

**BEFORE THE
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th floor, Cuffe Parade, Colaba,
Mumbai 400 005.**

Case No.11 of 2003

**IN THE MATTER OF
Rectification of excess billing by Maharashtra State Electricity Board (MSEB)
in the case of Shri M.G. Chile.**

**Shri P. Subrahmanyam, Chairman
Dr. Pramod Deo, Member**

ORDER

Dated – September 10th, 2003

1. In his Petition filed on 5.5.2003, with Maharashtra State Electricity Board (MSEB) as Respondent, Shri M.G. Chile has sought directions to MSEB to rectify excess billing in respect of his domestic connection at Vashi, to refund the excess amount paid by him, and to exempt him from paying the instalment due on 19.05.2003. The Petition was heard for admission on 25.08.2003.

2. With his Petition, Shri Chile has enclosed electricity bills to indicate the large increase in units consumed as alleged by MSEB, and the corresponding increase in charges during the period from February to April, 2001. He has stated that he and his family were in Nagpur for some time upon his transfer. From February, 1999, MSEB had been sending him so-called 'reject' bills, which have been fully paid. He submitted that, in March 2001, the person he had allowed as a caretaker in his flat had installed a small air conditioner. It was removed after two months as soon as high bills were received. That extra use has been treated by MSEB as if it were from February, 1999, and they have billed accordingly. On many occasions from May, 2001 onwards, Shri Chile had submitted representations at various levels without effect. Since the additional amount was not paid, MSEB effected permanent disconnection in October, 2001. Shri Chile returned to Mumbai on transfer from July, 2002. Thereafter, he paid some amounts upon which a new meter was installed in December. Local MSEB engineers have taken actual readings in January and February, 2003 and recommended to their superiors that the bill for the whole period should be adjusted accordingly, but this has not been done. In spite of further efforts, Shri Chile was asked to pay the balance amount in instalments.

3. In their reply dated 6.6.2003, MSEB have submitted that Shri Chile was billed as per the meter reading upto February, 2000. However, thereafter, due to improper reading, he was billed under 'rejection' status till February, 2001. During this period, there was higher consumption because of the use of air conditioners. The accumulated consumption appeared in April, 2001 when the correct reading was available and was fed to the computer. After April, 2001, the meter recorded correct consumption till the disconnection in October, 2001. MSEB have admitted that consumption was not correctly billed from April, 2000 to February, 2001. However, since the meter was recording correctly, the recorded consumption was spread over and adjusted in August,

2001. Permanent disconnection was effected from August, 2001 to February, 2002 and supply was restored on payment of the instalments granted to Shri Chile for arrears. In conclusion, MSEB have submitted that the ultimate billing after adjustment was correct, and Shri Chile was also allowed to make payments in instalments. Disciplinary action has been initiated for incorrect readings for the above period against the concerned meter reader.

4. At the time of hearing, Shri Chile set out his case, quoting from a further written submission given the same day. He stated that he has been a consumer of MSEB at Vashi for the last 17 years in a flat comprising 2 rooms and a kitchen. He had never used electric geysers, irons or any other equipment which are energy-intensive. Since February, 1999, MSEB have been issuing so-called 'reject' bills which have been duly paid. He submitted that causing the inspection of reject/ faulty meters by Electrical Inspectors is the duty of MSEB under Section 55 of the Electricity Act (EA), 2003, corresponding to Section 26(6) of the Indian Electricity (IE) Act, 1910. He pointed out that, in the case of Rajasthan Electricity Board v/s Samprakash (1995), it was held that, if the meter was functioning but was not recording the consumption, then Section 26(6) would apply. He also cited the judgement of the Supreme Court in the case of Belwal Spinning Mills Ltd. in which the Court had held that a correct meter is to be installed and maintained by the licensee in the premises of the consumer so that consumption is computed on the basis of meter reading. The IE Act provides that, if either of the parties disputes the correctness of the meter, the matter is to be resolved by the Electrical Inspector under Section 26(6), and it would be incumbent on the licensee/ utility to repair or rectify the defective meter and replace it if necessary rather than merely contend that it had become faulty at a particular time. Shri Chile also submitted that, inspite of his written requests, the meter was not shown to him and he was merely told that it had been sent to the Kalyan godown as scrap. Further, before effecting permanent disconnection, MSEB did not issue him any notice.

5. According to Shri Chile, MSEB have alleged that air conditioners were used in his flat from April, 2000 to February, 2001. First of all, if air conditioners were used for such a long period without prior permission, MSEB should have issued a notice to him. Secondly, considering the electrical fittings in his small flat, it is not possible to use air conditioners of the type and to the extent claimed by MSEB. He admitted, however, that a friend whom he had kept as a care taker in his flat had used a small air conditioner for two months, i.e. from March to April 2001, which was disconnected immediately upon receipt of the high bill.

6. In these circumstances, Shri Chile urged that the Commission direct MSEB to take into consideration the average common household consumption for the disputed period of one year, and refund the remaining amount within 15 days. The present consumption may be considered for computing the quantum for the disputed period. Shri Chile submitted that the concerned Asstt. Engineer, MSEB had inspected and certified the consumption in January, 2003, and reported it to his superiors for adjustment of the bill as per the present consumption. In his written submission, Shri Chile has also suggested a compromise formula on the basis of which he claims a refund of around Rs 57,000/- as against the payment made by him of Rs 65,000/-.

7. Ms. Deepa Chawan, Counsel for MSEB submitted that she had personally interacted with Shri Chile and sought to clarify the position. In this matter, MSEB had suspended an official. The fact is that, for sometime, Shri Chile's lessee had used air conditioners in his absence. The meter was not faulty and the consumption was recorded. However, MSEB did not explain to him that this was spread over 14 months. It had been shown to Shri Chile that, even during the undisputed period, there was considerable variation from month to month. The problem arose because of a period of two months. As far as the 'reject' billing is concerned, MSEB Counsel stated that this is on account of the default setting of the computer billing software.

8. Counsel for MSEB stated that, after permanent disconnection was effected in August 2001, the position was reflected in October, 2001. The meter was replaced and the old meter taken to the Kalyan godown. She pointed out that the MSEB website had a guidance module for consumers to check their own bills, which indicated the electricity consumption of different types of gadgets. Shri Chile had also been advised to approach the MSEB grievance redressal forum.

9. The Commission observed that such specific consumer disputes were within the day-to-day administrative domain of MSEB, to the extent that they were outside the purview of the Electrical Inspector, and the ambit of Section 22(2)(e) of the Electricity Regulatory Commissions Act could not be stretched to the extent of encompassing such specific consumer disputes for resolution by the Commission. As such, admission of the Petition is declined.

10. However, although the Commission is not the appropriate forum for this Petition, such cases point to the need to establish a more credible, multi-level grievance redressal system pending the formulation by the Commission of guidelines under Section 42(5) of the Electricity Act, 2003 which would take some more time. It seems clear from this, and other cases and communications received by the Commission from time to time that the existing mechanism for grievance redressal in MSEB is not functioning effectively. In their letter dated 19.8.2003, MSEB have set out their existing system, which is entirely in-house and has no outsiders. The extent to which MSEB's Circular instructions to their officers in this regard are implemented, and the manner and extent to which redressal of grievances is monitored has also not been spelt out. The Commission is of the view that pending issues of guidelines under Section 42(5) of the new Act, MSEB should immediately establish fora for redressal of consumer grievances and disputes which should be headed by and/or include credible, independent outsiders, atleast at the Circle level and monitor their functioning. The Commission notes the commitment made by MSEB Counsel at the time of hearing that, in the meantime, Shri Chile's case would be reviewed at the level of the Chief Engineer.

Sd/-
(Dr Pramod Deo)
Member

Sd/-
(P. Subrahmanyam)
Chairman, MERC

(A.M. Khan)
Secretary, MERC