



Consumer Grievance Redressal Forum, Kalyan Zone
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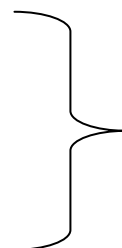
Date of Grievance : 22/10/2012

Date of Order : 21/3/2013

Period Taken : 150 days

IN THE MATTER OF GRIEVANCE NO. K/E/646/765 OF 2012-2013 OF
M/S. SUGRAN FOOD PRODUCTS IND., BADLAPUR REGISTERED WITH
CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN
ABOUT EXCESSIVE ENERGY BILL

Shri Sugran Food Products Ind.
A/37, MIDC, Kulgaon
Badlapur (E),
Dist. Thana 421 503



(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Executive Engineer,
Dombivali East Sub-Division No. I



(Here-in-after
referred
as licensee)

(Per Shri. Sadashiv S. Deshmukh, Chairperson)

A) This 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. The 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).

B) The consumer (applicant) is a Industrial consumer of the licensee. The Consumer (applicant) is billed as per Industrial tariff. The Consumer (applicant) registered grievance with the Forum on 22/10/2012 for Excessive Energy Bill. The details are as follows :

Name of the Consumer :- M/S. Sugran Food Product Ind., Badlapur

Address: - As given in the title

Consumer No : - 021540016701

Reason of dispute : Excessive Energy Bill

C) The set of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/730 dated 22/10/2012 to Nodal Officer of licensee. Licensee filed reply on 20/11/2012 by the Nodal Officer.

1. This matter is heard at length Consumer’s representative Mr. Nitnaware and on behalf of the licensee Assistant Engineer Shri Kasal with Shri Patil Assistant Accountant and Shri Dumane Dy. Ex. Engineer who attended from time time argued.

2. As per submissions and from the record following factual aspects are disclosed. Consumer received bill for August-2011, and it was for 1158 unit,

similarly for November- 2011 it received a bill for 1868 units. Trend of such units consumed continued till end of January- 2012 and for February- 2012, March-2012 units shown as 1500, 1455 respectively.

3. On this count consumer approached officers of licensee and filed complaints on 06.12.2011, 07.03.2012, 16.07.2012 issued reminders on 06.08.2012 and 26.09.2012.

4. It is seen from the contentions of licensee that meters of various consumers totally; 24 were sought to be checked by writing letters to the meter testing authority on 17.03.2012 and 27.03.2012. Accordingly present consumer is one amongst them at Sr. No. 14 in the list of meters checked. After checking letter of said meter testing dated 23.04.2012 issued, it speaks about the position. However, consumers meter not checked in presence of consumer or with prior intimation of consumer. As stated above consumer continued writing letters about his grievance till 26.09.2012. Consumer then approached this Forum on 15.10.2012.

5. When matter was brought before this Forum, noticing that meter tested is not done in presence of this consumer, it was found fit to have testing in presence of consumer. Accordingly initially date fixed for checking on 20.12.2012 but by mutual adjustment checking is done on 28.12.2012. Report of said checking dated 29.12.2012 is placed on record on 02.01.2013. precisely the observation of checking is as under-

“The above mentioned meter when powered on through meter testing bench by giving 3x240 V supply and 2A current for each phase for confirming voltages and currents, the meter display shows zero value for B phase current and voltages in each phase found in order. Hence meter cannot be tested further.”

Further, it is reported that the MRI data of same meter mentioned above cannot be retrieved.

6. Accordingly now position is clear that defect in the matter is noticed as one phase display was zero but during initial checking as contended by Licensee meter was O.K. In that case the subsequent development whether existing during first checking is a question which needs to be considered.

7. First checking report is in common format without details, simply meter No. is stated and finding is recorded but exactly what was tested and details there of are not on record. Admittedly it was not checked in the presence of consumer. In this regard it is again pointed out to us that even before this first checking, accucheck was also conducted and it is stated on behalf of Licensee that report was O.K. In fact, the actual report of accucheck, detailed report pertaining to

checking on 23.04.2012 are not available on record. Officer of Licensee Mr. Dumane, was asked to provide these details and produce M.R.I report for period prior to 23.04.2012. He placed on record CPL and MRI report. Copies of said CPL and MRI report were provided to the consumer's representative.

8. In the light of aforesaid details this matter is to be decided. One fact is clear that though consumer asked the officer of Licensee to test the meter on 06.12.2011 it was not responded. As per MERC supply code 14.4, there is provision for testing and maintenance of meter. As per first clause it is Licensee responsible for periodic testing and maintenance of meter. As per clause-3. whenever meter is tested copy of testing report is to be provided within two months to the customer from date of request. Accordingly, in this matter initial request was on 06.12.2011 and at least till 06.12.2012 report was to be provided which is not done. Secondly, it is seen that meter is taken out during the period from 19.03.2012 to 27.03.2012 and testing report on record is of 23.04.2012. Though, report is given testing that meter, it is suffering from defect, as it is not dealt as required under the Regulation/SOP in presence of consumer. No doubt the precise report of old meter taken out is not on record, existing position of meter at that time is not clear. Officers of Licensee expect that the checking report be accepted. However, we find the report suffers from main defect as it is not tested in presence of consumer. Further, it is seen that though it is stated that during the testing on 23.04.2012 meter is normal but during testing on 28.12.2012 which is done during the pendency of this matter defect is stated as to one phase supply is not available and there is no display. Even it is stated that MRI data can not be retrieved. This particular report and report dated 23.04.2012 are contradictory to each other and as contended by consumer representative the defect noticed on 28.12.2012 may have developed in between checking report dated 23.04.2012 and 28.12.2012. We find this aspects cannot be ignored. Accucheck report as contended by officer of Licensee prior to 23.04.2012 is not on record and hence there is no any force in the contention that it was normal. Unless such document is placed on record no inference can be drawn.

9. As per the provision of SOP in the case of defective meter there is provision in clause 15.4 said clause is utmost important it reads as under.

“15.4.1 Subject to the provisions of Part XII and Part XIV of the Act, in case of a defective meter, the amount of the consumer's bill shall be adjusted, for a maximum period of three months prior to the month in which the dispute has arisen, in accordance with the results of the test taken subject to furnishing the test report of the meter alongwith the assessed bill. :

Provided that, in case of broken or damaged meter seal, the meter shall be tested for defectiveness or tampering. In case of defective meter, the assessment shall be carried out as per clause 15.4.1 above and, in case of tampering as per Section 126 or Section 135 of the Act, depending on the circumstances of each case.

Provided further that, in case the meter has stopped recording, the consumer will be billed for the period for which the meter has stopped recording, up to a maximum period of three months, based on the average metered consumption for twelve months immediately preceding the three months prior to the month in which the billing is contemplated”.

10. As per above Clause 15.4.1 initial portion is for defective meter and adjustment to be done for three months on the basis of test report. In this clause there is no any reference for working out liability on the basis of average. Criteria of average is not provided, as result of testing itself provides clue for recovery and in that case recovery is to be done for three months prior to the dispute has arisen as per the testing report. It is a fact in this matter consumer had sought testing of the meter insisted it contending the defect of meter. His request not dealt as per Regulation and SOP he was not given any opportunity to know exactly how testing is done and the basis of conclusion. Consistent stand of consumer can not be ignored if it is contended that there is defect in the meter and reading is found high or inflated. No opportunity is given to the consumer to have his grievance redressed by appropriately testing it in his presence. Accordingly, first checking has lost its sanctity. Second checking which is conducted during the pendency of the matter has shown the defect as there is no display for one phase. But, this test report is contradictory to the first report and hence as meter was lying with licensee the report cannot be read against consumer. But one thing is clear which we are required to accept is of defect existed but the officers of Licensee denied the opportunity to the consumer to know the defect during the first checking and in between when meter was with the officer of Licensee till it was checked second time during pendency of the matter before this Forum that defect cannot be attributed to consumer. Now, the particulars aspect of defect is not clear, as required in the first part of 15.4.1. Said clause 15.4.1 provided with two proviso. First pertains to meter tampered which we are not concerned. Second proviso pertains to meter found stopped during checking. This second proviso can not be applied though it is reported that supply to one phase not found as this aspect not found during first checking and meter was with officer of licensee from the date of first checking till second checking done. The plea of consumer that defect may have cropped up during this intervening period can not be turned down. During the

first checking such defect was not reflected accordingly second proviso will not apply.

As noted above in the first initial clause on the basis of defect in meter if noticed relief is required to be given for three months period i.e three months prior to the grievance itself. In this matter grievance is from November- 2011 to March- 2012. As observed above, defect we are required to infer. If defect is inferred then question comes about the relief. Relief is not sought for any previous period but it is claimed from the bill of November-2011 till March- 2012. There is no dispute about the consumption for prior period or subsequent period. Consumer representative submitted that at the most considering the principles of natural Justice and reliefs be given on the basis of average consumption it may be of previous consumption or the consumption after replacement of meter from March-2012. We have noted down the consumption prior to November- 2011 and after March- 2012 as under.

Month	Previous Consumption	Month	After replacement meter
Nov.2010 -	744		Subsequent Consumption
Dec.2010 -	595	Apr.2012 -	764
Jan.2011 -	757	May-2012 -	614
Feb.2011 -	553	June-2012 -	756
Mar.2011-	649	July-2012 -	644
Apr.2011 –	675	Aug-2012 -	806
May-2011 -	851	Sept-2012 -	694
June-2011-	897	Oct-2012 -	642
July- 2011-	871	Nov-2012 -	392
Aug-2011-	1158	Dec-2012 -	588
Sept-2011-	511	Jan-2013 -	482
Oct-2011 -	653		
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Total Units-	7,714	Total Units	- 6382
Average-	$7,714\%12= 643$	Average-	$6382\%10= 638$

Considering the previous consumption of 12 months average comes to 643 per month. However, subsequent consumption of 10 months available after considering average it comes to 638 units per month. During previous period at times consumption has exceeded up to 897 to 1158 whereas subsequent consumption has gone up to 806 units. Accordingly, we find equitably the average of previous consumption will be the proper mode

for giving relief towards the bill of November-2011 to March-2012 We find during this period from November – 2011 to March- 2012 consumption is to be made limited to 643 units per month instead of the consumption shown as under in the CPL those details are as under.

Month	As per CPL unit charged	Now units to be charged relief being given
Nov-2011	1868	643
Dec-2011	1876	643
Jan-2012	1876	643
Feb-2012	1500	643
Mar-2012	1455	643

- 11) This matter could not be decided in time as the Forum was to cope up with existing hands for transcribing this order as regular Stenographer has retired
- 12) In result grievance of consumer is to be allowed.

ORDER

- 1) Grievances of consumer is allowed. Bill issued to consumer for the month of November- 2011 to March-2012 by the Licensee are now set aside. Licensee to issue corrected bill treating consumption as 643 Units for those respective months. Licensee to issue such corrected bills within 45 days from the date of this order and adjust the payment in further bills if any done by consumer towards said period and balance bill be recovered.
- 2) The Consumer if not satisfied, 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”.
- 3) Consumer, as per section 142 of the Electricity Act, 003, 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 : 21/3/2013

I Agree

I Agree

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

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(Sadashiv S. Deshmukh)
Chairperson
CGRF Kalyan