

		Date	Month	Year
1	Date of Receipt	20	11	2020
2	Date of Registration	23	11	2020
3	Decided on	21	01	2021
4	Duration of proceeding	59 days		
5	Delay, if any.	—		

BEFORE THE CONSUMER 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. 22799528

Grievance No. S-D-416-2020 dtd. 23/11/2020

Shri Zuher A. DhariwalaComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Coram : Shri S.A. Quazi, Chairman

Member

1. Shri R.B. Patil, Member

On behalf of the Respondent : 1. Shri M.P. Rananaware

On behalf of the Complainant : 1. Shri Iliyas Dhariwala

Date of Hearing : 13/01/2021

Date of Order : 21/01/2021

Judgment

- 1.0 The grievance of the complainant is that from September 2015, the Respondent had been charging high bill upto March-April 2016.
- 2.0 The case of the complainant, as noticed from the pleadings and documents produced on record and from the submissions of his representative Shri Iliyas Dhariwala, may be stated as under :
 - a) From September 2015, the Respondent had been giving high bill. The Respondent was not billing on actual reading of the meter. Therefore, the complainant started giving complaints to the Customer Care Department of the Respondent, requesting the Respondent to take correct reading and give correct bills. He took reading from meter on 25/01/2016 and 24/02/2016 himself by taking photo of the meter reading, to point out to the Respondent that the reading was visible in the meter. According to him on 25/01/2016, the reading was displaying as 112028.8, where as the bill dtd. 15/01/2016 shows reading as 114978. The reading taken by the complainant from the meter by photograph dtd. 24/02/2016 was 112374.4, but the Respondent's bill dtd. 17/02/2016 shows it as 116085.
 - b) On 29/03/2016, the Respondent changed the meter no. 066155, though according to the complainant it was properly displaying the reading. The new meter was bearing no. N157627. Even after change of meter as such, the Respondent did not do anything satisfactory for refunding money to the complainant, which was paid in excess under the high bills earlier to change of the meter. The complainant has produced copies of his letters and complaints dtd. 27/01/2016, 24/02/2016, 09/05/2016, 28/06/2016, 21/07/2016, 14/10/2016, 07/02/2017, 08/05/2017, 17/06/2017, 13/07/2017, 18/07/2017, 06/09/2017, 19/01/2018, 09/05/2018, 07/08/2018, 26/11/2018, 13/12/2018, 09/01/2019, 04/02/2019, 04/04/2019, 10/07/2019 & 17/10/2019. Then he also gave complaint to the IGRC of Respondent. But his grievance has not been redressed. Hence, the complainant has approached to this Forum.
- 3.0 The case of the Respondent may be stated as under :
 - a) The complainant was provided electricity through old meter no. N066155 till the bill-month of August 2015. However, in the month of October 2015, the reader brought "0" reading for September 2015 bill. Therefore, the meter was tested at the site on 14/10/2015 and it was found defective since it's display was not visible (DNU). Since then the consumer was billed on estimated basis till the replacement of DNU meter no. 066155 during the period from bill-month of September 2015 to March 2016. The old meter was replaced by new meter no. N157627 on 28/03/2016. At the time of replacement of meter, the old meter's display of reading was not visible. Therefore, the final reading of old meter no. 066155 was inserted in the computer system pertaining to the consumer's account on estimated basis as 117203, as per Regulation 15.4.1 of MERC (Electricity Supply Code & Other Conditions of Supply) Regulations,

2005. Accordingly, the consumer was billed. Since then the consumer has been complaining for high bill for the period from September 2015 to March 2016. The consumer's account was amended for the period from September 2015 to March 2016 on the basis of average consumption recorded by the new meter N157627 taking the base period as April 2016 to April 2017. Accordingly, debit/credit was carried out and credit of Rs. 57,427.39 was given to the complainant, in the bill of month of September 2019.

- b) With regard to the two photographs produced by the complainant about display of meter reading, the Respondent submits that in these documents no meter number is given. The Respondent's representative has submitted before this Forum that even the display shown in the photographs is not clear to read it correctly. It is submitted that the display of reading on the meter was not clearly visible. Therefore, it was not possible to take clear photograph of it, even by the complainant, as is evident from the said two photographs.
- c) According to the Respondent, the complainant's grievance application has no merits. Hence, the IGRC of the Respondent has rightly dismissed his complaint. It is submitted that the complainant's complaint before this Forum is liable to be dismissed.

4.0 Heard the representatives of both the parties and perused the documents on record.

5.0 The following **points arise for determination**, on which we record our findings as under, for the reasons to follow.

Sr. No.	Points for determination	Findings
1	Whether the bills charged by the Respondent for bill period from September 2015 to March 2016 are correct ?	In negative
2	If no, what should be the correct billing for above period ?	As per the directions being given in the operative part of this judgment (Order) herein below.
3	To what relief, if any, the complainant is entitled ?	As per the directions being given in the operative part of this judgment (Order) herein below.

6.0 **For the above findings, we record reasons as under :**

- a) On perusal of the record and consideration of the submissions of the representatives of the parties, it appears that there is no dispute about the fact that the bills for the bill-period of October 2015 onwards upto 29/03/2016 were not based on actual reading

of consumption. During this period, according to the Respondent the old meter no. N066155 was not displaying the visible reading.

- b) The complainant has submitted that actual reading was not taken even for September 2015 bill. This can be accepted, in view of pleadings of the Respondent that reading of actual consumption from old meter was taken by the reader upto bill period of month of August 2015. However, it is pleaded by the Respondent that in the bill month October 2015, the reader brought "0" reading, so the meter was tested at the site on 14/10/2015 and it was found defective, since the display of meter was not visible (DNV). According to the Respondent, since then the consumer was billed on estimated basis till replacement of old meter no. N066155, during the period of bill months from September 2015 to March 2016. Thus, for the period of bill month September 2015 also there was no reading of actual consumption available.
- c) Admittedly, on 28/03/2016, the old meter no. N066155 was replaced by the new meter no. N157627. When new meter no. N157627 was installed on 28/03/2016, the meter was displaying that already (9) units were consumed. It means that, these (9) units cannot be attributed to the complainant. This is evident from the first bill about new meter. In it the previous reading is shown as (9) and current reading is shown as 136. It means from 28/03/2016 to remaining bill period of bill-month of April 2016 i.e. upto 06/04/2016, the units consumed by the complainant were 136 minus 9 = 127. Therefore, as per new meter reading the Respondent Undertaking can charge from 28/03/2016 after change of meter to 06/04/2016 for 127 units. For the previous period i.e. prior to the time of change of meter on 28/03/2016 upto 09/09/2015, the Respondent Undertaking has not taken reading of actual consumption from the old meter. For this, the Respondent has cited the reason that old meter was found DNV i.e. Display Not Visible.
- d) Thus, for the above period from 09/09/2015 to the time of change of meter on 28/03/2016, according to the Respondent, the old meter was not displaying the visible reading and therefore during this period the bills were given on average basis, making the average of consumption for previous year i.e. year preceding 09/09/2015 as base period. On such calculation, the average reading was found 1036 units for per bill-month from 09/09/2015 to 28/03/2016. Accordingly, the bills were served on the complainant during this period and the complainant started complaining about high billing, by making number of complaints to Respondent's Customer Care Dept. He went on complaining as such upto 17/10/2019, as noted herein earlier. The copies of all these complaints dtd. 27/01/2016, 24/02/2016, 09/05/2016, 28/06/2016, 21/07/2016, 14/10/2016, 07/02/2017, 08/05/2017, 17/06/2017, 13/07/2017, 18/07/2017, 06/09/2017, 19/01/2018, 09/05/2018, 07/08/2018, 26/11/2018, 13/12/2018, 09/01/2019, 04/02/2019, 04/04/2019, 10/07/2019 & 17/10/2019, have been produced by the complainant before this Forum. Finally, the complainant approached to IGRC which also did not find merits in his complaint.

- e) The complainant contends before this Forum that the old meter was not defective. It was displaying the actual reading and therefore the bills should not have been given on average or estimated basis. In support, he has produced two photographs. According to him one is dtd. 25/01/2016 and another is dtd. 24/02/2016. He has also produced photographs to show the meter number of the meter, of which he took two photographs of display readings. The complainant contends that in the photo dtd. 25/01/2016, the meter reading is shown as 112028.8 and in photo dtd. 24/02/2016 reading is shown as 112374.2. However, on our perusal of these photographs, we could not find these photographs as clearly readable much less to read therein the above figures. It is clearly a case about non-visibility of the actual reading-display in the meter. Even assuming that, the two photographs are showing the above figures of readings, it is difficult to find out what was the reading of consumption for other parts of the disputed period. Therefore, the fact remains that during the period from 09/09/2015 to 27/03/2016, no reading of actual consumption was available. The reason for not taking the actual reading during above period cited by the Respondent Undertaking is that the old meter no. 066155 was defective as it was not displaying the visible reading. This reason can be accepted as the photographs relied upon by the complainant also indicate so. No doubt the Respondent has not tested the meter in laboratory and the complainant has disputed that it was tested at the site. However, in view of the two photographs produced by the complainant, it can be said that the visibility of reading was not clear and therefore, it can be held that meter was defective.
- f) As we have held that meter was defective, during the period from 09/09/2015 to the time of change of meter on 28/03/2016, the next question is as to how there will be billing then, for this period ? In this regard the solution can be found in clause 15.4.1 of MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005.

Regulation / Clause 15.4.1 provides as under :

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 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 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, 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.

- g) In this case admittedly the old meter was not tested at laboratory by the Respondent, therefore, no question of billing arises on result of test as per Regulation 15.4 as above. As it appears that the meter had stopped displaying the visible reading, it will have to be held that the meter had stopped recording the consumption. Therefore, the second proviso of Regulation 15.4.1, noted above, will have to be applied for billing, during the above period from 09/09/2015 to the time of change of meter on 28/03/2016. The second proviso provides that in such case of stoppage of reading of consumption, the consumer will be billed for the period for which the meter has stopped recording consumption, upto a maximum period of three months, based on the average metered consumption for twelve months immediately preceding the three months' period, prior to the month in which the billing is contemplated. Applying the above principle to the aforesaid facts of the instant case, the billing for period from 09/09/2015 to 28/03/2016, will have to be only for three months and that too will have to be based on average meter consumption for twelve months immediately preceding 09/09/2015. The Respondent has produced the computer generated document. It is said to be statement showing actual reading and consumption from September 2014 to August 2015 i.e. for twelve months preceding 09/09/2015. For these twelve months the total of consumed units comes to 12235. If it is divided by 12 months the monthly average comes to approximately 1027.08. Round figure may be taken as 1027. Thus for three months of bills i.e. September 2015, October 2015 and November 2015, the Respondent may charge for 1027 units for each of these three months' bills. For remaining period upto 28/03/2016, the Respondent cannot charge anything. From 29/03/2016 to 06/04/2016, the Respondent can charge only for 127 units.
- h) The Respondent has billed for the aforesaid period from 09/09/2015 to 28/03/2016 on the basis of average consumption recorded by new meter no. N157627 for one year period from April 2016 to April 2017 making it as a base. In the submissions of the representative of the Respondent, it was revealed that for said period from April 2016 to April 2017, the average consumption was recorded as 649 units. Thus, the Respondent charged the complainant during the bill period from September 2015 to 28/03/2016 on the basis of 649 units per month. On doing so the Respondent gave credit of Rs. 57,427.00 to the complainant in September 2019. However, this procedure is not supported by any provision of law or regulation framed there under.
- i) Thus, on application of correct procedure and rule laid down in Regulation 15.4.1 of MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005, the bills charged by the Respondent on the complainant, during bill period / months of September 2015 to 28/03/2016 and also from the time of change of meter on 28/03/2016 to 06/04/2016 are not correct. Therefore we have recorded negative findings on point no. (1) posed for determination. The demand made in those bills will have to be set aside and the Respondent may be directed to charge the complainant for the said period as has been indicated in the sub-para (g) of para 6 herein above. Accordingly, the directions are being given in the operative part of this order herein below, and the same is answer to point no. (2) and (3) posed for determination.

7.0 In view of the above findings and the reasons recorded above, we find that this complaint will have to be allowed and disposed off in terms of the following order. Hence, we pass the following order.

ORDER

- 1.0 The grievance no. S-D-416-2020 dtd. 23/11/2020 stands allowed in the terms, as are being indicated in the clauses herein below.
- 2.0 The Respondent / BEST is directed to revise the bills for the billing period from September 2015 to 06/04/2016 in the light of directions being given in this order.
- 3.0 Instead of those bills, the Respondent is directed to charge the complainant in the billing period of September 2015 to 28/03/2016 only for three billing months i.e. September 2015, October 2015 and November 2015 at the rate 1027 units per month for these three months and it shall not charge anything for remaining subsequent period upto the time of change of meter on 28/03/2016.
- 4.0 The Respondent is also directed to charge the complainant for the billing period i.e. from the time of change of meter on 28/03/2016 to 06/04/2016 for 127 units only.
- 5.0 After charging as above, the Respondent is directed to carry out debit/credit adjustment to the account of the consumer.
- 6.0 The Respondent is directed to comply with the aforesaid directions within one month from the receipt of the order.
- 7.0 In the aforesaid terms this complaint is allowed and disposed off.
- 8.0 Copies of this order be given to all the concerned parties.

sd/-
(Shri. R.B Patil)
Member

sd/-
(Shri S.A. Quazi)
Chairman