

Consumer Grievance Redressal Forum, Kalyan Zone
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No. K/E/744/891 of 2013-14

Date of Grievance :02/12/2013
Date of order :26/05/2014
Total days : 175

IN THE MATTER OF THE CASE OF GRIEVANCE NO. K/E/744/891 OF 2013-14 IN RESPECT OF JITESH DEVRAJ DEDHIA, GALA NO. 2/B, S. No. 170, SHA WAKAN PADA, PALHER, VASAI (E) DIST. THANE REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING EXCESSIVE ENERGY BILL

Jitesh Devraj Dedhia,
Gala No.2/B, S.No.170,
Sha Wakan Pada,
Palher, Vasai (E),
District-Thane.

..... (Hereinafter referred to as consumer)

(Consumer No.002230172334 LTV-Load 65 HP)

V/s.

Maharashtra State Electricity Distribution
Company Limited through its

Dy. Exe.Engineer, Vasai Road [E] S/Dn. (Hereinafter referred to as Licensee)

Appearance :- For Consumer - Shri Harshad Sheth, Consumer's Representative
For Licensee - Shri Satish Umbarje, Dy. Exe.Engineer
Shri Vaze, Asst. Accountant

1] Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003.(36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is

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referred as 'Regulation'. Further the regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission. Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005.' Hereinafter referred 'SOP' for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2005'.

2] Consumer is having industrial supply from 30/3/2012. Consumer received bill for the first time towards that connection in November 2012, covering the period from March to October 2012. It is contended that further consumer received bills in July 2013, August 2013, and in August 2013 dues are shown to the extent of Rs.2,60,890/-. Though, consumer under the threat of disconnection, deposited that amount and then approached Dy. Executive Engineer, Sub-Divn., Vasai (E) on 27/9/2013 raising various disputes. Even with said dispute consumer approached IGRC on 30/9/2013. Those two, failed to consider the grievance of consumer, hence he approached, after 60 days, to this Forum on 2/12/2013.

On receiving the grievance, copy of it along with accompaniments sent to the Nodal Officer, vide this Office letter No. EE/CGRF/Kalyan/503 dated 2/12/2013. In response to it, Licencee appeared and position was discussed in presence of both sides pursuant to it, inspection was conducted by Licencee towards the said meter, by the Officers of Licencee on 6/1/2014. Further in the light of discussions held during hearing, consumer clarified the position by filing further reply on 6/1/2014, 11/3/2014 and 7/4/2014.

Consumer added the details in pursuance of reply filed by Licencee on 7/1/2014, 21/1/2014, 2/4/2014 and 6/5/2014.

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3] In the light of the grievance, additions therein, reply given by Licencee and on hearing both sides, following factual aspects disclosed:

a] Consumer sought supply and it was granted and connected on 30/3/2012, it is of LTV- load was of 60 HP and connected load was not specifically filled in the form submitted by the consumer, but Licencee shown it as 60 KVA. This particular KVA is challenged by consumer on receiving the bills contending, it ought to have been 48 KVA as per the set procedure of Licencee. However, on behalf of Licencee, it is submitted that as per the circular 78 dated 28/3/2008, it is of 56 KVA and accordingly, correction in that line is proposed by Licencee.

b] Though supply was given on 30/3/2012, actual reading was not taken till October 2012, no bills were issued till then. However, first bill was issued in November 2012, covering the previous period that too showing consumption 0 (zero). Even this continued till June 2013, bills were issued in the same position of 0 (zero) units and for fixed charges only. In July 2013, reading was noted as 11,172 and reducing initial reading of the meter 05 unit, consumer was charged for the difference of units 11,167, but said meter was of MF-2. Hence bill was prepared for 22,334 units for Rs.2,32,464/- and power factor penalty (PF) Rs. 52,352.49 ps. This particular calculation is challenged, contending that MF-2 cannot be charged. In this fashion as it was not reflected at any time.

c] Consumer claimed compensation, towards reading not taken for about 15 months or so as per the provisions contained in Regulation i.e. Standard of Performance, sought amount of Rs.3100/-.

d] Consumer claimed that power factor penalty cannot be applied, it will apply only in case of reading taken in particular month. At the most it will be applicable only for July 2013 and not prior to it.

e] Consumer sought revisional bill treating 50 KVA instead of 60 KVA, further sought revision applying appropriate tariff prior to August 2012 and after August 2012. It is contended that From April 2012 to June 2013 power factor was not recorded and hence, on that count, consumer cannot be asked to bear the penalty sought quashing of it except for July 2013 that too on the basis of MRI report.

f] Consumer claimed for the year 2012 and 2013 interest on SD i.e. security deposit is not yet credited and it needs to be credited which comes to Rs. 5,472/- .Accordingly, all these amounts are sought working out the difference and adjusting in the dues.

4] Towards considering the above grievance of consumer, those are to be taken up one after the other under a different heading as under:

I] **Quantifying contract demand (CD)**

In this regard, in the bills, Licencee shown load of 60HP i.e. sanctioned load. However, contract demand is also shown as 60 KVA. CR disputed this aspect and matter was discussed before this Forum attempt was done to find out whether said KVA is as per the application of consumer. With strenuous efforts, Officers of Licencee, succeeded in tracing out the said application of consumer filed for supply and **it is noted that column of contract demand is blank**. Question arose what was the option available to the parties. On behalf of Licencee, it is submitted that as per the rules Licencee entered it as 60KVA. But, no such rule or any circular is placed on record to demonstrate said presumption. On the other hand, subsequently, officers of Licencee admitted that said KVA is now being considered as 56 as per circular No.78 relied on by the CR. At this juncture, CR submitted that though he had contended that KVA should be 48 but it can be up to 50. Towards this particular aspect he heavily relied on the prevailing situation in the area and placed on record about 10 bills of other consumers wherein ratio of sanctioned load and CD is considered and dealt by Licencee. Officers of Licencee submitted, reliance on those ten bills cannot be upheld as there is no any base or scientific base.

We find, one thing is clear that as per routine practice consumer has to apply Licencee has to scrutinize the application and if it is complete, then to proceed further for sanction etc. Accordingly, scrutiny is left to the Licencee. In this matter, it seems that aspect of scrutiny is not complete, the flaw remained and though, consumer not entered the CD, Licencee proceeded to treat it as 60 KVA. Though as per the circular as submitted by Officer during hearing, it will be of 56 KVA. Accordingly, it is clear, it is Licencee, who not acted as required i.e. not scrutinized the form, not asked the consumer about the blank space of CD, even entered 60 KVA which is not as per it's own circular. All these things cumulatively point out to a flaw

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with the Licencee. It was necessary on the part of the Licencee to ask the consumer, about the CD if column is blank, Licencee cannot substitute it's own figure in the blank. For substituting the blank space, no reliance can be placed on it's own circular, thrusting financial burden on the consumer, which is without consent. Consumer, tried to demonstrate, prevailing practice in the region, which was strongly opposed by Officer of Licencee. Officer of Licencee tried to justify the act of Licencee in dealing with the consumer, showing 56 KVA at a subsequent stage , i.e. during the pendency of the grievance. It cannot be ignored that consumer already sought said CD be entered as 50 vide his application dated 2/4/2014. On this count, Officers of Licencee submitted that it will be considered after taking sanction from Higher Authority, from the date of application. No doubt, consumer submitted that application when matter was discussed at length before this Forum whether he can seek correction or filling in the blank pertaining to CD. We find his action cannot be read to his disadvantage, it cannot strengthen/cure the flaw created by Officers of Licencee. We find when Officers of Licencee were at fault in noting CD then the fair submissions of consumer needs to be accepted, who initially claimed that KVA should be 48, but claimed it be allowed as 50 KVA. We find said suggestion needs to be taken in a proper prospective. Though, Licencee has not taken care to scrutinize and to get correct information entered in the form by the consumer , consumer cannot be denied this particular opportunity and as submitted by CR, there is no any reason to deny the claim of consumer that said CD be entered as 50 KVA. In this light, we find, towards working out the liability of consumer CD is to be treated as 50 KVA right from the date of connection and bill is to be revised accordingly.

II] **Reading not taken from April 2012 to October 2012 and further till July in 2013 and further providing compensation as per SOP:**

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5] It is a fact that as per SOP Clause 7 of Appendix-A, reading of consumer's meter is to be taken at least once in every two months and failing which compensation is to be paid @ Rs.200/- per month. Accordingly, it is a fact that from April 2012 to June 2013 for 15 months reading was not taken and consumer has sought an amount of Rs.3100/- as compensation. We find, claim is as per the SOP, there is no any reason, worth considering demonstrated by Licencee, to deny this legitimate claim of consumer Hence, we are left with no other option then to allow it.

III} **Power factor penalty refund of it :**

6] Consumer claimed that Power Factor Penalty levied on the consumer which is not correct. It is submitted that power factor penalty is to be worked out on the basis of consumption recorded in a particular month, if exceeded the limit or it is below. CR submitted that in spite of seeking MRI of the said connection from April 2012 till June 2013, it is not made available. Accordingly, he submitted that if that reading is not available then no PF penalty can be levied. It is also submitted that at the most for July 2013, it can be considered as per details reflected in the bill. Consumer in this respect relied on the Order of MERC in case No. 2/2003 dated 14/7/2005 and the order passed by Hon'ble Ombudsman, Nagpur, in Representation No. 67/2012 decided on 10/10/2012 in the order of Hon'ble Ombudsman Para 14 and 15 are clearly demonstrating the position which is noted above as canvassed by the consumer's representative. Para No.15 is a utmost important. It is reproduced as under for ready reference.

'15, So far as billing of power factor penalty charges is, concerned, it is seen from the charts submitted by the appellants and the respondents that KVA MD, KW MD and power factor was never recorded for the period May 2009 to April 2010. Hence, the billing on that count is also not justified.'-----

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Hon'ble Ombudsman considered at length the order of MERC while deciding the matter. We find, this precedent is totally applicable to the present case and hence, in absence of any actual recording of consumption for respective months and visible to the consumer, there cannot be any charging and imposition of power factor penalty charges and hence, the power factor penalty charged by Licencee, during the period from April 2012 to June 2013 found without any base, it is to be deleted and bill is to be revised on this count by the Licencee.

IV] Paying interest on security deposit :

7] Consumer's representative during the course of arguments pointed out that interest on the security deposit of Rs.28,800/- for the year 2012 -2013 and for 2013-2014 is not yet credited in the consumer's account @ 9.5% per annum i.e. Rs.2,736/- + Rs. 2,736/- = Rs.5,472/-. This particular aspect is not developed during pendency of the matter but it finds place in the grievance made to the Dy. Executive Engineer in the letter dated 27/9/2013 and it was enclosed to the complained made to the IGRC on 30/9/2013. On this point, there is no any specific reply from Licencee. Accordingly, we find, as per the order of MERC every year interest is to be paid on the security deposit and hence Licencee is to ensure that this interest amount is paid . We noted the fact, interest for the year 2013-14 is claimed even prior to completion of financial year. But, by this time, financial year is completed. Hence, Licencee is to pay the interest as per the order of MERC.

V] Allowing TOD and considering TOSE:

8] Consumer prayed for direction to the Licencee to work out the TOD available to the consumer and it be paid. During the course of hearing, consumer's representative is fair enough to submit that there is no any data available to work out the TOD, hence, this Forum will not be in a position to consider this prayer. Considering this argument, we find that prayer towards TOD cannot be allowed.

TOSE aspect is not pressed by CR. Even Officer of Licencee, submitted that there will not be any change in it.

VI] Improper charging as MF-2:-

9] Consumer contended that in the bills issued MF was not properly entered, in fact it was shown as One (1) but in July 2013, dues are worked out, applying MF-2. It is a fact that in July 2013 units were noted as 11,167 and by applying MF-2, those are to be charged for 22,334 units. This particular aspect is considered by Licencee and bill was revised. When this meter was checked by the Officers of Licencee on 6/1/2014, it was noted that in fact it is a connection which is, of MF-2 and all requirements were fulfilled and available in the meter. In this regard, consumer's representative fairly submitted that as the position is tallying with the requirement of MF-2, it needs to be maintained. In this light, we find, no any fault can be found about applying MF-2 which is to be considered, even though, bill is to be revised on other counts.

VII] Considering the aspect of tariff applicable prior to August 2012 and after August 2012:-

10] Licencee has not disputed the fact that the tariff orders effective up to August 2012 and after August 2012 are required to be considered and accordingly, bill of consumer issued in July 2013, required to be revised and it is submitted that said revision is proposed. We find, as mandate by the MERC those tariff orders are required to be followed.

11] After considering the aforesaid points one by one, it is just necessary to take into account the plea taken by Licencee in it's reply dated 6/1/2014 . In the reply, it is admitted by the Licencee that portion prior to August 2012 and after 2012 are to be segregated and bill is to be revised and such revision is proposed. It is further contended that along with the said revision changes will be required pertaining to (1)

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Fixed charges, (2) Energy charges, (3) FCA charges, (4) Additional charges, (5) TOD tariff, (6) Electricity duty, and (7) PF penalty. In respect of TOS, it is submitted that it requires no any revision. Accordingly, on the basis of the working Licencee concluded that refund is available to the consumer on some counts and there is recovery on some of the counts. Ultimately Licencee concluded in the said reply that there is recovery to the tune of Rs.36,353.49 Ps.

Though in the above portion the claim of Licencee is noted, but said revision though proposed, it is on the basis of contentions of Licencee without considering the aspect of **Contract Demand** which is now concluded as 50KVA whereas Licencee treated it initially as 60 KVA subsequently tried to restrict it to 56 KVA. Secondly, it is not considered by Licencee that **Power Factor Penalty** cannot be charged unless reading is taken every month and reflected wherein consumer has not maintained the limit. In this light, Licencee is to reset and revise the bill of consumer. In addition, consumer's claim towards paying compensation as per SOP for Rs.3,100/- is also to be dealt and is to be provided to the consumer. Further, interest on security deposit which is overdue is also to be paid by the Licencee. Accordingly, consumer's grievance is to be partly allowed in the light of above said discussion.

12] This matter could not decided in time as Licencee was required to consider the aspect of providing MRI data which is not provided and ultimately submissions are concluded on 6/5/2012.

Hence the order.

ORDER

Grievance of consumer is hereby partly allowed.

Bill issued by Licencee in July 2013, is hereby set aside. Licencee to revise the said bill in the light of aforesaid discussion on the count of Contract Demand , Power Factor Penalty and others and to work out the dues, even dealing with consequential effect on fixed charges, energy charges, FCA charges, additional

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charges, electricity duty, and others. While working out the said revised bill considered the payment already done by the consumer and refund the amount found in excess. Licencee to pay interest on the said excess amount from the date of deposit of amount by the consumer. Further, to pay to the consumer interest on SD which is due as per the MERC orders with interest. Licencee to pay an amount of Rs.3100/- towards compensation as per SOP as reading was not taken as required which is in breach of SOP. All these amounts are to be adjusted or paid to the consumer. This compliance Licencee to do within 45 days from the date of this order. Licencee to submit compliance to the Forum thereafter within 15 days.

Dated:26/5/2014

I agree

I agree

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

(Chandrashekhar U.Patil)
Member Secretary
CGRF,Kalyan

(Sadaashive S.Deshmukh)
Chairperson
CGRF, Kalyan

Note

- a) The consumer if not satisfied, may file representation against this order before the Hon. 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”.
- b) 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”
- c) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.