



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
Ph: – 2210707 & 2328283 Ext: - 122

IN THE MATTER OF GRIEVANCE NO. K/E/282/310 OF 2009-2010 OF
M/S. U. P. TWIGA FIBER GLASS LTD. AMBERNATH (EAST)
REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM
KALYAN ZONE, KALYAN ABOUT EXCESSIVE BILLING.

M/s. U. P. Twiga Fiber Glass Ltd.
N - 40, Anand Nagar
M.I.D.C.
Ambarnath (East) : 421 506

(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Superintending Engineer
Kalyan Circle – II, Kalyan

(Here-in-after
referred
as licensee)

- 1) Consumer Grievance Redressal Forum has been established under "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers. This regulation has been made by the

Maharashtra Electricity Regulatory Commission vide powers conformed on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, 2003. (36 of 2003).

- 2) The consumer is a H.T. consumer of the licensee with C. D. 4000 KVA. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 21/07/2009 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- M/s. U. P. Twiga Fiber Glass Ltd.

Address: - As given in the title

Consumer No : - 021529050390

Reason of dispute: Excessive Energy Bills.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/655 dated 21/07/2009 to Nodal Officer of licensee. The licensee filed reply vide letter No. SE/KC-II/AE(M)/2966, dated 12/08/2009. The consumer registered his grievance with IGRC on 25/06/09. On 10/07/09 the IGRC passed it's decision in this case as given below :

(a)The assessment for less billing due to connection released on lower side voltage level than the prescribed level by Superintending Engineer KC-II Kalyan vide No. SE/O&M/KC-II/Tech/2291, dt. 23/06/09 is reasonable and legitimate as such it is obligatory on your part to pay the amount within stipulated time.

(b)However, considering your difficulty on one time payment of Rs. 30,60,166.84 (due to present industrial recession period) the limited installment facility may be considered.

Aggrieved by above decision, consumer registered his grievance with the Forum on 21/07/09.

- 4) The original hearing was scheduled to be held on 11/08/09 at 15.00 hrs. However, the hearing in the said case has been postponed on 13/08/09 at 15.00 hrs. Again it is postponed on 17/08/09 at 15.00 hrs. as per request of licensee. The forum heard both the parties on 17/08/2009 @ 15.00 Hrs. in the meeting hall of the Forum's office. Shri Shyam Dabhade, Shri D. N. Panda, Shri N. N. Goyal, Shri Sharad Ahare, representatives of the consumer & Shri Raidurg, Nodal Officer, Shri B. R. Mudliyar, A.E. and shri G. K. Panpatil, A.E. representatives of the licensee, attended hearing.
- 5) The Consumer Representative (CR) submits that the MSEDCL charged 2% extra unit on the energy units consumed by us which is illegal. The Licensee vide order No. MSEDCL/O&M/KC-II/Tech/01.2006/245 dt. 19.1.2006 sanctioned load of 4500 KW/4000 KVA and released power on 22 KV side on 27.10.06, against our demand of 33 KV side. They given a first assessment bill of Rs.30,60,166.84 in the month of May 2009. Though they have paid Rs.25,93,311/- under protest, they are not agree with this extra charging. The licensee informed that consumer have to pay addl.2% extra unit on the energy units consumed for power supply on lower voltage than the prescribed voltage i.e. 22 KV supply against the requirement of 33 KV. The CR submits that either in the sanction letter or in the agreement there were no mentioned about 2% extra charging on the consumption. Therefore the licensee has to follow their own sanction letter dated 19.01.06 and should not change the terms of the load sanction or the agreement.

- 6) As against this the Licensee Representative (LR) submits that the consumer had applied for 4000 KVA Contract demand and the same was sanctioned. As per MERC guide lines for releasing of HT power supply at a various voltage level the HT power supply executing contract demand of 3000 KVA should be released on 33 KV voltage level. The 33 KV voltage level is not available in Ambernath vicinity area at the location of M/s. U.P.Twiga Fiber Glass Ltd. To over come this problem and to meet the universal obligation of providing the supply, they have been released the supply on 22 KV level as per the directives given in the Departmental circular No.15 dt. 10.10.05, as 33 KV level supply is not available in around the area. The consumer was at liberty to use 4000 KVA sanctioned demand. Charging 2% extra is general policy adopted by the licensee and it is going on years together all over Maharashtra. The consumer is bound to pay this extra charge because the licensee is kept reserved 4000 KVA for this consumer and not utilised for any other consumer, so to compensate the loss, the licensee is charged 2% extra. The consumer has availed 33 KV higher current from the 22 KV net work. When current draws more the loss increases. To compensate this loss, as per MSEDCL directives, 2% is extra charged. The statement of consumer that the charging of 2% extra charging is not mentioned in load sanction order anywhere is not correct. In the agreement executed between the consumer and the licensee it is clearly mentioned at 5(b) that *“Where the metering is done on the low voltage side of supply either on the grounds of economy on account of non availability of high voltage metering equipment or any other reasons, the quantity of electricity consumed in any month on the high voltage side or billing purpose will be computed by adding 2% to*

the demand registered on the low tension side for determination of the billing demand and 5% to the consumption in units registered the HT side to determine the consumption of the HT side consumer” The licensee has withdrawn 5% extra charged on the MD, and revised the first assessment bill of this consumer from Rs.30 lakhs to Rs.22 lakhs. The LR further submits that the consumer has been provided alternate feeders also being a VIP consumer. Therefore, if one supply is not available, the consumer can avail the other supply from alternate feeder so that consumer’s factory will work smoothly and will not affect the business. The LR further submits that the consumer has now given supply through a dedicated feeder so charging of 2% extra on the total consumed unit will not be there as per recent directives given in June 09 by the MSEDCL.

- 7) The forum asked the LR that whether you have taken post facto approval from HO regarding charging of 2% extra being supply on 22 KV side. The LR said ‘yes’. So forum asked him to submit copies of such correspondence made with their corporate office. Accordingly the licensee submitted a copy of letter No.3046 dt. 18.8.09 vide which they asked CE (Com) to convey the stand. Forum further asked the LR that the licensee has given dedicated feeder - can you say whether this feeder emanating from the Sub-Station to consumer’s point of supply is without tapping to other consumers. The LR said ‘Yes”. So which meter consumption is taken for billing purpose – consumption of Sub-Station meter or the consumption of consumer’s meter? The LR said of course the consumption of sub station meter. Forum asked the LR whether any MERC circular directing to charge 2% extra? The LR replied whatever circulars issued by HO after

existence of MERC, are with the approval of MERC. Also please refer Head Office Letter No. 29170, dt. 28/07/08 para C.

- 8) The consumer referred the clause of 5(b) and submitted that their supply is on 22 KV voltage, but metering is at HT side. So it can not be proper to charge 2% extra. Since the supply is at 22 KV and the metering is at HT side, there is no loss to the licensee, hence 2% extra should not be charged. The CR shown one HT load sanction letter in respect of M/s. Amar Ispat, wherein the consumer was required supply on 33 KV line, but since there was no any 33 KV network, they have been released supply on 22 KV side with specific remarks in the load sanction letter that they will be charged 2% extra on the units consumed and 5% extra on MD of the consumption (Agreement at Page 2 condition-2). If this was incorporated in their load sanction letter, this dispute would have not been raised. So licensee should follow the terms & condition of load sanction order in their case.
- 9) The LR replied that this is prescribed by MERC. This is to compensate the loss of the MSEDCL due to giving HT supply (4000 KVA) on 22 KV lower side level.
- 10) Forum asked the licensee you have referred the circular of HO No.21960 dt. 26.6.09, there are two options in that circular, which option you have accepted. The LR replied that now the consumer has provided with dedicated feeder (this feeder is exclusively for this consumer) hence first option is adopted i.e. we are not charging 2% extra charge from the issue of this circular. We are taking the meter recording at the consumer's end and sub station's, and charge whichever is higher as per this circular. Because one or other reasons, licensee meter or the consumer meter may

go out of order due to line disturbances or any temp. fault, so always considers consumption of the meter whichever is higher.

- 11) The LR concluded that the consumer may not be using power above 3000 KVA due to his own constraints. But the licensee had to reserve this much load to this consumer as sanctioned and was not able to use it to other consumer for getting revenue. This loss is also compensate in the 2% extra charges. The consumer has been informed vide letter No.2087 dt.9.6.09 that *“as per MERC ESC and SOP in force from 20.1.05, Sr.No.5.3(i)(e), the voltage level for installation is 33 KV. However voltage level for which supply is released to you is on lower side than the prescribed level. Hence the actual billing was to be done to you is on HT side. On going through the billing records it is observed that the billing is done on L.T.side i.e. on 22 KV sides, that are on lower voltage side than the scheduled voltage level of 33 KV side. So necessary correction will be done from June 09 billing and also necessary assessment will be done for in due course for less billing done”* Accordingly, the assessment bill is issued to the consumer for extra 2% charges of Rs.30,60,166.84 for 30 months (i.e. from the date of connection). Later the bill was revised waiving the MD charges, DPC, interest etc. charged to him and a revised bill was issued to him vide L.No.3006 dt.13.8.09 for Rs.22,39,658=00. This is an actual and legitimate claim of the licensee.
- 12) The consumer submitted rejoinder dt. 26/08/09 which is received by this Forum on 27/08/09 for considering his grievance i.e. para No. (6) in letter dt. 26/06/09 from Chief Engineer (Comm) MSEDCL on the subject of decision of Recovery Committee reads as :

(i) If consumer is connected on dedicated feeder (in our case we are given such supply) i.e. only one connection, then hire of the EHV side and consumer side reading should be considered. Provided that both meters should be on the same rating.

(ii) Consent from the consumer was to be taken in the prescribed format. But it is not done so.

So MSEDCL's demand is not as per circular and our opinion was not taken, so it may be quashed.

Para No. (7) in letter dt. 26/06/09 : Vide MERC Regulation 2005 (Electricity Supply Code) dated 20/01/05 Section 20 read as "It shall be the duty of a Distribution Licensee to provide a copy of these Regulations, the terms and conditions of supply and the approved schedule of charges for the time being in force", to each applicant for new connection upon acceptance of his application. The said act was operative at the time of accepting the application.

We regret to inform that the said condition was not given while accepting the application, so said charges demanded are not applicable in our case.

Our willingness for execution of fresh agreement, if required, was given due to MSEDCL's threatening of disconnection and charging DPC and interest there upon.

Therefore, our amount paid under protest may be refunded with interest at the RBI rate till credited to our account and also credit be given for the extra units charged from June 09 bill to date on this account.

- 13) Though licensee undertook the rejoinder, no point wise reply submitted to the Forum till to-day.

14) **Forum's Findings :**

The documents submitted by consumer as well as licensee (on verification of both documents) the Forum observed the following points & minutes of the hearing, Forum's findings based on technical and legal grounds are as follows :

- i) As per the power sanction letter for M/s. U. P. Twiga & Fiberglass Ltd. the sanction for power supply through express feeder is given on 19/01/06 vide letter No. 245. M/s. U. P. Twiga & Fiberglass Ltd. power was sanctioned 4000 KVA of maximum demand for a connected load for 4500 KW. The sanction was given vide letter No. 245, dt. 19/01/06 by Superintending Engineer O&M Circle – II, Kalyan on 22 KV feeder which is lower than the prescribed level of 33 KV as per the MERC guidelines for a load beyond 3000 KVA (as there was no 33 KV net work in the vicinity of Ambernath area), this should have been rectified by the licensee Head Office in line with the provision of the circular No. 15, dt. 10/10/2005.
 - ii) The sanction letter No. 245, dt. 19/01/06 does not mention levy of additional 2% extra units on the energy consumed by the consumer.
- 15) The licensee has submitted two sanction letters in similar cases to justify the levy of additional 2% extra units of the energy consumed by the consumer. Study of these sanction letter indicates that the letters have been issued by the Head Office in line with circular No. 15, dt. 10/10/05.
- i) Levy of additional 2% extra units on the energy consumed by the consumer has been specifically mentioned as per condition (c) in case of the sanction letter for M/s. Balbir Alloys letter No. 25197, dt. 16/06/08 and M/s. Amar Ispat Pvt. Ltd. sanction letter No. 29170, dt. 19/07/2008. These two above letters have been issued by the Chief Engineer (Commercial)

MSEDCL., Prakashgad, 5th floor, Bandra (East), Mumbai – 400 051. Letter No. 29170 to M/s Amar Ispat has been signed by C.E. (Comm) for second letter M/s. Balbir Alloys does not contained the complete set of papers as submitted to Forum.

- ii) As per the sanction letter of above two consumers Levy of additional 2% extra units on the energy consumed by the consumer was prerequisite condition and the consumer was asked to give their acceptance for the above condition in writing to the licensee for availing the sanction of power.
- iii) As the above Levy of additional 2% extra units on the energy consumed by the consumer is not mentioned in the sanction letter or the agreement of M/s. U. P. Twiga & Fiberglass Ltd. Licensee's action of imposing levy of additional 2% extra unit on the energy consumed by the consumer cannot be justified.
- iv) The power sanction letter and agreement with M/s. U. P. Twiga & Fiberglass Ltd. has been done in Jan. 06 while the sanction letters for M/s. Amar Ispat and M/s. Balbir Alloys were given in 2008 making 2% additional charge condition was made compulsory for availing the power sanction. In the light of agreement with M/s. U. P. Twiga & Fiberglass Ltd. which is a legal agreement it was necessary for the licensee to get a specific permission from MERC for post facto and with retrospective levy of additional 2% extra units on the energy consumed by the consumer's connection from Express Feeder.
- v) It is also worthwhile to note that M/s. Amar Ispat and M/s. Balbir Alloys have been given connection on a normal feeder while M/s. U. P. Twiga & Fiberglass Ltd. have been given connection on dedicated Express Feeder.

- 16) As per the IGRC decision the licensee has mentioned following points :
- a) As per the application of the consumer M/s. U. P. Twiga & Fiberglass Ltd. for H.T. connection for contract demand of 4000 KVA the load sanction letter is issued to the consumer vide letter No. SE/O&M/KC-II/Tech/01-2006/243, dt. 19.01.06 and after payment of due charges and execution of agreement on dt. 05/10/06 the power supply is released to consumer vide letter No. SE/O&M/KC-II/Tech/10-2006/04183, dt. 27.10.06.
 - b) As per MERC guide lines for releasing of H.T. power supply at various voltage level the H.T. power supply executing contract demand of 300 KVA should be released on 33 KV voltage level.
 - c) The 33 KV voltage level is not available in Ambernath vicinity area at the location of M/s. U. P. Twiga & Fiberglass Ltd.
 - d) To over come the above problem and also to meet the universal obligation of providing the supply to the consumer the MSEDCL Ltd. has circulated departmental circular No. 15, dt. 10.10.05.
 - e) By observing the guide lines the power supply to M/s. U. P. Twiga & Fiberglass Ltd. has been released on 22 KV voltage level. The consumer was at his liberty to use 4000 KVA, it is completely kept reserved for him. As the above load (4000 KVA) is completely kept reserved, it cannot be utilized for any another prospective consumer.
 - f) The consumer may not be using power above 3000 KVA due to his own constrains.
- 17) As per the recent bill for the month of Aug. 09 M/s. U. P. Twiga & Fiberglass Ltd. the tariff applicable to them is H.T. i.e. the metering is on HT side. However, the IGRC decision considers the same is on LT side as the 22 KV feeder is at a lower voltage, which is technically wrong.

- 18) At the time of hearing LR stated that as per the terms of agreement (i) Clause No. 5, (ii) Clause No. 8 (b), (iii) Clause No. 14 (b), the consumer is bound to pay the necessary extra charges. This agreement is duly executed between MSEDCL & consumer and the consumer has duly gone through it and signed all the clauses having noted specifically and agreed with it. Agreement is also a valid document so the licensee has relied upon it for which Forum asked the LR to submit the approval of MERC for the same as this was a case related to tariff. The licensee asked for the extension of time limit of 15 days for the submission of the same vide letter No. 03191, dt. 28/08/09. The licensee failed to submit the documentary evidence as mentioned above till today. In the absence of necessary documents the action by licensee of levy of additional 2% extra units on the energy consumed by the consumer amounting to Rs. 22,39,658=57 as per letter No. 3006, dt. 13/08/09 is not justifiable and hence not acceptable.
- 19) Since the Chairman has tendered his resignation to the post of Chairman, this decision is given by Member Secretary & Member of the Forum.
- 20) In view of the findings and documents submitted by consumer as well as licensee regarding grievance of the consumer as above, the forum unanimously passes the following order.

O-R-D-E-R

- 1) The grievance application is allowed.
- 2) The decision given by the IGRC vide their Order No. 02546, dt. 10/07/09 is quashed and set-a-side.
- 3) The licensee should refund the amount of Rs. 22,39,658=57 to the consumer together with interest from the date of payment at the prevailing

rate of Bank rate of RBI within 30 days from the date of this decision.
(Refer para No. 18 as above).

- 4) The Compliance should be reported to the forum within 60 days from the date of this decision.
- 5) The Consumer can file representation against this decision with the Ombudsman at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Building, Bandra Kurla Complex, Mumbai 51”

Representation can be filed within 60 days from the date of this order.

- 6) Consumer, as per section 142 of the Electricity Act, 003, can approach Maharashtra Electricity Regulatory Commission at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”

for non-compliance, part compliance or delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003”

Date : 17/09/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan