

CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L., PUNE ZONE, PUNE

Case No. 36/2018 Date of Appeal : 25.06.2018
 Hearing Date : 06.08.2018
 Date of Order : 22.10.2018

In the matter of erroneous billing.

M/s. Lenyadri Stone Crusher ---- Complainant
S. No. 95, Manikdoh,
Junnar – 410502

VS

The Executive Engineer, ---- Respondent
M.S.E.D.C.L.
Manchar Division
PUNE

Present during the hearing:-

A] - On behalf of CGRF, Pune Zone, Pune.

- 1) Shri. A.P.Bhavathankar, Chairman, CGRF, PZ, Pune
- 2) Mrs. B.S.Savant, Member Secretary, CGRF, PZ, Pune
- 3) Mr. Anil Joshi, Member, CGRF, PZ. Pune.

B] - On behalf of Complainant

- 1) Shri D.T.Walke, Consumer Representative
- 2) Shri Santosh Ramchabndra Ghogare
- 3) Shri Atmaram Kisan Ghogare

C] - On behalf of Respondent

- 1) Shri. J.D.Getme, Dy.E.E., Junnar Sub-Division,
- 2) Shri S.B.Warhekr, UDC, Manchar Division.

Consumer No. 175050001525 - Sanctioned Demand – 168 KVA,
Connected Load – 100 KW, Date of connection – 12.05.2014 - Meter
No. 065-05809728, Tariff Category – LT – V B II

1. The present complaint is filed by the aggrieved consumer M/s.
Lenyadri Stone Crusher, under Regulation No. 6.5 of the MERC

(CGRF & Ele. Ombudsman) Regulations, 2006 which reads as under, I quote –

“6.5 – Notwithstanding Regulation 6.4, a grievance may be entertained before the expiry of the period specified in Regulation No. 6.4 if the consumer satisfies the Forum that prima facie the Distribution Licensee has threatened, and has or is likely to contravene any of the provisions of the Commission, provided that the Forum or the Electricity Ombudsman, as the case may be, has jurisdiction on such matter.” UNQUOTE

2. In the present complaint, the Respondent Utility had served notice on the Complainant on 15.06.2018 under Section 56 (1) of the Electricity Act, 2003 calling upon the Complainant to pay the sum of Rs.2,91,980/- within the period of eight (8) days from receipt of the said notice failing which the electric supply of the consumer would be disconnected without any further notice and that reconnection charges would be recovered from the consumer under the given circumstances in case if reconnection. These are the reasons and circumstances that prompted the Complainant to file his complaint directly before this Forum with the prayer that to grant injunction on the perceived threat of disconnection.

3. It's a matter of serious concern to observe that though the Junnar Sub-Division of the Respondents claim to have issued the notice of disconnection to the consumer on 15.06.2018 under Section 56(1) of the Act, the notice so issued is in gross violation of the provisions contained in the said Section 56 (1) of the Act which are reproduced hereunder for ready reference of all the concerned - I Quote –

“56 – Disconnection of supply in default of payment – (1) Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days notice in writing, to such person and without prejudice to his right to recover such charge or other sum by suit, cut off the supply of electricity and for that

purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply ;until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer;

Provided that the supply of electricity shall not be cut off if such person deposits, under protest –

(a) an amount equal to the sum claimed from him, or

(b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months,

whichever is less, pending disposal of any dispute between him and the licensee.”

4. If we look at the provisions contained in Section 56 (1) of the Electricity Act vis-à-vis notice issued by the Respondent, it's crystal clear that the Respondent have issued the notice in gross violation of the provisions contained in the Section 56 (1) of the Act which makes it obligatory on the part of the Respondent Utility to issue a notice of disconnection to the consumer which should give at least fifteen clear days period to the consumer, as against the period of eight (8) days mentioned by the Respondent Utility in their notice. It's a matter of deep concern to state that during the course of hearing, the authorities / representatives of the Respondent Utility had been time and again counseled on this aspect with a view to avoid gross violation of provisions of the Act, there appears lot to be done by the Administration to tutor their staff on the provisions of the Section 56 of the Act. Further, when the notice is said to have been issued by the Respondent under Section 56 (1) of the Act, the Respondent appear to have knowingly adopted evasive ways and means when it comes to quoting latter part of the Section 56(1) which speaks of payment of the disputed bill / part of the disputed bill, though under

protest. Adoption of such evasive ways while issuing notice to the consumer, more particularly when the said question states so, amounts to not following transparent transactions with the consumer. Further such an approach and attitude on the part of the authorities of the Respondent also is against the 'Citizens Charter' declared and adopted by the MSEDCL.

5. As stated earlier, the Complainant filed the present grievance directly to this Forum on 25.06.2018 under the provisions of the Regulation 6.5 with the apprehensions perceived threat of disconnection of electric supply anytime following issue of the Notice on 15.06.2018, it being one of the grievances of the complainant requiring immediate orders of this Forum. The Respondent Utility was, therefore, telephonically advised of the grievance filed with the Forum and also to avoid disconnection of the aggrieved consumer pending disposal of his grievance by this Forum. The Respondent Utility was also advised further to accept the admissible recovery / part recovery from the consumer, if any, against the disputed bill amount.

6. Following registration of the Complaint of the consumer at Sr. 36/2018 on 25.06.2018, a notice was issued to the Respondent vide No. 206 dt. 03.07.2018 calling upon it to file reply to the grievances made by the complainant, making point-wise submissions, providing issue-wise comments on the grievance as also status report along with supportive documents to defend their case, on or before 13.07.2018. As had been experienced in the past, the Respondent Utility failed to file its reply on or before the scheduled date advised by this Forum and/or even to file its interim say in the matter. Following this, a notice for final disposal of the grievance was issued both the parties on 31.07.2018 bearing No. 255 of that date advising the Complainant, and the Respondent as well, to remain present at the Office of the CGRF on 6th August, 2018 for personal hearing in the matter. As against what was instructed, the Respondent, however,

submitted their reply to the notice of the Forum on 06.08.2018 bearing No.3418 dt. 01.08.2018, without a copy of the same having been endorsed to the complainant.

7. The brief particulars of the grievance / complaint are as under –

a) The Complainant M/s. Lenyadri Stone Crusher is LT consumer of the Respondent Utility, being the Industrial consumer of 100 HP for its unit at the given address, since 12.05.2014. The Complainant states that it received average bills for the period from April-2016 to July- 2016 with aggregate totaling to 18,800 units. At the mentioned period, the Respondent had installed Meter No.06591194 at the premises of the complainant. Since the meter was showing identical reading of 83551.57 for the relevant period under reference, the same was replaced with new Meter with No. 05804525 during August, 2016. The Complainant further states that again from the month of February, 2017 to February, 2018, it received average bills. The meter reading during the said period under reference was being displayed as 29,504.82. During the said period under reference, the complainant was charged with average bill of 93,880 units for the relevant period. Thus, the Respondent Utility had charged the consumer aggregate average billing of 1,12,680 units for the period covering April 2016 to July 2016 (four months) plus February, 2017 to February, 2018 (thirteen months) i.e. in all for (17) months. The Meter No.05804525 replaced during August, 2016 by new one with old meter No.06591194. The Complainant has further submitted that though it had brought all these facts to the notice of the Respondent utility from time to time, no action had been taken on his complaints.

b) The Complainant has further brought to the notice of this Forum that during the period from April, 2017 to March, 2018, it has paid to the Respondent Utility RS.9,00,000/- towards electricity charges.

c) In view of the foregoing, the Complainant has submitted that the Respondent Utility had violated various MERC Regulations as also various circular instructions issued by the Utility from time to time and therefore prayed as under –

- i) The Notice of disconnection dt. 15.06.2018 may please be declared null and void,
- ii) The Bill amounting to Rs.2,91,980/- may please be declared null and void,
- iii) Average units / bill charged during the period from April, 2016 to July, 2016, as also from February, 2017 to February, 2018 along with DPC and interest, may please be declared as null and void,
- iv) The average bills issued as per (iii) above may please be revised and issued as per MERC Regulations, 2005,
- v) The Respondent Utility may kindly be directed not to disconnect the supply of the Complainant pending resolution of the grievance.

8. The Respondent Utility made its submission vide their letter No.3418 dt. 01.08.2018, received at the office of the CGRF on 6th August, 2018 – i.e. the scheduled date for hearing of the grievance. In their responses, the Respondent Utility had submitted as under –

a) The Consumer having no display on Meter during the period from March, 2007 to January, 2018. However, the meter was recording the actual consumption of the electricity by the aggrieved consumer. The Utility further stated that these facts have been confirmed from the MRI report commented upon hereunder. Since the display of the Electric Meter installed at the premises of the consumer was not available for certain periods; the Utility had to issue average billing for the given period. To remedy the then prevailing issues, the Utility had replaced the said meter on 20.02.2018,

b) The revised consumption bill of the consumer for the period from March, 2017 to January, 2018 is considered as 6000 units per month. In support of its claim, the Respondent Utility had also provided the consumption pattern of the consumer for peak and non-peak period as under –

BILLING MONTH	CONSUMPTION (Units)
FEBRUARY, 2017	7580

JANUARY, 2017	7496
DECEMBER, 2016	6033
NOVEMBER, 2016	4272
OCTOBER, 2016	4713
MAY, 2016	8200
Total consumption for six months in units	38294
Average consumption for the month in units	6382

c) The Respondent have further stated that they have been issuing regular bill to the consumer since February, 2018.

d) The Respondent Utility had filed 'Bill Revision Report' for the months of March- 2017, April- 2017, May- 2017, December, 2017 and January, 2018. The Respondent Utility had submitted the relevant documents such as MRI Data, CPL, meter testing report etc. and after verifying all these relevant documents it is very clear that the consumption pattern of the consumer seems to be 6382 units per month.

e) The Respondent Utility had also filed with this Forum 'Meter Inspection Report' to which neither the aggrieved consumer nor his representative have subscribed their signature/s. Further, the Utility had changed the meters of the consumer twice during the period under reference – i.e. first during August, 2016 and for the second time During February, 2018. In the meter testing report it was mentioned that old meter having no display complaint and hence it was replaced new meter and also in the remark column it was mentioned that the bill shall be provide for 6000 units per month.

f) i) From the CPL record it is seen that the meter status is normal but the current reading and previous reading was mentioned as same i.e. current reading 29504 and previous reading was mentioned as same i.e. 29504 but the consumption shown as 8900 units for March-2017, 8700 units for the period April-2017 to May-2017, 5800 units for the period June-2017 to July-2017, 6300 units for Aug.2017, 7300 units for Sept.2017, 7500 units for Oct.2017 to Nov.2017 and 7800 units for Dec.2017 and 7000 units for Jan.2018.

ii) After analyzing the MRI report for the period June-2016 to Feb.2017, it was seen that the monthly consumption come outs to 6000 units per month and it was observed that the meter reading cumulative shown in the month of Sept.2016 was found to be correct as per the documents provided by the Respondent Utility.

iii) The CPL data of the consumer was cross examined for these two months, such as Sept.2016 & April-2018, and it was observed that the CPL data for September, 2016 not at all in tune with the past and/or future trend of the consumption pattern of the consumer during the period from April, 2016 – i.e. the peak period of the business activity of the consumer to March, 2017, another peak period of the financial year under consideration. It has also further been observed that during the month of September, 2016, the CPL data of the consumer shows “Adj. Units” of 15850 which has raised the consumption to the level of 21322 units for the particular month. Identical adjustments have also been made during few of the other months of the financial year 2016-17 – i.e. during the months of April, 2016 to Aug., 2016 and all the adjustments such as final reading old meter and new meter reading was also adjusted during the previous months as it was not recorded properly but it was effected in the month of Sept.2016 and hence considering the previous consumption pattern the consumption shown in the month of Sept.2016 seems to be found OK. However, barring the exorbitant adjustment during the month of September, 2016, such adjustments are not to such on high level and it is as per the consumption pattern. The consumption was also observed after the meter replacement and it was also seen from the MRI data that, it found to be 6000 units per month.

9. Examined on the basis of the grievance of the consumer, documents produced by him in support of his grievance / prayer to the Forum, together with oral submission made during the course of personal hearing vis-à-vis submissions made by the Respondent Utility, documents produced and oral submission made during the

hearing, according to me, following issues / questions need to addressed before drawing any conclusion on the rival claims from the both – i.e. the Consumer and the Respondent –

- a) Whether the Notice of disconnection dt. 15.06.2018 could be declared as null and void?
- b) Whether, as claimed by the Consumer, the acts on the part of the Respondent Utility to issue bills on average consumption basis of the electricity for the period from April, 2016 to July, 2016 and again from February, 2017 to February 2018, along with DPC and interest are tenable?
- c) Whether the aggrieved consumer could establish the facts mentioned in his prayer to the Forum that the Bill amounting to Rs.2,91,980.00 was unjustified and, therefore, may please be declared as null and void?
- d) What the Order?

REASONING

(a) (i) My response to this is in affirmative. Careful reading of the Section 56 (1) of the Electricity Act indicates that the provisions of this section of the Act for disconnection of supply need to be given effect to only in the event of default in payment of electricity bill/s by the consumer concerned. The Respondent Utility could not establish that the consumer had been in the habit of committing default/s in payment of the electricity bill/s prior to issue of the said notice to him. On the contrary the Complainant had the said notice issued to him by the Utility from time to time, without going into the merits and/or demerits of such bills issued by the Utility.

(ii) Notwithstanding the above facts, and with total disregard to the facts that the consumer had never committed default in payment of the periodical electricity bills, if any, issued to it by the Utility from time to time, as also with total disregard to the facts that the current bill for supply of the electricity for the month of May, 2018 for Rs.2,91,980/- was payable by it, the Respondent Utility had issued the

consumer notice of disconnection dt. 15.06.2018 under Section 56(1) of the Electricity Act. Obviously, the act of the Respondent in issuing the Notice of disconnection on 15.06.2018 is bad in law and, therefore, is not tenable.

(ii) If we look at the contents of the said notice dt. 15.06.2018 for disconnection of electric supply of the consumer, it would be observed that the notice issued by the Utility under Section 56 (1) of the Act is not at all in tune with the provisions contained in the said section. As against the mandatory notice period of not less than 15 clear days, the Respondent Utility had issued the notice giving the period of merely eight (8) days with further notice to disconnect his supply without any further notice and thereafter attracting reconnection charges. Needless to mention that such an high-handed acts of omission and commission on the part of the Respondent Utility could hardly be appreciated, more particularly when the dues against which the said notice had been issued by the Utility represented only 'Current Dues'.

(iii) These acts of high-handedness on the part of the Respondent Utility had forced the consumer to directly file his grievance with the consumer under the provisions of Regulations 6.5 of the MERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2006, as referred to hereinbefore.

(iv) In view of what has been stated hereinabove, the act of the Utility to issue notice dt. 15.06.2018 to the consumer under Section 56 (1) of the Act is set aside.

(b) My response to this is in negative. In its written submission, as also during the course of hearing on 06.08.2018, the Utility had without any prejudice and/or ambiguity had clarified that there is no display to the meter installed at the premises of the consumer, but the meter was recording the electricity consumption proper and correct. Since the Respondent Utility were reportedly shortage of Meters during the period under consideration and hence, it could not immediately replaced the meter at the first instance when it had

issued bill for consumption of the electricity on average basis during the period from April, 2016 to July, 2016 and again from February, 2017 to February 2018. It is to be noted that during the period under consideration, the Utility had replaced then the existing meter installed at the premises of the consumer twice – i.e. first on August, 2016 – i.e. after issue of bills on average basis for the period of four months and second time on Feb.-2018 i.e. after issue of bills on average basis for the period of thirteen (13) months. Under the given circumstances, it cannot be claimed that the Respondent Utility had deliberately issued electricity consumption bills to the consumer on average basis for the aggregate period of four months in the first stage and thirteen months in the second stage.

(c) (i) The response to this is in negative. As discussed hereinabove against Para 8, the Consumer's having no meter display problem during the period but the meter was recording actual consumption of the electricity by the aggrieved consumer. These facts have been confirmed from the MRI data of the submitted by the Respondent Utility. It is necessary to replace the meter due to no meter display problem of the meter which was installed at the premises of the consumer. The Respondent Utility was not available the new meters for replacement of old faulty meters for certain periods, and hence the Utility had to issue average billing for the given period. To remedy the then prevailing issues, the Utility had replaced the said meter on 20.02.2018,

(ii) Based on the consumption pattern of the Complainant during the period from Jan., 2016 to January, 2018, covering both the periods – i.e. peak periods and non-peak periods, the Respondent Utility had considered average consumption of 6000 units / month for the aggrieved consumer, which act of the Respondent Utility is considered justifiable and also the consumption pattern was checked during the meter healthy period, before and after meter replacement period, MRI report etc. and hence all these relevant documents

proved that, the consumption pattern seems to be correct. The revised consumption bill of the consumer for the period from March, 2017 to January, 2018 is considered as 6000 units per month based on the consumption pattern of the consumer. The Respondent have further stated that they have been issuing regular bill to the consumer since February, 2018. Further, Respondents have been issuing regular bills to the consumer since February, 2018.

(iii) On examination of the documents submitted by the Respondent Utility – i.e. Bill Revision Reports, Meter Inspection Report, MRI data, it is crystal clear that during certain periods, the display of meter was not visible but the meter was recording actual consumption by the consumer.

The opportunity was given to both parties i.e. utility and consumer for submission of their relevant documents and if any say is required during the hearing. Accordingly, the time limit of 60 days prescribed for disposal of the grievance could not be adhered to.

In view of the foregoing, I am inclined to pass the following order.

ORDER

- I) Appeal is partially allowed.
- II) The Consumer is directed to pay to the Utility the outstanding bill of Rs. 2,91,980/- in six equal installments along with the current bills without Delayed payment charges, penalty and/or interest on it.
- III) No orders as to cost
- IV) The Respondent Utility is directed to report compliance of the order within the period of one month from receipt of the order.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Pune Urban Zone, Pune on 22.10.2018.

Note:

- 1) If Consumer is not satisfied with the decision, he may file representative within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman

The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051.

- 2) If utility is not satisfied with order, it may file representation before the Hon. High Court within 60 days from receipt of the order.

I agree / Disagree-

I agree / Disagree

Sd/-
ANIL JOSHI
MEMBER
CGRF:PZ:PUNE

Sd/-
A.P.BHAVTHANKAR
CHAIRPERSON
CGRF: PZ:PUNE

Sd/-
BEENA SAVANT
MEMBER- SECRETARY
CGRF:PZ:PUNE