORUM
KALYAN ZONE, KALYAN ABOUT PENALTY LEVIED FOR
EXCESS LOAD THAN SANCTIONED LOAD USED BY THE
CONSUMER AND BILLING OF LESS CONSUMPTION
RECORDED ON METER.

M/s Harsiddha Engineering works

(Here in after

J-185, MIDC, Tarapur,

referred to

Boisar.

as consumer

versus

Maharashtra State Electricity Distribution

(Here in

after

Co.Ltd, through its Assistant Engineer, referred to
Boisar, MIDC Sub Division, Boisar
as licensee)

1. Consumer Grievance Redressal Forum has been established under regulation of “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” to redress the grievances of consumers. This regulation has been made by the Maharashtra Electricity Regulatory Commission vide powers conferred on it by section 181 read with sub-section 5 to 7 of section 42 of The Electricity Act, 2003. (36 of 2003).
- 2) The consumer is L.T. consumer of the licensee connected to their 415-volt network. The consumer is billed on LTPG (general motive power) tariff as per tariff code 3 A of erstwhile Maharashtra State Electricity Board low-tension tariff booklet i.e. consumer is charged on sanctioned load and energy charges per unit. The consumer registered his grievance with forum on 10/5/2005 vide his letter dt.28/4/2005. The details of grievance are given below in four tables.

Consumer No:- 073010013493.

Table A

<i>Period of dispute:- August 96 to September 97</i>
<i>Amount of dispute:- Rs 1,76,711/-</i>
<i>Reason of charging</i>

<i>For excess connected load</i>	<i>For 1/3 less recorded consumption</i>
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Licensee's staff observed connected load as 87 H.P as against sanctioned load of 63 H.P during checking of consumer's premises on 8-9-97. Thus excess load was found to be 24 H.P. Licensee's staff on above date also observed meter not recording on Y phase, which means meter was recording only 2/3 consumption. Licensee charged for 1/3 less recorded consumption for the period shown in above table. The bill of above amount was sent to consumer by Executive Engineer Palghar of licensee vide letter No 3446 dated 18-6-98.

Table B

<i>Period of dispute: - October 97 to December 2004</i>
<i>Amount of dispute: - Included in regular bills</i>
<i>Reason of charging</i>
<i>For excess connected load of 24 H.P</i>

Licensee's staff observed connected load as 87, 86.75 & 185 H.P. as against sanctioned load of 63 H.P during checking of consumer's premises on 8-9-97, 18-9-03 & 18-12-04 respectively. Thus excess load was found to be 24, 24 & 122 H.P respectively but licensee charged for excess load of 24 H.P for the period as shown in above table in regular bills.

Table C

<i>Period of dispute: - July 2004 to December 2004</i>
<i>Amount of dispute:- Rs 1,49,587/-</i>

Reason of charging
<i>For excess connected load of 122 H.P less already charged for 24 H.P.</i>

Licensee's staff observed connected load to be 185 H.P as against sanctioned load of 63 H.P during checking of consumer's premises on 18-12-04 Thus excess load was found to be 122 H.P. but licensee charged for excess load as shown in above table. The bill of above amount was sent to consumer by Assistant Engineer Boiser of licensee vide letter No 701 dated 19-4-05.

Table D

Period of dispute:- August 96 to December 2004	
Amount of dispute:- Rs 6,52,031/-	
Reason of charging	
<i>For excess connected load</i>	<i>For 1/3 less recorded consumption</i>
<i>August 96 to September 97</i>	<i>February 97 to December 04</i>

Licensee's staff observed connected load as 87, 86.75 & 185 H.P as against sanctioned load of 63 H.P during checking of consumer's premises on 8-9-97, 18-9-03 & 18-12-04 respectively. Thus excess load was found to be 24, 24 & 122 H.P respectively but licensee charged for excess load of 24 H.P for the period as shown in above table. Licensee's staff on

above dates also observed meter not recording on Y phase, which means meter was recording only 2/3 consumption. Licensee charged for 1/3 less recorded consumption for the period shown in above table. The bill of above amount was sent to consumer by Assistant Engineer Boiser of licensee vide letter No 70 dated 10-1-05.

- 3) The batch of papers containing above grievance was sent by forum vide letter no. 0181 dated 12/5/2005 to Nodal Officer of licensee. The letter was replied by Nodal Officer vide letter no. SE/VC/Tech/3313 dt.17/6/2005.
- 4) All the three members of forum heard both the parties on 20/6/2005 & 5/7/2005 from 15 hours to 17 hours in the meeting hall of the forum's office. Shri S.A. Deshmukh, Shri. R.M. P. Reddy and Shri. K.M. Kinkar representatives of consumer represented the case of consumer. Shri D.S. Tayde Nodal Officer, Shri. U.P. Sinha Assistant Engineer & Shri. U.J. Vartak LDC represented for licensee.
- 5) Shri. Deshmukh requested withdrawal of disputed amounts mentioned in above tables and credit of amounts paid by the consumer under protest against these disputed amounts.
- 6) During the hearing on 20th June 2005, Nodal Officer was requested to go through the provision of Section 56 (2) of the Electricity Act, 2003 (EA, 2003) for the bill raised by the licensee for the first time of the amount of Rs.6,52,031/- for the period from August 96 to December 2004 (for excess connected load during the period August 96 to Sept.97 and 1/3 less consumption recorded during the period February 1997 to December 2004) vide letter No.70 dt.10/1/2005 of Assistant

Engineer, Boisar. This bill includes the charges to be recovered after the period of two years from the date when such sum became first due. The provision of Section 56 (2) reads as follows: -

“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 a period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges of electricity supplied and the licensee shall not cut off the supply of the electricity”.

Nodal officer was requested to offer his comments on above provision of law. He requested time to study the case.

- 7) Nodal Officer submitted on 27th June 2005 modified consolidated statement showing the period of dispute; details of all charges levied and payment made by consumer against these charges vide letter dt. 27/6/2005 with a copy to consumer. The summary of grievance in table 4, in view of provision of section 56(2) of EA, 2003, submitted by Nodal Officer stands modified as given below.

Table A-1

<i>Period of dispute: - October 96 to September 97</i>	
<i>Amount of dispute: - Rs 1,76,711/-</i>	
<i>Reason of charging</i>	
<i>For excess connected load</i>	<i>For 1/3 less recorded consumption</i>

Table B-1

Period of dispute: - October 97 to December 2004	
Amount of dispute: - Included in regular bills	
Reason of charging	
<i>For excess connected load of 24 H.P</i>	

Table C-1

Period of dispute: - July 2004 to February 2005	
Amount of dispute: - Rs 1,49,587/-	
<i>March 2005 onwards charges are included in regular bills</i>	
Reason of charging	
<i>For excess connected load of 122 H.P less already charged for 24 H.P.</i>	

Table D-1

Period of dispute:- January 03 to December 2004	
Amount of dispute:- Rs 2,11,014/-	
Reason of charging	
<i>For excess connected load</i>	<i>For 1/3 less recorded consumption</i>

- 8) In reply to the licensee's letter of dt.27th June 2005 addressed to forum and copy to consumer, the consumer submitted his reply vide letter dt.5th July 2005. The study of the above letter shows that the consumer does not agree with the revised bills as shown in the four tables above.

- 9) First we take table A-1 for deciding grievance of the above consumer. This is a case of a period prior to EA, 2003 came in force. It is seen from the table that the consumer has been charged Rs.176711/- for the period from October 1996 to September 1997 for excess connected load & for 1/3 less recording of the consumption based on inspection carried out by the flying squad of the licensee on 8/9/1997.
- 10) Now we take the case of levying penalty on excess connected load. The sanctioned load of consumer was 63 H.P. The comparison of excess connected load as per inspection report of flying squad of licensee on 8/9/97 & consumer's statement reveals that there is difference of 24 H.P. The inspection report of flying squad of licensee shows following machines connected which consumer denies.

Welding machine =2x11 = 22 H.P

Hand grinders =2x0.5 = 1 H.P 24 H.P.

Drilling machines =1x1 = 1 H.P

We do not agree with consumer's denial of excess connected load of 24 H.P found connected on 8/9/97 because the inspection report of flying squad of licensee showing connected load as 87 H.P is signed by Shri N.S. Patel Works Manager of consumer on 8/9/97.

- 11) In view of our observation made in above para, we decide that licensee can charge penalty for excess connected load of 24 H.P observed on 8/9/97 for September 97 only.
- 12) We, now, examine the case of 1/3 less recorded consumption. Licensee's staff on 8/9/97 also observed meter not recording on Y phase, which means meter was recording only 2/3

consumption. Licensee charged for 1/3 less recorded consumption for the period October 96 to September 97. Consumer objected this observation of licensee, for his meter bearing S.No.10097967, make U.E., 100/5 amperes C.T. operated with C.T. connected ratio of 100/5 amperes, on the following grounds.

- a) Column 10 of inspection report shows meter is in working condition.
- b) Column 12 of inspection report shows current & voltages are in normal condition at meter terminal on all the three phase.
- c) Meter ought to have burnt out due to internal spark & the remark of smoky glass is incorrect.

13) We do not endorse the above objection of consumer on the following grounds.

- i) The remark, "meter in working condition", does not conclude that meter could not be stopped on "y" phase. The current & voltages recorded to be in normal condition also does not conclude that meter could not be stopped on "y" phase. The internal fault in meter could cause meter stopped on "y" phase. A transient fault can cause short circuit & smoke & not necessarily result in burning of meter.
- j) The inspection report clearly indicates meter stopped on "Y" phase i.e. disc was not rotating on "y" phase.
- k) The same observation of meter disc found stopped on "y" phase was made by licensee's staff on subsequent

inspections at consumer's premises on 18/9/03 & 18/12/04.

l) The same observation of meter disc found stopped on "y" phase was also made, when meter was tested at license's testing laboratory at Palghar, on 21/3/05.

m) Forum members also made the same observation of meter disc found stopped on "y" phase, when meter was tested at licensee's testing laboratory at Kalyan, on 8/7/05 in presence of consumer's representatives Shri Reddy & Shri Kinkar. The paper seal signed by license's staff & Shri N.S. Patel Works Manager, representative of consumer, on 8/9/97 & other plastic seals, which were there during inspection on 8/9/97, were intact at the time of inspection on 8/7/05. This was shown to Reddy, representative of consumer by forum members. (Forum, during hearing on 5/7/05, offered to consumer testing of meter by forum but the consumer did not agree to this on the ground that the accuracy of meter might have been disturbed while transportation & man handling. However, overruling this disagreement of consumer & disagreeing with its ground, forum decided to conduct test on 8/7/05.)

14) Technically speaking, it is established beyond doubt that meter was not recording on "y" phase & only 2/3 consumption was being recorded on meter.

15) The consumer contention that the claim is time barred as per Law of Limitation Act, 1963 is not acceptable as licensee had already claimed this amount shown in table A-1 on 18/6/98.

- 16) The consumer is quoting & relying on decision given by Principal Secretary Energy Department Government of Maharashtra in an appeal case of Shri Jairamdas B Vadhrya (Appellant) versus Executive Engineer MSEB Ulhasnagar (Respondent) wherein according to consumer the claim of respondent was quashed on the ground that meter was not tested in the presence of appellant. The study of this case reveals that test carried out on meters on site at appellant premises by respondent on 21/6/2000 was not signed by the representative of appellant. As such the claim of respondent was quashed on the ground that respondent could not produce evidence of counter signature of appellant on inspection report. In the present case consumer's representative has countersigned the inspection report of test of meter of 8/9/97. This decision, therefore, cannot be applied in the present case.
- 17) The study of documents submitted by consumer & licensee indicated that the sentence “ **You may, however, send the bill for one phase not recording, for last three months**” is seen on page 2 of xerox copy of letter of consumer dt.26/11/97 submitted by licensee while the said sentence is missing on page 2 of xerox copy of letter submitted by consumer. The consumer & licensee on 27/6/05 were asked to produce original copy of above letter for verification. The licensee produced original copy of said letter on 5/7/05. The letter was verified & found xerox copy correct. The consumer, however, could not produce original letter for verification on 5/7/05. He made following submission vide letter dated 5/7/05. “Our submission regarding the original office copy of our letter No

HEW/MSEB//096/97-98 dated 26/11/97. The letter dated 26/11/97 addressed to A. E. Boiser was delivered to the office on 3/12/97. The said letter was signed by our partner Shri N. V. Choudhari on page 2. It was observed that the following sentence was not necessary & required to be deleted; the sentence is as under, “ **you may, however, send the bill for one phase not recording, for last three months.**” Accordingly the sentence was deleted & with deleted sentence another letter was delivered to the office on the same day & necessary acknowledgement was obtained from the office. The office copy of second letter and the copy of first letter were given to our clerk. After taking xerox copy of the letters, it appears that the concerned clerk from our office out of confusion destroyed the office copy of second letter & preserved the office copy of first letter.”

- 18) The above submission of consumer is devoid of any merit. On the contrary it appears to be a story fabricated to suppress the fact of delivering a letter to licensee with a sentence “**you may, however, send the bill for one phase not recording, for last three months**”. This clearly indicates acceptance of fact by consumer of meter not recording on one phase (Y phase).
- 19) Although the supplementary bill, on 1/3 less recording of consumption on the basis of meter test result carried out at site on 8/9/97 by licensee, was raised by licensee on 18/6/98 i.e. prior to the EA, 2003 coming into force but the dispute on this supplementary bill remained unsettled. The grievance now can be decided as per provision of EA, 2003. Maharashtra Electricity Regulatory Commission in a landmark order in case

No 19 of 2004 has held that supplementary bills issued from 10th June 2003 (the date of coming into force of EA, 2003) and upto notification of Supply Code should be limited upto 3 months prior to the date of testing of meter. Applying same principle here, the supplementary bill for 1/3 less recorded consumption can be raised for three months prior to September 97 i. e. from July 97 to September 97.

20) We move to table B-1 to decide the grievance of consumer.

The licensee started charging penalty in regular bills on excess connected load of 24 H.P from October 97 based on inspection report of 8/9/97. The licensee, however, did not take any action on the test report of 26/11/97 submitted by consumer to licensee on 3/12/97 (Consumer submitted test report in response to license's letter 1549 dated 15/11/97 & made payment of the bill of the month of October 97 under protest vide letter dated 1/12/97).

21) The licensee failed to verify load of consumer after 26/11/97.

The licensee, therefore, can levy penalty on excess connected load of 24 H.P. for October 97 & November 97 only & cannot continue levy of penalty on said excess connected load beyond November 97 because of failure on their part to check the load of consumer after submission of test report.

22) The license's staff again inspected consumer' premises on 18/9/03 & same observation was made as was made during inspection of consumer's premises on 8/9/97. The connected load was found to be 87 H.P as against sanctioned load of 63 H.P. & meter found stopped on "y" phase. Consumer is mainly disputing this observation of excess connected load of 24 H.P

on the ground of wrong calculation of capacity of welding transformers of 44 KVA to 52 H.P. According to consumer 44 KVA of welding transformers is equal to 26.5 H.P. This does not sound well as 44 KVA converted to HP is nearly 52 H.P as per calculation shown ($44\text{KVA} \times 0.9 = 39.6 \text{ KW}$, $39.6/0.746 = 53 \text{ H.P}$, 0.9 is power factor of consumer as capacitors are used & 0.746 is constant to convert KW to HP). The inspection report was counter signed by Shri N. S. Patel, Works Manager & representative of consumer. The licensee did not take any action on this inspection report till 10/1/05 & consumer also did not submit test report for actual connected load after the date of inspection.

23) In view of our observation made in above para, we decide that licensee can charge penalty for excess connected load of 24 H.P observed on 18/9/03 for September 03. Licensee can also charge penalty for excess connected load of 24 H.P observed on 18/9/03 from October 03 to December 04 i.e. next date of inspection of December 04 because consumer did not submit test report of actual connected load after 18/9/03, the date of inspection.

24) We go to table C-1 to decide the grievance of consumer. The license's staff again inspected consumer' premises on 18/12/04 & same observation was made as was made during inspection of consumer's premise on 8/9/97 & 18/09/03. The connected load was found to be 185 H.P as against sanctioned load of 63 H.P. & meter found stopped on "y" phase. Consumer is disputing this observation of excess connected load of 122 H.P. mainly because of difference of capacities of

welding transformer noted by license's staff on its inspection report & capacities presumed by consumer. The inspection report was counter signed by Shri N. S. Patel, Works Manager & representative of consumer. The licensee took action on this inspection report on 19/4/05 & issued a bill to consumer as per table C-1. It is important to note here that consumer is engaged in the activity of fabrication & welding transformer (main cause of difference in deciding connected load) is vital machine for said activity.

25) In view of our observation made in above para, we decide that licensee can charge penalty for excess connected load of 122 H.P observed on 18/12/04 for December 04. Licensee can also charge penalty for excess connected load of 122 H.P observed on 18/12/04 from January 05 till regularization of load because consumer did not submit test report of actual connected load after 18/12/04, the date of inspection. The consumer should now immediately submit test report of actual connected load to licensee & accordingly licensee can take necessary steps as per procedure.

26) We take table D-1 to decide the grievance of consumer. The period of levy of penalty on excess connected of 24 H.P observed on 8/9/97 inspection & 18/9/03 inspection & period of levy of penalty on excess connected of 122 H.P observed on 18/12/04 has already been decided in paras 11, 23 & 25 & hence not taken up here.

27) Relying on Maharashtra Electricity Regulatory Commission's a landmark order in case No 19 of 2004, the supplementary bill for 1/3 less recorded consumption as per inspection report of

18/9/03 can be raised for three months prior to September 03 i.e. from July 03 to September 03. This defective meter was in service at the time of subsequent inspection on 18/12/04, when same defect was noticed, and was finally replaced on **25/12/04**. We, therefore, decide that licensee can also charge for 1/3 less recorded consumption from October 03 to December 04.

28) It is seen from records that consumer has paid following amount to the licensee against disputed amount.

- i) Rs 50000 paid on 24/1/05
- j) Rs 50000 paid on 21/2/05
- k) Amount paid in regular bills for excess connected load

29) A careful study of above case has brought the following lapses/shortfalls of licensee on the surface.

- a) No action was taken to inspect the premises of consumer after submission of test report by consumer on 3/12/97.
- b) No action was taken to replace defective meter after inspections of 8/9/97 & 18/9/03.
- c) Action to raise bill on excess connected load & 1/3 less recording of consumption as per inspection report of 18/9/03 was delayed till 10th January 2005.
- d) Intimation to consumer to remain present was not given before testing of meter in the laboratory on 21/3/05.

e) Supplementary bill/amendment bill amount was not shown as arrears in regular bills till December 2004.

30) The licensee should give a serious thought to improve system to avoid recurrence of such mistake in future. It is a need of an hour to create a consumer friendly approach. The consumer friendly approach will send signals that MSEDCL is “for the people”, “by the people”, & “of the people”.

31) After taking stock of entire situation, forum is inclined to pass the following order.

O--R-D-E-R

1. The three supplementary bills issued by licensee to consumer of (i) Rs 1,76,711/- for penalty on excess connected load & 1/3 less recorded consumption vide letter No 3446 dated 18/6/98 of Executive Engineer Palghar, (ii) Rs 1,49,587/- for penalty on excess connected load vide letter No 701 dated 19/4/05 of Assistant Engineer Boisar & (iii) Rs 2,11,014/- for penalty on excess connected load & 1/3 less recorded consumption vide letter No 972 dated 27/6/05 of Assistant Engineer Boisar are, hereby, set aside & quashed.
2. Similarly the amount of penalty included in regular bills for excess connected load of 24 H.P & 122 H.P is also set aside.
3. The licensee should also withdraw delayed payment charges & interest, if charged, on the amounts mentioned in 1 & 2 above.

4. The licensee should now charge to consumer penalty for excess connected & 1/3 less recorded consumption as per details given in table below.

<i>Reason of charging</i>	<i>Period</i>	<i>Months</i>
<i>Penalty for 24 H.P excess connected load</i>	<i>(i) September 97 to November 97 (ii) September 03 to November 04</i>	<i>18</i>
<i>Penalty for 122 H.P excess connected load</i>	<i>(i) December 04 to July 05</i>	<i>8</i>
<i>For less recording of 1/3 consumption on meter</i>	<i>(i) July 97 to September 97 (ii) July 03 to December 04</i>	<i>21</i>

5. In the debit bill prepared on above basis, the following amount paid by consumer against disputed amount should be shown as credit.

- (i) Rs 50000 paid on 24/1/05
- (ii) Rs 50000 paid on 21/2/05
- (iii) Amount paid in regular bills as penalty for excess connected load of 24 H.P & 122 H.P

6. The net bill should be sent to consumer before billing cycle of the billing month of August 05.

7. Consumer can file appeal against this decision with the Ombudsman at the following address.

Maharastra Electricity Regulatory Commission, 606/608,

Keshav Building, Bandra Kurla Complex, Mumbai 51

Appeal can be filed within 60 days from the date of this order.

8. Consumer, as per section 142 of Indian Electricity Act, 2003, can approach Maharashtra Electricity Regulatory Commission at the following address

Maharashtra Electricity Regulatory Commission,
13th floor, World Trade Centre, Cuffe Parade, Colaba, 400005
for non-compliance, part compliance or delay in compliance of
this decision issued under “Maharashtra Electricity Regulatory
Commission (Consumer Grievance Redressal Forum &
Ombudsman) Regulation 2003”

Date:- 14/7/2005 LICENSEE

(S.H.Chaphekarande)	(Sau V.V.Kelkar)	(I.Q.Najam)
<i>Member Secretary</i>	<i>Member</i>	<i>Chair person</i>
CGRF Kalyan	CGRF Kalyan	CGRF Kalyan