

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

(Appointed by the Maharashtra Electricity Regulatory Commission
under Section 42(6) of the Electricity Act, 2003)

REPRESENTATION NO. 163 OF 2024

In the matter of retrospective recovery towards under billing

Panchganga Ice Factory..... Appellant
(Con. No. 250050850184)

V/s.

Maharashtra State Electricity Distribution Co. Ltd., R2 Kolhapur. Respondent
(MSEDCL)

Appearances:

Appellant : Javid Momin, Representative

Respondent : 1. Dattatray Bhanage, Executive Engineer,
2. Digambar Dagadu Pawar, Dy. Ex. Engineer, Hupri

Coram: Vandana Krishna [IAS (Retd.)]

Date of hearing: 20th February 2025

Date of Order : 13th March 2025

ORDER

This Representation was filed on 29th October 2024 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the order dated 14th August 2024 in Case No. 66 of 2024 passed by the Consumer Grievance Redressal Forum, Kolhapur (the Forum). The Appellant paid the required deposit on 25th November



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2024 as per Regulation 19.22(h) of CGRF & EO Regulations 2020. This Representation was then registered on 26th November 2024. The Forum by its order rejected the grievance of the Appellant.


2. Aggrieved by the order of the Forum, the Appellant has filed this Representation against the order of the Forum. A physical hearing was held on 20th February 2025 where both the parties were heard at length. The Respondent filed its reply dated 10th January 2025. The Respondent's submissions and arguments are as below. *[The Electricity Ombudsman's observations and comments are recorded under 'Notes' where needed.]*

(i) The Appellant is an Industrial Consumer (No. 250050850184) from 04.02.2003. The details of the electric connection, sanctioned load, retrospective recovery towards missing R & B phase voltages, etc. are tabulated as below:

Table 1:

Name of Consumer	Consumer No.	Address on Bill	San. Load/ Contract Demand	Date of Supply	Purpose	Date of Inspection	Irregularities observed in MRI Report	Suppl. Bill & Period
Panchganga Ice Factory	250050850184	House No. 158, Navin Vasahat, Hatkanangale, Dist. Kolhapur	26.50 HP/ 22 KVA	04/02/2003	Industrial (Ice Factory)	19/01/2024	R Phase PT missing and B Phase PT intermittently missing from June 2023 to Feb. 2024	Suppl. Bill of Rs.2,91,322/- for 21664 Units for the period from from June 2023 to Feb. 2024.

(ii) The existing meter of the consumer is of Secure Make (No.X0461173) having Type-3ph 4W, 40-200 Amp Capacity and was installed in Jan. 2020. The same meter is working at present. [MSEDCL has taken a policy decision to install 40-200 Amp CT Embedded Meters for LT consumers above 20 KW connected load, considering "Automatic Meter Reading" for consumers above 20 KW connected load, with effect from 2019 in a staged manner. This initiative is a part of the "Automatic Meter Reading"


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Programme marking a significant milestone for delivering automatic data to System Server.]

- (iii) The Asst. Engineer (QC) of the Respondent visited the premises of the Appellant on 19.01.2024 to carry out a routine inspection when it was observed that “R & B Phase Voltages” were missing on the meter display. The display of the meter was as below:

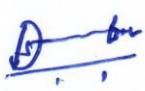
Table 2:


Description	R Phase		Y Phase		B Phase	
	Current (A)	Voltage (V)	Current (A)	Voltage (V)	Current (A)	Voltage (V)
Display on Meter	22	0	27	242	27	0
Voltage at Consumer end	22	239	27	242	27	235

The Appellant did not allow a shutdown; hence normalcy could not be restored. After tightening the piercing screws of voltages where they were tapped, normalcy was restored on the meter display on 11.02.2024.

- (iv) The data of the meter was analysed in MDAS (Meter Data Acquisition System) in which PT Voltage missing events were recorded, and it showed that R Phase PT was missing totally from June 2023 to Feb. 2024, and B Phase was missing intermittently from July 2023 to Feb. 2024 as tabulated below:

Table 3:


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Sr. No.	Month	R Phase (V)	Y Phase (V)	B Phase (V)	R Phase (A)	Y Phase (A)	B Phase (A)
1	01.06.2023	205.00	202.48	50.50	53.02	58.28	59.16
2	01.07.2023	80.35	254.17	130.68	8.46	8.89	4.58
3	01.08.2023	1.78	245.60	139.90	22.53	28.49	26.34
4	01.09.2023	2.35	252.94	137.89	0.01	0.02	0.07
5	01.10.2023	95.77	261.60	141.00	0.03	0.00	0.41
6	01.11.2023	2.49	242.10	96.37	34.09	38.18	36.58
7	01.12.2023	1.77	257.06	174.17	22.60	27.56	27.37
8	01.01.2024	2.31	243.51	92.78	8.12	8.49	4.30
9	01.02.2024	2.43	252.03	14.84	21.40	28.15	25.03
10	01.03.2024	232.11	238.05	234.77	30.42	36.44	36.65

There is no PT Smart Feature for this meter of 3 phase 40-200 A. Hence, the assessment for missing PT Voltages was carried out. The Respondent issued a supplementary bill of plain recovery of Rs. 2,91,322/- for 21,664 units for the above 9 months vide letter dated 12.04.2024 towards the above under-recording of consumption for the period from June 2023 to Feb. 2024. This is based on the data retrieved from MRI. The analysis of MDAS is charted below:



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Table 4:

Month	Billed Units		Assessed Cons. due to voltage missing		Total Cons.	Suppl. Bill for assessed cons. (Rs.)	Remarks
	Units	% wrt to total cons.	Units	% wrt to total cons.	Units	Rs.	
Jun-23	3553	67%	1777	33%	5330	28,448	B phase voltage missing(33% of total consumption)
Jul-23	1742	50%	1742	50%	3484	31,758	R phase voltage missing (33% under billing) & B phase voltage missing intermittently (17% under billing) i.e.33 %+17 %=50% of total cons.
Aug-23	1840	50%	1840	50%	3680	13,861	R phase voltage missing (33% under billing) & B phase voltage missing intermittently (17% under billing) i.e.33 %+17 %=50% of total cons.
Sep-23	2238	50%	2238	50%	4476	18,185	R phase voltage missing (33% under billing) & B phase voltage missing intermittently (17% under billing) i.e.33 %+17 %=50% of total cons.
Oct-23	3838	50%	3838	50%	7676	55,085	R phase voltage missing (33% under billing) & B phase voltage missing intermittently (17% under billing) i.e.33 %+17 %=50% of total cons.
Nov-23	4005	50%	4005	50%	8010	62,951	R phase voltage missing (33% under billing) & B phase voltage missing intermittently (17% under billing) i.e.33 %+17 %=50% of total cons.
Dec-23	2586	50%	2586	50%	5172	45,113	R phase voltage missing (33% under billing) & B phase voltage missing intermittently (17% under billing) i.e.33 %+17 %=50% of total cons.
Jan-24	2373	50%	2373	50%	4746	19,677	R phase voltage missing (33% under billing) & B phase voltage missing intermittently (17% under billing) i.e.33 %+17 %=50% of total cons.
Feb-24	7501	NA	1265	NA	8766	16,244	R phase voltage missing (33% under billing) & B phase voltage missing intermittently (17% under billing) i.e.33 %+17 %=50% (1265 units assessment up to 11.02.24 + 6236 units actual consumption after tightening of screws of R & B phase)
Total	29676	58%	21664	42%	51340	2,91,322	


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The total supplementary bill includes recalculated KVA MD during voltage missing period as below:

Table 5:


Month	Recorded KVA MD	Assessed KVA MD	Total KVA MD for Billing
Jun-23	27	14	41
Jul-23	15	15	29
Aug-23	13	13	25
Sep-23	12	12	24
Oct-23	14	14	28
Nov-23	16	16	32
Dec-23	14	14	27
Jan-24	10	10	21


- (v) The Appellant did not pay the said assessment amount of Rs. 2,91,322/-. Hence, this assessment amount was added in the bill of May 2024. However, the Appellant did not pay the bill, hence a disconnection notice as per Section 56(2) of the Electricity Act, 2003 (the Act) was served on 08.05.2024. However, the supply of the Appellant was not disconnected.

The consumption pattern for the last five years (2018 to 2022) was compared for specific months from June to January. The analysis revealed that the assessed units with respect to total consumption, and the previous recorded consumption are comparable.

The data is presented as follows:

Table 6:


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Sr. No.	Month	2018 (Units)	2019 (Units)	2020 (Units)	2021 (Units)	2022 (Units)	Total bill (including Assessment) issued for June 23 to Jan 2024 (Units)	2024: Billed Units	
1	Jun	8676	7248	1284	4478	12660	5330	7307	
2	Jul	3444	6790	1305	2532	3830	3484	2281	
3	Aug	3653	2970	2439	3380	3926	3680	2866	
4	Sep	4916	3157	4134	3079	4736	4476	3551	
5	Oct	9205	4962	3188	9718	6894	7676	6288	
6	Nov	7546	4670	3618	6973	6602	8010	5570	
7	Dec	5845	4391	4132	5527	6274	5172	4746	
8	Jan	5623	6777	4813	5176	5103	4746		
Total (Jun		48908	40965	24913	40863	50025	42574		
Note:		Covid Pandemic-19 from Mar. 2020 to May. 2022							

(vi) The Respondent cited the Judgment dated 18.12.2018 of Hon'ble Bombay High Court, Bench at Aurangabad in W.P. No. 8613 of 2017, and contended that the Judgment is squarely applicable in the instant case.

(vii) In the circumstances, the Respondent prays that the representation be rejected.


3. The Appellant's submissions and arguments are stated as below:

- (i) The details of the electric connection are tabulated in Table 1. The supply of this connection is used for running an ice factory. The Appellant is regular in payment of bills and was/is billed under "Industrial" tariff category.
- (ii) The Respondent inspected the premises of the Appellant on 19.01.2024. This inspection was done unilaterally. The Respondent did not hand over a copy of this inspection report to the Appellant.


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- (iii) The Respondent issued a supplementary bill of Rs. Rs. 2,91,322/- for 21,664 units vide letter dated 12.04.2024 towards under-recording of consumption towards R & B Phase PT missing. This supplementary bill was added in the bill of May 2024 which is based on a wrong interpretation. The Appellant verbally requested the Respondent to explain the technical aspects in this case, however no proper response was given. The Appellant was threatened with disconnection vide letter dated 08.05.2024. The Appellant filed a grievance application with the Forum on 11.06.2024. The Forum by its order dated 14.08.2024 rejected the grievance of the Appellant. The Forum failed to understand that the Respondent should check the technical data every month, however, they failed to do so. How is the Appellant responsible for such under recording of the meter? The responsibility and financial impact should be borne by the Respondent.
- (iv) The energy meter belongs to the electricity distribution company and the responsibility of maintaining it lies solely with the company. As per MERC Supply Code & SOP Regulations 2021, 'Periodic Testing of Meters' is the responsibility of the Respondent. The Respondent failed to test the meter periodically and hence the Appellant is not responsible for the same. His business is dependent on the detailed summary of every income and expense incurred by his organization in a specific financial year prepared on an accrual basis.
- (v) The Appellant prays that the Respondent be directed:
- to quash the Supplementary Bill of Rs. 2,91,322/- for 21,664 units dated 12.04.2024 for the period from June 2023 to Feb. 2024.
 - to waive off interest and delayed payment charges levied for the entire period from May 2024 onwards.
 - to cancel the disconnection notice dated 28.05.2024.


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Analysis and Ruling

4. Heard the parties and perused the documents on record. The details of the electric connection, R Phase PT missing and B Phase PT intermittently missing from June 2023 to Feb. 2024, retrospective recovery is tabulated in Table 1. The supply of this connection is used for an ice factory. The existing meter of the consumer is of Secure Make (No.X0461173) having Type- 3ph 4W, 40-200 Amp Capacity. The same meter is working from Jan.2020 till date, after tightening of its screws and restoring normalcy after inspection.

5. The Respondent inspected the installation of the Appellant on 19.01.2024, when it was observed that “R & B Phase Voltages” were missing on the meter display which were not extended to the meter terminal connection due to a loose connection of the screws where it was tapped from the main cable. Hence, the meter was recording less energy consumption by 66 % at the time of inspection. The “R & B Phase Voltage” was not extended to the said meter as per the MRI report as tabulated in Table 3.

6. The Appellant contended that the energy meter belongs to the electricity distribution company and the responsibility of maintaining it lies solely with it. The Respondent failed to test the meter periodically and hence the Appellant is not responsible for the same. His business is dependent on every income and expense incurred by his organization in a specific financial year prepared on an accrual basis. At present, it is very difficult to adjust (recover from customers) such a huge amount.

7. The Respondent contended that the assessment for missing PT Voltage for R phase and PT Voltage intermittently missing for B phase was carried out. The Respondent issued a supplementary bill of plain recovery of Rs. 2,91,322/- for 21,664 units vide letter dated 12.04.2024 towards the above under-recording of consumption for the period from June 2023 to Feb. 2024, i.e., for a period of 9 months. This is based on the data retrieved from MRI. The analysis of MDAS is charted in Table 4.


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8. The Respondent was advised by the Electricity Ombudsman (Mumbai) office to calculate the assessment using weightage method of voltage availability in MRI report. Accordingly, the revised calculations with minor modifications are tabulated as below:

Table 7:

Assessment Units Sheet										Asssed MD (KVA) Sheet							
Sr. No.	Month	Recorded Voltage			Voltage Availability %			Total Voltage Availability (%)	Under Billing (%)	Billed Units	Under Recorded Units as per reading	Under Billing Units	Total Units for Billing	Billed MD KVA	Under Recorded MD KVA	Under Billing MD KVA with 0.8 Diversity Factor	Total MD KVA for Billing
		R Phase	Y Phase	B Phase	R Phase	Y Phase	B Phase										
1	01-06-2023	205	202.5	50.498	33%	33%	8%	74%	26%	3553	3553	1248	4801	27	27	8	35
2	01-07-2023	80.347	254.2	130.68	11%	33%	17%	61%	39%	1742	1742	1114	2856	0	15	4	19
3	01-08-2023	1.775	245.6	139.9	0%	33%	19%	52%	48%	1840	1840	1698	3538	0	13	4	16
4	01-09-2023	2.347	252.9	137.89	0%	33%	18%	51%	49%	2238	2238	2150	4388	0	12	3	15
5	01-10-2023	95.773	261.6	141	12%	33%	18%	63%	37%	3838	3838	2254	6092	0	14	4	18
6	01-11-2023	2.49	242.1	96.731	0%	33%	13%	46%	54%	4005	4005	4702	8707	0	16	4	20
7	01-12-2023	1.767	257.1	174.17	0%	33%	23%	56%	44%	2586	2586	2032	4618	0	14	4	17
8	01-01-2024	2.305	243.5	92.777	0%	33%	13%	46%	54%	2373	2373	2786	5159	0	10	3	13
9	01-02-2024	2.427	252	14.836	0%	33%	2%	35%	65%	7501	1265	2349	9850	28	0	0	0
										29676	23440	20333	50009				


Thus, the under-billed units reduced from 21664 units to 20333 units.

9. The Judgment dated 18.12.2018 of the Hon'ble Bombay High Court, Bench at Aurangabad in W.P. No. 8613 of 2017 is squarely applicable in the instant case. The relevant part of the Judgment is reproduced below:

“33 it is therefore, obvious in the present case that there was nothing intrinsically wrong with the meter. As under-recording of electricity consumed was associated with the act of the electrician in wrongly attaching the wires to the R, R & B phases. I am, therefore, of the view that such a wrong attachment of wiring by the electrician would not amount to a defect in the meter. Consequentially, due to the under recording of the meter, the Appellant has consumed such energy as was normally required to be consumed and the Petitioner has lost the revenue for such under recording.

34. Clause 3.4.4 of the Regulations, 2005 enables the Petitioner to recover the charges for the electricity actually supplied, which would include a fixed charge as per the prescribed rates. The Appellant, therefore, has to pay full charges for the electricity actually consumed.

35. In the Municipal Corporation case (supra), this court has sustained the supplementary bill raised by the Electricity Company and this Court has upheld the recovery of the amount mentioned in the supplementary bill.”


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This Judgment is applicable in the instant case. As such the meter was not defective which is evident from the fact that the same meter is still operating satisfactorily, after the screws were tightened on 17/05/2023.


10. The Forum by its order has already considered the under-recording as tabulated in Table 1 for the period of 9 months. The recovery is within the limit of 24 months as stipulated in Section 56(2) of the Electricity Act, 2003. which fulfils the statutory requirement of Section 56(2) of the Act in case of deficiency in service. The Section 56 (2) of the Electricity Act, 2003 is reproduced below:

“(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.”

This Section 56 (2) of the Act has been interpreted by the Larger Bench Judgment dated 12.03.2019 of the Bombay High Court in W.P. No. 10764 of 2011 with Other Writ Petitions. The Court has allowed 24 months’ recovery retrospectively in cases of mistake or oversight.

11. The Forum has given a reasoned and speaking order. Hence, there is no need for interference in its order principally. However, the Forum’s order is partially modified as below. The Respondent is directed:-

- i. to revise the assessment of Rs. 2,91,322/- for 21,664 units as per Table 7, and to withdraw the interest and delayed payment charges levied from May 2024 onwards till the date of this order.
- ii. The Appellant may be granted 10 equal monthly instalments without DPC and interest to pay the revised bill. If the Appellant fails to pay the monthly instalment


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along with its current bill, the Respondent is permitted to recover the interest proportionally for the failure period, and to take action as per the law in force.

iii. Compliance to be submitted within two months from the date of issue of this order.

iv. Other prayers of the Appellant are rejected.

12. The representation of the Appellant is disposed of accordingly.

13. The secretariat of this office is directed to refund the amount of Rs.25,000/- taken as deposit to the Respondent to adjust in the Appellant's ensuing bill.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)



(Dilip Dumbre)
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