

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(S)-175-2012 dtd. 29/11/2012

Mrs. Rukminidevi AgarwalComplainant

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 Pankaj N. Agarwal

On behalf of the Respondent : 1. Shri D.N. Pawar, DECC(G/S)
2. Smt. Chandra Shrinivasan, AAO (CCG/S)
3. Shri S.B. Lande, AECC(G/S)

Date of Hearing : 16/01/2013

Date of Order : 24/01/2013

Judgment by Shri. R.U. Ingule, Chairman

Smt. Rukmanidevi N. Agarwal, 20/A, Pankaj Mansion, 8, Dr. A.B. Road, Worli, Mumbai - 400 018 has come before the Forum for grievance regarding false electricity charges (proclaim amount) of Rs. 7,801.14 for the period 1993-94 pertaining to A/c no. 547-211-017*0.

Complainant has submitted in brief as under :

1.0 The complainant has approached to IGR Cell on 27/07/2012 for grievance regarding recovery of proclain amount of Rs. 7,801.14 for the period 1993-94 pertaining to A/c no. 547-211-017*0. The complainant has approached to CGRF in schedule 'A' dtd. 13/09/2012 (received by CGRF on 27/11/2012) as no remedy is provided by the Distribution Licensee regarding her grievance. The complainant has requested the Forum to waive the proclain amount.

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

- 2.0 The Meter bearing No.L810860 was installed on 15.1.1985 in the name of Smt. Rukmanidevi N. Agarwal having A/c.No.547-211-017 for the said premises under reference and was replaced by meter no. L850765 on 29.11.1994. On scrutiny of our ledger/billing data it is observed that for billing months of July,1994, September,1994 and November,1994 consumer have been billed for 3 units, 1 unit & 0 unit respectively. Hence proclain of Rs. 16,902.48 was prepared for the period from 1.11.1993 to 29.11.1994. The same was continuously shown in consumer's electricity bills upto September,2011.
- 3.0 The billing for new meter no. L 850765 has been started from January,1995 onwards wherein units have been found consumed. Due to defect in the old meter the same was not being registered prior to replacement of the meter.
- 4.0 As per Management's order for such cases the claim was revised for a period of six months amounting to Rs.7,801.14 and the same is debited in consumer's bill.
- 5.0 In view of above, it is requested to direct the consumer Smt. Rukmanidevi N. Agarwal to pay the revised claim amount of Rs.7,801.44 immediately.

REASONS :

- 6.0 We have heard Shri Pankaj N. Agarwal for the complainant and for the Respondent BEST Undertaking Shri D.N. Pawar, DECC(G/S), Smt. Chandra Shrinivasan, AAO (CCG/S) & Shri S.B. Lande, AECC(G/S). Perused documents.
- 7.0 A provisional claim of Rs. 16,902.48 later on revised to Rs. 7,801.14 made against the complainant by the Respondent BEST Undertaking for the period from 01/11/93 to 29/11/94 on account of *defective meter* not registering energy consumption prior to replacement of the meter, has triggered of the controversy to be resolved in the instant complaint.
- 8.0 The complainant has heavily assailed the claim made by the Respondent BEST Undertaking of Rs. 16,902.48 which later on revised to a period of 6 months reducing the said amount to Rs. 7,801.14, terming the same being totally baseless, arbitrary and unsustainable in law. The complainant has contended that as submitted by the Respondent BEST Undertaking the initial claim of Rs. 16,902.48 has been preferred as a proclain amount for a period from 01/11/93 to 29/11/94. The same has been claimed in the year 2011 i.e. after lapse of about 7 years. The complainant further

contends that the said amount has been claimed on a totally false ground that the meter provided to the complainant was *defective* and the same was not registering any energy consumption upto November 1994. The Respondent BEST Undertaking therefore proceeded to draw the average of electricity consumption for a period from 01/11/93 to 29/11/94, as such for 13 months and calculated the same amount being Rs. 16,902.48 which later on revised to Rs. 7,801.14. The complainant contends that the Respondent BEST Undertaking does not have any supportive documents to come to such conclusion.

- 9.0 This Forum finds a merit in the above contention raised by the complainant, as the amount of Rs. 7,801.14 claimed by the Respondent BEST Undertaking from the complainant has been totally arbitrary, ill founded and unsustainable in law. In this connexion this Forum finds that the Respondent BEST Undertaking contends that the meter provided to the complainant was not registering energy consumption up to November 1994. This Forum further finds that the Respondent BEST Undertaking has been proceeding to term the said meter provided to the complainant being *defective* merely on a ground that the ledger folio maintained by it in respect of the complainant has been showing consumption of '3' units in the month of July 1994, '1' unit in the month of September 1994 and '0' unit in the months of November 1994. On the basis of these 3 figures of consumption of units the Respondent BEST Undertaking hastily proceeded to jump to a conclusion that the meter was not registering consumption of energy that to during a period from 01/11/93 to 29/11/94.
- 10.0 To reiterate, the documents available before this Forum has been from the month of July 1994 onward. No any shred of document is available with the Respondent BEST Undertaking prior to July 1994. However, to our great surprise without having any shred of supporting evidence, the Respondent BEST Undertaking has taken into consideration a period from November 1993 to November 1994 for quantifying electricity consumption charges of Rs. 16,902.48 for 13 months on the basis of drawing an average. There is obviously no iota of evidence available as to why such period has been started from November 1993 and what is the basis for drawing any average to quantify any amount of average consumption charges per month? On raising a query by this Forum with the representatives of the Respondent BEST Undertaking during the hearing, they could not place their finger on any documentary evidence in support of their exercise for such quantification of the energy charges.
- 11.0 There has been another vital aspect needs to be taken into consideration and i.e. whether the said meter can be called as a *defective* one. The Respondent BEST Undertaking on one hand is terming the said meter being *defective*, and on the other hand they are submitting the same was not registering any energy consumption i.e. meter was *stopped* one. This Forum therefore finds that the Respondent BEST Undertaking thus in cavalier and callous manner calling the said meter being *defective* and at the same time being *stopped* one also. The Respondent BEST Undertaking fails to notice that under the Electricity Act, 1910 and later on under the Electricity Act, 2003 different provisions have been provided for a *defective meter* and that for a *stopped meter*. However, we find that the Respondent BEST Undertaking fails to notice the distinction between these two terms, and the statutory provisions provided thereto.

- 12.0 As observed above, initially the Respondent had claimed energy charges of Rs. 16,902.48 and later on reduced the same to Rs. 7,801.14 revising for a period of 6 months only, as per the management's order. As observed above, the Respondent BEST Undertaking has been terming the said meter being *stopped* as it was not registering any energy consumption prior to November 1994. This Forum finds that as the Respondent BEST Undertaking has been proceeding to take action for the same against the complainant in the year 2011/2012, therefore the same ought to have been in the implementation of Regulation 15.4.1 provided under MERC (Electricity Supply Code and Other Conditions of Supply), 2005.
- 13.0 The second proviso provided under the Regulation 15.4.1 *inter-alia* provides, in case the meter has stopped recording, the consumer would be billed for the period for which the meter has stopped recording, up to a maximum period of 3 months, based on the average metered consumption for 12 months immediately preceding the 3 months, prior to the month in which the billing is contemplated.
- 14.0 This Forum finds that admittedly the Respondent BEST Undertaking contends that the meter has not recorded the electricity consumption from September 1993 onwards for 13 months as the meter stopped recording consumption. In the implementation of provision provided under second proviso of Regulation 15.4.1 in the first instant the Respondent BEST Undertaking can claim the charges maximum for 3 months and secondly it would be based on the average of the 12 months immediately preceding the 3 months prior to the month in which the billing is contemplated. As observed above the Respondent BEST Undertaking does not have any record available with them prior to July 1994. It is therefore obvious that the Respondent BEST Undertaking is not in a position to calculate the average meter consumption as envisaged under said Regulation 15.4.1.
- 15.0 Thus this Forum finds that basically the claim made by the Respondent BEST Undertaking against the complainant has not been supported by any shred of evidence. Thereafter revising such claim for a period of 6 months has not been in consistent and as per the statutory regulation i.e. 15.4.1 referred to above. Thus we find highly arbitrary and capricious energy charges of Rs. 7,801.14 being claimed by the Respondent BEST Undertaking against the complainant. We thus find that the complaint is liable to be allowed and accordingly we do so.

ORDER

1. The complaint no. N-G(S)-175-2012 stands allowed.
2. The Respondent BEST Undertaking has been restrained from claiming the energy charges of Rs. 7,801.14 from the complainant, being unsustainable in law.
3. Copies be given to both the parties.

(Shri S M Mohite)
Member

(Shri M P Thakkar)
Member

(Shri R U Ingule)
Chairman