

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. 22853561

Representation No. N-G(N)-204-2013 dtd. 29/07/2013

Smt. Asha A. GuptaComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Quorum : Chairman
Shri R U Ingule, Chairman

Member
1. Shri M P Thakkar, Member
2. Shri S M Mohite, Member

On behalf of the Complainant : 1. Shri Arun Gupta

On behalf of the Respondent : 1. Shri. S.S. Bansode DECC(G/N)
2. Shri S.B. Pawar AAM CC(G/N)
3. Shri M.J. Chetiwal Sup.

Date of Hearing : 19/09/2013

Date of Order : 23/09/2013

Judgment by Shri. R.U. Ingule, Chairman

Smt. Asha A. Gupta A/8 ground floor, Anna Nagar, Sant Kakkaya Marg, Dharavi, Mumbai - 400 017 has come before the Forum for her grievance for high bill for the period October 2011 to January 2012 pertaining to a/c 798/355/029 and requested the Forum to revise the bill as per rules and regulation.

Complainant has submitted in brief as under :

1.0 The complainant has approached to IGR Cell on 24/12/2012 for grievance regarding high bill pertaining to a/c 798/355/029. The complainant has approached to CGRF in schedule 'A' dtd. NIL (received by CGRF on 24/07/2013) as she was not satisfied by the remedy provided by the Distribution Licensee regarding her grievance. The complainant has requested the Forum to revise the bill as per rules and regulation.

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

- 2.0 Smt. Asha A. Gupta has come before the Forum for her grievance for high bill for the period October 2011 to January 2012 pertaining to a/c 798/355/029 and requested the Forum to revise the bill as per rules and regulation.
- 3.0 The electric supply is given to the complainant's said premises through meter no. E081206 on 24/09/2009. On scrutiny of the Meter Reading Folio, it is observed that meter under reference has registered high (erratic) meter reading from July 2011. This meter was tested on site and observed that off load pulse is working i.e. meter was creeping forward. Hence this meter no. E081206 was replaced by meter no. A111621 on 16/01/2012.
- 4.0 This meter was sent for lab testing and after testing this meter in lab on 20/07/2012 it is observed that, the meter found terminal block burnt, no communication, meter accuracy cannot be tested.
- 5.0 Hence the complainant was charged for the period 26/07/2011 to 17/07/2012 on the average consumption of 144 units by considering base period as 29/06/2010 to 28/06/2011 and credit of all unit charged for the said period to the complainant was given as the meter has recorded erratic meter reading during the said period. Necessary debit / credit was carried out and net credit amounting to Rs. 2,82,366.87 is given to the complainant and same is reflected in the billing month of March 2013.
- 6.0 Further the complainant was given credit of Rs. 5,882.41 towards delay payment charges and Rs. 59,277.24 towards the interest on arrears due to wrong billing for the period October 2011 to July 2013. Same will be effected in ensuing bill.

REASONS

- 7.0 We have heard Shri Arun Gupta for the complainant and for the Respondent BEST Undertaking Shri S.S. Bansode DECC(G/N), Shri S.B. Pawar AAM CC(G/N), Shri M.J. Chetiwal Sup. Perused documents placed on file before us.
- 8.0 This is a classic case of *speaking in preposition and living in opposition*. Shri S.S. Bansode, DECC(G/N) of the Respondent BEST Undertaking has submitted in writing before this Forum that on account of the meter provided to the complainant found to be defective from July 2011, therefore the BEST Undertaking has worked out the

supplementary bills as per the provision of MERC Regulation 2005 under 15.4.1 and accordingly the bills were amended from July 2011 to February 2012.

- 9.0 This Forum thus finds that the submission made by Shri S.S. Bansode blatantly manifest that they have worked out the amended bill by taking a recourse to the Regulation 15.4.1 and worked out the amended bill from July 2011 to February 2012 i.e. for a period more than seven months. On this backdrop, it would be interesting to peruse the provision provided under the aforesaid Regulation 15.4.1 and the same has been reproduced for ready reference and it runs 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

| | | |
|------------|------------|------------|
| <i>xxx</i> | <i>xxx</i> | <i>xxx</i> |
| <i>xxx</i> | <i>xxx</i> | <i>xxx</i> |
| <i>xxx</i> | <i>xxx</i> | <i>xxx</i> |

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 month prior to the month in which the billing is contemplated.

- 10.0 In bare perusal of 15.4.1, one would find that whether the meter is *defective* or it is a *stopped* one, in all contingencies contemplated under the said regulation, the bill has to be adjusted or amended for a maximum period of *three months* based on the average as mentioned therein. However, admittedly the Respondent BEST Undertaking has proceeded to amend the bill for a period of about seven months i.e. from July 2011 to February 2012 on the ground that the meter provided to the complainant was defective. It is thus crystal clear that albeit the Respondent BEST Undertaking has been taking a recourse to Regulation 15.4.1, however, in the next breath proceeds to flagrantly violate the same by amending the bill for more than seven months instead of statutory limit of maximum three months. This Forum thus finds that the Respondent BEST Undertaking has in a very cavalier and callous manner, without going through the provisions provided under Regulation 15.4.1 proceeded to amend the bill exceeding the statutory period provided under the said regulation.
- 11.0 We further find a gross confusion on the part of the Respondent BEST Undertaking while declaring the said meter no. E081201 provided to the complainant as a defective from July 2011. In this connexion, this Forum finds that in a bare perusal of Regulation 15.4.1 one would find therein that only two types of meters have been contemplated for amendment of the bills. The first one is a *defective* meter and the second one is a *stopped* meter. The said Regulation also provided two separate and distinct procedures to work out amendment and adjustments of the consumer's bill on account of a meter either found to be *defective* or *stopped* one. It is therefore vitally

important on the part of the Respondent BEST Undertaking to determine in a first instant, whether the meter under consideration has been either *defective* or *stopped* one.

- 12.0 To elaborate on this aspect, this Forum finds that in case of *defective* meter a bill has to be amended for a maximum period of three months prior to the month in which the dispute has arisen, in accordance with the result of the test taken, subject to furnishing the test report along with the assessed bill. This provision speaks for itself that the test carried out in respect of *defective* meter must give a result. Such result obviously would be either it is a fast or slow one.
- 13.0 In respect of the meter under consideration, admittedly the meter was erratic and therefore in the month of July 2011 it has recorded abnormal consumption of unit viz. 4378 as recorded in the *Meter Reading Folio*. Thereafter also, till it was replaced on 16/01/2012, it went on recording such erratic and abnormal readings. At this juncture it is significant to observe that in a test report of the said meter, carried out on 20/07/2012 in the lab, there is remark of "No Display" and its terminal block found to be burnt, with no communication. Meter accuracy could not be taken. It is therefore blatantly manifest that the said meter was not in a position to give any result of the test to be taken to adjust the bill for a maximum period of three months prior to the month in which the dispute has arisen, as envisaged under Regulation 15.4.1.
- 14.0 Obviously therefore, the said meter was not recording the unit consumption by the complainant and therefore it ought to have been considered as stopped meter by the Respondent BEST Undertaking. At this juncture it would be beneficial to advert to the law laid down by the Hon'ble Full Bench of the Supreme Court in a case of present respondent *BEST Undertaking v/s Lafanse Pvt. Ltd. (dtd. 19/04/2005)*. Therein the Hon'ble Supreme Court has held the *non functional* meter being a *burnt* meter and not a *defective* one, as envisaged under Section 26(6) of the Indian Electricity Act, 1910.
- 15.0 The same is the case in the matter on our hand. The meter no. E081206 provided to the complainant and tested in the lab on 20/07/2012 was found to be "non functional" by the Respondent BEST Undertaking itself. The Respondent BEST Undertaking therefore ought to have taken a recourse to the second provision provided under the Regulation 15.4.1 to amend the bill to be served on the complainant, for the period for which the meter has stopped recording, up to a "maximum period of three months" based on the average meter consumption for twelve months immediately preceding the three months prior to the month in which the billing is contemplated. However, in a bare perusal of written submission placed before this Forum by the Respondent BEST Undertaking, we find a flagrant violation of such statutory provisions in amending the bill to be served on the complainant, on the part of the Respondent BEST Undertaking.
- 16.0 In the aforesaid observation and discussion, it is therefore explicit that albeit the Respondent BEST Undertaking has submitted the alleged compliance to 15.4.1 while amending the bill, however the facts are totally contrary to the same. In our consider view in the aforesaid given set of facts, the Respondent BEST Undertaking ought to have considered the said meter being a burnt one and ought to have proceed to amend the bill by taking a recourse to the second proviso provided under Regulation 15.4.1. Needless to state that the application is liable to be allowed, as the complainant has prayed to modify the bill as per the rules and regulation by waiving the DP charges and interest there upon and accordingly we proceed to pass the following order.

ORDER

1. The complaint no. N -G(N)-204-2013 stands allowed.
2. The Respondent BEST Undertaking has been directed to prepare a fresh bill in compliance the second proviso provided under Regulation 15.4.1 of the MERC (Electric Supply Code & Other Conditions of Supply) Regulation 2005 within a period of one month from the date of passing this order and thereafter allowing the complainant to pay the same within a period of one month from the date of receipt of the such amended bill.
3. The Respondent BEST Undertaking has been further directed not to levy the DP charges and interest on the electricity charges for the aforesaid amendment period.
4. The Respondent BEST Undertaking has been directed to report the compliance of this order to the Forum within a period of one month there from.
5. Copies be given to both the parties.

(Shri S M Mohite)
Member

(Shri M P Thakkar)
Member

(Shri R U Ingule)
Chairman