



Consumer Grievance Redressal Forum, Kalyan Zone

Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) - 421301
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Date of Grievance: 04/02/2013
Date of Order : 07/05/2013
Period taken : 92 days

ORDER IN GRIEVANCE NO. K/E/687/810 OF 2012-2013 IN RESPECT OF SHRI EKNATH BAPURAO NALAVADE OF DOMBIVLI (EAST) REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT EXCESSIVE ENERGY BILL

Shri Eknath Bapu Nalavade,
203, 2nd Floor, Sitamani CHS,
Gogras Wadi, Patharli Road,
Dombivli (E) 421 201
Consumer No. 020012584190

}
Here-in-after
Referred
As Consumer

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Exe.Engineer, Sub-Division-II, Dombivli (E)
(Per Shri. Sadashiv S. Deshmukh, Chairperson)

}
(Here-in-after
referred
As Licensee)

1. Consumer Grievance Redressal Forum has been established under "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers. This regulation has been made by the Maharashtra

Electricity Regulatory Commission vide powers conformed 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 a L.T. Residential consumer of the licensee. The Consumer is billed as per the L.T. Residential Tariff. Consumers registered grievance with the Forum on 4/2/2013 for Excessive Energy Bill.
3. The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/0081 dated 4/2/2013 to Nodal Officer of licensee. The licensee filed reply dated 29/4/2013.
4. On behalf of the Licensee, Mr. A.N. Patil, Dy. Exe.Engineer, and Mr. C.K. Thail, Dy. Exe.Engineer and the Consumer in person attended. Already Consumer has submitted written submissions which we have gone through. Those are provided to the Officers of Licensee, they are present. All of them are heard. On the basis of submissions and material available on record following factual aspects are disclosed:
 - a) The Consumer is having residential connection from Licensee from 15/10/2000.
 - b) The Consumer has paid almost all bills prior to Dec. 2013 as per the demand. However dispute cropped up when he has received bill dated 7/12/2012 for the month of Dec. 2012 for Rs.9270/-. The said bill was for consumption of 974 units. Out of the said dues Consumer deposited Rs.2,000/- on 15/1/2013 and raised dispute by writing letter on the very day, i.e. 15/1/2013 about bill not proper, reading not proper and meter needs to be checked.
 - c) Consumer disputed this particular demand, contending that previously right from the date of connection, i.e. 15/10/2000 till date of disputed bill

he has not received such heavy bill and consumption was just upto 250 to 300 units on an average. Accordingly he disputed the reading which led for accu-check of meter. The said accu-check was done on 15/1/2013 and at that time meter was found OK. Said conclusion is arrived at noticing that error found in the meter working was of +1.10% i.e. within a permissible limit. However it is seen that Consumer' applied on 16/1/2013, depositing Rs.150/- for testing of meter in laboratory and meter was tested on 18/1/2013 in the laboratory of Licensee. At that time it shown a error in the meter working -3.72%. Noticing that error it is treated that difference is below -5% hence meter was OK. In other words, error was within the permissible limits.

- d) Consumer is served with notice dated 19/1/2013 for depositing the balance of Rs.7,415/- and informing that failure to pay it within 15 days, will result in disconnection of supply. Hence he approached this Forum, as there was threat of disconnection, on 4/2/2013. He sought interim relief. On 5/2/2013 considering the merit of the matter Interim Order was passed directing Licensee not to disconnect Consumer's supply until further orders towards the disputed dues.
- e) When both sides attended for hearing, and facts were discussed, we came across that though meter is tested in the laboratory on 18/1/2013, its report was provided to the Consumer on 30/1/2013 and that testing was done not in the presence of Consumer. Hence we enquired about this aspect and the Officers of Licensee offered testing of the meter in laboratory in presence of the Consumer. Consumer was not keen for it, contending it being the test by the Officers of Licensee there may not be any use, however, we found fit to direct testing in his presence which was not done as required. Accordingly, said meter was tested during

pendency of this matter before this Forum on 8/2/2013 in presence of Consumer and it has shown an error of -3.50%. Accordingly last two reports are speaking of meter running slow.

5. During the course of submissions, Consumer in very humble words gave vent to his feelings contending that he is required to face this situation unnecessarily and all he is doing is just to seek a justice. He contended that though meter reading is there, meter is checked thrice, result of checking is also not consistent, it developed from plus to minus and at the third stage found the minus side is reduced. Accordingly he raised dispute about the reliability of correctness of test conducted. He submitted that when the meter was taken out for testing and new meter was installed, he was not provided with required details about the readings, about the correctness about the seals intact, etc. Accordingly he contended that the bill issued claiming heavy amount is not at all legal and proper. The Ld. Consumer raised various objections and important plea he raised referring to rule 57 of Indian Electricity Rules, 1956 contending that limit of error be appropriately dealt.

No doubt on behalf of Licensee officers tried to stick up to their contention but on going through the aforesaid rule it was necessary to call before us Indian Standards Specification pertaining to considering limit of error. Promptly, the Officers of Licensee responded and they placed before us the relevant extract of IS:13779 of 1999, more particularly, page no.10 and table no.15. They pointed out that for the meter of present Consumer table no.15 is available. Therein, the error limit is stated and it ranges from +/-3.5. Accordingly they submitted that this is the standard available for consideration.

In the light of this aspect we sought argument from Licensee side in the light of the Consumer's contention that during second testing the error is noted -3.72% which is now more than IS:13779 referred above. The Officers of Licensee referred to S.O.P. 15.4 thereby they submitted that considering it as a defective meter running slow, bill is to be revised. Consumer reiterated his stand that meter is defective and hence appropriate relief under 15.4 of S.O.P. to be granted. On behalf of Licensee it is submitted that the aspect -3.72% and -3.5% error is considered then as per S.O.P. 15.4 appropriately bill is to be revised adding or enhancing the bill to that extent for previous three months. On this Ld. Consumer submitted that he is disputing bill for only one month, previous bill is not disputed. It is contended that though meter is tested it is giving variations at three times and hence this testing itself is not at all correct.

6. Consumer disputed manner in which the Officers of Licensee expressed intention of doing a revised calculation. He contended that plain reading of clause 15.4 of S.O.P. speaks about considering the aspect of three months prior to the disputed month. In this matter disputed bill is for the period from 3/11/12 to 3/12/2012 and bill is issued on 7/12/2012 and dispute is for this one month due to defective meter working.
7. Now we are required to decide whether meter is defective and said defective meter is to be read only in light of the testing done thrice. Consumer is contending that how there can be difference in the test report conducted thrice and meter during this period was in the custody of the Officers of Licensee. Precisely we have to consider as to whether it is to be treated that meter is defective.

8. Though matter was argued by both sides, at that time, Consumer tried to point out that in fact Licensee not filed any reply as such. Factually his contention found correct. However, when this matter was reserved for Order, on behalf of Licensee reply dated 29/4/2013 is placed on record but CPL though sought from 4/2/2013 not produced. However, we find this is just not proper to file it without making it known to other side, that too, when matter is fixed for Order. We find in the said reply, contentions which are noted above, pertaining to the submissions of the Licensee are included.
9. It is noted above at length, that Consumer is having a supply from the year 2000 and till to the date of disputed bill, he was regular in payment, he had no any grievance but disputed bill he noted is for heavy consumption, ultimately for heavy amount, he promptly raised dispute. Promptly, it was considered, meter was accuchecked on the date of complaint itself. During accucheck it was found OK. Further, it was noted that meter reflected error limit of +1.5%. It was within permissible limit. However, Consumer again sought testing in laboratory depositing the amount on 16/1/2013 and accordingly, meter was tested in the laboratory on 18/1/2013. Its report was not given to the Consumer forthwith but on his demand it was provided on 30/1/2013. However, prior to receiving the report of laboratory checking, Consumer was served with a notice for payment of the due amount. Consumer had already deposited Rs.2,000/- towards the disputed bill of Rs.9,270/- and in the notice received dues were sought to the extent of Rs.7,415/-. Accordingly, Consumer on perceiving the threat of disconnection approached this Forum on 4/2/2013, he sought interim relief which was considered on its merit and protection was given towards disconnection in relation to the recovery of disputed amount. Said interim relief was till further order. In this regard, Consumer has raised a grievance

that in spite of the fact that matter is before this Forum and interim stay is granted, Junior Law Officer of Licensee served him notice on 13/4/2013 which is totally improper and it is without considering the interim protection available from this Forum. We find this aspect is clear in itself, care ought to have been taken before issuing notice that there is no any order passed by this Forum towards protection.

10. In this matter, Consumer who is a retired Class I Government Officer, gave vent to his feelings in a frustration mood, contending that he is required to run from pillar to post every now and then seeking details, information which is not being provided by Licensee. He placed on record his Application under the R.T.I. Act, and reply received. He has his grievance about improper reply or information not provided. He more particularly brought to our notice the factual aspect that as per his complaint, when meter was taken out for testing and new meter was installed, the position of old meter and of new meter is not provided to him. He contended that in which condition old meter was when taken out, in which condition it was maintained, is not stated, and hence he is hampered. We at this stage without commenting on the aspect of Application under R.T.I. Act, required to consider the feeling and difficulty of Consumer. He has every right to resort to appropriate remedy of Appeal in respect of R.T.I. Application. However, dispute brought before us is peculiar, it revolves around the dispute of bill, consumption shown therein and ultimate quantum of bill. No doubt, at subsequent stage, Consumer tried to widen the scope referring to different aspects but as his grievance subsists to the extent of the quantum of bill, quantum of units shown as consumed, this aspect revolves around the working of meter, defect therein, if any. Material available on record, is to be considered, for deciding this grievance.

11. As noted above, Consumer's position is demonstrated showing that he is having connection for the last 12 years, he is regular in making payment, he has not raised any dispute and his consumption was hardly in the range of 250 to 300 units per month. This factual aspect is not at all disputed by the Officers of Licensee. Accordingly, we find Consumer is not falling in the category of persons who are all the while, raising dispute on one or the other ground. Secondly, it is seen he is prompt enough to approach the Authorities of Licensee making his stand clear. The chronology of Applications he made speaks about it. As against it, though, meter was tested in laboratory as he had deposited amount but it was done in his absence. It led to a further development of issuing notice by the Officers of Licensee asking him to deposit the balance amount without providing him copy of the testing report of meter conducted in the laboratory. He first received a notice, then as per his persuasions, he is provided with the copy of meter testing report. It led him to this Forum seeking a relief that too, under the threat of disconnection. He placed before us his contentions in the form of Written Submissions and till conclusion of arguments by both sides, there was no written reply from Licensee side. Though he faced all these aspects, he made submissions in tune with the written material he placed on record.
12. During the course of arguments, on behalf of Licensee reliance was placed on the meter testing reports. Though three reports are available, first report was not accepted by Consumer, it was accucheck report, it reflected error in the meter to the extent of +1.5%, he then sought testing in laboratory, it was done, and error in the meter was noticed to the extent of -3.72%. However, it was not tested in his presence and considering the said testing, the Officers of Licensee proceeded to seek recovery of due amount. When Consumer brought these facts to our notice, the important aspect of meter testing in the

laboratory not done in his presence, it was discussed and in that light meter was tested during pendency of this matter, at that time, error was noticed in the working of meter to the extent of -3.5%. In this regard Consumer contended that these are the three varying reports of testing, those are not consistent and hence those cannot be accepted. He added that the status of meter before taking out from his premises, before testing, was not made known to him, hence he is not agreeable to it. Even he claimed that second testing was to be done at his instance, he deposited fees, but it was done without his knowledge and it was in his absence. He submitted even copy of the report was not provided to him promptly but officers proceeded to issue notice of demand with threat of disconnection if payment is not done. Consumer further contended that the relevant information which he sought under R.T.I. Act, not provided to him by the Department, and even it is not voluntarily placed before this Forum. He contended that when he has not faced such heavy bill, of more units for the last 12 years his contention be accepted, treating meter is defective or there was a jumping of meter for a month and relief be given to him. He has given vent to his feelings about what is happening in the surroundings which are within his knowledge and that he being a regular honest Consumer paying the dues he is not treated appropriately and no relief is given by the Officers of Licensee.

13. The Officers of Licensee in response contended that testing reports consistently reflected that meter is not defective and error noted during the three testing is within the permissible limit, i.e. ± 3.5 . An attempt is done to contend that these three variations in the testing are due to power factor and connected load. Accordingly they contended that bill issued to Consumer is correct one and they added that as the last meter testing report speaks that meter was running slow, error was of -3.5%, then for 0.5%, Licensee intends

to consider calculating the dues of Consumer for 3 months prior the disputed period. They were not ready to accept the contention of Consumer about his previous track record of consumption or quantum of bill.

14. We accordingly, find that technically, meter is speaking about the error in between +1.5% to -3.5%. Though meter tested thrice, the percentage of error is not the same, it is varying. Variation is also not consistent. Initially it was at the plus side, subsequently it dropped to -3.72 % but during third testing, it recovered and error was noted to the extent of -3.5%. The claim that it is due to power factor and connected load is not acceptable as care ought to have been taken to test with same power factor and connected load during the testing. This is one of the aspect demonstrating the meter is having an error, error is not consistent, rather, it leads to a conclusion that its functioning is erratic / irrational. We find that if at all it was at plus side then it may reduce to some extent towards plus side and if it tilts towards minus side during second testing, then it should be consistent in the third testing. Accordingly, we find the result is peculiar in itself. This particular aspect is required to be considered in the light of the fact that Consumer has taken connection in the year 2000 and now for only one month, Consumer is disputing it. He has received bill for 974 units, though he was receiving bills previously in the average range of 260 to 270 units. Accordingly this particular difference cannot be just undermined. Consumption of 974 units is nearly about 4 times or 3 times of previous track record of consumption. Consumer consistently submitted that his consumption has not increased, he is well within the limit continuously. Even he took support of his subsequent consumptions after his grievance when meter was replaced and demonstrated that it has not exceeded more than 300 units. Though he stated

these facts the Officers of Licensee restricted themselves to meter testing reports.

We find meter testing report technically speaks about the result but the aforesaid peculiarity cannot be undermined. First peculiarity pertains to the meter testing report itself. Those meters are not consistent, those are found irrational, those are not tallying with each other and as observed above, those are found somehow contradictory to each other. This aspect read with consistent consumption of Consumer prior to the disputed bill and after the disputed bill, supports his contention. Even the meter working for more years is one of the factors to consider that for that disputed period, meter reflected more consumption. Considering cumulative effect of all these peculiar circumstances we are required to believe the Consumer and hence we conclude that meter was defective and thereby units shown in the disputed bill is not correct and though defect is erratic / irrational, hence Consumer is to be considered in the light of his previous consistent consumption and for the disputed period he is to be equitably charged for disputed month taking average of last 12 months prior to the disputed period.

15. Accordingly this grievance is to be allowed and as per MERC Regulation 8.2 (e), we direct Licensee to revise the disputed Bill of Dec. '12 and Consumer be charged for the average of one month considering previous 11 months consumption of Consumer, i.e. prior to Dec. '12 instead of bill issued for the said month for 974 units. Said average is worked out as under on the basis of bill placed on record by the Consumer for the last 11 months. Those details are as under:

Month	Units consumed
January 2012	264
Feb .. “ ..	244
Mar.. “ ..	235
Apr.. “ ..	281
May .. “ ..	247
June .. “ ..	278
July .. “ ..	283
Aug .. “ ..	281
Sep .. “ ..	269
Oct .. “ ..	240
Nov .. “ ..	274
Total	2896

The average of aforesaid 11 months, consumption is taken, per month it comes to 263.27 and hence, it is to be treated as 263 units. Accordingly, Consumer is to be charged for 263 units for the month of Dec.’12 instead of 948 units which Licensee is to revise. During such revision, amount of Rs.2,000/- which Consumer has already deposited, be considered and in revision, if this amount is found excess, it be refunded in the adjustment and if it is less it be recovered from the Consumer.

I agree

(Sadashiv S. Deshmukh)
Chairperson, CGRF Kalyan

(Mrs. S. A. Jamdar)
Member, CGRF, Kalyan

View of Member Secretary (Shri R. V. Shivdas) :

I have gone through the above reasoning. I am not agreeing to it. The action of Licensee’s Dy. Exe.Engineer, Dombivli [E] as per letter no. Dy.E.E./Domb (E)/S/Dn-II/697 dated 29.4.2013 is correct.

(R.V. Shivdas)
Member Secretary
CGRF Kalyan

16. This matter could not be decided within prescribed time as meter testing was to be done during pendency of the matter. Consumer has sought time for filing written submissions, considering the factual and legal aspects.

Hence the order by majority

O-R-D-E-R

- a) Grievance of Consumer is hereby allowed.
- b) Licensee is directed to revise the bill of December, 2012 pertaining to the Consumer, treating the consumption of 263 units for the said month on the average basis of 11 months prior to December, 2012 in place of the disputed bill issued for 974 units.
- c) Out of amount already deposited by the Consumer, amount of revised bill and if it is excess, it be adjusted in the ensuing bill and if it is short, it be recovered from the Consumer.
- d) Licensee to comply this Order within 30 days from the date of receipt of this Order and submit compliance report within 45 days
- e) The Consumer can file representation against this decision with the Hon. Electricity Ombudsman within 60 days from the date of this order at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.

- f) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission 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” at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”

Date : 07/05/2013

(Mrs. S.A. Jamdar)
Member
CGRF Kalyan

(Sadashiv S. Deshmukh)
Chairperson
CGRF Kalyan