



Maharashtra State Electricity Distribution Co. Ltd.

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REF. P.Com./Accts/Supple.bills/38675

DATE: 20/10/2007

COMMERCIAL CIRCULAR NO. 65

Sub: Issue of Average / Supplementary / Amendment bills to the consumers.

- Ref:
- 1) Directives of Hon'ble Supreme Court on Civil Appeal No. 2846 of 2006.
 - 2) Order dated 29.03.2006 of Appellate Tribunal of Electricity.
 - 3) Order dated 22.08.2005 of MERC in Case No. 2 of 2003.
 - 4) Order dated 23.02.2005 of MERC in Case No. 19 of 2004.

The Hon'ble Supreme Court has passed orders on 14-08-2007 on the Appeal filed by MERC against the Order of the Appellate Tribunal dated 29.03.2006. The Appellate Tribunal for Electricity had set aside both the above referred Orders at Sr. No.(3) and (4) above of MERC (dated 22.08.2005 and 23.02.2005) and opined that the refund of amendment / supplementary / average bills to individual consumers must be settled separately (i.e. on case to case basis) and the consumers should approach the appropriate forum constituted under Section 42 (5) of the Electricity Act 2003 and further if the consumer is not satisfied with the order of the CGRF, he may approach the Ombudsman constituted under Section 42 (6) of the Electricity Act 2003.

The Hon'ble Supreme Court has upheld the decision of the Appellate Tribunal dated 29.03.2007 and at the same time has given the following further directives.

- 1) MSEDCL including all the Licensees / Distribution Companies have to issue General Public Notice for redressal of the grievance of all the consumers who feel aggrieved by the supplementary / amendment / average bill issued by the respective distribution companies. The said grievance is to be registered / lodged by the aggrieved consumer within a period of three months from the date of publication of such Public Notice. Such Public Notice is being issued by Head Office.
- 2) It is therefore, decided that the individual consumers may make grievance before the local billing authority i.e. respective Sub-division office in case of L.T. consumers and respective Circle Office in case of H. T. consumers. The

consumer may give the reasons for the grievance. Each billing authority shall decide the individual cases received by them after giving a proper opportunity of hearing the consumers. In case the consumer is not satisfied with the order passed by the billing authority he can approach the Forum constituted under Section 42 (5) of the Electricity Act 2003 and further if the consumer is not satisfied with the order of the CGRF, he may approach the Ombudsman constituted under Section 42 (6) of the Electricity Act 2003.

Such Public Notice is being issued by Head Office. The salient features of both the above referred Orders of MERC and the respective periods for which these orders were applicable are reproduced below :-

- 1) *The final order by the Commission was passed in case No.19 of 2004 on 23-2-2005. In this order, the Commission directed as under :-*

"The supplementary / amendment bills issued (in the circumstances set out at paragraphs 42 and 43 of this Order) from June 10, 2003 (date of coming into force of E. A. 2003) and up to notification of the Supply Code.

- a) *Should be withdrawn if due meter testing has not been done with the results intimated to the consumer.*
 - b) *Any amounts collected should be refunded to the concerned consumer without interest.*
 - c) *Their meters have been found to be defective upon subsequent due testing (and the results intimated to the consumer), the bills may be adjusted for up to three months prior to the date of testing or meter replacement whichever is earlier and any amounts recovered in excess refunded without interest. (In the case of stopped meters, the analogy of the Supply Code Provisions should be applied for assessment).*
 - d) *The above actions should be completed by May 30, 2005 so as to give the licensees more than three months' time in view of the work likely to be involved.*
 - e) *Compliance should be submitted on affidavit by June 15, 2005 with a list of consumers involved and certifying that no further action remains to be done in terms of this Order.*
- 2) *Similarly, by another order dated August 22, 2005 in the case 2 of 2003 of M/s. Prayas Energy Group, Pune, the Commission directed as under :-*

The period for which the directions would be applicable are from June 1, 2004 until January 19, 2005:-

- i) *No billing using past consumption or some related average basis should be resorted to for more than a period of three months. During that period of three months, the meter should have been tested / replaced with the results intimated to the consumer and appropriate bill*

adjustments carried out thereafter. If due and timely diligence has not been exercised by the Licensee he cannot claim the right to continue billing on a presumptive, average basis. The same principal will apply to all other situations in which such average billing have been resorted to except in cases where the meter is not accessible.

- ii) In all cases, where bills have been raised and / or recoveries made which are not in accordance with (i) above, the bills should be withdrawn and / or amounts refunded to the consumers through energy bills or other means as may be relevant by November 30, 2005 with interest at the same rate as payable by consumers to MSEDCL for delayed payments.*

In response to the Order passed by the Hon'ble Supreme Court, the following line of action is to be taken :-

- 1) All the billing authorities shall review the action taken on the order dated 23.02.2005 in case of 19 of 2004 and order dated 22.08.2005 in case no. 2 of 2003 of MERC.
- 2) Wherever it is felt that the refund made to the consumer as per the above referred two orders is unjustified, and against the provisions of MSEDCL, in such case, the supplementary / amendment / average bill may be issued by the billing authority again to the consumer within two months from the date of publication of the General Public Notice.
- 3) After issue of the average / supplementary / amendment bill, we have to wait for further three months from the date of issue of the bill. If any grievance is registered by the consumer within the above stipulated time we have to give an opportunity of hearing to the consumer regarding his grievance. The Billing Authority shall take decision on case to case basis after considering the merits of the case and considering the say of the consumer. The average / supplementary / amendment bill issued shall then be payable (if decided by the billing authority to be justified) as per the prevailing rules in such cases. As far as possible, efforts should be made by the billing authority to explain the consumers the different provisions under which the amount is justified and hence becomes payable.
- 4) In case the consumer represents regarding average / supplementary / amendment bill which was already paid by him and not refunded by us as per above two Orders of MERC, such representation is to be taken into consideration and going in to the merit of the case, decision regarding refund / recovery has to be taken as per the above mentioned guidelines.
- 5) A complete and separate record of all such cases dealt by respective billing authorities has to be maintained separately. The Action Taken Report in respect of all such cases will be required to be submitted in the format enclosed herewith. It is quite possible that some additional information may be required by the Hon. Supreme Court, and hence as mentioned earlier complete and separate account shall have to be maintained by each billing authority over and above the details that will be submitted in the format.

- 6) The responsibility of following the Hon. Supreme Court's Order as per above guidelines is with the respective billing authorities.

All are requested to ensure that the Hon. Supreme Court's Order is complied in all respect scrupulously and in true letter and spirit. These general guidelines are issued to ensure that the actions taken by the field offices are in line with the directives of the Hon. Supreme Court. However, in case of any further clarification or doubt, the order of the Hon. Supreme Court shall be referred and acted upon. Further, in case of any other issue with regards to proper implementation, necessary guidance of Executive Engineer, Superintending Engineer or Zonal Chief Engineer (as the case may be) shall be taken.

It is directed once again to ensure that utmost care is taken while implementing the orders of Hon. Supreme Court.

**Executive Director –I
(Comm-Dist-Co-Ord.)**

Copy To:

- 1) Chief Engineers of all O & M Zones, MSEDCL
- 2) Superintending Engineers of all O & M Circles, MSEDCL
- 3) Executive Engineers of all O & M Divisions, MSEDCL
- 4) Dy. Executive Engineers of all O & M Sub-Divisions, MSEDCL
- 5) Assistant Engineers of all O & M Sub-Divisions, MSEDCL.

REQUIRED FORMAT FOR SUBMISSION OF INFORMATION IN RESPONSE TO ORDER PASSED

BY HON'BLE SUPREME COURT DTD. 14-08-2007

FORMAT FOR MERC'S ORDER DATED 23-02-2005

Sr. No.	No. of Amendment/ supplementary bills issued during the period from June 10, 2003 to January 19, 2005		Out of (2) the Amendment/ Supplementary bills withdrawn as per MERC's Order dtd. 23-2-2005		Out of (3) Amendment/ Supplementary bills reissued as per Hon. S. C. Order dated 14-8-2007		Cons. given opportunity of hearing		No. of cons. who have paid the amendment/ supplementary bills		No. of cons. who have approached to CGRF		No. of consumers who have accepted CGRF's order		No. of cons. who have approached to Ombudsmen		No. of consumers who have accepted Ombudsmen's Order		Remarks	
	(1)	(2)		(3)		(4)		(5)		(6)		(7)		(8)		(9)		(10)		(11)
	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.		

FORMAT FOR MERC'S ORDER DATED 23-02-2005

Sr. No.	No. of average bills issued during the period from June 1st, 2004 to January 19, 2005 for more than Three months		Out of (2) average bills withdrawn as per MERC's Order dtd. 22-8-2005		Out of (3) average bills reissued as per Hon. S. C. Order dated 14-8-2007		Cons. given opportunity of hearing		No. of cons. who have paid the average bills		No. of cons. who have approached to CGRF		No. of consumers who have accepted CGRF's order		No. of cons. who have approached to Ombudsmen		No. of consumers who have accepted Ombudsmen's Order		Remarks	
	(1)	(2)		(3)		(4)		(5)		(6)		(7)		(8)		(9)		(10)		(11)
	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.		