



## BEFORE THE OMBUDSMAN

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

606, 'KESHAVA', Bandra Kurla Complex, Bandra (East), Mumbai 400 051  
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### **REPRESENTATION NO. 01 OF 2006**

In the matter of Refund of Excess Billing

M/s. Karp Impex..... Appellant

V/s

B.E.S.& T Undertaking..... Respondent

Present:

1. Shri W.G. Gorde, Ombudsman
2. Shri S.N. Yadwad, Secretary

On behalf of the Appellant:

1. Shri Dipak J. Mehta
2. Smt. Urmila D. Mehta

On behalf of the Respondent:

1. Shri S. K. Desai, Superintendent (Electric Supply), B.E.S.& T Undertaking

**Date : 23 February 2006**

### **ORDER**

M/s. Karp Impex, the Appellant in the present case, has filed its representation on 13<sup>th</sup> January, 2006 against the order of the Consumer Grievance Redressal Forum at B.E.S.& T Undertaking. The Forum in its order dated 1<sup>st</sup> September, 2005 directed the B.E.S.& T Undertaking to recalculate the bills for the disputed period as per the formula  $(A+B) / 2$  where 'A' is the average consumption of the earlier meter no. G790469 between 1<sup>st</sup> January, 1999 and 8<sup>th</sup> April, 2000 and 'B' represents the average consumption of the meter no. B013823, between 28<sup>th</sup> January, 2003 and 19<sup>th</sup> September, 2003 and further directed to credit the excess amount received from the consumer to his account within a period of 60 days from the date of receipt of the order. The Appellant is aggrieved with the said order and accordingly the present representation happens to be filed which is registered at Serial No. 1 of 2006. The Appellant, in its representation, has stated its case as under:

2. It is located at 222, Panchratna Building, Queen's Road, Opera House, Mumbai and now has a commercial electricity connection no. 445605523. The present meter number is P001619. The Appellant seeks the refund of the excess electricity bills paid on the average basis for the meter no. G931446 which was installed on 8<sup>th</sup> April, 2000 and continued till 28<sup>th</sup> January, 2003 when it was replaced by the meter no. B013823. The Appellant has authorized M/s. Urmi Electricals to represent its case. M/s. Urmi Electricals, on behalf of the Appellant, by its letter dated 12<sup>th</sup> January, 2006

states that the B.E.S.& T Undertaking had replaced the meter no. G790469 with a new meter no. G931446 on 8<sup>th</sup> April, 2000. The consumer had no load on this meter from 3<sup>rd</sup> March, 2000 to 3<sup>rd</sup> November, 2002. It connected one refrigerator on the above meter from 4<sup>th</sup> December, 2002 onwards and therefore there should be no energy units chargeable on this meter from 3<sup>rd</sup> March, 2000 to 3<sup>rd</sup> November, 2002. The B.E.S.& T Undertaking, during this period has charged the bills on average basis of units recorded in the past. This was subsequently modified by the Forum and directed the Respondent to calculate the consumption on the basis of combined average recorded in the pre and post replacement period as illustrated in paragraph 1 above.

3. The Appellant is not satisfied with the order of the Forum, which directed the Respondent to calculate the bills for the disputed period on the basis of the consumption recorded before and after the disputed period. The Appellant filed the representation on 13<sup>th</sup> January, 2006 against the order of the Forum issued on 1<sup>st</sup> September, 2005 i.e after 134 days. The Appellant has prayed for condonation of delay in filing the appeal on the ground that it was corresponding with the B.E.S.& T Undertaking about the calculations made by the Respondent. The Appellant, along with the representation, furnished copy of the Forum's order and other documents such as observation report of the Respondent's officials, few electricity bills, copy of the submission made by the Respondent before the Forum as well as the meter reading statement of the consumer's account. The Appellant also submitted copies of letters addressed to the Respondent from November, 2002 onwards till the filing of its representation with the Forum.

4. The notice was issued to both the parties to furnish their say on the points raised by the Appellant. The Appellant, as well as the Respondent were advised to explore whether they are in position to reconsider their stand and formulate any proposal to facilitate the settlement through conciliation / mediation. No such proposal is received from either of the parties.

5. The Respondent vide its letter dated 30<sup>th</sup> January, 2006 submitted its written statement of defence alongwith the copies of documents relied upon. It says that the consumer had two meters, no. Q970711 and G931446 from 31<sup>st</sup> May, 2000 and 8<sup>th</sup> April, 2000 respectively. Of these two meters, meter no. G931446 had stopped working since 4<sup>th</sup> July, 2000. In the absence of reading from this meter, the Appellant was billed at the rate of 720 units per month from 4<sup>th</sup> July, 2000 to 1<sup>st</sup> November, 2002 based on the past average. This meter was inspected on 4<sup>th</sup> October, 2000 and was found to be stopped. It was subsequently replaced on 28<sup>th</sup> January, 2003 by the meter no. B013823. By this time, the other meter with serial no. Q970711 was working. However, both these meters were replaced by common meter no. P001619 on 19<sup>th</sup> September, 2003 as the Appellant opted for C2 tariff.

6. The Appellant had complained about the average billing raised for the stopped meter no. G931446. Thereafter, the in-house Review Committee of the Respondent revised the bills considering the base period when both the meters were found working. Accordingly, the consumption recorded by meter no. Q970711 and B013823 were considered together from 28<sup>th</sup> January, 2003 to 1<sup>st</sup> November, 2003 to arrive at an average of 3077 units per month and credit of Rs. 18706/- was given to the Appellant, on this basis. The Appellant was not satisfied with this relief and filed the grievance with the Forum.

7. In response to the grievance filed by the Appellant with the Consumer Grievance Redressal Forum, the Forum, by its order dated 1<sup>st</sup> September, 2005 directed the Respondent to calculate the bills for the disputed period, on the combined average of past period and the period after

replacement of the “stopped meter”. As per the calculation submitted by the Respondent, combined monthly average works out to 276 units which is taken as a basis for working out the consumption for the period between 4<sup>th</sup> July, 2000 and 28<sup>th</sup> January, 2003 during which time the meter was stopped. The Respondent says that the bills were recalculated in accordance with the order of the Forum and refund of Rs. 99099/-, (including the earlier credit of Rs. 18706/-), was passed on to the Appellant in the bill for the month of November, 2005.

8. The Respondent further states that the Appellant had a total connected load of 25.51 KW on both the meters together and was certified by M/s. Urmi Electrical, the license electrical contractor of the Appellant. There was no reduction of load used by the consumer as per the test report submitted by the License Electrical Contractor (LEC) until 24<sup>th</sup> March, 2003. The Appellant did not intimate anything about the transfer of load from one meter to the other until its letter dated 25<sup>th</sup> November, 2002. The Respondent disputes the claim of the Appellant that it had transferred the entire load from one meter to the other. In fact, the Respondent says that the Appellant appointed the licensed electrical contractor on 18<sup>th</sup> October, 2002 and therefore the claim of the Appellant that the electrical contractor transferred the load by mistake in the year 2000 is false. It is also disputed by the Respondent that there was no load on the stopped meter. Inspection by the Respondent’s officials on 20<sup>th</sup> December, 2002 confirms that the refrigerator was seen connected to the stopped meter.

9. The Respondent, in its reply, has taken strong exception to the action of making changes in the electrical connections as claimed by the Appellant to transfer load unauthorisedly from one meter to the other. This is a violation of Clause 10 of the Conditions of Supply. It contends that the Appellant and its licensed electrical contractor had never followed the due process for regularization of electrical load on the stopped meter no. G931446. The Respondent states that there was no change in the total load of 25.5 KW used by the Appellant during the period from 4<sup>th</sup> July, 2000 to 28<sup>th</sup> January, 2003 and the Appellant was paying the bills on average basis during this stopped meter period. The Forum, in its order, has allowed relief of Rs. 99099/- considering the low consumption recorded on the new meter which has been credited in the bills of November, 2005. Therefore, the Respondent prays that no further relief should be granted to the Appellant. The matter was posted for hearing on 13<sup>th</sup> February, 2006.

10. Shri S. K. Desai, Superintendent (Consumer) (South) and Shri R.B. Prabhu, Deputy Engineer represented the Respondent. There was no appearance put on behalf of the Appellant, nor there was any communication seeking leave of absence. On contacting the Appellant, it was informed that the representative was expected to be present during the hearing. While the representative informed that he did not get any notice for the hearing. In fact, the leave of absence should have been sought by the Appellant as it is his responsibility to remain present himself or through his representative.

11. In view of the appearance put by the Respondent, the matter was heard. Shri Desai representing the Respondent submitted that the Appellant had two meters with serial numbers Q970711 and G931446 installed in the premises of M/s. Karp Impex. The meter no. G931446 had stopped working since 4<sup>th</sup> July, 2000 as is observed from the pattern of consumption. The last meter reading recorded on 4<sup>th</sup> July, 2000 was 1000 and the meter displayed the same reading of 1000 during the subsequent months until 20<sup>th</sup> January, 2003 showing that the meter was stopped. The Appellant was, therefore, billed on the basis of past average consumption of 720 units per month during this period. Shri Desai reiterated the argument made in the written statement that the

Appellant has been arbitrarily transmitting the electrical load without intimating the licensee in violation of the Clause 10 of the Conditions of Supply of B.E.S.& T Undertaking. It was further brought to the notice during the hearing that the Appellant appointed M/s. Urmi Electricals as its Licensed Electrical Contractor with effect from 18<sup>th</sup> October, 2002 while it claimed that the Contractor's electrician transferred the load of meter no. G790469 to meter no. N910246 during the maintenance done in March, 2000. On this basis, the Respondent submitted that the claim of transferring the load as above is false since M/s. Urmi Electricals was not in picture, at all till October, 2002. In any case, the action of the Appellant in transferring the load and making alterations is in violation of the Conditions Of Supply of B.E.S.& T Undertaking.

12. According to the Respondent, the status of the stopped meter G931446 was noted by its staff with effect from July, 2000 from the pattern of the consumption and further on 4<sup>th</sup> October, 2000 during the visit of its staff to the site. It took further action advising its EDP department on 12<sup>th</sup> December, 2002 for replacement of meter which was subsequently done on 28<sup>th</sup> January, 2003. The Respondent filed copies of the visit report in this behalf during the hearing. It conceded that it took a very long time to replace the meter despite noticing the "stopped meter" in October, 2000. In the meantime, bills on past average basis were raised and were duly paid by the consumer.

13. The Respondent added that the Appellant did not inform of any change in the load pattern on the two meters until 25<sup>th</sup> November, 2002. In fact, the Appellant had filed the test report on 24<sup>th</sup> October, 2002 confirming the same load on two meters as before showing that the meter number G970711 and G931446 were carrying the load of 21.58 and 4.00 KW respectively. It further cited that the Appellant has specifically requested at that time that the meter no. G931446 should not be removed, although he was aware that the meter no. G931446 was stopped. Appellant's request not to remove the stopped meter was made with its intention of using electricity through that meter. The Respondent prayed that there was no change in the total load of 25.5 KW used by the Appellant in the disputed stopped meter period from 4<sup>th</sup> July, 2000 to 28<sup>th</sup> January, 2003. The Respondent has already allowed relief of Rs. 99099/- considering the lower consumption recorded by the new meter in accordance with the order of the Forum. It prayed that no further relief should now be granted to the Appellant.

14. The Respondent submitted the meter reading statement of the Appellant from 1<sup>st</sup> January, 1999 onwards to show the actual readings and the consumption recorded by different meters from time to time. Perusal of the meter reading statement indicates meter not read and zero consumption units by the meter no. G931446 on 4<sup>th</sup> May, 2000, although this meter was connected on 8<sup>th</sup> April, 2000, with an initial reading of 14. The Respondent agreed that this appears to be a mistake in the reading statement. Similarly, on 4<sup>th</sup> July, 2000, total charged units are shown as 8526 which does not tally with the total consumption recorded by both the meters. The Respondent clarified that units of the earlier period on both the meters were added in July, 2000. In view of this lacuna, the Respondent was asked to furnish a written clarification in this behalf.

15. As observed earlier, the Appellant failed to remain present either personally or through his representative without any intimation or permission. However, in order to give one more opportunity to the consumer to represent his case, the matter was adjourned and posted for hearing on 22<sup>nd</sup> February, 2006.

16. The Respondent filed additional submissions on 16<sup>th</sup> February, 2006 confirming that the meter no. G931446 was found not recording any reading since 4<sup>th</sup> July, 2000. The meter was

inspected on 4<sup>th</sup> October, 2000 and observed to be stopped. The meter replacement advice was, however, not generated and remained pending for a long time delaying the meter replacement till 28<sup>th</sup> January, 2003. The error in calculation of final units recorded on meter no. N910246 was corrected in the said submission.

17. The Representation happens to be filed after a delay of 74 days. The Appellant states that it was corresponding with the licensee after the Forum's order for calculating the relief. This entailed certain delay, as it has not received reply from the licensee. The Appellant requested to accept the Representation and condone the delay in submission thereof on the above ground. It is seen from the documents on record that the Appellant was exchanging some correspondence with the licensee in this behalf. The Appellant's explanation is hereby accepted and the delay is condoned in terms of provision contained in Regulation No. 16.2 of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003.

18. The matter was heard on 22<sup>nd</sup> February, 2006. Mr. Dipak J. Mehta and Mrs. Urmila D. Mehta represented the Appellant while Mr. S. K. Desai, Superintendent (Electric Supply) was present on behalf of the Respondent. The Appellant argued that its electrician by mistake transferred the entire load from meter no. G931446 to the other meter and therefore there should be no reading recorded by that meter till its replacement. The Appellant raised the point that if the Respondent during the inspection on 4<sup>th</sup> October, 2000 found the meter as stopped then why any action was not taken for its replacement till 28<sup>th</sup> January, 2003. He stated the order of the Forum to pay charges on the basis of average worked out prior to and after replacement of the disputed meter is not proper. He urged that since there was only one refrigerator connected to the meter, the average for the entire disputed period between 18<sup>th</sup> April, 2000 and 28<sup>th</sup> January, 2003 should be worked out on that basis since there was no other load connected to the meter. The Appellant reiterated that the electrician removed and shifted entire load from this meter in March, 2000 although no specific permission was obtained from the licensee.

19. The Appellant argued that the refrigerator was connected to the above meter on 4<sup>th</sup> December, 2002 and this fact is clear from the inspection report of 20<sup>th</sup> December, 2002, a copy of which is available on record. On perusal of the said report, the Appellant was asked to note the remark that the meter no. G931446 was found stopped. The Appellant then conceded about the stopped meter remark in the report. Upon query, as to why the meter did not record any reading beyond 1000 units inspite of the refrigerator being connected, the Appellant had no explanation to offer and finally conceded that the meter appears to have been stopped.

20. On the issue of shifting of the entire load from the disputed meter in March, 2000, the Appellant was asked to clarify as to why the meter recorded 986 units consumption on 4<sup>th</sup> July, 2000 if entire load was shifted from that meter earlier. The Appellant did not put forth any explanation to this but merely stated that the meter might have recorded the consumption of 1000 units due to some vibration.

21. The Respondent reiterated its submission that the disputed meter had indeed stopped recording from 4<sup>th</sup> July, 2000. The Appellant was in a habit to unauthorisedly transfer load from one meter to another. The Appellant had made a specific request in its application for the commercial connection on 24<sup>th</sup> October, 2002 that the meter no. G931446 should not be removed, despite knowing well that the said meter had already stopped recording. This indicates the intention of the consumer to use electricity unauthorisedly through the stopped meter. The Respondent

further submitted that it has already implemented the Forum's order and passed on the credit of Rs. 99099/- (which include earlier credit of Rs. 18706/-) and therefore no further relief should be extended to the Appellant in view of their submissions.

22. Documents on record and submissions made during the hearing make it amply clear that the disputed meter no. G931446, which was installed on 8<sup>th</sup> April, 2000 stopped recording from 4<sup>th</sup> July, 2000 at a final reading of 1000 units. Initial reading of the said meter being 14, consumption of 986 units was recorded between 18<sup>th</sup> April, 2000 and 4<sup>th</sup> July, 2000. This is clearly attributed to use of electricity through this meter during the period. Observation made by the Appellant, that reading might have come due to some vibrations has no basis and is unsustainable. This also disposes off the argument that there was no load on this meter from March, 2000. There was no further recording of consumption until it was replaced on 28<sup>th</sup> January, 2003. It is also evident that the said meter did not record any units despite it being connected to refrigerator as admitted by the Appellant. Therefore, there is no question of the said meter recording any consumption from March, 2000. However, facts on record lead to a different conclusion, on use of electricity, recorded upto the reading of 1000 units from the initial reading of 14 units (consumption 986 units) during April, 2000 to July, 2000. The Appellant's say that the entire load was shifted in March, 2000 therefore cannot be relied upon. This concludes that there was indeed some load on this meter which was duly connected and used. The meter apparently stopped functioning after 4<sup>th</sup> July, 2000 and continued to be stopped until it was replaced on 28<sup>th</sup> January, 2003. It is also on record as an admitted fact by the Appellant that the refrigerator was connected on 4<sup>th</sup> December, 2002. In that case, had the meter been working, it must than have recovered some consumption. Evidence and submission clearly proves that the disputed meter G931446 had stopped from 4<sup>th</sup> July, 2000, but the Appellant used electricity through this meter.

23. Having concluded that the disputed meter had stopped and did not record any consumption from 4<sup>th</sup> July, 2000 to 28<sup>th</sup> January, 2003, it was quite logical for the licensee to work out the average consumption for this period and the Appellant, consumer is bound to pay the electricity charges. The licensee had considered this issue at their level and initially granted relief of Rs. 18706/- to the consumer. The Forum, upon filing the grievance by the consumer, reconsidered the whole issue and passed the order granting further relief. The Respondent, licensee accordingly complied the Forum's directive and recalculated the relief and the refund of Rs. 99099/- (including earlier billing of Rs. 18706/-) was passed on to the Appellant in the bill of November, 2005. In view of this, I find no ground to review the Forum's order, which has gone in great details to consider the grievance of the consumer. Therefore, I am inclined to agree with the submission made by the Respondent that no further relief should be extended to the consumer in the circumstances elaborated in the preceding paragraphs. The representation filed by the Appellant has no merit and it does not survive. The Representation is therefore liable to be and is hereby rejected.

Sd/  
(W.G. Gorde)  
Ombudsman

Sd/  
(S.N. Yadwad)  
Secretary