

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

Case No. 60/2018

Date of Grievance : 31.12.18
Hearing Date : 30.01.19
07.02.19
20.02.19
Date of Order : 09.04.19

In the matter of accumulated unit & its recovery of energy bill.

The Chairman, --- APPELLANT
Delta Empress Co-Operative
Housing Socy. Ltd.,
Sr.No.65/1A+1E (Part),
1A, Ghorpadi, Pune-411001
(Consumer No. 170012964814)

The Executive Engineer, ---- RESPONDENT
M.S.E.D.C.Ltd.,
Rastapeth 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) Mr. Rajesh Vasant Navadkar, Representative

C] - On behalf of Respondent

- 1) Mr.M.D.Ghume, Ex.Engineer, Rastapeth Dn.
- 2) Mr.S.A.Sarode, AEE, St.Mary Sub/dn.

**Date of connection - 03.10.2013, Connecting load - 26 KW,
Tariff - LT-I A.**

The above said consumer filed the present appeal against Respondent Utility, for raising objections against supplementary bill issued for wrong MF since the date of connection (i.e. **03.10.2013**) till the date of inspection (i.e. **09.10.2017**) for amounting to **Rs.11,02,030/- (72775 units)**. Initially consumer filed the complaint to the Ex. Engineer on **03.09.2018** informing that wrong bill was issued to the consumer for having two connections in the Society premises. Claiming that they have been regularly paying the bills over the period, the aggrieved consumer requested the Utility not to disconnect the supply on account of nonpayment which was for against the supplementary bill issued to the consumer but added in regular bill by the Utility for the month of **July-2018** for amounting **Rs.5,90,944.41/-** and in the month of **Aug-2018** for amounting to **Rs.5,91,506.35/-**. The Consumer informed to the Respondent Utility about the complaint which he filed in form No. X to the IGRC along with supplementary bill dated **13.7.2018**. The Consumer also attached copy of letter dated **13.7.2018**, notice of disconnection issued by respondent Utility along with supplementary bill. The Consumer also attached copy of bill for the month of **Jan.2019**. According to the consumer, Respondent Utility's authorized representative visited the premises of the consumer and removed the meter on **28.9.2018** after 6.00 p.m. in presence of one Shri. Mohite, Supervisor, without any intimation to the society to that effect and/or without any 'Panchanama' for the same having been recorded, as also without production of any credentials / documents by the representatives of MSEDCL on **3.9.2018**. Following this, the Consumer filed grievance for Consumer No.**170012964814** for Supplementary Bill amounting to **Rs.11,96,060/-** issued to it showing wrong multiplying factor recovery of which was added in the regular bills issued to the consumer for the months of July-2018 and August-2018 with part of the amount of **Rs.5,90,944/-** and **Rs.5,91,506/-** of the total supplementary bill. After receiving the said bill consumer approached to IGRC, lodged the complaint and contested the bills as also act of the Utility to show the arrears of the bill for the preceding period as 'current bill' during the months of July and August, 2018. Toward this end, the consumer stated that the premises is residential building developed by M/s. Jayem Reality Solutions Pvt. Ltd., Ghorpadi Pune who applied for two common meters for common amenities being provided to

the building premises. These common meters provided under the firm quotation for 44 KW for the Consumer No. **1712964879** and 26KW for the Consumer No. **170012964814** during **Sept.2013** and following this these meters were installed on **03.10.2013**. Since then the Appellant consumer had been receiving the bills for consumption of the electricity regularly and all these bills were also being paid by it regularly. Later on, during April, 2017, the housing society was registered in the name of Delta Empress Co-Operative Housing Socy. Ltd. However, in the month of **Nov.2017**, all of a sudden the Respondent Utility issued provisional bill for consumption of 1,45,550 units with aggregate claim for **Rs.11,02,030** covering the period from **October, 2013 to October, 2017** (i.e. for the period of 49 months) on account of wrong Mf – i.e. the consumer was billed with MF-1 as against applicable MF-2 claimed the Utility. Further, vide its letter No.6815 dt. 13.10.2017, the AEE, St. Mary S/Dn. also advised the consumer about spot inspection carried out at the premises of the consumer on 09.10.2017. The consumer was also further advised that during the course of inspection, the Utility had observed that the consumer had two common meters / connection in their premises with different capacities. – i.e. one with the CT capacity of 100/5A and metering ratio and the other with CT capacity of 50/5 A and meter capacity is 100/5A . However, during the course of inspection it was observed that CT installed to these meters got exchanged at the time of initial installations of these meters. This has led to wrong MF being applied to the consumers under these two distinct meters. As the connected CT the ratio was 100/5 A and meter capacity is 50/5 A, a calculating formula is MF-II but MF complied in the electricity bill is 1. Resultantly, the consumption of the consumer recorded / continued to be half of the actual consumption during the period under consideration, which needs to be reconciled by doubling the same since installation of the meters in this case. However, according to the consumer, the Respondent Utility had wrongly calculated MF which was their mistake due to cross connection of CT, and the provisional bill issued by the Respondent was based on wrong calculations of the MF. The aggrieved consumer, therefore, challenged the provisional bill. Further, it also transpired eventually that the consumer was eligible for refund of **Rs.96,167.80** against the another Billing Unit No. - **170012964849** - for

which the Utility had passed on credit to the consumer through their due process of 'B-80' after verification of the bills against the said consumer number issued since the date of installation. The spot inspection carried out by the Respondent Utility also led to the conclusion that due to wrong CT installation at the time of installation, it has caused to under-recording of the consumption by the consumer, thereby the Respondent had suffered eventual revenue loss since installation. All these facts were also communicated to the consumer by the Utility under the cover of its letter **No. 3624** dated **13.7.2018** and the consumer was also accordingly called upon to pay the bill for March, 2018 or else face disconnection in terms of Section 56 of the EA, 2003. The consumer was also further informed that 50% bill amount of the provisional bill would be added to the current bill – i.e. for July, 2018 being issued. The consumer, however, claimed that the Utility had adopted wrong ways and means for calculation of the provisional bill amount / had shown wrong calculation of the bill in the supplementary bill issued to it and as against rectifying the irregularity, the Utility had issued notice of disconnection under Section 56 of the EA, 2003, which was highly irregular and illegal as well. The aggrieved Consumer, therefore, prayed before IGRC that the notice of disconnection and demand of supplementary bill be quashed and set aside and that it was not the case of wrong calculation of MF, but claim of the utility for consumption of additional units during the period under consideration was wrong. After filing the said grievance before IGRC on 03.09.2018, IGRC registered the case and scheduled the hearing on **16.10.2018** when an opportunity of hearing was given to the consumer Representative Shri Rajesh Navadkar, as also the representative of the Respondent Utility Shri. S.A.Sarode, AEE, St. Marry S/Dn., Pune. It is, however, noted that the IGRC accepted the submission made by the Respondent Utility to it on **26.10.2018**, i.e. subsequent to hearing on **16.10.2018** for which an opportunity of submission appeared to have been denied to the Consumer. During the hearing before this Forum, the consumer did claim about denial of opportunity to make its submission on the say submitted by the Utility to the IGRC on **26.10.2018** and on the basis of which the IGRC had passed its orders on **01.11.2018**. On basis of the reply given by the utility the wrong calculation of M.F. over the period of past forty

nine (49) months – i.e. from October, 2013 to October, 2018 – had caused consumption of electricity by the consumer, as against the actual ones, since installation of proper CT had not taken place according to proper capacity of the meter at the time of installation of the meters during 2013 and, therefore, supplementary bill representing difference of unaccounted consumption was issued to the consumer after applying right multiplying factor. The Bill was, accordingly revised and issued to the consumer. The Consumer was also informed about these facts by the Utility vide their letter **No. 3624** dated **13.07.2018**. On **01.11.2018**, the IGRC passed the order stating that the Bill issued to the Consumer was in order and further directing the consumer to deposit the said bill. In its order, the IGRC had further ordered the Utility not to restore the electricity supply of the consumer unless the said bill issued by the Utility is paid by the consumer and accordingly decided the grievance of the consumer.

2. Aggrieved by the order of IGRC dated **01.11.2018** the consumer filed the present appeal to this Forum in 'Form No. A' on **29.12.2018**. The Consumer primarily preferred the present appeal to the Forum in view of certain provisos with specific reference to MERC Electricity Supply Code and other Conditions of Supply Regulation 2005. The consumer also relied, in addition, to the Regulations claiming it as breach of certain provisions of Regulations under SOP Regulation No.14.4.1, Regulation No.15.4, Regulation No.21 and 21.4 and Regulation No.8. In addition, the Consumer had also referred to Section 45, 56 (I) and 163 and relied upon Regulation No.6.5, 8.5.2, 8.3 Consumer also demanded relief of breach of SOP as per Regulation No.6.10 and connection of supply which was disconnected due to non-payment of bills. The Consumer submitted that the Respondent Utility issued wrong supplementary bill on the basis of inspection report dated **9.10.2017**. The said inspection report was disputed and challenged by the consumer as it was not signed by the consumer and/or his authorized signatory, which was also not informed to the consumer representative present at premises at the material time. The said inspection report was not provided to the consumer in time. The wrong CT connection was a mistake on the part of the Utility at the time of installation itself which was not noticed by the Respondent at the appropriate time. The correction of multiplying

factor had thereafter taken place almost after lapse of the period of four years which represents sheer negligence on the part of the Licensee in meter installation process of both the consumers at the premises. The record and part of CT installation is instrument of meter and, therefore, the consumer prayed for benefit under Regulation 15.4.1 for both the meters. The Consumer also challenged the notice of disconnection under section 56 (2) as installation meter definition referred to Regulation No.21 & 21.4 is defined the ingredince of defective meter and billing in case of defective meter as referred to in Regulation No. 15.4 and 15.4.1 Accordingly, the Consumer prayed for benefit against the liability for three (3) months' period required to be revised prior to **Oct.2017** and grant appropriate relief to the consumer by setting aside IGRC order. For the purpose, the Consumer further relied upon the judgment of Hon'ble Supreme Court in the matter of Luck now Development Authority VS. M.K.Gupta, Supereme Court Cases 224. The Consumer also claimed compensation of Rs.50,000/- against its liability to utility as also in addition compensation for breach of SOP as per Regulation 6.10 till the supply is restored. After filing the said grievance on 29.12.2018 the office registered the case with distinctive Number as **Case No. 60 of 2018** and issued notice to the Respondent Utility on **31.12.2018** calling upon the Respondent Utility to file its reply to the appeal of the Consumer making therein point-wise submission and providing issue-wise comments on the issues referred to in the Appeal, preferably on or before 14th January, 2019. The detailed say of the Utility was accordingly received in the Office of the CGRF on 16th January- 2019. In its reply to the Forum, the Respondent Utility made detailed submission providing description in details of the premises of the consumer with the meter capacity of 50/5 and connected CT ratio of 100/5 along with wrong M.F. The Respondent Utility submitted that consumption of this consumer Nos. with units of 72775 units with aggregate bill value **Rs.11,02,030/-**. The Respondent Utility also provided details of common connection 1 and 2 with proper CT ratio & meter ratio installation and which was connected accordingly. So as to correct 1 (One) MF Respondent Utility too provided the mode of calculation at reconciliation of unit consumption during the period under consideration, which was calculated on the strength of MRI data retrieved for the said period. The method of

calculation applied for proper calculation of MF, which was under-calculated due to cross connection of CT during the earlier period, but detected during the course of spot inspection of the premises on **09.10.2017**, due to which there had been loss while charging the units to the consumer, which was revised as per corrected MF. On this backdrop, the Respondent Utility submitted that the dispute raised by the consumer against Respondent Utility St. Mary Sub/dn. was wrong and obsolete. To conclude its submission, the Respondents submitted that the supplementary bill issued to the consumer, which had been reconciled on the basis of inspection report, is correct and in order. Accordingly, the Respondent Utility prayed for dismissal of the Appeal filed by the Consumer with cost. In support of its prayer, the Respondent Utility attached the Annexure from I (A) to VIII i.e., copy of spot inspection Report, letter issued by the consumer, assessment of the bill, disconnection notice, copy of CPL, energy bill of Jan.2019, correspondence letter issued by the utility to the Chairman, Delta Empress Co-Operative Housing Socy. Ltd., and MRI reports reading sheets CPL & other relevant documents etc.

I have minutely gone through the documents and also perused the document filed by the consumer and the Respondent as well. After careful examination of the relevant documents filed on record, following issues have come up for my consideration to which I have recorded my findings against the relevant issues together with supporting reason therefor. The following are the prime issues before me for consideration and decision in the matter -

1. Whether the supplementary bill issued by the utility to the consumer for **Rs.11,02,030/- (72775 units)** for the period from the date of installation (**i.e. 03.10.2013**) to the date of spot inspection (**i.e. 09.10.2017**) is legal, valid and proper?
2. Whether the consumer is entitled to claim benefits provided under Regulation **No. 15.4.1** of MERC (Electricity Supply Code & Other Conditions of Supply) Regulations, 2014 under the plea of his present case being that of the defective meter for which his liability is restricted to the period of three months only from the date of detection as provided in the Regulations under reference?
3. Whether the consumer is entitled for refund of excess recovery by the Respondent against it's another consumer number (i.e. Consumer No.

170012964849) against which the Utility has admitted for excessive billing to the tune of Rs.96,167/- (4889 units) where which was excessive.

4. Whether consumer is entitled for another relief in addition to above, if any?
5. What order?

Reasoning:-

On 07.02.2019 I have given an opportunity to the consumer, his representatives and also the Officials of the utility who appeared before this Forum. To begin with, I have perused the complaint filed by the Appellant consumer before the IGRC. It was observed that the consumer had raised the dispute before the IGRC against the supplementary bill issued to it by the Utility for **Rs.11,96,060/-**, following spot inspection of the premises of the consumer on 09.10.2017, which was due to application of wrong MF to the consumer during the course of billing, it being the installation error on the part of the employees of the Utility since October, 2013. Further, the Appellant had also raised the dispute against the legal notice issued to it under **Section 56** of the EA 2003 for payment of the supplementary bill for **Rs.11,96,060/-**, which was equally divided and included in the bills issued to the Appellant in the months of July-2018 and Aug.2018 and shown as current dues. It appears from the record that since the date of connection, as mentioned earlier, the Respondent had released two supply / connection at the premises of Society since October, 2013. The load of 44 KW & 33 KW bifurcated as per the demand and sanction was being utilized through a common meter. If the spot inspection report is minutely perused regarding these two meters installed by the Utility, the ratio of capacity for the meter was defined as 50/5-A & CTR 100/5 A and for the another meter the ratio was defined as MTR 100/5-A & CTR : 50/5A and on energy bill 1 and 1 for both the consumer numbers of the Appellant, but actual MF is 2 and 0.5 for consumer No.170012964814 and 170012964849 respectively. The actual ratio as per the contention of Utility for consumer **No.170019264814** should have been MF-2 and for other consumption consumer No. 170012964849 should be actual 0.5. The directions given by the Flying Squad Inspection

two common meters in Delta Empress Co-Operative Housing Socy. Ltd. were found with meter capacity at 50/5 A and connected CTR 100/5 A with the installation error of the meter got exchanged at the time of installation of connection. Resultantly, It had caused to recording and calculation of less consumption of units for which bills issued were after taking into consideration the MF- I as against MF-II as it should have been. The another meter which was with the capacity of 100/5-A the CT was wrongly installed by 50/5A. This has led to excess recovery since installation for which the Respondent Utility had agreed the said mistake till the date of inspection, it being the human error. Under the given circumstances, therefore, the Appellant consumer cannot be held responsible for the wrong installation of the said connection by the Utility officials which remained undetected for the period of more than four years since installation.

The purpose of inspection is always to help the Respondent Utility to reconcile the mistakes, if any, which are eventually rectified / reconciled on the basis of the observations of the inspecting squad / staff at the material time for which a detailed report is submitted by it. Under the instant case also the inspection report and installation data was verified by the Utility and only thereafter the supplementary bill was issued to the consumer. Since respective CT for the common meter with the capacity of 100/5 A wrongly exchanged with and installed for the other meter with the capacity of 50/5-A and vice versa, the error remained unnoticed and continued for the long period beyond four years, which could have been avoided had the Utility staff been alert and undertaken periodical inspections as is mandatory. It being the area of revenue loss to the Respondent, any laxity on the part of the concerned staff of the Utility, thus, undoubtedly puts the Utility to avoidable revenue loss for months together which also continues to be the subject matter of dispute in many cases including the present one.

As contended by the Utility in its written submission, as also during the course of oral submission in personal hearing, admittedly the supplementary bill issued by the Utility for unrecorded consumption of the units (72,775 units) reconciled and accounted for by the Utility for the period of forty nine (49) months since the date of installation (**03.10.2013**) till the date of inspection (**09.10.2017**) is certainly exceeding the period of twenty (24) months

preceding the date of detection for which only the Utility is entitled to claim arrears of bills from the consumer as provided in Section 56 (2) of the EA, 2003. For ready reference, the provisions of Section 56 (2) of EA, 2003 are reproduced hereunder, I **quote** –

“Section 56 (2) – 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 arrear of charges for electricity supplied and the licensee shall not cut off the supply of electricity.”
Unquote.

In view of the foregoing, the Utility’s claim needs to be contained to the period of twenty four (24) months only preceding the date of first detection – **09.10.2017**. In view of this, the Utility is directed to reassess its claim from the Appellant for the period of twenty four (24) months only and issue fresh and revised supplementary bill to the consumer accordingly. I am, therefore, of the considered view that any additional claim by the Utility exceeding the period of twenty four (24) months preceding the date on which the claim was first detected would be absolutely illegal and not tenable. I am, therefore, not in favour to accede to the prayer of the Utility to permit them recovery as per the supplementary bill already issued by it and contested by the consumer before the IGRC and this Forum as well. **I have, therefore, no other option to give direction to Respondent Utility to re-assess the supplementary bill for the restricted period of twenty four (24) months and the demand beyond that will have to be dealt with separately.**

The Utility too had admitted excess recovery to the tune of **Rs.96,167/-** against the another consumer number of the said Appellant which had been due to wrong MF in another consumer No.170019264814. The Utility had already arrived at this excess recovery for 4889 units on the basis of ‘B-80’ should have been refunded to the consumer. The working and calculation of MF-II formula had also been verified at the time of hearing in the presence of the Appellant consumer over which the Consumer too expressed his satisfaction. The objection raised by the consumer that it was not the case of

MF- but the Respondent Utility failed to correct the MF does not carry merit. The contention of the Respondent Utility on this issue was that after the inspection, the CT and meter were correctly installed and the unit consumption was calculated as per MF formula after the date of correction is made. The recovery bill for additional units charged against the consumer is for earlier period from the date of installation till **13.10.2017**, which worked out to 72775 units. However, in view of the provisions contained in Section 56 of the EA 2003, the period for recovery of past arrears is restricted to twenty four (24) months only. Further, full bench of Hon'ble Bombay High Court also in the recent judgment pronounced on **12.03.2019** reported in Case No. 6/2018 has held that the Licensee cannot demand and claim past recovery from the consumer for the period more than 24 months, if continuously demand is not made and therefore I am inclined to allow the consumer complaint partly for revised supplementary bill restricted to consumption of units only for twenty four (24) months without charging any DPC, interest & penalty. The claim of consumer seeking relief under 15.4.1 defective of the meter does not sustain as there is no such complaint at first instance from the consumer nor there is any request from the consumer for inspection and laboratory testing of allegedly suspicious nature of defective meter done nor there is any laboratory report brought on record disclosing the status of the said meter as defective. **Therefore in my view the benefit applying 15.4.1 cannot be extended to the consumer. As it is not meter defected hence the prayer of consumer stands rejected.**

In other connection the consumer pray for refund as B-80 was prepared for amount **Rs.96,167/-** for 4877 units which will be refunded to the consumer if not given earlier.

The time limit of 60 days prescribed for disposal of the grievance could not be adhered due to member was on leave. Hence I am inclined to allow the consumer complaint partly and proceed to pass the following order.

ORDER

1. Consumer Complaint of Case No.60 of 2018 is partly allowed.
2. The supplementary bill issued to the consumer for Rs.11,96,060/- together with the notice for disconnection stand set aside.

3. The Respondent Utility shall revise and re-calculate the bill of MF-II factor restricted to 24 months only prior to the date of inspection without charging any interest, DPC & penalty.
4. The Respondent Utility shall refund the excess recovery in respect of another consumer connection as per B-80 also restricted to 24 months and reassess the bill.
5. Rest of the contention of the consumer stands rejected.
6. No order as to the cost.
7. The Licensee is directed to report the compliance within one month from the date of this order.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Pune Urban Zone, Pune on 9th April - 2019.

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