

**MAHARASTRA STATE ELECTRICITY DISTRIBUTION CO. LTD.
KONKAN ZONE RATNAGIRI
Consumer Grievances Redressed Forum Ratnagiri**

Consumer case No. – 11/2018

Date :- 19/10/2018

**Mahalaxmi Vidyut Pvt.Ltd.
363/11,Balaji Niwas Deep Bunglow
Chowk Shivaji Nagar, Pune**

Complainant

**Superintending Engineer
Maharashtra State Elec.Dist.Co.Ltd.
Shindhudurg**

V/S

Opposite Party

Quorum of the Forum

- 1) Mrs.Pushpa Tawde
Chairman**
- 2) R.P.Chavan
Secretary Member**
- 3) Mr. S.B. Mainkar
Member**

On behalf of consumer

- 1) Mr. V. B. Kale
(Representative)**

On behalf of opposite party

- 1) Mr. Vaghmode Balaji Sadhu
Dy Executive Engineer,
Sindhudurg**
- 2) Mr.Parthal Dharmaling
Bhimsing ,(F & A)
Sindhudurg**

Maharashtra State Electricity Regulatory Commission Consumer Grievance Redressal Forum and Ombudsman Regulation 2006 Vide Clause No.8.2

M/s Mahalaxmi Vidyut Pvt. Ltd is H.T (High Tension) consumer with consumer no.236819050370. His contract demand was 40 KVA and energy bills are issued as per HT-IIIE Tariff. Consumer has a small Hydro Project, named as Konal Hydro Electric Project (2X5 MW) at Konalkatta , Taluka Dodamarg, District Sindhudurg and for the said project consumer requires the said connection for Trial runs and maintenance of the generating station. Maharashtra state Electricity Distribution Co. Ltd. (MSEDCL) installed a trivector meter to measure the consumption. A consumer has stated in his application that the said meter had no Auto Reset facility and hence after every reading the MD counter was required to be reset at Zero. The energy bills for the period for March 2013 to November 2013 were found to be taken on the bases of 255 KVA as the MD (Maximum Demand) and hence resulted in excessive billing. The consumer reported this fact to the MSEDCL vide letter dated 3rd Feb 2014. After the meeting with representative of the consumer Superintending Engineer, Kudal requested the Executive Engineer, testing Division Ratnagiri, to exam in as to why the Executive bills were issued and to clarify specifically as to (i) whether the meter was with Auto Reset MD type or manual reset MD type during disputed period; (ii) whether MD was reset or otherwise during the said disputed period and (iii) to state for which period MD Auto Reset feature was incorporated in this case. The Executive Engineer, Testing Division, Ratnagiri vide his letter dated the 25th oct 2016 replied to the Superintending Engineer, Kudal office as fallow:-

- 1) Meters were not programmed for “AUTO MD RESET” during the period from March 2013 to November 2013. MD was required to be rest manually.
- 2) The MD was not reset for the period from March 2013 to November 2013 at the time of monthly reading.
- 3) The MD Auto Reset feature was not activated to 220 KV side meters Further on 11/03/2014 the metering was shifted to 33 KV side with

new meters Elster A 1800 (14831482 and 14831483). The new meters are programmed with Auto MD Reset facility.

Consumer pursued to get the bills rectified so that the excessive amount would be refunded.

Therefore the consumer filled a complaint before the Internal Grievance Redressal Forum on 1st June 2018.

IGRF on 1st June 2018 by its judgment directed the MSEDCL to,

- 1) clarify about how 150 KVA MD is considered and to provide the said clarification to the consumer.
- 2) clarify in detail how the amount of Rs **581660/-** is calculated for refund and to provide such details to consumer.

Consumer filed the complaint before this Forum against the Order of IGRF on 19/10/2018.

The complainant filed a complaint on 19/10/2018 before this Forum in Form A and sought the relief as follow:-

- i) that the energy bills during the period from March 2013 to November 2013 be declared as wrong and excessive;
- ii) the opponent be directed to revise these bills and refund the excess amount with interest to the applicant as per calculation given in Annexure-I which is attached to Form A.
- iii) the opponent be directed to pay suitable compensation for injury and harassment caused to the applicant due to the deficient services rendered by the opponent.

Annexure I gives details of MD to be billed for March 2013 to November 2013.

The complainant also gave details of grievance which includes brief history and grounds for the grievance. Gist of the said details is as narrated in the first paragraph above. The complainant pointed out that the opponent agreed to the fact that the MD was not reset to Zero after taking meter reading in the month of February 2013 and hence thereafter the bills for the period starting from March 2013 to November 2013 were issued assuming MD as 255 KVA. Consumer has paid these bills. In February 2014, consumer filed the complaint before MSEDCL in respect of the said bills with additional demand charges and MD penalty. Consumer thereafter filed complaint to IGRF, Sindhudurg but did not agree with the order passed by it. Hence filed complaint in Form A to this Forum on 19/10/2018.

In response to the complaint by the consumer in Form A Opponent MSEDCL by its letter dated 05.12.2018 informed this Forum as fallow:-

वरील संदर्भित विषयास अनुसरुन कळविण्यात येते, उच्चदाब ग्राहक महालक्ष्मी विद्युत (क्र.२३६८१९०५०३७०) माहे मार्च २०१३ ते नोव्हेंबर २०१३ या कालावधीमध्ये MD Reset करण्यात आलेला नाही. त्यामुळे ग्राहकाला मागील महिन्याच्या बिल MD २५५ प्रमाँ बिल दिला गेला आहेत ग्राहकाने वेळेवर दिलेली बिले भरली पण गेली आहेत.

परंतु सदरील ग्राहकाने फेब्रुवारी २०१४ मध्ये म्हणजे एक वर्षानंतर महावितरणकडे मागील वर्ष म्हणजे मार्च २०१३ ते नोव्हेंबर २०१३ मध्ये चुकिने बिल दिल्याची तक्रार केली. त्यानंतर महावितरणच्या मंडल कार्यालयाने बिल चुकीच्या गेलेल्या बिलाच्या चौकशी संबंधीत विभागीय कार्यालय, उपविभागीय कार्यालयाशी संपर्क साधुँ चौकशी चालू केली.

सदरील कार्यालयातले बहुतेक अधिकारी बदली होऊन गेल्यामुळे बिलांचे निरीक्षण करुन दुरुस्ती करण्याकरीताची प्रक्रिया आजतागायता चालु आहे. दरम्यान महावितरणच्या सिंधुदुर्ग मंडल कार्यालयाने बिलात केलेल्या दुरुस्तीबाबतची कार्यालयीन टिप्पणी बनवुन वरिष्ठ कार्यालयाकडे मंजूरीसाठी पाठवलेली आहे. ज्यानुसार ग्राहकाला मागील माहे मार्च २०१३ ते नोव्हेंबर २०१३ या कालावधीतील बिल दुरुस्ती करुन मंजूरीसाठी वरिष्ठ ार्यालयास पाठविण्यात आलेली आहेत. सदरची मंजूरी मिळाल्यानंतर बिल दुरुस्त करुन ग्राहकाला मंजूरी मिळालेली रक्कम त्वरीत चालू बिलातुन देण्यात येईल.

Thus MSEDCL informed that process of the inspection and correction of the said disputed bills is still not completed. However in the mean time office of the Sindhudurg Circle of MSEDCL has proposed corrections to the disputed bills for the period from March 2013 to November 2013 and Office Note to obtain the sanction to such corrections has been sent to the higher authority. After obtaining the sanction to the said corrections the bills during the said period will have to be corrected and the sanctioned amount will be immediately refunded through the running bill.

Arguments

The matter was scheduled for hearing on 6th December 2018. On behalf of consumer Shri. Vilas B Kale presented the case. For the facts of case he relied on the content of supplement and Annexure to Form A. (i)He pointed out that Hydro Project named Konal Hydro Electrical Project (2X5 KW) at Konal Katta needs electrical connection for trial runs and maintenance of the generating station. MSEDCL has installed a trivector meter to measure the consumption. He also pointed out that the meter installed had no Auto Reset facility and after every reading the MD counter was required to be reset to the zero In February 2013 the recorded MD was 255 KVA which was in excess of contract demand and hence additional demand charges and MD penalty was imposed on the consumer. However after meter reading for the month of February 2013, MD was not reset by meter reader and every month MD was counted as 255 KVA and the said error in recording the reading continued till November 2013 for each month. (ii)Consumer representative brought to the notice about this fact in the letter dated 25/10/2015 and sated that meter was not

programmed for AUTO MD AESET for the disputed period.(iii)consumer representative brought to the notice that the calculation for correction to the disputed bills during March 2013 to Nov 2013 has been done by considering 150 KVA as MD. And hence the refund of Rs 581660/- is not justified. Further he submitted the said amount of refund should about 8 Lakh. (iii)Consumer also further stated that he has received notice vide letter No 0222 dated 19/01/2018 issued by Superintending Engineer, Sindhudurg , Circle about Excess demand (68 KVA) and hence argued that why the said 68 KVA was not considered as MD for disputed period.

To conclude his argument he submitted that it is not clear how the 150 KVA was assumed as MD and what is the actual calculation for refund and requested to consider 68 KVA as MD .The opponent did not any objection to the said suggestion of the consumer. However consumer could not produce any document to show that 68 KVA is approved MD for his project.

Opponent MSEDCL was represented by Mr. Vaghmode Balaji Sadhu, Deputy Executive Engineer, Sindhudurg Circle and Mr.Parthal Dharmsing Bhimsing ,(F & A) Sindhudurg. While arguing the case the officer relied on the written explanation given by it vide letter dated 5/12/2018 written to the Forum. It agreed to the fact that MD was not reset for the disputed period and submitted before the Forum that the calculation for correcting the excessive bills for the said period of March 2013 to November 2013 have already been done assuming 150 KVA as MD and sent for approval of the higher authority. However complainant did not agree to the said assumption of 150 KVA and the amount of refund. Opponent did not take any objection about the fact cited by the consumer regarding the revision of maximum demand of 40KVA to 70KVA in view of the observation made by CAG. in Audit para for the year 2016 to 2017.

It is to be noted that during the argument neither consumer representative nor opponent MSEDCL could produce actual letter from CAG and the any letter of sanction of revised MD.

However thereafter the letter No SE/SC/KDL/T/HT/ No 1214 dated 9 th April 2018 written by Superintending Engineer Sindhudurg Circle to the M/s Mahalaxmi Vidyut Pvt Ltd. has been obtained on 17/12/2018. This letter clearly gives reference to the CAG observation in Audit para for the year 2016-2017 and to the provisions of Maharashtra Electricity Regulation Commission (Electricity Supply Code and other conditions of Supply) Regulation 2005 and Maharashtra Electricity Regulation Commission order dated 03.11.2016 and further stated that the load sanctioned is 70 MD.

Since MSEDCL by its letter dated 09/04/2018 sanctioned 70 KVA as Maximum Demand (MD), the calculation for refund of the wrong bills for

the period from March 2013 to November 2013 shall have to be done assuming 70 KVA as MD per month instead of 255 KVA as MD as was assumed in the bills actually issued by the MSEDCL and paid by the consumer.

Point under Consideration:-

In view of the above facts the point under consideration is (i) “whether the energy bill for the period from March 2013 to November 2013 be declared as wrong and excessive and (ii) whether the utility be directed to revise the bill and refund the excess amount with interest to the consumer.

Reasoning

On perusal of document produced before the Forum and on considering submissions and arguments made on behalf of consumer and opponent MSEDCL, it is revealed as follow:-

There is no dispute as to the fact that in February 2013 recorded MD was 255 KVA. Further it is undisputed that meter was not programmed for ‘AUTO MD RESET’ for the period March 2013 to November 2013 and hence MD was required to be reset manually.

It was also undisputed that the MD was not reset for the period of March 2013 to November 2013 and hence the billing made for this period was excessive and wrong and needs to be recalculated and revised.

Regarding the maximum load to be considered for revised calculation, it is conceded by the utility that it has calculated the refund amount assuming 150 KVA as MD. However consumer took the objection and pointed out that in view of the CAG observation in Audit para for the year 2016-2017 consumers applied for extension of power supply for existing load of 40 KVA to 70 KVA and the MD of 70 KVA was sanctioned by the utility. To this submission opponent did not take any objection during the argument.

However now the order of MSEDCL regarding the said issue has been obtained from office of the Superintending Engineer, Sindhudurg. As per the said Order no SE/SC/KDL/T/HT/ No 1217 dated 09/04/2018, the extension power supply for existing load of 40 KVA to 70 KVA was approved and load sectioned is follow,-

“After extension of load Maximum Demand (KVA) is 70 KVA”

In view of this the calculations to revised energy bills are required to be made on the basis of 70 KVA.

This Forum comes to the conclusion that the energy bill for the months from March 2013 to November 2013 were wrong and excessive

and needs to be revised and hence answer to the point no.1 above is yes. So also utility will have to be directed to refund the excessive amount with interest and hence answer to point no.2 above is yes.

Order

- 1) Consumer complaint No. 11 of 2018 is allowed.
- 2) Opponent is directed to revise the bill issued assuming 70 KVA as MD per month instead of 255 KVA as MD for the month of March 2013 to Nov 2013. And refund the excess amount to the consumer with interest at the bank rate as provided in sub-section 6 of Section 62 of the Electricity Act, 2003 from the date on which consumer has paid the bill amount, as early as possible, but not later than two months from the order of this Forum.
- 3) No order to cost.

Both the parties should be informed accordingly.

Proceeding closed.

If consumer is not satisfied with the decision he may file representation within 60 day from the date of receipt of this order the Electricity Ombudsman in attached form B.

Secretary,
Electricity OMBUDSMAN,
Maharashtra State Electricity Regulatory Commission,
606/608, Keshava Building,
Bandra Kurla Complex,
Mumbai – 400 051.
Phone No.022 – 2659 2965.

Shri. R.P. Chavan
Secretary
Ex.Engineer,C.G.R.F.
Konkan Zone

Smt.Pushpa S. Tawde
Chairman,
C.G.R.F.
Konkan Zone

Date : 17/12/2018

Place : Ratnagiri

DISSENTING OPINION

Case no 11

19/10/2018

M/s Mahalaxmi Vidyut Pvt. Ltd

HT Consumer No.236819050370

I, Suhas B. Mainkar, Member (CPO) of this Forum, though do agree to the order of payment of interest @ applicable bank rate as per provision of Sub Section 6 of Section 62 of Electricity Act, 2003 on refundable amount to be paid in lump sum, consequent upon revision of bills as per above order, I do not agree to the method of calculation for revision by directing MSEDCL to revise the bills for disputed period assuming @70KVA as MD and therefore, I am recording my dissenting opinion with the reasons there for.

Forum has passed order to revise the bills issued for the months from March 2013 to November 2013 assuming 70 KVA as MD for calculation purpose. The basic question before the Forum was the solution to the problem of bills issued at the rate of 255 KVA during above period due to failure on the part of MSEDCL to reset the Meter to zero after every reading from the Month from March 2013 to November 2013. It is worth to not that consumer is not at fault in this case. The issue before the Forum was therefore to determine the methodology to revise the bill in absence of figure of Maximum Demand, due to above.

From the documents before the Forum and the arguments made by both the parties, it is crystal clear that the meter had no Auto Reset Facility and the meter was not set to zero after every reading during the aforesaid disputed period of billing. Therefore, the assumption as to MD @70 KVA for revision of bill, is again penalizing the consumer unnecessarily. The consumer is having contract demand of 40 KVA during the above period.

The circular No 175 dated 5th September, 2012 issued by MSEDCL in pursuance of MERC Tariff Order in Case No 19 of 2012, stipulates the billing demand pattern as follows:-

- i) Actual Maximum Demand recorded in the month during 06.00 hours to 22.00 hours.
- ii) 75% of the highest billing demand recorded during the preceding eleven months, subject to the limit of Contract Demand.
- iii) 50% of the Contract Demand.

Consumer representative during the arguments in hearing on 06/12/2018 submitted that the bill may be revised in either of the following manner, as no MD is available as per option (i) above.

- 1) 75% calculation as per circular quoted above. (option ii above)
- 2) 50% as per circular (option iii above)
- 3) As per CD 68 as reported by CAG in audit report.
- 4) As per average of consumption of last 12 months i.e at 74.16.

It is pertinent to note that Correct MD is not available for disputed period for reasons mentioned above. Therefore option no (ii) of said circular has to be considered to meet the ends of justice. In other words 75% of MD subject to limit of CD is viable option and it appears that the chart prepared by consumer for calculation of refund due is based on above. However the observation of CAG in its audit report and subsequent sanction of additional load @ 70% KVA cannot be overlooked. Since the MD is not available for the disputed period, calculation of revised bill @ 70 KVA as CD for the said period will be appropriate, just and more logical to resolve the issue.

Calculation of MD @70 KVA for disputed period as per above Order will amount to penalizing the consumer for the excess consumption of 30 KVA over and above the sanctioned CD of 40 KVA.

If we look at the consumption pattern preceding 12 months prior to March 2013 it is observed that 150 KVA has been recorded as MD in the month of May 2012. If we take this figure for calculation as per option (ii) of the circular dated 05/09/2012 referred above, the calculation will be as per CD @40 KVA as the circular caps the limit of CD. Therefore the revised calculation @ 70 KVA as CD will not put to a loss either to MSEDCL or to the consumer because consumer has appealed to Forum to direct MSEDCL to revise the bill as per either of the options given by him during arguments quoted above.

The demand of consumer to revise the bill on the basis of average of MD recorded of 12 months prior to disputed period in consonance with regulation 15.4 of supply code framed by MERC cannot be acceded to as the second proviso to Condition No. 15.4 of Supply Code, 2005 relates to eventuality in case of the meter stopped running.

It is failure on the part of MSEDCL to ask consumer to get the additional load sanctioned dependent upon the pattern of consumption observed in preceding 12 months of March 2013. Though the consumer has the penalty for additional consumption exceeding CD @40, consumer should have pro-actively applied for additional load sanction from MSEDCL. Had this been done well in time by either of the parties, sanction load (contract demand) would have been @70 KVA which was pointed out by CAG in its report and subsequently acted upon accordingly. Therefore it is apt to revise the bills presuming CD @70 KVA for the disputed period and to declare the disputed bills wrong and excessive and therefore are liable to be quashed and set aside.

Secondly, consumer has asked for suitable compensation for injury and harassment caused to him due to deficient services rendered by MSEDCL.

The issue raised is unresolved since April 2014 and the refund in lakhs of rupees was due to consumer since then. But MSEDCL has not acted upon in time. Consumer submitted that even IGRC has not given justice. Fixing of meter without Auto Rest Facility has put the consumer to face this scenario and lethargic attitude of MSEDCL has dragged the consumer to this Forum and therefore, in my opinion, the MSEDCL be directed to pay Rs. 5,000/- for injury to and harassment of the consumer.

Suhas B Mainkar
Member (CPO)
C.G.R.F.
Konkan Zone