

CONSUMER GRIEVANCE REDRESSAL FORUM
(Established under the section 42 (5) of the Electricity Act, 2003)
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD.
NASHIK ZONE

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Office of the
Consumer Grievance Redressal Forum
Kharbanda Park, 1st Floor,
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Dwarka, NASHIK 422011

No. / CGRF /Nashik/Nagar Circle/Sangm.Dn/442/25-14/
(BY R.P.A.D.)

Date: 17/10/2014

Date of Submission of the case : 28/08/2014
Date of Decision : 17/10/2014

To.

1) M/s.Giriraj Enterprises , .
G.No.117,119,111,115,120,
POST. Nighoj , Tq- Rahata,
Dist. Ahmednagar 422605
(Consumer No. 164819005800)

Complainant

2) Nodal Officer ,
Maharashtra State Elect. Distribution Com.Ltd.,
O&M Circle office, Ahmednagar
3) Executive Engineer ,
Maharashtra State Elect. Distribution Com. Ltd.
Sangamner Division office, Dist. A'Nagar.

Distribution Company
(Respondent)

DECISION

M/s. Giriraj Enterprises (hereafter referred as the Complainant). Sangamner Dist. Ahmednagar is the HT Industrial consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company).The Complainant has submitted grievance against MSEDCL for charged higher side assessment due to failure of metering unit for the month of April, May, June 2013. The Complainant has filed a complaint regarding this with the Internal Grievance Redressal Committee of the Maharashtra State Electricity Distribution Company Ltd. But not satisfied with the decision of the IGRC , the consumer has submitted a representation to the Consumer Grievance Redressal Forum in Schedule "A. The representation is registered at Serial No.155 of 2013 on 28 /08/2014.

The Forum in its meeting on 05/09/2014, decided to admit this case for hearing on 26/09/2014 at 11.30 am in the office of the forum . A notice dated 05/09/2014 to that effect was sent to the appellant and the concerned officers of the Distribution Company. A copy of the grievance was also forwarded with this notice to the Nodal Officer, MSEDCL, Circle Office Ahmednagar and to the Executive Engineer ,Sangamner for submitting para-wise comments to the Forum on the grievance within 15 days under intimation to the consumer.

Shri V.G. Bhivsani, Dy. Executive Engineer Circle Office Aahmednagar, Shri U.R. Gogate Additional Executive Engineer, Sangamner, Shri. H.V. Chonde, Dy. Executive Engineer Circle Nashik Ahmednagar ,, Shri. P. S. Sali , Dy. Executive Engineer, Sangamner S/Dn.. represented the Distribution Company during the hearing. Shri. B.R. Mantri appeared on behalf of the consumer.

Consumers Representation:

1. The complainant received the Energy bill for the month of June 2013 for Rs. 10,80,050/- with adjustment of 78839 unit against the faulty metering unit.
2. The Distribution Company has not given the adjustment unit calculation sheet and MRI data for the faulty period. Meanwhile, the complainant paid the total bill under protest.
3. As per instructions in the sanction letter for additional load, the complainant has replaced the CT's of metering unit.

Demands of the Consumer:

1. Revised Assessment as per MERC order & regulations.
2. Refund of CT s cost with interest.

Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 23/09/2014 from the Nodal Officer, MSEDCL, Ahmednagar Circle Office and other relevant correspondence in this case. The representatives of the Distribution Company stated that:

1. The consumer has given written application on date. 28/08/2014 in CGRF about the amount charged on higher side in the month of June 2013.
2. The MSEDCL has represents that the bill issued in the month of June 2013 is correctly charged.
3. The Assessment sheet for the month of April 2013 to June 2013 is enclosed herewith along with the MRI report. Assessment made to the consumer from Apr, 13 to June 13 is correct.
4. The consumer's additional load was sanctioned on 18/04/2013 from existing C.L. 300 KW to total 600 KW (Addl. C.L. of 300 KW). As the load of MD is increased by the consumer is about 25% higher than the existing load therefore , consumer should bear the expenses of the CT.

Action by IGRC:

1. The complainant submitted the grievance to the IGRC, Ahmednagar Circle on 16/08/2013
2. The Distribution Company represented as under in IGRC:
 - a. In the month of April 2013 while analysing the MRI data from January 2013 to April 13 it is seen that Y-phase is almost zero from Feb. 13. Therefore the consumer was charged the assessment from 31/01/13 to 28/03/13. Total assessment of April 13 = 87224 KWH.
 - b. In the month of May 2013, total assessment of May 2013 = 62126 KWH.
 - c. In the month of June 2013, the E.E. Sangamner has proposed the assessment of Unit 92796 KWH.
 - d. Also on dt (?) the consumer has (been) given the (permission) for bypassing the cubicle and charged the highest bill of three months Nov. 12 to Jan.13.
 - e. Consumer additional load was sanctioned on 18/04/2013 from existing C.L. 300 KW to total 600 KW, addl. C.L. Of 300 KW.
 - f. For the load enhancement release purpose, the CT was changed and consumer has given consent about bearing the expenses during the release of load enhancement.
3. IGRC gave decision as under by a letter dated 19/11/2013
 1. Assessment charged to the consumer from April-13 to June 13 is correct.
 2. CT replaced due to load enhancement of consumer should be borne by consumer.

Observations by the Forum:

1. The complainant stated that he has not received the copy of the IGRC decision and test report . The Forum directed the Distribution Company to send the same to the complainant and the Forum by 30/09/2014. The Distribution Company sent copy of the IGRC decision dated 19/11/2013 to the Forum by e-mail dated 30/9/2014 . No test report is submitted.
2. The Assessment sheet for the month of April 2013 to June 2013 along with the MRI Report has been submitted by the Distribution Company.

3. As revealed from the Assessment Sheet, the Dy. Executive Engineer Testing Division, Sangamner carried out the testing of the meter on 06/05/2013 and reported telephonically that the Y-Phase CT is faulty and there is a minor crack on B-Phase CT (Handwritten Testing Report dated 06/05/13 is attached). The testing division recommended MRI data assessment and bypassing of the meter after approval of the competent authority.
4. As per assessment sheet dated 08/05/2013, the bill is revised for the period 31-1-2013 to 27-04-2013 considering the units consumed as 66.6% of actual consumption as one CT has failed and recorded almost zero current.
5. The complainant replaced the metering cubicle CTs on 26/06/2014 at their cost. But demanded refund of Rs. 49,500/- by a letter dated 15/07/2013. The complainant also objected the energy bill of Rs. 10,80,050/- making payment under protest and demanded the calculation sheet and MRI data by a letter dated 15/07/2013.
6. The complainant was billed for additional units considering the meter defective from 31/01/2013. Thus the billing was done with defective meter for February 2013 to June 2013 i.e. almost 5 months. The Distribution Company argued that the correction was done based on the conclusion that the CT failed from 31/01/2013 as per MRI data .
7. The Distribution Company states that the CT failure was detected in February 2013 as per MRI . But the meter was tested on 6th May 2013 i.e. after a lapse of 3 months and correction done in June 2013 bill. The problem would have not occurred if Distribution Company had carried out immediate testing of meter .
8. Though the defect in the meter was detected on 06/05/2013 by the Testing Division., Distribution Company has considered that the defect occurred on 31/01/2013 and persisted till June 2013. The Distribution Company has presumed slowness of 66.66 % throughout this period..
9. The provision 15.4 of MERC (Sup Electricity Supply Code and other Conditions of Supply), 2005 provide guidelines for billing in the event of defective Meters as under:

“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 along with 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. The plain reading of the above regulation 15.4 reveal that , in case the meter is detected defective , the correction can be made only for past maximum 3 months prior to date of detection. It is worth noting that:
 - The regulation does not make any mention of “determining the exact date of defect” and does not intend analysing the past history of the meter. Unless this provision is made in the said regulation , the use of analysing MRI data for determination of exact date of defect can not be done.

- All the meters installed by the distribution company do not have MRI data retrieval facility. Hence it may not be made applicable to all consumer and there can be discrimination.
 - In case of fast meters, the consumers may ask for refund of excess amounts recovered for the period beyond three months, claiming a certain date of defect in past.
11. The Forum also brings on record a similar case of M/s Rajlaxmi Home Products Pvt. Ltd. (Representation No. 100/2010) decided by the Hon.ble Electricity Ombudsman, Mumbai under order dated 17.08.2010. In the said case Distribution Company has raised bill for 40 months in the past for defective meter which was confined to two years by the CGRF. MRI of the meter indicated absence of “R” phase voltage for 1164 days leading to slowness of the meter by 52.37% . Therefore recovery was proposed for 1164 days. The Hon.ble Electricity Ombudsman however held the view that “*the recovery is got to be limited to a period of maximum three months as provided in Regulation 15.4.1.*” and setting aside the decision of Distribution Company and CGRF , directed the Distribution Company to rework the bill for the period 3 months prior to the detection of defect . Hence , the assessment in this case too will have to be done only for three months prior to 06/05/2013 (date of detection of defective meter) as stipulated in Regulation 15.4 of MERC (Electricity Supply Code and other Conditions of Supply), 2005. Excess amount is to be refunded-
 12. The complainant has demanded refund of cost CT's installed as per instructions of the Distribution Company. The Complainant applied for 300 kW additional connected load [from existing 300 kW to 600 kW] on 21/02/2013. The Distribution Company sanctioned the additional load at 11 kV by letter dated 18/04/2013. The sanction letter stipulated to purchase the metering cubicle from the approved vendor of MSEDCL. The CT ratio 25/5 A (Class 0.5 10 VA) and PT ratio 11kV/Root3/110v/Root3 (Class 0.5 50 VA) was prescribed. The Complainant procured the CTs of prescribed specifications in December 2013.
 13. Regulation 14 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code & Other Conditions of Supply) Regulations, 2005, clearly provides that except where the consumer elects to purchase a meter, the distribution licensee may require the consumer to provide security for the price of the meter in accordance with the provisions of Clause (b), sub section (1) of Section 47 of the Act. Also regulation 6 (2) of the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, provides
 - “ a) Consumer meters shall generally be owned by the licensee
 - b) If any consumer elects to purchase a meter, the same may be purchased by him. The meter purchased by the consumer shall be tested, installed and sealed by the licensee. The consumer shall claim the meter purchased by him as his asset only after it is permanently removed from the system of the licensee.”
 14. The Commission on 16th August, 2012 has issued order in case 19 of 2012 in the matter of revision of ‘MSEDCL Schedule of Charges’, prescribing various charges to be paid by the consumer for provision of supply. Table 128 thereof deals with cost of meter and meter box. But these costs are applicable only in case consumer opts to purchase the meter from MSEDCL & in case of Lost & Burnt Meter . The CE (Distribution) MSEDCL Mumbai has also issued a circular No. CE/Dist-III/SOC/24500 ,Date 30/08/2012 based on the MERC order. According to para 3.1 of this circular the cost of the meter is recoverable only when a consumer opts to purchase the meter from the MSEDCL or in case of lost and burnt meter.
 15. As per regulation 2.1 (q) of the MERC (Electricity Supply Code & Other Conditions of Supply) Regulations, 2005 has defined “meter” as under –
 - “*Meter*” means a set of integrating instruments used to measure, and / or record and store, the amount of electrical energy supplied or the quantity of electrical energy contained in the supply, in a given time, which include whole current meter and metering equipment, such as current transformer, capacitor voltage transformer or potential or voltage transformer with necessary wiring and accessories and also includes pre-payment meters.”

From the above , it is clear that CTs and PTs are integral parts of the meter.
Section 55(2) of the Electricity Act, 2003, governing use of meters mandates as under:

“.....For proper accounting and audit in the generation, transmission and distribution or trading of electricity, the Authority may direct the installation of meters by a generating company or licensee at such stages of generation, transmission or distribution or trading of electricity and at such locations of generation, transmission or distribution or trading as it may deem necessary. ...”

The Central Electricity Authority (CEA) has made Regulations called Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 which came into force from 22nd March, 2006. It states that the consumer's meter shall generally be owned by the licensee unless the consumer elects to purchase a meter. The distribution licensee is duty bound to install a correct and appropriate meter required for proper accounting and audit of distribution of electricity.

The provisions as above show that meter is required to be installed by the licensee.

16. The CT/PT unit fixed in the metering cubicle is a part and parcel of the metering equipment. Since, the meter is required to be provided free of cost by the distribution licensee to the consumer, it automatically follows that every part of the metering equipment, including the CT & PT unit, is required to be provided by the Distribution Company to the consumer. The Distribution Company has no discretion to ask the consumer to provide it, as a condition in the load sanction letter. Therefore, the Distribution Company's action of asking the complainant to procure the CTs at his cost is incorrect . Hence it would be necessary to refund the cost of CTs procured for metering cubicle by the complainant but at the rate approved by the Commission in the Schedule of Charges with interest at bank rates as stipulated under Section 62(5) of the Electricity Act, 2003. The cost of H.T. Metering Cubicle including C.T. and P.T. as per MERC approved Schedule of Charges is Rs. 82,200 for 11 kV. The complainant has not procured entire Metering Cubicle but only 3 CTs at Rs. 49,500. There is no separate cost shown for CTs in the approved Schedule of Charges table by MERC. Hence refund has to be equal to the cost of CTs as approved by the MSEDCL in its tender for FY 2013-14 or Rs. 49,500 whichever is less.
17. The Hon'ble Electricity Ombudsman , Mumbai in a similar case of Representation no. 67 of 2008 [M/s. Vaibhav Plastomoulds Pvt. Ltd. V/s MSEDCL] has allowed such refund under order dated 25/11/2008.

After considering the representation submitted by the consumer, comments and arguments by the Distribution Licensee, all other records available, the grievance is decided with the observations and directions as elaborated in the preceding paragraphs and the following order is passed by the Forum for implementation:

ORDER

1. The Forum sets aside the order of IGRC, Ahmednagar Circle and directs the Distribution Company to rework within one month from date of issue of this order , the bill for the period 3 months prior to May 2013 i.e. the month of detection of the defect. The excess amount recovered if any should be refunded to the complainant in the ensuing bill.
2. The Distribution Company should refund the amount equal to the cost of CTs as approved by the MSEDCL in its tender in FY 2013-14 or Rs. 49,500 whichever is less with interest at bank rates as stipulated under Section 62(5) of the Electricity Act, 2003.
3. As per regulation 8.7 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 , order passed or direction issued by the Forum in this order shall be implemented by the Distribution Licensee within the time frame stipulated and the concerned Nodal Officer shall furnish intimation of such compliance to the Forum within one month from the date of this order.
4. As per regulation 22 of the above mentioned regulations , non-compliance of the orders/directions in this order by the Distribution Licensee in any manner whatsoever shall be deemed to be a contravention of the provisions of these Regulations and the Maharashtra Electricity Regulatory Commission can initiate proceedings suo motu or on a complaint filed by any person to impose penalty or prosecution proceeding under Sections 142 and 149 of the Electricity Act, 2003.

5. If aggrieved by the non-redressal of his Grievance by the Forum, the complainant may make a representation to the Electricity Ombudsman, 606, 'KESHAVA', Bandra Kurla Complex, Bandra (East), Mumbai 400 051 within sixty (60) days from the date of this order under regulation 17.2 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006.

(Ramesh V. Shivdas)
Member-Secretary & Executive Engineer

Consumer Grievance Redressal Forum
Nashik Zone

(Suresh P.Wagh)
Chairman

Copy for information and necessary action to:

- 1 Chief Engineer , Nashik Zone, Maharashtra State Electricity Distribution Company Ltd. ,
Vidyut Bhavan, Nashik Road 422101
- 2 Superintending Engineer, Maharashtra State Electricity Distribution Company Ltd. ,
O&M Circle office, Ahmednagar.