

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-F(N)-53-08 dt . 11/8/2008

Mr. Hariharsingh R. DarasinghComplainant

V/S

B.E.S. & T. UndertakingRespondent

Present

Quorum
1. Shri. M.P. Bhave, Chairman
2. Shri. S. P. Goswami, Member
3. Smt. Vanmala Manjure, Member

On behalf of the Complainant 1. Shri. W. Rahaman Siddiqui

On behalf of the Respondent 1. Shri. R.P. Gathe, AOCC (F/N)
2. Shri. V.N. Chavare, Supdt. (ES)

Date of Hearing: 12/09/2008

Judgment by Shri. M.P. Bhave, Chairman

Mr. Hariharsingh R. Darasingh, Maheshwari Udyan, Mumbai-400 019 has come before this Forum for his grievance regarding supplementary bill of Rs.2,66,943.36/-.

Brief history of the case

- 1.0 This is an amendment case of electronic meter P011682 which was not found working i.e. no display of reading on it.
- 2.0 In May 2005 it was discovered that meter was found not working i.e. no "display".
- 3.0 The meter was replaced on 07/11/2005
- 4.0 The amendment claim work out to be Rs.2,66,943.36/- for the period 30/03/2005 to 07/11/2005. During the said period consumers recorded nil consumption. This claim was communicated to the complainant on 12/09/2006.
- 5.0 Out of the claim amount of Rs.2,66,943.36/- consumer has paid Rs.90,400/- as adhoc payment.
- 6.0 The consumer has disputed the claim amount and approached respondent in annexure 'C' format on 15/11/2006.
- 7.0 Unsatisfied by the reply of the respondent dated 25/01/2008 consumer approached CGRF Forum in schedule 'A' format on 11/08/2008.

Consumer in his application and during Hearing stated the following

1. The complainant states that respondent has sent him a supplementary bill of Rs.2,66,943.36/- for the period from 30/03/2005 to 07/11/2005. He has disputed the matter in Annexure 'C' form on 15/11/2006 and requested the concerned authority to re-amend the bills for three months as per MERC regulations. Concerned authority asked him to produce documentary evidence proving that, during the amendment period supply was not in use. He has again vide his letter dated 13/02/2008 requested them to re-amend the bills for three months as per MERC regulations but he has now received a letter from respondent in which it is mentioned to settle the entire claim or to appeal in CGRF. Accordingly he has approached Forum for justice.
2. He has requested Forum to re-amend the Bill for three months.

BEST in its written statement and during Hearing stated the following:

1. Shri. Hariharsingh R. Darasingh is our registered consumer at the above address & using electric supply through Meter No.P011682.
2. In the month of May 2005, it was reported that Electronic Meter No. N023417 found not working i.e. 'No display'. Although supply was provided to the consumer through this Electronic meter during the period from 30/03/2005 to 07/11/2005, nil consumption was recorded by the meter and hence consumer could not be charged for the said

period. Subsequently bills were amended from 30/03/2005 to 07/11/2005 on the basis of 4706 units per month recorded by the Electronic Meter No. N023417 during the preceding 12 months period from 29/03/2004 to 30/03/2005. Accordingly, the claim of Rs.2,66,943.36/- was preferred to the consumer for the said period vide letter dt. 12/09/2006. Electronic Meter No. N023417 was replaced by Meter No. P011682 on 07/11/2005. Out of claim amount of Rs.2,66,943.36/0 consumer has paid Rs.90,400/- as adhoc payment on 06/11/2006 and balance claim amount of Rs.1,76,543.36/- was not paid by him.

3. On 15/11/2006 consumer approached to us with Annexure 'C' Form stating that as per Clause 15.4 of Maharashtra Electricity Regulatory Commission, Mumbai under Electricity Act 2003 notification No.MERC/Legal/129/2005/0115 of 20/01/2005 the maximum period of calculation for defective meter bill is of three months prior to the month in which the dispute has arisen. Interim reply was therefore sent to the consumer vide letter dt. 26/12/2006, stating therein that matter is under process and is being put up to our higher authority for further decision. Thereafter proposal was put up to the Management to re - amend the bills as per Administrative Order No.332, dt. 12/06/2007 (Sr.No.5) for 3 months prior to the date of replacement of meter on the basis of 4706 units per month recorded by the old meter from 29/03/2004 to 30/03/2005. However, the Management directed that in case of nil consumption meter testing is not called for. Consumer has to satisfy us that there was no consumption during the period from 30/03/2005 to 07/11/2005. Accordingly, letters dt. 22/11/2007 & 25/01/2008 were sent to the consumer requesting to submit the documentary evidence for no electricity consumption during the period from 30/03/2005 to 07/11/2005. However, consumer vide letter dt. 13/02/2008 informed us that he has disputed the amendment bill as per MERC Regulations and hence it is not necessary on his part to produce the documentary evidence for the same. Vide our letter dt. 29/02/2008 he was informed to settle the amended bill amounting to Rs.1,76,543.36/- immediately as he has used the electric supply through the Electronic Meter No. N023417 during the period 30/03/2005 to 07/11/2005. The consumer did not make payment of the balance amendment claim amount.
4. In Schedule 'A' complaint before C.G.R.F, consumer has requested Forum to remand the bill for three months. In this regard it is stated that during the period from 30/03/2005 to 07/11/2005, consumer has used the electric supply through the meter which was reported for non-display of meter reading i.e. units consumed. The fact that supply used by the consumer is not denied by him and he has not produced any documentary evidence for the same. Hence amended claim amount was preferred on him for the entire period of 30/03/2005 to 07/11/2005 and not for three months.
5. In view of the above the Hon'ble Forum is requested to direct the consumer to pay the amended balance bill amounting to Rs.1,76,543.36/-.

6. Hon'ble Forum is requested to make justice with the BEST Undertaking to recover the legitimate revenue of the Undertaking.

Observations

1. The fact that the BEST has amended the bill makes the case that of a defective meter. Had the meter not been defective there was no necessity of either replacement of the meter or amendment of the bills.
2. As per clause 15.4.1 of the MERC (Electric Supply Code and other conditions of supply) Regulation 2005, in case of defective meters amendment has to be restricted to three months.
3. Even though the fact is that the consumer had consumed the electricity for the period of more than three months, the regulations are clear and there is no scope for any differing interpretation.
4. Section 50 of the electricity Act 2003 empowers the State Commission to specify an electric supply code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply of electricity for non payment, restoration of supply and other cognate matters. In exercise of the power conferred by Section 50 of the State Commission has framed the Maharashtra Electricity Regulatory commission (Electricity Supply code and Other Conditions of Supply) Regulation, 2005.
5. It has to be noted that these regulations are mandatory in nature. These are not recommendations which leave certain freedom.
6. The present case would not have aroused in first place, if the BEST had replaced the meter immediately (or in reasonable time) after finding the meter defective.
7. The Honorable Judge in case of Yatish sharma, has expressed:- "In my view, since the state commission as a delegate of the legislature has framed Regulations, albeit in 2005, the ends of justice would be met if a direction is issued in the present case to the effect that the Petitioner would be at the liberty to bill the Respondent –consumer upto a maximum of period of three months, based on the average metered consumption for twelve months immediately preceding the three months as envisaged in Regulation 15.4.1"

ORDER

1. Respondent is directed to restrict the amendment for the period of 3 months as per clause no 15.4.1 of MERC (Electric Supply Code and other conditions of supply) Regulation 2005, within 30 days from the date of order.
2. Respondent is directed to waive the DP charges, if any levied on the complainant.
3. Copies be given to both the parties.

(Shri. M. P. Bhаве)
Chairman

(Shri. S. P. Goswami)
Member

(Smt. Vanmala Manjure)
Member

