

		Date	Month	Year
1	Date of Receipt	14	07	2021
2	Date of Registration	15	07	2021
3	Decided on	22	11	2021
4	Duration of proceeding	130 days		
5	Delay, if any.	70		

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-436-2021 dtd. 15/07/2021

Shri Rajendra LanjekarComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Coram : Shri S.A. Quazi, Chairman

Member

1. Smt. Anagha A. Acharekar, Independent Member
2. Shri S.S. Bansode, Technical Member

On behalf of the Complainant : 1. Shri Rajendra Lanjekar

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

Date of Hearing : 11/11/2021

Date of Order : 22/11/2021

Judgment

- 1.0 This complaint/grievance application was received on 14/07/2021 and registered on 15/07/2021 in the office of the Forum. However, due to pandemic of Covid-19, lockdown was declared by the Government from 23/03/2021 onwards and it was extended from time to time and subsequently the guidelines were issued by MERC in that respect. The consumer was not ready for hearing through Video Conferencing. For these reasons, the matter could not be heard for long period. Now the lock down conditions have been relaxed to some extent. Therefore, the matter was fixed for hearing physically on 11/11/2021. Accordingly, the matter was heard on 11/11/2021 and was reserved for passing judgment. Hence, now the judgment is being given. For these reasons the matter could not be decided within the time prescribed by the MERC Regulations. Therefore, the delay of 70 days has occurred in deciding this complaint.
- 2.0 The instant grievance application is about the grievance of the complainant in respect of high billing during the period from 25/03/2020 to January 2021 or there about. The case of the complainant as stated by him in the grievance application as well as, as submitted by him orally in the course of hearing before this Forum may be stated as under :
- a) The complainant is the industrial consumer in respect of the electricity supplied by the Respondent Licensee to his premises, which is tenanted premises. From 25/03/2020 onwards, there was lock down enforced by the state authorities. Subsequently, the Maharashtra Electricity Regulatory Commission (MERC) had also issued directions to all the Licensees stating that the actual readings should be avoided during the lock down period. According to the Respondent, in the month of July 2020, the lock down was relaxed and the Respondent Undertaking took actual reading and the bills are as per the actual reading. However, the complainant says that his unit was closed due to the lock down and pandemic of Covid-19. He did not work in his industrial unit up to January - February 2021. In spite of this, the bills were given high.
- b) According to the complainant, the meter was not working properly. It was showing high consumption than the average consumption. It was not displaying reading in the month of January 2021 and February 2021 etc. Therefore, the meter was also changed by the respondent. Sometime reading was shown more than 800 units to 1103. In spite of the meter being not functioning, the high bill to the complainant is illegal. Therefore, the complainant had made complaint to the (Internal Grievance Redressal Cell (IGRC) of the Respondent Undertaking. No relief was granted to him, by the IGRC. Being aggrieved by the decision of the IGRC of the Respondent Undertaking, the complainant approached to this Forum and has submitted the aforesaid grievance application. He has requested the Forum to direct the Respondent Undertaking to reduce the amount and revise the bills accordingly.

- 3.0 The Respondent Undertaking has appeared and filed reply to the instant grievance-application and has opposed the complaint/grievance-application. The case as put forth by the Respondent Undertaking in their reply as well as by their representative during the hearing, may be stated as under :
- a) The Respondent Undertaking has not denied that the complainant is its industrial consumer and it is supplying electricity to him. It is submitted that the lock down was declared by state authority from 25/03/2020 and therefore, MERC had given guidelines in respect of reading and billings etc. and taking of the actual meter reading was restrained. Therefore, from 25/03/2020 to July 2020, the consumers were given average bills. Then in the month of July 2020 actual readings were taken and the bills were adjusted as per the guidelines of MERC. After July 2020, the readings were taken regularly. On 10/11/2020 the consumption of electricity was shown as 1103 units and the system of the Respondent Undertaking described it as high consumption. Thereafter, on 11/12/2020, the consumption was shown as 952 units. Thereafter, on 12/01/2021 and 10/02/2021 when the reader approached for taking reading, he found that the meter was not displaying the reading. Therefore, during this period the estimated bill was given to the complainant for 433 and 434 units respectively in the month of January and February 2021.
 - b) As the meter was not showing or displaying the reading, the old meter was replaced by new meter on 12/02/2020 and thereafter, the billing was being done as per actual meter reading displayed by new meter.
 - c) According to the Respondent Undertaking, the old meter was tested in the lab of the Respondent Undertaking in presence of the complainant. The meter was found defective in the said test. Therefore, the Respondent Undertaking calculated the actual billing amount by revising the bills for the period from October 2020 to December 2020 and the billing was done for this period on the basis of average consumption of 12 months preceding the October 2020. In this way the calculation was done by the Respondent Undertaking as per the provision of Regulation 15.2.1 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 (herein after referred as Supply Code).
 - d) In such circumstances, according to the representative of the Respondent Undertaking, the complainant cannot have grievance about electricity billing and hence it is further submitted that the complaint is to be dismissed.
- 4.0 We have heard the submissions of parties as noted herein earlier. In view of the above submissions of the parties and case pleaded by them, 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 billing done by the Respondent Undertaking from 25/03/2020 to October 2020 was correct ?	Affirmative
2	Whether the billing done by the Respondent Undertaking from November 2020 to February 2021 is correct ? If not, what should be the directions to be given by this Forum in this regard ?	The billing during this period is incorrect and the Forum is giving necessary directions in this regard for revising the bills in the operative order herein below.
3	What order should be passed ?	The complaint deserves to be partly allowed as indicated herein below.

5.0 We record reasons for aforesaid findings as under :

- a) As far as point (1) posed for determination is concerned, it is in respect of the billing for the period from 25/03/2020 to October 2020. As far as this period from 25/3/2020 to July 2020 is concerned, it may be noted that it is not disputed that from 25/03/2020 the lock down was declared by the state authorities due to pandemic of Covid-19 and MERC had given guidelines to all the Licensees that during lock down period actual taking of meter reading be avoided. Therefore, during the period from 25/03/2020 to July 2020 the estimated bills were given to the consumers including the present complainant. This does not appear to be illegal in any way because after relaxation of lock down in July 2020, the readings were taken and the previous bills were adjusted as per the directions given by MERC to all the Licensees. Therefore, the grievance of the complainant in this regard is not well founded. From July 2020 to October 2020, the bills were given as per actual reading taken by the Respondent Undertaking. Therefore, in this regard also there cannot be any grievance of the complainant which can be entertained before this Forum. Hence we have recorded affirmative findings on point No. 1
- b) Point No. 2 is about billing for the period from Nov. 2020 to Feb. 2021. As far as the billing for the period from November 2020 to February 2021 is concerned, it is seen from the record placed by the Respondent before this Forum that on 10/11/2020 when the reading was taken it was for consumption of 1103 units and about this the computer system of the Respondent itself displayed that it was a case of high consumption. In net month the reading showed consumption of 952 units. For these

units, the bills were given by the respondent to the complainant. Then on 12/01/2021 and 10/02/2021, when the readings were taken, the reader found that the meter was not displaying the reading. Accordingly, the Respondent Undertaking gave the bills during these two months on estimation at the average units of 433 & 434 respectively.

- c) Thereafter, on 12/02/2021, the new meter was installed and the old meter was taken away from premises for testing. In the test done by the Respondent Undertaking in their lab, the meter was found to be defective. Therefore, the Respondent Undertaking again calculated the billing in view of the defect found in the meter. However, the Respondent Undertaking has calculated it on the basis of Regulation 15.4.1 of Supply Code of 2005 as was applicable on the date when such calculation was done. By such calculations, the Respondent Undertaking came to the conclusion that the complainant's bill should be revised to charge him for the period from October 2020 to December 2020 at the rate of the average consumption of bill units of energy during 12 months preceding October 2020. However, the Respondent Undertaking has charged the complainant even for the month of January and February 2021 though during these two months also the meter was defective as it was not displaying the reading. Thus the Respondent Undertaking has charged the complainant for about five months though the meter can be presumed to be defective during this period as it started showing high consumption from 10/11/2020 even as per the computer system of the Respondent Undertaking maintained by it. This charging of more than three months appears to be contrary to the provisions of regulation 15.4.1 of Supply Code, 2005. The said provision reads 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 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.

- d) In view of the said provision of the Supply Code 2005, the Respondent can charge only for maximum period of three months in case of defective meter and not more than that period. In other words, for the period during which meter was defective, the billing would be as per this provision, but if the period as such exceeds three months, then the licensee cannot charge for more than three months. Therefore, in

this regard the billing of the Respondent Undertaking in respect of the complainant for the period from October 2020 to February 2021 is wrong and incorrect and accordingly we have recorded negative findings on first part of point (1). About second part of the point No.2, we hold that the necessary directions in this regard will have to be given by this Forum to the Respondent Undertaking for revising the bills and to charge the complainant in accordance with the observations made herein above in this judgment, as per Regulation 15.4.1 of supply Code 2005 for three months only for the period during which the meter was defective from October 2020 to February 2021. In other words, the Respondent Undertaking shall charge the complainant in respect of this entire period of these months only for three months. Accordingly, we have answered point No.(2). In view of this, the grievance application will have to be partly allowed, as is being indicated in the operative order being passed herein below. Accordingly point No. (3) is answered.

6.0 Hence we pass the following order.

ORDER

- 1.0 The grievance no. S-D-436-2021 dtd. 15/07/2021 stands partly allowed in following terms.
- 2.0 The Respondent Undertaking is directed to revise the bills for the months of October 2020 to February 2021 so as to charge the complainant only for 3 months in respect of this period of October 2020 to February 2021 as per the guidelines given in Regulation 15.4.1 of Supply Code and to comply these directions within two billing cycles from the date of receipt of this order.
- 3.0 In these terms the complaint stands disposed off.
- 4.0 Copies of this order be given to all the concerned parties.

Sd/-
(Shri. S.S. Bansode)
Technical Member

Sd/-
(Smt. Anagha A. Acharekar)
Independent Member

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