

**GUJARAT ELECTRICITY REGULATORY COMMISSION
BEFORE THE ELECTRICITY OMBUDSMAN, GUJARAT STATE
Polytechnic Compound, Barrack No.3, Ambawadi,
Ahmedabad-380015**

CASE NO. 119/2017

Appellant: M/s. Shree Sahajanand Dairy
Plot No. C-1, 102/6
GIDC, PALEJ- 392220. Dist. Bharuch.

Represented by: Shri K.C.Mehta, Learned Advocate
Shri Pinakin Thakkar
Shri Bhaveshbhai Thakkar

V/s.

Respondent: Deputy Engineer,
Dakshin Gujarat Vij Company Limited
Sub-Division Office, PALEJ- 392220. Dist. Bharuch.

Represented by: Shri Hemal T. Mistry, Dy. Engineer, DGVCL, Palej.

:::PROCEEDINGS:::

- 1.0.** The Appellant had submitted representation aggrieving with the order 16275 dated 07.10.2017 passed by the Consumer Grievances Redressal Forum, Dakshin Gujarat Vij Company Limited, Surat, in case No.125/2017-18. The representation was registered at this office as Case No.119/2017. The hearing of this case was kept on 21.12.2017. As per request of Appellant, the next hearing of this case was kept on 11.01.2018.
- 2.0.** Appellant has represented the case as under.
 - 2.1.** Appellant is having partnership firm engaged in production and process of milk products. Appellant has also established one unit for process of milk product at Plot No. C-1, 102/6, GIDC, Palej, District Bharuch. The electric connection was obtained in the year 2013. The meter was installed on 20.06.2013.
 - 2.2.** Appellant has paid all the bills issued by Respondent in due time and there was no fault or delay in making payment of energy bills.

- 2.3. Officer of Respondent company had visited the premises of Appellant and said that the electric meter installed by them was running OK and that CT of half capacity was installed and hence electric meter showed the consumption to half that of actual consumption. Respondent has admitted that there was no tampering of meter. It may be mentioned that none of the officers had visited the premises of Appellant in the span of four years.
- 2.4. Respondent has raised the bill from the inception i.e. from 1st day of the installation of meter, amounting to Rs. 17,70,039/-.
- 2.5. Aggrieved by the action of Respondent, complaint was filed before CGRF, Surat, and aggrieved by the Forum order, Appellant has filed representation before Ombudsman for justice.
- 2.6. Appellant has submitted the following grounds against the forum order.
 - (1) Order of Forum is illegal, unjust and against the interest of people at large.
 - (2) Forum has failed to appreciate that the Respondent has not examined the meter which was installed by them for such a long time.
 - (3) Respondent could not be allowed to raise the bill at his sweet will. The bill that was raised is barred by law of limitation.
 - (4) Forum has failed to appreciate that the meter was installed by Respondent and that Appellant has no role to play for installation of meter.
 - (5) Appellant has fixed the price of his various products based on the electricity cost and other expenses and all of a sudden if such huge amount is forced to pay, Appellant firm would be put to heavy monetary loss.
 - (6) The act of Respondent is against the Government policy of creating job opportunity and that if the small scale industry is forced to shut down the job opportunity will be lost.

- 2.7. During hearing Appellant has referred the Section 56 of Electricity Act, 2003 and stated that Respondent cannot claim old arrears as per his will.
- 2.8. The order of CGRF was passed on 07.10.2017 and copy of order was received by Appellant on 12.10.2017. Thereafter Appellant has paid 1/3rd amount of supplementary bill and prayed as under:
- (1) To quash and set aside the Forum order.
 - (2) To quash and set aside the bill issued by Respondent.

3.0. Respondent has represented the case as under.

3.1. Appellant is having electric connection in the name of M/s. Sahajanand Dairy, C/o. Shri Pinakinbhai B. Thakkar, at GIDC, Palej, bearing consumer No. 02523/05717/4, having contracted load of 45 KW, under LTMD tariff for industrial purpose.

3.2. The installation was checked by Respondent on 21.09.2017 vide checking sheet No. 2816. Details of meter are as under:

Make: Secure. Type: 3 ph. 4 Wire

Meter No. DGS01515 Capacity: 100/5 Amp.

CT coil details:

Capacity: 200/5A. Make: Bharti. Sr.No. 07158, 07159, 07160.

Meter Reading: 216500 KWh. 181602 KVARh. 291764 KVAh.

Present maximum demand: 19.6 KW.

Billing Maximum Demand: 20.2 KW

%age error with accucheck considering M.F. = 2 : -0.06%.

It is observed that billing M.F. taken is 1 instead of M.F. 2.

3.3. On 26.09.2017 Respondent has replaced the meter. Details of meters are as under:

Particulars	Old meter	New meter
Make	SECURE	HPL
Meter Number	DGS01515	47712
Meter CTR	100/5A	100/5A
CT coil	200/5A	100/5A

Instantaneous parameters noted in checking sheet are as under:

Particulars	Old meter			New meter		
	'R'	'Y'	'B'	'R'	'Y'	'B'
Instantaneous voltage	253	254	253	257.13	262.8	263.79
Instantaneous current	29.24	31.21	36.20	81.20	72	77.40

Accuracy of new meter recorded is within permissible limit. The replaced meter was wrapped for testing at Laboratory.

- 3.4. It is submitted that meter was tested at Laboratory on 27.09.2017. It was found that accuracy of meter was within permissible limit. MRI data of meter was also retrieved. It was mentioned in laboratory inspection sheet that billing should be made by taking Multiplying Factor 2.
- 3.5. The supplementary bill for Rs. 17,70,039.79 was prepared for 209146 units with considering Multiplying Factor 2, for the period 08.06.2013 to August,2017 and issued to Appellant on 25.09.2017. The calculation of billing is as under:

Details	KWh	KVArh
As per PRT 145 energy recorded	209146	178333
With M.F.2 recoverable energy units	418292	356666
Difference	209146	178333

- 3.6. It is submitted that there is a human error while taking meter reading and therefore under billing was made in the present case. Hence, supplementary bill was issued to Appellant.
- 3.7. Respondent has submitted the copy of order issued by Hon'ble Supreme Court, in case No. AIR 2000 Bombay 264 and AIR 1978 Bombay 369, in support to present grievance.
- 3.8. Respondent has stated that supplementary bill issued as per Para 3.5 is in order and recoverable.

::: ORDER :::

- 4.0.** I have considered the contentions of the Appellant and the Respondent and the facts, statistics and relevant papers, which are on record, and considering them in detail, my findings are as under.

- 4.1. Multiplying Factor 2 was not taken in billing cycle from the inception of installation of meter at the time of release of connection i.e. 08.06.2013.
- 4.2. It is surprising to note that the Respondent could not detect meter accuracy defect since last four years i.e. since releases of connection.
- 4.3. The energy meter Sr.No.01515 was taken in service on 08.06.2013 with meter CTR 100/5 Ampere and connected CTR 200/5 Ampere, but energy bills were not served with Multiplying Factor 2 up to 26.09.2017.
- 4.4. The said energy meter was replaced on 26.09.2017. The Multiplying Factor 2 was noticed by Respondent only on 21.09.2017 during checking of connection on site.
The Appellant was served supplementary bill on 25.09.2017 for the amount of Rs. 17,70,039.79 for the period 08.06.2013 to 25.09.2017.
- 4.5. As per Clause 8.1 of GERC (Standard of Performance of Distribution Licensee) Regulation 2005.
“The Licensee shall regularly inspect, check and test the meters. However, the periodicity of such inspection shall not be less than that as may be provided by the Central Electricity Authority in their Regulations on Installation & Operation of the meters.”
- 4.6. As per submission of Respondent in Para 3.7, the judgement and orders were related to application of section 24 of the Indian Electricity Act, 1910. At that time the Electricity Act, 2003 and provisions similar to Section 56 of the Electricity Act, 2003 was not existing.
- 4.7. Therefore, it would be necessary and fair to consider the Appellant’s grievance in term of provisions of Section 56(2) of the Electricity Act, 2003, which reads as under:
“*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.”

- 4.8. Issue of the bills belated by the Distribution Licensee and that too because of their own mistake cannot be approved to provide additional leverage to the Distribution Licensee against the consumer protection in the light of the provisions under The Electricity Act,2003.

It should also be understood that Section 56(2) balances the interest of both, the Distribution Licensee and consumer. On one hand it empowers the Distribution Licensee to disconnect supply of electricity in case of neglect to pay. On the other hand, the responsibility is cast upon the Distribution Licensee to claim and recover the arrears within two years from the due date when such sum becomes first due.

Two years is quite an adequate period available to the Distribution Licensee to raise the bill towards arrears, if remained unclaimed for ANY REASON, which in this case was due to error of Multiplying Factor.

This is a special mechanism provided to enable the Distribution Licensee to recover its dues expeditiously.

- 4.9. In the present case, Respondent has raised the bills on 25.09.2017. Therefore, it would perfectly be in order to claim arrears which become first due from 25.09.2015 onwards and not before.
- 4.10. To conclude the arrears if any prior to 25.09.2015 would be non-recoverable under Section 56(2) of the Electricity Act, 2003 since such sums due at that time were not raised or shown as arrears as required under Section 56(2) of the Electricity Act,2003.

4.11. Similar case having issues of past recovery on account of difference in Multiplying Factor had come up for consideration before Electricity Ombudsman in case No. 62 of 2012 between Vice President, GIDC, Viramgam V/s Deputy Engineer, Uttar Gujarat Vij Company Limited, Viramgam which was decided on 09.08.2012 under Section 56(2) of the Electricity Act, 2003.

The Electricity Ombudsman order was challenged before The Hon'ble High Court of Gujarat in SCA No.15289 of 2012. The Hon'ble High court vide order dated 07.11.2012 upheld the order passed by The Electricity Ombudsman.

The LPA No. 885 of 2013 filed by UGVCL was disposed of on 15.07.2013. UGVCL had submitted compliance report in Dec.2013 of implementing the order dated 09.08.2012 passed by The Electricity Ombudsman.

4.12. The representation is disposed of with the order and direction as elaborated in the preceding paragraphs.

Compliance of direction given to the Respondent should be intimated within 30 days of the issue of this order.

4.13. I order accordingly.

4.14. No order as to costs.

4.15. With this order, representation/Application stands disposed of.

(Dilip Raval)
Electricity Ombudsman
Gujarat State

Ahmedabad.
Date: 18.01.2018.