

BEFORE THE COMPLAINANT GRIEVANCE REDRESSAL FORUM
B.E.S. & T. UNDERTAKING

(Constituted under section 42(5) of Electricity Act 2003)

Ground Floor, Multistoried Annex Building,
BEST's Colaba Depot
Colaba, Mumbai - 400 001

Telephone No. 22853561

Representation No. N-EA-145-2012 dt . 02/04/2012

Shri M/s Mahavir ApparelComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Quorum :
1. Shri R U Ingule, Chairman
2. Shri S P Goswami, Member
3. Smt Varsha V Raut, Member

On behalf of the Complainant : 1. Shri M.H. Patel
2. Shri M.P. Behda

On behalf of the Respondent : 1. Shri. D.N. Pawar, DEEA
2. Shri. A.A. Patel, Ag. AEEA
3. Shri U.D. Jumase, AOSE-I
4. Shri. S.N. Bhosale, L.A

Date of Hearing : 24/05/2012

Date of Order :

Judgment by Shri. R.U. Ingule, Chairman

M/s Mahavir Apparel,113, Navyug Ind. Estate, T.J. Road, Sewree, Mumbai - 400 015 has come before the forum for their grievances regarding defective meter amendment claim of A/c no. 200-006-579.

Complainant has submitted in brief as under :

- 1.0 The complainant has approached to IGR Cell on 09/03/2012 regarding its grievance of amendment claim of Rs. 49,285.49 to A/c no. 200-006-579. The complainant has approached to CGRF in schedule 'A' on 28/03/2012 as they are not satisfied with the remedy IGRC. The complainant says that its meter no. P 980176 was replaced by meter no. P950006 on 15/11/2000. The amendment claim was preferred on 03/02/2005 and debited in the bill of June, 2005. As per section 56(2) of Electricity Act, 2003 this amendment claim could not be recovered.

**Respondent, BEST Undertaking in its written statement
in brief submitted as under :**

- 2.0 Meter no. P 980176 installed at above premises found burnt and was replaced by meter no. P 950006 on dtd. 15.11.2000. Meter no. P 980176 lastly read on actual through CMRI (Common Meter Reading Instrument) on 1.10.2000. Hence the bills were amended from 1.10.2000 (date of last MRI reading) to 15.11.2000 (date of replacement) on the basis of 4637 kwh & 1747 Rkvah units based on the average monthly consumption recorded by meter no. P 950006 during the period 15.11.2000 to 1.3.2001. The net debit of Rs.49,285.49 was informed to complainant vide letter dtd. 3.02.05. The amendment claim amount Rs.49,285.49 was debited in complainants A/c in the month of June 2005. Complainant has objected the same. The complainant has given complaint in 'C' form on dtd. 10.3.2010. Reply to complaint in 'C' form was given on 5.4.2010.
- 3.0 Regarding complainant's contention that the claim is time barred and hence not recoverable, we have to state that the law is well settled that the claim is set to be preferred only when a bill is issued to the complainant. It is also held by Hon'ble Court of Bombay in the case of BMC V/s Yatish Sharma & Others reported in AIR 2007, Bombay 73, that a sum can be said to be 'due' from complainant only after bill served upon. In the instant case the payment becomes due when the bill is served on the complainant and bills are issued to the complainant on June.2005. The complainant is therefore liable for payment and claim is strictly in accordance with section 56(2) of the Electricity Act 2003. The contention of the complainant is therefore not sustainable. Complainant has given complaint in Annexure 'A' form dtd. 28.3.2012.
- 4.0 The complainant did not respond to our letter. However, in reply to our persistent reminder complainant complained in 'C' form stating to withdraw the claim. We have replied to complainant vide ref.no.EA/Dept.7/1540/2010 dtd. 5.4.2010.

- 5.0 Meter no.P980176 installed at the above premises found burnt and was replaced by meter no.P950006 on dtd. 15.11.2000. Hence the bills were amended from 1.10.2000 to 15.11.2000 as per MERC clause 15.4.1 of 2005. The net debit of Rs.49285.49 was informed to complainant vide letter dtd. 3.2.2005. Subsequently, the same was debited in complainant's A/c in the month of June 2005.
- 6.0 Amendment bill issued by the BEST is to be treated in accordance to MERC Regulations. The complainant may be asked to pay the same.

REASONS :

- 7.0 We have heard Shri M.H. Patel and Shri M.P. Behda for the complainant and for Respondent BEST Undertaking Shri D.N. Pawar, Divisional Engineer (EA), Shri. A.A. Patel, Ag. AEEA, Shri U.D. Jumase, AOSE-I & Shri. S.N. Bhosale, L.A. Perused documents placed before the Forum.
- 8.0 Adoption of total wrong procedure in calculating and serving the amendment claim on the complainant by the Respondent BEST Undertaking, has been writ large on the very face of the record.
- 9.0 In this context this Forum observe that, admittedly the meter no. P981076 found to be burnt and replaced by meter no. P950006 on 15/11/2000. At this juncture it is significant to observe that the meter no. P981076 has recorded the last reading on 01/10/2000. The Respondent BEST Undertaking has amended the bill for a period from 01/10/2000 to 15/11/2000 on the basis of average monthly consumption recorded by the meter no. P950006 during the period from 15/11/2000 to 01/03/2001.
10. Thus the period of amendment has been the period wherein no reading has been recorded by the meter no. P981076. Therefore, in consider view of this Forum the said meter no. P981076 needs to be termed as a ***stopped meter*** and not ***defective meter***. This Forum further observe that when a meter is to be termed as ***defective meter*** such meter is required to be contemplated running meter recording supply of electricity beyond prescribed limits of errors i.e. it must run either fast or slow. In such contingency it is possible to determine incident of percentage of error in recording electric supply. In case of stopped meter or burnt meter it is contemplated that such meters are non functional one and not recording any reading, as occurred in the matter under consideration.
- 11.0 This Forum observe that a regulation provided under the MERC (Electricity Supply Code and other conditions of supply) Regulation 2005 provides a different methods for raising a bill in the cases of ***defective meter*** and that in

a case of **stopped meter**. In view of this Forum it would be gainful to reproduce the concern regulation and it run as under :

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 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 xxx xxx xxx
 xxx xxx xxx
 xxx xxx xxx*

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.

12.0 In the case under consideration this Forum observe that the Respondent BEST Undertaking has worked out the amendment bill of electricity based on the average monthly consumption recorded by meter no. P981076 during the period 15/11/2000 to 01/03/2001. Thus we observe that for adjusting the consumer's bill, a post period of prior 3 months has been taken into consideration which has also not been as per the regulation 15.4.1 for the case of **defective meter**.

13.0 In the case of **stopped meter** the second proviso provided under regulation 15.4.1, the bill can be adjusted for the maximum period of 3 months based on the average meter consumption for 12 months immediately preceding the 3 months prior to the month in which the billing is contemplated.

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14.0 To reiterate it is the case of Respondent BEST Undertaking that during the period from 01/10/2000 to 15/11/2000 the reading was not available. Therefore, in our view it has been explicitly and obviously case of **stopped meter** and not of defective meter. We therefore proceed to hold that the amendment claim made by the Respondent BEST Undertaking against the consumer has been totally on a wrong basis and worked out giving a blind eye to the concern provision provided under regulation 15.4.1. Therefore, needless to mention that the same has been unsustainable in law.

15.0 In the aforesaid observation and discussion the complaint should succeed accordingly and we proceed to following order.

ORDER

1. Complaint no. EA-145-2012 dtd. 02/04/2012 stands allowed.
2. It is hereby declared that the amendment claim made against complainant by Respondent BEST Undertaking has been based on the wrong procedure therefore, unsustainable in law.
3. Copies be given to both the parties.

(Smt Varsha V Raut)
Member

(Shri S P Goswami)
Member

(Shri R U Ingule)
Chairman