

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

Case No. 37/2018

Date of Grievance : 27.06.2018

Hearing Date : 06.08.2018

Date of Order : 22.10.2018

**In the matter of erroneous / under billing due to one phase
PT missing.**

M/s. Pegasus Properties Ltd. Appellant
(Chairman, Megapolis Sangria – Consumer)
Rajiv Gandhi Infotec Park, Phase – III,
Hinjawadi,
Pune – 411 057

VS

The Executive Engineer, Respondent
M.S.E.D.C.L.
Pimpri 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 Appellant

- 1) Shri Milind Vasudeo Damle, AGM Electrical
- 2) Shri H.D.Khapare, Consumer Representative
- 3) Shri Yogesh P. Sawakare – Sr. Ele. Engineer

C] - On behalf of Respondent

- 1) Shri. M.K.Suryavanshi, AEE, Sangvi,
- 2) Shri R.T.Lohokare, Accounts Section.

Consumer No. 170688879852, Connected Load – 32.00 KW, Contract Demand – 40 KVA, Date of connection – 14.08.2015, Meter No. 15029470, Make – L&T, Tariff Category – LT- I (Residential).

The present appeal is filed by the aggrieved consumer- the Chairman, Megapolis Sangria Building - against the decision order of IGRC dt. 28.05.2018 in Case No. 14 of 2018 wherein the IGRC has recorded certain observations and accordingly passed the following order, **I quote** –

OBSERVATIONS -

- The applicant has not submitted documents establishing legal relation between M/s Pegasus Properties Pvt. Ltd. and M/s. The Chairman, Megapolis Sangria,
- The procedure followed by SDO while preparing bill needs to be verified.

ORDER

- **Applicant to submit the documents of establishing legal relation between M/s. Pegasus Properties Pvt. Ltd. and M/s. The Chairman, Megapolis Sangria. After receipt of documents, Executive Engineer, O&M Pimpri Division to verify the bill issued and procedures followed. Revise the bill if applicable as per MSEDCL Circulars and take further necessary action.” Unquote.**

1. Aggrieved by the observations and order of the IGRC, the Appellant has approached this Forum for redressal of its grievance which, according to the Appellant, is that the supplementary bill for **Rs.4,07,230.00** as a result of the observations of the Flying Squad in its visit to the premises of the Appellant on **15.01.2018** when it was observed by the Flying Squad that B-Phase PT was missing from 18.08.2015 due to loose connection. The Appellant has disputed the said supplementary bill and had approached the IGRC for redressal of the grievance. However, the Appellant is also aggrieved against the order passed by the IGRC and has approached this Forum in Appeal.

The brief facts of the case are as under -

2. As per the letter received from Addl. Exe. Engineer, Flying Squad, vide its Spot Inspection Report on dt. 15.01.2018, the AEE, Flying Squad Unit, Ganeshkhind, observed that **B-Phase PT was missing from the**

meter of the consumer reportedly since **18.08.2015** due to loose connection. The said report further states that no terminal sealing was observed. As a result, the Flying Squad, while observing the irregularities and putting its remarks against item No. XV of its Spot Inspection Report under reference and under “Recommended Remedial Action” within the said column had stated **for assessment due to B-Phase PT – missing i.e. less recorded 1/3rd consumption of the consumer** . Accordingly, the Flying Squad drew the apparent conclusion that the Meter of the consumer has recorded under-consumption of the electricity to the tune of **33,904 units during the period from 18.08.2015 upto Redressal of fault – i.e. immediately after the connection was released to the consumer on 14.08.2015**. The Sangvi Sub-Division of the Respondent accordingly issued bill / supplementary bill for **Rs.4,07,230.00** to the Appellant on **08.03.2018**. The consumer, however, disputed the said bill for **Rs.4,07,230.00** The consumer further pleaded before the IGRC that **as per Electricity Act, 2003, Section 56 (2), no sum due from any consumer shall be recoverable after the period of two years from the date when such sum becomes first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied and the licensee shall not cut off the supply of electricity**. The consumer further pleaded before the IGRC that as per the procedure laid down for assessment and filing of the case, where consumer’s meter is found abnormally slow, proper “Panchanama” is required to be done by the Respondent. In view of the foregoing, the consumer claimed that it (i.e. consumer) cannot be held responsible for slowness of the meter. If the meter connection was considered loose immediately , i.e. there may be chances of fault occurrence to the meter or any other reason

3. **Except its submission that the Bill issued by the Utility was correct, the Respondents have made no submission before the IGRC.** Resultantly, the IGRC passed its order in the matter on **28.05.2018** as stated hereinbefore. This is how, the present appeal has been filed before this Forum in ‘Form-A’ by the Appellant on **27.06.2018**. Following registration of the Appeal at Sr. No. 37/2018, a notice bearing No.196 was issued to the Respondent on **28.06.2018** from the Office of the CGRF

calling upon it to make its point-wise submission, providing issue-wise comments on the grievance of the Appellant within the period of 15 days from receipt of the notice i.e. on or before **12.07.2018**. **As has been observed elsewhere, in this case also the Respondent did not make its submission to the Forum on or before the scheduled date – i.e. 12.07.2018 nor did it file interim reply, if any, pending submission of detailed reply to the Forum.** The Utility, vide its **letter No. 2262 dt. 19.07.2018**, however, made submission to the office of the CGRF which had been received on **25.07.2018**. **The Respondent had made following submission to the Forum in its letter under reference –**

a) In spot inspection of the premises of the Consumer by the Flying Squad, Ganeshkhind, on **15.01.2018**, **B-Phase PT Supply** was found missing of the meter of the consumer right from **18.08.2015** which, as observed by the Flying Squad, was due to loose connection of the “B” Phase PT.

b) That the supplementary bill issued to the consumer for **Rs.4,07,230.00** as a result of the findings of the Flying Squad during spot inspection of the premises of the consumer represents plain assessment for the given **period during which the B-Phase PT supply was found missing from the meter of the consumer,**

c) That the said supplementary bill for **Rs.4,07,230.00** issued to the consumer does not include DPC and/or other taxes/penalty, if any, but exclusively on the basis of the assessment done by the Flying Squad.

d) That the meter at the premises of the consumer continues to be the same since its installation on **14.08.2015** and thereafter due to one phase PT missing on 18.8.2015, it had recorded **33% less consumption** of electricity by the consumer since, in absence of B Phase PT missing i.e. under-consumption of the electricity by the consumer to the extent of 33% which was not getting recorded on the meter.

e) **That on technical grounds, the meter cannot be said to be faulty because after tightening the screw of B Phase PT of the meter, the consumer had been getting normal electric supply from the said meter under normal circumstances. Hence meter seems to be found OK.**

f) **In view of the foregoing the Respondents submitted that the supplementary bill for Rs.4,07,230.00 issued to the consumer is in order and that the consumer had also paid the same without raising any dispute.**

g) In the said report against Sr. No. XVI – Action taken after inspection, it is stated by the Flying Squad that B-Phase PT missing is restored on **15.01.2018** and reading at the time of restoration is 67854, **MRI data taken after restoration of supply. However, the Respondents had filed a copy of MRI and after analyzing it, it is clearly seen that B Phase PT was missing.**

h) It is, however, observed after perusal of the said Spot Inspection Report that neither the consumer nor his authorized representative has subscribed its signature to the said report at the specific space provided in the format nor the Flying Squad considered it necessary to record the reasons for the same – i.e. whether the consumer had declined to subscribe its signature to the said report and/or otherwise, and in the event of refusal of the consumer / its authorized representative to subscribe its signature, a remark to that effect under the signature of the authorized official of the Flying Squad is also missing from the report.

4. a) **What is the basis on which the Flying Squad at the time of spot inspection of the premises of the consumer on 15.01.2018 had drawn the conclusion that the B-Phase of the meter PT was missing from 18.08.2015 and, therefore, the consumer had been under-billed to the extent of 33% from the date of connection. The Respondent Utility also appeared to have issued the bill for retrospective period from 18.08.2015 with confirmation of the MRI data as a documentary**

evidence which was confirmed and reported by the Flying Squad. Thereafter, the Respondent issued the supplementary bill to the Consumer for the retrospective period since then – i.e. 18.08.2015,

b) What is the basis on which the Respondents have drawn the conclusion that the Consumer had prima facie accepted the facts of under billing, as also the supplementary bill issued to it, which had also been paid by it without any dispute and/or grudge and/or contest. This is for the reasons that had the consumer not disputed the bill and / or paid the supplementary bill voluntarily, there was no reason for the consumer to file its grievance before IGRC followed by the present Appeal before the CGRF.

c) The Respondent issued the bill amounting to Rs.407230/- for the period of 28 months due to B Phase PT was missing and the record submitted by Respondent Utility as MRI data. With the help of MRI data analysis reports of the meter, it was established that B Phase PT was not working for 28 months. Hence the appellant was under billed 33.30% of total consumption. The Respondent stated that as Regulation No.3.4 of supply Code Regulations, the Distribution Licensee is authorized to recover charges for electricity supplied in accordance with the tariff.

d) The Respondent therefore stated that the appellant cannot seek the remedy under the Regulation 15.4.1 of supply code Regulations. According to the Respondent said Regulations is not applicable in the case of appellant as the meter was not defective.

The said meter No. 15029470 was subjected to testing on 14.08.2018 and a report for the same is placed on record. The Testing report is concluded at the end with the remarks that – “Meter working is in normal conditions. Bill issued to the consumer is ok.” When the testing report confirms that the meter is ok and secondly, in supporting document of MRI Report for the given period, thereafter the Respondents’ action in issuing the supplementary bill for the period of preceding 28 months is in order.

5. On this backdrop, following issues crop up for consideration –
- a) Whether the Utility is justified in issuing the supplementary bill for preceding 28 months under the plea that one phase of the meter – i.e. 'B' phase PT was missing?
 - b) Whether the bill issued with retrospective period is tenable in law?
 - c) What order?

6. **REASONING**

A) The definition of "Meter" as per Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005 [*SOP Regulations*] of the Commission is as below:-

(m) "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."

B) As per the MRI analyzing report and meter testing report it was clearly stated that there is no any defect on the meter only loose connection of B Phase PT the PT missing events occurred on the MRI report. After tightening of screw of B phase PT, the meter recorded the voltage correct of B Phase and there is no any defect in the meter and hence it is proved that the meter is found OK. Also Testing team has given the same report.

c) The Appellant has relied upon the Regulation 15.4.1 of the Supply Code Regulations. A provision of said Regulations is reproduced below:

15.4 Billing in the Event of Defective Meters

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

should 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, upto 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.

- D) The Regulation 15.4.1 of the Supply Code Regulations specifies billing in the Event of Defective Meter. The definition of the Meter as given in SOP Regulations of the Commission is quoted in 6 A above. Meter includes whole current meter and metering equipments such as current transformer, capacitor voltage transformer or potential transformer with necessary wiring and accessories. The PTs were also not defective. Two numbers of PTs of R & Y phase were working satisfactorily. However, the B phase PT working properly but not recorded on meter due to lose connection. The data retrieved by MRI of the meter was available which is sufficient to analyze and finalization of the total use as measured by the meter. The meter has recorded reading as seen from MRI. If the MRI shows that the consumer has consumed energy, consumer is liable to pay towards consumption and no undue benefit should go to anyone. The meter thus cannot be said to be defective to attract Regulation 15.4.1 of Supply Code Regulations. The Forum has also held that Regulation 15.4.1 is not applicable in this case. Therefore, answer to point no. (5 - a) is in the NEGATIVE and also recovery should be limited for a period of 24 months only.

E) i) **Sub-Section (2) of Section 56** of Electricity Act, 2003 states as under, **I quote** –

“Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.” **UNQUOTE.**

F) It is clearly said that the bill issued to the consumer shall be recovered with retrospective period i.e. recovery shall be made for 24 months for the previous period i.e. from the date of inspection of Flying Squad 15.1.2018. It is clearly indicates that the utility is justified issuing the supplementary bill to the consumer for preceding 24 months due to B Phase PT missing.

G) 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.

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

ORDER

- I) Appeal is partly allowed,
- II) The supplementary bill for 28th months for Rs.4,07,230.00 is set aside.
- III) The Respondent Licensee is directed to issue fresh bill to the Appellant for the period of 24 months
- IV) Interest and delay payment charges imposed if any be withdrawn.
- V) No orders as to cost.

- VI) The Respondent Utility is directed to report compliance of the order within the period of two months 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